

SOLVENT LIQUIDATION SOLVES COMPANY'S PROBLEMS

A year after the resolution of an acrimonious shareholder dispute, the continuing director of a business consulted us because he could no longer meet the terms of the legal settlement. The agreement was that the company would buy back the shares of the departing shareholder for a substantial sum payable over a number of years.

While the first payment had been made, a serious downturn in business meant the company did not have the resources to make a second payment and the conversion of shares into cash clearly would result in the company becoming insolvent, effectively making any such transaction illegal. The legal agreement was thus frustrated. The remaining director attempted to reach a revised agreement with his former partner, but the latter refused to enter into discussions and instead accused the director of running down the business to avoid making payment.

Whilst the company was still solvent, it needed to downsize to continue profitable trading. This meant shedding staff and getting rid of an expensive lease. We advised placing the company into Members' Voluntary Liquidation and transferring the viable business to a new company. Under this process, the old company was given a statutory 12 months in which to pay its debts, which gave it time to reorganise.

We obtained a formal going-concern valuation and then offered the business for sale to both the shareholders and other parties. A formal sale was concluded, with sufficient funds realised to pay all debts in full together with interest and the costs of the liquidation. Funds left over were paid to the shareholders and the continuing director retained an interest in the business, which had been refinanced.

During the process we were able to negotiate settlements with various contractual creditors including the landlords who had put forward a substantial claim for future rent and dilapidations. Although under the lease's terms the company was liable for substantial costs, we showed the landlords that if no agreement was reached the liquidation would have to be undertaken as an insolvent liquidation and they would receive a smaller return due to the additional costs. The landlords took a realistic view and we reached a mutually acceptable agreement.