



Financial Conduct Authority
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FINAL NOTICE

To: **Raj Von Badlo**

Address: **Flat 4, Belmont Farm
Stud Green
Holyport
Maidenhead
SL6 2JH**

**Individual
Reference
Number:** **RXV01299**

Dated: **20 February 2017**

ACTION

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against Mr Von Badlo.
2. The Authority gave Mr Von Badlo the Decision Notice, which notified Mr Von Badlo that, for the reasons given below and pursuant to section 56 of the Act, the Authority had decided to make an order prohibiting him from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
3. Mr Von Badlo 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, for the reasons set out below, the Authority hereby makes an order pursuant to section 56 of the Act prohibiting Mr Von Badlo 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 20 February 2017.

DEFINITIONS

5. 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 Von Badlo dated 24 August 2016;

“EG” means the Enforcement Guide;

“FIT” means the Fit and Proper Test for Approved Persons sourcebook;

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

“POCA” means the Proceeds of Crime Act 2002;

“the Prohibition Order” means the order prohibiting Mr Von Badlo, pursuant to section 56 of the Act, from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm;

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

“Mr Von Badlo” means Raj Von Badlo;

“the Warning Notice” means the Warning Notice dated 3 August 2016.

RELEVANT STATUTORY PROVISIONS

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

SUMMARY OF REASONS

7. The Authority has concluded, on the basis of the facts and matters and conclusions described in the Warning Notice, and in the Decision Notice, that Mr Von Badlo is not a fit and proper person to perform any functions as his conduct demonstrates a serious lack of integrity. Specifically, Mr Von Badlo was:

- (a) upon his own confession, convicted on 22 July 2014 of one count of recklessly making statements, promises or forecasts which were misleading, false or deceptive in a material particular, contrary to sections 397(1)(c) and (2) of the Act, and one count of communicating an invitation or inducement to engage in an investment activity without authorisation or approval by an authorised person contrary to sections 21 and 25 of the Act;

- (b) sentenced on 30 January 2015 to two years' and twelve months' imprisonment respectively for these offences, to be served concurrently; and
- (c) made the subject of a Confiscation Order under POCA totalling £99,819.

FACTS AND MATTERS RELIED ON

8. Mr Von Badlo recklessly introduced 75 investors into a fraudulent scheme, who together invested a total of £4,900,000 (out of the overall total invested of £5,560,000). Mr Von Badlo's actions therefore increased the substantial losses associated with this fraudulent scheme.
9. On 22 July 2014, Mr Von Badlo was, upon his own confession, convicted on indictment at Southwark Crown Court of:
 - (a) one count of recklessly making statements, promises or forecasts which were misleading, false or deceptive in a material particular, contrary to sections 397(1)(c) and (2) of the Act; and
 - (b) one count of communicating an invitation or inducement to engage in an investment activity without authorisation or approval by an authorised person, contrary to sections 21 and 25 of the Act.
10. On 30 January 2015, Mr Von Badlo was sentenced at Southwark Crown Court to two years' imprisonment for the offence specified at paragraph 9(a), and to twelve months' imprisonment for the offence specified at paragraph 9(b) to be served concurrently. Mr Von Badlo was required to pay a victim surcharge of £120.
11. The Judge noted as an aggravating feature of Mr Von Badlo's case that following the arrest of the individual operating the fraudulent scheme Mr Von Badlo continued to assure investors of the safety of their money whilst also ensuring that monies were paid to him out of the scheme, and Mr Von Badlo removed £95,000 from his bank account in small amounts from a cashpoint over a period of several months.
12. The Judge concluded that the offence at paragraph 9(a) above came toward the top of the scale for recklessness because the duty Mr Von Badlo assumed to investors was a serious one and he completely failed in carrying that out and recklessly misled investors about what he was doing to protect their investments.
13. On 18 June 2015, the Court of Appeal dismissed Mr Von Badlo's appeal against his sentence.
14. On 18 December 2015, Mr Von Badlo was also made the subject of a Confiscation Order under POCA totalling £99,819, payable within three months (i.e. by 18 May 2016) or in default to serve 15 months' imprisonment, consecutive to any term of custody already being served. Mr Von Badlo satisfied the Confiscation Order on 11 July 2016.

DECISION MAKER

15. The decision which gave rise to the obligation to give this Final Notice was made by the Regulatory Decisions Committee.

IMPORTANT

16. This Final Notice is given to Mr Von Badlo in accordance with section 390(1) of the Act.

Publicity

17. 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 Von Badlo or prejudicial to the interest of consumers.
18. 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

19. For more information concerning this matter generally, please contact Dilip Vekariya at the Authority (direct line: 020 7066 5520).

John Kirby
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:

"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. 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 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 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 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 such an individual, 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 that criteria are 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

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 include (amongst other things) that person's integrity.
11. FIT 2.1.1G sets out that in determining (amongst other things) a person's integrity, the Authority will have regard to all relevant matters. 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 those of dishonesty, fraud, financial crime or an offence under legislation relating to financial services (amongst other things).