

Shaffarat Parvez

Final Notice



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FINAL NOTICE

To: **Shaffarat Parvez**

Individual Reference Number: **SXP02760**

Dated: **6 OCTOBER 2021**

ACTION

1. For the reasons listed in this Final Notice and under section 56 of the Act, the Authority has decided to make an order prohibiting Shaffarat Parvez 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 Parvez the Decision Notice, which notified Mr Parvez of the above action against taken against him.
3. Mr Parvez 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 Parvez. The prohibition order takes effect from the date of this Final Notice.

SUMMARY OF REASONS

5. Whilst an employee and an approved person at an authorised firm, Mr Parvez engaged in criminal activity.

- a) Mr Parvez pleaded guilty to and was convicted on 4 December 2019 of:
- i. two counts of fraud, by failing to disclose information which he was under a legal duty to disclose and intending, by failing to disclose the information, to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss, contrary to Sections 1 and 3 of the Fraud Act 2006;
 - ii. one count of fraud, by making, adapting, supplying or offering to supply any article knowing that it was designed or adapted for use in the course of or in connection with fraud, or intending it to be used to commit, or assist in the commission of, fraud; and
 - iii. one count of contravening the requirements of professional diligence in a way which materially distorts or was likely to materially distort the economic behaviour of the average consumer with regard to the product contrary to regulations 8 and 13 of the Consumer Protection from Unfair Trading Regulations 2008.
- b) Mr Parvez was sentenced on 15 January 2020 to a total term of 18 weeks' imprisonment suspended for 12 months, ordered to pay costs of £6529.50, to pay a victim surcharge of £115 and subjected to a three-year Criminal Behaviour Order.
6. The Authority has concluded, on the basis of the facts and matters set out below, that Mr Parvez 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. His 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, the severity of the risk posed by Mr Parvez to consumers and financial institutions and to confidence in the market generally. The Authority considers that it is appropriate to impose the prohibition order described in paragraph 1 to advance its consumer protection and integrity objectives (sections 1C and 1D of the Act, respectively).

DEFINITIONS

7. 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 Parvez dated 2 September 2021;
- "EG" means the Enforcement Guide;
- "FIT" means the Fit and Proper Test for Employees and Senior Personnel;

“the Firm” means the authorised firm where Mr Parvez worked as a director at the time of his offences;

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

“Mr Parvez” means Shaffarat Parvez;

“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 Parvez dated 4 March 2021.

RELEVANT STATUTORY PROVISIONS

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

FACTS AND MATTERS

9. Mr Parvez was appointed as a director of the Firm on 8 March 2013 and became sole director on 16 March 2017. He also held at the Firm the controlled function CF8 (apportionment and oversight) role under the Approved Persons Regime from 27 February 2016 until 8 December 2019 and subsequently the senior management function SMF29 (limited scope function) role under the Senior Managers and Certification Regime from 9 December 2019 until 19 November 2020.
10. On 4 December 2019, at Peterborough Magistrates Court, Mr Parvez was convicted of the following offences relating to fraud and dishonesty:
 - a. Two counts of fraud, by failing to disclose information which he was under a legal duty to disclose and intending, by failing to disclose the information, to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss, contrary to Sections 1 and 3 of the Fraud Act 2006;
 - b. One count of fraud, by making, adapting, supplying or offering to supply any article knowing that it was designed or adapted for use in the course of or in connection with fraud, or intending it to be used to commit, or assist in the commission of fraud contrary to Section 7 of the Fraud Act 2006; and
 - c. One count of contravening the requirements of professional diligence in a way which materially distorts or was likely to materially distort the economic behaviour of the average consumer with regard to the product contrary to regulations 8 and 13 of the Consumer Protection from Unfair Trading Regulations 2008.

11. Mr Parvez committed the offences at a time when he was an approved person at the Firm (although there was no connection between the offences and the Firm).
12. Mr Parvez was sentenced on 15 January 2020 to a term of 18 weeks' imprisonment suspended for 12 months in respect of each offence (to be served concurrently), ordered to pay costs of £6,529.50, ordered to pay a victim surcharge of £115 and subjected to a three-year Criminal Behaviour Order.
13. Mr Parvez failed to notify the Authority that he had been convicted of criminal offences.
14. Mr Parvez resigned as director of the Firm on 5 November 2020.
15. Through the Warning Notice, the Authority gave notice that it proposed to take the action described above and Mr Parvez was given the opportunity to make representations to the Authority about that proposed action.
16. Mr Parvez made representations, which the Authority took into account in making the decision which gave rise to the obligation to give this Final Notice.
17. By reason of the facts and matters described above, the Authority considers that Mr Parvez lacks both honesty and integrity and poses a serious risk to consumers and financial institutions and to confidence in the market generally and, therefore is not a fit and proper person to perform any function in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm.

