

DEBT RECOVERY IN NSW

Name: Name Suppressed
Date Received: 16/05/2014

Partially Confidential



16th May, 2014.

The Committee Manager,
Legal Affairs Committee,
Parliament House,
Macquarie Street,
SYDNEY. N.S.W. 2000
Fax 02 9230 3052

Good Afternoon,

I would like to lodge a submission to the **Inquiry into Debt Recovery in NSW**. I would request that my name and my company name are kept confidential.

We, are I suppose classified, as a small to medium business. We work in the building and construction industry. All of our invoices are issued under the Building and Construction Industry Security of Payment Act 1999 (NSW).

We have been in the industry since 1989. We have lost 100's of 1,000's of dollars over that time. And most of the time it is not from genuine loss on the part of the principal contractor. The losses are from the scum of the earth, who still go about the day to day business, they live in the same water front houses, they drive the same up market cars, their children go to the same private schools.

I will give an example. We quoted a bloke \$487,812 to complete earthworks on a sub division, which included building up the land to new heights, demolition of existing house, provision of electricity, gas, telstra, water and storm water, color bond and block work fences and retaining walls to all blocks in the subdivision, concrete access driveway to all blocks, new lay back to the road, re tar the street, in front of the subdivision, grass all blocks and grass the median strip on the roadway in front of the subdivision and the adjoining blocks.

I paid the electrician, the plumber/gas fitter, the concreter, the asphalter, the fencer, the block layer, the grass layer.

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We were paid \$270,100. We claimed the rest of our payment under the Security of Payment Act. We won in court and were awarded payment plus our legal fees. The bloke then put himself into administration.

At the first administrators meeting, St George Bank and Commonwealth Bank were there, as they had loaned him more money than he could possibly sell the land for. And of course they were the priority creditors. I asked why they had loaned so much money, which was more than any possible return they could hope to achieve. The bank representatives told me that I didn't know how big business worked.

The banks were eventually paid their portion of funds, the unsecured creditors were left with \$70,000 to share, our company eventually received approximately \$600. Even though the administrator had a mortgage over the bloke's house, he didn't ever act and sell the house, and eventually sold the debt to the bloke's brother for \$50,000, without consultation with the creditors.

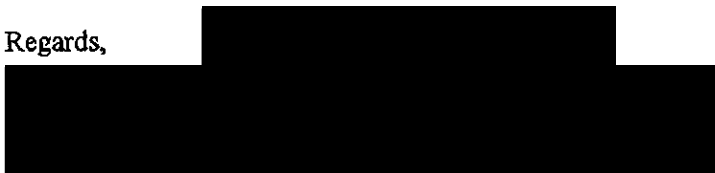
So

1. Security of payments act is not worth the ink on the paper
2. Banks should stand in line with unsecured creditors if they are prepared to lend more than the value of something.
3. Companies once in administration should not be able to have a "phoenix company" that they can immediately trade with. (We find that often people have their equipment or property in the name of the Phoenix Company, and the company that you are working for has no assets. These assets should become part of the administration).
4. Administrators fees should be adjusted - (More than once I have been to an administrators meeting, and the only person that ends up with any money is the administrator.)

I could say more.

Should you require further information, please do not hesitate to contact me.

Regards,



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