BRUCE MULVANEY & CO

COMPANY RESTRUCTURING & INSOLVENCY

Voluntary Administration – to Rescue Businesses

Benefits to all Stakeholders

Voluntary administration enables an insolvent company with a good core business to have its balance sheet rectified with benefits to all stakeholders.

It creates an environment where parties are willing to compromise and although it often involves some difficult decisions it usually enables the emotional anguish faced by Directors to be released.

Just about every company faces a financial trauma during its lifetime and there are currently wonderful businesses that were flourishing pre-COVID, but which now need some active restructuring.

Importantly creditors and financiers appreciate the sincerity of many Directors in their circumstances and will jump at a reasonable solution.

Bruce Mulvaney & Co

Bruce Mulvaney & Co are experts in Voluntary Administrations and ready to assist. We can advise on what options are available to a company.

Resolve Cash Flow Problems

A company becomes insolvent when it can no longer pay its debts as and when they fall due.

During COVID-19 many businesses have seen revenue drop dramatically leading to severe cash flow problems which may be temporary.

Reasonable financial commitments made before COVID-19 are now putting significant financial strain on businesses.

An Administrator can take steps to restructure a company into a form to return it to profitability, give a short window of breathing room to seek new finance/capital injection or even put the business up for sale.

When a company is sold by Voluntary Administrator the Directors are protected from being accused of selling the business for below fair value and as the Administrator is in control, the proceeds are handled according to Insolvency law.

Deed of Company Arrangement (“DOCA”)

Where there will remain insufficient funds in the company to pay creditors in full, Directors or a new Shareholder may choose to put forward a Deed of Company Arrangement (“DOCA”)

A DOCA that is executed and where all payments are made enables Directors to avoid the stigma of a liquidation and also the risk of a liquidator pursuing them personally for Insolvent Trading, Breaches of Duties and other offences.

Typically this involves paying employee entitlements in full and paying a dividend to unsecured creditors that is higher than what would be expected in a liquidation.

Payment timing can be structured to reflect what is reasonable with the new Shareholder’s and/or the company’s projected cash flow.

A Voluntary Administrator conducts an independent review of the financial position of the company, reports to creditors and makes a recommendation enabling creditors to make an informed decision as to whether to approve the Deed.

The DOCA can be drawn up to return control of the business to the Directors.

Return to Solvency (Or Not?)

Preferably companies can be restructured and return to solvency as a result of the Voluntary Administration process. However, in circumstances where the company remains insolvent and a DOCA is not put forward, is not approved, or payments on an executed deed fail to be made, the company is placed into liquidation.

The Liquidator will then consider selling the business as a whole or selling off the assets individually. The intent will be to maximise the return to creditors.

Directors may put offers in and if they offer the best price (e.g. highest bid at auction) purchase the assets.

Informal Restructuring is another option to Consider

Whenever possible Companies should obtain professional advice about informal options to restructure informally.

Informal Restructuring can be confidential. Safe Harbour legislation provides a defined pathway to restructure informally. Safe Harbour keeps Directors in control and avoids the expense of a Voluntary Administration.

How to Contact Us

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