

Provisional Liquidation Leading; Official Liquidation

Background

Paper Co Limited (fictional name), a paper supplier, obtained judgment against Glossy Mags Ltd (fictional name) for failure to pay for paper supplies. Paper Co petitioned the Court for the winding-up of Glossy Mags on the basis that it was insolvent. The debt was undisputed and unpaid.

Prior to the hearing of the winding-up petition, Paper Co became aware that the publisher's plant was being shipped to China. Further, Paper Co had other evidence to indicate that substantial assets were in jeopardy.

Paper Co indicated to the Court that the publisher's assets were in jeopardy and could be dissipated between the time of the application for the appointment of an official liquidator and the winding-up application. The supplier supported its application for the appointment of a provisional liquidator under s472(2) of the Corporations Act with affidavit evidence.

Paper Co was also required to provide an undertaking to the Court for damages in the event that the appointment was unnecessary, and for losses or damage which might be incurred by Glossy Mags as a result of Paper Co's actions.

The Court ordered the immediate appointment of David Levi as a provisional liquidator.

What the Provisional Liquidator did Following this Court Appointment?

The provisional liquidator:

- took control of the company's assets;
- investigated the affairs of the company; and
- investigated the suppliers' assertions that the company's assets were in jeopardy or being dissipated.

In the meantime, the provisional liquidator allowed the business to continue trading under supervision of the Provisional Liquidator (see s.472(4) Corporations Act).

The Provisional Liquidator reported to the Court on the publisher's financial affairs and dealings, and recommended that the publisher enter into Official Liquidation.

From here, the Provisional Liquidator (Levi) became the Official Liquidator and:

- advertised the publisher's business and assets for sale;
- prevented the dissipation of assets; and
- distributed the funds to creditors.

Take a moment to call David Levi at 02 9223 9044 or email dlevi@leviconsulting.com.au. And let us help you get your company to where it needs to be.