



GRIFFIN & KING

LICENSED INSOLVENCY PRACTITIONERS

News and views from the Griffin & King team

BUSINESS RESCUE, RECOVERY AND TURNAROUND

SUMMER 2014

WHAT'S IN A NAME?



Well, quite a lot, potentially, if it's about section 216 of the Insolvency Act 1986.

How many professionals have directors of client companies that have gone into insolvent liquidation and then restarted business through another company? It's quite a common situation... and it's often the accountant that will be involved in forming the new company.

Under section 216 it is an offence for a person who has been a director, or shadow director of a company that has entered insolvent liquidation to be a director of any company which uses the same (or similar name) for a period of five years. Not only is this a criminal offence punishable by up to two years in prison or a fine, any person acting in contravention of this section can also be personally liable for the debts of the successor company. **Yes, that's what section 216 says – it's so important not to get this wrong.**

What is a 'similar name'? It is a name which is so similar to that by which the liquidated company was known (including any trading name) in a period of twelve months before it went into liquidation as to suggest an association with that company.

There are only three exceptions;

- Where a company acquires the whole or substantially the whole, of the business of an insolvent company, under arrangements made by the insolvency practitioner. Creditors must be notified and notice of this arrangement must be advertised in the London Gazette. Strict timetables need to be complied with – otherwise it doesn't work.
- Where an individual applies for leave of the court to use the name in question.
- The court's leave is not required where the company has been known by that name for the whole period of 12 months ending with the day before the liquidating company went into liquidation, and has not at any time in those 12 months been dormant.

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KEEPING YOU INFORMED

- Company Voluntary Arrangement
- Individual Voluntary Arrangement - Consumer Debt
- Liquidation
- Individual Voluntary Arrangement - Business Debt
- Administration
- Bankruptcy



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These rules apply not just to companies but also to unincorporated enterprises such as sole traders or partnerships.

Under section 217 any nominee or a 'front' man is also caught and can be liable for the debts of the company.

"The conditions for liability are stringently drawn,

the penalties draconian and both criminal and civil liability are automatic; if they are met, the court has no discretion to absolve the defendant or limit his liability" (Ricketts v Ad Valorem Factors Limited).

Help is at hand! Tim Corfield is going to explain further about these issues at the forthcoming G&K seminar on Tuesday 7th October 2014. You can't afford to miss it!

Email Janet.peacock@griffinandking.co.uk for further details.



Q2 FIGURES ARE OUT!



The official insolvency statistics have been now released for quarter 2 (April to June 2014).

Corporate numbers of insolvencies continue to decline and reflect the slow but sure work being done by Mark Carney at the Bank of England. The figures are 974 (compulsory – down 9.4% on Q1), 2487 (creditors' voluntary liquidations – down 5.9% on Q1), 410 (administrations – down 19.3% on Q1) and 142 (company voluntary arrangements – no change on Q1). These are the lowest figures since Q1 of 2008.

There remains uncertainty – there's a real problem for smaller companies maintaining adequate working capital and securing capital for investment as the economy strengthens. Interest rate rises are inevitable for 2015. Will the banks continue to show forbearance for the companies finding it tough? But, so far so good!

Personal insolvencies remain reasonably steady except for the exceptional rise of individual voluntary

arrangements (IVA'S). The total numbers of such insolvencies are 27,029 (bankruptcies, debt relief orders and IVA'S – up by 8.4% on Q1). Of these, 14,571 are IVA's (an increase of 20.3% from Q2 of 2013). IVA's are now at their highest level since they were introduced in 1987. This increase highlights a greater willingness by creditors to accept a lower return from an IVA and the extent to which consumer debt remains a significant issue in the UK economy.

The vice president of R3, Philip Sykes said **"IVA's have been much easier to access recently. Our members have seen IVA's set up for such low value debts as a few thousand pounds and with surplus incomes well under £200. These IVA's wouldn't have been considered a few years ago and people might have used debt management plans or informal arrangements instead."**

Tim Corfield comments **"I'm sure Philip Sykes gets much more feedback than me about the industry. At G&K we'd only put to creditors a robust proposal – once contributions get much below £200 they often become too sensitive to any change in circumstances and may not be the best solution for the debtor – which we always try to find."**



For advice on insolvency issues call us on your local number opposite

www.griffinandking.co.uk | email: janet.peacock@griffinandking.co.uk

WHAT DO WE DO?

We find solutions for businesses and individuals who have financial problems.

SERVICES FOR LIMITED COMPANIES

- Creditors Voluntary Liquidation
- Pre-Pack Administration
- Company Voluntary Arrangement
- Administration
- Members Voluntary Liquidation

SERVICES FOR CONSUMERS, SOLE TRADERS & PARTNERSHIPS

- Individual Voluntary Arrangement (Consumer Debt)
- Individual Voluntary Arrangements (Business and/or Consumer Debt)
- Partnership Voluntary Arrangements
- Debt Management
- Informal Creditor Arrangements
- Bankruptcy Advice
- Debt Relief Orders



"I'LL HAVE A LIQUIDATION PLEASE..."

by Tim Corfield

I recently had a call from a director, Terry, who had been recommended to call us because his company was insolvent and facing creditor pressure. "I need you to liquidate my company," Terry told me.

After a quick telephone chat I arranged to see Terry the following morning. The company had been operating in the construction industry and had now ceased to trade. The trade creditors amounted to around £25,000. There was little other debt.

I asked Terry if he'd provided personal guarantees to the creditors. He said "no" but I doubted whether that was the case and I told him I needed to review the paperwork before I was prepared to proceed. The next day, after Terry had made further enquiries I reviewed the credit terms of the suppliers and it became clear that Terry had provided two personal guarantees to his major suppliers which accounted for around £23,000 of the debt.

"What's the point in you paying me to liquidate your company if you could do with that money to go towards making an offer and settling with your creditors?" I said. So, Terry and I agreed to let the creditors take further action against the company if that's what they wanted to do. In the meantime, Terry approached the creditors to whom he had provided personal guarantees to make an offer to settle.

Terry has now agreed a deal with his two major suppliers and settled the personally guaranteed debts for around £10,000. He's got a job with a local competitor and a winding up order was eventually made against the company.

"I've had a few sleepless nights but without Tim's guidance I'd have stumbled from one mistake to another. Griffin & King have helped me prioritise the problems I've been faced with and I have ended up with the best solution possible" Terry said.

If you have any clients or contacts that have financial difficulties with their business please ask them to get in touch with a member of the team.



Business briefings

OUR NEXT SEMINAR



**Tuesday 7 October 2014 at
The Village Hotel, Inspiration Suite,
Tempus Drive, Tempus Ten, Walsall WS2 8TJ
12.30 – 2.30pm.
Full details to follow.**

Please check for availability. To reserve a place email:
janet.peacock@griffinandking.co.uk
or book online at www.griffinandking.co.uk

Places limited! Book early

SIGNATURE DINNERS

These exclusive Signature Dinners are held bi-monthly. The Dinners have been introduced for the benefit of Local CEOs, Managing Directors, Partners and Senior Managers to get together. They are designed to facilitate networking at a higher level and create and nurture long-standing relationships.



Forthcoming Signature dinner dates
Last Thursday in the month:

**September 25th 2014
November 27th 2014**



For further information email:

janet.peacock@griffinandking.co.uk

THE LAST WORD...

WEDDING BELLS...



'Jessica & Aaron happily taking their first steps together on the pathway to married life'

Congratulations to Jessica and Aaron Burgess who were married in April! Jess joined the G&K team in 2009 and is the Client Services Co-ordinator.

Jess has spoken about the stress of planning the wedding, but the end result was a perfect day, making all the hard work, frustration and seemingly endless telephone calls, all the more worthwhile...

Jess said "whilst setting up home with my husband and particularly, planning our wedding, I think the most important thing I learnt is that having a budget - and sticking to it - is absolutely vital.

If we hadn't have had a realistic budget to work to, things could easily have spiralled out of control - which is definitely not the way to start married life; fortunately we managed to stick to our budget, and begin our married life not only debt free, but worry-free too!"



The blushing bride

GRIFFIN & KING COMPETITION

Win 6 bottles of Champagne
or the equivalent in
Marks & Spencer Vouchers



GRIFFIN & KING
LICENSED INSOLVENCY PRACTITIONERS

All you need to do is visit www.griffinandking.co.uk and answer the following questions. All correct entries will enter the draw.

1. What colour tie is Tim wearing in the 'Meet the Team' picture?

2. How many reasons are listed on the website as to 'Why Choose us'?

3. What is the lead title of the Winter 2013 Newsletter?

Competition closes on 14 November 2014.
Please staple your business card with your entry if posting in.
Complete your details and either email to:
janet.peacock@griffinandking.co.uk or post, clearly marked for:
Janet Peacock, Griffin & King, 26- 28 Goodall Street, Walsall,
West Midlands, WS1 1QL



GRIFFIN & KING LAST COMPETITION WINNER

Congratulations to Competition Winner Ann Pearsall, Office Manager of Brookes Stephens



Ann comments: "What a lovely surprise to hear from Janet telling me that I was the lucky winner - especially as I'd forgotten all about entering the competition! We are in the process of moving house so the prize can go towards a nice unexpected house-warming treat! Many thanks to Janet and all at Griffin & King."

www.brookes-stephens.co.uk



Good luck!