
FINAL NOTICE

To: **Luke Andrew Durrant**

**Individual
Reference
Number:** **LAD01068**

Dated: **22 SEPTEMBER 2022**

ACTION

1. For the reasons set out in this Final Notice, the Authority hereby makes an order, pursuant to section 56 of the Act, prohibiting Mr Durrant from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
2. The Authority gave Mr Durrant the Decision Notice, which notified Mr Durrant of the Authority's decision to take the action specified above.
3. Mr Durrant 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 set out in paragraph 1 above against Mr Durrant. The prohibition order takes effect from the date of this Final Notice.

SUMMARY OF REASONS

5. Whilst an approved person, Mr Durrant committed fraud by abuse of position. In particular, Mr Durrant:
 - (a) was convicted on 14 February 2020, of two counts of fraud by abuse of position (contrary to section 4 of the Fraud Act 2006).

(b) was sentenced on 9 June 2020 to four years imprisonment (to be served concurrently) for those offences. Mr Durrant served the remaining two years of this sentence, having been released, on licence.

6. On the basis of the facts and matters set out below, it appears to the Authority that Mr Durrant 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. His convictions demonstrate a clear and serious lack of honesty and integrity such that he is not fit and proper to perform regulated activities. In reaching this view, the Authority has had regard to all relevant matters including the relevance and materiality of the offences; the severity of the risk posed by Mr Durrant to consumers and financial institutions; and to confidence in the market generally. The Authority considers that it is appropriate to impose the prohibition order set out in paragraph 1 to advance its consumer protection and market integrity objectives (sections 1C and 1D of the Act, respectively).

DEFINITIONS

7. 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 Durrant on 27 August 2021;

“Mr Durrant” means Luke Andrew Durrant;

“EG” means the Enforcement Guide;

“FIT” means the Fit and Proper Test for Approved Persons and specified significant-harm functions sourcebook;

“the Handbook” means the Authority’s Handbook of rules and guidance;

“RDC” means the Regulatory Decisions Committee of the Authority (see further under Procedural Matters below

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber); and

“the Warning Notice” means the warning notice given to Mr Durrant on 22 July 2021.

RELEVANT STATUTORY PROVISIONS

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

FACTS AND MATTERS

9. Mr Durrant was previously approved by the Authority to perform the CF30 (Customer) controlled function in relation to Sophex Ltd (trading as Lifetime Financial Solutions Limited) between 2 January 2012 to 16 November 2018. The offences to which Mr Durrant’s convictions relate, took place between 1 May 2016 and 17 November 2018. Mr Durrant’s offences therefore took place whilst he was

an approved person and related to the abuse of his position of trust as an independent financial adviser and approved person.

10. Mr Durrant is not currently approved to perform any controlled functions in relation to any firm authorised by the Authority, and he has not been approved to perform any controlled function since 16 November 2018.
11. On 14 February 2020, Mr Durrant was convicted at Norfolk Magistrates Court of two counts of fraud by abuse of position (contrary to section 4 of the Fraud Act 2006).
12. On 9 June 2020, Mr Durrant was sentenced at Norwich Crown Court to four years imprisonment for each offence (to be served concurrently).

In his sentencing remarks, the Judge, remarked on the features of Mr Durrant's case. In essence, Mr Durrant set up a hidden bank account in the name of Lifetime Financial Solution Limited which would allow Mr Durrant to easily move cheques which were supposed to go to Sophex Ltd (in the form of diverted client fees) into his own business or personal account. Additionally, Mr Durrant stole money from various clients (many of those being elderly and in a vulnerable position) who had trusted Mr Durrant and paid money into that account. Over the relevant period, Mr Durrant had stolen in the region of £300,000 from these victims. In particular, the Judge placed particular emphasis on the fact that Mr Durrant had abused his position of power, trust and responsibility and described Mr Durrant's offending as having set up a "dishonest and sophisticated scheme".

FAILINGS

13. The facts and matters set out above lead the Authority to conclude that Mr Durrant's misconduct demonstrates that he lacks honesty and integrity. As a result of his lack of honesty and integrity, the Authority considers Mr Durrant is not fit and proper to perform any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm.

SANCTION

14. Given the nature and seriousness of the matters outlined above, and the severity of the risk posed by Mr Durrant to consumers, financial institutions and to confidence in the market generally, the Authority considers that it is appropriate and proportionate in all the circumstances to make an order prohibiting Mr Durrant from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
15. The Authority considers that it is appropriate to make the prohibition order set out in paragraph 1 above to advance its consumer protection and market integrity objectives (section 1C and 1D of the Act, respectively).

PROCEDURAL MATTERS

16. This Final Notice is given to Mr Durrant in accordance with section 390 of the Act.

Decision Maker

17. The decision which gave rise to the obligation to give this Final Notice was made by 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

18. Section 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Final Notice relates. Under those provisions, the Authority must publish such information about which this Final 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 Mr Durrant or prejudicial to the interest of consumers or detrimental to the stability of the UK financial system.

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

Authority Contact

19. For more information concerning this matter generally, Mr Durrant should contact Hajra Aftab at the Authority (direct line: 020 7066 0621).

Anna Couzens
Enforcement and Market Oversight Division

ANNEX

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives 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:

“(1) 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.

[...]

(3) A prohibition order may relate to –

(a) a specified regulated activity, any regulated activity falling within a specified description or all regulated activities.”

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 make 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, FIT 2.2 and FIT 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. The Authority has issued guidance on the fitness and propriety of individuals in FIT.
- 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 states 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).