

Announcement of the Supreme People's Court of the People's Republic of China

The Official Reply of the Supreme People's Court on How to Handle a Case Where a Creditor Applies for Bankruptcy Liquidation against a Debtor Whose Relevant Persons' Whereabouts are Unknown or Whose Asset Conditions are Unclear, which was adopted at the 1450th meeting of the Judicial Committee of the Supreme People's Court on August 4, 2008, is hereby promulgated, and shall come into force as of August 18, 2008.

August 7, 2008

Official Reply of the Supreme People's Court on How to Handle a Case Where a Creditor Applies for Bankruptcy Liquidation against a Debtor Whose Relevant Persons' Whereabouts are Unknown or Whose Asset Conditions are Unclear

(Adopted at the 1450th meeting of the Judicial Committee of the Supreme People's Court on August 4, 2008, Judicial Interpretation No.10 [2008] of the Supreme People's Court)

The Higher People's Court of Guizhou Province:

Your Request for Instructions on Whether a Creditor May Apply for Bankruptcy against an Enterprise Legal Person Whose Business License Has Been Revoked When the Persons Responsible for Liquidation Have Failed to Apply for Bankruptcy to the Court after the Enterprise's Business License Was Revoked (No.1 [2007] Civil Division II, Bankruptcy, HPC Guizhou) has been received, and after discussions, our official reply is as follows:

Where a creditor applies for bankruptcy liquidation against a debtor whose relevant persons' whereabouts are unknown or whose asset conditions are unclear, in conformity with the provisions of the Enterprise Bankruptcy Law, the people's court shall accept the application according to law. The acceptance of such an application shall not be affected by whether the debtor can submit to the people's court a statement of asset conditions, a checklist of rights and debts and other relevant materials according to paragraph 2 of Article 11 of the Enterprise Bankruptcy Law.

After accepting the above-mentioned case of bankruptcy, the people's court shall designate a bankruptcy administrator to recover the debtor's assets according to the relevant provisions of the Enterprise Bankruptcy Law; where the debtor indeed has no assets available for distribution after liquidation according to law, the people's court shall declare the debtor bankrupt and terminate the bankruptcy procedures; where within two years after the termination of the bankruptcy procedures, it is found that there is any asset recoverable or any other asset available for distribution according to law, the creditor may request the people's court to make a supplementary distribution.

Where a relevant person of the debtor fails to perform his legal obligation, the people's court may subject him to the corresponding legal liability according to the relevant legal provisions; where his conduct has caused the impossibility of liquidation or any losses, and a relevant right holder brings an action to require him to assume the relevant civil liability, the people's court shall support the action according to law.