

RENAISSANCE

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Using Section 363 to Avoid Anti-Dumping Liabilities

By David A. Warfield, Thompson Coburn LLP



David Warfield

Whitney Design, Inc. ("Whitney"), a small St. Louis based household goods distributor faced with approximately \$35 million in disputed anti-dumping liabilities, filed Chapter 11 in late 2009. Inspired by the GM and Chrysler Chapter 11 cases, Whitney sold its assets under Section 363 of the Bankruptcy Code to a newco formed by Whitney's principals, free and clear of the anti-dumping liabilities, less than 70 days after filing. In doing so, Whitney turned the tables on the federal government, which had been principal architect of the car company cases, but

which was the holder of the bulk of the anti-dumping claims.

Whitney was a small distributor of mundane household products, like laundry hampers, clotheslines and ironing boards. It sold to specialty retailers and big box retailers. Almost all of Whitney's products were manufactured in the People's Republic of China. In 2004, the Department of Commerce ("DOC") determined that some Chinese manufacturers of steel-top ironing boards were engaged in illegal dumping, or selling their products below cost in the U.S., and ordered that a duty be established on the import of these ironing boards.

Liquidity and Litigation Concerns

From 2004 to 2009, Whitney purchased the vast majority of its steel-top ironing boards from a single Chinese manufacturer. The DOC initially determined that this manufacturer had not engaged in illegal dumping, but when the manufacturer stopped cooperating with the DOC's routine audits, the DOC imposed a retroactive duty on all sales to Whitney since 2004 at a so-called "penalty rate" – 157.68% of FOB cost. Whitney had the right to contest this determination through the Court of International Trade, but it was advised by its trade counsel that litigation on the issue would be very costly and could consume five years or more. Moreover, Whitney was advised that the DOC would not entertain any settlement discussions until the litigation was complete.

In the meantime, Whitney's other Chinese vendors learned about the assessment. Concerned about Whitney's long-term viability, they ratcheted back Whitney's trade credit. Whitney's two secured creditors were similarly troubled by the assessment, and both expressed concerns about renewing the existing lines of credit. Whitney also faced the annual problem of building up its inventory in advance of the production shutdown associated with the Chinese New Year. The upshot of all these events was that Whitney suffered from a severe liquidity crisis in addition to its litigation woes.

One possible answer to Whitney's predicament was to simply close down its business and open a new company. Whitney's trade counsel advised that the Chinese manufacturers routinely do exactly that to evade responsibility for the duties. Whitney's principals and its secured lenders, however, were uncomfortable with that approach. Another possible answer was a friendly foreclosure sale under Article 9 of the UCC to an insider new company, but the parties were aware that some courts had imposed successor liability in similar situations.

Whitney finally settled on a voluntary bankruptcy filing followed by an expedited Section 363 sale process to a new company formed by Whitney's principals. Like the car company cases, the Whitney sale would be to an insider and would be free and clear of the legacy liabilities (i.e. the anti-dumping duties). There was one huge difference, however. While the federal government threw its considerable weight behind the proposed sales in the car company cases, it vigorously opposed Whitney's sale. The 363 sale shoe was now on the other foot.

Opposition to an Insider Sale

One other party would eventually oppose the prospective sale. Under U.S. trade law as it existed at the time, a domestic manufacturer that was harmed by dumping could, under certain circumstances, receive a portion of the duty paid by the manufacturer and/or importer. This feature of trade law, called the "Byrd Amendment," was much criticized around the world, and it was eventually repealed in 2007. In this case, however, the only domestic manufacturer of steel-topped ironing boards, Household Products, Inc. ("HPI"), actually stood to receive some of the \$35 million in duties incurred before repeal if the duties were ultimately allowed.

Whitney filed Chapter 11 in November of 2009. Whitney's working capital lender was unwilling to increase its line cap with the looming anti-dumping liabilities, and Whitney was projected to tap out its borrowing availability during late January. In order to gain approval of the insider sale within the tight timeframe available, Whitney knew it had to convince the Bankruptcy Judge that the sale process was fair and that the only real alternative to the sale was liquidation, with the attendant loss of value and jobs.

