# Britain: Maxwell brothers escape disqualification proceedings

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The Maxwell brothers and other directors caught up in the Mirror Group Newspapers (MGN) flotation scandal are all to escape disqualification proceedings. The decision comes in spite of last year's Department of Trade and Industry (DTI) report, which described Kevin Maxwell's conduct during the 1991 float as "inexcusable" and accused elder brother Ian of signing documents "without considering their implications".

The DTI report was released last March. It took nine years to compile and cost the UK taxpayer £8.5 million. It found that the primary responsibility for the scandal rested with owner Robert Maxwell, while his son Kevin Maxwell and others in the management team bore a "heavy responsibility" for the collapse of Maxwell's business empire and the plundering of about £400 million (US$568 million) in pension fund assets. The report said that Ian Maxwell failed to carry out all his duties as a company director. Other company directors shared some limited responsibility. The report also attacked accountants Coopers & Lybrand (now PriceWaterhouseCoopers) and investment bank Goldman Sachs.

Patricia Hewitt, the trade and industry secretary, made the announcement on March 15 that there were to be no proceedings to disqualify company directors. Reports said that the legal advice received claimed that there was very little likelihood of securing a successful disqualification largely because of the huge publicity surrounding Kevin Maxwell. It was asserted that the publicity would make it hard to prove that such action was in the public interest. In an interview last year, Kevin Maxwell had asked, "What protection would it give the public—does there need to be more publicity about me for people to know who I am and what happened?" Hewitt said: "After careful consideration of the advice from leading counsel, officials have recommended and I have agreed not to institute disqualification proceedings."

Legal advice to ministers also made clear that there was "no automatic presumption" that anyone would face disqualification proceedings simply because he was criticised in a Companies Act report. Factors that the lawyers took into account included the likelihood of the directors engaging in further corporate activity; whether they had faced any other action such as criminal prosecution; and the amount of time that had passed since the events in question.

Those implicated in the scandal at the highest level have once again got off scot-free. Both Kevin and Ian Maxwell and Larry Trachtenberg, an adviser to the late Robert Maxwell, were acquitted of fraud at an Old Bailey trial. Although Kevin Maxwell was declared bankrupt in 1992—becoming the UK's biggest bankrupt—and disqualified from holding directorships for three years, he became eligible to be a director again after his bankruptcy was discharged in 1995. He is now chairman of Telemonde, a once successful telecom company that now struggles to stay afloat. Last year he took a 75 percent pay cut in order to keep the company alive. The company, registered in the tax haven British Virgin Islands, was valued at £350 million during the Internet boom. It is now worth only £1.3 million. Ian Maxwell was never declared bankrupt and has never been disqualified as a company director.

The affair prompted a shake-up in rules relating to the relationship between companies and their pension funds, but debate continues to rage about whether the regulations have gone far enough. Last year's DTI report criticised the directors of MGN for failing to ensure that Robert Maxwell's powers were kept in check. They included Joe Haines, the former press secretary to Harold Wilson, the late Labour prime minister, and Lord Williams of Elvel, a former opposition frontbench spokesman.

Despite the changes in UK law and a decade after Maxwell was able to steal £400 million from his staff's pension fund, hundreds of workers are still hit by similar problems every year. In fact, employers can raid the pension kitty with the full blessing of the law. The latest victims are workers with the United Engineering Forging Group, formerly part of British Steel. Their pension scheme was in surplus when the firm was taken over five years ago by a venture capital group that included financial services providers the Prudential, Barclays and NatWest. There was a gaping hole in the fund when the company went into administration last year. Graham Goddard, a trade union convenor at the firm's Sheffield factory who is married with three children, was in the scheme for 20 years. Now it has been closed, leaving a 40 percent shortfall on his pension. "Members now retiring have done even worse," he says. "One who was expecting a £30,000 lump sum and a pension for life of £9,000 a year will now get just £4,000 a year and no lump sum."

A similar situation arose at Demaglass in Chesterfield, Derbyshire, which also went into liquidation last year. Local Liberal Democrat MP Paul Holmes raised both cases of "legalised robbery" in parliament with Pensions Minister Ian McCartney in February. McCartney brushed him aside, saying that there are already measures in place to combat fraud.

Malcolm MacLean, chief executive of pensions advisory service OPAS, also says that not enough is being done to protect pension fund members. "New controls were brought in after Maxwell, and there is a compensation scheme, but what worries us is what happens when an employer gets into financial difficulty, because there is no compensation if the company closes down and the pensions money is no longer there."