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# **BUSINESS RESCUE**

**IS NOT A SIDE HUSTLE**

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Even before the Covid-19 pandemic hit the world, the rise of the side hustle had begun. Now, faced with the uncertainty of what the future holds for many, these side hustles have become a matter of survival for many.

While some entrepreneurs built side hustles based on what they already knew, others pursued areas completely outside of their comfort zones or areas of expertise. Many of these initiatives are all amicable pursuits in generating extra income, and the innovation that resulted from this boom in side hustles is truly admirable, but some things should – for the sake of a client – rather be left in the hands of experienced professionals. Business Rescue as side hustle is not a good idea.

### **THE FIRST PROBLEM**

From the onset of Business Rescue there was a migration from other professions to this new practice. This migration was unfortunately often motivated by greed and sometimes even as an escape from a tainted reputation, as the lesser governed field of Business Rescue seemed like the green grass on the other side of the fence.

Even though the barriers to entry for a Business Rescue Practitioner are higher than most side hustles, it is still much easier for anyone to become a Business Rescue Practitioner than it would be to become a liquidator, accountant or attorney. Similarly, it is much easier to jump professions to a Business Rescue than it would be for a liquidator to become an accountant, or an accountant to become a liquidator. Professional crossovers are usually not a given, and the same should be true in Business Rescue.

Qualifications in a specific profession shouldn't automatically be considered as suitable qualifications for a Business Rescue Practitioner. Business Rescue is a relatively new profession that many have never worked in.





When we consider all of the expert opinions from those that have been in the field of business rehabilitations from well before South Africa adopted the concept into our legal landscape, the consensus of those experts – and the writers of the new South African Companies Act that contains the provisions of Business Rescue in Chapter 6 – was that the knowledge in the fields of accounting, business, the law and ethics would be the pillars of Business Rescue, and not just any one or two of them.

I have the utmost respect for these professions, and I do not assume that I can do their jobs in any way or form. In fact, I know that I can't and that is why I secure the services from these respective fields in order to serve my clients in my chosen profession as a Business Rescue Practitioner.

### **THE SECOND PROBLEM**

Another concerning phenomenon in this highly specialised field is that, once someone has decided to start operating as a Business Rescue Practitioner, they are simply able to progress from a junior practitioner to an experienced and eventually even a senior practitioner simply by the passing of time.

There is no assessment, no exam and no consideration of the successes or failures of the individual!

A nurse does not become a doctor by default after a couple of years, an accountant does not become a chartered accountant by default after a couple of years and an attorney does not become an advocate by default after a couple of years. Why then is it possible for an individual to climb through the recognised ranks of Business Rescue Practitioners simply by the passing of a couple of years?!





### **THE THIRD PROBLEM**

Ultimately, it is the potential income that has many professionals – hoping to make an extra million or two a year – jumping on the bandwagon of Business Rescue. This flawed logic is then further compounded by less ethical practitioners bulldozing the gauntlet between complaints and lawsuits with the ultimate goal being self-enrichment. Because of the high cost of litigation, it is highly unlikely that these questionable practices will face any real opposition. Sadly, unethical behaviour by any professional during a Business Rescue is always at the expense of not just the businesses that needs rehabilitation and its employees, but at the expense of the Business Rescue profession as a whole.

Business Rescue is not a get rich quick scheme and it can't ever be a side hustle. It is a highly technical profession aimed at saving jobs – and sometimes the entire livelihoods of families – through the rehabilitation of distressed businesses.

### **THE SOLUTION**

The governing institutions of Business Rescue Practitioners should do more to regulate the industry. They can't afford to think of their only responsibility to simply be the approval of new practitioners while leaving the rest of the oversight responsibility to the courts. These governing institutions have an obligation to regulate and remove the rogue practitioners and to set the barriers of entry to safeguard against those that hold the opinion of "what's the worse than can happen if I mess up?".

At the same time, some of the blame could be laid at the feet of the creditors for not insisting on a better calibre of Practitioner. Even if they have no say in the appointment of a Practitioner, creditors could play a much bigger role in placing obstacles in the way of greedy or unscrupulous Practitioners. Through their vote on the fee structures, and ultimately the rejection of a questionable business rescue plan, creditors hold enormous power and responsibility over the Business Rescue process and the Practitioner.





**“In the end, Business Rescue is not a team sport,  
nor is it a game played around boardroom tables using  
PowerPoint presentations or Excel projections.  
It is a war, fought at ground level where instructions  
need to be followed by those being held accountable.”**

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