Developing a Sound Sale Process

The first step was to develop a sale process that would legitimately expose the assets to the marketplace. Shortly before the filing, Whitney's Board of Directors passed a resolution appointing a St. Louis investment banker, Brent Baxter, as the company's Chief Sales Officer. The resolution ceded ultimate corporate responsibility on all matters pertaining to the sale to Mr. Baxter and away from the principals who planned to form the new buyer for the company. Mr. Baxter, whose role as Chief Sales Officer was reaffirmed by the Bankruptcy Court shortly after the filing, then did all of the sort of things

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anyone would expect of an investment banker in an arm's length transaction. He developed a due diligence sale book of key information and documents. He then developed a list of potential strategic buyers (including HPI) and a list of financial buyers. He and his firm reached out personally to many of the strategic buyers, and they sent multiple teasers to the financial buyers.

Perhaps more important, however, the Chief Sale Officer provided an air of legitimacy to the sale process. He negotiated the terms of the stalking horse asset purchase agreement with the insider new company (which was represented by different counsel than the debtor) on a completely arm's length basis. The insider purchaser agreed to purchase all of Whitney's assets except the remaining steel-top inventory that was arguably subject to duties. The purchase price was equal to the sum of the first and second liens on the assets; the purchaser also agreed to assume certain trade payables. As in the car cases, the lienholders both assigned their rights to credit bid at the auction to the insider purchaser. Although several third parties performed varying levels of due diligence, no one submitted an offer to purchase the assets before the deadline fixed by the Court.

A Fair Process Leads to a Fair Price

HPI and the DOC both objected to aspects of the sale, but HPI deferred to the DOC to prosecute the objection. The DOC argued that the sale was made in bad faith because it was admittedly intended to deal primarily with the anti-dumping obligations. Whitney contended that the prospective sale satisfied the higher "fundamental fairness" standards contained in Delaware corporation law for a sale to an insider, i.e., a fair process leads to a fair price. Whitney, relying on Section 363(f)(4) of the Bankruptcy Code, also argued that the sale should be free and clear of all claims and interests of any sort in the assets, including the anti-dumping liabilities, because those liabilities were subject to a bona fide dispute. Finally, Whitney pointed out to the Bankruptcy Court that the DOC's position in Whitney's case appeared to be inconsistent with the federal government's position in the car company cases.

The Bankruptcy Court ruled in Whitney's favor and permitted the sale to proceed. The Court was clearly persuaded that there was no alternative to

the insider sale other than Whitney's liquidation, which would result in no payment to the DOC. Since DOC did not have a judgment against Whitney, the Bankruptcy Court concluded that DOC did not have an "interest" in the assets to be sold. However, the Bankruptcy Court did note that the proposed sale was to be free and clear of all successor liability claims and that such claims did constitute "interests." Because the successor liability claims were in bona fide dispute, however, the Court concluded that Section 363(f)(4) was satisfied and that the assets could be sold free and clear of any potential successor liability claims.

The DOC did not give up easily. It appealed the ruling and requested a stay pending appeal. The Bankruptcy Court denied the stay request, and the parties closed on the transaction on January 31, 2010. Whitney then moved to dismiss the appeal as being moot, and the District Court took it under advisement.

In the meantime, the purchaser proceeded as if there was no appeal. Not surprisingly, it left the steel-top ironing board business, but it thrived throughout the balance of 2010 and into 2011. In fact, it recently acquired a company with a niche position in the household laundry furnishings industry. Finally, the District Judge recently ruled that the DOC's appeal should be dismissed as moot.

This case stands for the proposition that a Bankruptcy Court can approve a Section 363 sale to an insider in certain circumstances free and clear of successor liability concerns. In such cases, it is vitally important to convince the Court and the parties that the sale process is fair and the only alternative is a liquidation of the company that will benefit no one.

