Business Law Briefing No: 3

Disqualification of Directors

Directors and other officers can, by reason of their conduct, be prevented from holding office by the provisions of the **Company Directors Disqualification Act** (the "CDDA").

When a liquidator investigates the affairs of an insolvent company it may reveal that the conduct of the officers of the company is questionable. In these instances, the ***liquidator has a duty to submit*** a report to the Secretary of State for DBERR. Cases of wrongful and or fraudulent trading will be reported amongst other instances of questionable conduct.

The Secretary of State will make an application to the court for a disqualification order to be made against the director or other officer of a company on the grounds his/her conduct makes them unfit to be concerned ***in the management of a company***. The court will take into account the director's conduct in respect of the insolvent company alone or as a director of any other company.

The minimum period of disqualification is two years and ***the maximum is 15 years***, however, a disqualified person may apply to the court for leave to act as a director or manager of a company. If no leave is obtained and a disqualified person contiues to act then they could be held personally liable for the debts of the company he or she is managing.

What should happen next?

If you are facing a possible disqualification ***you need to take legal advice*** as the Secretary of State ***may accept a voluntary disqualification*** undertaking and the director subject of the proposed disqualification can avoid paying the court costs.

Author – Martin Hall

This Business Law Briefing has been prepared by Martin Hall who is a solicitor and consultant with Cleggs Solicitors. He is both a graduate of Nottingham Law School and a Fellow of the Institute of Chartered Accountants in England and Wales.

Martin specialises in Company and Commercial Law, with strong emphasis in share sales, business sales, joint ventures, management buy-outs & shareholder agreements, company reconstructions, partnerships, franchising, IT agreements and all aspects of Business Law.

Qualifying as both a Solicitor and Chartered Accountant gives Martin the broad range of skills necessary to assist in the successful, timely and cost effective completion of his client's transactions.

Copyright ©Cleggs Solicitors 2009

Cleggs Solicitors is a legal practice regulated by the Solicitors Regulation Authority.

Disclaimer

This publication is provided for general information purposes only and does not constitute legal or other professional advice. If you require specific advice on a legal problem then please contact either:

Martin Hall Tel: 0115 977 8510 Email: martinh@cleggssolicitors.com
Ian Torr Tel: 0115 977 8577 Email: it@cleggssolicitors.com

It is worth reminding you that it is our policy that we charge neither clients nor prospective clients for the time it takes us to understand the nature of their business. We only charge for the giving of advice.