

Court orders disqualification of estate agent cartel director

Following a four day trial last month, Mr Michael Martin was today disqualified by the High Court from acting as a director or being concerned in the management of a company for 7 years. The court found that he had contributed to a breach of competition law by his former company, which owned and ran Gary Berryman Estate Agents in Burnham-On-Sea.

This is the first application for a competition disqualification order to come to trial.

The case against Mr Martin followed an investigation by the Competition and Markets Authority (CMA) which found in 2017 that 6 estate agents in the Burnham-on-Sea area in Somerset, with an estimated combined market share of up to 95%, had agreed to fix a minimum commission rate of 1.5% for residential estate agency services. The illegal cartel agreement, which lasted for a little over a year from February 2014, meant that local homeowners were denied the chance of getting a better deal when selling their property.

Mr Martin was not concerned with day-to-day sales, nor did he attend any of the meetings with the other estate agents at which the fee fixing agreement was made. Nevertheless, Mr Martin was made aware of the cartel agreement and took no steps to prevent or end Gary Berryman's participation, so contributing to the breach of competition law.

As a result, the court concluded in its judgment today that Mr Martin's misconduct fell below the standards of probity and competence appropriate for persons fit to be directors of companies, making Mr Martin unfit to be involved in the management of a company.

Mr Martin is the fourth director to be disqualified for their role in the estate agency cartel in Burnham-on-Sea. 3 other directors gave formal undertakings not to act as a director of a company for periods of between 3 and 5 years. Mr Martin refused to do so, and the CMA issued court proceedings against him in February 2019.

Michael Grenfell, the CMA's Executive Director of Enforcement, said:

Agreeing prices with competitors is one of the most serious ways in which a company can break competition law. It keeps prices or fees artificially high, harming individuals, businesses and the wider economy.

Company directors have a critical responsibility to make sure their companies don't take part in this kind of anti-competitive

behaviour.

Today's court order sends a clear message to company directors: even if you are not directly involved in the breach, you can still be held accountable for it. If you have information about a breach, as a director you must take all reasonable steps to prevent it. If you don't, you risk disqualification, and the CMA will not hesitate to take court action if needed.

Notes to Editors

1. Under the Company Directors Disqualification Act 1986, the CMA has the power to apply to the court for an order disqualifying a director from holding company directorships or performing certain roles in relation to a company for a specified period if a company of which he or she is a director has breached competition law and their conduct makes them unfit to be a director or be involved in the management of a company. The Act also allows the CMA to accept a disqualification undertaking from a director instead of bringing proceedings. A disqualification undertaking has the same legal effect as a disqualification order.
2. For further information on the case, see the Residential estate agency services in the [Burnham-on-Sea area: Director Disqualification](#) case page.
3. In April 2018, the CMA secured the disqualification of 2 directors of Abbott and Frost Estate Agents Ltd in Burnham-on-Sea. Mr David Baker was disqualified for 3.5 years and Mr Julian Frost was disqualified for 3 years.
4. At the same time as the CMA issued proceedings in the High Court in February 2019 seeking the disqualification of Mr Martin, the CMA also issued proceedings seeking the disqualification of Mr Graham Thompson, formerly a director of Saxons PS Limited. The proceedings against Mr Thompson were discontinued following the acceptance by the CMA in April 2019 of an undertaking from Mr Thompson not to act as a director of a company for a period of 5 years.
5. Mr Michael Martin was a director of Gary Berryman Estate Agents Limited and its parent companies, The Property Group (2010) Limited and Warne Investments Limited.
6. In a separate case last month, the CMA secured the [disqualification of 2 Berkshire estate agent directors](#), whose companies were found to have taken part in an illegal price fixing cartel in Wokingham, Winnersh, Crowthorne, Bracknell and Warfield.
7. Today's disqualification order brings the total number of directors disqualified following a CMA investigation to 19. This total includes 1 director who was disqualified on his conviction for the criminal cartel offence in relation to the [supply of precast concrete drainage products](#).
8. The CMA is also currently seeking director disqualifications in further separate proceedings before the court in relation to its [supply of precast concrete drainage products: civil investigation](#).
9. For more information on the CMA follow us on [Twitter](#), [Facebook](#) and

[LinkedIn](#). Sign up to our [email alerts](#) to receive updates on Competition Act 1998 and civil cartels cases.

10. Media enquiries should be directed to press@cma.gov.uk or call 020 3738 6460.