



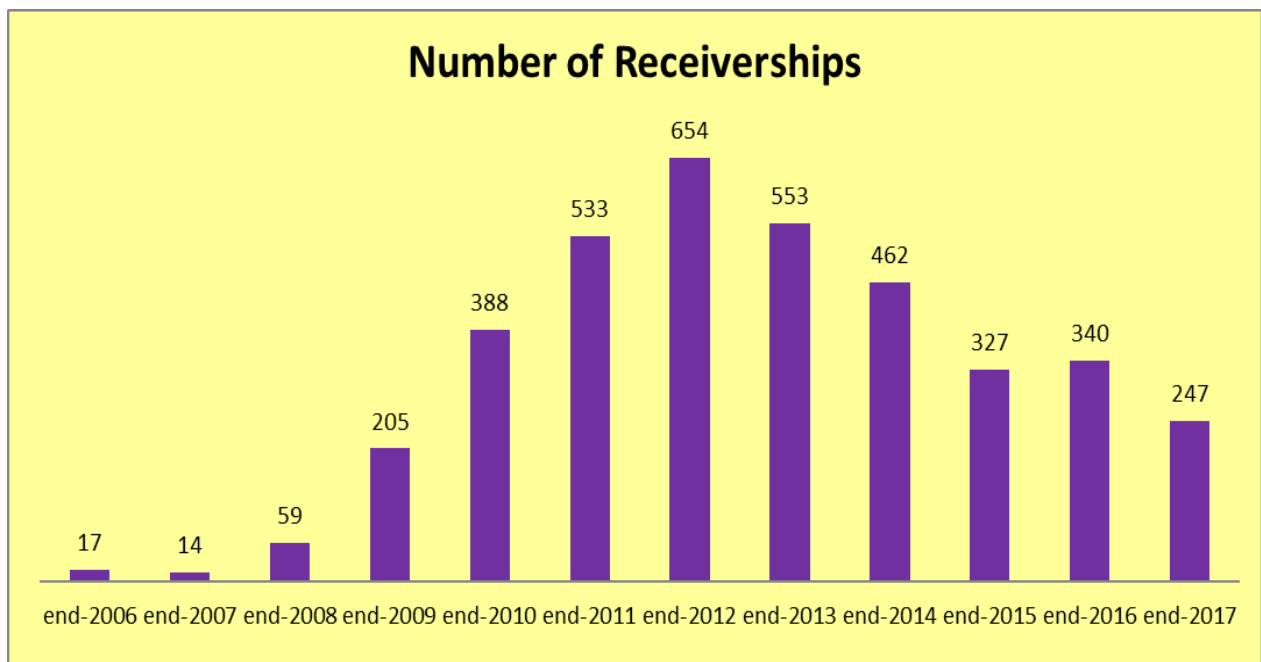
## A Cuckoo in the Nest – The Role of Receivers in Irish Companies

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### Introduction

Corporate receivership arises where a company defaults on the repayment of a secured debt and then the creditor owed that debt appoints an independent representative (known as a Receiver) to take over the administration of the company in order to recover the debt. Where possible, the Receiver will sell the asset securing the debt and use the monies to repay the creditor, as well as the cost of the receivership. Once the debt is discharged the Receiver will then hand the company back to its directors.

The graph<sup>1</sup> below demonstrates that the number of receiverships in Ireland have declined in recent years, indicating the recovery of the Irish economy following the post *Celtic Tiger* recession. The exception to this decline is the increase in receiverships in 2016. According to Sean Duffy, reporting for the Independent, this can be attributed to: “... activity by private equity funds that have purchased large tranches of non-performing loans from Irish lenders, and are now working through them including in some cases pursuing debtors more aggressively than the banks.”<sup>2</sup>



<sup>1</sup> Statistics obtained from the CRO Annual Reports 2006-2016.

<sup>2</sup> Reported on independent.ie on September 29 2016 – see [independent.ie/business/irish/receiverships-back-on-the-rise-as-funds-chase-returns-35087188.html](http://independent.ie/business/irish/receiverships-back-on-the-rise-as-funds-chase-returns-35087188.html)

Unfortunately, the cost of receivership remains high<sup>3</sup>, and this cost is no doubt a significant factor in companies being placed into liquidation and being struck off the register. The purpose of this article is to explain how a company is placed into receivership, the effect of such a receivership and the duties imposed upon a Receiver under the provisions of the Companies Act 2014.

