

Three reasons why your debt collection efforts should not end when your debtor goes bankrupt

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Most of us assume that the bankruptcy of a debtor that we are chasing for payment is the death knell for any return. It is true that in most cases the end result of bankruptcy is a minimal or zero return for unsecured creditors. However, there is a lot to say for putting in a relatively small effort to ensure that you are in the mix in case funds become available for distribution.

For example:

- 1. The Trustee in Bankruptcy may recover funds from an unexpected source -**
Trustees don't simply fill out reports and convene meetings while they administer the bankruptcy. They also search around for possible sources of funds for distribution to unsecured creditors. Once in a while a Trustee will find an asset, or another avenue of recovery, that you did not know existed. For example, a bankrupt may become entitled to a significant asset as part of the deceased estate. The bankrupt could also have made a significant payment to another unsecured creditor within six months of going bankrupt. In both cases, the proceeds of these events can be recovered by the Trustee.
- 2. The bankrupt may want to negotiate his way out of bankruptcy -** it is possible for a bankrupt to strike a deal with unsecured creditors in a bankrupt estate as an alternative to serving out their three year bankruptcy term. Usually this involves the bankrupt making a payment to creditors. There are rules attached to how creditors consider and vote on any negotiated proposal, and this can often result in a return for creditors where one did not exist before. There are all sorts of reasons why a bankrupt may want to get out of bankruptcy earlier.
- 3. Unsecured creditors can have real influence over the conduct of a bankrupt estate**
- unsecured creditors can compel action on the part of the bankrupt and his or her trustee. Unsecured creditors are entitled to a great deal of information about the affairs of the bankrupt and the activities that the trustee has taken to recover funds into the bankrupt estate.

The main problem with doing nothing once a debtor goes bankrupt is that it is often entirely up to the bankrupt as to whether you are included amongst the creditors entitled to participate. Often the Statement of Affairs filed by the bankrupt is the only source of information for the trustee as to who the creditors are.

It does not take a great deal of effort to "put your hand up" in a bankrupt estate and be recognised as a creditor by filling out a proof of debt. We always encourage creditors to do this, if for no other reason than to ensure that they have a seat at the table if a return for creditors eventuates.



If you would like more information or advice in relation to insolvency, restructuring or debt recovery law, contact a Principal of the Matthews Folbigg Insolvency, Restructuring & Debt Recovery Group:

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