
FINAL NOTICE

To: **Paul Seakens**

IRN: **PMS01116**

Dated: **14 JANUARY 2022**

1. PROPOSED ACTION

1.1 For the reasons given in this Notice, the Authority has decided to make an order, pursuant to section 56 of the Act, prohibiting Mr Seakens from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. The prohibition order takes effect from the date of this Notice.

2. SUMMARY OF REASONS

2.1 As set out in more detail in the facts and matters described below, Mr Seakens committed offences of converting criminal property (i.e. money laundering) and fraudulent trading.

2.2 Given the nature and circumstances of the offending, the Authority considers that Mr Seakens is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised or exempt persons or exempt professional persons. This is because he lacks the necessary honesty, integrity and reputation.

2.3 As a result of his lack of honesty, integrity and reputation, Mr Seakens 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 protecting consumers and the integrity of the UK financial system), to impose a prohibition order on him, as detailed above.

3. DEFINITIONS

3.1 The definitions below are used in this Final Notice (and in Annexes A and B):

“the Act” means the Financial Services and Markets Act 2000;

“the Authority” means the Financial Conduct Authority;

“the Decision Notice” means the decision notice give to Mr Seakens on 6 December 2021;

“EG” means the Authority’s 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;

“OCL” means Opus Capital Limited (now in liquidation), which was previously authorised and regulated by the Authority;

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

“Mr Seakens” means Paul Seakens; and

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

4. RELEVANT STATUTORY PROVISIONS

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

5. FACTS AND MATTERS

Background

5.1 Mr Seakens has been the director of OCL since 19 November 2010. He was approved by the Authority to perform the CF1 (Director), CF10 (Compliance Oversight), CF11 (Money Laundering Reporting) and CF30 (Customer) functions at OCL from 8 November 2010 to 15 March 2017.

5.2 On 12 May 2021, at Southwark Crown Court, Mr Seakens was tried and convicted of one count of fraudulent trading and four counts of converting criminal property.

5.3 On 28 May 2021, Mr Seakens was sentenced to 13 years’ imprisonment and was disqualified as a director for 12 years under section 2 of the Company Directors Disqualification Act 1986.

5.4 Between 2011 and 2014, Mr Seakens used OCL (trading as Carbon Neutral Investments Ltd) as a vehicle to create and operate a fraudulent clearing business. This enabled a system in which carbon credits were sourced and supplied to Mr Seakens and OCL which were ultimately sold to investors by third party brokers.

- 5.5 The judge who passed sentence on Mr Seakens stated that investors who gave money to Mr Seakens' clearing business were reliant on information which Mr Seakens knew to be untrue and misleading. The carbon credits were worthless and did not offer investors any prospect of making a profit or recovering their investment. Mr Seakens' business cleared approximately £36 million of investor monies, of which over £600,000 comprised expenses put through the business, a large part of which was of benefit to Mr Seakens. Mr Seakens also sent £3.2 million of investor monies to unknown overseas accounts and has failed to disclose the beneficiaries of those accounts.
- 5.6 The sentencing judge stated that the total amount involved in the overall fraud was approximately £36 million. The investors included elderly people who suffered a negative impact on their health and retirement, and others had to re-mortgage or sell their homes.
- 5.7 Mr Seakens was described by the sentencing judge as being at the centre of the fraud: he was one of the masterminds behind the fraud and was one of the recipients of the benefits from it.
- 5.8 Mr Seakens' lack of honesty was also highlighted by the sentencing judge, who remarked that "not a single word" from Mr Seakens could be trusted, and that Mr Seakens had engaged in "lies, half-truths... [and] distortions of the truth". The sentencing judge also referred to his "complete contempt for the truth". She stated that he misled and deliberately ignored warnings from relevant authorities and, when his clearing accounts were closed by the banks, misled other banks in order to open new accounts. He also misled carbon credit registries.
- 5.9 Through the Decision Notice, the Authority gave notice of its decision to take the action described in paragraph 1 above. Mr Seakens did not refer the matter to the Tribunal within 28 days of the date on which the Decision Notice was issued to him.
- 5.10 The Authority therefore makes an order prohibiting Mr Seakens from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm, for the reasons described above.