### **Appointment of a Receiver**

Where a company defaults in relation to its obligations pursuant to the terms of a debenture loan, the debenture instrument will normally empower the debenture holder to appoint a Receiver<sup>4</sup> to recover the debt<sup>5</sup>. For this occur the contractual provisions that facilitate the appointment of a Receiver must have arisen. The importance of strict adherence to the contractual terms of the debenture instrument was highlighted in *The Merrow Limited v Bank of Scotland Plc and David O'Connor (2013)*<sup>6</sup>, wherein the plaintiff successfully challenged the right of the Bank to appoint a Receiver over their public house and restaurant premises and business, as Clause 7 of the 1981 debenture provided that: “[a] lender may at any time after the mortgage debt shall have become payable appoint by writing under its seal a Receiver of the mortgage (sic) property .....”. When the bank appointed a Receiver over the property they failed to execute the Deed of Appointment under Bank of Scotland Plc’s seal. Consequently the Court declared the appointment void and allowed the company to be placed into examinership. According to Justice Gilligan:

*“Since a receiver's authority is derived from the instrument under which he is appointed, an appointment is not valid unless it is made in accordance with the terms of that instrument.”<sup>7</sup>*

He went on to say that:

*“[a] receiver who is not appointed in accordance with the terms of the debenture is not validly appointed ... [and] an invalidly appointed receiver may be a trespasser on company property.”<sup>8</sup>*

A Receiver may also be appointed: (1) on foot of a Court Order<sup>9</sup>, (2) in relation to income due under the provisions of the Land and Conveyancing Law Reform Act 2009<sup>10</sup>, and (3) under statutory provisions<sup>11</sup>. In reality the majority of Receivers are appointed pursuant to the debenture instrument and these will be the main focus of this Article.

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<sup>3</sup> In July 2017 the journal.ie reported that NAMA had paid over €115m to Receivers since the property crash, with Grant Thornton receiving the highest individual payments to date of €17.28m for its work in this area. Similarly, the receivership of the *R Spencer Dock Development Co. Ltd*, which took six years, cost €15.3m in professional, management and receivership fees.

<sup>4</sup> According to Justice Murphy in *Re Bula Ltd* [2002] WJSC-HC 879 at p. 905: “[t]he term derives from the Latin recipiere (re-capere, to take). The taking, or, indeed, the capture arises out of the mortgage or debenture agreement by which the mortgage or debenture holder takes or captures the legal title, thus acquiring a right in rem in the mortgaged property. This right is separate from the promise to repay the debt arising out of the loan/borrowing transaction: a right in personam.”

<sup>5</sup> As per Section 428 Companies Act 2014.

<sup>6</sup> High Court Record No: 2012/695/COS, [2013] IEHC 130.

<sup>7</sup> At p.138.

<sup>8</sup> At. p.143.

<sup>9</sup> On receipt of an application, the High Court has inherent jurisdiction to appoint a Receiver.

<sup>10</sup> Section 108(1) allows for a Receiver to be appointed over the income of a mortgaged property where certain conditions are satisfied.

<sup>11</sup> Section 147(1) of the National Asset Management Agency Act 2009 empowers NAMA to appoint statutory Receivers in relation to acquired bank assets.

### **Grounds for Appointment**

In order to appoint Receiver the borrowing company must have defaulted on the terms of the loan. In this regard the debenture document will normally express the grounds equalling default. The following are illustrations of acts or events that may be interpreted as constituting default:

- (1) The company has defaulted on the payment of the principal or interest due on foot of the secured loan;
- (2) The company breaches the terms and conditions of the loan agreement;
- (3) The company has ceased trading or commenced liquidation or has failed to comply with a judgment or Court Order against them and their property, within the requisite time period;
- (4) Where the debt security is in jeopardy<sup>12</sup>;
- (5) Where another Receiver is appointed on foot of the same charged asset;
- (6) Where the company fails to maintain and insure the charged asset; or
- (7) Where there is a material change in the management of the company or its financial position that may jeopardise its ability to repay the secured debt.

