A Case Study
Reorganize - Sell - Liquidate?

Introduction to Chapter 11 of the Bankruptcy Code
Tuesday, December 4, 2012 @ 11:00 a.m.
Cleveland Metropolitan Bar Association, Cleveland, OH

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Cash Flow
Decreasing Net Income
Decreasing Sales
Inadequate Margin
Bad Debt
Financing Concerns
Excess Overhead
Extended Credit
Extended Payables
Taxes
Reactionary Behavior

A TIP!

Catch the problem early before a cash shortage. Look for an eroding situation where a negative downturn or unexpected problem will lead to insolvency!

What do you got? Not much . . . .

1. Understand the company to be organized.
2. Parent / Subsidiary / Affiliate / Common.
3. Integration / Cross-Investments.

Focus:

4. Assets - Owned or Leased?
5. A/R and A/P.
6. Intellectual Property.

Oftentimes the Goal is to Keep it Out of Bankruptcy

1. Maximize value of the business first for the benefit of creditors.

2. Take immediate action to collect receivables and create a positive cash flow or cash neutrality.

3. Determine what inventory is available and create work in process (WIP).

4. Determine critical payables and critical customers.

5. Create a short term budget.

6. See what options there are from a reorganization and sale perspective.

7. Open communications with constituencies.

Initial Questions: Reorganization

1. Is there a viable business model to reorganize around? A chapter 11 can help cash flow issues, but it cannot create work.
2. Can the company bear the costs of reorganization? Consensual use of cash collateral or consensual DIP order significantly streamlines the process.
3. Can the reorganization be done by agreement between the debtor and all creditors? Is this just a contract negotiation with multiple parties? Or is it better or easier to get everyone organized through some sort of court process?
4. Are there burdensome contracts that must be breached in order to survive?
5. Can existing equity maintain ownership post confirmation?
6. Control of process: debtor in possession vs. chapter 11 trustee.

Initial Questions: Selling a Distressed Business

1. Do you have a buyer?

2. Independent of the debt, is it the right time?

3. Can the buyer solve what you can't?

4. How do you find a buyer if you don't have one? Create a story and cash neutrality.

5. Pros and cons of bankruptcy court oversight.

Initial Questions: Liquidation (Chapter 11 v. Chapter 7)

1. What liquidation can or should be used for.

2. Would your money, assets, and time be better spent doing something else?

3. Is there a way "out"?

4. Can you liquidate in an orderly fashion to maximize return for your creditors?

5. How do I liquidate? (other than shutting your doors)?

CASE STUDY - FOUNDRY

CASE STUDY FOUNDRY

12 million revenue per year
2 million in receivables
(70 days of receivables)
4 million of bank debt
1 million inventory (stock or special inventory)
3 million in trade payables
2 quarters behind in payroll tax
environmental remediation issues

Kate Bradley represents the Foundry
David Neumann represents the Bank
Matt Salerno represents Trade Creditors