

# Newman & Partners

Licensed Insolvency Practitioners

## RECOVERY & REVIVAL BULLETIN

Welcome to the latest issue of our Recovery and Revival Bulletin, designed to keep you up-to-date on insolvency matters that may be of interest to you. If you have any feedback on this bulletin, or would like to know more about our services or how we can help you, please contact us on **020 8357 2727** or at [insolvency@newmanandpartners.co.uk](mailto:insolvency@newmanandpartners.co.uk)

### Creditors entitled to receive £500,000 following Compensation Order in landmark case

The Courts have ordered a disqualified wine merchant to pay back more than £500,000 to creditors in a landmark case for the Insolvency Service – which may set a precedent for future claims. The owner of Noble Vintners Limited, Kevin William Eagling, has been disqualified as a director for the maximum period of 15-years and ordered to pay back £559,484 to the creditors of the company by Judge Prentis.

The Court heard how Eagling abused customers' trust and removed funds, of which a large part was due to be paid to customers after selling their wine stocks or not fulfilling their orders. The 57-year-old, who now lives in Northern Cyprus, was told that creditors were entitled to receive the money, which was why the Insolvency Service made its first ever Compensation Order application against a disqualified director.

Noble Vintners traded as a wine broker since June 2011. Its goal was to help clients acquire stocks of valuable wines for investment purposes. Kevin Eagling



became a director of the company in May 2015. However, just two years later Noble Vintners entered a creditors' voluntary liquidation (CVL) with a deficiency of around £1.6 million.

In light of this, a liquidator was appointed to wind-up the company's affairs before reporting to the Insolvency Service. However, investigators uncovered transactions that indicated that Eagling authorised company funds worth £559,484 to be transferred to a second company, between November 2015 and October 2016, of which he was also a sole director and shareholder. Eagling did not explain the legitimacy of the transaction and the Insolvency Service is now forcing Eagling to make payments via the Order.

The power to issue Compensation Orders was granted to the Insolvency Service in 2015. To use the power, the Insolvency Service has to demonstrate that misconduct had taken place after the introduction of the legislation and after the company entered into insolvency proceedings.

Until the introduction of this legislation, the insolvency office holder has the option to take action for recovery against directors for their actions and debts due to the company. However, where the liquidator

does not do so, and there is a clearly identifiable amount lost to creditors through the actions of a director who is then disqualified, this additional power helps seek redress for those who have lost out.

David Brooks, Chief Investigator for the Insolvency Service, said: "Kevin Eagling, abused his clients and creditors, denying them of hundreds of thousands of pounds. In passing down the compensation order, the judge noted that clients were hit particularly hard as they thought they would benefit from their investments, which ultimately came to nothing. This case illustrates that compensation orders can be a valuable tool for the Secretary of State in seeking recompense for creditors to supplement the recovery actions available to office-holders who have been unable to take recovery action within the insolvency regime."

**This case may open the door for more orders to be made so that creditors can finally seek redress against disqualified directors. It is good to see that the Insolvency Services are applying the new powers fairly to recover money owed. If your client's business is owed money, either from a solvent or insolvent business, why not find out how we can help with debt recovery.**

# Personal and company insolvencies hit a record high

New data shows that the total number of personal insolvencies in 2019 reached its highest level since 2010, while company insolvencies also rose to near-record levels. Analysis of data from the Insolvency Service for England and Wales showed there were 122,181 personal insolvencies last year – up by six per cent on the previous year.

The increase in personal insolvencies was mainly driven by a 9.8 per cent increase in individual voluntary arrangements (IVAs). This was the highest number of IVAs since their introduction in 1987. Bankruptcy levels were also at the highest they've been since 2014, at 16,702, while the total number of Debt Relief Orders (DROs) dropped slightly to 27,497.

Experts believe that much of this is linked to the rise of insecure employment, delayed payments under the universal credit welfare programme, and the impact of Brexit uncertainty. Separate data from the Government published last year suggested that women were most likely to be indebted than men and were more likely to use an IVA. Meanwhile, those living in coastal towns were the most likely

to have become financially insolvent.

Company insolvencies in 2019 also rose by 6.8 per cent year on year when one-off 'bulk insolvency events' were excluded from the figures. Excluding bulk events, which usually involved the collapse or restructuring of large chains, there were 17,196 corporate insolvencies last year – the highest number since 2013.

Responding to the latest figures Duncan Swift, President of insolvency and restructuring trade body R3, said: "Individuals have benefited from low inflation, real wage increases, and record employment levels, but this has been counter-balanced by rising consumer debt and the fact that not all employment is secure. For the most financially vulnerable, the problems with

the benefits system have been well-publicised.

"Finances are stretched for many, and financial resilience is low. It doesn't take much of a shock – a missed benefit payment, an unexpected bill, or a reduction in hours – to cause financial problems. Real wages are rising, but having fallen for so long before that it's a bit too late for some, while wage increases will not be evenly distributed."

If your client is struggling with the prospect of insolvency, either for themselves, their business or both, they must seek help immediately. We have worked with a wide range of businesses and individuals to provide expert advice and insolvency solutions.

## 'Significant financial distress' experienced by more than half a million UK businesses

The latest Red Flag Report has indicated that around half a million businesses are currently in significant distress – up 81 per cent from a similar report conducted in 2016. According to the study, 494,000 businesses in the UK were in significant financial distress at the end of 2019; with real estate and property being one of the worst affected sectors.

Breaking down the study by 22 sectors, the research showed that 15 sectors have experienced an increase in distress between the third and fourth quarter of 2019, compared to 13 sectors between Q4 2018. Property investors, for example, experienced a 30 per cent rise in significant distress compared to the same period in the previous year.

Distress levels were also up by seven per cent in the development of construction project sector and rose by four per cent in

the domestic construction sector, while the number of retailers in significant distress rose by two per cent.

The report also looked at the background of the businesses affected and found that a considerable number had been incorporated after 2014, which suggests that start-ups and newly established businesses are the most at risk of insolvency. More than 126,000 London businesses were in significant distress according to the study, while the other

UK regions combined has around 358,000 businesses struggling with their finances.

If your client is experiencing significant financial distress, like so many highlighted by this report, then they should speak to our experienced team today. We have helped hundreds of businesses dealing with complex financial issues to turn their fortunes around.

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