Upon appointment, all documentation emanating from the company<sup>13</sup> should indicate the fact that the company is in receivership. This should also be emphasised on the company's website<sup>14</sup>. Default by the company and its officers is classed as a Category 4 offence.

### **Powers of the Receiver**

Upon appointment the Receiver is empowered to undertake any actions necessary in order to recover the payment of the debt for the benefit of the lender. The Receiver also has the following statutory powers<sup>15</sup>:

- A. To enter into possession and take control of property of the company in accordance with the terms of the order or instrument
- B. To lease, let on hire or dispose of property of the company
- C. To grant options over property of the company on such conditions as the receiver thinks fit
- D. To borrow money on the security of property of the company
- E. To insure the property of the company
- F. To repair, renew or enlarge property of the company
- G. To convert property of the company into money
- H. To carry on any business of the company
- I. To take on lease or on hire, or to acquire, any property necessary or convenient in connection with the carrying on of a business of the company
- J. To execute any document, bring or defend any proceedings or do any other act or thing in the name of and on behalf of the company
- K. To draw, accept, make and endorse a bill of exchange or promissory note
- L. To use the seal of the company
- M. To engage or discharge employees on behalf of the company
- N. To appoint a solicitor, accountant or other professionally qualified person to assist the receiver
- O. To appoint an agent to do any business that the receiver is unable to do, or that it is unreasonable to expect the receiver to do, in person

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<sup>12</sup> This could arise where the asset securing the debt falls into negative equity.

<sup>13</sup> This includes both manual (Section 429(1) and (2)) and electronic (Section 429(3)(b)) documentation.

<sup>14</sup> Section 429(3)(b) Companies Act 2014.

<sup>15</sup> Section 437(3) Companies Act 2014.

- P. Where a debt or liability is owed to the company, to prove the debt or liability in a bankruptcy, insolvency or winding up and, in connection therewith, to receive dividends and to assent to a proposal for a composition or a scheme of arrangement
- Q. If the receiver was appointed under an instrument that created a charge on uncalled share capital of the company (1) to make a call in the name of the company for the payment of money unpaid on the company's shares, or (2) on giving a proper indemnity to a liquidator of the company, to make a call in the liquidator's name for the payment of money unpaid on the company's shares
- R. To enforce payment of any call that is due and unpaid, whether the calls were made by the receiver or otherwise
- S. To make or defend an application for the winding up of the company, and
- T. To refer to arbitration or mediation, any question affecting the company.

The Receiver also has the power to apply to the Court for directions in relation to their liability on foot of company contracts<sup>16</sup>.

### **Duties of the Receiver**

The main duty of the Receiver is to exercise reasonable care in disposing of company assets. According to Section 439 CA 2014 "*...a Receiver, in selling property of a company, shall exercise all reasonable care to obtain the best price reasonably obtainable for the property as at the time of the sale*". Exercising reasonable care imposes a more cumbersome obligation on the Receiver, as opposed to merely acting in good faith. It requires that the Receiver undertake the actions of a reasonable man. As per Chief Justice O'Dalaigh:

*"The reasonable man sets himself a higher standard than to act in good faith. There is no room for doubting the bona fides of a reasonable man. He will, while rightly looking to his own interest, also bear in mind the interest of the mortgagor."*<sup>17</sup>

In ascertaining what amounts to *best price reasonably obtainable* Justice Murphy stated in *Re Bula Ltd (2002)*<sup>18</sup> that:

*"The requirements is not simply to get the best price but rather to use reasonable efforts to get the best price reasonably obtainable."*<sup>19</sup>

In *Ruby Property Co Ltd and McNally v Kilty and Superquin (2003)*<sup>20</sup> Justice McKechnie ruled that despite the fact that the Receiver had not sold the charged property by public tender, or publicly advertised the sale, or placed any billboard outside the property notifying potential purchasers of the fact of sale, or bargained with any third parties or reviewed the state of the market, and even though bids were secured privately and not openly, that he had not acted in breach of his duty as the price obtained in respect of the property was better than what could have been obtained on the open market at the time. According to Justice McKechnie:

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<sup>16</sup> Section 438 Companies Act 2014.

<sup>17</sup> Cited in *Holohan v Friends Provident and Century Life Office* [1966] I.R. 1 at p.21.

