

in brief from
RAINEY COLLINS
LAWYERS

Autumn 2009

WELCOME

to the Autumn edition of Rainey Collins In Brief newsletter.

In this edition we focus on 5 positive tips to help lessen the impact of the recession, and introduce our free, yes that's right, FREE, 20 minute initial property consultations. We also highlight our OE gift packs for those embarking on their OE, a guide to the redundancy process, protecting your family, franchising tips as well as useful and helpful articles and seminars.

These articles and others are available on our website www.raineycollins.co.nz

I trust you find the information of interest and value.

James Johnston
Chairman



JAMES JOHNSTON

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5 Tips To Help With The Current Financial Climate

We know at the moment it is difficult to escape talk of the "Recession", but we think that there are plenty of positive things you can do to ensure that you lessen the effect of the current economic climate. We offer five tips to help you protect the assets you already have and if appropriate, to get your affairs organised:

1. Have a look at your mortgage:

John and Sally signed up for their mortgage 2 years ago on a fixed rate for 4 years when interest rates were at their peak. When interest rates started dropping they thought about breaking their fixed rate... but kept putting it off. It was not until the rate had dropped 4% that they contacted their bank, only to learn that break fees would cost them tens of thousands of dollars. If they had acted sooner they would have saved themselves a considerable sum.

It pays to keep in regular contact with your bank or broker. In the current climate, banks and other institutions are having to be competitive and want to hold onto the customers they already have. Are you getting the best rate from your bank? You should talk to your bank to see if there is anything you should be doing differently, or any better rates you can take advantage of. It may be as simple as staying on a floating rate for longer than you usually would. The key is to communicate with your bank and make sure you are getting the best deal possible. What you want to avoid is putting your hard earned money towards unnecessary interest on your mortgage repayments every year.

You do need to be mindful of break fees on your current mortgage, the ever-changing official cash rate and dropping interest rates. If you are really struggling, ask your bank for a mortgage holiday (a break from making mortgage repayments) for a couple of months while you get back on your feet.

2. Consider setting up a Trust to protect what you already have:

It is more important than ever to protect the assets you already have. Putting assets (e.g. your family home) into a family Trust "ring fences" those assets and protects them from creditors, relationship breakdowns, and potentially wasteful future partners of your children. If you already have a Trust, you should talk to your lawyer to ensure you are completing a "gifting programme" so your assets get the full protection a Trust can offer.

3. Make sure your insurance is still suitable for your circumstances:

See an insurance broker or financial advisor to ensure your current insurance is still suitable. Not only could this save you money in premiums, but it will also ensure that you protect yourself and your family during these tough times.

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For example, many people still have an agreed value on their car, which is now worth far less than what it was when they first took out the policy, meaning that the premiums might be higher than they need to be. It is also important to make sure your medical and life policies still suit your needs and that you have told your insurance company about any changes in circumstances you may have had. The last thing you want is for a claim to be denied when you really need it to be paid.

4. Get a property manager for your rental property:

Although you may think this is an extra outgoing you can't afford, appointing a property manager for your rental property could save you a lot of money in the long run. Property managers will ensure that rent is increased with the market and will save you the job of informing tenants of increases and chasing up non-payment of rent. And of course there is the added bonus of having someone else dealing with the dripping taps and broken cupboards.

5. Make sure your Will is up-to-date:

Ensure you have an up-to-date Will. The last thing you want is to work all your life building up and protecting your assets, only for them to end up with someone you didn't intend them to. Your Will spells out where you would like your hard earned assets to go on your death. Having an up-to-date Will ensures that your family isn't left with a mess to deal with on your death and ensures that your wishes are carried out. It is probably the most important part of protecting your assets.

There has been enough talk of doom and gloom in the last few months, so it's time for you to be proactive and ensure that you are not spending money unnecessarily and have protected yourself and your family as much as you can.



JAMES JOHNSTON

FREE 20 Minute Initial Property Consultation

You can do a lot in 20 minutes:

- Check your emails and send replies
- Dash to the shop for a loaf of bread
- Have a latte with friends and get back to the office
- Convince yourself not to go to the gym
- Do yesterday's urgent work.

Life is pretty hectic these days and we know it. That is why Rainey Collins is offering a 20 minute FREE property consultation to any of our clients who are considering buying a house but do not know what to do next. One of our Property Team members will have a relaxed chat with you about LIM reports, finance, signing contracts, terms and conditions, etc. Hopefully this will give you the confidence to move forward with your house buying plans ... AND it won't cost you a cent.

Call our Property Team and we will send you out some of our "20 Minute Free" cards. Even better, come up and see us and we could find 20 minutes for a coffee with you!



FINTAN DEVINE

Referrals Welcome

Successful professional businesses must have plenty of repeat work and referrals to survive and prosper ... and to reflect that they are doing the right thing in delighting clients with their service.

Rainey Collins is proud to confirm that our recent review of new instructions shows that the majority of our new instructions from 1 January 2008 came from repeat work from existing clients, or from referrals from clients and other referrers, including accountants, banks and other financial organisations. We are most grateful for both the support and the votes of confidence.

If you have the need at any time to assist someone by pointing them in the direction of an experienced team who will go out of its way to delight them with our service, we assure you we will do everything possible to make them grateful to you for the referral.



PETER JOHNSTON

FREE SEMINARS Held At Rainey Collins

Free seminars are held regularly on Employment & Family Issues, Asset Protection, Business Succession, Contracting and Intellectual Property, Wills, and Buying and Selling a Business. See our website www.raineycollins.co.nz in the 'Your Resources' section or call us on 0800 733 424 for details.



