COLLAS CRILL

Insolvency year in review 2020

JANUARY 2021

Welcome to Collas Crill's insolvency year in review of 2020: a short reflection on some of Collas Crill's insolvency milestones across our jurisdictions.

Although 2020 has presented unparalleled challenges for everyone, Collas Crill's insolvency and restructuring offering has fared well across the firm. We have been lucky to be able to share in our colleagues' successes and welcome new faces across the jurisdictions.

On the firm-wide level, Collas Crill was recognised in 2020's Global Restructuring Review 100, a guide to the world's leading law firms for cross-border restructuring and insolvency. The Review referred to Collas Crill's 'enviable list of case milestones' and described the firm as 'well known for representing office-holders and former directors of insolvent companies'. The quality of our insolvency and restructuring teams has also been highlighted by our successes in Chambers and Partners and Legal 500 rankings.

Guernsey

Guernsey's legislature kicked off the year by approving a long-awaited amendment ordinance which would bring radical changes to both administration and the winding-up procedure. In the summer, various appointments were made to the Insolvency Rules Committee that will draft the Company Insolvency Rules to support the amendments. The amendments are not yet in force, and it is expected that the amendments and the Rules will be brought in simultaneously.

When the UK Government announced new insolvency measures in April to suspend wrongful trading provisions, our Guernsey team published a guide to the law surrounding wrongful trading in Guernsey. This helpful summary remains relevant as Guernsey businesses will continue to be put under significant pressure by the changing global circumstances.

This year, the Guernsey team had a considerable success in acting for the liquidators of CanArgo Limited in an application for directions blessing the liquidators' actions in untangling a knot of competing claims to proceed with a sale of CanArgo's assets.

In the summer we published some guidance on the approval of liquidators' fees based on In the matter of Company X (in liquidation) [2020] GRC034. Company X gives some useful lessons about the importance of submitting evidence in support of applications for the approval of fees, and how the Court will approach its role in such applications.

BVI

For most of 2020 our BVI insolvency team was headed by Michael Adkins, who many of our Guernsey clients will already know. This year Michael welcomed Dave Marshall onto the team in March and the team celebrated the promotion of Daisy Bovingdon to Senior Associate in September.

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This year in the BVI, as well as the Privy Council case of Chu v Lau described below, a judgment of the High Court of Justice gave some insight into the fairly rare circumstances when the Court will remove a liquidator from their role. Redhouse v Johnson [2010] BVIHCM 2010/0138, applied the test for removal of a liquidator to the unique facts of the case: involving the liquidator discussing the liquidation on an episode of the BBC's Panorama and a drunken confrontation in a restaurant littered with expletives. The liquidator was ultimately removed by the Court.

Jersey

Our Jersey office's insolvency and restructuring practice continues to go from strength to strength, with the team being actively engaged in a number of high profile matters acting for office holders, directors and stakeholders.

The team has experienced a noticeable increase in instructions from directors and boards under pressure as a consequence of the adverse economic impact of the pandemic.

The Jersey Office has also produced some great content across the year with an overview of the Jersey insolvency landscape published in Jersey: First for Finance by the Times Group and a series of practical guides relating to the winding up of companies in Jersey and cross-border issues. Most recently, the team considered the impact of the Privy Council's decision in Chu v Lau from a Jersey perspective. This important case addresses the scope of the 'just and equitable' ground for winding up a company, and is likely to have consequences in many offshore jurisdictions.

Cayman

2020 saw Stephen Leontsinis become managing partner of our Cayman Office. Stephen specialises in insolvency and restructuring and, as head of Cayman's Dispute Resolution team, has grown his team from two attorneys to a department of four partners and nine attorneys in the last five years. Continued growth is expected over the next eighteen months. His role in building Collas Crill's reputation in the Cayman insolvency industry cannot be overstated. The Cayman office was described as having gone 'from strength to strength' in glowing Legal 500 Caribbean 2021 testimonials. Stephen was also flagged as a leading individual in the same publication, with Rocco Cecere named as a Next Generation Partner. Partner Matthew Dors was namechecked as 'an incredibly meticulous and intelligent lawyer'.

At the beginning of the year, Rocco Cecere, who has over twelve years of offshore insolvency and restructuring experience, was promoted to partner. In September, Jennifer Colegate, a commercial litigator and cross-border insolvency specialist with over fourteen years' experience, was also promoted to partner.

What comes next...

Vaccines are beginning to be rolled out across the world, but global vaccination is a process that is likely to last beyond 2021, and the lifting of pandemic-related restrictions is likely to be slow. This will mean protracted uncertainty and continued pressure for businesses throughout this year. As a result, the level of insolvency risk remains elevated and we anticipate an increase in restructuring and insolvency activity in the year ahead.

If you would like advice on how we can help support your or your client's business, please contact a member of our insolvency team.

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