

# News with Clout

Providing Corporate & Personal Solvency Solutions

## GOING THROUGH ANY TYPE OF INSOLVENCY IS ROUGH

Yet there are insolvency practitioners out there that make it worse than it needs to be.

A disturbing trend has emerged in this thin market which involves taking advantage of those in need of an insolvency who shop around. These people tend to make their decisions based on two criteria, the cheapest price and/or the nicest sounds. The nicest sounds generally come from pre-insolvency advisors. As you may have noted in our previous newsletters such operators are about to be targeted by the government for facilitating multiple phoenix's. Price is of course the other trap, but more on that later.

The structure on the insolvency industry is such that to obtain advice from an insolvency practitioner as to the position of a company and the options available the insolvency practitioner is placed in an unenviable position. First, we advise a person as to the need to appoint a liquidator or not, a position of trust we have seen abused, and then once an appointment has been made the liquidator goes from an advisor to a fiduciary who must protect the interests of all stake holders which includes the creditors whose interests can often come into conflict with those of the people who just appointed you, the Directors.

In addition we are seeing quotes for around a sixth of what it really costs with the funds provided prior to the making of the appointment, which is standard practice.

On the appointment the directors were then served with a demand for repayment of substantial loan accounts and threatened with litigation for damages of breaching the Insolvent Trading provisions contained in Section 588G of the Corporations Act. Surprise, surprise, the old saying if it sounds too good to be true it usually is.

If an insolvency is inevitable in our opinion the unfortunate parties need to be made fully aware of all the implications as forewarned is forearmed. The surprise of the Directors in this case and the further hurt and fear was unnecessary.

In this case the quote of \$2,000 for a Creditors Voluntary Liquidation would not even have covered the outgoings. Another quote for \$4,000 suffered a similar fate. It might be understandable if these jobs had been loss leaders with a view to fostering relationships with referrers, but these were Insolvency Practitioners found on the internet and not even operating in our region. With the recent tightening up of administrative requirements on insolvencies it is not possible to do the work for such fees. These charlatans will be cleaned out but historically it has taken years.

As we have said going through an insolvency is a tough time not to be wished on anybody. If your clients know what they are in for they can prepare. Commercial expediencies exist. But beware of discounts.

As ever we welcome your enquiries.



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Offering Corporate & Personal Solvency Solutions

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**Apart from Formal Insolvency Services at Clouts we also Offer:-**

Orchestrating Informal Arrangements with Creditors

Monitoring Businesses in Workout Situations

Conducting Negotiations with Secured & Unsecured Creditors

Business Risk Minimisation Reviews

Forensic Accounting Assignments

Business Valuations

Internal Control Reviews

Small Business Courses

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