

Press release: Freight transport boss banned after using red diesel in his fleet

Scott McClung (47) was the sole director of SDS Logistics (Bonnybridge) Limited, a company registered as freight transport by road and based in Leslie Park, Denny, Stirlingshire.

After six years, however, the company ceased trading on 15 August 2016 when it was placed into liquidation, with an eventual deficiency to creditors of £1,860,934.

An investigation by the Insolvency Service following the liquidation found that between May 2014 and April 2017, SDS Logistics misused close to 1.7 million litres (approximately 1,688,648 litres) of rebated Gasoil, otherwise known as red diesel, in their road vehicles.

Gasoil is a rebated fuel, dyed red, for identification purposes. It can be used in registered agricultural or construction vehicles, such as tractors, excavators, cranes and some other non-road applications such as boats, and carries a significantly reduced tax levy compared to Derv, the white diesel fuel used in ordinary road vehicles.

But it is illegal to use red diesel in vehicles registered for and used on public roads.

SDS Logistics' misuse of the fuel was first detected when HMRC officials visited SDS Logistics' premises in April 2016 and found four vehicles had been misusing red diesel.

HM Revenue & Customs levied an excise duty of £790,456 and a penalty of £553,210 but SDS Logistics failed to pay, leading to its liquidation.

On 13 February 2018, Mr McClung gave a disqualification undertaking to the Insolvency Service, which was accepted by the Secretary of State, on 21 February 2018. The disqualification is from 14 March 2018 and is effective until 14 March 2027.

Robert Clarke, Investigations Group Leader at the Insolvency Service, said:

The substantial period of this disqualification reflects the fact this director put his financial interests above all else in taking advantage of this subsidised fuel. The majority of similar businesses pay the proper duty on the fuel they use, and carry that legitimate cost within their trading strategy.

This was a blatant disregard by a director to obtain an unfair competitive advantage.

Scott Andrew Walker McClung's date of birth is March 1970 and he resides in, Denny, Stirlingshire.

Scott Andrew Walker McClung was appointed as a director of SDS Logistics (Bonnybridge) Limited (Company Registration No. SC380133) from 8 November 2011 to 28 February 2014 and again from 31 March 2014 to the date of liquidation on 15 August 2016.

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.

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. The agency also authorises and regulates the insolvency profession, assesses and pays statutory entitlement to redundancy payments when an employer cannot or will not pay employees, provides banking and investment services for bankruptcy and liquidation estate funds and advises ministers and other government departments on insolvency law and practice.

Further information about the work of the Insolvency Service, and how to complain about financial misconduct, is [available](#).

Red Diesel

Diesel used only in vehicles that are operated solely off-road or in machinery and attracts a lower rate of excise duty than diesel used on the road. Vehicles and machinery that are permitted to use rebated fuel include:

- Agricultural tractors, plant and machinery
- Mobile cranes
- Digging machines
- Snow ploughs
- Gritters
- Road rollers and surfacing vehicles

HMRC has compiled a full list of the [vehicles that can use red diesel](#).

HMRC officers have the power to:

- Examine any vehicle and its fuel
- Require the vehicle's owner or driver to open the fuel tank for inspection
- Require the vehicle's owner to produce documentation relating to the vehicle
- Enter and inspect any premises, apart from private houses, to inspect, test and sample fuel
- Ask anybody concerned with the sale, purchase or disposal of rebated fuel for their documentation

Vehicles found to be using rebated fuel illegally may be seized by the authorities. The vehicle's owner will then have to pay a fee for the vehicle's release, which would include a penalty for the offences, up to a £250 fine for each offence, along with an amount to cover the duty owed.

Serious offences may result in the issue of an unlimited fine to the operator and a prison sentence of up to two years.

Media enquiries for this press release – 020 7637 6498 or 020 7596 6187

You can also follow the Insolvency Service on: