

Case study

Business recovery and insolvency

With no real prospect of new work for several months, the directors took a pro-active approach to deal with the situation and appointed voluntary administrators.

Voluntary administration – From lost cause to bright future

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Highlights

The outcome that can be achieved through the use of a voluntary administration (“VA”) may not always be the outcome expected at the initial outset. It is the “breathing space” provided by the VA, as well as its process, that allows avenues to be explored and facilitated that otherwise wouldn’t be available, which are particularly beneficial.

The Challenge

An example of this involves a manufacturing company that found itself in difficulties after having geared its operations to service a large contract. The company found that it failed to correctly cost the contract in the first instance, and secondly, once that large contract was completed, the company had no on-going work to continue with. Subsequently, the company had no means to meet losses from incorrectly costing the contract and on-going expenses.

With no real prospect of new work for several months, the directors took a pro-active approach to deal with the situation and appointed voluntary administrators.

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How we helped

At the outset it appeared the company would proceed to liquidation - with the directors initially expecting that the business would be closed immediately. This result would have seen the end of a long established business with an excellent reputation.

However, the VA process offered an alternative, with a solution providing much greater benefit than originally expected and likely under a liquidation scenario.

The positive impact of this process resulted in greater benefit to stakeholders including financiers, the company's landlord, customers and creditors generally.

Of particular importance in this scenario is the major benefit achieved by the VA in allowing the company to continue to trade. This benefited the company's customers as the company operated in a very narrow and highly specialist market, making it difficult for customers to source an alternate supplier. However, this narrow market also contributed to the difficulties the company faced in being able to maintain consistent workflow to finance operations and product development.

The appointment of the voluntary administrator enabled the company to continue in a downsized manner and a Deed of Company Arrangement ("Deed") to be formulated.

The positive effects of the voluntary administration and subsequent Deed included:

- the company continued to trade;
- continuation of employment was achieved;
- customers had orders satisfied and had a continued source of supply;
- the directors and shareholders retained an interest in the business for the future;
- creditors received a greater return than under a liquidation scenario;
- new equity was injected into the business to ensure future viability;
- repayment of certain secured debts and additional security was offered for remaining lease obligations.

The critical aspects undertaken during the VA and subsequent Deed, enabling the positive outcome to be achieved, were:

- 1.** upon appointing the VA, with the assistance of the directors, existing profitable contracts were identified and progressed, allowing the business to continue in the short term whilst strategies were investigated;
- 2.** contributions to support the on-going trade of the business were received from the potential equity participant;

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3. the equity participant provided a contribution under the Deed to a fund specifically for the benefit of unsecured creditors;
4. the directors and shareholders agreed to extinguish claims against the company;
5. realisation of surplus assets enabled a return to be provided to secured creditors of the company;
6. additional security was provided in respect of long term finance obligations; and
7. shareholders agreed to transfer part of their shareholding to an equity participant and the equity participant assumed control for the running of the day-to-day affairs of the business.

Client thought

The VA appointment resulted in the company's precarious financial position being addressed and a strategy devised to deal with this predicament.

As a result of the Deed's implementation, all stakeholders of the company obtained a better outcome than would have been available under liquidation of the company.

For the future

This example demonstrates that whilst a business may be in financial distress, it does not necessarily mean the end for the company if proactive action is taken to address problems that may exist.

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