David A. Warfield is the Co-Chairman of the Financial Restructuring practice group at Thompson Coburn LLP, a 350 plus attorney law firm with offices in St. Louis, Chicago, and Washington D.C. He is the former President of the Missouri Chapter of the Turnaround Management Association and is a Fellow in the American College of Bankruptcy.

The author acknowledges the assistance of Allison E. Graves, an associate at Thompson Coburn, who assisted with this article and with Whitney Design's Chapter 11 case.

A trusted business partner for companies nationwide, MorrisAnderson combines high-quality operational, financial and strategic consulting; deep industry experience; and collaborative leadership to generate quantifiable results and provide peace of mind for middle-market companies and their stakeholders.

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Cooperating to Cope: Arizona's New Real Estate Market Status Quo and How to Survive it

By Joshua Joseph, Principal, Frontline Real Estate Partners and Tim Shaffer, Director, MorrisAnderson



Joshua Joseph



Tim Shaffer

It's been nearly five years since the housing market began its decline and two years since the recession was officially declared a thing of the past. In many parts of the country, real estate markets are well on their way to recovery. Arizona, however, is not one of them. For those in the Grand Canyon State, a long wait still lies ahead. To survive that wait, business tenants, landlords and lenders will have to embrace the spirit of cooperation, working together to make it through.

Explosive Growth and Devastating Decline

From 2000 to 2010, Arizona's population increased 24.5 percent, making it the second-fastest-growing state in the nation, according to U.S. census data. As in other "sun belt" states, the influx of residents brought heavy demand for real estate, spurring construction and boosting prices in both the residential and commercial markets. In 2004 alone, the average price per square foot for office condos in Scottsdale and the south East Valley area jumped \$10, according to CB Richard Ellis.

But, when the bubble burst, Arizona's real estate market came down swiftly and dramatically. Once demand was satisfied, prices dropped, and new mortgage holders found their properties were no longer worth as much as their outstanding loans. In April, one in five Phoenix-area mortgage holders would have needed property values to at least double just to break even, Bloomberg reported.

Construction ground to a standstill. The number of new single-family construction permits in the state dropped around 30 percent each year from 2004 to 2006 before plummeting 49.2 percent from 2006 to 2007, according to W.P. Carey. Many commercial development projects were simply halted, with cranes left to stand amidst unfinished shopping centers or office parks.

A Long Road to Recovery

Recovery for Arizona will likely take even longer than analysts previously expected. A University of Arizona economist, Marshall Vest, who had previously forecast relatively strong economic improvement, told the Arizona Republic in March that he now doubts recovery will come before 2015. Based on our experience in the market, that seems reasonable.

The two major problems standing in the way of recovery are slow job growth and lenders' reluctance to provide financing for secondary assets.

For June, Arizona's unemployment rate was 9.3 percent, only a tenth of a percent above the national average but still troublesomely high. Slow job growth has retarded the absorption of the excess capacity generated during the boom, allowing supply and demand to remain out of balance. Without new hiring, businesses have little reason to expand their real estate footprints. In the Phoenix area, the vacancy rate for office space in 2010 was an astounding 26.2 percent. Vacancy rates for industrial, retail and residential space were also high, though somewhat lower, at 14.7 percent, 12.2 percent and 10.3 percent respectively.

Limited lending has also retarded the rebalancing of supply and demand by keeping the volume of transactions low, preventing excess capacity from being absorbed. While financing has loosened some for prime assets such as Class A multi-family and office properties in select cities, activity in Arizona, as in other less attractive market and regional sectors, remains stymied.

Working as Partners to Adapt

Until there are significant increases in job growth and lending, Arizona businesses will continue to exist in a post-collapse reality. Companies that hope to survive need to develop effective strategies to deal with that reality.

In a real estate market under pressure, many people are inclined to see the relationships linking tenants, landlords and lenders as battlegrounds in a zero-sum game. But as much as their interests may seem to be in competition, these parties are also held together by bonds of mutual dependence.

