

BANKNOTES

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The Nelson Nash Institute Monthly Newsletter

Bankruptcy? There is an Alternative. A New Role For Privatized Banking - Part Two

I published this article in December 2010—right at the time that Bankruptcies were at an all-time peek for Americans as well as Canadians.

However, even today in 2023, the filing process, except for a few things, remains the same. But knowing the differences according to the Bankruptcy code in America and also Canada, is important to understand, especially if you are interested in getting into a lucrative business.

Therefore this article is worth reading once more.

*If you are an IBC practitioner that truly understands how these policies function, the current environment creates an ideal situation for you to make the safest loans you can possibly make to small businesses that need cash. Look into becoming what I did for years - a Debtor in Possession, otherwise know as DIP Financing. **[In this article an IBC practitioner is a reference to a layperson practicing IBC, not to be confused with an Authorized IBC Practitioner.]***

L. Carlos Lara

Many businesses file for bankruptcy unnecessarily, often for the wrong reasons. Business owners frequently seek bankruptcy protection believing in an outcome that rarely ever materializes. But it is the statistics that tell the real story; most businesses that file a petition for bankruptcy rarely emerge out of the ordeal. Less than 10% of large companies survive, while smaller companies hardly ever do. With that kind of track record, bankruptcy can be said to be a one-way street with a dead-end.¹

As the recession deepens, more businesses are expected to file for bankruptcy in 2011. When interest rates finally spike, we can expect an avalanche of businesses to go bankrupt. This will include thousands of “mom and pop” establishments as well as billion dollar concerns. Although many businesses will be shuttered, and unsecured creditors will suffer untold losses, others will make

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- *Continuing to Ponder and Ruminare*



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millions. Winners in this financial drama are usually bankruptcy attorneys, bankruptcy trustees, and DIP (Debtor in Possession) financing firms. The more assets involved in these bankruptcy cases, the bigger the gains for these special groups. This should come as no big surprise in that bankruptcy is, and always has been, big business. Unfortunately, it rarely benefits the businesses using bankruptcy protection to obtain the financial relief they seek. The good news, however, is that there is an alternative method that businesses can use; bankruptcy can be avoided altogether. Using this second route, a financially distressed business can survive and thrive once again.²

In part one of this article we learned that the alternative to bankruptcy is known as an “*Informal Reorganization*.” This strategy involves a business workout that is accomplished totally outside of the bankruptcy courtrooms. In other words, it is a process that does not require the filing of a bankruptcy petition at all. Unlike bankruptcy proceedings, in this method the business owner meets with all of its creditors “*informally*” and works out its business problems utilizing the services of an experienced workout specialist. It is the specialist who communicates with all the creditors, develops the reorganization plan, and prepares the formalized agreements so that all parties can resume business as usual. Of course, the key ingredient to this strategy is new money. This new money can be either in the form of cash (a loan), or through increased cash flow by the conversion of short-term liabilities into long-term liabilities, or a combination of both. Just as important, if not more so, is the re-opening of credit lines for the business. Here again, the specialist is capable of brokering and providing these resources, and can include loans that are structured in much the same way as DIP loans in bankruptcy. (See Part One of this article)³.

These informal reorganization services are highly specialized and sometimes difficult to engage, but they are much more effective in rehabilitating a business in crisis. They are also much less expensive and since all creditors are working ultimately toward

being paid back in full, the relationships fostered by these programs are much more co-operative and resemble joint ventures. An experienced specialist will be skilled in tying the willing parties together into a formalized plan. He is aware that trade creditors routinely face this type of problem with many of their accounts. Economic downturns and undercapitalization issues arise regularly. As suppliers, their distribution channels are limited; they cannot afford to lose any of them. But at the same time, they can’t continue to ship products to a business that is overextended in credit. For this reason, they are eager to explore solutions that can help them maintain those valuable distribution channels without further exposing their company to a serious loss, even bankruptcy. The informal reorganization presented by the workout specialist often is exactly the right formula. Even though these programs will invariably result in long-term payouts to trade suppliers, the options are better than bankruptcy. Of course, the range of strategy styles used in these programs varies from specialist to specialist and is often determined by the type of business and/ or its products. However, the timely payments for the “new credit” to be extended are what ultimately make the difference on whether or not an informal reorganization will be successful. This is all to say that “*new credit*,” whether in the form of a loan or merchandise extended on time, is always treated as a protected and immediate payment priority.

