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FINAL NOTICE

To: **David Robert Cooke**

IRN: **DXC02284**

Dated: **28 February 2025**

ACTION

1. For the reasons set out in this Final Notice, the Authority has decided to make an order prohibiting David Robert Cooke from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm, pursuant to s56 of the Act.
2. The Authority gave Mr Cooke the Decision Notice, which notified Mr Cooke of the Authority's decision to take the action specified above.
3. Mr Cooke has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to him.
4. Accordingly, the Authority hereby makes the prohibition order as set out in paragraph 1 above against Mr Cooke. The prohibition order takes effect from the date of this Final Notice.

SUMMARY OF REASONS

5. On 28 February 2023, Mr Cooke received a police conditional caution in respect of an offence that occurred on 19 October 2019. Mr Cooke admitted that he committed fraud in that he dishonestly made a false representation, by setting up a public liability insurance policy for Victims A and B on behalf of Company C, knowing that

the funds would not be passed onto the insurer, intending to make a gain for himself of £3,822, contrary to sections 1 and 2 of the Fraud ACT 2006.

6. The offence was committed whilst Mr Cooke was approved to hold the CF1 (Director) role, as well as being Responsible for Insurance Distribution, at Professional Construction Risks Limited, an authorised firm.
7. On the basis of the facts and matters set out in this Notice, it appears to the Authority that Mr Cooke is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. The nature of Mr Cooke's offence, which he has admitted and in respect of which he received a conditional caution, demonstrate a clear and serious lack of honesty and integrity such that he is not a fit and proper person to perform regulated activities. In concluding that it is appropriate to impose the prohibition order set out at paragraph 1, the Authority has had regard to all relevant circumstances, including the seriousness and relevance of the offence and the severity of the risk posed by Mr Cooke to consumers and to confidence in the UK financial system. The Authority has decided that it is appropriate to take this action in order to advance its consumer protection and integrity objectives (sections 1C and 1D of the Act, respectively).

DEFINITIONS

8. The definitions below are used in this Final Notice (and in the Annex):

"the Act" means the Financial Services and Markets Act 2000;

"the Authority" means the Financial Conduct Authority;

"the Decision Notice" means the Decision Notice given to Mr Cooke dated 3 December 2024;

"DEPP" means the Authority's Decision Procedure and Penalties manual;

"EG" means the Enforcement Guide;

"the Firm" means Professional Construction Risks Limited (in liquidation) (formerly authorised under firm reference number 715977);

"FIT" means the Authority's 'Fit and Proper Test for Employees and Senior Personnel', forming part of the Handbook;

"the Handbook" means the Authority's Handbook rules and guidance;

"Mr Cooke" means David Robert Cooke;

"the RDC" means the Authority's Regulatory Decisions Committee (see further under Procedural Matters below); and

"the Tribunal" means the Upper Tribunal (Tax and Chancery Chamber).

RELEVANT STATUTORY AND REGULATORY PROVISIONS

9. The statutory and regulatory provisions relevant to this Final Notice are set out in the Annex.

FACTS AND MATTERS

10. From 7 June 2016 until 8 December 2019, Mr Cooke was approved by the Authority to perform the CF1 (Director) controlled function at the Firm, as well as being Responsible for Insurance Mediation from 7 June 2016 to 30 September 2018 and Responsible for Insurance Distribution from 1 October 2018 to 9 May 2022.
11. On 19 October 2019, whilst an approved person, working at the Firm in a position of trust, Mr Cooke committed fraud in that he dishonestly made a false representation, by setting up a public liability insurance policy for Victims A and B on behalf of Company C, knowing that the funds received to pay for the policy would not be passed onto the insurer.
12. During police interview, Mr Cooke confirmed he set up a public liability insurance policy for Victims A and B on behalf of Company C. He confirmed that Victims A and B had paid him £3,822 in two instalments that went into his Firm's business account. Mr Cooke confirmed that he had not paid the insurance company and that Company C thought that it was insured. Mr Cooke stated that he thought that he would pay Company C back at some point but never did due to financial pressures, Christmas and problems within his marriage and that he was sorry for not paying it back.
13. This matter came to light when Company C tried to make a claim on the insurance policy. On 17 November 2020, after various discussions with Mr Cooke about the claim and the policy, Victim A called Insurance Company D named on the insurance documents provided by Mr Cooke. Victim A was advised that there was not a claim against Company C on the system, and that although the policy number quoted by Company C sounded like a correct number for the year the policy was purportedly taken out, Company C did not have an insurance policy with Insurance Company D. This confirmed to Victim A that Company C had never been insured as they had been led to believe by Mr Cooke. Company C suffered a loss of £3,822 in respect of the policy fee it had paid and, due to the lack of insurance was additionally at risk of incurring potential losses arising from claims against it, which should have been covered by the insurance policy. This incident also caused Company C to fail and it went into liquidation.

LACK OF FITNESS AND PROPRIETY

14. FIT 1.3.1G states that the Authority will have regard to a number of factors when assessing an individual's fitness and propriety. FIT 1.3.1BG states that the most important factors include the individual's honesty, integrity and reputation.
15. The facts and nature of Mr Cooke's offence, which involved him committing fraud by dishonestly making a false representation, by purporting to set up a public liability insurance policy for Victims A and B on behalf of Company C, knowing that the funds would not be passed on to the insurer and intending to make a gain of £3,822 for himself, show that he lacks honesty and integrity. As a result, the Authority

considers that Mr Cooke is not a fit and proper person to perform regulated activities.