A landlord can refuse to accommodate struggling tenants' needs, but, if it does so, the tenants may be forced to leave, creating hard-to-fill vacancies. When landlords go to lenders for concessions, the lenders, too, have the option of holding to original terms but are better served by compromise. Since real estate values in Arizona have dropped so precipitously, lenders who repossess a property are frequently left with inventory that is worth less than the balance of the loan. Ending relations with the borrower means either accepting that loss or entering into a lengthy process to extract the remaining balance. Negotiating, on the other hand, allows the lender to retain the possibility of eventually recouping the investment.

In looking at the Arizona market, we have observed that businesses that were up and running before 2005 or 2006 have fared far better than those that were still breaking ground when the crisis hit. We believe relationships between tenants, landlords and lenders were a significant factor in more established companies' greater success. Those businesses that had time-tested foundations to rely on were better able to negotiate when their situations changed.

The time invested in building relationships is only useful, however, if it is spent establishing trust. It is essential for all parties to be straightforward in their conduct. As soon as a landlord loses faith in a tenant or a lender loses faith in a borrower, the parties' ability to work together to find mutually beneficial arrangements disintegrates.

Of course, trust is not always enough. Even borrowers with strong relationships with their lenders are sometimes unable to negotiate, as banks implement comprehensive strategies to improve their portfolios. The fact that, according to RealtyTrac, a record 2.9 million U.S. properties received foreclosure filings in 2010 testifies to that. Of those properties, 155,878 were in Arizona, giving the state the nation's third-highest number.

Still, the best advice for those waiting for recovery in Arizona is to work together. Eventually, job growth and increased lending may bring new stability to the Arizona market. But, until then, whether they want to or not, tenants, landlords and lenders need to act as partners.

Josh Joseph is a Founder and Principal of Frontline Real Estate Partners, based in Northbrook, Illinois. He has executed real estate transactions, both acquisitions and dispositions, in almost every state within the continental United States. He has disposed of over \$500,000,000 of real estate and has acquired over \$100,000,000 of real estate during his career. Josh's clients include publicly traded companies, privately held corporations, private equity companies, financial institutions, retailers, court-appointed trustees and receivers, and traditional institutional and private real estate companies. Prior to Frontline, Josh spent eight years at Hilco Real Estate as a Senior Vice President. Josh is a licensed Real Estate Broker in the State of Illinois and can be reached at jjoseph@frontlinerepartners.com.

Tim Shaffer, CTP, CIRA, is a Director at MorrisAnderson. He has more than 26 years of experience in business and real estate finance. Tim serves on the Board of Directors and is Program Chairman of the Arizona Chapter of the Turnaround Management Association (TMA). He has served the complete spectrum within the bankruptcy environment, representing Chapter 11 Debtors-in-Possession, Unsecured Creditors Committees, Chapter 11 and Chapter 7 Trustees. Tim has been a licensed real estate associate for 20 years and has placed over \$100,000,000 in commercial real estate mortgages. He can be reached at tshaffer@morrisanderson.com.

Promotions at MorrisAnderson



Paulina Fin Caprio

MorrisAnderson has promoted both Paulina Fin Caprio and Mark T. Iammartino to the position of Directors. In their new roles, Caprio and Iammartino will work independently on client engagements, further develop client relationships and focus on growing new business opportunities.

Caprio joined MorrisAnderson in 2009 as an associate director in its Chicago office. She has 15 years of experience in corporate turnaround management and restructuring, investment management and finance.

Caprio has been a Chartered Financial Analyst (CFA) since 2002 and is a board member of the International Womens Insolvency & Restructuring Confederation (IWIRC). She is also a member of the Turnaround Management Association

(TMA), the American Bankruptcy Institute (ABI), and the Executive Club of Chicago. She holds a bachelor's degree in neuropsychology from the University of Toronto.

Iammartino joined MorrisAnderson in 2009 as an associate director also in its Chicago office. He has 15 years of consulting experience in corporate turnaround management and restructuring services, credit analysis and due diligence. During his time at MorrisAnderson, Iammartino has advised clients on divestitures and restructuring, provided investment banking services, performed financial forecasting, managed vendor relationships and served on unsecured creditors' committees for several companies.

