

Question Set F

For other stakeholders

Your Details

Name:

Rupert Nathan

Address:

REDACTED

Email address:

REDACTED

Mobile telephone number:

REDACTED

Permissions

- Do you give permission for your name to be put into the public domain?
Yes
- Do you give permission for your response to be put into the public domain?
Yes (With email address, 'phone number and postal address redacted).

Questions

1. **Please tell us about yourself and outline, just briefly to begin with, how you came to interact with the Financial Conduct Authority?**

In mid-2016 I was very surprised, having worked in the financial markets for more than 30 years with an unblemished record, to be summoned to a Significant Influence Function (SIF) interview after an application was made by my new employer, Goldenway Global Investments, for approval to perform Controlled Functions the FCA had previously approved on at least two occasions previously.

The FCA claimed on several occasions the interview was “routine”, and there was no other reason.

But I was to learn much later, including from sources within the FCA this was untrue. The real reason was my previous employer, Fortrade, had made some malicious allegations about me to the FCA.

This came as no surprise as I had serious concerns over the honesty and integrity of the new Fortrade CEO appointed in April 2015 following the hasty removal of his predecessor. Our working relationship was problematic, which led to my departure in May 2016.

The FCA has never brought these accusations to my attention nor offered the opportunity to respond. Even more strangely, the FCA did not even bother to seek my assistance with their investigation, and after Fortrade finally “*lawyered up*” they backed off. Apparently no action was taken, other than my being used as a convenient scapegoat for them both. **This is classic FCA modus operandi.**

Last year (2021) I submitted Freedom of Information and GDPR requests to both the FCA and Fortrade, in an effort to discover the truth.

With the assistance of my MP, the FCA reluctantly released some heavily redacted documents, whereas Fortrade initially ignored the request and even denied any discussion with the FCA – something FCA documents clearly contradict. Despite my complaint to the Information Commissioner, and another DSAR, Fortrade still has yet to respond.

At the end of the first SIF interview, I asked specifically if I was there because of “*something about my character*” but two of the panel members gave very evasive answers, making no reference to any allegations.

This is contradicted by an internal FCA briefing note for the interview panel (they both doubtless would have read beforehand) that clearly states Supervision had an open case looking at serious compliance and AML failings at Fortrade, expressing concern that I lack the required competence and capabilities to perform these functions effectively.”

Another internal FCA email seen, headed “Fortrade Ltd – AML Weaknesses” states clearly that given the failings identified during my time at Fortrade, they had decided to proceed with a SIF interview.

My appeal to the Regulatory Disputes Committee (RDC) in April, 2017 also highlighted prejudicial comments in the FCA’s note of the SIF panel’s concerns over the AML function at Fortrade arising from their “review of the function”. It was pointed out that none of this had been properly disclosed and I was not given an opportunity to address them.

Incredibly, the FCA responded there was no basis whatsoever that their concerns about Fortrade and potential failings by me were taken into account.

This is clearly contradicted by documents obtained from the FCA, as well as a closing remark in their response “...*the second interview panel was aware that none of the concerns about Fortrade were to be considered in forming their view of Mr Nathan’s fitness and propriety*”.

The FCA was not only very well acquainted with the allegations, but they were the actual reason for the SIF interview. It was not merely “routine”, as consistently claimed. They clearly lied and withheld this information from me and, I believe, had actually decided the outcome before the interview which was, in effect, a kangaroo court.

2. What is your interest in, or connection with, the FCA?

I have now lodged a formal complaint in the hope of clearing my name and obtaining redress, which includes:

- fitness and propriety for compliance roles set aside;
- Decision Notice published rescinded, withdrawn and formal apology issued;
- Compensation for loss of earnings due to FCA’s dishonest conduct.

3. Briefly describe the interactions you have personally had with the FCA.

I have had many interactions over several years, notably:

- 2002 - I supplied evidence of serious misconduct by previous employer Hoodless Brennan (later Beaufort Securities) which was apparently not acted upon. When I enquired about this the following year, the FSA was dismissive. (Beaufort Securities was placed into administration 2018, shortly after the US Justice Department brought criminal charges against the company for its alleged involvement in securities fraud and money laundering.)
- 2003 - I notified that the FSA Register incorrectly showed a position with Raymond James I never actually took up, which they refused to remove. During the SIF interview process, the

FCA incorrectly stated in evidence, with a negative inference on my character, that I had held this investment adviser function "for only 5 days."

4. In broad terms, what have your dealings with the FCA been like?

They have varied from unhelpful to officious and secretive.

5. Have you ever witnessed any actions or conduct that, in your reasonable belief, breached any law, regulatory code or applicable or relevant policy? If so, please explain which law, code or policy you believe was breached.

I was denied due process and natural justice through the wilful and deliberate suppression of information to the extent of lying. I believe the unproved charges made by Fortrade has led the FCA to secretly blacklist me.

An internal FCA email seen clearly states: "...any further SIF applications for Mr Nathan are to be sent to NRI (Non Routine Investigations) for further investigation."

The FCA has abused its powers and process:

1. Having me attend SIF interview under false pretences to justify banning me;
2. Ignoring RDC's binding decision I was "fit and proper" to act as a Director (within a few weeks) and deliberately discouraged, obstructed and delayed a subsequent application CF1 Director application;
3. The unnecessary release of a Decision Notice (contrary to FCA Handbook, Enforcement Guide 6.2.17) on the spurious pretext of "public interest";
4. Cynical abuse of GDPR and FOI disclosure requirements to cover its tracks.

