INSOLVENCY UPDATE

MESTON REID & Co
CHARTERED ACCOUNTANTS

The professional life of a licensed insolvency practitioner : challenging and interesting at times

My December media article generated quite a lot of feedback which may reflect the wish to read about something other than the all-pervading business gloom. More anecdotes were requested.

Thus, this Update leaves technical issues to one side and offers a flavour of what life can be like as a licensed insolvency practitioner. For those who read the media article, a few more stories have been added which one hopes will prove of interest e.g. the bomb delivery.

As might be expected in the North East, the oil and gas industry has provided a large number of insolvency appointments. Indeed, it is a fairly common exercise to deal with a one-man personal service company which has an overdrawn loan account and hence, difficult discussions ensue with a director about how much is to be repaid. Typically, this involves the potential spectre of bankruptcy and having to refinance the family home in order to keep the liquidator at bay. Lots of delicate conversations required!

It is impossible to forecast the size, type and variety of business that is next to fail which tends to mean that a key skill of the licensed insolvency practitioner is to know which agency/department to contact in terms of helping to identify/protect/realise assets whilst communicating the bad news to a group of angry creditors. Indeed, I have worked with most law enforcement agencies, including the Crown Office, local Procurator Fiscal, Financial Conduct Authority and Police Scotland Fraud Squad. On the occasion where a wayward solicitor is involved with a financial failure, either the Law Society of Scotland or the Solicitors' Regulation Authority in England have been brought into the fray.

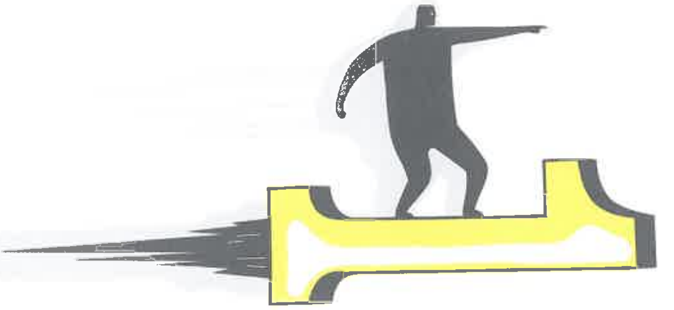
Assets that I have sold include motor bikes, cars, all types of clothing, patents, intellectual property rights, livestock, oil tools, property, land, but perhaps the most unusual was a collection of pornography. As it happened, the pornography was linked to a well known adult movie company which also went bust (pardon the pun) and denied electronic access to the collection thereby stopping a sale of the items in stock.

Currently, I am liquidator of a company that is trying to extricate value from a French business that made faulty breast implants and has ceased trading. The director, who insisted on meeting me at an airport because he thought that it would help to preserve his anonymity, was arrested and charged a few months later. He is languishing in a French prison and proving uncooperative, leaving me to deal with both the French and Luxembourg court systems as I seek to help sell a disused factory and secure/sell a villa on the Riviera.

A few years ago I was appointed liquidator of a pig farm. On the first day of my appointment a boar was delivered. After a brief period of rest following the journey, the boar was led into the breeding arena whereby it immediately commenced work...........only to suffer a major heart attack during its first conquest. Fortunately the supplier accepted my view that the goods were not fit for purpose and provided a full credit in exchange for a dead boar!

Prior to accepting appointment in a formal insolvency, the golden rule is to ensure that there will be sufficient assets to pay one's anticipated fee. One of my earlier appointments was a car repair business in the centre of Aberdeen. Initial enquiries suggested that most of the equipment was financed but there were no secured borrowings over the premises. It was not until the case was underway that I received notification from the Council to the rather unfortunate effect that the garage was no more than a few domestic lock-ups that had been converted into a workshop without planning permission. The Council declined to grant permission retrospectively and worse, demanded that the lock-ups be returned to their original condition. Substantial expense and anguish, with no fee for the trouble that I had to endure. An expensive lesson that I don't plan to repeat!

Having to deal with the sad task of dismissing employees is a frequent occurrence. In one such situation at a fish factory in Peterhead I spoke to about 40 people and explained why the company had been liquidated and hence their jobs were no longer required. At the end of my address I asked if there were any questions, only to be advised by the foreman that everybody had been standing quietly because I wore a suit and tie, but nobody understood a word because they were all Russian.



