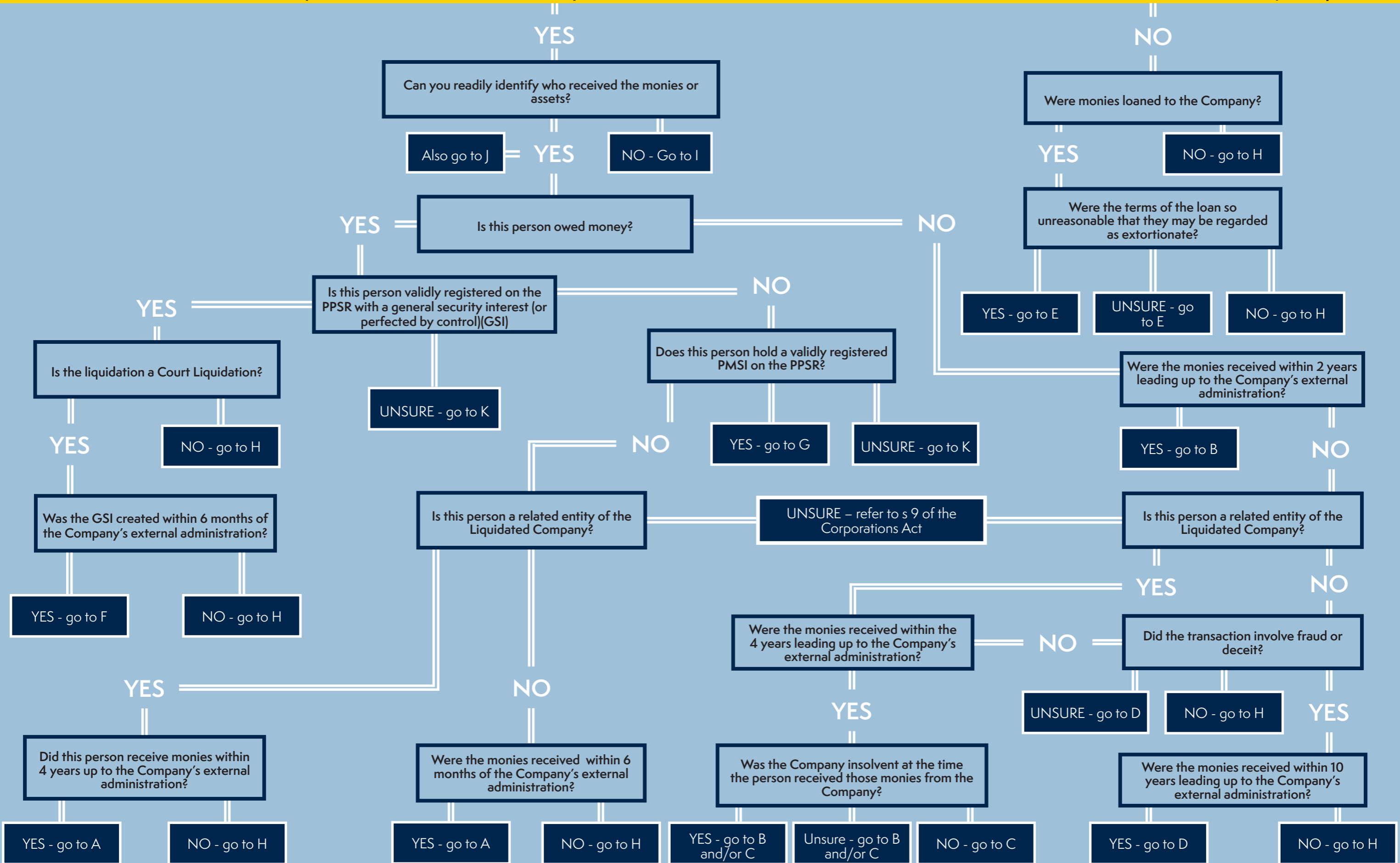


Have you identified money or assets transferred from, or on behalf of, the Company?



Answers

A: Then it is likely that you received an unfair preference payment: s 588FA of the Corporations Act.

