



2010 - Death of the High Street?

Some industry commentators are predicting that the retail sector is set for a clear-out on the high street, with perhaps 20 or more household names at risk.

It is thought that:

- retailers will have deliberately delayed starting insolvency proceedings until the New Year because of hopes about trade over the festive period;
- also, creditors of retailers are thought to have hung back for the prospect of higher returns post Christmas on the back of increased takings;



Helen Whitehouse

One then adds into the impact of these factors increased unemployment and therefore less consumer spending to conclude that the prospects may be gloomy.

Consequently, when, as is expected, creditors more actively seek payment the expectation is that failure will follow. The view of IA Services is that it is better to seek advice early to maximise the potential for rescue and recovery using the various means available to qualified insolvency practitioners. For more information about Rescue & Recovery methods contact Helen at helen@insolveassist.co.uk.

Directors Disqualification

A former director of Widnes Rugby League Football Club Limited has signed an 11-year Disqualification Undertaking following his involvement in an alleged VAT fraud.

While a director of the Club it entered into administration with liabilities of more than £1.6million.

The undertaking contained details of alleged 'carousel fraud' designed to prop up the finances of the rugby league club, which was technically insolvent at the time. The club 'purchased' three consignments of clothing from a UK company, and on the same day 'sold' the clothing to a company based in Spain. The transactions appeared to be part of a linked series of purchases between the UK and Europe after which there was an attempt to reclaim VAT (a sum in the region of £500,000. HMRC refused the repayment of the club's VAT claim on these transactions.

It is understood that in the last financial year 89 former directors whose companies were involved in carousel fraud were disqualified with the average period of disqualification lasting 12.5 years. Acting as a company director, or in any way controlling a company, during a period of disqualification may result in prosecution.

Did You Know?

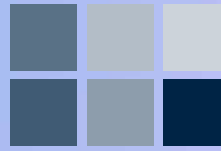
- That you can search on-line to check whether someone is bankrupt or has entered an individual voluntary arrangement – go to: <http://www.insolvency.gov.uk/bankruptcy/bankruptcysearch.htm> and follow the instructions.
- That you can search on-line to find out if someone is disqualified from acting as a director (or otherwise controlling a company) – go to: <http://wck2.companieshouse.gov.uk> and click on the link for 'Directors Disqualification Search'.

For more information about what information is available publicly about personal and corporate insolvency issues contact Helen at helen@insolveassist.co.uk.

Getting Debtors to Pay

In times of recession sound credit control procedures that are adhered to are even more important as they may help put you/your client at the front of the queue for payment. Not having procedures, or having them and not adhering to them, gives the debtor an interest-free overdraft.

- **When trying to recover a debt a letter should be sent to the debtor setting out the facts of the situation. This should include information such as:**
 - The date by which payment is required & what will happen if it is not
 - A request for the debtor to put in writing any issue or dispute they have
- **It's important to:**
 - Be firm, calm and explain what will happen if payment is not made
 - Stay within the law
 - Keep copies of all documents relating to the debt; these may be used as evidence if legal action is necessary or the debt must be proved later e.g. to a liquidator.
- **Avoid:**
 - Being drawn into heated arguments or lengthy correspondence
 - Threatening legal action that will not be followed up.
- **Recovering debts through the courts**
 - The person starting a court case can generally decide the town in which a claim is started but where a case is heard may depend on how much money is involved and where the debtor lives.



- A court is unlikely to make a ruling in the creditor's favour if the creditor cannot establish the facts of the case (this will not be necessary if the debtor does not put in a defence)
- If a claim fails this could result in a liability for the debtor's costs.
- **Enforcing a court ruling. A judgment can be enforced by asking the court for any of the following:**
 - A warrant of execution - sending a court bailiff to collect the money.
 - An attachment of earnings order - stopping money from the debtor's wages.
 - A third party debt order - freezing the debtor's money that is held, for example, in a bank account; or
 - A charging order - the money is paid on the sale of the debtor's house/land.
 - A debtor can also be called into court for an Order to obtain information. This is not a method of attempting to retrieve the money owed, but an interview to discover information about the debtor's financial situation.

For more information about credit control contact Helen at helen@insolveassist.co.uk.

What Is?

This month - what is a Company Voluntary Arrangement ('CVA')?

CVAs have been entered recently by a number of household names, including companies such as JJB Sports, Threshers/Wine Rack and Focus DIY.

- A CVA is a procedure by which a company approaches its creditors with a proposal to pay back the debts owed, in full or in part, over a period of time. Generally it arises where the directors wish the company to continue to trade but the company is insolvent – that is, it cannot pay its debts as they fall due.
- To be successful, it is vital that future trade will provide funds not only for the working capital of the company but to fund the proposed dividends to creditors. Reasonably accurate management information to assess the strategy is imperative. The directors must be realistic. Good, professional advice at this point is essential. Proposals, in practice prepared by an Insolvency Practitioner, will be drafted and sent to all creditors to be considered formally at a creditors' meeting.
- At the creditors' meeting it is necessary to receive the support of more than $\frac{2}{3}$ of the creditors present or represented. This will bind all creditors. Any unpaid debts after completion of the arrangement will be written off.

Court protection from creditors can be obtained before the CVA is approved by entering into a moratorium. Time is of the essence so it is important to act swiftly.

- Shareholders and directors will need to approve the proposals before they are forwarded to creditors.

For more information about CVAs contact Helen at helen@insolveassist.co.uk.

Sound financial management is not just about credit control

A recent winding up highlights the importance of businesses keeping careful control of their purchasing arrangements. A Liverpool-based company has recently been wound up after repeatedly sending unsolicited stationery to businesses then pursuing the recipients for payment.

Investigators found the company targeted junior and inexperienced employees who were talked into agreeing to delivery of the stationery (labels for franking machines) without any attempt being made to ascertain that they were authorised to place such an order.

The company in question:

- Continued to pursue businesses that had already advised they did not wish to receive further calls and had demanded their details be removed from the company's database.
- Sent labels to businesses when it knew or ought to have known that they were not wanted
- Charged a restocking fee (of up to 25% of the invoice value) if the customer returned the labels and refused to accept returns unless this fee was paid.

The High Court found that it was expedient in the public interest that the company be wound up.

The moral of the story is have clear purchasing procedures, including ensuring that anyone who tries to sell anything confirms any offer in writing - no 'deal' is too good to miss in the current climate, is it?

For more information about business financial management contact Helen at

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