6. REPRESENTATIONS

- 6.1 Annex B contains a brief summary of the key representations made by Mr Seakens and how they have been dealt with. In making the decision which gave rise to the obligation to give this Notice, the Authority has taken into account all the representations made, whether or not set out in Annex B.

7. PROCEDURAL MATTERS

- 7.1 This Notice is given to Mr Seakens under, and in accordance with, section 390 of the Act. The following paragraphs are important.

Decision Maker

- 7.2 The decision which gave rise to the obligation to give this 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>

Confidentiality and publicity

- 7.3 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. However, the Authority must not publish information if such publication would, in the opinion of the Authority, be unfair to Mr Seakens or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

Authority Contacts

- 7.4 For more information concerning this matter generally, contact Saad Nasarullah (direct line: 020 7066 1940) of the Enforcement and Market Oversight Division of the Authority.

Anna Couzens
Manager, Threshold Conditions Team
Enforcement and Market Oversight Division
Financial Conduct Authority

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 9.3.2 states that, when the Authority decides to make a prohibition order against an approved person and/or withdraw their approval, the Authority will consider all the relevant circumstances of the case. These may include, but are not

limited to: 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 Approved Persons and specified significant-harm functions

8. The Authority has issued guidance on the fitness and propriety of individuals in FIT.
9. 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.
10. 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."
11. 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).

ANNEX B

REPRESENTATIONS

1. A summary of Mr Seakens' key representations, and (in bold type) the Authority's conclusions in respect of them, is set out below.

The prohibition order is not necessary

2. Mr Seakens has not been regulated by the Authority since 2017, is not seeking to be regulated, and is not in any position to hold a regulated position. The proposal to make the prohibition order would appear to be about "PR" for the Authority rather than having any practical use.
3. Alternatively, the matter could be dealt with by way of an undertaking by Mr Seakens not to take on a function in a firm regulated by the Authority for which the Authority's approval is required.
4. **The Authority acknowledges that there are practical restrictions on Mr Seakens' ability to be involved in regulated activities while he remains in prison. Nevertheless, the Authority considers that, even while Mr Seakens remains in prison, there is a risk to consumers and to the integrity of the markets due to his lack of fitness and propriety, which makes a prohibition order appropriate. The Authority also notes that Mr Seakens will, in due course, be released from prison, at which point such risk is likely to increase.**
5. **Further, the order set out in this Notice goes beyond a prohibition on Mr Seakens' becoming an approved person, or seeking authorisation for a business under his control; it prohibits him from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm.**
6. **The Authority notes that the prohibition order will send a message to the market and to consumers about the Authority's approach regarding Mr Seakens' conduct and his lack of fitness and propriety. That will be the case whatever the practical restrictions on Mr Seakens' ability to become involved in regulated activities.**
7. **The Authority does not consider that an undertaking by Mr Seakens would be an acceptable alternative to a prohibition order. In any event, the order set out in this Notice goes beyond the scope of the undertaking suggested by Mr Seakens; as noted above, it prohibits him from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm (not merely any function for which the Authority's approval is required).**

The scope of any prohibition order

8. The prohibition order is too wide. While Mr Seakens can see the purpose in preventing him from carrying out a customer-facing function, on the completion of his sentence there is no reason for him not to carry out, say, a SMF16 (compliance oversight) or SMF17 (money laundering reporting) senior management function.

9. **The Authority considers Mr Seakens lacks honesty and integrity, such that he is not fit to perform any function in financial services. Given the nature and gravity of his offences, which are offences of dishonesty, the Authority considers that Mr Seakens' views in respect of his fitness for the SMF 16 and SMF 17 roles show that he lacks insight into his wrongdoing. As such, they support the Authority's view that Mr Seakens lacks fitness and propriety and that a full prohibition order is appropriate.**

