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Ballarat businessman banned from managing corporations after clean energy business didn't supply goods

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A Victorian small business owner has been banned from managing corporations for five years, after his company was found to have accepted payment for goods and services it didn't provide.

Mark Bailey was the sole director of Bailey Designed Engineering, a clean energy business, and on April 2 the Ballarat Magistrates' Court disqualified him from managing a corporation until July 1, 2019.

Consumer Affairs Victoria commenced [legal action against the company and Bailey in February](#) this year, following complaints the business had failed to supply goods and services.

The consumer watchdog also commenced proceedings in late February for the company to be wound up and liquidators from Worrells have since been appointed.

SmartCompany contacted Worrells for comment, but has not received a response.

The Ballarat Magistrates' Court has also ordered Bailey and his employees or agents to not request or accept money or other consideration on deposit, payment or consideration before delivery or installation of appliances or components or any payment or other consideration before completing promised services until July 1, 2024.

The business sold wind turbines and solar systems and had

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previously appeared in the Victorian Civil and Administrative Tribunal and found guilty of similar allegations.

Bailey has been ordered to issue a public notice of the order and pay \$8666 in costs.

TressCox Lawyers partner Alistair Little told *SmartCompany* the courts will take into consideration an individual's ability to pay a penalty.

"The maximum fine for accepting payment when you intend not to supply goods and services is \$220,000, but there's no point imposing a fine of this magnitude on a person when they have no prospect of paying it," he says.

"It is quite possible Bailey's financial circumstances could have come into account, or he might have argued the conduct wasn't deliberate, but the fine could have been a lot more substantial."

Little says the act of taking money but not delivering goods or services is "unusual".

"It's unusual simply because it's so transparently dishonest. It's not something which happens often, but it's not unheard of."

Little says failing to supply goods and services is a breach of a number of provisions in the Competition and Consumer Act.

"It exposes you to fines and various other penalties under the act," he says.

"It's possible to take action not just against the company, but against an individual personally. The consumer has rights against the company and the responsible individual."

In May last year Bailey Designed Engineering was also ordered to pay Emma and Adam Ellis \$12,900 by VCAT member Elisabeth Wentworth after goods they paid for were not of an acceptable quality and incurred a major failure.

In August last year, Ballarat paper *The Courier* also reported a story of a Bailey Designed Engineering customer who had paid nearly \$28,500 for a five kilowatt wind turbine, a solar panel and an off-grid batter bank in October 2011, but the system was allegedly not installed until almost June 2012 and was faulty.

In addition to this incident, *The Courier* had uncovered seven other Bailey Designed Engineering customers who were also in dispute with the company.

Little says if a company goes into liquidation, it's unlikely consumers will ever receive their money back.

"If you've been mucked around by a company, report it to consumer affairs bodies, fair trading bodies or the Australian Competition and Consumer Commission," he says.

keywords |

consumer affairs victoria, alistair little, bailey designed engineering, mark bailey, solar panel business