

SECTOR SPOTLIGHT:

Insolvency: Don't Just Wait for Recovery

INSOLVENCY

Don't Just Wait for Recovery

● Over the course of 2012 and even in these early days of 2013, the number of big-name brands that are forced into bankruptcy continues to shock us. Many in the international business community have been 'hanging on' to survive but it is becoming clearer, year on year, that in this environment the 'hold tight and wait for recovery' approach simply isn't working.

Many insolvency specialists predict that the only companies who will thrive this year will be those who create a firm business plan based on succeeding in current market conditions and not those who sit tight, waiting for the return of cheap credit.

Acquisition International speaks to leading insolvency specialists from the international advisory community to get their opinion on how to thrive in the current environment.

Ottmar Hermann is the founder and Senior Partner of HERMANN RWS.

As a lawyer, certified auditor and tax counselor I closely deal with refinancing, restructuring and liquidation of companies and corporate groups. As early as 1986 I was appointed as an insolvency administrator.

HERMANN RWS is one of the leading German law firms for insolvency administration, insolvency law and restructuring. The firm advises business people as well as businesses and financial institutions in all aspects of insolvency, business (including corporate, commercial law, competition and civil law), tax, labour law, real estate and construction law.

HERMANN RWS offers a competent and multi-disciplinary support to all parties involved in the insolvency proceedings including investors as well as other clients affected by business crisis. Especially the administration of insolvency presuppose an entrepreneur and profound understanding as well as the capability of finding a solution for all subjects on the basis of legal and practical knowledge, which

might come out when national and international concern is acquired, operated or sold. The special focus of HERMANN RWS is on well-targeted services and diligent consultancy in all areas of business life and in connection with corporate crises and insolvencies, also across borders.

For many years, numerous professionals within the law firm have been closely involved as insolvency administrators with the handling of insolvency proceedings and are thus familiar with all the matters accompanying insolvency. We are, therefore also able to offer competent assistance to our clients involved in, or concerned with, insolvency.

Our law firm's outstanding expertise is based on thousands of successful proceedings. In 2012 we were able to maintain our position as one of the leading insolvency practices in Germany.

With the new German insolvency law debtor-in-possession proceedings became more favorable and a debt equity swap has newly introduced in German insolvency law as well. Here I was appointed as custodian in the case of Dura group, one of the first proceedings

under the new legislation. My Partner Rainer M. Bähr was acting as custodian of Solarwatt AG, which included the first successful debt-equity swap under the new law.

With offices located in the most important German business and financial centers and cooperation partners worldwide, HERMANN RWS offers its clients suitable and appropriate solutions even in the most complex cases.



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BM&T is a turnaround and restructuring boutique specialising in UK and pan European operational and consensual financial restructuring. BM&T has completed over 50 assignments of businesses ranging from £10 million to £1 billion in turnover. Managing Principals Alan Tilley and David Bryan have a combined 30 year experience in turnaround having established the European division of US industry pioneer Glass & Associates in 1997. Chartered accountants, they have previously worked in USA, Germany and France in major manufacturing companies.

BM&T's professional capability has been recognised by industry peers; Alan Tilley was Insolvency & Rescue UK Turnaround Manager of the year 2010. BM&T was awarded TMA Global International Turnaround of the Year 2011. BM&T authored the Guide to Turnaround, a comprehensive publication on best practice in turnaround, for ICAEW in 2011.

Restructuring professionals have been asking whether the era of "extend and pretend" and "zombies" is the new normal. This would be defying economic logic. Competitive pressures affecting "zombies" ability to survive, improving bank balance sheets, and rising interest rates will change. The issue is when and what recovery processes will emerge. Whereas the default position has been balance sheet restructuring without addressing underlying business issues this could change. Creditors accepting a haircut should want to see operational change as this increases enterprise value and moves the value break in their favour.

BM&T is not an insolvency practice. It seeks to preserve value where a viable business exists. The plan identifies the level of balance sheet funding that can be supported by future cash flows. This necessitates engagement with creditors to renegotiate the terms of debt. BM&T negotiates solutions outside of formal process leveraging concessions against the threat of insolvency where the recovery to the creditor can be demonstrated as better in a consensual settlement than in a formal process.

Most distressed companies can be saved by early action. Whereas management will seek professional advice on tax, IT and legal matters they are loathe to seek assistance in business turnaround. It is a skill set like any other profession. Managements know their company's products and customers. They are not hired for their crisis management skills so should not feel diminished by seeking advice. There are as many solutions as situations. A crisis can hit any business and a crisis is no place for on the job training.



BM&T

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