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Newman & Partners

Licensed Insolvency Practitioners

RECOVERY & REVIVAL BULLETIN

Welcome to the latest issue of our Recovery and Revival 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**

An insolvecy-focus look at the Patisserie Valerie case

The recent case of Patisserie Valerie, a renowned bakery chain that collapsed under a staggering £94 million hole in its accounts, highlights a crucial aspect of the insolvency industry: navigating the complexities of corporate fraud. This situation is not just a cautionary tale but a critical area where insolvency practitioners play a pivotal role.

Introduction to the Patisserie Valerie case

Patisserie Valerie, once a thriving bakery chain with 200 stores, when into administration following the discovery of significant financial irregularities. The case involves Christopher Marsh, the former chief financial officer, and his wife Louise Marsh, an accountant, both accused of defrauding shareholders and creditors. Along with two other associates, they allegedly conspired to inflate the company's balance sheets and annual reports between 2015 and 2018. The Serious Fraud Office (SFO) has charged them with multiple counts of fraud, with a trial set for 2026.

Relevance to the insolvency industry

This high-profile case is of particular interest to the insolvency industry for several reasons. Firstly, it underscores the vulnerability of businesses to fraudulent activities from within, which can lead to insolvency. Insolvency practitioners are often called upon to unravel complex financial webs in such scenarios, ensuring that assets are realised fairly, and creditors are compensated to the extent possible.

Secondly, the role of insolvency practitioners in these situations extends beyond asset realisation. They are tasked with investigating financial discrepancies, uncovering fraudulent activities, and working closely with legal entities to bring justice to affected parties.

In cases like Patisserie Valerie, where financial misrepresentations are substantial, the expertise of insolvency professionals becomes invaluable in deciphering the true financial state of the company. In essence, during situations where companies face insolvency due to fraudulent activities, insolvency practitioners serve as guardians of financial integrity. Their work involves thorough investigations to ensure that all financial activities are accounted for. This not only helps in understanding the extent of the fraud but also in maximising returns for creditors who might otherwise be left in the lurch.

Moreover, their involvement is critical in restoring trust in the financial system which is part of our wider sociel responsibilities. By ensuring that such cases are dealt with transparently and justly, they help maintain confidence among investors, creditors, and the public.

The Patisserie Valerie case is a stark reminder of the potential for internal fraud in businesses and its devastating impact on stake-holders. For the insolvency industry, this case represents both a challenge and an opportunity — to demonstrate the crucial role insolvency practitioners play in addressing such complex situations. Our expertise not only aids in the fair and efficient resolution of insolvency cases but also in upholding the principles of financial justice and integrity in the corporate world.

Contact our team to find out how Newman & Partners have been pivotal in insolvency cases such as these.

A guide to asset realisation strategies in insolvency procedures

Asset realisation in the context of insolvency involves the transformation of a company's assets into liquid funds, with the primary goal of satisfying creditor claims. This process isn't just about liquidating assets though — it's about strategically maximising the returns from each individual asset and there's an art to getting it right.

Achieving effective liquidation requires a blend of market insight, legal understanding, and strategic planning, all within the bounds of ethical practices. There are several fundamental asset realisation strategies and techniques and employing them efficiently is vital.

Understanding the asset portfolio

A deep dive into the company's asset portfolio is the first critical step in the liquidation process. This includes tangible assets like real estate, vehicles, machinery, and inventory, as well as intangible assets such as patents, trademarks, and goodwill.

Each asset type demands a unique approach for realisation that you will have to tailor depending on the circumstances of the insolvency. For instance, real estate might benefit from market timing, whereas inventory might need immediate liquidation to prevent depreciation. There is, therefore, a necessity for flexibility and adaption in these procedures that is uncommon within the wider financial profession.

Valuation and marketing approaches

The valuation process must be thorough, considering not only the current market value but also the potential future values of assets. This stage may require the expertise of valuation professionals who can provide accurate and realistic figures on specific assets. For example, a real estate agent might be the best valuer of property while an industry leader may be able to provide deeper insight into machinery or infrastructure.

Following valuation, a strategic marketing plan should be developed to gain the best realisation. This might involve targeted marketing for specialised assets, public auctions for general assets, or private sales for high-value items. The aim is to reach the right buyers who are willing to pay the optimal price.

Strategic disposal and creditor negotiations

Strategic disposal involves deciding on the method and timing of asset sales rather than jumping straight into the sales process. This strategy, again, should be flexible, adapting to market changes and creditor requirements where necessary.

