**SKELETON NOTES IN RELATION TO DEBT COLLECTION BY SMALL BUSINESSES**

1. Matters to consider before providing credit

* Know your customer/client.
* Ask for copy of last accounts if material credit requested. Alternatively, undertake search at Companies House if the customer/client is a Company. In particular, ascertain if any accounts have ever been filed, or if the last filed account show negative balance sheet or only limited assets.
* Consider asking for personal guarantees in suitable cases (we have draft guarantees which can be used relatively easily). Much bad debt can be prevented through the use of basic credit control procedures.

1. First step for debt collection

* Pre-Action Protocol Letter – this is part of a mandatory pre action procedure, as set out in the Civil Procedure Rules. The letter must contain prescribed information and may take several hours to prepare in complicated cases.
* The letter will require a letter of response to be filed within a prescribed period.
* The letter should flash out any prospective defences. If no response is received, then it can only be presumed that there is no defence.

1. Insolvency process for undisputed debts for over £5,000

* First stage – process service of Statutory Demand. This needs to be personally served at the registered office of the Company, or on the relevant Director(s) of the Company. Statutory Demand requires debt to be paid or secured within 21 days, otherwise the Respondent will face a winding up petition unless the whole amount is paid off by the next hearing.

1. Winding up petition

* If this application is successful, you will probably not be paid. You will line up with other unsecured creditors. Most businesses will come to payment arrangements to avoid going out of business.

1. County Court debt collection proceedings

* For disputed debts or where insolvency process is not wished to be used.
* Availability of Summary Judgement application where no arguable defence.
* Ability of Court on Summary Judgement hearing to order the Defendant to pay money into Court as a condition of granting permission to the Defendant to defend the proceedings.
* No costs jurisdiction for small claims track where debt claim is £10,000 or less. Only very limited debts can be recovered.
* Costs restrictions for claims in the fast track or between £10,000 - £25,000.

1. Enforcement procedures of Court judgement

* County Court judgements may be registered at the High Court for enforcement purposes.
* High Court enforcement officers - very efficient in enforcing judgements against goods, including motor car of judgement debtor.

1. Oral examination
2. Charging order over property or shares
3. Attachment of bank accounts or other monies owed to the judgement debtor

These are bullet point’s notes only. Please do not hesitate to contact my firm for further detailed advice.

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