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FINAL NOTICE

To: **Michael Mendonca Nascimento**

**Individual
Reference
Number:** **3111345**

Dated: **28 APRIL 2022**

ACTION

1. For the reasons listed in this Final Notice and pursuant to section 56 of the Act, the Authority has decided to make an order prohibiting Mr Nascimento from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
2. On 9 March 2022, the Authority gave Mr Nascimento the Decision Notice, which notified Mr Nascimento that the Authority had decided to take the action specified above.
3. Mr Nascimento 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 a prohibition order in respect of Mr Nascimento. The prohibition order takes effect from the date of this Final Notice.

SUMMARY OF REASONS

5. As set out in more detail in the facts and matters described below, Mr Nascimento was tried and convicted on indictment of conspiracy to defraud, fraud by false representation, money laundering and perverting the course of justice. He was also convicted, upon his own confession, of communicating an invitation to engage in investment activity in contravention of section 21 of the Act.

6. Given the nature and circumstances of the offending, the Authority considers that Mr Nascimento is not a fit and proper person to perform any function in relation to any regulated activity carried on by an authorised or exempt person or exempt professional firm. This is because he lacks honesty and integrity.
7. As a result of his lack of honesty and integrity, Mr Nascimento poses a serious threat to consumers and to confidence in the financial system. Therefore, it is appropriate, in order to advance the Authority's statutory objectives (which include securing an appropriate degree of protection for consumers and protecting and enhancing the integrity of the UK financial system), to impose a prohibition order on him in the terms set out above.

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 Nascimento dated 9 March 2022;
 - "EG" means the Enforcement Guide;
 - "the Handbook" means the Authority's Handbook of rules and guidance;
 - "Mr Nascimento" means Michael Nascimento;
 - "the 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 Nascimento dated 9 February 2022.

RELEVANT STATUTORY PROVISIONS

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

FACTS AND MATTERS

10. Mr Nascimento has never been approved by the Authority to perform any controlled functions.
11. Following an investigation by the Authority's Unauthorised Business Department and other law enforcement bodies, Mr Nascimento was convicted of multiple offences.

12. On 2 November 2017, at Southwark Crown Court, Mr Nascimento was convicted upon his own confession of four counts of communicating an invitation to engage in investment activity in contravention of sections 21 and 25 of the Act.
13. On 11 December 2017, at Southwark Crown Court, Mr Nascimento was also convicted by jury of: (i) one count of conspiring to defraud, contrary to common law; (ii) one count of dishonestly making false representation to make gain for himself/another or cause loss to other/expose other to risk of loss, contrary to section 1 of the Fraud Act 2006; and (iii) one count of committing an act/series of acts with intent to pervert the course of justice, contrary to common law.
14. On 13 February 2018, at Southwark Crown Court, Mr Nascimento was convicted by jury of: (i) two counts of entering into/being concerned in the acquisition/retention/use or control of criminal property, contrary to section 328(1) of the Proceeds of Crime Act 2002; and (ii) one count of acquiring/using/possessing criminal property, contrary to section 329 of the Proceeds of Crime Act 2002.
15. Mr Nascimento, as described by the sentencing judge, "single-mindedly devoted [his] life to the pursuit of riches through fraud" and also "exploited the weaknesses of some of those that [he] employed to work for [him]". The sentencing judge also noted the difficulty in passing a sentence which truly reflected what Mr Nascimento had done.
16. On 14 September 2018, at Southwark Crown Court, Mr Nascimento was sentenced to a total term of thirteen years' imprisonment for the above offences; disqualified as a director for fifteen years, under section 2 of the Company Directors Disqualification Act 1986; and made subject to a Serious Crime Prevention Order for a period of five years, pursuant to section 19 of the Serious Crime Act 2007.

PROCEDURAL MATTERS

Important

17. This Final Notice is given to Mr Nascimento in accordance with section 390(1) of the Act.

Decision Maker

18. 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

19. Sections 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 the matter to 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 Nascimento or prejudicial to the interests of the consumers or detrimental to the stability of the UK financial system.

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

Authority Contact

21. For more information concerning this matter generally, Mr Nascimento should contact Mike Linton at the Authority (direct line: 020 7066 2595).

Anna Couzens
Enforcement and Market Oversight

ANNEX A

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:

"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. 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).