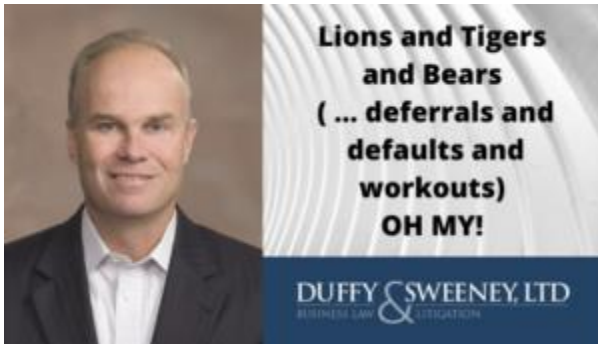


Lions and Tigers and Bears (... deferrals and defaults and workouts) OH MY! (September 2020)



By Mike Sweeney | I cut my teeth as a business lawyer in the late 1980s at a regional New England business law firm. In my first year of practice, Rhode Island Governor Bruce Sundlun took office and immediately shut down all state credit unions following the real estate bubble burst and failure of federal savings and loan banks across the country.

My training and experience quickly adapted and expanded from a focus on securities and M&A work to include all types of business restructuring and bankruptcy/receivership matters.

Although I was unaware at the time, this “crisis training” has proved invaluable to me in my law practice over the past 32 years and through all of the following economic “cycles,” – even in good times.

Looking back, that first 1986-88 real estate bubble burst was followed by a tech bubble burst in 1999. Then came the tragic 9/11 terrorist plane hijacking/bombings, and its resulting wars (which still seem to be ongoing) and, lastly, the Great Recession of 2008. After the last 11 years of recovery and a “long in the tooth” bull market, the winter of 2020 arrived with the C-19 global pandemic in tow.

All business, both large (think, airlines, hospitality, cruise lines and department store retailers) and small (all industries), have been impacted in wide-ranging degrees by this “surprise” pandemic. The ensuing current economic crisis was not caused by the financial markets. Fortunately, most large banks that led us into the Great Recession have better balance sheets today due to stronger regulations and capital requirements coming out of that ‘08 collapse.

Kicking The Can Down The Road

Regardless of the cause of C-19, the federal US (and other countries’) stimulus programs amount, in large part, to a game of “kick the can down the road” while hoping for a recovery to lift all up. On a macro level, that may be fine from an academic or economic theory standpoint; it would mirror past history. However, in the interim 12 months, economic theories do not pay the bills for each individual business and its owners.

Cash Flow Planning & Transparent Communication

Cash flow planning and transparent communication are still a business owner’s best basic tools to survive any crisis and rebuild a future, stable business. Proactive communication to key stakeholders is vital – including employees, customers, lenders and trade partners. Don’t wait for the rumor mill or the default letters to announce your current challenges. When laid out in a workable plan, even cash-strapped businesses can survive and rebuild.

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Lending – like investing – is, ultimately, a trust-based relationship. While loan and investment documents often carefully plan for downside protection, nobody really invests to test and actually experience that downside. Accordingly, it makes sense for both fast-growth companies as well as distressed businesses to carefully plan for cash-flow swings. In fact, growth often causes more cash challenges than a three-quarter pandemic-related downturn.

Lenders prefer honest, open communication, i.e., trust, when working through broken covenants and challenges.

Learning To Adapt

Proper steps and strategic decisions forged under cash flow pressure not only help good businesses survive these inevitable cycles, but can position them to thrive by learning how to adapt.

Although election year politics are now ensnaring additional stimulus negotiations, the broader public stock markets are still up. Why? Public market investors look to the future, not just some last trailing 12-month metrics that only show the past!

Trailing valuation methodology is just one diligence metric. Management talent, future projections/backlogs and well-thought-out cash-flow plans are what really drives all investments. Pro tip: take the time to carefully consider and lay out your plans on a quarterly basis and be sure to collaborate with your trusted advisors and lenders to leverage their life lessons and business-building strategies. Stay safe...Oh my!!

Reach out to Mike Sweeney at msweeney@duffysweeney.com to learn more about how the D&S business law team can help your business survive and thrive.