<sup>18</sup> [2002] WJSC-HC 879. This case concerned an application by a Receiver of the company seeking court approval for the sale of the ore body for the sum of £27.5 million to a neighbouring company ("Tara mines"). The application was opposed by the directors of Bula Ltd on a number of grounds including the fact that the assets of the company were grossly undervalued and that the value of the ore body was over £60 million.

<sup>19</sup> *Ibid*, p. 914.

<sup>20</sup> [2003] WJSC-HC 11214.

*"If ... evidence shows that "the best price reasonably obtainable" was in fact obtained, then irrespective of other considerations it cannot be said that a receiver is in breach of [the companies legislation]."*<sup>21</sup>

In relation to the obligation to obtain the best possible price *at the time of the sale* it falls within the remit of the Receiver to determine the time of sale. The Receiver's duty is to sell on the open market and he is not obliged to wait for a rising market before selling<sup>22</sup>. Similarly, the Receiver is not obliged to postpone a sale to obtain a better price. Regarding timing, in *Standard Chartered Bank v Walker (1982)*<sup>23</sup> the Court held that the duty of a Receiver is to use reasonable care to obtain the best price where the circumstances of the case allows. Denning M.R. said that it may be that the Receiver can choose the time of the sale within a considerable margin, but he must exercise a reasonable degree of care about it. Failure to do so will result in a breach of duty by the Receiver and consequential liability. As per Denning M.R.:

*"If it should appear that the mortgagee or receiver has not used reasonable care to realise the asset to the best advantage, then the mortgagor, the company and the guarantor are entitled in equity to an allowance. They should be given credit for the amount which the sale should have realised if reasonable care had been used."*<sup>24</sup>

Regarding time of sale, one issue that often arises is where there are sitting tenants in a property and whether the Receiver should sell with them *in situ* or await vacant possession. In *Holohan v Friends Provident and Century Life Office (1966)*<sup>25</sup> a Receiver sold a charged property (a building) without vacant possession (with tenants *in situ*). The issue that arose was whether the Receiver had breached his duty by not waiting for the tenants to vacate the building or buying the tenants out of their contract, as a sale with vacant possession would have generated a higher price for the building. It was estimated that the sale value of the building would have increased threefold without the tenants. The Court held that the Receiver had breached his duty of care as he had failed to consider alternatives, and in particular he had failed to investigate the possibility of buying out the tenants from their lease and the cost of this versus the benefits of selling with vacant possession. According to Justice Budd:

*"I do not say that it was unreasonable of the defendants not to have laid out money in paying compensation to the tenants in order to be able to sell with vacant possession. In the absence of information as to what the position was with regard to the tenants one cannot say with certainty what would have been reasonably required of them to safeguard the interests of the mortgagor ... [however] [w]hat in fact happened, as has been demonstrated, is that the Defendants refused to look into the value of the Plaintiffs property on a basis which their own surveyors advised would show a considerably higher price than sale at investment value. Their minds (as their witnesses admitted) were closed to this course. This was not reasonable; in my opinion it was quite unreasonable. A mortgagee with a power of*

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<sup>21</sup> Ibid at p. 11231-2.

<sup>22</sup> This was affirmed by the Supreme Court on appeal in the Bula case, wherein Justice Denham quoting *Keane Company Law* (3rd ed.) para. 22.20 stated that: "... there is no general obligation on a receiver to wait for the market to rise. If he makes a reasonably prudent assessment of the market at the relevant time, he will not be held liable simply because it appears subsequently that by waiting he might have got a better price." [2003] 2 IR 430 at p. 449.

<sup>23</sup> 3 All ER 938. This case related to an allegation of a sale at undervalue on the basis that the sale took place at the wrong time of year. This argument was rejected by the Court who stated that the duty is to take reasonable care to obtain the best price that the circumstances permit.

<sup>24</sup> Ibid, p. 942.

<sup>25</sup> [1966] IR 1.

*sale has not power to dispose of the mortgagor's' property with the same freedom as if it were his own. The Defendants' head office appeared to have taken an authoritarian line of action in this matter but left their Dublin office with no option but to obey. They declined even to examine into the possibilities of a better price, and this, in my judgment, was such unreasonable conduct on their part and such of this regard of the Plaintiffs interests that an injunction should issue to restrain the Defendants from completing the sale [...]."*<sup>26</sup>

In exercising this duty the Receiver has the right, if necessary, to get independent specialist advice. In *American Express International Banking v Hurley (1986)*<sup>27</sup> the Receiver was deemed negligent in not seeking specialist advice in relation to the market value of specialised sound and lighting equipment used at pop concerts<sup>28</sup>.

