How voluntary administration allowed mining sector company to overcome late payment woes

Greg Prout, Principal, WAIS

Late invoice payment is a significant issue for businesses of all sizes and contributes significantly to cash flow stress. According to Illion in its latest *Australian Economic Snapshot*, late payments are starting to increase, and between December 2022 and February 2023 late payment times rose by 9% – an indication that the overall stress in the economy is starting to materially impact company financials.

It was certainly the case with a WA company, which was faced with a tough decision when delayed payments throttled its cash flow. The choice? Voluntary administration or winding up the company. Learn how a period of administration and a successful DOCA gave the company breathing space to develop a plan to move forward.

Background

‘Civil One’ (not its real name) is a civil earthworks and construction services company that works in the mining resources sector in WA. Its annual revenue is around $10m and one of its largest clients is a major ASX-listed resources company. Civil One had five employees in addition to the company’s director, and it had formed a strategic alliance with an indigenous corporation, which regularly provided skilled labour.

Due to late invoice payment by clients, Civil One experienced inadequate cash flow, which resulted in significant liabilities to the ATO (approximately $1.8m), and in turn saw the director being issued with Director Penalty Notices (DPNs) totalling almost $1.27m.

Solution

The director of Civil One consulted with WA Insolvency Solutions (WAIS) and made the decision to go into voluntary administration, with the administrators continuing to trade the company’s business with a view to formulating a Deed of Company Arrangement (DOCA) proposal for creditors to consider. In addition to quarterly instalments, assets that formed part of the DOCA

included a term deposit that matured; monies owed to the company by debtors; and surplus cash held by the administrators (after payment of trading liabilities and provision for working capital back to the company to assist with trading post administration).

This solution maximised the company's chances – or as much of its business as possible – of continuing into the future and resulting in a better return and outcome for creditors, compared with what would have been achieved from the immediate winding up of the company.

In continuing to trade the business, the administrators' role included:

- Liaising with the director and key staff regarding:
- Implementing internal controls in respect of the purchase order process;
- Preparation and monitoring of cash flow forecasts, asset and plant hire registers, work in progress and purchase order summaries.
- Liaising with the major client in respect of existing/new work and accounts receivable.

Communicating with Civil One's major client was also crucial. "It was vital to liaise and have discussions with the major client to alleviate any concerns it had regarding our role and the ongoing trading of the business, both during the administration period and into the future, assuming the DOCA proposal was accepted," says Greg Prout, WAIS Principal. "Without the client's support, the company would not have been in a position to keep trading."

Results

The DOCA, which was proposed by the company's director, was accepted, with a periodical payment plan spanning 32 months implemented. It provided a return of 100c in the dollar to critical suppliers (amounting to $825,851), and 50c in the dollar to the ATO.

Going into administration also resulted in the directors avoiding personal liability to the ATO, and it enabled the business to get back on track and continue.