RACHEL VOKES

Guide To The Redundancy Process

Given the current uncertain financial times, if you find yourself either being made redundant or having to make staff redundant then you need to know what the process should be. Here are the steps that should in general be followed if an employer is contemplating a redundancy situation. Please note that if the employment agreement outlines a process, then that must be followed in addition to the points listed below.

1. The employer should consider the position and make a tentative decision on what needs to be done and why.
2. Any staff who may be affected need to be spoken to individually unless that is impractical (such as a large workforce).
3. They should be told of the purpose of the meeting.
4. At the meeting they should be told that because of financial or other reasons some changes are being looked at and that it is possible that their position may have to change.
5. Staff should be given the details of what is proposed.
6. Staff should be asked for their input into the process.
7. Staff can make comments and ask questions at the meeting, but also should be given an opportunity to respond by a set date (say a week away) with any comments and suggestions they have.
8. Staff should be advised that they may want to get a representative to give them advice.
9. The employer must consider all the comments received throughout the process.
10. Following receipt of the comments the employer should make any further investigations necessary.
11. Once those investigations have been completed then the employer has to make decisions on what is to happen.
12. The employer should then set up a further meeting for each individual (if possible).

The employer should also remind the employee that they can bring a representative to the meeting if they wish to do so.

13. The employer should advise each staff member (individually if possible) at the meeting what the decision is.
 14. If the position is to be totally redundant then the employer may give notice of redundancy.
 15. The employer should advise each employee being made redundant what their redundancy payment entitlements are (if any, and in accordance with their employment agreement terms).
 16. If there are some hours available the employer may offer staff reduced hours or roles decided on and give them a chance to consider and get their reply (the employer should set a time frame ... say a week later).
 17. If staff reject the hours or roles offered then the employer should advise them that their position is redundant, and give them written notice of that and the notice period ... and confirmation that there is no redundancy payment or whatever is in accordance with their employment agreement.
 18. Employers should tell staff that they can apply within 20 days to Work and Income for special financial assistance.
- Remember that an employer cannot disguise a performance or disciplinary issue as a redundancy. The reasons for redundancy must be genuine.



ALAN KNOWSLEY

Protecting Your Family

Dynamics in families and problems in relationships can cause all sorts of problems and create worry for everyone involved. For some family problems there are ways to avoid the problem in the first place, for other issues knowing your rights and how to implement them can reduce some of the stress.

Are you worried about your daughter or son who has just moved in with a new partner? For peace of mind you might want to know that if the relationship ends, your child isn't going to lose the house they already owned or the inheritance Uncle Henry gave them. A Contracting Out Agreement is the way to protect property and keep it separate, in the event the relationship doesn't work out.

The addition of children to families can be exciting but can also create a whole new set of issues. If the parents separate, are you as a father or mother, grandparent or aunt/uncle still going to be able to see the children? If you're having trouble having contact or seeing a child in your family (who is younger than 16) then you can apply to the Court for an Order allowing you to have contact with the child.

We all know domestic violence is not acceptable, but what do you do about a friend or family member who seems to be being mistreated (physically or mentally) by their partner or ex-partner? If they've had a personal relationship and are being subjected to abuse then they can apply for a Protection Order, to keep themselves and/or any children safe. With a Protection Order in place they can decide what, if any, contact they want to have with the abusive person.

A family lawyer can assist you and your family with any of the above problems, reducing the worry and stress and allowing you more quality in the time you enjoy with your family.



FIONA MCGEORGE

Considering Franchising?

Five things to consider if you are thinking about buying a franchise

1. Does the Franchisor (the seller) own the Intellectual Property you are buying?

When you buy a franchise you buy access to the existing intellectual property of the business in question. In most cases it is the intellectual property in the brand or operating systems that makes a franchise less risky than starting from scratch. Therefore, make sure it is the Franchisor's to sell. Consult a professional advisor to check IP ownership for you.

2. Are the revenue targets reasonable, particularly given the current economic climate?

A franchise might seem like a safer bet than a start-up business in the current environment. However, carefully

consider the revenue targets outlined in your franchise agreement and be particularly mindful of the implications of not meeting them. In some circumstances a failure to meet targets can result in a breach of your franchise agreement, which could leave you without a business!

3. Carefully consider previous financial documents in light of the current economic environment.

While prior financials are important, be aware that they will not always be a reliable source of information for ensuring ongoing viability given the current economic climate.

4. Check that your major competition is not part of the same franchise.

Depending on the nature of the business involved it may not survive an identical franchise operating in close proximity. Make sure you have a territorial right to exclusive use of a geographical area.

5. Obtain independent legal advice in relation to the franchise agreement.

Once the agreement is signed, the parameters, good or bad, are set for your business. Your success therefore relies on a favourable and fair agreement. Have it checked out before embarking on your business venture.



KIRSTEN FERGUSON

OE Gift Pack Vouchers

Are you or is someone close to you contemplating an OE? Whilst it is a kiwi tradition we have noticed that more and more young New Zealanders are approaching us to sort their affairs out before they leave the country for an extended period on their OE. In response we are delighted to now offer an OE gift pack voucher. By purchasing an OE gift pack voucher for yourself or another, the intending traveller can contact us direct and we can prepare an up to date will and relevant powers of attorney prior to departure. You can sort out your affairs and have peace of mind knowing that these important documents have been prepared.

To order your OE gift pack voucher, please call us on (04) 473 6850



CIARA LUI

Useful and Helpful Articles

These articles and many more are available free to download from our website
www.raineycollins.co.nz.

Just click onto the articles button and choose the area of law you are interested in.

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