

Tread carefully if you're a supplier dealing with receivers

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IN TIMES of recession, receiverships increase as businesses default on their loans. Businesses that supply goods or services to a company in receivership need to be very careful in their dealings with receivers.

A receiver's primary duty is to exercise his or her powers for the benefit of the secured creditor who appointed the receiver.

Although receivers must exercise their powers in good faith and for proper purposes, they're only required to consider the interests of unsecured creditors, such as suppliers, if doing so doesn't conflict with their duty to the secured creditor.

Unless appointed by the court, a receiver is only personally liable to pay specific costs arising during the receivership. Everything else is a debt owed by the company, and payment of unsecured creditors is

expense and be paid by the receiver.

The situation that requires particular caution is supplying goods or services under a contract formed before the receivership. Receivers know how to avoid personal liability when dealing with existing contracts. You, on the other hand, could be in for trouble.

It's important to check the terms and conditions of your contract. You might be able to cancel simply because your customer has gone into receivership, regardless of whether you're owed money.

If cancellation isn't an option, make sure you get a written undertaking from the receiver that you'll be paid for any further goods or services you supply in accordance with the existing contract. Better yet, see if the receiver will enter into a new

contract with you to supply goods or services. If the receiver refuses to confirm that you'll be paid or offer a new contract, see your lawyer about ending the existing contract.

Receivers are unlikely to be interested in making payments under existing contracts unless the goods or services are essential or there's money in it for the secured creditor they're appointed to protect. That being the case, you might be able to negotiate payment for any outstanding debt owing at the time the receivers were appointed, before supplying further goods or services.

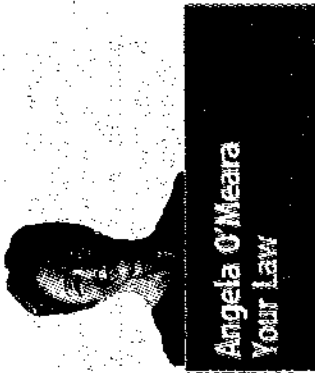
There are some options available if you're unhappy with the conduct of the receivership. A creditor or any other person with an interest in the property in receivership can request copies of the receivers' financial reports

and monitor the receivership. If the company owed you money at the time of receivership, you might be able to offset that debt against any debt you owed the company at the same time.

If you're owed money, putting the company into liquidation is also an option. A liquidator will act as a watchdog, and has powers to set aside certain transactions that unfairly favour one creditor over another.

Understanding what receivers are appointed to do, and when they will or won't be personally liable to pay you for goods or services you supply during receivership, will help to protect your business from being taken advantage of.

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the last priority. Receivers are personally liable for expenses such as employees' wages or salaries, as well as the rent under leases that haven't been terminated. They are also personally liable for any new contract entered into during the receivership, although they can impose limits on their liability.

If a receiver is personally liable for a debt, the debt would usually be treated as a receivership