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**FINAL NOTICE**

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**To:** **Lewis Alexander Ltd**

**Address:** **The Copper Room  
Deva Centre  
Trinity Way  
Manchester  
M3 7BG**

**Interim Permissions  
Reference Number:** **534049**

**Date:** **14 March 2019**

**ACTION**

1. By an application dated 6 March 2015 Lewis Alexander Ltd ("LAL") applied under section 55A of the Financial Services and Markets Act 2000 (the "Act") for permission under Part 4A of the Act to carry on the regulated activities of debt adjusting and debt counselling (the "Application").
2. For the reasons listed below, the Authority has refused the Application.

**REASONS**

3. The Authority considers that over the course of the assessment of the Application, LAL has on a number of occasions:

- i. questioned why it is required to provide information to the Authority in a forceful and argumentative manner;
  - ii. demonstrated a reluctance to provide information to the Authority and comply with the Authority's rules and other legal requirements;
  - iii. adopted an uncooperative and/or hostile attitude when reacting to the provision of information or feedback given; and
  - iv. adopted an uncooperative and/or hostile attitude when complying with requests made by the Authority.
4. In light of the above, taking LAL's responses and conduct as a whole over the course of the assessment of the Application, the Authority is not satisfied that:
  - i. It will receive adequate information from LAL to enable it to determine whether it is complying with the requirements and standards under the regulatory system for which the Authority is responsible;
  - ii. LAL is fit and proper as it has not demonstrated that it has been, and will be, open and cooperative in its dealings with the Authority, and that it is ready, willing and organised to comply with the standards and requirements of the regulatory system; and
  - iii. LAL has in place appropriate human resources that are both able and willing to understand, and ensure that LAL complies with, regulatory standards and requirements.
5. On 17 April 2018 the Authority gave LAL a decision notice (the "Decision Notice") which notified LAL that it had decided to refuse the Application on the basis that it was not satisfied that it could ensure that LAL met, and would continue to meet, the threshold conditions (in particular, the effective supervision, appropriate resources and suitability threshold conditions).
6. On 14 May 2018, LAL referred the Decision Notice to the Upper Tribunal (Tax and Chancery Chamber) (the "Tribunal"). The written decision of the Tribunal was released on 19 February 2019 (the "Decision") and can be found on the Tribunal's website:

<https://www.gov.uk/tax-and-chancery-tribunal-decisions/lewis-alexander-ltd-v-the-financial-conduct-authority-2019-ukut-0049-tcc>

7. The Tribunal dismissed the reference.
8. The Tribunal's written decision sets out fully the Tribunal's reasons and should therefore be read in full. Those reasons are incorporated herein by reference.
9. The Tribunal noted in the Decision that the Authority has adopted a particular approach to regulation which puts the responsibility primarily on regulated firms themselves to ensure they are meeting the Authority's requirements, although the Authority seeks to assist firms by providing considerable guidance, either on its website or in targeted communications to regulated firms, informing them of the approach the Authority seeks to take and what its requirements mean.
10. The Tribunal found that LAL had failed to understand the different roles and responsibilities of the applicant and the Authority. At paragraphs 192 and 193 of the Decision, the Tribunal stated:

*"We find that at the heart of the difficulties caused for the Authority in this case was the failure, right from the outset of the Application, of Mr Johnson [the sole director of LAL] to understand that it was primarily his responsibility to familiarise himself with the Authority's regulatory requirements and ensure that he could satisfy the Authority that LAL was in a position to meet them.*

*For this reason alone, in our view the Authority had sufficient reason to conclude that LAL was not ready, willing and organised to comply with the standards and requirements of the regulatory system."*

11. At paragraphs 197 and 198 of the Decision, the Tribunal stated:

*"In this case, we find that Mr Johnson's whole approach was not to cooperate with the Authority but to attempt to get it to deal with his firm differently [...] Mr Johnson's approach [...] was to demand that he be spoon-fed with particular requirements relevant to his firm. It was clear that he had taken no steps to familiarise himself with the relevant regulatory requirements, which LAL had been obliged to comply with since the date of LAL's interim permission. It was also clear that he had made no attempt to access and understand the considerable amounts of information that were available to help him by that time, including the guidance issued in March 2014 or by signing up to receive alerts [...]"*

*As regards the complaint that a small firm like his could not afford compliance advice, although we can understand why the obtaining of external advice at reasonable cost may be problematic for a small firm, a firm that finds itself in that position has a choice. It must either take responsibility itself for researching and understanding the relevant requirements, using all the material available to assist as described above; or, regrettably, it must conclude that it cannot pursue its application."*

12. The Tribunal found that the manner in which LAL dealt with the Authority in relation to its requests for information meant that the Authority was justified in its concerns that LAL would not be capable of being effectively supervised if authorised and it could not be satisfied that LAL would engage with the Authority in an open and cooperative manner in relation to its consumer credit business.
13. At paragraph 216 of its decision, the Tribunal stated that it had *"no reason to cast any doubt on the reasonableness of the decision by the Authority to refuse the Application"* that on the basis of the information available to the Authority at the time of the Decision Notice, the decision to refuse the Application was one within the range of reasonable decisions that it was open to the Authority to make.
14. At paragraph 217 of the Decision, the Tribunal stated:

*"In our view, bearing in mind the Authority's supervision model for small firms such as LAL and LAL's approach during the course of the Application and thereafter, on the basis of our findings the Authority was fully justified in concluding that it was unable to ensure that LAL satisfied the Threshold Conditions. We therefore agree with the Authority's assessment that LAL had demonstrated a reluctance to provide information and comply with the rules contained within the Authority's Handbook, forcefully and argumentatively questioned why it was required to provide information and adopted an uncooperative attitude."*
15. The Tribunal noted in paragraph 215 of the Decision that, while its assessment is that it will be very difficult in the future to authorise a firm where Mr Johnson is the sole human resource, *"there may be a way for his [Mr Johnson's] skills to be deployed in a firm where he can be properly supervised and directed and where he has no responsibility for dealing directly with the regulator, but where he can devote his efforts entirely to giving his customers a good service."*

16. In light of the above, the Authority has issued this Final Notice.

## **PROCEDURAL MATTERS**

17. This Final Notice is given under, and in accordance with, section 390(2) of the Act.

### **Publicity**

18. 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 the matter to 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 LAL or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

19. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

### **Authority contacts**

20. For more information concerning this matter generally, contact Marina Lancaster (020 7066 5250/marina.lancaster@fca.org.uk) of the Lending and Intermediaries Department of the Authority.

**Sarah Hayes**

**Head of Lending and Intermediaries**

**Supervision Division (Retail and Authorisations)**

Financial Conduct Authority