PROCEDURAL MATTERS

Important

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

Decision Maker

19. 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

20. 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 Parvez or prejudicial to the interests of the consumers or detrimental to the stability of the UK financial system.

21. 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

22. For more information concerning this matter generally, Mr Parvez 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).

ANNEX B

REPRESENTATIONS

1. A summary of the key representations made by Mr Parvez (in italics), and the Authority's conclusions in respect of them, is set out below.
2. *The offences in respect of which Mr Parvez was convicted related to an unregulated firm, and had nothing to do with the Firm at which he was an approved person or regulated activities. The non-disclosures, which involved not informing two consumers that the mileage on the vehicles they were purchasing was incorrect, were not deliberate attempts to misrepresent the position to them. The discrepancies were mentioned on the unregulated firm's website, but there was a difficulty in getting the information onto an advertising platform which was beyond the unregulated firm's control, and the case was brought on the basis that the information was not on that advertising platform.*
3. *Mr Parvez cooperated fully with the Trading Standards department which brought the case. He had not had any previous dealings with Trading Standards and suggested that the matter be dealt with on a civil basis, but Trading Standards insisted on a criminal prosecution. It was Mr Parvez's first time before a Court and he had no previous convictions. He did not qualify for legal aid and so paid for legal representation himself. His barrister advised him that, if he pleaded not guilty, he was likely to be successful, but also explained that the legal costs of a trial could be much higher. His barrister also told him that, if he pleaded guilty, there would be a discount in the sentence imposed, and that the only consequences would be a criminal record and community service, or at worst, a suspended sentence. Mr Parvez did not want to risk going to prison and he also could not afford the legal costs of a trial. He therefore pleaded guilty and was given a suspended sentence.*
4. *Mr Parvez's barrister did not mention that the Authority might take action if he was convicted and this was not something he was aware of at the time he decided to plead guilty. He was also not aware that he needed to inform the Authority of his convictions; if he had been aware, he would have done so.*
5. *Mr Parvez accepts he made a mistake, but it was not deliberate and did not relate to regulated activities. As a director of the unregulated firm, he took full responsibility for what happened. The customers who were not informed that the mileage on the vehicles they were purchasing was incorrect have also been reimbursed in full and given compensation. In the circumstances, it is not necessary to impose a prohibition order.*
6. The Authority notes Mr Parvez's explanation for the non-disclosures to consumers. It also notes that Mr Parvez pleaded guilty not just to two counts of fraud on the basis of the non-disclosures, but also to an additional count of fraud (for supplying a customer with a vehicle's service and maintenance record knowing it was designed or adapted for use in the course of or in connection with fraud) and to one count of breaching the Consumer Protection from Unfair Trading Regulations 2008 (for refusing to acknowledge consumer rights, namely the right to reject or the right to repair or replacement, and for offering unroadworthy vehicles for sale). Further, the Authority notes that the reasons given by the Court for the sentences imposed, whilst stating that Mr Parvez's guilty plea was taken into account, did not mention the explanation

given by Mr Parvez for the non-disclosures, but did state that the offences were so serious that a custodial sentence and a three-year Criminal Behaviour Order were appropriate.

7. Whilst Mr Parvez's offences did not relate to regulated activities, they took place at a time when Mr Parvez was an approved person and involved fraud and dishonesty. FIT 2.1.1G and FIT 2.1.3G(1) make clear that, when assessing a person's honesty, integrity and reputation, the Authority will have regard to all relevant matters, including whether a person has been convicted of any criminal offence, with particular consideration given to offences including dishonesty, fraud and financial crime (amongst other things). The Authority considers that the offences, involving fraud and dishonesty, demonstrate a serious lack of integrity, such that Mr Parvez is not fit and proper to perform regulated activities. Further, the Authority considers that the offences demonstrate that Mr Parvez poses a serious risk to consumers and to confidence in the financial system, and that the imposition of a prohibition order is therefore appropriate in order to advance the Authority's consumer protection and integrity objectives.
8. The Authority notes Mr Parvez's explanation that he did not inform the Authority of his convictions because he was not aware that he needed to do so. As an approved person, Mr Parvez should have been aware of his regulatory obligation to inform the Authority of such matters.
9. Mr Parvez has not provided any evidence in support of his comment that the customers have been reimbursed and given compensation. However, the Authority has taken into account that Mr Parvez has shown some remorse for his actions. Further, the Authority notes that, in accordance with section 56 of the Act, Mr Parvez has the option in future of applying for the revocation of the prohibition order. EG 9.6 explains the Authority's approach to considering an application for revocation, which includes that the Authority will consider: the seriousness of the misconduct that resulted in the prohibition order; the length of time since the original order was made; any steps taken subsequently by the individual to remedy the misconduct; all available information relating to the individual's honesty, integrity or competence since the order was made; and whether the individual will continue to pose the level of risks to consumers or confidence in the financial system which resulted in the original prohibition, if it is lifted.