



Arzinger 

**INSOLVENCY
PRACTICE**

INSOLVENCY PRACTICE



In a market economy the constant flow of capital to the most profitable branches is the objective and a natural process. This leads to redistribution of property from ineffective businesses to more successful and efficient ones. When experiencing a rapid decrease in demand for goods and services, mass failures in ability to perform obligations under loan agreements and a rise in credit rates, investors, owners, and managers of enterprises may often need to reorganize their business or enterprise, re-focus investment funds, and sometimes even close down one or more business entities.

The competent and professional application of insolvency law is a suitable and versatile vehicle for implementation of this sort of transformation. Insolvency is a convenient and lawful mechanism for the benefit of the client in an effort to solve many issues relating to the economic activity of enterprises. In Ukraine insolvency is regulated by the Law of Ukraine On Restoration of Debtor Solvency or Declaration of Bankruptcy, as well as by many other legislative and regulatory acts. Due to many reasons Ukrainian insolvency legislation might charitably be described as imperfect. It contains a great number of loopholes, providing additional advantages for either of the parties in a dispute. In such a severe and fluid environment there is only one recipe for success – a law firm with extensive experience working in the Ukrainian insolvency market, in-depth proficiency and knowledge developed throughout many years of practice, as well as a supple mind and unconventional approach to the implementation of projects.

OUR PRINCIPLES AND RELATIONSHIPS WITH CLIENTS

Relationships with clients within our insolvency practice are built, first of all, on confidence and mutual understanding.

Our core principle:

EACH CLIENT IS UNIQUE

An individual approach to each client enables us to find the unique solutions for solving the requested assignment.

WHY WE PROTECT OUR CLIENTS

- A careful and diligent approach is a must due to the specific character of the issues to be solved by our experts;
- The «insolvency» process is by any measure «a stressor» for an enterprise, as well as for its promoters;
- We realize that we deal with delicate matters and it of the utmost importance to do no harm.

THE WAY WE WORK

Before undertaking a project our experts – lawyers, financiers and insolvency managers carry out an exhaustive and precise analysis of your enterprise, its financial state, interrelations with its counteragents, the relevant situation, and due diligence of submitted documents.

Based on this analysis we suggest to you possible ways of accomplishing each individual project enabling you to achieve objectives in view of, and to the maximum benefit of, you, the client.





OUR SERVICES

WHO ARE OUR CLIENTS

Our clients in the insolvency practice are both debtors and creditors. In the Ukrainian market we represent the interests of companies of all forms of ownership – both domestic and international.

Most frequently we protect the interests of the following groups of clients:

- COMMERCIAL BANKS WITH FOREIGN CAPITAL;
- FOREIGN INVESTORS;
- DEVELOPMENT COMPANIES, PRIVATE INVESTORS, SUBCONTRACTORS AND OTHER PARTICIPANTS OF THE CONSTRUCTION SERVICES MARKET;
- STATE AUTHORITIES; AND,
- NATIONAL COMMERCIAL ENTERPRISES OF ALL FORMS OF OWNERSHIP.

In numerous insolvency cases we represent the interests of the State Tax Inspectorate and other state authorities, whereby recommended our insolvency managers act as estate administrators, liquidators and sanation managers in insolvency proceedings of enterprises of various forms of ownership.

INTERACTION WITH OTHER ARZINGER'S PRACTICES

In the course of our work our insolvency specialists actively cooperate with experts in our company specializing in other practice areas which allows for maximum efficiency in solving tasks set out by our clients. The closest cooperation occurs with our practice areas in Litigation, M&A, Corporate, and Banking & Finance.

OUR SERVICES INCLUDE BOTH, THE OVERALL «TURN KEY» SUPPORT IN INSOLVENCY PROCEEDINGS AND A COMPREHENSIVE PREPARATION OF AN ENTERPRISE FOR INSOLVENCY PROCEEDINGS, AS WELL AS A WIDE SCOPE OF PERIPHERAL SERVICES.

WE OFFER THE FOLLOWING SERVICES

- Financial analysis of an enterprise and recommendations concerning the most suitable ways of its liquidation – according to general procedure or via insolvency proceedings;
- Consultations on Ukrainian insolvency law and peculiarities of its application;
- Consultations on peculiarities of various insolvency procedures available in Ukraine;
- Providing the services of highly qualified insolvency managers (as estate administrators, sanation managers and liquidators);
- Economic, legal and social expert analysis;
- Development of a project implementation plan;
- Conducting «turn key» insolvency proceedings;
- Representing and protecting clients' interests before judicial, tax, regulating and law enforcement authorities;
- Realization of the insolvent enterprises' property;
- Development and implementation of hostile acquisition repulsion schemes;
- Conducting M & A procedures;
- Repayment of non-performing loans;
- Liquidation according to general procedures with deregistration within all state agencies; and,
- Rendering services regarding streamlined liquidation of an enterprise.



OUR CREDENTIALS AND OUR PROJECTS

Arzinger's insolvency experts have extensive experience of successful work in the field of crisis management.

Since 2000 our insolvency managers have implemented more than 300 projects on insolvency and out-of-court liquidation of enterprises of various forms of ownership including enterprises with state-owned ownership in excess of 25%.

Today we manage insolvency projects all over Ukraine.



It is worth mentioning that our experts are experienced in conducting all types of insolvency procedures. Among them – projects realized according to both, a general procedure, the most labor intensive and lengthy, and according to simplified procedures such as absent debtor insolvency, and owner instituted insolvency.

