

Tips on Managing a Business Loan Workout

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These days it seems to happen more often than anyone expects. A bank makes a loan to a borrower to open, operate or expand a business, then the business falls on hard times, and the borrower becomes unable to make its payments to the bank. The bank then transfers the loan to “special assets” and looks for a solution -- the banking industry calls that solution a “workout strategy.”

Here are a few tips I give my bank clients in those situations. Some of them may also be helpful to borrowers.

- * All parties need to communicate clearly, directly, and decisively. Being vague breeds confusion. Being clear about expectations, requirements, and proposed solutions is critical.
- * Keep emotions out of the process. Problems in business and with a loan can be emotionally and psychologically painful for the borrower. Unemployment, judgments, bankruptcy and the loss of one’s home or business are real possibilities. Neither party can avoid the pain nor pretend it’s not there. However, questioning one another’s intelligence or needlessly pursuing litigation will not lead to a solution. Instead, stop and look at the events and decisions that are being made from an outsider’s viewpoint.
- * Remember that a borrower who is otherwise honest and well-meaning individual may do desperate things. The stress, the loss of self-esteem and a sense of hopelessness associated with a severe financial catastrophe can lead to extreme actions. Faced with the loss of a life’s work and livelihood, and feeling he or she has nothing to lose, the borrower may make rash and risky decisions.
- * Trust, bolstered by regular and reliable communications, and provided clearly and unequivocally by both sides, is critical. The bank and the borrower must maintain their credibility with one another. The bank should be clear to the borrower that to maintain credibility he or she must provide the bank reliable and accurate information on a regular and timely basis. A loan workout is never a viable alternative if the borrower has lost credibility with the lending institution.
- * Put things down in writing, in advance, so there is agreement on all points, leaving hopefully no confusion or doubt and no disputes after the fact.

With these tips in mind, an early rehabilitation of the borrower may be possible and certainly is preferable to another business closure and liquidation.

Mary N. Price is an attorney in Nashville and member of the law firm, Dickinson Wright PLLC. She is speaking at a seminar entitled “Maximizing Workout Strategies – Best Solutions and Practices” on February 17, 2011, hosted by the Tennessee Banker’s Association. For more information, go to www.tnbankers.org/education/webinars.