SMART INSOLVENCY SOLUTIONS

DIRECTOR FIDUCIARY DUTIES

The tph Difference

It is possible for a Liquidator to make a claim(s) against directors for the damage inflicted on the company due to their management malfeasance and or poor observance of their fiduciary duties under the Corporations Act.

We take a pragmatic view, that unless it is an obvious wrong, we would report the matter to ASIC (as required by law) and let the Regulator decide what to do.

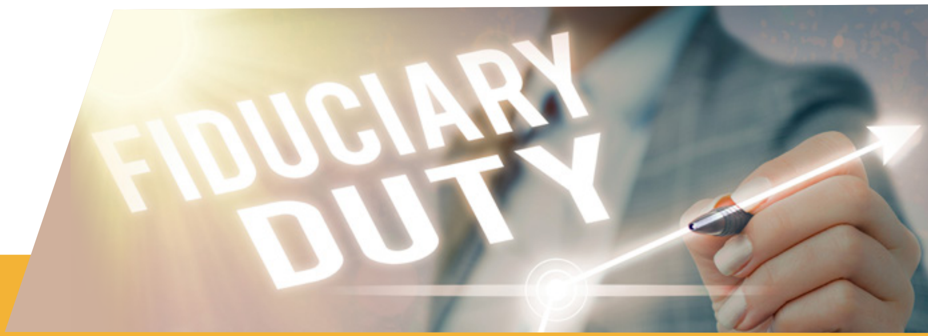
If there is a significant issue, we take a similar view as that adopted in Insolvent Trading cases. i.e. what are the creditors views/position. Are the directors sufficiently asset rich? Do we have sufficient available funds etc.

Common Alternative Approaches adopted by Insolvency Firms

It is very difficult to summarise how the rest of the industry address directors duties but based on the number of cases that find their ways through the courts one could suspect there are few commenced.

Nevertheless, we as an industry report to ASIC our findings as to directors' duties and most firms look to ASIC to fund supplementary reports which provide further information and evidence to ASIC as to the directors' actions.

tph also adopts this approach and assist ASIC as far as we are expected to do in accordance with the law.



The tph Smart Solution

tph upholds high standards, our approach is to maintain good governance, assess the criteria and work in accordance with the law. This ensures the correct procedures are followed whilst adopting a pragmatic view without the overhanging threat to commence proceedings to force action from directors.

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