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EARLY ADVICE

aids Survival of Business

At PBC, we have written numerous blogs and articles about how taking early advice about a worsening financial situation can lead to more options being available and the earlier the advice is taken the more likely a recovery process can be instigated. This message was true in the recent administration of Noble Express Ltd.

The company, which supplied catering equipment, cleaning chemicals and other non-food essentials to the hospitality industry, entered into administration on 16 January 2018. However, the board of directors first sought our advice in the autumn of 2017, at which point the sale of the company remained a genuine possibility. Unfortunately, no sale could

be secured but the company traded during its busy period in the run up to Christmas. The director then sought advice again at the beginning of January.

Following the company entering administration, the joint administrators (Gary Pettit and Gavin Bates of PBC) traded the business with a view to finding a buyer. Several expressions of interest were received and a sale of the business was secured in February. The sale has seen the majority of the company's employees retain their jobs as well as an increased return to creditors.

Gavin Bates said, "It is always pleasing to see directors take advice at an early stage when their company is faced with financial pressures and difficulties rather than burying their head in the sand only to emerge when it is far too late. In this instance, I was approached early enough to enable viable trading to occur whilst searching for a buyer. The early approach ensured there was both cash available to fund trading and stock in the company's premises which meant I could trade without seeking further supplies from creditors. I am delighted with being able to secure a sale of the company's business and assets, and look forward to distributing the funds I am holding to creditors".



TIME TO PAY

Thanks to Carillion

Following the demise of Carillion, HM Revenue & Customs have announced their Business Payments Support Services are open to approach by any company or business that has suffered a short-term cash flow problem as a result of the large scale failure.

The Support Service will consider:

- Instalment arrangements of tax due that cannot be paid on time;
- Suspension of recovery action/proceedings; Review penalties for missing statutory deadlines;
- Reduce any payments on account;
- Agree to defer payments due to short term cash flow difficulties.

Should you find yourself facing difficulties to meet your tax liability as a direct result of the Carillion failure then you may apply

to the Support Service on 0300 200 3835 or go on the website at www.gov.uk and search “Dealing with HMRC-payment problems.”

The obvious question this raises is, “Why is this offer being made for Carillion creditors?” At PBC we believe this could set a precedent for others who are caught under an insolvency process. After all, what is different between a supplier losing (say) £5,000 in the Carillion liquidation to that under “Standard” UK liquidation?

At PBC we are often approached to assist companies with addressing tax issues whether in respect of trying to secure a time to pay agreement or by other formal means where appropriate. Should you require advice in this respect then contact PBC





FOCUS ON

Administration

Administration is available to a company that is (or likely to become) insolvent. It is designed to protect a company whilst plans are formulated to achieve one of the objectives (see below).

Administration is also available to a partnership and reference below to company and directors should be read as partnership or partners.

Once a company is placed into administration, it is placed under the control of an insolvency practitioner (called the administrator) and receives protection from creditors (known as a moratorium) which prevents action being taken against the company without the permission of the court or the administrator.

Objectives of Administration

There are three objectives of administration as laid out by the insolvency legislation:

1. To rescue a company as a going concern.
2. To achieve a better position for creditors as a whole than would be achieved if the company was immediately wound up.
3. Realising assets in order to make a distribution to secured or preferential creditors.

Who can Appoint an Administrator?

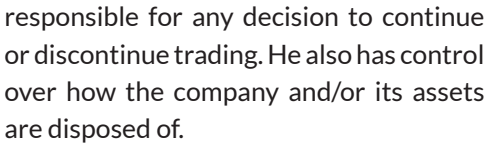
An administrator can be appointed by either:

1. The courts – on an application from creditors, directors, shareholders or partners.
2. The holder of a qualifying floating charge over the assets of the company.
3. The company or its directors.

Following Appointment

Once an administrator is appointed he takes over the management of the company from the directors and is

Moratorium
court
insolvent
Behalf
Monies
No Funds
partnership
Floating
Debts
Control
Ten Weeks
Court
Petition
Insolvency
Advise
Mortgage



The administrator must send his proposals (for how the purposes of administration will be achieved) to creditors within eight weeks of his appointment. The proposals must be approved by creditors using a decision procedure which must be held within ten weeks of appointment. The proposals can be approved, modified or rejected by creditors.

How does an Administration end?

Administration may end in the following ways:

On conclusion of an administration:

What services can PBC Business Recovery & Insolvency undertake?

PBC Business Recovery and Insolvency can undertake the following services:



CHARITY QUIZ

A Great Success

Greens Restaurant was filled with the sound of brains whirring as fourteen teams did battle at PBC's charity quiz in aid of Ronald McDonald House at Alder Hey.

It was a night which saw the teams discover 12 is the only number which scores itself in Scrabble and 23 is the next number in the sequence 1, 40, 4 and 3.



The winners were Hewitsons (pictured), with a score of 128 out of a possible 150, with Tollers taking second place only 3 points behind in a good night for the lawyers.

