
FINAL NOTICE

To: Mark Anthony Jensen

IRN: MAJ00021

Dated: 13 November 2023

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 Jensen 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 Jensen the Decision Notice, which notified Mr Jensen of the Authority's decision to take the action specified above.
3. Mr Jensen 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 Jensen. The prohibition order takes effect from the date of this Final Notice.

SUMMARY OF REASONS

5. Between 28 February 2009 and 23 July 2019, Mr Jensen engaged in criminal activity, in part, whilst an approved person and performing the role of a financial advisor.
6. On 18 March 2021, at South and West Devon Magistrates Court, Mr Jensen pleaded guilty

to seven counts of fraud by false representation, contrary to sections 1 and 2 of the Fraud Act 2006.

7. On 25 March 2021, Mr Jensen was sentenced to a total term of five years and four months' imprisonment, having received credit for an early guilty plea that reduced his sentence by a third.
8. On the basis of the facts and matters set out below, it appears to the Authority that Mr Jensen is not a fit and proper person to perform any functions in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. His conduct and 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 decision, the Authority has had regard to all relevant circumstances, including the relevance and materiality of the offences, and the severity of the risk posed by Mr Jensen to consumers and to confidence in the UK financial system. The Authority considers that it is appropriate to impose the prohibition order set out in paragraph 1 to achieve its consumer protection and integrity objectives (sections 1C and 1D of the Act, respectively).

DEFINITIONS

9. The definitions below are used in this 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 Jensen on 26 September 2023;

"EG" means the Enforcement Guide;

"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 of rules and guidance;

"Mr Jensen" means Mark Anthony Jensen;

"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 Jensen dated 5 September 2023.

FACTS AND MATTERS

10. Between 28 February 2009 and 23 July 2019, Mr Jensen committed seven counts of the criminal offence of fraud by false representation, contrary to sections 1 and 2 of the Fraud Act 2006.

11. Five out of the seven offences were committed between 28 February 2009 and 16 December 2010, during which period Mr Jensen was approved to perform the controlled function of CF30 (Customer) at an authorised firm and was employed at an appointed representative. Until 2 June 2009, Mr Jensen was also employed at another appointed representative and was a CF1 Director (AR) at its principal firm. Once Mr Jensen left these roles, he continued to use the position of trust and contacts he had established in those roles to defraud people and committed two further offences. The total financial loss he caused to these victims was estimated to be £1.2 million. In addition to using the money to pay debts and living expenses, Mr Jensen also used the funds for spread betting, holidays to Thailand and Egypt, as well as motorcycle trips.
12. On 18 March 2021, Mr Jensen pleaded guilty to the above offences and on 25 March 2021, was sentenced to five years and four months' imprisonment at Plymouth Crown Court, after receiving a one third reduction to his sentence as credit for his early guilty plea.
13. At the sentencing hearing, the judge made the following observations regarding Mr Jensen's behaviour:
 - 13.1 Mr Jensen was part of a network providing financial advice, but his contract was terminated in 2010, and that he continued to provide advice to consumers after this.
 - 13.2 Mr Jensen abused multiple positions of trust, sustained over a significant period of time, and that there were a large number of victims.
 - 13.3 Mr Jensen had taken advantage of vulnerable people who trusted him, that everything he did was false and that he took advantage of the victims in a despicable way.
 - 13.4 The offences for which Mr Jensen was convicted amounted to a gross breach of trust as a professional advisor, as a friend and as a family member.

Lack of fitness and propriety

14. The statutory and regulatory provisions relevant to this Final Notice are set out in the Annex.
15. 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.
16. The facts and nature of Mr Jensen offences, in particular his having been convicted of serious fraud, shows he lacks honesty and integrity. As a result, the Authority considers that Mr Jensen is not a fit and proper person to perform regulated activities.

Prohibition

17. 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.

18. Taking into account the nature of the fraud Mr Jensen participated in and the serious conviction arising from his participation, and his lack of fitness and propriety due to his dishonesty and lack of integrity, the Authority considers it is appropriate to prohibit Mr Jensen 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 Jensen in accordance with section 390(1) of the Act.

Decision maker

20. 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

21. 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 Jensen 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

22. For more information concerning this matter generally, Mr Jensen should contact Ibrahim Ali at the Authority (direct line: 020 7066 4264)

Jeremy Parkinson
Enforcement and Market Oversight Division

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.

The Fit and Proper test for Employees and Senior Personnel (FIT)

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. The main assessment criteria to which the Authority will have regard when assessing the fitness and propriety of a person to perform a particular controlled function are described in FIT 2, by reference to: honesty, integrity and reputation (FIT 2.1); competence and capability (FIT 2.2); and financial soundness (FIT 2.3).
12. FIT 2.1.1 G 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 2.1.3 G.
13. In relation to convictions for criminal offences, FIT 2.1.1A G states that: If any staff being assessed under FIT has a conviction for a criminal offence, the firm should consider the seriousness of and circumstances surrounding the offence, the explanation offered by that 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.
14. FIT 2.1.3 G provides a list of (non-exhaustive) matters to which the Authority will have regard when determining a person's honesty, integrity and reputation. These include:
 - 1) whether the person has been convicted of any criminal offence; this must include, where provided for by the Rehabilitation Exceptions Orders to the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 (as applicable), any spent convictions; particular consideration will be given to offences of dishonesty, fraud, financial crime or an offence under legislation relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, banking, other financial services, insolvency, consumer credit companies, insurance, consumer protection, money laundering, market manipulation and insider dealing, whether or not in the United Kingdom;

- 2) whether the person has been the subject of, or interviewed in the course of, any existing or previous investigation or disciplinary proceedings, by the appropriate regulator, by other regulatory authorities (including a previous regulator), clearing houses and exchanges, professional bodies, or government bodies or agencies;
- 3) 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;
- 4) whether the person has contravened any of the requirements and standards of the regulatory system or the equivalent standards or requirements of other regulatory authorities (including a previous regulator), clearing houses and exchanges, professional bodies, or government bodies or agencies;
- 5) whether the person has been the subject of any justified complaint relating to regulated activities;
- 6) whether the person, or any business with which the person has been involved, has been investigated, disciplined, censured or suspended or criticised by a regulatory or professional body, a court or Tribunal, whether publicly or privately;
- 7) whether the person has been dismissed, or asked to resign and resigned, from employment or from a position of trust, fiduciary appointment or similar;
- 8) whether, in the past, the person has been candid and truthful in all their dealings with any regulatory body and whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standards

15. FIT 2.3.1 G sets out the (non-exclusive) factors to which the Authority will have regard when determining a person's financial soundness. These include:

- 1) whether the person has been the subject of any judgment debt or award, in the United Kingdom or elsewhere, that remains outstanding or was not satisfied within a reasonable period;
- 2) whether, in the United Kingdom or elsewhere, the person has made any arrangements with their creditors, filed for bankruptcy, had a bankruptcy petition served on them, been adjudged bankrupt, been the subject of a bankruptcy restrictions order (including an interim bankruptcy restriction order), offered a bankruptcy restrictions undertaking, had assets sequestered, or been involved in proceedings relating to any of these.