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Out of the Box

By **RICHARD CLOUGH** - 11/2/2009

Los Angeles Business Journal Staff

In 2000, Matco United Inc. was on the brink of failure.

But rather than file for bankruptcy, the paper company, hemorrhaging cash after a disastrous change in management, tried something different.

Chief Financial Officer Daphne Mason had heard of a little-known process called a “general assignment for the benefit of creditors,” a process similar to bankruptcy but which was supposed to be quicker and less costly. So she enlisted Credit Management Association, a Burbank non-profit, to carry out the procedure.

“It was wonderful,” she said. “They were very organized. They were able to sell our inventory off in a matter of weeks.”

CMA, which counts some 1,600 member companies, provides support for credit managers, who oversee customer credit and receivables, by offering continuing education and services such as lien filing.

But the majority of its revenue is derived from general assignment work, which in a nutshell functions like an out-of-court bankruptcy proceeding. A failing company will transfer control of its assets to CMA, one of just a handful of general assignment handlers in the state, which will then negotiate repayment plans with creditors, liquidate the assets and distribute money to creditors.

The benefit is that the process can be done without the added expense of attorneys or the time-consuming process of obtaining court approvals, said Mike Joncich, who manages general assignments for the CMA.

“The process moves much more quickly and often times more smoothly than in bankruptcy court,” he said. “Our expenses then, understandably, are much lower than a bankruptcy process (and) we get essentially the same results.”

The association earns money by taking a fee that is typically a percentage of the assets it liquidates.

General assignments are allowed under an obscure provision of the California code of civil procedure, which is one of the friendliest to general assignments, according to Joncich. For example, the law allows assignees to remain in a landlord’s premises for a period during the liquidation process, which is not guaranteed in many other states.

Not surprisingly, the association’s general assignment business has picked up as of late as greater numbers of companies go out of business. Bankruptcy filings tend to be a lagging indicator to the general economy.

“Right after Labor Day the phones started ringing and they haven’t stopped,” said Joncich, who expects the association to handle about 200 general assignments in 2009, nearly double last year’s total.

Tough times

The association also takes general assignment cases from nonmembers. To handle the business, Joncich recently brought in a new hire, and he anticipates additional growth.

“I expect that after the first of the year we’ll get another surge and after tax time we’ll get another surge,” he said.

That increase is a bright spot in an otherwise difficult time for the association. For the past several years, the organization’s membership base has been shrinking at a rate of about 1 percent a year.

Chief Executive Michael Mitchell said many businesses have been eliminating credit manager positions, noting that “companies are looking for anywhere to make cost cuts.”

CMA was born, in a sense, some 126 years ago.

In 1883, a group of local business owners formed the Los Angeles Board of Trade to promote business activity and help business debtors. The board, which would later give rise to the Los Angeles Area Chamber of Commerce, eventually merged with the Los Angeles Credit Men’s Association to create the organization that would later be known as Credit Management Association.

CMA has remained a non-profit organization because Mitchell said it helps it maintain its focus on supporting its constituency. Today, just one-quarter of the association’s 60 employees works in the adjustment bureau – the unit that handles general assignments – but general assignments account for roughly two-thirds of CMA’s income.

While the liquidation can often be completed in a matter of months or even weeks, Joncich said a typical case takes about a year. The association not only will liquidate a company’s assets, but even erase telephone numbers and domain names.

Many of the assignments CMA handles are small, but in 2003, the association liquidated nearly \$20 million in assets of Indian Motorcycle Co. of America, a motorcycle manufacturer in Gilroy that went into receivership. The name was sold to a company that has since resumed manufacturing.

Business owners often like general assignments because they can shut down their business and walk away without the stigma associated with having filed for bankruptcy, Joncich said.

Indeed, one business owner reached by the Business Journal who had liquidated his company through general assignment declined to comment on the record because he did not want it known that he was forced to shutter his business.

But since the process is not public, creditors are sometimes skeptical that they will get fair returns. They can try to block the process by filing a petition of involuntary bankruptcy to put the case in U.S. Bankruptcy Court.

“A lot of it depends upon the cooperation of large creditors,” said Byron Moldo, a bankruptcy attorney with Ervin Cohen & Jessup LLP in Los Angeles who has acted as an assignee on general assignments. “If a secured creditor is not cooperative and not willing to go the assignment route, it can be very, very difficult.”

In the case of Matco, CMA took control immediately, relieving company officers of their positions and liquidating the assets.

CFO Mason said she was impressed by the efficiency. “We were able to capture over 95 percent of our receivables.”

The biggest battle for CMA is simply educating people that general assignments exist. Many are unaware, Joncich said, including even some attorneys.

“That’s one of my frustrations,” said Joncich, who came to CMA 14 years ago after working for a bankruptcy trustee. “Companies that are going out of business of course don’t know what all their options are. Business failure is not something that most business people pay much attention to until it’s facing them dead on.”

Credit Management Association

Headquarters: Burbank

Founded: 1883

Core Business: Assisting credit managers and companies with business credit functions; handling general

assignment liquidations

Employees: 60

Goal: To grow its membership base

Numbers: Expects to handle 200 general assignments in 2009, nearly twice the amount of 2008

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