

## Appendix 1 – IR Funding Submission form, including a completed example.



# LIQUIDATORS/OFFICIAL ASSIGNEE FUNDING SUBMISSION

**Bankrupt Estate of**

## How to Complete this Form

The information requested seeks to identify whether the funding application is a sound investment of public funds. The information provided will be used to determine the request, and also as a guide for those dealing with the case. It is important for IR to understand the funding request in the context of the ultimate recovery aim. Please take your time to provide the information. If you feel it would be relevant to provide additional information please feel free to do so. It is important however you use this form and its format rather than refer to a covering letter.

The words in the shaded boxes are for explanation and should be overwritten. The green shaded boxes are for completion by the Applicant, the orange shaded boxes by IR-LTS and the blue shaded by the appropriate Collections case officer.

## Funding

Goal	To proceed to assess the notices of objection to the notice of cancellation of irregular transaction pursuant to s 206 of the Insolvency Act 2006.
Claim Provision	Pursuant to s 206 of the Insolvency Act 2006 – transfer of bankrupt's 25 shares in XYZ to ABC on or about 5 March 2013.
Amount requested	a. Legal opinion \$6,000 + disbursements b. To send an initial letter \$1,500 + GST + disbursements c. Estimated depending on the legal opinion \$85,000 + GST + disbursements
Total funding	As stated above. A total amount required is unavailable at this stage.
Prior funding	None
LTS	<i>What are your views of the estimate?</i>
Collections	<i>Are there any other considerations? For example how much have we invested in the applicant on other cases in the last 12 months?</i>

## Creditors

Est Total Creditors \$1,709,929.94

Est Pref Claims	\$20,254.63
IRD's Pref Claim	\$20,254.63+Applicant creditor's costs of \$5,277.50

Collections *Have you checked the figures? Are you happy with the amount of our claim?*

## Time Estimates

We cannot comment on how long we think it will take before the ultimate aim of the funding is achieved.

LTS *Do you have any comments on the time estimates?*

Collections *Do you have any comments on the time estimates?*

## Cost Estimates

The Official Assignee's (OA) solicitor has advised that further information to assess the notices of objection received from ABC will be required. They need to know the values of the home and business that were apparently agreed to be divided as part of relationship property at the time of separation and as at 2009 so we can assess the value of what the wife got vs what she otherwise would have gotten.

In terms of the proceeding, it is clear it will need to be progressed in the Family Court as while there is no written s 21 agreement, they allege an oral agreement and that will need to be determined in the Family Court.

On a very rough estimate, the cost to prepare the proceeding and advance it to a hearing will be anywhere from \$60,000 to \$85,000 plus GST and disbursements. It may be less if the evidence proves very clear. It may be more if say the OA needs to brief expert valuation evidence to prove the case.

OA's solicitor suggested that prior to commencing proceedings, they write to ABC to outline the OA's position. The letter will cost around \$1,500 + GST + disbursements.

OA's solicitor who would handle this matter is from ????. At this stage, OA's solicitor has advised that a legal opinion should be obtained on the merits of the claim. This would cost about \$6,000 plus disbursements.

LTS *Are you satisfied the cost estimate is accurate? Can you reference this to any other applications of a similar nature?*

Collections *Are there any other considerations? Are you happy with the experience of the people dealing with the case?*

## The Facts

The OA's investigation revealed a possible avenue of recovery for the estate. On or about 5/03/2013, the Bankrupt transferred his 25 shares (225%) in XYZ to another party. No consideration was paid for the Bankrupt's shares. The share transfer was made within 2 years immediately before the adjudication. The OA in this regard filed a Notice to Cancel Irregular Transaction under section 206 of the Insolvency Act 2006 at the High Court and served it to the Bankrupt and the other party. The OA sought to recover the 25 shares transferred or the value of the shares at the time of the cancellation of the irregular transaction.

The only significant asset of XYZ is the family home of the bankrupt and ABC at 123 Street. The OA understands that ABC and their children live in the home.

The Bankrupt had also transferred his remaining 25 shares (25%) in XYZ to DEF at the date of adjudication on 27/03/2014. No consideration was paid for the Bankrupt's shares. This transfer is void against the OA.

The Notices of Objection and grounds of objection must be assessed and OA will need to take advice on the best way to proceed.

Collections

*Are there any other relevant facts?*

## Evidence

The Assignee has obtained some underlying source documents but understand that further documents may be required to prove the claim. In particular, evidence regarding the valuation of the relationship property (being the home and business) as at 2005 and 2009. This further evidence may be required to determine the quantum of the claim.

LTS

*Do you have any additional comments on the evidence?*

Collections

*Do you have any additional comments on the evidence?*

## Technical Issues

Not known at this stage.

LTS

*What is your view? Please confirm your experience of advising on cases of this nature.*

Collections

*What is your view? Do you understand the technical issues, if not it is fine to say so*

## Defendants details and Means

As stated above - the significant asset of Trinity Street Properties Limited is the family home of the bankrupt and Mary at 30 Trinity Street. The OA understands that Mary and their children live in the home.

LTS

*Are you satisfied with the level of enquiry into the means of the Defendant?*

Collections

*Do you think defendants will actually pay up?*

## Risk

If the legal advice obtained by the OA confirms a claim, there will be the usual litigation risk to take into account. At this stage, other risks are not yet known.

LTS

*What is your view of the risk and do you see any additional risks?*

Collections

*Have you anything to add?*

## Experience

The OA has had to deal with claims relating to purported relationship property agreements before. He and his lawyers therefore have experience dealing with such claims.

LTS  
Collections

*What is your experience of in advising on claims of this nature*

*What is your experience of running claims of this nature?*

## Please include

Current R&P  
St of Affairs

N/A

N/A – the bankrupt had not submitted a completed SOA. He is currently being prosecuted for several offences.

## Recommendations

Before any decision is made on this funding request, the OA recommends that funding be provided for a legal opinion to be obtained on the merits of the claim.

LTS  
Collections  
LMU

*Do you have any views on the recommendation? Please ensure that you send a copy of this form to LMU. Put the name of the recipient and the time of receipt in the red box*

*What is your recommendation? **Please also send a copy of this form to Paul Sparrow, Debt and Recover Specialist Takapuna***

*Have LMU received a copy? Put name of recipient and time of receipt here*

## Delegations

Team Leader  
Manager

*What is your recommendation and do you approve the funding?*

*What is your recommendation and do you approve the funding?*

## Contact Details

Applicant

LTS

Collections