

The Problem

A wealthy entrepreneur owning a large, profitable multi-state transportation company had borrowed heavily against his business and invested the proceeds in a variety of venture capital investments. The investments were unsuccessful; the entrepreneur had guaranteed the debt and creditors were moving to seize his business and personal assets.

The Request

Mantell Advisory was asked to prevent bankruptcy and extricate the client from liability on the loans.

The Analysis

After analyzing the situation, we set even more ambitious goals. Even though the client had insufficient cash flow to meet his obligations and was in default on numerous loans, we concluded there was a way to free the client from the debts while enabling him to retain ownership of an entire division of his transportation company.

Two critical observations made it possible. First, we determined that the value of real estate owned by the client's businesses was being underestimated and that the real estate could be positioned for re-development and readily liquidated.

Second, we focused on discord between the client's lenders. We believed their efforts to gain advantage over each other in their attempts to seize our client's business assets could be used tactically to his benefit when it came time to negotiate with them.

"We took advantage of the fact that the banks were fighting," Mr. Mantell pointed out. "The key to the strategy was recognizing that the banks could be weakened, could be brought to make concessions that would otherwise be infeasible because they were fighting among themselves."

To fend off efforts to pursue the client's personal assets we thoroughly analyzed the client's holdings from an asset protection viewpoint. Our work product was a credible, highly-detailed financial disclosure document, CPA certified, showing all our clients' assets, both on and offshore, but highlighting the legal entities in which they were held and the associated difficulties a lender would have in trying to gain control of them.

The Solution

In a simultaneous transaction, we arranged for the client to liquidate core real estate holdings owned by the business and use the proceeds to induce major concessions from the lenders. The buyer of these assets – a prominent real estate developer - had been quietly brought in by us several months earlier and induced to complete his analysis, including costly pre-purchase environmental and engineering studies, without any assurances he could close on the purchase.

The Solution (continued)

The following transpired:

- The lenders accepted a deeply discounted payoff of their loans. In consideration:
 - The lenders received an immediate, sizable all-cash payment – which was provided by the real estate developer.
 - The client agreed to relinquish his company’s transportation operations, but only in one state.
- The client kept ownership of his business in a second state, free of any debt.

In addition, persuaded that our client’s assets were inaccessible to creditors and that their chances of any material recovery from them were nil, and knowing that we would not accept a resolution of the business debt issues unless our client was freed from all personal liability, the client’s personal guarantees were released. In essence, the lenders wholly succumbed to our strategy.

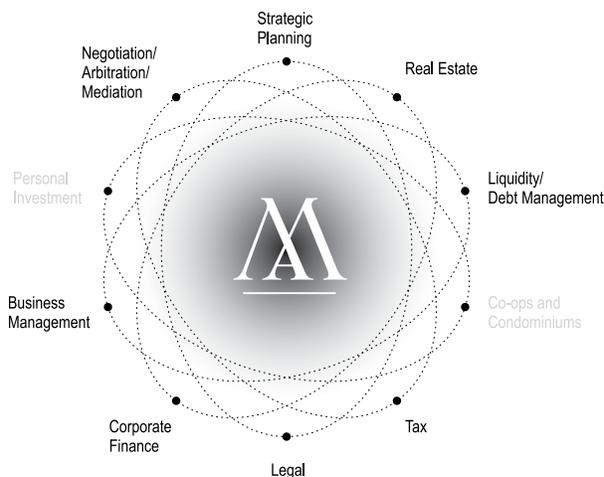
“We did this,” Alan says, “by establishing that on a risk/reward basis the banks were better off taking what we were putting on the table rather than trying to see what they might be able to chase (the client) for later. And we did that by certifying his financial statements to the bank with credible accounting firms providing the data.”

The Results

By arranging for an all-cash buyer of a portion of real estate owned by his client’s business, and by taking advantage of discord among the client’s lenders, we were able, in a simultaneous transaction, to:

- Free our client of his debt obligations
- Enable our client to retain a key portion of his transportation business
- Shield our client’s personal assets from seizure

Areas of Expertise Applied



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