



# Phoenixing Explained

Buying Your Business Back From the Liquidator -- The  
Legal Way

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Prepared for: Company Directors & Business Owners  
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# Is buying your business back from the liquidator legal?

Dear Director,

A fair question we get asked a lot is whether buying your business back from the liquidator counts as illegal phoenixing.

Short answer: no -- not when it's done properly.

Here's the difference between the illegal version and the legal, transparent version we coordinate, and why the strategy below is on the right side of the line.

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## What phoenixing actually is

Illegal phoenix activity is when a director winds up a company to walk away from its debts -- especially ATO debt and unpaid employee entitlements -- and then resurrects the same business under a new entity, usually by quietly shifting the assets across for nothing or next to nothing.

The problem is the asset transfer at undervalue. The director didn't pay for the gear. Creditors got nothing. The new company keeps trading as if the old debts never existed.

ASIC, the ATO, and the courts treat that as fraud against creditors. Penalties are serious -- director banning, personal liability, criminal charges, and creditor-defeating disposition claw-backs that can unwind the whole transaction years later.

That is not what we do.

## Why this strategy is different

The strategy we coordinate is the legal, transparent version -- a recognised commercial outcome, not a workaround.

When we coordinate a Creditors' Voluntary Liquidation (CVL) with a buy-back, the process is:

- The company is wound up properly through a registered liquidator.
- The liquidator takes control of all the assets.
- The assets are independently valued at fair market price.
- The liquidator offers the assets for sale -- often to the open market, not just to the director.
- If the director wants to buy them back, they pay full fair market value, in cleared funds, like any other arm's-length buyer.
- Every dollar paid for the assets goes back to creditors.

The director ends up with the gear needed to keep operating. Creditors get the best return the assets can fetch. The liquidator signs off that everything was at arm's length. Nobody walked away with anything for free.

## The Nature of Our Role

Resolve provides administrative support, coordination, and acts as your point of contact. We are not licensed to provide financial, legal, or investment advice -- where that's needed for your matter, we coordinate the right specialist practitioners (accountants, solicitors, registered liquidators, trustees) around you.

That way you get the experience and firepower of a full team -- with us holding the whole picture together so nothing falls through the cracks.

*Done properly, a CVL with a buy-back is a recognised commercial outcome -- transparent, valued at arm's length, and signed off by the liquidator. It's the legal way to keep a viable business operating while creditors get the best return the assets can fetch.*

— Resolve Business Solutions -- Over 35 Years Helping Australians Through Financial Distress

## Next Steps

Director, if you'd like to talk through whether this strategy fits your situation, the earlier we look at it together, the more options stay on the table.

Whenever you're ready, you can:

- Reply to this email
- Call us directly on 0499 499 899
- Email us at [advisor@resolve.net.au](mailto:advisor@resolve.net.au)

We'd rather answer your questions now than have you wonder.