The FCA fell well short of the demands of its own Code of Conduct for firms it regulates, and at a minimum, has NOT acted with integrity or openness.

6. Have you experienced situations where interacting with the FCA has been helpful to either yourself or others? If so, please explain what made the interaction(s) helpful.

No

7. What are your thoughts on whether the FCA lacks the powers that it needs; or conversely, that it doesn't make good use of the powers it already has?

The FCA already has considerable powers but appears to use these selectively and inconsistently.

It wasted disproportionate time and resources on my extremely minor case, while far more important matters such as Woodford, London & Capital Finance are allowed to drag on and or go nowhere.

8. Have you experienced any difficulties or shortcomings in your interactions with the FCA?

Yes

9. Have you experienced the FCA being reluctant to give clear answers to questions?

Often. In my experience, the FCA has shown itself to be adept at deflection, obfuscation and even lying. The FCA appears to be concerned primarily with self-preservation.

10. What is your perception of the culture of the FCA, and what do you think of it?

The FCA appears to believe: “do as we say, not as we do” and that the same rules they expect those they regulate to follow do not apply to them and they are above the law.

This is clearly illustrated by one of my SIF interviewees, Gunner Burkhart, whose LinkedIn profile brazenly lists his Senior FCA Advisor role he holds concurrently with a senior position with an FCA regulated firm.

I sense a bunker mentality, and obsession with secrecy and self-protection, especially of their senior executives. Andrew Bailey’s tenure as CEO has been characterised by negligence, incompetence and indifference to the needs of ordinary depositors, investors and pensioners. Incredibly, he now heads the Bank of England!

11. Have you ever complained officially about the FCA; if so to whom? What happened, and how do you feel about what happened? What feedback, if any, have you had about your complaint? How helpful was the feedback? How long has it taken for your complaint to be processed?

I threatened to lodge a formal complaint in relation to the deliberate obstruction of the IKON CF1 application, in defiance of the RDC decision. They appeared not to be at all concerned. Moreover, IKON advised me against doing so, feeling there was too much to lose by upsetting the FCA.

12. What do you think about the possibility of conflict of interest issues at the FCA?

I believe it is not a possibility, but a definite probability. The FCA is too close to the City, notably via the revolving door.

Despite its enormous powers, NO senior banker has been brought to account. Instead, either less senior are made scapegoats – as I was - or firms given large fines, which are ultimately borne by shareholders. The FCA trumpets these as their “successes”.

Given the City’s critical importance to the economy, the elephant in the room is a clear and present danger of a convergence of political capture and regulatory capture.

An obvious example being David Cameron’s longstanding relationship with Greensill, and the FCA’s continued deafening silence on the matter.

13. Do you believe there should be spot checks by the FCA on regulated and/or unregulated entities, perhaps similar to the spot-checks by VAT inspectors

Yes

14. What positives are there about the FCA that you would like to comment on?

None

15. If you could change three things about the FCA, what would they be?

1. Far greater accountability and transparency
2. Removal of staff bonuses
3. The “revolving door” firmly closed

16. The FCA is undertaking a Transformation Project. Do you have any comments to make about that?

The FCA is demonstrably incapable of meaningful change. The rebranding from FSA to FCA following the abject failure of its fabled "light touch" (or more aptly, soft touch) regulation leading up to the GFC changed nothing, and instead has since presided over a series of errors, including failure to investigate a complaint by a whistle-blower against the HBOS Group; failure to publish its independent report into the treatment of Royal Bank of Scotland business customers; and failure to respond to whistleblower warnings about London Capital & Finance which collapsed leaving 11,600 customers with losses of up to £236m. It also failed to prevent the Woodford scandal in which hundreds of thousands of investors lost millions.

Any transformation of the FCA MUST NOT come from within, but from outside and should start from the top down.

17. Are there any other comments that you would like to make?

Based on only unsubstantiated, and still unknown, serious allegations made by Fortrade, the FCA spent disproportionate time and effort pursuing what appears to have been a hidden agenda to make an example of me. Rather than fully investigate the "*serious compliance and AML failings at Fortrade*", it seems the FCA chose to take the easy way out and make me the scapegoat. This is standard FCA modus operandi.

I was summoned to a biased SIF interview under false pretences, that produced a predictable outcome.

Even after the RDC partially upheld my appeal, ruling I was fit and proper to act as a Director, the FCA ignored this binding decision within a matter of weeks by deliberately discouraging, obstructing and delaying a subsequent application CF1 Director application.

I was not guilty of misconduct of any kind, this was instead a relatively minor supervisory action relating to particular facts at a specific firm with no wider implications arising from it. Despite this, the FCA nevertheless insisted on the unnecessary and spiteful release of a very detailed Decision Notice on the spurious pretext of "public interest".

This particular action alone has caused considerable and irreparable professional and personal reputational damage and financial loss.

Had the FCA agreed to Goldenway's proposed compromise to amend the application to CF1 Director only - as the RDC ultimately ruled - I would not have suffered the negative publicity or professional and financial harm experienced since. Instead, the FCA flatly refused, choosing to take a very hard and ruthless tack.

Contrast the FCA's spite toward me, with Andrew Bailey's excuse for not releasing the RBS report by claiming such reports were "not intended for public view", as individuals had not had the opportunity to "see or comment on adverse comments" about them.

~~ END ~~

Thank you