

THE LAST FLIGHT OF THE “PHOENIX”?

Since 2000, Downs on behalf of its clients has defined and clarified the sanctions available to creditors against directors who seek to abuse the privilege of limited liability, by continually seeking to trade upon the goodwill of companies, whom they have discarded after insolvent liquidation, by the process of creating of what is commonly known as “phoenix companies” i.e. companies with the same or similar name as previous companies.

We have been responsible for the two leading Court of Appeal Judgments in this area of law, firstly in “Ricketts –v- Ad Valorem Factors in 2003, and more recently in “Churchill –v- First Independent Factors and Finance Limited”.

These Judgments have confirmed that the Courts are determined to uphold the will of Parliament to strike at this abuse, not only to make directors personally liable for the debts of “phoenix companies”, but also criminally liable. We have so far obtained four criminal convictions by way of private prosecutions.

The full text of the Court of Appeal Judgments are available at:-

- <http://www.bailii.org/ew/cases/EWCA/Civ/2003/1706.html>
- <http://www.bailii.org/ew/cases/EWCA/Civ/2006/1623.html>

A copy of an article written by Counsel appearing on behalf of our client in “Churchill” is available at [“click”](#).

For further information regarding this area of law please contact Chris Millar on 01306 502225 or e-mail him [“click”](#).