An attorney's restructuring checklist

For attorneys working with distressed companies, getting their clients back on solid footing can be a complicated process. By taking stock of the company's financial and legal obligations and partnering with a restructuring professional, attorneys can give their clients a better shot at finding a happy ending.

If one of your clients is facing financial woes, the following checklist is a good starting point for assessing the company's options.

1. **Is the company solvent?**

   Consider several metrics to determine whether the company can stay afloat financially:

   - **The company's balance sheet.** If the business' total liabilities exceed its total assets, the company is likely headed for bankruptcy.
   - **Working capital.** Does the company have enough money to operate in the short term? Compare your client's cash, collectible accounts receivable, sellable inventory and other liquid assets with its current liabilities and any immediate obligations on long-term debt.
   - **Adequate cash.** Looking beyond the short term, does the company have enough money to meet its obligations as they come due? If the business has a massive debt looming on the horizon, it could spell trouble.

2. **Who does the company owe money to?**

   Take a look at the company's list of creditors. Does a senior secured lender have liens on some or all of the company's assets, such as accounts receivable, real estate, equipment or inventory? Does the company owe money to the Internal Revenue Service or other tax authorities? Pay special attention to debts that could compromise your client's ability to do its job, such as a lender threatening to repossess equipment or a landlord attempting to evict the business. Creditors that have received enforceable judgments against the company can also pose big problems. Not only can their claims tie up a company's cash, but those claims often take priority over other debts, putting the company in conflict with its other lenders. Laws about which creditors take priority over others vary from state to state, so do your homework on who your client will need to pay first.

3. **Where does the company stand with its critical vendors?**

   Even if a company is in good standing with its lenders and tax authorities, supplier problems can sink the ship. Determine whether any vendors are about to cut off credit to the company and, if so, whether the company will be able to replace those vendors without disrupting business operations.

4. **Can the company continue to operate for one more quarter?**

   A quarter is typically enough time for a turnaround manager working with a distressed company to address the problem and figure out the best plan of attack. Match your client's realistic collections to its critical bills for the next three months to determine whether the company has the resources to survive the initial restructuring process.

Depending on your client’s situation, the best solution may be reorganizing, selling or liquidating the company. While some companies choose to enter Chapter 11 or Chapter 7 bankruptcy, turnaround management companies can often find preferable alternatives to resolving issues in court. For example, Commercial Recovery Associates often works with companies to complete an assignment for the benefit of creditors, an out-of-court process that’s typically faster and less expensive than bankruptcy. Other out-of-court options include negotiating revised terms with secured lenders and selling the company to a buyer in a Uniform Commercial Code foreclosure sale.

Attorneys also should remember that while a company typically has a fiduciary duty to its shareholders, insolvent companies have a duty to their creditors instead. If your client is used to lavishing its shareholders and owners with steak dinners, company Maseratis and NFL tickets, make sure the business puts a stop to it in order to maximize company value and give it a better chance at a successful recovery or sale.

No matter what kind of situation your client is facing, a turnaround manager can offer the experience and know-how to guide the company through the crisis. By working in tandem with seasoned restructuring professionals, attorneys can often put their clients back on the path to profitability.