Although there is no statutory requirement for an independent valuation nor to have more than one buyer, common practice regarding the sale of property is to obtain a number of independent valuations (generally three) and sell for the average of these valuations. In relation to valuations, Justice Murphy asserted that:

*"The valuation has to be an open market valuation, that is, on the basis of information being freely available. It is also made on the assumption of a willing seller and a willing buyer."*<sup>29</sup>

An additional feature of a Receivers duty is embodied in Section 439(3) Companies Act 2014 which provides that a Receiver shall not sell by private contract a non-cash asset of the company to a person who is, or who was, within three years prior to the date of the appointment of the Receiver, an officer of the company unless he has given at least 14 days' notice of his intention to do so to all the creditors of the company who are known to him or who have been intimated to him. In this regard it is important to note that the Receiver is not required to obtain the creditors or member's approval<sup>30</sup>, merely to inform them of the fact of sale.

In addition, the Receiver also has the following duties:

- A. **Notification:** The Receiver should notify the company, the CRO and the public of his appointment<sup>31</sup>.
- B. **Reporting:** The Receiver must obtain a statement of affairs from the directors and secretary of the company within 14 days of his appointment<sup>32</sup>. The statement must include the following: (1) particulars of the company's assets, debts and liabilities at the date of appointment of the Receiver, (2) the names and residences of the company's creditors, (3) the securities held by

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<sup>26</sup> At p. 25.

<sup>27</sup> B.C.L.C. 52.

<sup>28</sup> As per Justice Mann at p. 65: "[i]n my judgment the receiver did not take reasonable care in all the circumstances of the case to obtain the true market value of the equipment. He had in his hands equipment which he knew had been valued at £193,323 and which he knew was of a specialist nature. In regard to the disposal of the equipment he did nothing. Although advised by Edward Symmons Ltd that he should look to the trade the receiver did not do so but was content that the trade should look to him. In my judgment the failure to take reasonable care is manifest in these forms: (i) a failure to take specialist advice from a person in the popular music industry; (ii) a failure to advertise in publications concerning the popular music industry. The receiver is liable in negligence to the guarantor."

<sup>29</sup> As per footnote 17, at p. 915.

<sup>30</sup> This is the opposite of the UK position, as indicated in *Demite Ltd v Protec Health Ltd [1998] BCC 638*.

<sup>31</sup> Section 429 Companies Act 2014.

<sup>32</sup> Section 430-431 Companies Act 2014.

those creditors, (5) the dates when the securities were respectively given, and (5) any further other information that may be required. The Receiver also has a duty to report to the CRO every six months on the progress of the receivership<sup>33</sup>. Finally, the Receiver has a duty to report to the Director of Public Prosecutions (DPP) and the Director of Corporate Enforcement (ODCE) if he suspects that a past or present officer committed a criminal offence under the legislation<sup>34</sup>.

- C. **Payment of Debts:** Once the value of the assets are realised the Receiver is obliged to apply the proceeds of sale based on the priority of payment<sup>35</sup>. This means that if a Receiver is appointed on foot of a fixed charge he must apply the proceeds to the payment of this debt, plus the cost of receivership, and hand any surplus funds back to the company. Whereas a Receiver appointed on foot of a floating charge has a duty to ensure payment to the preferential creditors of the company, as preferential debts have priority over fixed charges<sup>36</sup>.
- D. **Compliance:** The Receiver must provide his books of accounts to the ODCE for inspection, upon receipt of such a request. Failure to comply is classed as a Category 3 offence<sup>37</sup>.