The IBC Practitioner as a Financing Entity

As most IBC practitioners know, the Infinite Banking Concept is truly infinite. There are unlimited ways to use IBC, but more often than not, the IBC practitioner, when making loans, typically makes them to himself. He acts as a lender and borrower at the same time. The idea of lending to third parties is seldom done, unless it is to ones own corporation. New *privatized banking* ideas for the IBC practitioner are still rare. For this reason, one of the main subjects of this article is to present the idea that an IBC practitioner can lend to a business that is reorganizing informally. Hopefully, this

suggestion will expand lending possibilities to all IBC practitioners, and introduce a surprisingly safe loan that they can extend while achieving spectacular returns. As IBC practitioners know, the key to the IBC practice is to pay back the policy loan with regular installment payments, and to do so with extra interest payments. This is at the heart of the IBC concept. It is what Nelson Nash continually emphasizes and what Bob and I wrote about in our book, *How Privatized Banking Really Works*. In this article, the IBC practitioner will be thrilled to learn that lending to a business that is structured as an informal reorganization will accomplish exactly that and much more.

In order to begin to grasp the feasibility of these loans, it is important to remember that businesses in the United States are predominately small businesses. Therefore, it stands to reason that these programs are for the most part put together for small business owners. The loans we reference can be as small as \$25,000, \$50,000 or \$150,000. Most certainly most loans will rarely exceed \$1 million. This is predominately small business lending and the market for these loans is growing exponentially. In an environment in which traditional banks have sharply curtailed their lending to businesses, the IBC practitioner now has an even greater opportunity to profit by exercising his “*privatized banking*” skills in this unique area. Furthermore, it is highly possible that the IBC practitioner will now be able to foresee potential cases in the making as he interacts with clients. Not only will he be able to steer these business owners toward getting the assistance they need, but can also position himself as a lender as the case unfolds. Obviously, understanding the mechanics is first and foremost. The following example is representative of one of several strategies that can be used, and demonstrates the potential for these types of loans, always keeping in mind that there are thousands of different types of business and products in our economy. One can only imagine the possibilities.

How It Works

1. The supplier (or, for example, the IBC Lender), the business owner and the workout specialist, acting as a special third party agent, execute a series of legal documents and forms that establish the program. One of those documents creates a legal trust for the benefit of the supplier (the IBC Lender). The workout specialist, as special agent, acts as trustee for this trust.
2. The supplier ships new merchandise to the business owner under the program. (The IBC Lender provides \$25,000 for the purchase of certain merchandise crucial for sales). This certain supplier product is specially identified as “Trust Inventory” when shipped and received into the business (The identity of the Trust Inventory is invisible to the business’ customers). On a daily or weekly basis, all proceeds from the sales of the Trust Inventory (including the business owner’s profit) are placed into a special bank account owned by the trust. On a weekly basis, the trustee distributes from this trust account, in order of priority: (a) the amount owed to the supplier (IBC Lender) for the sold products and (b) the business owner’s profit, less (i) certain fees and expenses associated with the implementation and management of the Program and (ii) a specified reserve for the handling of shortages.
3. As Trust Inventory is sold and paid for, more inventories can be purchased and shipped at the supplier’s (IBC Lender) discretion, and the process repeats itself until: (a) the business owner has paid off all of its debts and re-established his credit or (b) the supplier (the IBC Lender) unilaterally chooses to terminate the Program.

