



Client / Matter

The matter involved a debt due to a financial institution by a director who had operated a large, but now collapsed, motor vehicle dealership.

Appointment

We were appointed as Trustee in Bankruptcy over the affairs of the director.

Issue

The most significant asset of the estate was the debtor's one quarter share, valued at \$2.5m, of his father's deceased estate.

Approximately 12 months prior to bankruptcy, the debtor had charged this interest in favour of a related company.

We formed the opinion that if the charge existed it was void by virtue of section 120 (undervalued transaction) or 121 (transfer to defeat creditors) of the Bankruptcy Act.

The major unsecured creditor of the debtor agreed to provide funding to pursue proceedings against the related company in return for receiving an advantage over other creditors in respect of any dividend.

Solution/Outcome

The litigation was settled, with the related party agreeing to pay a substantial sum to the Trustee in Bankruptcy.

The major creditor which funded the proceedings obtained a substantial return and other creditors received a return in excess of that anticipated by them.



Client / Matter

The client, a credit card division of a national retail bank, had exposure to a customer.

Appointment

We were appointed trustee of the bankrupt, replacing the original trustee on the application of the bank.

Issue

The original trustee had been appointed some 18 months earlier with, in the view of the client, no material progress having been made, including that the bankrupt had yet to be located. The bankrupt had not lodged his Statement of Affairs and no assets or liabilities had been determined as the original trustee had conducted only basic investigations. Following on, no recoveries had been made, no offences prosecuted and creditors were, on the face of it, unlikely to receive a return.

The bank was disappointed with progress and sought an alternative trustee to investigate further.

At a meeting of creditors, it was resolved that the original trustee be replaced by Taylor Woodings.

Solution/Outcome

After our appointment the following was achieved:

- the bankrupt was located by Taylor Woodings within one day of appointment
- the bankrupt was interviewed and required to complete his Statement of Affairs
- the bankrupt's assets were successfully located, including some located in the USA
- assistance was given to the bankrupt in order for him to access his US superannuation funds to meet creditors claims
- an income contribution instalment plan of \$5,000 per month was negotiated. Assistance was provided to the bankrupt to allow him to budget his income from a new business to allow contributions to his estate while meeting ongoing trading liabilities of the new business
- the bankrupt is now fully co-operative with his Trustee and making regular contributions to his estate

It is expected income contribution instalments will result in the bank and all creditors receiving a full 100 cents in the dollar distribution and the bankrupt will be released from bankruptcy.



Client / Matter

The client, a US based insurance company, had been defrauded by an employee.

Appointment

We were appointed as bankruptcy trustee of the ex-employee of the insurance company.

Issue

The employee had committed a fraud against the company in excess of A\$2m and used the fraudulently obtained funds to purchase a number of lifestyle assets, including a ski chalet in the Victorian ski fields.

The client had proceeded with legal action to recover the assets purchased with its money. This had led to a Deed of Settlement between the client and the former employee whereby the former employee would sell the assets and pay the funds to the client. However, the Deed of Settlement did not allow the client to take possession and sell the ski chalet itself in the event the former employee failed to fulfil his obligations under the Deed.

Taylor Woodings was approached to consent to act as Bankruptcy Trustee to facilitate the sale of the ski chalet.

Solution/Outcome

On appointment, we located the bankrupt, who had been jailed after being convicted of fraud, and had the ski chalet transferred to the Trustees' name. We then worked with local real estate agents to sell the chalet just prior to the commencement of the ski season in order to take advantage of the peak selling period.

The recovery exercise was completed quickly compared to what appeared was going to be an extremely difficult assignment.