PBC would like to thank everybody who attended and made the event such a success, with £1,799.88 being raised for charity as PBC have covered the costs for the evening.

The team's tuck shop has also raised £71.29 so far this year, bringing 2018's current total raised to £1,871.17. Further details about the abseil and other events will be released shortly.

And 23. Motorways with M25 junctions (anticlockwise around the M25).





ABSEIL FOR

Ronald McDonald

Here at PBC, we are determined to raise as much money as possible for this excellent cause. So far we have had a charity craft fair, Kym and Jamie walked 80 miles from London Euston to Northampton and the quiz night.

We also have an extremely popular tuck shop in the office! To date, PBC have raised an amazing £3,303 in 2017 which equates to keeping the Ronald McDonald House at Alder Hey Hospital open for two whole days and in 2018 we have raised £1,817 so far.

*But we're not
stopping there!*

Our Jamie and Natasha have taken on the next charity challenge in August 2018 which is an 500ft abseil down Liverpool Cathedral and they can't do it without your support! We have set up a Just Giving page (accessible via our website) so please help us make a difference for the Ronald McDonald House Charity and all the families that use it.





An Alternative Credit Check?

Are you an SME who is contracted to supply (or are considering supplying) a large company? If so, how confident are you payment of your invoices will be paid in a timely manner, if at all?

In recent times we have witnessed some large companies failing, including Connaught Construction, BHS and recently, Carillion. With each failure there is a wake of debt owed to thousands of suppliers that will end up being written off. Some of that debt was unpaid because the supplier was caught up in the contractual web of having to continue to supply or face the potential of being held in breach of contract. Others may be apportioned to a “Relaxed” credit control. After all, the biggest customer on your books is too big to fail, isn’t it? The examples given answer that question!

However, those in charge of considering a supply line to large companies have a tool available to enable them to determine

whether the prospect of working with a large company is the “Golden opportunity” or something where you politely say, “No thanks.”

The Small Business Enterprise and Employment Act 2015 (“SBEEA”) introduced a payment policy reporting obligation on all large companies. A “Large company” is defined as one that meets at least two of the following:

- Annual turnover of at least £36 million.
- Balance sheet value of £18 million.
- At least 250 employees.





The reporting duties imposed by the SBEEA came into effect from 6 April 2017 so we should start seeing these payment reports very shortly as financial year ends will need to provide for this obligation.

The information required in this report must incorporate a narrative description of the business standard payments terms and include:

- The standard contractual length of time for payment.
- How suppliers have been notified (or consulted) on any changes in this policy within the financial year.
- Description of their policy for resolving disputes relating to payments.

- Statistics covering the average number of days to make payments.
- The percentage of payments made within 30 days, 60 days and 61 days or longer.
- The percentage of payments due within the reporting period that were not paid within the agreed payment period.

They will also have to reveal whether:

- Suppliers are offered e-invoicing.
- Supply chain finance.
- The policies regarding deducting sums from payments due as a form of charge to remain on the suppliers' list.
- Whether they have deducted sums from payments due.
- Whether they are a member of a payments code and, if so, name the code.

This report must be published on a web-based service provided by Government and within 30 days of the end of the reporting period covered. While it is still in its infancy this service should prove invaluable when you are considering working with a large company and should be part of your credit/sales practice before you sign on that dotted line.





FOCUS ON

Members' Voluntary Liquidation

A members' voluntary liquidation (MVL) is a procedure whereby directors wish to wind up the affairs of a company and the company is in a position to pay creditors in full. It is only applicable in circumstances where the company is solvent and where the taxation implications determine an MVL as being appropriate.

Objectives of an MVL

An MVL is used where the company has fulfilled its useful purpose and wants to return shareholders' capital or where it is surplus to requirements where it forms

part of a group. An MVL allows for all assets to be realised, creditors paid and the remaining surplus to be distributed to shareholders.

What Happens in an MVL?

A majority of directors of the company must produce and sign a statutory declaration that they have made a full inquiry into the company's affairs and formed the opinion that the company will be able to pay its debts in full within 12 months. This declaration is known as a declaration of solvency and it is a criminal offence to knowingly make a false or misleading declaration.

An MVL is normally instigated by the company directors who, having taken the decision, will call a meeting of the shareholders. The shareholders are invited to vote on the special resolution to voluntarily wind up the company. Once the resolution has been passed, the shareholders then appoint an insolvency practitioner to be the liquidator of the company.





The liquidator is responsible for realising the company's assets, agreeing creditors' claims, making distributions to creditors in respect of their claims plus interest before returning any surplus asset value to the shareholders.

In the event that the liquidator forms the opinion that the company will not be able to pay all its debts, he must convene a decision procedure of the creditors and convert the liquidation into a Creditors' Voluntary Liquidation.

MVL's can also be used as part of a reconstruction under a process called a Section 110 reconstruction. This can involve splitting assets or different trades within one limited entity into separate

limited entities. This process will involve both the IP, your solicitor and tax advisor to ensure clearance from HMRC has been agreed in advance.

