Voluntary Administration: navigating a successful outcome

Voluntary administration (VA) isn't a one size fits all solution. However, a commonality is to give businesses that are experiencing solvency or cash flow problems some breathing space from their creditors while securing and protecting the business's assets and, in some instances, maintaining its goodwill by continuing to trade. Concurrently, the VA enables the administrators to work with directors to assess if the company is salvageable.

When a local Australian company operating in the telecommunications and construction sector found itself in financial distress due to factors beyond its control, it went into voluntary administration to buy time to resolve its issues. Here we look at how the regime saved the business and why it was the best solution compared with liquidation.

Please note: for this case study we have used the pseudonym 'Electrical B'.

Background

Electrical B is a specialist telecommunications and electrical services business that works with civil and commercial clients in two of Australia's largest states, offering installation, maintenance and repair solutions. The company became insolvent after experiencing significant cash flow difficulties and accruing a substantial unsecured creditor liability including a large amount owing to the ATO. The company's revenue was impacted by:

- COVID-19 lockdowns
- Severe wet weather events
- Increased costs
- Losses experienced from non-payment of variation works performed on a contract.

Challenge

The catalyst for Jirsch Sutherland's appointment were the projected losses associated with a number of contracts – including a major NSW infrastructure project. The company's director assessed that the costs of completing the various contracts meant they would be unprofitable, particularly due to rising labour hire rates, increasing fuel costs, and the surge in materials costs. The large infrastructure project alone would have resulted in Electrical B making a loss of in excess of $1 million. Furthermore, the infrastructure project had already incurred several hundred thousand dollars in costs to complete variation works by Electrical B, and at the time of Jirsch Sutherland's appointment this amount had not yet been paid by the client or the variations agreed to by the client.

Solution

A voluntary administration appointment to Electrical B was determined to be the best solution for three key reasons:

- It meant the administrators could put on notice the clients with whom the company had non-profitable contracts, of their intentions not to exercise rights in connection with the contracts, effectively disclaiming the company's interest in the contracts.
- It meant the administrators could enter into negotiations and settle on agreed terms with those clients (with whom the company had non-profitable contracts), to finalise and receive payments for variation works that had been carried out by the company prior to the VA.
- It gave the director the opportunity to propose a Deed of Company Arrangement (DOCA) to restructure and save the business of the company.

Results

Bradd Morelli, National Managing Partner, Jirsch Sutherland

The proposed DOCA was accepted by creditors which had a number of benefits:

- Electrical B was saved and continues to trade today.
- The jobs of 20+ staff employed by a related entity were saved and these staff are now employed by Electrical B.
- Unsecured creditors are expected to receive a return of 10 cents in the dollar.
- All tax lodgements and outstanding superannuation reporting requirements were brought up to date.

"The advantages of a DOCA provided a better outcome for creditors. It gave more certainty of unsecured creditors receiving a dividend and at a greater rate than if the company was liquidated," says Jirsch Sutherland's Bradd Morelli, joint administrator of Electrical B. "Not only that, but the process was faster and the estimated costs associated with administering the DOCA were less than winding up the company."