

## Common Pitfalls Directors Should Avoid

### **Transactions at undervalue**

Where a company gifts an asset or enters a transaction where the consideration paid is less than the value of the asset transferred. In many cases this will involve transfers of payments or other assets perhaps to existing creditors, friends or family.

### **Preferences**

Where a company does anything (or allows anything to be done) which puts a creditor or guarantor into a better position than they would otherwise have been. Typically this means paying one creditor, but not paying others. Sadly, many directors fall foul of this – usually by repaying friends and family at the expense of the Inland Revenue.

### **Trading whilst insolvent**

This can lead to charges of wrongful trading. This occurs where the directors continue to trade 'carelessly or recklessly' with no real prospect of saving the business. In these circumstances directors have a duty to take steps to minimise losses to creditors. Failure to do so may result in the directors being ordered to make such contributions to the company as the Court sees fit.

### **Just walking away from the business**

This can be tempting to save on liquidation fees. However, creditors can still chase the company and its directors for any monies owed.

This could result in a winding-up order being made, putting the company into compulsory liquidation. This can contribute to disqualification as a director. It may severely restrict the ability to borrow money in the future. Financiers and other professionals will perceive the director as not taking his duties seriously.

### **Getting advice from the wrong people**

Many people will give you advice (including the 'bloke in the pub'). However, for something as serious as your business and personal finances, you should always speak to an experienced professional to get the best help.

### **Putting good money after bad**

We encounter many cases where directors have injected personal funds (or funds borrowed from relative or friends) into a business only to have the company presented with a Winding Up Petition. Get professional advice before putting new money in.

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