

An administration can allow business to trade

BUSINESS MATTERS

Lisa Thomas, insolvency practitioner at Plymouth-based Neville & Co, looks at the differences between liquidation and administration and urges business owners to take advice if they are experiencing financial difficulties



Sometimes liquidation may be the only option available to a company when it becomes insolvent but that is not always the case. It's possible that the directors can keep control of their company and continue to trade it under the umbrella of a Company Voluntary Arrangement if the circumstances are right and 75% of creditors in value and voting approve it.

A CVA isn't always a viable option but if it isn't that still does not necessarily mean the directors' hands are tied in the form of having to liquidate their company. It may be that part or whole of the business can still be rescued and sold as a going concern and if so this requires an administration procedure.

I have previously discussed liquidation and administration procedures in more detail but there are a few key differences between the two procedures.

One key difference is that an administrator has wide-ranging powers to be able to trade a company whereas a liquidator generally does not.

Practically speaking, in administration a line is drawn in the sand from the date of administration when the administrator takes control over the company and its trade from the date of a court appointment. As administrators we have to pay for supplies and costs including rent and wages incurred from the date of our appointment but we do not have to pay for any debt that has built up prior to administration.

Being able to trade on can mean certain profitable contracts can be completed to maximise realisations which would not have been possible in liquidation, or can lead to being able to sell the business as a going concern and rescue all or some of the employees jobs. In most cases the purchaser does not have to take on any debt built up by the insolvent company as they are only buying the assets and goodwill of the company not its liabilities.

I have previously mentioned that when acquiring a business as a going concern a pur-

chaser cannot simply cherry pick employees that it wants to keep. Like it or not, the purchaser will have to adopt all of the employee contracts, which could significantly impact on their decision to go ahead with the sale or simply reduce the purchase price.

It could mean that administration is not a viable option if too many staff have to be made redundant to make the business viable.

Both liquidators and administrators have a duty to investigate the directors' conduct prior to the insolvency taking place and have the ability to overturn certain transactions and pursue directors for any illegal transactions or misconduct.

However, another difference between the procedures is that an administrator cannot pursue directors for claims of wrongful trading so if such misconduct has taken place then the company will have to be placed into liquidation for such claims to be pursued.

One rule that can be cumbersome is that only a liquidator can pay a dividend to ordinary unsecured creditors without consent from the court. If a dividend is likely to be paid to unsecured creditors in an administration we usually have to transfer the case from administration to liquidation to be able to give creditors some money back.

It can be very frustrating for directors when, for whatever reason, they do not seek advice early enough and are left with no choice but to cease trading and liquidate their company due to time constraints and/or diminished asset values.

If you know someone whose business is financially struggling then please recommend they call me to set up a free initial meeting to see what options are open to them and their business.



If you, or someone you know, needs advice, contact Lisa Thomas on 01752 786800.

Agency launches visitor campaign

An Exeter-based marketing agency has launched a new campaign on behalf of Destination Staffordshire to drive visitors to the county.

RH Partners landed the account in October after a national tender process.

"The new campaign is targeted at young families, couples and empty nesters, focusing on the 'attack' brands in the county which have national significance," said Graeme Whitehead, group

manager at Destination Staffordshire.

"For 15 years RH have been successfully advertising the major South West tourist boards including South West Tourism, The English Riviera, Visit Devon, Visit Wiltshire and Visit Cornwall and we now have the opportunity to showcase our expertise for significant tourism brands outside the South West" said RH managing director Paul Ridgers.

New markets help to grow the value of region's exports

BY LIZ PARKS

Business Editor
@lparks01

New figures have shown that the total value of exports from the South West has risen by 7.5%, to £13.67 billion.

The latest quarterly statistics, released by HM Revenue & Customs, show exports from the South West account for 4.6% of the UK's total overseas trade and reveal a 2.9% increase in the last quarter of 2013.

The number of exporters from the region also grew year-on-year.

Machinery and transport equipment, manufacturing good and chemicals continue to be the most exported commodities from the region.

And the South West remains

one of only two regions with food and live animals commodities in their top five export goods.

The European Union remains South West's biggest export market, with its total of £8 billion representing 58.6% of all exports from the region.

The figures show the value of exports to Asia and Oceania remained steady at £1.8 billion during the past year, whilst the value of exports to the Middle East and North Africa increased by £237 million.

There has also been a year-on-year increase in exports to Sub-Saharan Africa, now valued at £230 million, and up from £199 million.

UKTI regional director Russell Jones urged the region's businesses, both large and small, to renew their efforts

and take advantage of the support available via UKTI's services.