What Services can PBC Mediation Service Undertake?

PBC Business Recovery and Insolvency can undertake the following services:

- We can advise directors, alongside the company's accountant and/or solicitor whether an MVL is appropriate.
- We will assist the directors in preparing the declaration of solvency.
- We will act as liquidator.



“

I would just like to take this opportunity to thank Gavin, Natasha and Claire for the professional, efficient and cost effective way in which you have handled the two MVLs. What we were expecting to be a very stressful and difficult process was in fact a smooth and trouble free experience not withstanding the time imperatives. I will have no hesitation in recommending your team to any of my business associates who may require your services in the future”.

Company Director

steps
 directors Resolution
 creditors
 submission
 respond
 solvency
 Business
 11
 can
 issued



THE NEW RULES

12 Months On

The 6th April marked the first anniversary of The Insolvency (England & Wales) Rules 2016, (commonly referred to as the “New Rules”). Doesn’t time fly? So, we thought the anniversary was an opportunity to reflect and comment on the major changes introduced by the New Rules.

The right to opt out of receiving future correspondence – this has been used by about 5% of creditors, typically where there will be no return to creditors or where the creditor decides to write the debt off and does not want to keep being reminded of the bad debt every 12 months. This appears to be a well thought out

change to the legislation and one which is well understood by creditors, particularly when you bear in mind that any notice of intended dividend must still be sent to these creditors, giving them the chance to opt back in when appropriate.

The right for an IP to post all documents online, having given notice to creditors they will do so - this rule change has not really been tested. The proof of how well creditors understand this change will come in the next few months as the second report since the New Rules is uploaded with no notice to creditors. The rule has been brought in to cut down on the copying and postage costs associated with each report to improve returns to creditors, but will that cost be replaced by phone calls with creditors asking for updates? Time will tell.

The abolition of physical meetings and the new decision procedures – this is probably the most fundamental change and is explained in detail on our website. Put simply, physical meetings can only be requisitioned by creditors (under a set criteria) and creditors’ views are now sought by virtual meetings,



correspondence, electronic voting or deemed consent. We have had two instances where creditors have asked for physical meetings and, in both occasions, it was probably unnecessary (indeed in one the physical meeting was adjourned and nobody attended the adjourned meeting). Some good points of this rule change include the removal of final meetings (which nobody ever attended and were a waste of time and money) and the increased flexibility the New Rules now offer meaning two different cases, say a “Burial” liquidation of a company with minimal assets and a large complex company can be administered differently rather than applying a “one size fits all” approach which was excessive in many cases.

Standard Forms now longer exist

– in their place have come a prescribed list of information in a set order (sounds like a form doesn’t it!) Despite the abolition of prescribed forms, Companies House have issued new forms for their purpose, which must be used when filing. The real purpose of this rule we suspect has not yet been met yet; at PBC we believe the purpose here is to allow online filing of the information at some point in the future.

The formation of creditors’ committee has changed – previously creditors had to vote for

both the formation of a committee and its members at the same time. If the former happened but the minimum of three members were not forthcoming, then the committee was not formed. Now the New Rules mean that creditors can vote for the formation of a committee but not its members. If this happens, the IP then has to seek nominations for the minimum number of members and only then if there are insufficient members does the committee not form. At PBC we have seen this occur on several occasions, probably because of the creditors not understanding what a vote in favour of a committee means.

The New Rules have introduced many changes which are too numerous to list but these are, in our view, the major changes affecting creditors. It is also interesting to note The Association of Business Recovery Professionals, the industry’s trade body, took nearly ten months to update the standard terms it issues which form part of IVAs and are yet, at the time of writing, to update their Creditor Insolvency Guide website!

So in summary, are the New Rules good or bad? In theory our short experience is they are, in the main, a positive move forward. However, it is a question that cannot be fully answered until they are tested in court over the next year or so.



MEET THE TEAM MEMBER

Nicole Anderson



Case Administrator



Joined in March 2014.

Currently studying towards AAT qualification.

Trained first aider.

Proud owner of Peggy the Cavapoo.



nicoleanderson@pbcbusinessrecovery.co.uk



THE TOP 7 REASONS

for Businesses or Individuals to Phone PBC

1.

You are receiving threatening letters from creditors or suppliers.

2.

You have VAT or PAYE arrears.

3.

Your bank is bouncing cheques.

4.

You can't sleep at night because of unmanageable credit card bills.

5.

You have CCJs.

6.

Mortgage arrears are putting your home at risk.

7.

Threat of bankruptcy or liquidation is affecting your health, family or business.



PBC offers a free initial meeting to all, which is confidential and impartial.

If you have any questions, however small, we will always be happy to help.

For example an accountant asked if we could help his client fill in the new insolvency forms he had received because a customer had failed. It took five minutes but we were happy to help.

PBC has offices in both
Northampton and Coventry and be contacted on:

Northampton:
01604 212150

Coventry:
02476 158234



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