PROJECTS SUCCESSFULLY IMPLEMENTED BY ARZINGER'S INSOLVENCY SPECIALISTS:

REORGANIZATION OF OJSC «GAMMA» IN ZAPORIZHZHYA OBLAST SINCE 2001 TILL 2006

During the insolvency proceedings significant wage arrears were repaid, an amicable settlement agreement with creditors was concluded and the state-owned shareholding was privatized.

REORGANIZATION OF THE OJSC «LYSYCHANSKNEFTEORGSYNTEZ»

Our experts took part in development and implementation of the reorganization plan of JSC «Lysychansknefteorgsyntez» – a major Ukrainian refining company. The insolvency process lasted over 12 years and included several cases, the first of which was terminated by amicable settlement agreement between creditors, and the second ending in liquidation of the company. A competently performed reorganization procedure enabled the client to protect a refining complex owned by the Tumen Oil Company against the hostile intentions of certain creditors, considerably decreasing accounts receivable and retaining the plant's team thus creating a new profitable company - CJSC «LINIK» controlled by a majority owner.

LIQUIDATION OF CJSC «ZHOVTNEVOE ENTERPRISE OF HEAT SYSTEMS» SINCE 2002 TILL 2006

The project resulted in redemption of accounts payable in the amount of UAH 5,400,000.

LIQUIDATION OF JSC «ZAPOROZHRYBA», SINCE 2002 TILL 2004

These insolvency proceedings resulted in redemption of accounts payable to the bank «Slavyansky» in the amount of UAH 2,000,000.

SANATION OF JSC «PRISHYBSKY CEREAL PRODUCTS PLANT»

Within the scope of this project all wage arrears were paid off, all tax liabilities to the State Tax Inspectorate as well as the State Pension Fund and Social Insurance Funds in the amount of UAH 1,000,000 were satisfied.

LIQUIDATION OF A GROUP OF COMPANIES WITH FOREIGN CAPITAL

Currently our experts are managing projects regarding liquidation of a group of subsidiary companies incorporated in Ukraine by foreign investors. Based on the results of the firm's analysis our experts have concluded that liquidation of the enterprises through an owner instituted insolvency procedure would be the most suitable course of action in this case. This strategy was approved by the client and is being successfully implemented.

EXPERTS



Alexander Serebryakov

Head of Insolvency Practice
Insolvency Manager
Member of the All-Ukrainian Civil Organization
«Crisis Managers Union of Ukraine»

Oleksander.Serebryakov@arzinger.ua



Pavel Kovalev

Head of the structural
subdivision of insolvency practice
in Zaporizhzhya

Pavlo.Kovalyov@arzinger.ua



Sergiy Shklyar

Insolvency manager, lawyer, attorney-at-law

Sergiy.Shklyar@arzinger.ua



Larisa Nazarenko

Insolvency manager

Larysa.Nazarenko@arzinger.ua



Alina Korovina

Insolvency manager

Alina.Korovina@arzinger.ua



Alexander Matrosov

Insolvency manager, lawyer

Oleksander.Matrosov@arzinger.ua



Anatoliy Gorlenko

Lawyer

Anatoliy.Gorlenko@arzinger.ua



Irina Batovskaya

Financial expert

Iryna.Batovska@arzinger.ua

OUR RECOMMENDATIONS AND INFORMATION FOR REFLECTION

What are the key factors which require consideration of insolvency proceedings?

INTERNAL

The basic internal reasons leading an enterprise to insolvency are:

- Inconsistent and inefficient policy of the owner;
- Incompetence of managers; and,
- Unskilled personnel.

EXTERNAL

- Recession in a world economy;
- Non-market economic policy and inefficient taxation system;
- Low level of legal regulation of economic and political processes, including a lack of property rights protection instruments; and,
- Unfair competition practices.

The reasons for insolvency of an enterprise may be varied but one of the main reasons is the inability of an enterprise to work cost-effectively under ongoing market conditions. This reason is one which entails new legislative regulations that are at the same time a response to changes in the economic system of the state. These regulations are designed to expel from the economic cycle individuals and business entities unable to deliver high profitability of production, as well as to restore solvency of enterprises suffering a temporary financial crisis.

Owners of an enterprise should also take into account the fact that if somebody is interested in an enterprise – financially or economically, the mala fide entrepreneurs, having turned the insolvency law to their advantage in insolvency proceedings, can gain control over an enterprise and procure advantages for themselves with regard to redistribution of assets. Only highly qualified and experienced experts can resist such practices.

Moreover, recently the activity of the State Tax Inspectorate has become more intensive, and it increasingly turns its particular attention to enterprises undergoing insolvency proceedings. The authorities continue to try to reveal cases of factious insolvency, fabricated insolvency or concealment of insolvency for the purposes of bringing owners and officials of these companies under legal liability to the authority.

We would like to recommend our present and future clients to carry out financial analysis of an enterprise regularly in order to reveal initial indicators of future insolvency and current inefficient practices. When the first signs of insolvency emerge or interrelations with counteragents become worse, we recommend engaging specialists who will help you find rational and beneficial possibilities for you to solve a set of tasks and emerging problems through development and implementation of individually prepared plans that are both strategic and tactical.



Head Office

Business Centre Eurasia
75, Zhylyanska st., 5th floor, 01032, Kyiv, Ukraine
tel: +38 044 390 55 33; fax: +38 044 390 55 40

Lviv Office

6, Generala Chuprynky st., office 1, 79013, Lviv, Ukraine
tel: +38 032 242 96 96; fax: +38 032 242 96 95

Arzinger 