

Caution: Deal with Your Bank Honestly!

“Desperate people do desperate things.” This well known saying is worth recalling in troubled economic times.

A lifetime of work at acquiring a home, building a business, acquiring a parcel of real estate, and investing energy in a dream, can all be at risk, so quickly, when the economy turns sour.

“Knowing how to deal with a bank creditor is not intuitive,” Dave Domina reminded a group of people recently. “There is a temptation to hide bad news from the banker, for fear credit will be cut off. But there is no one who must know the truth more candidly than the bank,” Domina explained.

Why is it so important to be truthful with the bank, and why is proactive disclosure of problems, or concerns, of paramount importance? Domina offered these responses.

1. First, the law requires absolute fidelity when dealing with a state or federal bank insured by the FDIC. Under both state and federal laws, delivering false instruments, or inducing the creation of false records inside a bank, is a serious felony. For example, overstating inventories, livestock counts, accounts receivable, etc. on base borrowing reports, or financial statements, can be false entry in official records contrary to 18 USC § 1001 or fraud under 18 USC § 1344 or an act in furtherance of fraud punishable under other statutes. Corresponding state laws compound the risk. These are serious crimes. A § 1344 carries a fine of \$1m and incarceration of 30 years per count!
2. Telling the truth and making the truth known early engender confidence and create an environment in which possibilities are enhanced for finding solutions. The banker cannot help if trust of the borrower is absent. No solution can be found when one of two participants in an effort to find an answer is dealing with false facts. Nothing cuts off confidence like withholding the truth.
3. Sharing the problem invites the problems sharing. A creditor who approaches a banker and says “I borrowed \$xxx,xxx from you, and I’m not sure I can pay you, so we have a problem,” takes an approach vastly superior to someone who hides to avoid telling the bank, or supplies false information. Shared problems are more easily solved than are concealed ones.

4. All societies despise falsehood. Since the recordation of human history commenced, every society with a code of laws has condemned lying. Before laws were recorded, history infers that lying produced conflict, led to adverse consequences, and yielded no reward.
5. Things have not changed. Lying is no more acceptable in a modern context than it has been in the past. Whether the statement is an affirmative falsehood or a concealed one, it is wrong.

What To Do When You're in Trouble

First, open your own eyes and mind, and recognize the telltale signs of trouble coming if possible before it ends in your lap. Has business slowed a bit? Are accounts harder to collect? Have you extended too much credit?

Has your workforce slipped? Is your own focus and intensity down? Is work less interesting?

Are other people in your business suffering? What are they doing about it? Do you find yourself trying to persuade yourself that everything is okay while knowing, intuitively, that it is not?

Have you changed your business methods to keep them fresh? Have you rearranged your inventory, reorganized your operation, sold off junk, dusted and cleaned to remove the cobwebs, gotten rid of the dead plants, reviewed your employees on time or ahead of time, made decisions about personnel and productivity that are good for the business, and not just good for social relationships?

Have you changed your spending habits? Are the old ways to entertain yourself finding less costly substitutes? Are you finding joy in your family, and avoiding things that took you away from them because business contacts wanted you to hobnob with them?

If you can't answer these questions appropriately, think them through and find answers that renew your spirit, and your enterprise.

Second, be truthful with those affected by your hard times. Start with your immediate family. If things are tough, share it first with your spouse. Then call a family meeting to be attended by children of knowledgeable age and let them know what's going on. Do not pretend. Confront the problem inside your own family.

Share your thoughts with key personnel as appropriate. Let them know as much as they must know, and invite solutions. Urge them to offer creative ideas about how to expand revenues, or assure efficiencies, while keeping your valuable human resources intact.

Be truthful with your creditors, including vendors who are inherently creditors if you face future risks associated with cash flow. Generally, informed creditors are cooperative, so long as they believe you are dealing with them truthfully. Give them a chance to help you.

Recognize that good and bad times ebb and flow. When times are good, it is so easy for people to become greedy, and when times are bad the best in people – especially people with fewer means – tends to come out.

Take a broad view. Do not filter your current circumstances solely through the narrowness of your past experience. Look around. Learn from others. Observe the world around you, and be aware of what is going on that genuinely affects your business. Respond proactively to it.

Use professional services wisely. Hard times can induce depression. Depression reduces productivity, creativity, and stifles solutions. Absolutely avoid it. Get help for it, and do not deny it when you see it.

Be proactive and aggressive in seeking out high quality legal advice. Do the same with accounting and other professional advice. Emphasize quality. Hard times are not appropriate to emphasize only relationships. Relationship-based professional associations will not provide sufficient relief in troubled times.

Be wary of trade organizations offering superficial solutions. If a trade organization offers a seminar on how to deal with troubled times, recognize that everybody in your industry will be thinking and doing what is presented at the seminar, and little, if any, opportunity to distinguish yourself will be present. Guard against actions that simply put you in the middle of the throngs with similar problems.