

Press release: Credit union directors banned for flouting regulations

Richard Charles Nichols, Phillip Raymond Neale and Gillian Birkett were directors of Enterprise The Business Credit Union Ltd T/A DotcomUnity Credit Union (EBCU) which went into administration on 14 May 2015 with estimated total creditor claims totalling £7,277,425.

The Secretary of State for Business, Energy and Industrial Strategy has accepted a disqualification undertaking from Richard Charles Nichols for a period of 9 years, commencing on 24 April 2017. Mr Nichols had not disputed that he had failed to ensure that the rest of the EBCU Board either agreed, or were even aware of, changes in the contract with a company of which he was also a director. This caused additional fees of £392,629 to be charged by that company. Additionally, by failing to include the monies charged and paid out to his other company in EBCU's accounts, he failed to ensure that EBCU filed accurate accounting information to the Prudential Regulatory Authority (PRA), at a time when EBCU's capital position was below the required level and it was subject to the PRA's regulatory enquiries.

The Secretary of State has also accepted disqualification undertakings from Phillip Raymond Neale and Gillian Birkett for 6 years each. Both they and Mr Nichols did not dispute that they had failed to ensure that EBCU obeyed a voluntary imposition of requirements, agreed with the PRA on 24 December 2014, to cease the normal operation of the credit union until such time that it was able to meet regulatory requirements: In the following weeks EBCU further damaged the liquidity of the company, by continuing to issue loans in direct breach of the restriction.

The disqualification prevents Mr Nichols, Mr Neale and Mrs Birkett from directly or indirectly becoming involved in the promotion, formation or management of a company for the duration of their disqualification terms without the permission of the Court.

Commenting on the disqualification, David Brooks, Group Leader at The Insolvency Service, said:

On 19 December 2014, Mr Nichols told the Board of EBCU that the company had 'broken all rules in the book' and 'can't continue to flout the rules'. However, both he and Mr Neale and Mrs Birkett then allowed the company to do just that, leading directly to its failure.

In addition, Mr Nichols allowed a serious conflict of interests to occur regarding a second company, which carried out all almost-all administrative functions within the credit union. He then failed to prioritise his duties to EBCU regarding both the agreement of a fee

structure with that company and the accurate reporting of the intercompany transactions in its accounts. This is serious misconduct and the high tariff of disqualification reflects the seriousness of such behaviour.

We are grateful for the assistance of the Prudential Regulation Authority, in particular, in this matter.

Notes to editors

Enterprise The Business Credit Union Ltd (Company Reg No. IP00469C) T/A DotcomUnity Credit Union was incorporated on 11 June 1996 and latterly traded from 3rd Floor, Enterprise House, Oxford Road, Bournemouth, BH8 9EY.

It was previously named:

- Federation of Small Businesses Credit Union Ltd
- Lancashire and Cumbria FSB Credit Union Ltd

The Company went into administration on 14 May 2015 and then into liquidation on 17 August 2015, with an estimated deficiency as regards creditors of £1,466,161. Creditor claims up to October 2016 totaled £7,277,425.

Richard Charles Nichols' date of birth is in January 1959 and he resides in Hampshire.

The Secretary of State accepted a Disqualification Undertaking from Mr Nichols for a period of 9 years on 3 April 2017. The disqualification is due to commence on 24 April 2017. The matters of unfitness, which Mr Nichols did not dispute in the Disqualification Undertaking, were that he failed from July 2014 to 2 March 2015 to ensure that the Board of Enterprise The Business Credit Union Ltd either agreed, or were aware of, changes to a contract with a company of which he was director, leading to additional fees of £392,629 being charged. Specifically:

- the EBCU Board had given interim agreement to an unsigned contract with the associated company on 22 March 2013 to operate, create and carry out all functions for the administration of the Credit Union it operated. Fees for this service included 50% of all loan interest actually received
- however, the associated company produced to the liquidator an altered agreement, purportedly signed by EBCU's then Chairman, altering the loan interest to be 50% of the total interest due per loan and adding an investment fee for New Savings Accounts, including ISAs. The Chairman denies knowingly signing the altered contract and all directors deny agreeing to it. I stated that I knew the altered contract was being operated from July 2014
- as a consequence the associated company invoiced £65,212 in investment fees and £633,117 (before VAT) for loan fees when the original contract fees are estimated at £305,700

He failed to ensure that EBCU filed accurate accounting information to the Prudential Regulatory Authority, in that:

- the accounts to 31 March 2014, signed on 23 September 2014 and sent to the PRA on 7 October 2014, schedule an amount of £93,070 owed to EBCU by a company of which he was also director. This figure included £23,940 of accrued commission to be charged by that company for the period to 31 March 2014. However, by 10 July 2014, he knew or ought to have known that that company had invoiced £176,362 in respect of the services provided for the period to 31 March 2014 and net assets had been therefore overstated by £152,422 (before VAT)
- on 13 November 2014, EBCU he emailed a letter to the PRA stating that it acknowledged that it had a shortfall in its regulated capital reserves and attached profit and loss and cash flow accounts supporting its strategy for correcting the position by March 2015. The profit and loss account stated that the aforementioned associated company had not charged any fees in the previous 8 months and intended not to do so in the next 4 months. However, the company had already invoiced £310,508 by that date, and invoiced another £571,621 in the following 4 months. In addition, the cashflow forecast stated that there would be no payments to the associated company in respect of fees from October 2014 to September 2015. However, £38,262 had already been paid to it in October 2014, another £13,000 was paid on the day of the email, and £257,293 was paid thereafter

He failed to ensure, from 24 December 2014 to 2 March 2015, that EBCU met its regulatory requirement to not make new loans, or make further advances in relation to, or otherwise vary the terms of, any existing loans. In that period, EBCU was subject to a Voluntary Imposition Of Requirements agreed with the Prudential Regulatory Authority to cease the normal operation of the credit union until such time that it was able to meet regulatory requirements. EBCU made payments in the period of £518,115 in respect of 134 loans; a regulatory breach which then contributed to its insolvency.

Gillian Birkett's date of birth is in May 1956 and she resides in Bournemouth. The Secretary of State accepted a disqualification undertaking from Mrs Birkett for a period of 6 years on 9 March 2017. The disqualification commenced on 30 March 2017.

Phillip Raymond Neale's date of birth is January 1964 and he resides in Bournemouth. The Secretary of State also accepted a disqualification undertaking from Mr Neale on 7 March 2017 for a period of 6 years. The disqualification commenced on 28 March 2017.

The matters of unfitness, which Mr Neale and Mrs Birkett did not dispute in their Disqualification Undertakings, were that they failed to ensure, from 24 December 2014 to 8 May 2015, that Enterprise The Business Credit Union Ltd met its regulatory requirement to not make new loans, or make further advances in relation to, or otherwise vary the terms of, any existing loans. In that period, EBCU was subject to a voluntary imposition of requirements agreed with the Prudential Regulatory Authority to cease the normal operation of the credit union until such time that it was able to meet regulatory

requirements. EBCU made payments in the period of £635,511.67 in respect of 175 loans; a regulatory breach which then contributed to its insolvency.

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 Prudential Regulation Authority ('PRA') was created as a part of the Bank of England by the Financial Services Act 2012 and is responsible for the prudential regulation and supervision of around 1,700 banks, building societies, credit unions, insurers and major investment firms. The PRA's objectives are set out in the Financial Services and Markets Act 2000 (FSMA). Further information about the work of the PRA is [available](#).

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