However, this is not the end of it. The Liquidator still needs to prove that:

1. The Company was insolvent when you received those monies or goods; and
2. You received more than what you otherwise would have received in the Liquidation. In other words, you received a preference, priority or advantage over other creditors.

If the Liquidator can satisfy these requirements, all is not lost. You may still have an array of defences at your disposal. Information on these defences can be found here: svpartners.com.au/voidables. Alternatively, please call SV Voidables on 1800 246 801.

B: Then it is likely that you received an uncommercial transaction payment: s 588FB of the Corporations Act.

However, this is not the end of it. The Liquidator still needs to prove that:

1. The Company was insolvent when you received those monies or goods; and
2. The net effect of the receipt of those monies or goods by yourself caused a detriment to the Company.

If the Liquidator can satisfy these requirements, all is not lost. You may still have an array of defences at your disposal. Information on these defences can be found here: svpartners.com.au/voidables. Alternatively, please call SV Voidables on 1800 246 801.

C: Then it is likely that you received an unreasonable director-related transaction payment: s 588FDA of the Corporations Act.

However, this is not the end of it. The Liquidator still needs to prove that the net effect of the receipt of those monies or goods by yourself caused a detriment to the Company.

If the Liquidator can satisfy these requirements, all is not lost. You may still have an array of defences at your disposal. Information on these defences can be found here: svpartners.com.au/voidables. Alternatively, please call SV Voidables on 1800 246 801.

D: Then it is likely that you received a fraudulent or deceitful disposition: ss 588FC and 588FE(5) of the Corporations Act.

However, this is not the end of it. The Liquidator still needs to prove that:

1. The Company was insolvent when you received those monies or goods; and
2. The purpose of the transaction was to defeat, delay, or interfere with, the rights of any or all of its creditors on a winding up of the Company.

If the Liquidator can satisfy these requirements, all is not lost. You may still have an array of defences at your disposal. Information on these defences can be found here: svpartners.com.au/voidables. Alternatively, please call SV Voidables on 1800 246 801.

E: Then it is likely that the company received an unfair loan from you: s 588FD of the Corporations Act.

However, this is not the end of it. The Liquidator still needs to prove that:

1. The interest on the loan was extortionate; or
2. The charges in relation to the loan are extortionate.

It has been said that the word extortionate means that it must be "exorbitant, or grossly excessive, or characterised by extortion ... it is not enough ... that the interest rate charged is higher than the market rate."

F: Then it is possible that your security interest may be set aside pursuant to s 588FJ of the Corporations Act.

If that is the case, then it is possible that you have also received an unfair preference, therefore go to A.

G: A Liquidator may still pursue you for unfair preference payments in circumstances where that portion of your rights and interests in the Company is unsecured. In this regard refer to A.

Therefore, an assessment of the secured versus unsecured portion of your rights and interests is required, pursuant to s 588FA(2) of the Corporations Act.

Information on these issues can be found here: svpartners.com.au/voidables. Alternatively, please call SV Voidables on 1800 246 801.

H: Then it is likely that you have received no voidable transactions under the Corporations Act.

I: If the 'who' is unknown or not readily known, a number of suggested actions may help to identify same, like: conducting a bank trace on monies, reviewing books and records (including the accounting software or emails), performing public searches, issuing 530A, 530B or 530C notices under the Corporations Act and potentially conducting a public examination under 596A or 596B. See J for more information.

J: It is important to know who received the monies or assets, from both a legal and commercial position. LEGALLY, if you intend on commencing a claim, the 'who' requires an ACN (if a company or corporate trustee), an ABN (if a non-corporate business or partnership) or the personal name (if none of the others). Note this does not include foreign registered entities. COMMERCIALY, the 'who' tells you whether there is any commercial benefit in pursuing that particular creditor. Commerciality assessment is one of the most important skills insolvency practitioners learn during their experiences.

K: A retention of title clause (ROT) is a provision in a contract for the sale of goods, which means that the seller retains legal ownership of the goods until payment of the purchase price. PMSI grants an ROT super secured creditor priority if the creditor registers (within the strict timeframes) its ROT on the Personal Property Securities Register (PPSR). To find out more about PMSI's and the strict timeframes, go to: <https://www.ppsr.gov.au/purchase-money-security-interests-pmsi>