Negotiations with creditors are crucial — they can sometimes agree to settle for less or to extend payment timelines, which can alter the asset disposal strategy and provide you with a more optimal insolvency overall. It's a delicate balance between liquidating assets swiftly to appease creditors and holding out for better returns.

Legal and ethical considerations

Adhering to legal standards, especially the Insolvency Act 1986, is – as always – essential. This includes respecting the order of creditor claims and ensuring transparency in the asset realisation process. Ethical considerations, such as fairness to all creditors and avoiding conflicts of interest, are equally important. At Newman & Partners, we specialise in maintaining compliance with insolvency regulations, so please reach out if you require advice or guidance.

Leveraging technology for optimal outcomes

Like most industries, technology is influencing the insolvency process and incorporating technology can significantly enhance asset realisation processes and make the insolvency procedure much easier for everyone involved.

Online auction platforms can attract a wider pool of buyers, potentially increasing sale prices and giving you a higher chance of meeting a valuation price. Digital asset management tools can also streamline the tracking and reporting process, maintaining transparency and efficiency.

Final thoughts on enhancing returns through strategic asset realisation

The goal in asset realisation during insolvency is to navigate the complexities of liquidating diverse assets, managing creditor expectations, and complying with legal requirements, all while striving for the highest possible returns. By using a combination of market knowledge, strategic planning, and digital tools, insolvency practitioners can ensure that each asset is realised to its full potential, benefiting all stakeholders involved.

If you are seeking advice on any stage of the insolvency process, please get in touch.

Safeguarding creditor rights in insolvency and navigating legal protections

In the intricate landscape of insolvency proceedings, the rights and protections of creditors often take centre stage. Understanding these safeguards is essential for creditors to ensure they receive fair treatment and maximise their chances of recovering debts. There are various protections available to creditors during the insolvency process and many associated issues you and your clients should be aware of.

The framework of creditor rights

At the heart of any insolvency procedure is the legal framework that outlines creditor rights. In the UK, these rights are primarily governed by the Insolvency Act 1986 and subsequent amendments. This legislation ensures that creditors are treated equitably, and that the insolvency process is conducted transparently and efficiently. One of the fundamental aspects of creditor rights is the order in which creditors are paid. This hierarchy is crucial in determining how available assets are distributed.

- **Secured creditors**
  These are the highest priority in the payment hierarchy as they typically hold collateral against loans.

- **Preferential creditors**
  These often include certain employee claims.

- **Unsecured creditors**
  These are paid after secured and preferential creditors and might include suppliers and customers. Their payment is contingent on the availability of funds after higher-priority debts are settled.

Creditors' meetings and voting rights

Creditors' meetings are a pivotal part of the insolvency process. Here, creditors can vote on important decisions regarding the insolvency procedure, including the appointment of an insolvency practitioner. Voting rights are generally proportional to the amount owed to each creditor, ensuring that those with larger claims have a corresponding influence on the decisions made.

The role of the Insolvency Practitioner

An Insolvency Practitioner (IP) plays a key role in safeguarding the rights of creditors throughout the insolvency process. The IP is responsible for realising the company's assets and distributing the proceeds among the creditors. They must act impartially, ensuring that all actions taken are in the best interests of the creditors as a whole and that payments are made following regulations.

Additionally, IPs are obligated to provide regular updates to creditors about the progress of the insolvency proceedings. This is vital because creditors also have the right to challenge decisions or actions taken during the insolvency process that they believe are unfair or prejudicial. This includes the ability to appeal against the IP's decisions, challenge the disposal of assets, or raise concerns about misconduct.

Navigating the insolvency landscape

Navigating the complexities of insolvency proceedings can be challenging for creditors and IPs alike. Professional advice from legal experts or IPs can provide valuable guidance to creditors on how they can defend their rights and what responsibilities they hold during the insolvency proceeding.

Staying informed and actively participating in the process can significantly enhance a creditor's ability to protect their interests so this is also something that you should champion amongst your clientele.

The framework of creditor rights in insolvency is designed to balance the interests of all parties involved and by understanding the relevant protections, creditors can play an active role in insolvency proceedings, helping to ensure that they receive the best possible outcome from a difficult situation.

If you are looking to defend the rights of your clients and creditors, please get in touch.

CAREFUL CONSIDERATION IS NEEDED BEFORE TAKING OUT ANY FORM OF FINANCE AND SPECIALIST ADVICE SHOULD BE SOUGHT. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT US.

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