

North Central Business Financing Programs



**Collections, Recovery & Loan Workouts.
2011 EDFS Training Conference**

DEBT COLLECTION RESPONSIBILITIES OF ECONOMIC DEVELOPMENT AGENCIES

Direct Liability for Loan Losses

Master Loan Agreement /Contract
Operating Plan

Limited Liability/Commercially Reasonable Effort

Due Diligence Requirements

Importance to Know Collections Rights & Processes

Maximize return on loan investment
Limit losses to preserve asset base
Ensure efforts are commercially reasonable

More effective Negotiations with Counter-Parties

Debtors
Guarantors
Other creditors

LOAN AND COLLATERAL STRUCTURE

RLF Operating Plan Should have section on Delinquent Loans which defines delinquency, default and procedures for foreclosure.

1. ***Payments 30 days delinquent are contacted in writing.***
2. ***Payments 60 days delinquent are contacted by telephone.***
3. ***Payments 90 days delinquent are referred to the Loan Review Committee for recommendation of legal action if any to be taken and site visits scheduled and financial statements reviewed.***
4. ***Payments 120 days past due with no viable plan to resolve, will be recommended by Loan Review Committee to Executive Board for legal action to resolve default.***
5. ***Delinquent loans recommended by Executive Board for legal actions are referred to North Central's solicitor to begin proceedings. Once proceedings are instituted, only lump sum payment of all past principal, interest, service and late fees by the borrower will halt proceedings. Exceptions are made for recipients who file bankruptcy as court ordered payments must be accepted.***

LOAN AND COLLATERAL STRUCTURE

1. Loan Agreement
 - Notice requirements.
2. Note
 - Confession of Judgment
 - Default interest Rate
3. Mortgage
 - Confession of Judgment for Money/Possession
 - Acceleration Clause
 - Assignment of Rents
 - Lien position (senior/junior/shared)
4. Security Agreement/UCC-1
5. Personal Guarantees
 - Notice Requirements
 - Cure Period
 - Confession of Judgment
 - Spousal Guaranty/Marital Property

EARLY COLLECTION ACTIONS

The Sooner the Better

Correspondence at 30/60/90/120 days

Personal Contact Pays Dividends

Avoid declaring a default unless necessary

Get the Borrower Paying the Loan

Option 1: Bring current/resume payments

Option 2: Resume payments/negotiate arrears

Option 3: Restructure the Loan

LOAN RESTRUCTURING

Analyze Updated Financial Statements

- Audited & YTD Unaudited

- Balance Sheet

- Income Statement

- Statement of Cash Flows

- A/R Aging Reports

- Analyze Relevant Financial Ratios

- Comparison to Projected Financials

- Updated Personal Financial Statements

Treatment of Other Lenders

- Senior/Shared Lien/Junior

Related Party Transactions

- Distributions/bonuses to insiders

- Related party debt

FORBEARANCE AGREEMENTS

Agreement to forbear exercise of remedies under the loan documents in exchange for debtor performance.

Specify forbearance period

Limited duration., life of the loan, extended maturity

Match extensions to collateral filings and/or expirations.

Acknowledge default (if applicable)

No waiver of default

Remedies immediately on default w/o notice

Acknowledge amount of debt

Specify payment terms & interest rate

Obtain guarantor consent

Loan documents control any conflict

BANKRUPTCY CHAPTERS

General Considerations

Bankruptcy Chapters

Chapter 7: Individual Corp. Liquidation

Chapter 9: Municipal reorganization

Chapter 11: Corporate reorganization

Chapter 12: Family farm reorganization

Chapter 13: Individual reorganization

BANKRUPTCY

General Considerations

Proof of Claim

Form describes amount, nature and basis for monetary claim against debtor

Provided to creditors by court with notice of filing

[http://www.uscourts.gov/uscourts/RulesAndPolicies/rules/BK Forms Official 2010/B 010 0410.pdf](http://www.uscourts.gov/uscourts/RulesAndPolicies/rules/BK%20Forms%20Official%202010/B%20010%200410.pdf)

