
FINAL NOTICE

To: **Ray Alan Davis**

IRN: **RAD01120**

Dated: **15 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 Davis 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 Davis the Decision Notice, which notified Mr Davis of the Authority's decision to take the action specified above.
3. Mr Davis 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 Davis. The prohibition order takes effect from the date of this Final Notice.

SUMMARY OF REASONS

5. On 28 February 2020, the TDB Tribunal expelled Mr Davis from membership of the CIOT and fined him £20,000 (plus costs) on the basis that, when he was a member of the CIOT and the ICAEW, Mr Davis had, among other things, failed to act honestly and in good faith in his dealings with HMRC. Mr Davis's misconduct occurred when he was an approved person at an authorised firm.
6. On 14 April 2021, the ICAEW held a disciplinary committee hearing about Mr Davis's

conduct. The Disciplinary Committee Tribunal considered the findings of the TDB Tribunal and assessed the negative impact of Mr Davis's conduct on public confidence in the accountancy profession, and decided to exclude Mr Davis from membership of the ICAEW.

7. Mr Davis was an approved person at the time the disciplinary actions were taken against him but he failed to inform the Authority of the disciplinary proceedings and their outcomes.
8. On the basis of the facts and matters set out below, it appears to the Authority that Mr Davis 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 demonstrates a clear and serious lack of honesty and integrity such that he is not a fit and proper person to perform regulated activities. In imposing the prohibition order, the Authority has had regard to all relevant circumstances, including the relevance and materiality of the matters that resulted in the findings of dishonesty, and the severity of the risk posed by Mr Davis 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 in order 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 Final Notice (and in the Annex):

"the Act" means the Financial Services and Markets Act 2000;

"the Authority" means the Financial Conduct Authority;

"CIOT" means the Chartered Institute of Taxation;

"Mr Davis" means Ray Alan Davis;

"the Decision Notice" means the decision notice given to Mr Davis on 12 October 2023;

"the Disciplinary Committee Tribunal" means The Tribunal of the Disciplinary Committee of the ICAEW;

"EG" means the Enforcement Guide;

"FIT" means the 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;

"HMRC" means Her Majesty's Revenue and Customs;

"ICAEW" means the Institute of Chartered Accountants in England and Wales;

"the prohibition order" means an order made pursuant to section 56 of the Act, which prohibits Mr Davis from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm;

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

“the TDB Tribunal” means the Disciplinary Tribunal of the Taxation Disciplinary Board;

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

“the Warning Notice” means the warning notice given to Mr Davis dated 22 September 2023.

FACTS AND MATTERS

10. Between 14 September 2012 and 8 December 2019, Mr Davis was approved by the Authority to perform the following controlled functions at an authorised firm: CF1 (Director), CF10 (Compliance Oversight) and CF11 (MLRO). On 9 December 2019, these functions were automatically changed to the SMF 3 (Executive Director), SMF16 (Compliance Oversight) and SMF17 (MLRO) senior management functions. These approvals then ceased on 19 October 2021. Mr Davis was also the person responsible for Insurance Mediation between 14 September 2012 and 30 September 2018.
11. On 28 February 2020, the TDB Tribunal issued a decision in which it found that Mr Davis had failed to be either straightforward or honest or to act in good faith in his dealings with HMRC and so had acted dishonestly; failed to cooperate fully with HMRC’s investigation; failed to uphold the standards of the CIOT; and brought himself and his professional body into disrepute. Mr Davis accepted all of the complaints, including that he had acted dishonestly. Mr Davis’s misconduct occurred when he was an approved person, and a member of the CIOT and the ICAEW.
12. As a result of the TDB Tribunal’s decision, Mr Davis was expelled from membership of the CIOT and fined £20,000 (plus costs).
13. Further, on 14 April 2021, the ICAEW held a disciplinary committee hearing regarding Mr Davis’s conduct. The Disciplinary Committee Tribunal considered the findings of the TDB Tribunal and assessed the negative impact of Mr Davis’s conduct on public confidence in the accountancy profession before concluding that as Mr Davis had acted dishonestly, it had no other option but to exclude Mr Davis from membership of the ICAEW and ordered that he pay the costs of the proceedings.
14. Mr Davis failed to notify the Authority of the disciplinary action against him whilst he was an approved person.

Lack of Fitness and Propriety

15. The statutory and regulatory provisions relevant to this Final Notice are set out in the Annex.
16. 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.
17. In light of Mr Davis admitting misconduct outlined in paragraph 10 and the other facts and matters described above, the Authority considers that Mr Davis is not a fit and proper person to perform any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm. Mr Davis admitted misconduct and the findings of the TDB Tribunal and the Disciplinary Committee Tribunal,

and their respective decisions to (a) expel Mr Davis from membership of the CIOT; (b) exclude Mr Davis from membership of the ICAEW; and c) issue Mr Davis with a substantial penalty. This demonstrates that Mr Davis lacks honesty and integrity and that he lacks reputation by virtue of his expulsion and exclusion from his professional memberships. In addition, Mr Davis's failure to notify the Authority of the disciplinary proceedings and the outcomes of those proceedings shows he has not been candid in his dealings with the Authority, particularly as the outcomes of the disciplinary proceedings impacted his fitness and propriety as an approved person and should have therefore been disclosed to the Authority.

18. Further, Mr Davis was an approved person holding a position of trust at the time of this misconduct and the disciplinary action taken by the TDB Tribunal was based on his dishonest misconduct relating to financial reporting and financial business on behalf of his clients. Mr Davis deliberately understated his clients' tax liability which caused a significant loss to the public purse. This was not an isolated incident but a course of conduct which continued for a number of years. As a result of his misconduct Mr Davis has been refused the right to carry on a profession requiring registration. Based on the facts and Mr Davis's admission of guilt, the TDB Tribunal concluded that Mr Davis had acted dishonestly in respect of these matters. No mitigation was put forward by Mr Davis. Mr Davis had failed to protect the public, uphold professional standards nor maintain the reputation of the profession. His behaviour was in breach of the Fundamental Principles of Integrity and Professional Behaviour and HMRC also found that Mr Davis had acted dishonestly.

Prohibition Order

19. 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.
20. The Authority has had regard to the guidance in Chapter 9 of EG (the relevant provisions of which are set out in the Annex), Mr Davis's lack of fitness and propriety, and to all the relevant circumstances, including the relevance and materiality of the findings made against Mr Davis, and the severity of the risk posed by him to consumers and to confidence in the UK financial system. The Authority considers that a prohibition order is appropriate to protect consumers and to protect and enhance the integrity of the UK financial system. The Authority has decided to impose the prohibition order to advance its consumer protection and integrity objectives (sections 1C and 1D of the Act, respectively).

PROCEDURAL MATTERS

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

Decision maker

22. 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

23. 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 Davis 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

24. For more information concerning this matter generally, Mr Davis should contact Zishan Siddique at the Authority (direct line: 020 7066 3747).

Anna Couzens
Enforcement and Market Oversight Division

ANNEX

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives are set out in 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.

Fit and Proper Test for Approved Persons and specified significant-harm functions

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. FIT 2.1.3G 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:
 - (3) 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;
 - (4) 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;
 - (5) 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..."