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Q&S CONVEYANCING UPDATE

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WHAT HAPPENS IF I BECOME A BANKRUPT?

We were recently contacted by a real estate agent who was experiencing financial difficulties as a result of a deal entered into in more buoyant times that did not quite go as planned and had now come back to bite him. He was facing bankruptcy.

Where an individual is unable to pay their debts when due and payable then their creditors may commence bankruptcy proceedings against them.

Section 26 of the *Property Agents and Motor Dealers Act 2000* states that an individual "affected by bankruptcy action" is not a suitable person and cannot hold a licence.

"Affected by bankruptcy action" not only means that an individual is bankrupt but also includes where an individual has entered into a Personal Insolvency Agreement.

Bankruptcy usually lasts for 3 years and in some instances can be extended. This is a significant time that an agent is unable to hold a licence.

A Personal Insolvency Agreement is a formal agreement entered into between an individual and their creditors that usually records a payment of less than 100 cents in the dollar either by assigning all their assets to their Trustee or by payment of a lump sum or by instalments to the Trustee for distribution to the creditors.

An extra advantage of a Personal Insolvency Agreement, apart from the avoidance of bankruptcy, is that once the assignment or payments have been made and the terms of the Personal Insolvency Agreement satisfied the Licensee can then reapply for a real estate licence. The terms of the Personal Insolvency Agreement may be satisfied in months rather than years.

Anyone experiencing significant financial difficulties should consider a Personal Insolvency Agreement. Maybe you can avoid bankruptcy and be back on the road to financial recovery years earlier.

**Helena Mrmos, Solicitor,
Commercial Litigation
Quinn & Scattini Lawyers**

If you would like to ask any question about this or any other similar issue Helena may be contacted on 3821 2766 between 8.30am to 5pm Monday to Friday.

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our team of experienced lawyers practice in Business Law, Commercial Litigation,
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