### **The Effect of the Appointment of a Receiver**

Where a Receiver is appointed in respect of the assets of a company, certain consequences follow:

- A. **Charges:** Where the Receiver is appointed on foot of a floating charge, this charges will crystallise and become affixed to the assets/undertakings over which it was created and previously floated.
- B. **Management:** The powers of the company and the director's authority are suspended in relation to the assets affected by the receivership<sup>38</sup>, and can only be exercised with the consent of the Receiver. All other powers and authority of the company and its directors remain unaffected by the Receivers appointment. As per Justice Keane in *Lascombe Ltd v United Dominions Trust (Ireland) Ltd* (1993)<sup>39</sup>:

*"It is clear that when a receiver is appointed by a debenture holder under the powers in that behalf in the debenture, the powers vested by law in the directors of the company are not thereby terminated. They may not, however, be exercised in such a manner as to inhibit the receiver in dealing with and disposing of the assets charged by the debenture or in a manner which would adversely affect the position of the debenture holder by threatening or imperilling the assets which are subject to the charge. Subject to that important*

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<sup>33</sup> Section 430(3) Companies Act 2014.

<sup>34</sup> Section 447 Companies Act 2014.

<sup>35</sup> As per Section 617-618, and 621 Companies Act 2014.

<sup>36</sup> Section 440 Companies Act 2014.

<sup>37</sup> Section 440 Companies Act 2014.

<sup>38</sup> All other powers and authority of the company and its directors remain unaffected by the Receivers appointment. As per Justice Keane in *Lascombe Ltd v United Dominions Trust (Ireland) Ltd* [1993] 3 I.R. 412 at p. 416-417: *"It is clear that when a receiver is appointed by a debenture holder under the powers in that behalf in the debenture, the powers vested by law in the directors of the company are not thereby terminated. They may not, however, be exercised in such a manner as to inhibit the receiver in dealing with and disposing of the assets charged by the debenture or in a manner which would adversely affect the position of the debenture holder by threatening or imperilling the assets which are subject to the charge. Subject to that important qualification, the powers vested by law in the directors remain exercisable by them and include the power to maintain and institute proceedings in the name of the company where so to do would be in the interests of the company or its creditors."*

<sup>39</sup> 3 I.R. 412.

*qualification, the powers vested by law in the directors remain exercisable by them and include the power to maintain and institute proceedings in the name of the company where so to do would be in the interests of the company or its creditors.”<sup>40</sup>*

The Receiver may institute proceedings for either fraudulent or reckless trading of company officers<sup>41</sup>.

- C. **Assets:** The Receiver may, if he considers that the interests of the debenture-holder so require, dispose of any asset of the company affected by the debenture, including the entire undertaking of the company.
- D. **Contracts:** The Receiver is not liable on foot of contracts entered into by the company prior to his appointment (although these contracts remain binding on the company), unless he specifically agrees to be. As per Cozens-Hardy M.R. in *Re Newdigate Colliery, Limited, Newdegate v the Company (1912)*<sup>42</sup> regarding forward contracts for the supply of coal:

*“... they are not contracts with [the Receiver]; they are contracts made with the company, which is still a company, and has, not yet been wound up. If he discharges the obligations of the company under the contracts he will be entitled to receive the money due from the other contracting parties to the company; but to say that he is under any personal liability with regard to the contracts and that he ought to be indemnified or relieved in respect of them is entirely to misunderstand the position of a receiver and manager.”<sup>43</sup>*

However, the Receiver is personally liable on foot of any contract entered into by him in the performance of his functions<sup>44</sup> unless the contract provides that he is not to be personally liable on such contract<sup>45</sup>. In those circumstances, the Receiver will be entitled in respect of that liability to indemnity out of the assets of the company<sup>46</sup>.

- E. **Employees:** Contracts of employment between the company and its employees are not necessarily terminated by the appointment of a Receiver where the Receiver is acting as an agent of the company. This is necessary in order to save the debenture-holder the costs of redundancy payments, which as preferential payments must be paid before floating charge holders. As per Justice Finlay Geoghegan in *Brennan v Irish Pride Bakeries (In Receivership) (2017)*<sup>47</sup>:

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<sup>40</sup> Ibid at p. 416-417.

<sup>41</sup> Section 723-724 Companies Act 2014. In 2006 a Receiver (from Friel Stafford) brought proceedings seeking to recover more than €6 million from two former directors of the collapsed advertising agency, Doherty Advertising which he alleged arose from reckless trading. Damages of €2.2m were obtained against two directors, Beggs and Martin, who were also restricted from acting as company directors for five years. According to the Court “the board of directors did not function in a structured way. There was a degree of informality in their operation which could be criticised”.

