

# **Avoiding Bankruptcy:** How Partnership Leads to Prosperity



**Hardesty Hackett & Partners**

Advice & Counsel for  
Small & Mid-Sized Companies

Thinking about filing Chapter 11? You may not have to. The headache and heartache of overhauling a balance sheet and dealing with conflicts among creditors is just too painful and costly, say some business owners. And the reality of bankruptcy is with us for a while. Experts say the bankruptcy filing trend will continue through the rest of 2009 and into 2010. So many corporations see this as the only solution to financial and structural problems. The truth is that bankruptcy is just one of the options available to struggling small businesses. In reality, you can choose to quit, sell or fix the business.

## Alternatives to Filing Bankruptcy

### Quit

File for reorganization under the Federal Bankruptcy Act, either Chapter 7 or Chapter 11. Both have different features but are basically the same end.

### Sell

Sell to one of the asset hungry vultures/investors circling the company, waiting to pounce. Make it *their* problem.

### Fix

A turnaround is a financial or operational restructuring that can put the business back on the road to recovery. It can be a hard, long journey, and many business owners opt for alternatives 1 or 2 rather than deal with this.

Bankruptcy might not be the most beneficial option for a small business. The bankruptcy alternative was made less helpful by the Bankruptcy Reform Act of 2005, which gave companies less time to reorganize and rid themselves of costly lease agreements, shortened the deadline for a company's self-formulated rescue plan and made it more difficult to retain key employees.

### May 2009 Bankruptcy News

- 40% rise in bankruptcies this month from May 2008
- 7,514 commercial bankruptcies filed in May 2009 vs. May 2008
- 376 companies per day filed for bankruptcy protection

Statistics taken from Reuters Nelson article at <http://www.reuters.com/article/smallBusinessNews/idUSTRE5516WN20090602>

While companies are scrambling to deal with these issues, nervous lenders will be moving faster to recover what's owed to them because they fear that the company's assets are being devalued by the minute. Second-lien holders may seek ways to capture any remaining equity. This multiplied pressure causes so many corporations to simply fold rather than pushing through the problems to rebuild their company through planning and restructuring.

How do you decide to restructure or not? You need to understand the pros and cons of the solution, the various aspects of the process.

Then you can decide if restructuring is the smartest option for your business.

## The Ins and Outs of Restructuring

The bankruptcy laws do not give companies a fresh start like they used to. And the cost of bankruptcy can kill a company. There are lots of people looking over your shoulder—creditors’ representatives as well as financial and legal advisors, who all cost money.

There’s also the unfamiliarity of the terrain to consider. Everything owners learned in college about finance doesn’t apply to restructuring. A small business may be able to navigate through a financial restructuring, with difficulty, but what if the business needs a total operational overhaul? A company that has good profit from operations but negative cash flow has a good chance of getting rid of the sins of the past if it can get the debt load refinanced.

### Common Restructuring Challenges

1. Remaining objective
2. Proactively lowering operating costs
3. Obtaining lines of credit
4. Managing debt
5. Contingency planning for the future

But the bigger egg is the larger-scale operational restructuring. That one requires *crisis management skills*. With the large changes involved in operational restructuring, it’s important to do it right. Asking a consulting firm with small business and restructuring experience to partner with you may be the best way to make the most of these changes.

## Choosing a Partner

Many companies rely on their business partners to help them navigate tempestuous seas. Small businesses especially, those who do not have a board of directors or a lot of experienced executives on their team, rely on their CPA, lawyer, banker and consultant to help them deal with issues facing their company. Businesses can get away with being sloppier when things are going well but when times are difficult, small businesses have to be sharp.

An outside consulting firm can provide an objective opinion on ways to cut costs. These firms, like our firm Hardesty Hackett, are not emotionally tied to the business, and can offer a fresh outsider perspective on the business as a whole. As objective and experienced business professionals, we’re able to see the bottom line and offer advice and services to help streamline your business and operational costs.

A good quality consulting firm will be proactive in making suggestions for lowering the company’s operating costs. Consultants can also help clients to identify funding sources. They can often help their clients obtain larger or less expensive lines of credit. In a declining interest rate environment, it often makes sense to refinance existing lines. Consultants are able to analyze the pros and cons of these decisions as they apply to your specific business and advise you accordingly.

Another common problem area that consulting firms can deal with is a company's large debt. When meeting with clients, we can discuss how to deal with this debt as well as to identify ways to scale back discretionary expenditures while maintaining those expenses necessary for the core business. Small businesses are particularly vulnerable to downturns and would benefit from knowing to avoid long term commitments, such as multi-year employment contracts.

Entrepreneurs are by nature optimistic and it's often difficult for them to make the necessary cutbacks in times of downturn. The smarter move is for businesses to develop a contingency plan before the crisis occurs. As consultants, we can help establish an effective plan early on to prepare for the future and offset potential hazards. We analyze the worst things that could happen and then decide what is needed to overcome the challenges.

If this economic slump has hit your business or even if you're still afloat, wise planning could be one of the best investments you make for your company. If investing in a quality consulting firm redirects your company toward success, saves you from bankruptcy or just helps you establish a solid financial framework, the money invested in the consulting firm is much less than what the company might lose without their help. It's not a risky expense – it's a great return on your investment.

For a customized analysis of your small business' options, contact the experts at Hardesty Hackett & Partners.