

SIMON PASSFIELD OBTAINS 10 YEAR DISQUALIFICATION ORDER AGAINST DE FACTO DIRECTOR OF SUSPECTED MTIC FRAUDSTER



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In *Re Focus 15 Trading Ltd, OR v Duckett* [2020] EWHC 3016 (Ch), the Official Receiver issued a disqualification claim against Mr Duckett pursuant to s.6 of the Company Directors Disqualification Act 1986 (“CDDA”), alleging that he had been a de facto director of Focus 15 Trading Ltd (a company which appeared to have been a vehicle for MTIC fraud) and had failed to ensure that it maintained and preserved adequate accounting records.

Mr Duckett denied that he had been a de facto director of the company, claiming that he had simply provided ad hoc consultancy and administrative services and the real de facto director was an individual called “John Deere”, who had subsequently disappeared. After hearing extensive cross-examination, HHJ Keyser QC rejected those assertions, holding that “Mr Deere” was fictitious and that Mr Duckett had fabricated documentary evidence and concocted evidence in the witness box.

Mr Duckett further argued that the OR had not proved that the Company’s accounting records were inadequate because, although the OR had produced a schedule of the records which had been delivered up to him, he had not produced the underlying documents. HHJ Keyser QC rejected that argument, noting that Mr Duckett had not requested that the documents be produced and/or sought an order for their production and had elected not to cross-examine the OR.

The requirements of s.6 CDDA being satisfied, HHJ Keyser QC concluded that it was appropriate to make a disqualification order against Mr Duckett for a period of 10 years. In reaching that conclusion, he took into account both the seriousness of Mr Duckett’s conduct in failing to ensure that the company maintained and preserved adequate accounting records and the fact that Mr Duckett had *“lied on oath so egregiously in these proceedings”*.

Simon Passfield acted for the Official Receiver, instructed by Gowling WLG.

The judgment is available at: <https://www.bailii.org/ew/cases/EWHC/Ch/2020/3016.html>