"This rise in the value of exports from the region is very welcome and encouraging," he said. "I am certain there are still many companies in the South West that could take their UK success and replicate it overseas."

"Whilst we are still heavily reliant on EU countries, I'm particularly pleased to see more businesses venturing into emerging, high-growth markets."

"Any firm, from single-owner operations to large corporations, can do it, if they do their research and plan properly."

"UKTI's experience and specialists can help with this."

UKTI is staging a range of

Export Week events, from April 7 to 11, where the organisation will brief businesses on how to reduce the risk of trading overseas.

"Exporting is crucial to the growth of our regional economy and once you start exporting, there's no limit to where you can go and the profit you can make," Mr Jones said.

There was a fall in annual export value in the North East, the North West, the East, London and the South East.

In 2013, the South West imported £19.4 billion of goods, with £7.7 billion of them coming from within the EU.

The number of South West firms exporting last year was 5,631, which was up by 22 on the 2012 figure, but mostly exporting to the EU.

Appointments

See pages 10-12 for top Westcountry vacancies

New products

Ivybridge-based tyre retread company Bandvulc has announced that Tony Doyle, who has been with the business for over five years, has been appointed to manage Bandvulc Solutions' network of independent service providers. He will oversee and develop relationships, new projects and enhancements to the division's customer service.

Training scheme

Housebuilder Linden Homes has appointed a new trainee development manager to join its busy team. James Phillips, 20, from Torquay, will be working with the company with time set aside to study. Managing director Nigel Palmer said: "The two-year training scheme is designed to bridge the gap between education and full-time employment."

Regional manager

A Bideford man with more than 24 years' experience in information and communications technology has been appointed BT's new regional manager for the South West. Paul Coles has replaced Michael Dunn who has retired from BT after a career spanning about 30 years.

Three new staff

Regulatory affairs consultancy TRAC Services has welcomed three new members to its growing team based at the Pool Innovation Centre. Mary Walsh, Martijn Haagen and Matthew Cotten have joined TRAC as regulatory affairs consultants to help provide increased support to its global pharmaceutical clients. Mary recently completed a PhD in biochemistry with the National University of Ireland in Galway and brings over five years academic work in the field of biochemistry



From left, Tony Doyle, Paul Coles and Ian Middleton

and molecular cell biology.

Martijn joins TRAC after completing a Masters degree in science and business management at Utrecht University, in the Netherlands. Before joining TRAC, Matthew held a number of customer service and sales focused roles which included providing biological software and services to the pharmaceutical industry. Company director Jonathan Trethowan said: "They bring a variety of skills and experience which is already having a significant impact on the company. We have further ambitious growth plans over the next three years and successful recruitment plays a significant role in achieving this."

Hat trick of trainees

Barnstaple-based independent financial advisers and investment managers Philip J Milton & Company Plc has just taken on three local trainees. The firm has welcomed Felix Milton, Elizabeth Tubby and Jill Petrides. Jill, who trained as a primary school teacher, has chosen a complete career change. She is currently working in different parts of the office to gain ex-

perience in all areas of the business. Elizabeth trained as a chartered accountant and worked as an auditor for BDO LLP in Nottingham and is currently training towards her level four diploma in financial planning. Felix is the oldest son of managing director Philip Milton and said: "I am very keen to follow in my father's footsteps. It was a difficult decision not to go to university but I am already well advanced with my accounting technicians' qualifications and am studying towards my level four diploma in financial planning."

Business mentor

Enterprise specialist and business mentor Ian Middleton has been appointed chairman of the board at the Exeter-based Social Enterprise Mark company. He has taken over from Gordon Morris who stepped down from the position due to work commitments elsewhere. The Social Enterprise Mark is the only independent certification authority for social enterprises. Ian is currently a director at Axios UK and chairman at Catalyst Mutual Enterprise CIC.

Jeremy is promoted

Jeremy Chapman, has been promoted from negotiator at estate agent Miller & Son's flagship Truro office to become branch manager of its Camborne office. The appointment came exactly a year after he joined the company. Regional director, Ben Salter said: "Jeremy was taken on specifically to help launch the new Truro office in Charles Street and he did an outstanding job. His leadership skills were noticed very early on, he shone at the formal interview in front of a panel of senior managers. He's unmistakably a very focused individual and his desire to run his own office was clear. On top of all that he's a very likeable man - a real people person."

Dan passes tax exams

Cornish accountants Robinson Reed Layton are celebrating the success of team member Daniel Orasnjak who has passed his chartered institute of taxation exams. Dan joined the Truro-based firm 2008 after graduating with a first class degree in economics and is now a chartered tax adviser as well as a chartered accountant.