Why the Program Works

The program works for two important reasons. First, the legal documents signed in connection with the Program ensure that the supplier (the IBC Lender) retains legal title to the Trust Inventory at all times. Only when a sale is made does title pass to the consumer, and at that time, legal title to the sale proceeds passes directly to the supplier

(the IBC Lender). These proceeds are held “*in trust*” for the benefit of the supplier (the IBC Lender), reconciled in the “*trust account*”, then ultimately paid to the supplier (the IBC Lender). At no point in the process does the business owner get title to the Trust Inventory or its proceeds. So, in a bankruptcy scenario, if the situation should inadvertently happen, the Trust Inventory at the business owner’s place(s) of business, including any proceeds of the Trust Inventory sales, are excluded from the bankruptcy estate. The Trust Inventory, or its proceeds are, therefore, recoverable by the supplier (the IBC Lender), or they continue to sell in bankruptcy uninterrupted and paid according to the trust agreements. While most agreements become null and void in bankruptcy, trust agreements do not.

The “*identifiability*” of the Trust Inventory as distinct from the business owner’s other inventory is of critical importance to the program. Typically, the business owner’s primary lender has a blanket lien on all of the assets of the business, including its inventory. Under normal circumstances, a supplier who ships product to a business who then files bankruptcy, has, in essence, provided the bank with additional collateral to secure its loan. But, with this strategy properly implemented, the supplier (the IBC Lender) keeps its money and merchandise products out of the bankrupt estate of the business. Furthermore, the business owner’s bank will quickly recognize that this new capital in the form of additional inventory, even if it does not become a part of the bank’s collateral, will assist in keeping its borrower out of bankruptcy and on the road to financial recovery. This is what makes bank negotiators very receptive to an informal reorganization. Additionally, trade suppliers are pleased to be able to resume shipments to the business almost immediately under this formula.

The second reason this strategy works is because, in addition to the duties as trustee, the workout specialist acts as a “*watchdog*” for the supplier (the IBC Lender) as well as all other trade suppliers working inside this program. He reconciles shipments, inventories and sales, performs inventory

audits, and provides periodic reports to the supplier (the IBC Lender). If there is ever a shortage, discrepancy or other problem, he is there to address it. At the same time, he may also assist the business owner with sales efforts and provide professional financial guidance, marketing and consulting advice.

Flexibility and Benefits

This type of strategy is extremely flexible. It can be used in virtually any type of product business. With certain adjustments, it can even work with service businesses. It can be used as a temporary method for reestablishing credit, or as a permanent way of supplying businesses. Alternatively, reserve amounts can be used to pay past due invoices while regular inventory orders continue to ship under the program. Any number of variations or alternatives for structuring is possible.

And, what about profits to the IBC Lender?

Well, here again, we need to use our imagination and our common business sense. Keep in mind that businesses have numerous products in their inventories all depending on the nature of their business. In the above example we could be speaking of automobile tires, boots, dresses, books, jewelry, in fact, the amount of products in an economy such as ours can stagger the imagination. We can even imagine cans of peas, as Nelson Nash writes about in his book, *Becoming Your Own Banker*. The most important thing to recognize is that each product has its own profit margins and each product has a certain inventory turnover rate. For example, some products work off of a 20-25% profit margin while others are as high as 50 to 75%, or more. Additionally, one product may turnover in sales twice a year while others may turnover 10 to 20 times per year. If we imagine the same \$25,000 loan turning over this many times in one year, alongside a high profit margin, we start to get the picture of the enormous returns possible. And don’t forget, the payments to the IBC Lender, are weekly installments!

But doesn’t the bulk of the profit have to go to the business owner? I.e., if he is going to stay in business, doesn’t he have to be siphoning off income

from these sales too?

The answer, of course, is an absolute yes. In order to grasp the profitability of the IBC loan, we need to remember that this new money will be used to purchase only one product line, or perhaps a few. This is in contrast to hundreds, maybe thousands of other products within the owner's business. Each product line has its own cost, its own turnover rate, and its own mark-up. Make no mistake; the business owner profits fully from the sales of all of these other products so long as the trade creditors/suppliers become a party to this new strategy and its agreements. While a 100% acceptance to such a plan is rare, 75% is common. Generally, it is the major trade suppliers who accept the plan unanimously. What we must emphasize again is that it is this strategy, its protections and priority payments, which ultimately re-open the credit lines. This new credit becomes the largest infusion of new money and the key to the business's long-term profitability.