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On another occasion I had to address about 90 employees the day after they had been dismissed and explain their employment entitlements. Unfortunately, the appointment had been arranged for 2.30 pm in a working man's club in the centre of Aberdeen and, to my dismay, the podium was at the far end of the room. Trying to explain why no cash would be paid for many weeks was an unpopular topic to those who had been drinking for several hours before the event and resulted in me weaving past tables of angry and intoxicated former employees as I beat a hasty retreat, leaving a representative from the department of employment to close the meeting.

On the subject of redundancy, one of the forms asks if there have been any breaks in employment. This is designed to deal with any individual who has left an employer for a year or so, but then returns. In one case a former employee had written in the narrative box for employment breaks "10 am to 10.15 am daily for tea". Cue a mental note for me to advise all employees thereafter that a cup of tea does not constitute an employment break.

Life can be challenging. It is not that long ago that a person claimed to be a member of a secret sect and placed a curse on me. In another case, I received a telephone call from a concerned director advising me not to travel to his business the day after I had closed it because a former employee, worse for consuming alcohol, was walking up and down outside the main gate with a knife in his hand.

I recall vividly the time when I sought to close a business one evening and found myself accused of assault : which seemed bizarre because I was the only Meston Reid & Co representative and there were 2 directors and 12 employees. Nevertheless, Grampian's finest thought it appropriate to confine me to a cell for a few hours and helpfully advised the local newspaper. Fortunately, all was well after a detailed investigation had been undertaken and I received a most fulsome written apology from the Chief Constable.

A number of years ago a small package was delivered with the mail. No more than 6 inches by 3 inches, it was wrapped in plain brown paper and addressed to me. Upon opening it, one could see a clear Perspex box with wires, batteries and other components. The Police were advised and immediately despatched an officer who examined the package and declared it a bomb. The office was sealed and the bomb squad in Edinburgh were contacted. Meantime, the Police conducted some routine enquiries with each member of staff and a Policewoman sat outside my room guarding the location where the package lay. Shortly thereafter, the local TV outside broadcast unit arrived and asked for interviews. When the bomb squad arrived, they were aghast to see that the building remained occupied and immediately cleared the premises. The bomb was uplifted and taken away, but not before the authorities confirmed that it was a real bomb and the only reason it had not exploded was because the batteries had corroded.

Gulp! It was not until many months later that Police enquiries confirmed that the bomb had been sent to the wrong person.

As might be expected, the task of repossessing a person's home can be fraught with challenge. In one situation, the person had fought through every court possible and refused to accept that the trustee had the upper hand. Come the day of eviction, a mercifully rare occurrence I should say, the person barricaded himself in his top floor flat in order to repel sheriff officers. He then proceeded to abseil down the outside of the building in order to exit the scene but fortunately, I had take the precaution of mobilising the Police who were on hand to catch him when his feet touched the ground. Keys uplifted and repossession exercise complete.

Some cases often follow a different course than expected. In a liquidation several years ago I was presented with a substantial debtor book supported by sales invoices and what appeared to be valid delivery slips signed by customers. The amount recoverable far exceeded the sum due to the invoice factor. It was only when steps were being taken to collect the book debts that it became clear that, although there were valid delivery slips, every supply had been invoiced twice (intentionally as an exercise in defrauding the finance company). The result was that recoveries were minuscule compared to what was shown in the ledger, leading to a most unhappy finance company and a fraud investigation. Slightly different outcome from the strategy of collecting book debts and placing the money in the liquidation account for dividend purposes.

Of course, the vast majority of time tends to be spent at one's desk looking at accounting records and dealing with statutory filing requirements, but it is always fun when there are some unusual circumstances that help produce a sense of colour and excitement to the daily routine.

I wonder what the next appointment will bring.

GDPR

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Conclusion

This Update is provided for general interest purposes and does not purport to offer definitive advice. Thank you for taking the time to read this Update and feel free to pass it to anyone who you think might be interested in reading it.

Meston Reid & Co