Must be filed by the Bar Date

May be amended after the Bar Date to cure technical defects

Attach all applicable loan documents

Note/Guaranty Agreement

Mortgage/Security Agreement

Payoff statement (Principal/Interest)

File with bankruptcy Court Clerk

AT RISK BUSINESS PROGRAM

One on one counseling with Business owners by Consultant

Purpose to develop a work out strategy

Analysis of Financial Position of the business

Cost analysis of pricing

Analysis of expenses including employees & production

Bookkeeping procedures

A/R collections

Analysis of Customer Base

Marketing strategy

New markets if any

Referral to At Risk Business recommended by Loan Review Committee with 90 day delinquency or request for moratorium of payments.

PA Pellets & Millwork-Cameron Co.

SBFF, EDA RLF, MELF, Cameron IDA, Northwest Savings Bank, Equity



PA PELLETS & MILLWORK

Original Funding Scheme

Real Estate of \$220,000 --- Small Business First Fund -\$88,000
Bank Financing - \$132,000

M & E \$850,000 --- Small Business First Fund - \$112,000
PA MELF -- \$425,000
Bank -- \$68,000
EDA/RLF - \$100,000
Equity - \$145,000

Working Capital \$455,000 -- Cameron County IDA \$100,000
Equity - \$355,000

Total Project Cost: \$1,525,000

Projected New Job Creation - 20

Processed February, 2006

PA PELLETS & MILLWORK

Interest Only Payments requested 2007

Delinquency began in Spring of 2008

Consistent inability to provide adequate financial information

Efforts by At Risk Business Consultant to contact business brought no results

Participating bank reported that operations ceased and building abandoned in late 2008

Spring 2009 property inspected and secured

Judgments filed against corporation and two guarantors

One guarantor filed Chapter 7 bankruptcy

Began negotiations with participating lender to liquidate assets

Bank agreed to release liens on equipment if North Central would release mortgage

Notified business owners that site was secured and anticipated selling equipment to recover debt

Contracted with online auctioneer and held online auction in November, 2009

Recovered \$200,000 after expenses and applied toward \$399,095 of PA MELF;

\$185,614.47 SBFF; \$92,616 EDA/RLF; \$95,000 Cameron Co. IDA

Expenses included legal fees for judgment filings and permission to sell equipment without repossession

Liquidation expenses included 3 tax liens, IRS -\$15,616.11; \$1,575.68 PA. Dept. of Revenue; \$50.00 to Cameron County

21st Centuramics

Manufacturer of Ceramic parts located in McKean County, PA

Purchase of existing business by 2 new owners in 1984

Participating bank had \$1,000,000 plus secured by 1st mortgage, 1st lien

North Central and local county loans of \$200,000 in 2nd lien position

All lenders had personal guarantees

Business filed Chapter 11 bankruptcy and then converted to Chapter 7

Due to amount of mortgage and liens in first position, North Central opted to pursue personal guarantees.

Judgments filed and executed against personal guarantees which forced one of the owners into Chapter 7 bankruptcy

Discovery revealed fraudulent conveyance of real estate to children by one owner

Threatened Sheriff sale of guarantor's second residence in New York. Resulted in recovery of Outstanding debt to North Central

This is an example of measuring your rate of return on available collateral whether an asset of the business or the guarantors

RECOMMENDATIONS AND SUGGESTIONS

Maintain communication with all approved borrowers

On going technical assistance is preventive medicine

Participation with other creditors on workout strategies and when necessary, liquidations

Let applicants know up front that you do foreclose and /or liquidate as a last resort to recover loan funds

Review all documents and decisions with your solicitor

Don't be afraid to take legal action against your borrowers. The worst that can happen to you is that you get a reputation as a serious lender



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