Iammartino is a licensed Certified Public Accountant (CPA) in Illinois and is also a member of TMA and ABI. He holds bachelor's degrees in finance and accounting from the University of Illinois at Urbana-Champaign and a master's in business administration from the University of Chicago Booth School of Business.

News at MorrisAnderson



Mitch Kahn

Mitch Kahn, Principal of Frontline Real Estate Partners, served as a panelist at RealShare Chicago on June 15. The panel, Opportunities in Distressed Assets and Debt, covered tricky workouts, dealing with extensions, and identified the types of assets that are rebounding faster than others. Watch a GlobeSt.com interview with Mitch Kahn at the event at MorrisAnderson.com/companynews.

MA Team Members in the Press:



Ken Yager

Ken Yager, Principal

Published in July/August 2011 *ABI Journal*.
Article Title: *Is the Distressed Industry Distressed?*



Aaron Gillum

Aaron Gillum, Director

Published in May/June 2011 *ABF Journal*.
Article Title: *The Art of Managing Vendor Negotiations & Communications in a Turnaround*



Dave Bagley

Dave Bagley, Managing Director

Published in April/May 2011 *AIRA Journal*.
Article Title: *Returning to Profitability: Successful Restaurant Restructurings in a Sluggish Economy*

You can read all of these articles on our website at MorrisAnderson.com/ResourceCenter/Downloads.

MorrisAnderson Rankings



MorrisAnderson Moves up to #4




















With 29 cases, including all debtor, creditor and other assignments within active bankruptcy cases as of June 30, 2011, MorrisAnderson is ranked 4th among *The Deal's* Top Crisis Management Firms.

MorrisAnderson Team Members Ranked Among Top Crisis Management Professionals





MorrisAnderson Principals, Dan Dooley, Howard Korenthal and Domenic Aversa and Managing Directors Dave Bagley, Mitch Kahn and Mark Welch appeared on *The Deal's* list of Top Crisis Management Professionals.

Includes all debtor, creditor and other assignments within active bankruptcy cases as of June 30, 2011.

Current Engagements

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|---|--|---|---|--|
|  <p>First Boston Pharma, LLC</p> <p>Assignment for the Benefit of Creditors (ABC)</p> |  <p>FormTech Industries, LLC</p> <p>Liquidation Trustee</p> |  <p>\$60 Million Farm Equipment Manufacturer</p> <p>Financial Advisor & Performance Improvement</p> |  <p>Desert Capital REIT, Inc.</p> <p>Chief Restructuring Officer</p> |  <p>\$140 Million Machinery Sales & Rental Company</p> <p>Financial Advisor to Lenders</p> |
|  <p>Wind Farm Development Company</p> <p>Financial Advisor</p> |  <p>Printing Products Distributor</p> <p>Investment Banker & Acquisition/ Due Diligence Services</p> |  <p>Utility Meters Company</p> <p>Investment Banker & Financial Advisor</p> |  <p>Modern Warehousing, LLC, Modern Distributing, LLC, et al.</p> <p>Receiver</p> |  <p>Pine Canyon, LLC</p> <p>Litigation Support</p> |
|  <p>Boat Transportation Company</p> <p>Financial Advisor</p> |  <p>\$35 Million Radio Broadcasting Company</p> <p>Financial Advisor & Investment Banker</p> |  <p>Residential Window Company</p> <p>Financial Advisor & Performance Improvement</p> |  <p>Kazi Foods</p> <p>Real Estate Advisor & Investment Banker through Frontline Real Estate Partners</p> |  <p>JEMM Meat</p> <p>Real Estate Receivership through Frontline Real Estate Partners</p> |
|  <p>Video Design & Manufacturer</p> <p>Financial Advisor</p> |  <p>TekServe POS</p> <p>Performance Improvement & Financial Advisor</p> |  <p>Telemedia International Inc.</p> <p>Interim Management & Performance Improvement</p> |  <p>Environmental Services Company</p> <p>Interim Management & Financial Advisor</p> | |

