

News with Clout

Providing Corporate & Personal Solvency Solutions

ECONOMIC IMPACT OF COVID-19 & PRE-INSOLVENCY ADVISORS

As the economic impact of the COVID-19 pandemic filters through our economy and the end of the Jobkeeper stimulus package in March 2021 looms, it is prudent to remember age old adage 'if something seems too good to be true, it probably is.'

Earlier this month the Australian Financial Security Authority ("AFSA") launched a campaign to raise awareness of dodgy pre-insolvency advisors. It is feared that those experiencing financial stress as result of the economic fallout of the COVID-19 pandemic will make for easy targets for pre-insolvency advisors.

The vast majority of pre-insolvency advisors are unqualified individuals who have no affiliation with any professional body and hence no Professional Indemnity Insurance or Code of Conduct to adhere to. Another worrying problem is some of these so-called pre-insolvency advisors have either been through a bankruptcy or liquidation and are now "experts".

Whilst not all pre-insolvency advice is improper, you need to be careful as we have seen such advice result in company director misconduct and facilitation of illegal phoenix activity. This is where an indebted company, transfers its assets to a new company under a different name for little or no consideration. The company is usually then liquidated, leaving creditors, employee entitlements or tax or some or all of the above.

Pre-insolvency firms use public databases to identify struggling companies, and individuals cold call them to offer "pre-insolvency" advice. The advice offered usually includes unrealistic promises that directors in financial difficulty understandably are inclined to cling to. Part of this can relate to how to "phoenix" the business, which can result in directors spending time in prison.

What should you do if your client finds themselves in this position or you hear from someone offering their services to your client?

Do your background checks first! Before you engage an insolvency/turnaround expert, make sure they're a member of a recognised reputable professional body such as Australian Restructuring Insolvency & Turnaround Association ('ARITA').

It is also a good idea to check with ASIC or AFSA to determine if the advisor is a registered liquidator, for a company or Bankruptcy Trustee or Debt Agreement Administrator for personal situations and his/her registration history.

Another option is to get a second opinion and stay open to the possibility of contrasting advice that your client may not want to hear. Often the purported good news coming from the pre-insolvency advisors are only postponing the inevitable with more damage to be left behind.

As ever we welcome all your enquiries and are happy to address any questions you or your clients may have.



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Official Website

www.cloutassociates.com.au

Mid North Coast Office

Tel: (02) 6650 5888

Fax: (02) 6651 9393

Northern Rivers Office

Tel: 1300 886 006

Fax: (02) 6674 1979

Email: admin@cloutassociates.com.au

Clout & Associates Senior Representatives

Michael Brennan

Email: mbrennan@cloutassociates.com.au

Morgan Chubb

Email: mjchubb@cloutassociates.com.au

David Morgan

Email: dmorgan@cloutassociates.com.au