

Saving companies that run out of cash



With many owner managed businesses struggling to obtain additional bank finance to boost their liquidity, what options are there for companies that are exhausting their cash reserves?

Assuming that equity investment and asset finance have been used up or are not available, the priority is to get the right specialist help. Corporate restructuring requires a proactive adviser familiar with realigning stakeholders' interests when some or all of those interests are subject to significant risk of loss. Indeed, when any company's financial position comes under threat it is imperative that the directors seek professional advice promptly. It can make the difference between the company's death and its survival.

The issues for our client

Two directors who sought timely advice ran a company with an exclusive licence to use a software package in the premium finance industry. Over a period of time the company had invested a large amount of money in adapting and enhancing the software, to the extent that the only significant asset on its balance sheet was its intellectual property rights. The problem was a common one for startups: the company's customer base had not grown sufficiently to support the operating costs and its investment funding was running out.



Proactive solutions = preserving the future



Avoiding crystallisation of £ millions of contingent liabilities



Safeguard of future assets



Rescued the company

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How we helped

We were instructed several weeks before the company's cash reserves were exhausted to assist the directors by advising them on the company's solvency position and on their duties in the circumstances, whilst they continued in their efforts to find additional funding.

When it became apparent that none of their proposed funding deals would complete, we formulated an orderly wind down plan. This resulted in our negotiating directly with the company's bank, which also provided funding to most of the company's customers, to obtain additional funding for the company of £ ½ million. This provided sufficient cash resources to allow the company to continue to trade under the protection of administration.

The solution

The purpose of the administration was to rescue the company as a going concern. Through reducing costs to a minimum we gave ourselves a year of continued trading, demonstrating the value of the company's offering. We also avoided crystallisation of £ millions of contingent liabilities by meeting the company's contractual obligations. In due course an extensive global marketing strategy was implemented and a number of parties expressed an interest in the software. One of these

developed into a firm commitment to acquire the business. We negotiated an offer providing an enhanced return to the company's creditors, and also the prospect of a future return to the company's existing shareholders. Once we had implemented a mechanism to safeguard their future interests and the shareholders had agreed to sell their individual shares, we were able to present a Company Voluntary Arrangement (CVA) proposal to the creditors, with a view to exiting the administration.

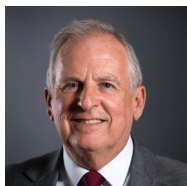
Preserving the future business

Approval of the CVA resulted in the sale of the company's shares to the third party investor, a significant one-off contribution into the CVA and the establishment of a trust so that creditors and existing shareholders could benefit from the profitability of the company going forward.

Our advice

Dealing with companies that are running out of cash presents a variety of challenges. The most important step to be taken is seeking specialist advice early. Directors should bear in mind their responsibilities and duties to employees, creditors and shareholders as well as their own personal positions.

If you are unsure of which future strategy works for your business the Mercer & Hole Corporate Restructuring team are here to help. Please contact one of our partners below.



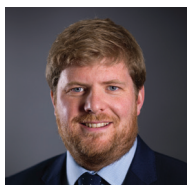
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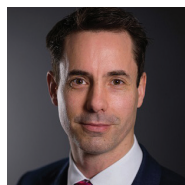
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