Recent Successes

| | | | |
|--|---|---|---|
|  <p>Burr Oak Cemetery</p> <p>Interim Management & Confirmed Plan of Reorganization</p> |  <p>Dairy Processor</p> <p>Financial Advisor, Out-of-Court Composition Plan & Settled Litigation Claims</p> |  <p>Golf Course</p> <p>Expert Witness Testimony</p> |  <p>Medical Office, Chicago</p> <p>Completed Receivership</p> |
|--|---|---|---|

Bring Your Golf Clubs: Using Emotional Intelligence in Distressed Assignments

By Paulina Fin Caprio, CFA, Director, MorrisAnderson



Paulina Fin Caprio

Research has consistently shown that successful leaders are distinguished less by their IQ and more by their EQ, that is, their emotional intelligence. While emotional intelligence is important for all types of leadership, it is particularly critical when uncertainty is high and time is limited—in other words, in precisely the circumstances faced everyday by turnaround and restructuring professionals.

By making emotional intelligence an essential ingredient in managing turnaround assignments, we, as restructuring leaders, can achieve the best outcome for our clients and stakeholders and can more effectively tackle the challenges we face with distressed companies.

Emotional Intelligence: What is it?

John Mayer and Peter Salovey, who first introduced the concept of emotional intelligence, defined it as “the ability to perceive emotional information and use it to guide thought and actions.” Daniel Goleman, who popularized both the term emotional intelligence and the underlying idea, has said that emotional intelligence is “an array of non-cognitive capabilities, competencies and skills that influence one’s ability to succeed in coping with environmental demands and pressures.”

Goleman has explored how emotional intelligence applies to leadership, outlining five components of emotional intelligence shared by most effective leaders. Those traits are:

- Self-awareness: knowing one’s strengths, weaknesses, drives, values, and impact on others
- Self-regulation: controlling or redirecting disruptive impulses and moods
- Motivation: relishing achievement for its own sake
- Empathy: understanding other people’s emotional makeup
- Social skill: building rapport with others to move them in desired directions

Why is emotional intelligence so important in distressed assignments?

Often companies are in distress because they have failed to act (or react) in response to changed circumstances. By the time they start addressing their core problems, they are already fighting the clock. In the resulting crunch, emotions can flare on all sides, and individuals can become defensive and guarded. Restructuring leaders often must address not only anxious company employees, but also fatigued stakeholders, suspicious customers, mistrustful vendors and wary potential investors. To achieve the best results, the restructuring leaders need to bring as many of these people on board as possible. Each group and different personalities within each group, however, must be engaged and empowered in a different way. That is where emotional intelligence comes in.

The Bag of Clubs

Let’s use the analogy of a set of golf clubs as the different leadership styles one can bring to a restructuring engagement. All players need more than one club to play a game of golf. Bringing out a 9 iron on the putting green is a sure path to disaster. Similarly, leaders need a variety of management styles as they navigate through a restructuring assignment.

The Driver

This hard-hitting, get-things-done-or-else strategy is vital to creating an often much-needed sense of urgency. It serves as a call for action. A person wielding the driver mobilizes, executes and pushes the process forward. He or she can be counted on to get people moving and to maintain momentum. The focus is on “getting it done.”

When to use it: to kick start a turnaround, to take control when parties are unwilling to step up, to make tough decisions

When to leave it in the bag: when individuals need to be coached, when trying to build trust, when you need people to perform at their best, not their fastest

The Wedge

In golf, the wedge is used to get around obstacles (e.g. trees or bunkers). Using this club means looking for creative ways to approach a problem, knowing that steamrolling will not work. Someone using a wedge might present customers or lenders with innovative pricing strategies or work behind the scenes to build consensus among stakeholders. The focus is on “how do we make this work.”

When to use it: when you are at an impasse and are looking to bridge a gap (often necessary in family-owned businesses where relatives may have stopped communicating with each other), when lobbying vendors to avoid an involuntary bankruptcy or when negotiating financing options with new lenders

When to leave it in the bag: when you need to send a strong message to employees or customers, when options are limited, when you need to get quick results from a motivated team

The Putter

Whenever detail work is required, the putter comes into play. This club is necessary to ensure that activities are completed at high standards, all communications are clear, possible unintended consequences are vetted and job functions are transferred smoothly. Using the putter requires concentration, tact and precision. The focus is on getting it done right.

