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Newman & Partners

Licensed Insolvency Practitioners

FOCUS ON INSOLVENCY BULLETIN

Welcome to the latest issue of our Focus on Insolvency bulletin, designed to keep you up-to-date on insolvency matters that may be of interest to you. If you have any feedback on this bulletin, or would like to know more about our services or how we can help you, please contact us on **020 8357 2727** or at **insolvency@newmanandpartners.co.uk**

Pre-pack review announced

The Government recently announced an independent review of the controversial insolvency vehicle called pre-pack administration, to start in late spring.

According to the Government's own Insolvency Service, pre-packs can be a 'highly effective process' to ensure the best deal for creditors, preserve value and safeguard jobs, as they allow for the sale of a business and its assets to be arranged prior to the onset of formal insolvency and to then take place as soon as, or shortly after, the administrators are appointed.

However, there have been concerns over the lack of transparency in pre-packs and a recent report by the Department for Business, Innovation and Skills (BIS) called for greater openness and higher levels of compliance to ensure that rules are not being abused.

Since pre-packs fare considerably better than alternatives in terms of the retention of jobs and returns to secured creditors, viable businesses should be given a second chance.

The industry is therefore keen to ensure that any changes do not risk crippling this useful and effective process.

At Newman & Partners Insolvency, our insolvency and recovery specialists can provide expert advice on pre-packs, which can be an effective route to securing the best deal for creditors through a swift sale of the business, in turn preserving its value and safeguarding jobs. For more information, please contact us.

More buoyant housing market may not benefit IVAs

The recent announcement that the housing market is once again on the rise in England and Wales may be good news for the economy and for most homeowners, but may be less welcome for people using IVAs.

An IVA, or Individual Voluntary Agreement, is a legally binding agreement used as an alternative to bankruptcy.

Under an IVA, it is possible, in appropriate cases, for individuals, such as business owners, to agree a monthly repayment plan along with a share in the equity of the house that would be released by re-mortgage in the final year of the IVA.

However, after the financial crisis and the lack of desire on the part of mortgage lenders to dole out second mortgages, IVAs often had to be extended, which was of benefit to the debtor.

Now, with prices rising again and mortgage lenders seemingly much more willing to lend, debtors could find that they can re-mortgage and so end up with less equity in their home plus larger mortgage repayments.

At Newman & Partners Insolvency, we combine a wealth of specialist knowledge and experience with being able to offer a broad range of solutions, so we can provide expert guidance on when an IVA is the best way forward. Please contact us for more information and guidance.

Construction insolvency drops, while retailers still struggle

The latest insolvency figures for the construction industry show that the level of insolvencies fell to 625 in the first three months of this year, compared with 658 in the final quarter of 2012.

Although the fall is only five percent, any reduction at all in the badly hit industry shows a growing positivity in the sector and could lead to more jobs being completed as the year goes on.

The fall could also be seen as positive when the recent bad weather that has affected the UK is taken into account, as the freezing conditions of the past couple of months have had a detrimental effect on a number of projects across the country. We can only speculate on how much better it would have fared if the weather conditions had been less harsh.

While manufacturing also saw cases fall from 444 in Q4 2012 to just 388 in the first quarter of 2013, the retail sector is still facing ongoing difficulties, with a rise in the number of insolvencies from 400 to 407 over the same time period.

Overall, with administrations having dropped below the 500 mark for the first time since 2005, and the levels of other insolvency processes also plummeting, this could be a sign that confidence is returning and may also indicate some general economic recovery. Indeed, Company Voluntary Arrangements (CVAs), which are legally binding agreements between firms and their creditors, dropped to their lowest level for ten years.

At Newman & Partners Insolvency, we can assist the management and advisors of struggling businesses so as to avoid formal insolvency processes, such as liquidation. If we are introduced to a situation before it is too late, we can use the full range of the tools available to us to achieve the most successful outcome.

Therefore, if you feel you could benefit from our advice, please contact us.

Director banned for taking failing company funds

A company director has been disqualified from being a director for five years for paying himself and friends from dwindling company funds, in priority to creditors.

Stephen James Dodd, from Lichfield, Staffordshire, started his disqualification on 12th April, following an investigation by the Insolvency Service.

Mr Dodd was a director of furniture retailer Brian James Holdings Limited, which was incorporated in 1975 and traded from premises in Bridgetown, Cannock, where it employed 19 staff. The company began to experience cash flow difficulties in 2009 after sales slumped by around 50 percent on the previous year and, by February 2011, was unable to pay all its debts as they fell due.

The company went into administrative receivership in March 2011 with losses of more than £2.6 million. Debts included £1.4 million owed to its bankers, £444,000 to trade suppliers, and significantly, £99,000 due to customers who had paid for furniture which they never received.

The investigation found that in the six weeks prior to this, at a time when the company was failing to pay suppliers and when there was a significant risk that customers who had paid deposits would not receive their furniture, Mr Dodd paid £53,864 from the company to himself and his friends. These payments to Mr Dodd included wage arrears and advance holiday pay at a rate of more than double his previous salary.

The Insolvency Service's Robert Clarke, head of company investigations, said: "Directors who put their own personal financial interests above those of customers and creditors damage confidence in doing business and are corrosive to the health of the local economy".

Company directors have particular obligations when their businesses are in financial difficulties and failure to comply with these can have serious consequences, as this case highlights.

Newman & Partners Insolvency can provide specialist advice on directors' responsibilities as well as on all aspects of insolvency, including winding up the business to achieve maximum value and return for creditors. For more information, please contact us.

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