

# Bankruptcy Done Right

**T**IMING IS EVERYTHING. It's crucial when opening a business, placing advertising, hiring employees and seeing a bankruptcy lawyer. That's the take-away message from interviews with Rod Anderson of Tampa's Holland & Knight and Camille Lurillo of Lurillo & Associates in St. Petersburg. Both attorneys are bankruptcy specialists, with business clients large and small.

"When companies come to us sooner, before waiting until the last minute, they can get more counseling and this can give people options besides bankruptcy," Anderson says.

"People come in too late," notes Lurillo. "They've often liquidated their retirement plans and home equity trying to make their dream work. The senior shareholders have signed personal loans. When you need more money beyond your initial investment, it's time to see a bankruptcy attorney to look at your choices."

Their advice and that of others in the field is more than timely these days. Bankruptcy filings of all kinds were up by nearly two-thirds in 2008 – to 21,361 – from the year before within the Tampa and Fort Myers divisions of the U.S. Bankruptcy Court's Middle District of Florida.

Anderson and Lurillo share insights on three key issues related to bankruptcy filings: options to prevent bankruptcies, advanced planning to create more successful bankruptcies, and understanding the costs and limitations of corporate bankruptcies.

There are several key areas of negotiation that may keep businesses out of bankruptcy – cash flow forecasts; strategies to collect on accounts receivable; evaluation of important contracts such as land and equipment leases; and alternate forms of financing.

"It's surprising how many people focus only on sales volume and sales forecasts," says Anderson. "This can cause successful businesses to run out of cash." Anderson says he works with companies to create a 13-week cash flow forecast to define their current solvency.

Of course, part of increasing cash flow is stronger collection of accounts receivable. Lurillo acknowledges this can be more difficult when serving or supplying troubled businesses.

"If you're doing business with a client that may be going under, a one hour consult with a bankruptcy attorney can help you see what procedures can be put in place to minimize the impact to your company," she says.

When it comes to legal contracts, both lawyers are seeing an increase in negotiations, especially in the area of commercial land leases. Businesses may find their leases are far above the current market rates and a move is warranted. Others find they no longer need the square footage they once did. "I recently had a client in a bad lease situation," says Anderson. "They had way too much space they didn't need. They got a

two-thirds cut in space and that made a big difference in their cash flow."

In another example, Lurillo's client was in default on a commercial lease. "He helped his landlord get a new tenant in his space and the landlord made a decision not to go after him," Lurillo explains.

Bankruptcy attorneys don't deal directly with financing, but often have contacts for sources more likely to finance troubled companies. While the number of financial entities providing asset-based lending is declining, there are still options worth exploring. "Often companies have only used a single bank for financing and now need an alternative," says Anderson.

Sometimes bankruptcy is the most viable option and seeing an attorney before lenders cut off financing, creditors begin seizing assets or lawsuits are filed, allows for personalized bankruptcy planning. Planning can answer common questions



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and concerns:

- What type of bankruptcy is best for the company?
- Is it feasible to save the company with restructuring?
- Which assets can be saved from creditors?
- Does my LLC protect me from litigation?
- If we downsize but stay in business, might we be legally required to pay severance?
- What are our financing options before and after filing bankruptcy?
- If I'm owed a debt by a company that goes into bankruptcy, what are my rights?

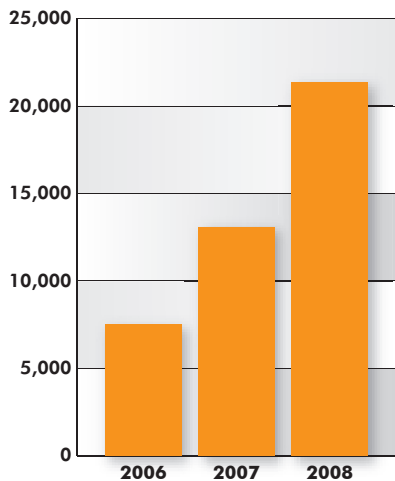
If a company plans to continue doing business after bankruptcy or if they want to look for a buyer, they generally file a Chapter 11 bankruptcy. This involves creating a court approved plan to pay creditors while stopping most legal actions to collect debts.

Bankruptcy is an expensive process. The liquidation of a small to medium company can range from \$2,500 to more than \$6,000. Rates for a Chapter 11 restructuring typically begin at \$50,000 and can easily double depending on complexity.

## > Bankruptcy Filings

*U.S. Bankruptcy Court  
Middle District of Florida*

(Data from the 14 counties of the Tampa & Fort Myers Divisions. The entire Middle District includes 35 counties.)



What does filing bankruptcy buy you? It will stop most actions to collect debts against you: litigation, seizing property, terminating leases. It might buy time to ride out a tough situation or find a buyer. It can create options for an orderly liquidation. "What bankruptcy can't do," says Anderson, "is solve cash flow problems. It won't immediately help people make payroll."

Says Lurillo: "See a bankruptcy attorney as soon as you think there might be a problem. It's better to know what your options are before you're in the emergency room." ■