For example, Creditor A (one of 300 other trade suppliers of the business) is owed \$100,000 and the invoices are past due. This receivable is unsecured and the inventory it represents is now a part of the bank's collateral. In effect, Creditor A is stuck in a precarious situation. This is the main reason he has cut off shipments to the business. All other trade suppliers of the business took similar action since each is also owed past due invoices. So in essence, it was the cutting off credit that precipitated the business owner's financial problems. A bankruptcy filing would cause Creditor A to lose \$100,000. This also translates into millions in losses if the entirety of the trade creditor debt is considered. However, with this new strategy, the new shipments do not become a part of the bank's collateral. The weekly disbursements made by the trustee, assure priority and superiority of payments against the actual products sold. If this plan moves forward, Creditor A can now convert the \$100,000 receivable into a note and the business owner can pay it out over time. When all other trade suppliers convert their short-term debt into long-term debt in the same manner as Creditor A, cash flow is exponentially enhanced for

the business.

As new shipments resume, the business moves toward profitability. Creditor A sells its product to the business at \$50 per item at wholesale. The product is known to sell out quickly because it is a recognizable brand. Alternatively, the product is crucial to the owner's business. Without this brand in stock customers would go elsewhere to buy it. Additionally, it is a profitable product because the owner sells it to the consumer at \$100. As we can see, there is a \$50 spread between the cost of the item and its selling price.

With this additional information to our example we are now ready to examine the profitability of the IBC loan again. We must recognize that in the real world of credit, not all trade creditors/suppliers will ship new product regardless of how much safety and promptness of payment is offered. Right away we detect the need for an IBC loan. The money from the loan will be used to purchase the unwilling supplier's product. When the cash is converted to the product it is specially coded as Trust Inventory and the IBC Lender takes the place of the supplier on the shelf or sales floor. As sales on this product materialize, the IBC Lender is paid accordingly, but he is paid at a premium price simply because of the nature of the transaction. It is not unusual for the business owner to give up all of his profit in special cases such as these, especially if the product is crucial to the business.

Another real-world variance is that new shipments from suppliers will come with new credit line limits and sometimes these limits are insufficient. For example, Creditor A is willing to extend a \$25,000 line of credit on its product, but the business owner needs \$50,000. Here again, is another need for a loan. The IBC loan of \$25,000 satisfies the need. Since the business owner must have this product, and has no other means of obtaining it, except via the IBC loan, then he is more than willing to part with the lion's share of the profits. This is what makes these loans so profitable.

Workout Specialist have ready sources for specialty

loans of this type when such needs as described in these examples arise. The IBC practitioner, if he wants to make loans in this unique area, simply needs to be added to the specialist's resource list.

Conclusion

Businesses, especially small ones, should avoid bankruptcy at all costs. As we have made clear, the informal reorganization presents the best alternative for business survival. Not only should the IBC practitioner become familiar with the strategy, but offer it as an alternative solution to bankruptcy if the problem ever arises from within his own client base.

As IBC practitioners become more familiar with the mechanics of an informal reorganization, loans to these businesses can be seriously considered. There is not only safety in these loans, but they can be enormously profitable. In an economic environment where there are few safe places to invest one's money, these programs can many times be an ideal investment. The IBC practitioner can actually wear two hats. As a financial advisor, the IBC practitioner can guide the business owner to a solution that truly works if bankruptcy seems inevitable. As a lender, he profits from his banking expertise while assisting the business owner in the rehabilitation of his business. *"Two like minded people coming together contractually to solve a common problem"*⁴. This is Privatized Banking.

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Pondering and Ruminating about Income Taxes and Social Security

Originally Published in May 2018 By R. Nelson Nash

The month of April has come to a close — the month that Americans have a deadline to file their income tax report — or get an extension to file at a later date. What a vast subject we have to ponder and ruminate about! How in the world did all this nonsense come to be?