Prohibition

16. EG 9.1.1 provides that the power to prohibit an individual will be exercised by the Authority to achieve its statutory objectives, which include both securing an appropriate degree of protection for consumers and protecting and enhancing the integrity of the UK financial system.
17. EG 9.5.1 provides that when considering making a prohibition order against an individual who is not an authorised person, the Authority will consider the risk posed by the individual, and may prohibit the individual where it considers this is appropriate to achieve one or more of its statutory objectives.
18. Taking into account the nature of Mr Cooke's offence, which he committed whilst an approved person, the conditional caution arising from his offence, and his lack of fitness and propriety due to his dishonesty and lack of integrity, the Authority considers it is appropriate to prohibit Mr Cooke from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm.

PROCEDURAL MATTERS

19. This Final Notice is given to Mr Cooke in accordance with section 390(1) of the Act. The following paragraphs are important.

Decision Maker

20. The decision which gave rise to the obligation to give this Final Notice was made by the Chair of the RDC. The RDC is a committee of the Authority which takes certain decisions on behalf of the Authority. The members of the RDC are separate to the Authority staff involved in conducting investigations and recommending action against firms and individuals. Further information about the RDC can be found on the Authority's website:

<https://www.fca.org.uk/about/committees/regulatory-decisions-committee-rdc>

Publicity

21. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this notice relates. Under those provisions the Authority must publish such information about which this notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
22. The Authority intends to publish such information about the matter to which this Final Notice relates, as it considers appropriate.

Authority Contacts

23. For more information concerning this matter generally, Mr Cooke should contact Mellisa Spence at the Authority (direct line: 0113 541 2163 or by email: Mellisa.Spence@fca.org.uk).

Jeremy Parkinson

Manager

Financial Conduct Authority, Enforcement and Market Oversight

ANNEX

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives are set out in section 1B(3) of the Act and include securing an appropriate degree of protection for consumers (section 1C of the Act) and protecting and enhancing the integrity of the UK financial system (section 1D of the Act).
2. Section 56(1) of the Act provides:

"The [Authority] may make a prohibition order if it appears to it that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by:

 - (a) an authorised person,
 - (b) a person who is an exempt person in relation to that activity, or
 - (c) a person to whom, as a result of Part 20, the general prohibition does not apply in relation to that activity."

RELEVANT REGULATORY PROVISIONS

3. In exercising its power to make a prohibition order, the Authority must have regard to guidance published in the Handbook and in regulatory guides, such as EG. The relevant main considerations in relation to the action specified above are set out below.

The Enforcement Guide

4. The Authority's policy in relation to exercising its power to issue a prohibition order is set out in EG.
5. EG 9.1 explains the purpose of prohibition orders in relation to the Authority's regulatory objectives.
6. EG 9.2 sets out the Authority's general policy on making prohibition orders. In particular—
 - (a) EG 9.2.1 states that the Authority will consider all relevant circumstances, including whether enforcement action has been taken against the individual by other enforcement agencies, in deciding whether to make a prohibition order;
 - (b) EG 9.2.2 states that the Authority has the power to make a range of prohibition orders depending on the circumstances of each case; and
 - (c) EG 9.2.3 states that the scope of a prohibition order will depend on, among other things, the reasons why the individual is not fit and proper and the severity of risk he poses to consumers or the market generally.
7. EG 9.5.1 states that where the Authority is considering whether to make a prohibition order against someone who is not an approved person, the Authority

will consider the severity of the risk posed by the individual and may prohibit him where it considers that it is appropriate to achieve one or more of the Authority's statutory objectives.

8. EG 9.5.2 provides that, when considering whether to exercise its power to make a prohibition order against someone who is not an approved person, the Authority will consider all the relevant circumstances of the case. These may include, but are not limited to, the factors set out in EG 9.3.2. Those factors include: whether the individual is fit and proper to perform functions in relation to regulated activities (noting the criteria set out in FIT 2.1, 2.2, and 2.3); the relevance and materiality of any matters indicating unfitness; the length of time since the occurrence of any matters indicating unfitness; and the severity of the risk which the individual poses to consumers and to confidence in the financial system.

Fit and Proper Test for Employees and Senior Personnel

9. FIT sets out the criteria that the Authority will consider when assessing the fitness and propriety of a candidate for a controlled function, and may consider when assessing the continuing fitness and propriety of approved persons.
10. FIT 1.3.1BG (1) states that the most important considerations when assessing the fitness and propriety of a person to perform a controlled function include that person's honesty, integrity and reputation.
11. FIT 2.1.1G provides that in determining a person's honesty, integrity and reputation, the Authority will have regard to all relevant matters including, but not limited to, those set out in FIT 2.1.3G. It notes, amongst other things and by way of example, that:

“... conviction for a criminal offence will not automatically mean an application will be rejected. The [Authority] treats each candidate's application on a case-by-case basis, taking into account the seriousness of, and circumstances surrounding, the offence, the explanation offered by the convicted person, the relevance of the offence to the proposed role, the passage of time since the offence was committed and evidence of the individual's rehabilitation.”
12. FIT 2.1.3G(1) states that the matters referred to in FIT 2.1.1G include, but are not limited to, whether a person has been convicted of any criminal offence, noting that particular consideration will be given to offences including dishonesty, fraud and financial crime (amongst other things).
13. FIT 2.1.3G(4) also states that the matters referred to in FIT 2.1.1G also includes whether the person is or has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any potential proceedings or of any investigation which might lead to those proceedings.