
FINAL NOTICE

To: Tyrone Miller

IRN: TXM01487

Dated: 31 May 2024

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

SUMMARY OF REASONS

5. Following civil proceedings brought by the Authority before the High Court of Justice ("the High Court"), the High Court ruled that Mr Miller was knowingly concerned in multiple contraventions of sections 19 and 21 of the Act by two companies that were operated as a joint business trading as Gemini, that he was deemed to be the director of between 25 January 2015 and 18 November 2015.
6. On 6 May 2020, Mr Miller was ordered by the High Court to pay to the Authority £1,207,050 on a joint and several basis, representing the losses suffered by investors in respect of their investment into OPR via Gemini. Mr Miller failed to satisfy the Order and the Authority made an application to the High Court to petition for his bankruptcy. A bankruptcy order was made against Mr Miller on 23 March 2021.

7. On the basis of the facts and matters set out below, it appears to the Authority that Mr Miller is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. The adverse findings by the High Court concerning contraventions of the Act demonstrate a clear and serious lack of integrity such that Mr Miller is not fit and proper to perform regulated activities. In reaching this decision, the Authority has had regard to all the relevant circumstances, including Mr Miller's previous status as an individual regulated by the Authority, and the severity of the risk posed by Mr Miller to consumers and financial institutions and to confidence in the market generally. The Authority considers that it is appropriate to impose the prohibition order proposed in paragraph 1 to achieve its consumer protection and integrity objectives (sections 1C and 1D of the Act, respectively)

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 Miller on 23 April 2024;

"EG" means the Enforcement Guide;

"FIT" means the Authority's 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;

"the High Court" means the High Court of Justice;

"Mr Miller" means Tyrone Miller;

"M&O" means Miller & Osbourne Associates Limited (dissolved);

"OPR" means Our Price Records Limited (dissolved);

"RAO" means the Regulated Activities Order;

"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);

"Venor" means Venor Associates Limited (dissolved); and

"the Warning Notice" means the warning notice given to Mr Miller dated 2 April 2024.

FACTS AND MATTERS

9. Mr Miller was previously authorised by the Authority as CF1 Director (AR) from 12 February 2008 until 14 September 2009. Mr Miller was not authorised by the Authority or otherwise an exempt person within their meanings under the Act at the time of his involvement with M&O, Venor and OPR. Mr Miller was the director and 100% shareholder of M&O from 23 September 2014 until December 2015. He,

and another individual (Person A), was responsible for the financial and other operations of M&O and of Venor. Mr Miller was a de facto director of Venor.

10. Between 25 January 2015 and 18 November 2015, Mr Miller and Person A arranged for marketing services to be provided to and performed for OPR using M&O and Venor, operating as a joint business using the trading name Gemini. On 6 May 2020, the High Court made findings against Mr Miller as follows:
 - a) Between 25 January 2015 and 18 November 2015, Mr Miller was knowingly concerned in M&O's contravention of section 19 of the Act, by which M&O acted in contravention of section 19 of the Act by making arrangements under Article 25 of the RAO for investors to acquire shares in OPR and by advising investors to acquire shares in OPR under Article 53 RAO.
 - b) Between 25 January 2015 and 18 November 2015, Mr Miller was knowingly concerned in M&O's contraventions of section 21 of the Act by making financial promotions in respect of the first and second fundraisings in OPR.
 - c) Between 2 March 2015 and 18 November 2015, Mr Miller was knowingly concerned in Venor's contravention of section 19 of the Act, by which Venor acted in contravention of section 19 of the Act by making arrangements under Article 25 of the RAO for investors to acquire shares in OPR.
 - d) Between 2 March 2015 and 18 November 2015, Mr Miller was knowingly concerned in Venor's contraventions of section 21 of the Act by making financial promotions in respect of the first and second fundraisings in OPR.
11. During the civil proceedings, Mr Miller admitted that he was knowingly concerned in the contraventions of the Act. However, within his Judgement, the Judge stated that Mr Miller was *"too willing to place the blame on others rather than taking responsibility for the activities of M&O and Venor business"* and that whilst Mr Miller did not suggest at any point that he believed M&O and Venor were authorised for the purpose of section 19 of the Act, he did not make any independent enquiries nor take professional advice on the requirements of sections 19 and 21 of the Act. Mr Miller therefore embarked upon the venture concerning OPR without getting any formal advice as to the legality of what he was doing and *"in the knowledge (as least on Mr Miller's part) that at least one solicitor had questioned the legal position"*.
12. Mr Miller benefited significantly from his involvement in OPR and personally received over £132,000. The companies he directed (M&O and Venor) introduced almost 68% of the 259 investors in OPR.
13. The High Court ordered Mr Miller to repay the full sum of the significant investor losses caused - £1,207,050, with liability held jointly and severally with Person A. Mr Miller failed to comply with the High Court's Order and a bankruptcy order was made against Mr Miller on 23 March 2021.

LACK OF FITNESS AND PROPRIETY

16. The statutory and regulatory provisions relevant to this Warning Notice are set out in the Annex.
17. 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(1) states that among the most important considerations when assessing the fitness and propriety of a person is that person's honesty, integrity and reputation.

18. The facts and serious nature of Mr Miller's conduct, in particular his having been knowingly concerned in contraventions of the Act and being the subject of adverse findings by the High Court concerning activities connected with investment or other financial business, demonstrates his lack of integrity. Consequently, the Authority considers that Mr Miller is not a fit and proper person to perform regulated activities.

Prohibition

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. Taking into account the nature of the conduct Mr Miller participated in, the Judgment made against him as a consequence of his participation, and his status as a former regulated individual, the Authority considers it is appropriate to prohibit Mr Miller from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm.

PROCEDURAL MATTERS

21. This Final Notice is given to Mr Miller 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.
24. 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 Miller or prejudicial to the interest of consumers or detrimental to the stability of the UK financial system.
25. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority Contact

26. For more information concerning this matter generally, Mr Miller should contact Shamma Masud at the Authority (direct line: 020 7066 1653).

Jeremy Parkinson
Enforcement and Market Oversight Division

ANNEX

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives are set out in section 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 19 of the Act provides:

“(1) No person may carry on a regulated in the United Kingdom, or purport to do so, unless he is-

 - (a) an authorised person; or
 - (b) an exempt person.

(2) The prohibition is referred to in this Act as the general prohibition.”
3. Section 21 of the Act states that a person must not, in the course of business, communicate an invitation or inducement to engage in investment activity unless they are an authorised person or the content of the communication is approved by an authorised person.
4. 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

5. 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

6. The Authority's policy in relation to exercising its power to issue a prohibition order is set out in EG.
7. EG 9.1 explains the purpose of prohibition orders in relation to the Authority's regulatory objectives.
8. 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.
9. 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.
10. 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.

The Fit and Proper test for Employees and Senior Personnel

11. 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.
12. 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.
13. 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.
14. 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:
- (2) whether the person has been the subject of any adverse finding or any settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;
 - (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; and

- (10) whether the person, or any business with which the person has been involved, has been investigated, disciplined, censured or suspended or criticised by a regulatory or professional body, a court or Tribunal, whether publicly or privately.