



COWGILL HOLLOWAY BUSINESS RECOVERY

Welcome...

Welcome to the first edition of rescueIT, the quarterly topical newsletter brought to you by the specialists at Cowgill Holloway Business Recovery.

Over the coming issues it is our aim to keep you up to date with the ever changing world of Business Recovery.

For those of you who don't know me, I have been involved in insolvency for over 12 years and in that time have seen significant changes to the profession.

The introduction of the Enterprise Act in 2003 firmly placed the emphasis on practitioners to actively explore recovery routes where possible and I believe that this shift has led to a general re-education process within the profession.

Some seven years on, and never has the role of an insolvency practitioner been more relevant and

important than in this current economic climate.

Our leading and innovative team at Cowgill Holloway Business Recovery have a long track record of providing a personal, reliable and tailored service to our clients who include banks, financial institutions, solicitors and accountants as well as creditors, shareholders and directors.

If you or any of your clients do require any advice please contact myself or my colleague Craig Johns at our Manchester office on **0161 827 1200** or email jason.elliott@cowgills.co.uk or craig.johns@cowgills.co.uk



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The Insolvency Rules join the Electronic Age...

The Insolvency (Amendment) Rules 2010 came into force on 6 April this year with the aim of reducing the administrative burden which would therefore permit financial savings to be passed on to creditors.

In this issue we will look at the changes to facilitate the delivery of documents electronically.

Insolvency Practitioners now have new options to use e-mail as a standard means of delivery. Unless in a particular case some other form of delivery is specified, any notice or document may be sent by electronic means as long as each recipient has consented to delivery in that form and has provided an e-address for delivery of the document concerned.

Another delivery option for practitioners is to post most statutory documents on their firm's website. Recipients must be informed each time a new document is posted on the site, of the fact of its posting and giving the address of the site, complete with any applicable password. Any notice of this kind must add that the recipient is entitled to request a hard copy of any document posted on the site.

The default rule as regards web posting is that this sort of notice to individual stakeholders must be sent in respect of each and every document that the Office Holder places on a website. For larger cases, an Insolvency Practitioner will be able to apply to the court, for permission to place all relevant documents on to the web and send just the one direct notice to creditors advising them in advance that all such material will be accessible on the specified site. The court must be satisfied that the cost of sending individual notices would be too great.

The previous rule changes over the years have only served to further complicate matters. However, this one has our backing and we have already embraced the new technological era by posting reports on our website, if you're planning on having a nosey though we must disappoint, all reports are password protected and can therefore only be accessed by the creditors who we have contacted with password details.

We can already see that the paper trail and time spent in sending these reports out is considerably reduced as a result of the changes and that can only be a good thing going forward.

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Are the Scales Tipping Back Towards Landlords and Away From Administrators?

The credit crunch has seen a number of prominent businesses go into administration and as the difficult conditions continue, it is likely that we will see more casualties during the second half of 2010.

Administration is a challenging regime, with under pressure administrators often having to do battle with commercial landlords who are either desperate to maintain their rental income or recover their premises.

The recent and well publicised case of “Goldacre (Offices) Ltd v Nortel Networks UK Ltd” has confirmed, much to landlords relief, that where an administrator uses a company’s premises (even if only a small part), the whole rent is payable as an expense of the administration, regardless of

whether the landlord has demanded it or not. Landlords whose tenants are placed into administration can now enjoy a much stronger position than previous to the Goldacre decision, as a result of which, administrators will need to carefully consider how they trade on and whether they can meet rent liabilities.

Historically when an administrator has required ongoing occupation of leased premises he has been able to negotiate with landlords in respect of the payment of ongoing rent.

Many administrators would generally seek to pay as little rent (if any) as possible to the landlord during the trading period, using the carrot that he is actively seeking a purchaser for

the business and if successful it will bring a new tenant for the landlord.

In these trying economic times most landlords would sooner have the ongoing expenses of the property paid for and the building occupied rather than an empty unit, even if it means they aren’t able to collect rent for a short period of time.

However, the new ruling means when looking at a strategy for a company, an insolvency practitioner must now factor in the terms of the lease and the associated costs when advising.

Understanding how the rent is paid (monthly or quarterly) is now a significant factor in deciding what routes are available and the timing of the appointment is of paramount

importance if occupation is required.

Only time will tell whether this ruling goes the same way as the “Trident Fashions” in respect of business rates. Although it was eventually overturned it nevertheless caused IP’s a considerable amount of grief during its short period of relevance.

What we believe though is that whilst it is in force unless the landlords themselves look beyond their “legal rights” and are prepared to negotiate with office holders in respect of rent, the ability to continue to trade the business with a view to effecting a going concern sale will be diminished.

For further information contact: jason.elliott@cowgills.co.uk or call 0161 827 1200



5 Minutes With.....

Craig Johns, Senior Business Recovery Manager

Craig joined Cowgill Holloway Business Recovery in May and has enjoyed spending time developing the expanding business recovery team and working on a varied caseload. We met up with him to find out a little more...

What was your first job? Glass collector / waiter in a local pub restaurant when I was 16. My first job in business recovery was with PKF in 2005.

What's your top time-saving tip? Cut and paste!

What do you enjoy most about your job? I enjoy being able to work on a variety of insolvency and recovery assignments, resulting in different challenges and deadlines to work towards.

Which past event has most influenced your life and why? I initially contacted PKF in respect of a position in the audit team. However, following my interviews I was asked if I would consider a position in corporate recovery and insolvency. Whilst initially apprehensive, I decided to take on the role and given I am still in the profession today, I am really glad I took the opportunity.

What does your typical working day involve? My role involves managing the business recovery department so I work closely alongside the team on a daily basis, and also closely with Jason. My day involves offering support and guidance to the team members and also reviewing their written work. I am also responsible for the procedures that are put in place to make the department more efficient.

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