

Press release: Fish and chip shop company director receives disqualification ban

Mr McGilvray has given an undertaking to the Secretary of State for Business, Energy and Industrial Strategy that he won't act as a director of a company for seven years from 15 August .

An Insolvency Service investigation found McGilvray (53), had failed to preserve the company's accounting records between January 2014 and August 2015 and failed to maintain accounting records for the period September 2015 and August 2016.

Keith McGilvray was the sole director of Frogfish Limited, on 9 June 2016, when, with liabilities of £94,808, the company was placed into compulsory liquidation following a winding up petition lodged by HM Revenue & Customs.

Following the liquidator's appointment the investigation found between 1 January 2014 and August 2015, Mr McGilvray failed to preserve the accounting records of Frogfish Limited and between September 2015 and August 2016 he failed to maintain accounting records during which time he caused the company to trade on a cash basis. Consequently, in the absence of the accounting records it was not possible to:

- verify whether the receipts deposited into the bank account in the period 02 January 2014 and 11 September 2015 totalling £218,205 were a true reflection of the sale achieved in the period
- identify and verify the level of sales achieved in the period 12 September 2015 to August 2016 and what became of the monies achieved from the sales made
- verify whether the 83 cheque payments totalling £35,236 made in the period 07 January 2014 to 21 August 2015 were bona fide company transactions
- identify and verify payments made by the company between 28 August 2015 and August 2016; Identify and verify the level of wages paid by the company in the period 20 August 2016 to August 2016 and the resulting liability owed to HMRC in respect of RTI PAYE
- identify and verify the level of VAT owed by the company between February 2014 and August 2016

The inability to identify and verify the financial position of the company at liquidation was further exacerbated as a consequence of Mr McGilvray failing to comply with his statutory obligations in that he failed to ensure the company:

- prepared and filed annual accounts for the year to 31 December 2014 which ought to have been filed with the Registrar at Companies House by 30 September 2015

- prepared and filed VAT returns for 10 consecutive VAT quarters between February 2014 and May 2016 resulting in HMRC issuing VAT assessments and surcharges
- filed monthly RTI PAYE information to HMRC in respect of tax years 2015/2016 and 2016/2017 resulting in HMRC estimating the liability owed

Robert Clarke, Head of Company Investigation at the Insolvency Service said:

Directors who operate cash based businesses have to maintain sufficient records to explain where these monies have gone and following insolvency make sure that such records are delivered up for scrutiny by the relevant bodies.

By failing to do this the public can not be sure that all funds received by the company were used for legitimate purposes. The substantial period of this disqualification reflects the fact that when a company fails to keep adequate financial records it is simply not possible to determine whether there has been other, more serious, impropriety in relation to the management of its affairs.

This ban should serve as a reminder to any directors tempted to do the same: the Insolvency Service will vigorously investigate you and seek to remove you from the marketplace.

Notes to editors

Frogfish Limited (Company No. SC292943) went into compulsory liquidation on 9 June 2016, with a deficiency to creditors of £94,808. The company was incorporated to sell fish and chips from a takeaway and traded from 8 Provost Watt Drive, Kincorth, Aberdeen AB12 5BT.

Keith McGilvray is of Aberdeen and his date of birth is 26 January 1964.

A disqualification order has the effect that without specific permission of a court, a person with a disqualification cannot:

- act as a director of a company
- take part, directly or indirectly, in the promotion, formation or management of a company or limited liability partnership
- be a receiver of a company's property

Disqualification undertakings are the administrative equivalent of a disqualification order but do not involve court proceedings. Persons subject to a disqualification order are bound by a [range of other restrictions](#).

The Insolvency Service, an executive agency sponsored by the Department for Business, Energy and Industrial Strategy (BEIS), administers the insolvency regime, and aims to deliver and promote a range of investigation and

enforcement activities both civil and criminal in nature, to support fair and open markets. We do this by effectively enforcing the statutory company and insolvency regimes, maintaining public confidence in those regimes and reducing the harm caused to victims of fraudulent activity and to the business community, including dealing with the disqualification of directors in corporate failures. Further information about the work of the Insolvency Service, and how to complain about financial misconduct, is [available](#).

BEIS' mission is to build a dynamic and competitive UK economy that works for all, in particular by creating the conditions for business success and promoting an open global economy. The Criminal Investigations and Prosecutions team contributes to this aim by taking action to deter fraud and to regulate the market. They investigate and prosecute a range of offences, primarily relating to personal or company insolvencies.

Media enquiries for this press release – 020 7596 6187

You can also follow the Insolvency Service on: