



Management team:

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NEW STYLE DIRECTORS' CONDUCT REPORTS

by Tim Corfield



A liquidator has an obligation to complete a report to the Insolvency Service about a director's stewardship of a company that enters insolvent liquidation. Running any business is a risky business and our economy does rely on business people taking risks. This report should differentiate between bad luck, bad management or bad behaviour of directors.

From April 2016 these reports have changed. Prior to April 2016 the IP would make a confidential recommendation to the Insolvency

Service as to whether there were sufficient grounds to consider a disqualification order. From April 2016 a new "automated" system applies to make the decision on whether the director's conduct is worthy of further investigation or not. The IP has three months to complete the new report - reduced from six months prior to April 2016.

Despite the change in the way the reports are prepared the reality remains that the Insolvency Service has a target of around 1200 director disqualifications per year. This is a target that is met and is balanced by the resources available to the Insolvency Service. Inevitably, because of this target/resource balance the "easy" disqualifications continue to be selected.

Directors who are more experienced

Contd. on pg 2

**EVIDENCE OF INSOLVENCY?
WHAT WOULD AN IP LOOK
FOR?**

Page 2

GOOGLE

Page 3



Striking numbers

Page 3&4



OUR NEXT SEMINAR

Page 3

THE LAST WORD

Page 4

COMPETITION TIME

Page 4

KEEPING YOU INFORMED

- Company Voluntary Arrangements
- Individual Voluntary Arrangements - Consumer Debts
- Liquidation
- Individual Voluntary Arrangements - Business Debts
- Administration
- Bankruptcy Appointments

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Contd. from pg 1

and have more complicated issues to investigate may be more likely to escape punishment unless it relates to a high profile or high value insolvency.

COMMON UNFIT ISSUES INCLUDE;

- **Allowing a company to continue to trade when it can't pay its debts**
- **Not keeping proper accounting records**
- **Not submitting accounts and returns to Companies House**
- **Not paying amounts due to HMRC**
- **Using company resources for personal benefit**

How a director avoids disqualification proceedings;

Do the easy things right and in good time! A director needs to have regular dialogue with the company accountant to review management accounts, remuneration policy, strategic planning and anything else that is relevant. Always take professional advice if in doubt!

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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 Arrangements**
- **Administration**
- **Members Voluntary Liquidation**

SERVICES FOR CONSUMERS, SOLE TRADERS & PARTNERSHIPS

- **Individual Voluntary Arrangements (Consumer Debt)**
- **Individual Voluntary Arrangements (Business and/or Consumer Debt)**
- **Partnership Voluntary Arrangements**
- **Bankruptcy Appointments**



EVIDENCE OF INSOLVENCY? WHAT WOULD AN IP LOOK FOR?

Why's this important?

Things change when a company becomes insolvent. Instead of a director managing a company that is likely to pay all of its debts he is now in charge of a company that is unlikely to pay all of its debts. And, if the company is continuing to incur losses the financial position of the company is deteriorating by the day. So, the quantum of any loss to the creditors would directly relate to the decisions that a director makes at this point.

Things like wrongful trading and preferences kick into place. A very common breach of the preference rules is a director continuing to draw dividends or drawings from a loan account. Any such payments are likely to be caught under the preference rules and would be repayable to a liquidator.

So what would be evidence that a company is insolvent?

- **Bouncing cheques**
- **PAYE in arrears**
- **VAT in arrears**
- **Trade creditors not being paid on time**
- **Overdraft operating at its limit and exceeding it**
- **A significant bad debt being incurred**

One or more of these events could fix a date from which a company was insolvent. The implication of this would be that any subsequent transactions would be subject to insolvency legislation - for example under the wrongful trade rules a director could be personally liable for all losses incurred by the company after this date. Directors, be very careful!

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STRIKING NUMBERS – January 2017



Everyday in the UK...

- The population of the UK grew by an estimated 1,286 people a day between 2014 and 2015.
- On average, a UK household spends £3.25 a day on water, electricity and gas.
- 264 people a day are declared insolvent or bankrupt. This is equivalent to one person every 5 minutes 28 seconds.
- 41 million Plastic card purchase transactions were made every day in October 2016, with a total value of £1.78 billion.
- 8.7m cash machine transactions were made every day in November with a value of £356m.
- 2,102 Consumer County Court Judgments (CCJs) are issued every day, with an average value of £2,030.
- Citizens Advice Bureaux in England and Wales dealt with 4,022 new debt problems every day during the quarter ending June 2016.
- 15 properties are repossessed every day, or one every 1 hour 32 seconds.
- The number of mortgages with arrears of over 2.5% of the remaining balance fell by 32 a day.
- 1,282 people a day reported they had become redundant between August and October 2016.
- Net lending to individuals in the UK increased by £170 million a day.
- The Government borrowed £420m a day during October 2016 (£4,861 per second).
- Borrowers would repay £139m a day in interest over a year, based on September 2016 trends.
- It costs an average of £30.23 per day to raise a child from birth to the age of 21.
- 49 mortgage possession claims and 27 mortgage possession orders are made every day.
- 374 landlord possession claims and 284 landlord possession orders are made every day.

Statistics source: <http://www.themoneycharity.org.uk>

Cont'd on P.4

Business briefings

NEXT SEMINAR 7th November 2017



The Village Hotel, Inspiration Suite, Tempus Drive, Tempus Ten, Walsall, WS2 8TJ. 12.30-3:30 pm.

Places limited! Book early

Please check for availability. To reserve a place email: janet.peacock@griffinandking.co.uk



THE DIGITAL GARAGE FROM GOOGLE

Griffin & King is very excited to be partnering up with The Digital Garage from Google - a digital skills training platform to assist you in growing your business, career and confidence, online.

Furthermore, a Google digital expert is coming to teach you what is needed to gain a competitive advantage in the ever changing digital landscape, so come prepared to learn and ask questions, too.

FREE TO ATTEND - Including finger buffet and refreshments. There will be a brief introduction followed by a 45 minute coaching session on how to achieve greater results; including 15 minutes Q&A. Places will be allocated on a first come, first serve basis, and must be pre-booked by emailing:

janet.peacock@griffinandking.co.uk

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 2017

23rd February, 27th April,
29th June, 28th September

For further information email:

janet.peacock@griffinandking.co.uk

THE LAST WORD...

Striking numbers continued from P.3



Personal debt in the UK

- People in the UK owed **£1.512 trillion** at the end of November 2016. This is up from £1.460 trillion at the end of November 2016 an extra **£1017.04** per UK adult.
- The average total debt per household - including mortgages - was **£55,982** in November. The revised figure for October was £55,856.
- Per adult in the UK that's an average debt of **£29,930** in November - around **113.2%** of average earnings. This is slightly up from a revised £29,836 a month earlier.

Statistics source: <http://www.themoneycharity.org.uk>

Staff Corner



Welcome to Mark Shaw who recently joined the team.

Mark has 14 years of experience in insolvency, the majority of which has been spent working for mid-tier accountancy firms in the West Midlands.

Mark is a non-appointment taking Insolvency Practitioner, having passed the Joint Insolvency Examination Board (JIEB) examinations in both personal and corporate insolvency. In addition, Mark holds a degree and master's degree in law, leading to a keen eye for detail.

Outside of work, Mark likes to spend as much time as possible outdoors, exploring the UK and beyond.

Mark has run numerous half marathons and recently raised £210 for Down's Syndrome North East charity in September 2016 when competing in the Great North Run.

Mark also enjoys cycling and once did a solo unsupported tour of the West Coast of the USA, starting in Canada and finishing in Mexico with just a map to show him the way. Mark now cycles much less, only managing to cycle the short distance to work a few times a week.

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LICENSED INSOLVENCY PRACTITIONERS

GRIFFIN & KING COMPETITION

Win 12 bottles of Champagne or the equivalent in Marks & Spencer Vouchers

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

1. Why choose us? Name 3 reasons.

2. Creditors Voluntary Liquidation process. Name 3 parts of the process.

3. Personal - Individual Voluntary Arrangements. Name 3 of the steps listed.

4. Who was the winner of the Spring 2015 Griffin & King Competition?

Competition closes on 1st March, 2017. 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



Good luck!



GRIFFIN & KING LAST COMPETITION WINNER

Congratulations to Claire Clift, A partner of Davies Mayers Barnett LLP, Business Advisers & Chartered Accountants



"Many thanks to Griffin & King - what a nice surprise & a lovely start to the New Year!"

Claire has Chosen M & S Gift card.

www.davies-mayers.co.uk