BHS saga finally draws to a close

Over five years since the retailer's collapse, the determination notice for Dominic Chappell has finally marked the end of the BHS saga, although the mark left on the industry seems likely to remain for years to come

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The years' long BHS pensions saga has finally been bought to a close, with former owner, Dominic Chappell, being ordered to pay £9.5 million into the company's two pension schemes by The Pensions Regulator (TPR) in January 2020.

But the issues surrounding BHS and its pension schemes stem back to the now infamous 2015 sale of the retailer from Phillip Green to Dominic Chappell for £1, and its impact on the businesses involved is still being felt.

In 2018 for example, the Financial Reporting Council sanctioned PwC, alongside one of its former audit partners, for the work undertaken before the sale. The firm was handed a £10 million fine, while the former PwC partner, Steve Denison, was given a £500,000 fine and was banned from undertaking any audit work for 15 years.

Less than 13 months after the sale of BHS to Chappell, in April 2016, the business collapsed into administration, triggering not only concern for members' pensions, but also an investigation into Green and Chappell by MPs that would continue for well over a year.

The Pension Protection Fund (PPF) estimated the schemes' liabilities at £275 million in May 2016 and called on administrators to engage with potential liquidators. A month later however, administrators confirmed that no buyer had been found, and began the wind-up process.

TPR began enforcement action against Green and Chappell in November of the same year, seeking redress for the 20,000 pension scheme members affected by the retailer's collapse, and accusing Chappell of "having his fingers in the till".

Green remained heavily involved throughout the fallout of the collapse of the business, and received heavy public criticism, with a petition of over 100,000 signatures presented to Arcadia in November 2016, demanding remuneration for the BHS pension scheme.

Green appeared in front of the Work and Pensions Committee in mid-2016, yet six months later, in December, he had failed to act on his promise to sort the retailer's pension scheme.

However, in February 2017, Green agreed to a £363 million cash settlement, bringing certainty for the 19,000 members affected.

The settlement provided funding for a new independent pension scheme, which the regulator estimated would see average workers receiving around 88 per cent of the value of their original benefits, higher than they would otherwise receive from the PPF.

However, Chappell, at this point the final owner of BHS, opposed legal action from the regulator, claiming that the BHS pension scheme deficit was not his fault.

Shortly after this, in August 2018, the regulator began proceedings against Chappell over section 72 failings. The subsequent investigation found Chappell guilty of failing to hand over information to TPR in relation to the collapsed retail chain's pension scheme, with a subsequent appeal by Chappell denied. As a result, he was handed a £124,000 fine.

As we entered the new decade, the regulator published its determination notice, outlining its decision and action against Chappell in relation to the enforcement action it had begun back in 2016.

It concluded that a series of actions had been materially detrimental to the pension schemes, including the acquisition of BHS, management decisions of the company, the appointment of inexperienced board members, the implementation of an inadequate business plan and the way money was extracted and distributed to Chappell.

Following the ruling, TPR executive director of frontline regulation, Nicola Parish, said: "This case illustrates how TPR is willing to pursue a case through the courts to seek redress for pension savers.

"It illustrates the situations our anti-avoidance powers were designed to meet and which allow us to protect the retirement incomes that savers deserve."

The determination marked the end of TPR's legal battle against Chappell, and with it, the ongoing BHS pensions drama. But the true impact of the retailer's collapse will likely be felt for a long time still, with the fallout prompting various new guidance and regulation, such as stronger sanctions and greater regulatory powers.

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