When to use it: during due diligence, when performing detailed financial analysis, when a complex message needs to be communicated accurately

When to leave it in the bag: when you need to focus on the big picture, when relying on “gut feel” to work through a multidimensional situation



Many people habitually rely on a single go-to club. Those with high emotional intelligence, however, assess the situation first and choose the most appropriate strategy. On a flat course, turning repeatedly to one club may work, but, with the hills and sand traps of distressed terrain, it is essential to be able to quickly switch clubs in tackling the various phases of a crisis and dealing with different personalities along the way.

Putting It Into Practice

There is good news—unlike IQ, emotional intelligence can be learned. However, improving emotional intelligence does not happen overnight; it takes practice, self-awareness and commitment. Feedback, coaching and training are key tools in this process. A fun and effective way to boost emotional intelligence is to take improv classes.

Here are some first steps to help you get started on the road to emotional intelligence:

1. When approaching a situation, consider what kind of emotions and behaviors people bring to that situation.
2. Recognize whether your emotions do or don't fit the situation you are entering.
3. Before proceeding, consider what style you intend to use. Are you settling for your "go-to" mode of operation? If so, is there a more suitable approach for the situation?

4. After the fact, take a couple of minutes to replay the situation and to evaluate whether your approach was appropriate. If it was, consider writing it down to reference later. If it wasn't, don't be discouraged; there will be many opportunities to try again!

Working with distressed companies is challenging because of the constant need to take action amid uncertainty and stress. Emotional intelligence is a key tool to help navigate these situations and to develop flexible leadership styles that have the highest probability of success. Using emotional intelligence in our work will improve leadership effectiveness and project outcomes and will leave a longer-lasting impression with clients and stakeholders.

Want To Learn More? Recommended Reading:

Goleman, Daniel. "What Makes a Leader?" *Harvard Business Review* 76 (1998): 93-104.

Goleman, Daniel. "Leadership That Gets Results." *Harvard Business Review* 78 (2000): 78-90.

Paulina Fin Caprio, CFA, is a Director at MorrisAnderson. She provides actionable financial and operational advice to companies and their stakeholders and takes on interim management roles with underperforming and distressed companies. She has represented both debtors and creditors in out-of-court restructurings, liquidations and bankruptcy assignments. In addition, she has sourced capital through refinancing, debt-for-equity transactions, company sales and alternative investment structures. She can be reached at pcaprio@morrisanderson.com.

Upcoming Events

Join MorrisAnderson team members at the following events:

| When | Who | What | Where |
|-----------------|---|--|-----------------|
| September 21-22 | Turnaround Management Association (TMA) | Mid-America Regional Conference | Minneapolis, MN |
| October 12-15 | National Conference of Bankruptcy Judges (NCBJ) | 85 th Annual Conference | Tampa, FL |
| October 18 | Association for Corporate Growth (ACG) | 2011 Midwest Capital Connection | Chicago, IL |
| October 25-27 | Turnaround Management Association (TMA) | 2011 Annual Convention | San Diego, CA |
| November 16-18 | Commercial Finance Association (CFA) | 67 th Annual Convention | New York, NY |
| December 1-3 | American Bankruptcy Institute (ABI) | 23 rd Annual Winter Leadership Conference | La Quinta, CA |



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MorrisAnderson is proud to partner with Frontline Real Estate Partners, a commercial real estate advisory firm providing consulting and advisory services in bankruptcy and distressed situations, as well as selectively acquiring distressed real estate assets. MorrisAnderson clients and referral sources now have unique access to in-house real estate services, including management of receivership and bankruptcy transactions.

Almost every distressed business has real estate assets. Frontline Real Estate Partners provides the expertise to maximize the value of those assets to achieve the best possible outcome for MorrisAnderson clients.



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