



FARELLA BRAUN + MARTEL LLP

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BEST UNDER STRESS

Surviving and Thriving in the Wine Industry During Difficult Economic Times

DEAN GLOSTER

MATT LEWIS

big firm know how + small firm know you

Best Under Stress: Our Plan

- Big Picture Overview
- Red Flags
- Managing Your Customers
- Managing Your Business
- Managing Your Lenders and Vendors
- The Sale/ Refinance Option
- Taking Advantage of Opportunities
- Our Turn: What Keeps you up at Night ?

The Big Picture

- Capital Intensive Farming and Processing Results Years Later in the Need to Market a Luxury Consumer Good (Now There's a Business Plan!)

Pressure Points

- Need for (mostly debt) Capital
- Long Wait for Return on Capital
- Choppy cash flow
- Cautious lenders
 - Lower credit limits for many
 - Tightened covenants
 - Lender exits?

The Big Picture, Continued

- Operating Pressures
 - For growers
 - Weather
 - Juice glut
 - Grape contract turmoil
 - Farming costs v. grape prices
 - For wineries
 - Continued distribution chain consolidation
 - Uncertain demand
 - The move between market tiers
 - For all: an increasingly professionally managed business, but:
 - Documentation Issues
 - Denial

The Big Picture, Continued

- End of the Pro Sports Team Model?
 - Uncertain asset valuations
 - Mismatch in buyer/seller expectations
 - Do the numbers work for financial buyers or Investors?
 - Where are the strategic buyers?
 - Few new affinity buyers at this stage in cycle.

Red Flags

- Cash Flow Squeeze
 - Especially, the payroll scramble
- Disputes (Especially over “Quality”) Where There Were None Before
- Deals or Sales Won’t Close
- 2, 4, 6, 8 Time to Renegotiate
- Silence

Grace Under Pressure: General Principles

- Wine: a Small Industry with Long Memories
- Recognize the Power of Denial
- You Get the Deal You Made and Make Now, Not the One You Wish (or Will Wish) You had Made
- Deals that Align Interests and Incent People to do the Right Thing Work Best
- No Matter What you Sign, That Which Cannot Continue, Doesn't
- Its Business, Not Personal
- Don't Hit "Send"
- Litigation is an Expensive Hobby

Managing Your Debtors

- Be a Collector, Not a Lender
 - When there is not enough money to pay all of the bills, only some get paid: everybody else becomes a lender
 - Be the most expensive lender
 - Late charges
 - Interest
 - Attorneys fees
 - Act promptly, insistently, diligently and professionally
 - What should you get for accommodation?
 - Late charges, interest, attorneys fees going forward
 - Cash on delivery/release
 - Personal guarantees
 - Security interests

Reclamation and Reassurance

- You Don't Have to Deliver if You Have Reason to Believe Your Buyer Can't Pay and They Can't Give You Reasonable Assurance
- If You Did Deliver to a Buyer then Learned They Were Insolvent, You Have a Short Window to Reclaim Your Products

The Special Problem of Grape Contracts

- A Market in Turmoil
- Unilateral v. Negotiated Changes
- Secured v. Unsecured
- Grower's Lien v. UCC
- Are Long Term Win-Wins Possible in This Market?

Managing Your Business

- Problems Arise Piecemeal, But Need to Be Solved as Part of a Plan
- You Need Timely, Realistic and Accurate Cash Flow Projections and Inventory and Asset Valuations.
- Don't Play with Payroll or Uncle Sam
- Right Sizing Your Workforce and Costs and the Temptation of "Too Little, Too Late".
- Accelerating Revenue
- Focus

Managing Your Lender and Other Creditors

- How to Be Heard
 - Know your business
 - Be honest, realistic and proactive
- Only You Can Lead.
- Avoid Surprises
- Make Realistic Commitments
- Keep Your Promises
- Communicate, Then Stretch Payrolls
- Universal Payment Plans
 - Current bills first, then clean up past dues
 - A haircut for everybody beats closing the doors

Long Term Options

- Restructure/Recapitalize
 - The cost of equity
 - Non-traditional lenders
 - Investors' return expectations
- Sell
- Deal Structures in a Low Available Financing Marketplace

Does Bankruptcy Change Everything?

- Yes and no
- The automatic stay
- The dangers of being unsecured and pennies on the dollar
- Modified rights of a secured creditor.
- Bankruptcy does not solve operations issues
- It costs money to be broke.

Opportunities

- Successful businesses will gain access to key opportunities
 - Cheaper to buy than build?
 - Fire sale of competitor's assets, including brands
 - Loss of competition, shelf space will need to be filled
- Deal Structures Characteristics
 - Value of deals continues to remain high
 - Seller carry back financing
 - Increased capital (buyer) in deal
 - Lower debt ratios
 - Earn outs
 - Loan to Own

Prior Webinars

- **Buying Hotels (and Other Commercial Real Estate) Out of Bankruptcy**
(Date: 03.17.10)
- **Guaranties of Debt in Default: What to Do Now (for Guarantors and Their Creditors)**
(Date: 03.31.10)
- **Working Out Problem Hotel Loans**
(Date: 04.14.10)
- **Tax Aspects of Debt Restructuring and Foreclosure: Using Tax Savings and Motivations to Make Better Deals**
(Date: 05.19.10)
- **Insurance in Bankruptcy: Preserving and Maximizing Insurance Assets of a Bankrupt Entity**
(Date: 06.02.10)
- **Strategies and Opportunities in Acquiring Distressed Assets Webinar**
(Date: 06.23.10)

To listen to the following webinars, please go to www.fbm.com, click on Media, then click on Webinars for the listings.

Future Webinars

- September 29 – Employment Issues for Troubled Companies and Companies in Transition Webinar
- October 13 – Restart Techniques for Technology and IP-Driven Companies Webinar

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