

MEDIA RELEASE:

DFSA sanctions upheld against Dr Mubashir Sheikh for serious misconduct

Dubai, UAE, 29 November 2020:

The Financial Markets Tribunal (**FMT**) has upheld enforcement action taken by the Dubai Financial Services Authority (**DFSA**) against Dr Mubashir Ahmed Sheikh for serious misconduct including misleading and deceptive behaviour.

Following a five-day hearing in April of this year, the FMT issued its decision on 20 October upholding the DFSA's findings and imposing the following sanctions:

- A fine of USD225,000;
- A direction that Dr Sheikh pay restitution of at least USD644,836 to MAS ClearSight Ltd (MAS) representing the cash he had previously withdrawn in a deceptive way, along with interest;
- A prohibition from holding office in or being an employee of certain DFSA-regulated entities; and,
- A restriction from performing any function in connection with the provision of Financial Services in or from the DIFC.

Dr Sheikh was the Chairman, Senior Executive Officer and majority beneficial owner of MAS, formerly a DFSA Authorised Firm which has been in liquidation since November 2015.

As publicised in the [DFSA's media release, dated 3 October 2019](#), the DFSA decided to take action against Dr Sheikh for breaches of DFSA legislation.

Dr Sheikh disputed the DFSA's findings and referred the action to the FMT for review. The FMT is a specialist tribunal, operationally independent of the DFSA, which has its own rules of

procedure. The FMT conducts a full merits review of DFSA decisions that are referred to it and determines the appropriate action for the DFSA to take.

The restitution direction is the first ever imposed on an individual, and the fine is the highest imposed on an individual. In addition, the FMT ordered Dr Sheikh to pay USD15,000 towards the DFSA's costs.

The FMT imposed the action on Dr Sheikh because it found that he:

- demonstrated a lack of integrity by knowingly acting dishonestly and deceptively;
- knowingly provided false, misleading or deceptive information to the DFSA; and
- knowingly caused MAS to breach the DFSA's prudential rules.

The key facts and findings of the case include:

- In early 2015, Dr Sheikh's company (MAS) was in an increasingly weak financial position, and required to report its financial position to the DFSA on a monthly basis, in particular as to whether it was maintaining its regulatory capital of USD600,000;
- In May and June 2015, Dr Sheikh withdrew over USD512,000 in cash from MAS' bank account, depleting almost all of its liquid assets, and causing MAS to breach its regulatory capital requirement;
- By concealing his cash withdrawals and knowingly providing false information about them within MAS, Dr Sheikh knowingly caused MAS, via its Finance Officer, to misreport its regulatory capital position to the DFSA;
- When the DFSA became aware of the true position in June 2015, it promptly suspended MAS' licence, to protect users of financial services in the DIFC. Subsequently in 2015, MAS entered into liquidation with significant outstanding debts including unpaid employee entitlements;
- In an attempt to defend his misconduct, Dr Sheikh repeatedly, over the course of several years, provided the DFSA and the FMT with an elaborate and improbable version of events. This included false claims that Dr Sheikh withdrew the cash initially to pay

investors as part of an investment deal, and later when the deal fell through to pay other legitimate debtors, which claims he tried to support with fabricated documents and false witness testimony.

In its decision, the FMT described Dr Sheikh's misconduct as a "*dishonest set of steps aggravated by devious acts to try to conceal and cover up over a long period*". The FMT also found that Dr Sheikh knew full well that his withdrawals had been causing MAS to breach its regulatory capital requirement "*because his story of the deal is a lie*".

Bryan Stirewalt, Chief Executive of the DFSA, said: "The DFSA has zero tolerance for individuals who deliberately mislead and attempt to deceive the regulator, particularly where an individual takes such elaborate and dishonest steps to conceal their conduct. Such individuals will be held accountable to the fullest degree of the law, and they have no place in the DIFC. The DFSA will also require, where appropriate, wrongdoers to compensate those who have suffered losses arising from their misconduct. Individuals in control of financial services firms must manage the firm's finances responsibly, in the interest of all stakeholders including employees, and act with integrity at all times."

The FMT refused Dr Sheikh permission to appeal its decision to the DIFC Court. Dr Sheikh did not file an application to the DIFC Courts for permission to appeal against the FMT's decision and, therefore, the FMT's decision is final.

The FMT's decision can be found on the FMT section of the DFSA website, and a copy of it can be accessed via this [link](#). Information about pending FMT matters, including details of any public hearings, can be found via the same link.

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Editor's notes:

The Dubai Financial Services Authority (DFSA) is the independent regulator of financial services conducted in and from the Dubai International Financial Centre (DIFC), a purpose built financial free zone in Dubai. The DFSA's regulatory mandate covers asset management, banking and credit services, securities, collective investment funds, custody and trust services, commodities futures trading, Islamic finance, insurance, crowdfunding platforms, money services, an international equities exchange and an international commodities derivatives exchange. In addition to regulating financial and ancillary services, the DFSA is responsible for administering Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) legislation that applies to regulated firms and Designated Non-Financial Businesses and Professions in the DIFC. Please refer to the DFSA's website for more information.

Bryan Stirewalt was appointed Chief Executive of the DFSA on 1 October 2018, after nearly eight years as the DFSA's Managing Director of Supervision. In his role as Chief Executive, Bryan steers the work of the DFSA, further developing its capability as a robust regulator delivering world-class financial services regulation in the DIFC. Bryan plays a vital part in executing the DFSA's regulatory mandate and developing its risk-based supervision framework. Bryan also plays an active role in supporting the work of international standard-setting bodies. He serves as the Co-Chair of the Basel Consultative Group (BCG), which provides a forum for deepening the Basel Committee on Banking Supervision's engagement with non-member, global supervisors on banking supervisory issues. Through this role, Bryan also serves as an Observer at the Basel Committee on Banking Supervision.