It all came from faulty fundamental assumptions. The Bible is the story of man's relation to his maker. It is obvious that we did not create ourselves. At the beginning of His ministry Jesus is teaching at "The Sermon on The Mount." (Matthew 5-7) and is essentially teaching us how God made us. It could be considered as our "owner's manual." When you buy an automobile, the manufacturer provides a Owner's Manual

"Enter through the narrow gate. For wide is the gate and broad is the road that leads to destruction, and many enter through it. But small is the gate and narrow the road that leads to life, and only a few find it." (Matthew 7:13-14).

When you come to a fork in the road and take the wrong one then the only way to get to your desired destination is to go back to your point of error and get on the right one. Human beings have a built-in nature to take the wrong road. It's because — down deep in his soul — mankind wants to be god! God is a jealous God. He won't put up with that behavior. Mankind can't get that fact straight in his brain.

Our blessings in life do not originate from government action. Our blessings come from God and through peaceful interactions with one another. 'Truly I say to you, to the extent that you did it to one of these brothers of Mine, even the least of them, you did it to Me.' (Matthew 25:40)

Government is force! Government is coercion! All it can legally do is restrain or inhibit wrongdoing by evil actions of people.

So why do people look to government for sustenance and dependence? There is a tremendous element of dependence in the act of worship. You will worship that on which you are dependent. Christians say they worship God — but suggest that we terminate a government program — like Social Security — and they cannot conceive of life without it. Their actions and words do not correlate.

So, in our pondering and ruminating how does all this fundamental stuff apply to our subject at hand — Income Taxes and Social Security?

In our country's history there have been a few instances of an income tax, but it became a permanent fixture in 1913. Three horrible things occurred during that year — Income Tax — direct election of Senators — and the Federal Reserve Act.

There is no way to really understand the rationale behind the idea of income tax in just a few lines. For the best treatise on it I encourage you to read *The Income Tax: Root of All Evil* by Frank Chodorov. This is essential knowledge for anyone who wants to maintain sanity.

And now, we come to the Federal Reserve Act. Before we go any further, have you noticed that politicians and government bureaucrats change the meaning of words to help preserve their “hidden agenda?” The Federal Reserve Bank is not Federal. There is no reserve, and it is not a bank. It is a cartel of member private banks that have secured a monopoly privilege that no one else can engage in. There are a number of books that address this con-game, but I think the best one is *The Secrets of The Federal Reserve* by Eustace Mullins. This, too, is essential knowledge.

Lastly, there is the direct election of Senators. Before this act Senators were elected by State Legislators. States had much more power under that system. That's all gone now.

Before we go any further we need to agree on a few absolutes. Otherwise you need to stop reading this article. You are wasting your valuable time.

TANSTAAFL. That's an acronym that I ran across

over sixty years ago — There Ain't No Such Thing As A Free Lunch!

Yet, we are bombarded every day by advertising using the word “free.” And based on observed behavior I think there are people who actually believe this nonsense. Maybe it is an attempt to justify their irrational purchase of something.

Comic strips are one of our best sources of real education. *Blondie* by Chic Young is a good example. It's late February and Tudbury's Department Store is having their clearance sale. Blondie comes home from shopping and with great enthusiasm announces that “I just bought a dress that was marked \$100 and it was now on sale for only \$50. It was such a good deal that I bought another one for the same price! Dagwood, I just saved you \$100!!!” That can be classified as “Blondie Bumstead economics.”

Extend this type of reasoning to its' ultimate conclusion and you will see that Americans buy things they don't need — with money they don't have — to impress folks they don't know — who could care less.

Another unassailable fact — Customers pay for all the costs incurred by a seller (plus his hoped-for margin of profit) for the goods and/or services of the provider. Without customers no goods or services happen. One of my dear friends down through the years is Roland Nelson. He was an independent retail druggist. I remember well an extended session with his employees where he was teaching them that “I'm not your boss. Our customers are your boss. Every bit of your income is coming from them. Don't ever forget it. Think about it every day!”

This creates the groundwork for recognizing another huge lie — Corporate Income Taxes. Corporations do not pay income taxes! They collect taxes in the form of their sales price. A manufacturer of a good requires labor, raw material, rent, administrative personnel, sales, advertising, financial services, and perhaps a host of other expenses including accounting services which estimates the corporate income taxes that the government will extort from

him. He has to do all these things in order to earn the hoped-for margin of profit.