<sup>42</sup> [1912] 1 Ch. 468.

<sup>43</sup> Ibid at p. 474.

<sup>44</sup> This is irrespective of whether such a contract is entered into by the Receiver in the name of such company or in his own name as Receiver or otherwise.

<sup>45</sup> Section 438(4) Companies Act 2014.

<sup>46</sup> Section 438(5) Companies Act 2014.

<sup>47</sup> [2017] IECA 107. This case concerned the sale of part of the business in receivership and proposed collective redundancies of a number of employees (including the claimant).



*"Where a receiver is appointed over assets of a company, existing contracts of employment between the company and the employees continue to subsist. No new contracts of employment come into being."*<sup>48</sup>

However this is qualified by the fact that contracts of employment which are inconsistent with the appointment of a Receiver, or which are no longer necessary following the appointment of a Receiver, can be discharged<sup>49</sup>. Where the Receiver decides to lay off workers he is obliged to comply with the statutory requirements of employment law<sup>50</sup>. Where a Receiver does not terminate contracts of employment, he does not himself become personally liable for their wages from the date of his appointment because there is no new contract, and any contract that subsists does so between the company and the employees.

- F. **Freezing Orders:** The Receiver can apply to the Court for an Order freezing the assets of the company during receivership and has the authority to police compliance with any such Orders. This arose in relation to freezing orders imposed upon various members of the Quinn family by Irish Bank Resolution Corporation (IBRC) Limited. Justice Haughton<sup>51</sup> noted that two receivers were appointed to ensure compliance with freezing orders and the High Court had told the Quinn family that it expected the Receivers would get their full co-operation. The Receivers were in a special position as officers appointed by the court and have been dealing directly with the Quinn's over some four years<sup>52</sup>.

### Conclusion:

Although some companies survive receivership<sup>53</sup>, the majority struggle to survive the sale of their assets<sup>54</sup>, and for that reason a company should always consider the option of effecting a creditors' voluntary liquidation, as opposed to allowing the company to be forced into receivership or compulsory liquidation. Company officers need to bear in mind that in a position of insolvency their fiduciary duties are owed to the creditors, and allowing the company to be placed into receivership (as well as the consequential cost of that receivership) knowing that ultimately the company may face liquidation (and the potential high cost of that liquidation<sup>55</sup>) may be grounds for claiming that they are acting recklessly and in breach of their duty to act *bona fide* and in the best interest of the company.

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<sup>48</sup> Ibid at p. 110.

<sup>49</sup> This may arise where a store, division or part of a company is sold in receivership. As per Justice Pennycuik J. in *Re Mack Trucks (Britain) Ltd* [1967] 1 W.L.R. 780 at p. 786: "*I see no reason in principle why the appointment of a new managing agent on behalf of a company should determine existing contracts of service, unless, of course, the terms of service are such as to be inconsistent with the appointment of a new managing agent, e.g., a contract for employment of a manager.*"

<sup>50</sup> As per Section 11 of the Redundancy Payment Act 2003 statutory redundancy payment is calculated as two week's pay per year of service, plus one bonus week. All such payments are capped at a weekly threshold of €600.

<sup>51</sup> As reported in the Irish Times online edition dated July 26, 2016.

<sup>52</sup> In *Irish Bank Resolution Corporation (IBRC) Limited (In Special Liquidation), Quinn Investments Sweden Ab And Leif Baecklund v Sean Quinn and Others* (2011) High Court Record Number 5843P, members of the Quinn's family failed in their bid to have these freezing orders on their bank accounts below €50 million lifted.

<sup>53</sup> HMV was placed into receivership in January 2013, but re-opened some of its Irish stores in September of that year.

<sup>54</sup> In February 2010 *Hughes and Hughes bookstores* were placed into receivership and by April had been placed into liquidation. Similarly, in June 2015 *Irish Pride bakeries* were placed into receivership and by August that year the entire company was sold to *Pat the Baker*, with some of the factories being closed down.

<sup>55</sup> In 2007 the High Court queried the reasonableness of the professional fees of David Hughes, liquidator to the construction company *Denis Finn Ltd*, after he submitted a bill for €558,750 in respect of his fees, costs and expenses, plus the fees of his solicitors for the liquidation.