The length of any order

10. The prohibition order should be in place for the period of Mr Seakens' prison sentence rather than indefinitely; the Authority should give some recognition for the "period of rehabilitation" which will have been undertaken.
11. **The Authority does not have power to impose a prohibition order which is limited in time. It may indicate in the decision notice that it would be minded to revoke the order on the application of the individual in the future, in the absence of new evidence that the individual is not fit and proper, specifying the number of years after which it would be minded to revoke or vary the prohibition on an application. However, the Authority will only adopt this approach in cases where it considers it appropriate in all the circumstances. The Authority does not consider that this is such a case; in particular, taking into account the seriousness of the offences of dishonesty committed by Mr Seakens and his apparent lack of insight into his offending. These do not provide any indication that it is likely he will have become fit and proper by the time of his release from prison, or after any particular number of years.**
12. **Nevertheless, Mr Seakens may apply at any time to the Authority for the revocation of the prohibition order; if he does so, the Authority will consider his application in the light of all the circumstances at the relevant time.**

Inaccuracies in the facts and matters

13. Contrary to what is stated in paragraph 5.5 of this Notice, the carbon credits had a clear value.
14. **The Authority notes that the statement in paragraph 5.5 - that the carbon credits were worthless and did not offer investors any prospect of making a profit or recovering their investment - reflects a remark by the sentencing judge. The Authority considers that there is no basis to doubt its accuracy.**
15. The figure of £600,000 given in relation to the benefit to Mr Seakens is incorrect. The correct figure is £300,000 and the additional £300,000 consisted of business expenses incurred by OCL.
16. **The Authority considers this to be incorrect. In her remarks the sentencing judge said: "*In relation to ... benefits, as the documents show, you were anxious that those documents only show a modest benefit to yourself. You declare an annual income to the taxman of £22,000 a year. Receipts into your bank account are considerably more. Emails show how a car that you had [and] another you wanted were to be pool cars to avoid taxation. Expenses were put through your company including your personal rent, housing costs and even some food. I shall not recite the list of expenses in full but they totalled over £600,000, a***

large [part] of which was benefit to you. Your claim is that at the most you benefited by £300,000 ..., I do not accept that, you have seen the benefit far more than that".

17. The £3.2m of overseas payments referred to in paragraph 5.5 were unidentified because the City of London Police failed to ask the relevant bank where the payments were sent. The identification of those payments' beneficiaries is subject to ongoing legal process, in which Mr Seakens will aim to provide clear identification of the beneficiaries involved, so it is not appropriate to suggest that he was the beneficiary.
18. **The Authority considers that it is clear from the sentencing judge's remarks that Mr Seakens knew where the payments in question were sent but had failed to disclose the beneficiaries. The judge said: "*During the evidence we heard that money has been sent abroad. It is not clear exactly how much, but at least £5.6m. When asked about this by the Insolvency Service, you produced invoices for £2.4 million... which leaves £3.2 million unaccounted for. In evidence you said you did not know where this money is [...] One thing that is certain is that you know where that money went. You were in sole control of the bank accounts and you authorised it being sent abroad.*"** The Authority notes that these remarks (and the relevant part of paragraph 5.5) reach no conclusion as to the identity of the beneficiaries of the £3.2 million referred to.
19. There was no direct evidence presented during Mr Seakens' trial of any relationship between the purchase of carbon credits and investors' ill health, nor of investors having to re-mortgage or sell their homes, as stated in paragraph 5.6 of this Notice.
20. **The Authority considers it to be clear from the sentencing judge's remarks that there was evidence of such a relationship. She stated: "*A number of the investors were elderly, some have been unable to buy essential items needed due to ill health. ... Their health has been affected, they have felt shame and no longer trust those around them. They have been unable to assist family with education and living expenses. Some have had to re-mortgage their homes or sell them.*"**

Superfluous material in the facts and matters

21. The material set out in paragraph 5.8 of this Notice is superfluous and should not be included.
22. **The Authority considers that the sentencing judge's remarks, referred to in paragraph 5.8, are relevant to this matter, as they go to the extent of Mr Seakens' lack of honesty and integrity; as such, they are material to its conclusion that he lacks fitness and propriety.**

Omission from the facts and matters

23. It should be stated in paragraph 5.4 that the carbon credit clearing business was unregulated business not subject to the Authority's Handbook.
24. **The Authority considers this fact to have no bearing on its conclusion as to Mr Seakens' fitness and propriety.**