There is only one way that he can recover all these costs (which includes the expected income taxes he will incur) and that is in the price of his finished product.

THE CUSTOMER ALWAYS PAYS THE COST OF EVERYTHING. TANSTAAFL

I know this a burden on your mind to ponder such truths and spending a lot of time on it will wear you out. I don't want this to happen to you. This is going to take a long time. We are going to have to recognize the lies we live with and take these confrontations with truth in small doses.

So, let's quit until next month and we will continue to ponder and ruminate about taxes, income taxes and Social Security.

Take control of your financial world by

Becoming Your Own Banker

Find a Practitioner Near You

Before you look for a practitioner, we suggest listening to the following two episodes of *The Lara Murphy Report*.

How-To Guide for Starting IBC, Part 1 How to begin your study of Infinite Banking, including finding an Authorized Practitioner.

How-To Guide for Starting IBC, Part 2 How to prepare for your first meeting with an Infinite Banking Authorized Practitioner.

The following financial professionals joined or renewed their membership to our ***Authorized Infinite Banking Concepts Practitioners*** team this month:

New Members

- Dave Hill, Mustang, Oklahoma
- Doug MacKenzie, Hudson, New Hampshire

Membership Renewals

- Vivien Adao, Burbank, California
- Alan Blecker, The Villages, Florida
- Jake Chesney, Atlanta, Georgia
- Dwayne Durksen, Warman, Saskatchewan
- Mary Jo Irmen, Bismarck, North Dakota
- Ken Johnson, Lexington, South Carolina
- Edward Kimmel, Tallahassee, Florida
- Mark Mappa, Northbrook, Illinois
- Vernon McCarty, Calgary, Alberta
- Ty Morgan, Tampa, Florida
- Bryan Nelson, Laguna Niguel, California
- Isis Palicio, Coral Gables, Florida
- Mike Ross, Dartmouth, Nova Scotia
- Kayur Shah, Albuquerque, New Mexico
- Tom Suvansri, Stamford, Connecticut
- Nancy Versoza, Union City, California
- Gina Wells, Fenton, Michigan

You can view the entire practitioner listing on our website using the Practitioner Finder.

IBC Practitioner's have completed the *IBC Practitioner's Program* and have passed the program exam to ensure that they possess a solid foundation in the theory and implementation of IBC, as well as an understanding of Austrian economics and its unique insights into our monetary and banking institutions.

The *IBC Practitioner* has a broad base of knowledge to ensure a minimal level of competency in all of the areas a financial professional needs, in order to adequately discuss IBC with his or her clients.



THE FOUNDATIONS OF IBC

This online **video series** for the general public provides a comprehensive introduction to the *Infinite Banking Concept*.

The first four modules are free, you can view them here:
infinitebanking.org/foundations

The remaining eight modules are subscription-based, costing \$49.95 for all eight.

*Or contact an **Authorized IBC Practitioner** and ask for a coupon code that will enable you to watch all twelve modules FREE.*

Module 1: Introduction to the Nelson Nash Institute

Module 2: What the Infinite Banking Concept Is

Module 3, Part 1: How IBC Works

Module 3, Part 2: Policy Loans & The Nature of Collateral

Module 3, Part 3: How to Read a Policy Illustration

Module 4: Why Nelson Calls It The Infinite Banking Concept

Module 5: The Life Insurance Industry

Module 6: Why Not Buy Term and Invest the Difference?

Module 7: Using IBC to Pass Wealth to Future Generations

Module 8: The MEC Rule and Policy Design

Module 9: Does IBC Work for Older People?

Module 10, Part 1: IBC for the Business Owner

Module 10, Part 2: IBC for the Business Owner

Module 11, Part 1: Using Your IBC Policy: Premiums, Dividends, and Policy Loans

Module 11, Part 2: Using Your IBC Policy: Premiums, Dividends, and Policy Loans

Module 12: IBC as a Way of Life

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