Cratos Advisors

Leading Distressed to Success

Industry:
Wholesale Food Distribution

Situation:

- $120 million distributor of food and grocery products to several hundred independent grocers.
- Company was originally a co-op that later incorporated.
- Company had two lenders: Lender 1 held a perfected first secured lien on the inventory and accounts receivable and a second lien on the real estate and M&E, Lender 2 held a mortgage on the real estate, a first lien on M&E and a second lien on the inventory and accounts receivable.
- Company had 140 employees, 50% union.
- Company, unprofitable for years, was in default under Lender 1's loan agreement.
- Company had unsuccessfully attempted to find a buyer.
- Major customers were leaving and demanding the ability to offset their outstanding AR balances with their "capital account balances", monies paid through surcharges on purchases.
- Company was one of state's oldest and largest companies, playing a unique social role in many of the state's communities; its closure would (and did) generate much negative publicity.

Assessment:
- Company counsel advised the board of directors not to file bankruptcy unless Lender 1 agreed to advance potential WARN Act claims, which Lender 1 was unwilling to do.
- Lender 1, management and the board agreed to place the company into receivership.
- All members of the board resigned.

Actions:
- The Receiver, currently a Cratos professional, took control and directed senior management to develop inventory liquidation and accounts receivable collection plans.
- Employee layoffs were scheduled to occur concurrently with the inventory liquidation.
- Receiver developed, and updated daily, a rolling liquidation cash flow forecast.
- Asset purchase agreements were negotiated with several large inventory buyers.
- Receiver employed an auctioneer to sell the real estate, equipment and rolling stock.
- Collecting AR balances became impossible; within thirty days Receiver filed the first of what would eventually total over 100 lawsuits against former customers.
- Given the nature of the AR disputes, legal counsels for Lender 1 and Receiver believed the Bankruptcy Court to be the better venue for resolution.
- Receiver filed a bankruptcy petition on behalf of the company, which was denied by the court.
- Case reverted back to state court in which receivership had been filed; receivership continued.

Results:
- Inventory liquidated in an orderly fashion over six weeks at 70% of cost.
- Large percentage of AR disputes were eventually settled through mediation overseen by a state superior court judge, a time-consuming and costly process.
- Minimal labor issues arose; no WARN Act claims were filed.
- Receivership was terminated a little over three years after it commenced.
- Receiver shielded lenders from much of the negative publicity.

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