

Ending the stigma of insolvency

Mitchell urges bankruptcy sensitisation for businesses

BY ABBION ROBINSON
Business reporter
robinsona@jamaicaobserver.com

Friday, July 10, 2020



MITCHELL ... if a business goes under, the first issue that comes up is not to look at the fundamentals but at the individuals to try and ascribe blame

Private Sector Organisation of Jamaica (PSOJ) Immediate Past President Howard Mitchell is encouraging business and financial institutions to conduct a sensitisation campaign on insolvency and the availability of earlier intervention for micro, small and medium-sized enterprises (MSMEs).

“As a community of business people we suffer from a culture of shame if someone fails at a business. If a business goes under, the first issue that comes up is not to look at the fundamentals but at the individuals to try and ascribe blame,” Mitchell stated at a webinar looking at insolvency legislation hosted by Jamaica Venture Capital Programme on Wednesday.

“We have to rethink because as the statistics will show, the vast majority of micro, small and medium-sized businesses fail within the first three years of their inception. So failure is always an option, but it is not something we must hold ourselves responsible for, provided we have done what is necessary and try to meet our criteria,” Mitchell stated.

“It is only through public education that we can do that. We have a society that suffers from cultural poverty bias. I really want to encourage the financial institutions and business associations to implement a programme of awareness and sensitisation, and encourage their members and debtors before they reach the stage of insolvency to the point where they cannot return, to go an avail themselves of the assistance of the Office of the Supervisor of Insolvency,” he said.

Mitchell further indicated that the Government has a strong responsibility to hold the structured economy together and to encourage people to go to the Office of the Supervisor of Insolvency (OSI) early.

The OSI functions as a licensing authority for insolvency practitioners, supervises the administration of insolvent estates, and ensures that trustees are in compliance with the Insolvency Act.

The Insolvency Act, passed in October 2014, consolidates legislation relating to bankruptcy, insolvency, receiverships, provisional supervision and the winding up of companies.

“I welcomed the insolvency legislation and the assistance that the Office of the Supervisor of Insolvency gives to people who either perceive themselves running into trouble or who have already ran into trouble,” Mitchell said.

“My concern is mostly the MSMEs, the big businesses generally tend to know when they're in trouble. The Office of the Supervisor of Insolvency and the openness of the office helps you to balance your risk assessment when you start a business. It makes no sense to start a business only being focused on the success, you have to focus on the issue of what happens if you fail,” Mitchell added.

However, according to Justice Ferdinand Smith, supervisor of insolvency at OSI, the Act does not cover businesses that were mismanaged and may be using the legislation to avoid creditors.

“Many people might think that the Insolvency Act is to help the corrupted debtor — that is not so. The Insolvency Act is to assist people who have honestly tried but have come up on hard times. It is aimed at helping these people to restructure and to have a new beginning. It also provides for the creditors to have control. They can change the trustee and demand that certain things be done,” Smith stated.

Moderated by Dennis Chung, CEO of Supreme Ventures Services Ltd, the webinar also featured Hilary Reid, partner at Myers, Fletcher and Gordon; and Barnaby Gowrie, partner at Walker's Law Firm in Cayman Islands. The webinar was the fifth episode in the 'Building the economy with funding through alternative investments' series organised by Jamaica Venture Capital Programme, a unit of the Development Bank of Jamaica and Caribbean Alternative Investment Association.

Link: http://www.jamaicaobserver.com/business-report/ending-the-stigma-of-insolvency-sensitisation_for_businesses_198050?profile=1056