

The Ultimate Business Debt Solution

The Article 9 reorganization:

Eliminate the majority of business debt -

without bankruptcy, without new loans,
without any legal messes or need for attorneys.

secondwind
CONSULTANTS

As seen in:

Bloomberg

 **NBC NEWS**

CNN

Franchise Times

How It Works

When business debt becomes unsupportable or a sale/ exit has become impossible, reorganization under Article 9 can separate debt from the underlying business operation.

Your business's value and operations will be preserved within a new, debt-free entity which will be both viable and financeable moving forward.

The debt-removal is achieved through Article 9 of the Uniform Commercial Code, which provides for a short sale of your operational business assets into a new purchasing entity, while removing all subordinate liens and liabilities from those assets, and thus from the business itself.

Here's Why

When debt is removed, the operation can return to profitability. Because you will continue to earn from the new business entity, you can meet your financial goals, while affordably resolving personal guaranties on debts removed from the business.

Business preservation under UCC Article 9 not only means you can avoid a bankruptcy and continue the business (or exit successfully), but your creditors actually recover more than if the business were to fail.

Please note, Second Wind is NOT a "debt-relief" company. Second Wind is a business consultancy focused on business reorganizations that create a win/ win for you, your business and your creditors.

Learn More

Upon request we will schedule a fact-finding call with a Second Wind specialist.

During this call, you will learn how a business reorganization can:

- ✓ Immediately relieve your cash-flow of debt service
- ✓ Eliminate the majority of debt
- ✓ Resolve personal guarantees
- ✓ Reposition your business for financing and future success

Ask us how to get started!

OUR APPROACH

Introducing the RISE Program

Our RISE Program (*Reorganization, Insulation, & Strategic Elimination*) offers the rational and ethical alternative to bankruptcy and failure for businesses of any size.

Small Business

Over the past ten years, Second Wind has reorganized and preserved thousands of distressed businesses through our RISE program.



Enterprise

RISE Enterprise Solutions offers the most rational path to preserving the value of complex organizations faced with distress—regardless of industry, corporate structure or location.



1

Reorganize – Through Article 9

Over the past 10 years, Second Wind has adapted and perfected the application of reorganization strategies to businesses of all sizes. We don't believe that only the largest corporations are "too big to fail." The preservation of business value, jobs and economic activity is not only the rational alternative but the ethical one as well.

2

Insulate

We immediately insulate cash flow, operating accounts, receivables and customers from creditor interference. Stabilizing the business puts control in the hands of owners—not creditors—to define the path moving forward.

3

Strategize

Every business is different. Whether a small business with outstanding SBA or MCA obligations, or an enterprise level company with complex vendor chains, board of directors and other variables, we create a single, global path to resolution.

4

Eliminate

The principle is simple: when we preserve business value that would otherwise be lost or destroyed through bankruptcy, all parties can benefit—owners and creditors alike. The RISE Program will eliminate the vast majority of debt, resolve personal guarantees and create a path to corporate turnaround or a successful exit.

The Article 9 Reorganization

The Article 9 reorganization involves a short-sale of your business assets into a new purchasing entity.

The business operation continues, uninterrupted.

The asset purchase satisfies your senior creditor's valuation of the assets.

All subordinated debt, UCCs, liens and liabilities are removed from the assets in the sale to the new business entity (by statute under UCC Article 9)

All debt remains behind with the old entity, and for which you likely have personal guarantees (PGs)

Based on your ability to continue to earn within the new business entity, we will negotiate your PGs down to affordable losses.

The Article 9 reorganization allows you to protect the business from liquidation, remove unsupportable debt so the business can be financed, preserve the jobs and even maximize benefit to your creditors as an alternative to what they'd recover in liquidation.

Second Wind Cuts the Zeller's Balance Sheet by Nearly \$5MM

"After sinking \$20k into another consulting firm, we were frustrated and unsure who we could trust. Second Wind Consultants wasted no time making things happen, ensuring us we were in good hands."

-- Jim Zeller, CEO

Summary

The Zellers came to Second Wind Consultants (“SWC”) with \$9,159,000 in debt spread across four companies operating in the commercial and retail tire industry. They attempted to remedy their unsupportable financial situation by selling off their companies, but discovered in the process that the sale price would not be sufficient to pay down the total balance of their financial obligations. Operations were grinding to a halt, and the partners were looking for a way to avoid losing their businesses through a formal liquidation process.

Liquidation would have proven the worst-case scenario for all parties involved. The Zellers would lose their family business, their employees would lose their jobs, and the banks would collect pennies on the dollar through public auction in an effort to mitigate their substantial losses.

The Zeller's Backstory

Jim Zeller had been in the retail tire industry since 1969 and eventually partnered with his son David. Together they executed a plan to expand the company into commercial sales and tire retreading. In order to obtain the loans necessary to launch these new initiatives, they were required to provide “cross-guaranties” between all of their companies. This meant that each company was responsible for the other’s debt obligations; if something went wrong for one, it went wrong for all.

Despite the viability of their retail sector and a rosy outlook for retreading, the commercial side quickly drained the company’s capital. Vendor debts began piling up, and the Zellers acted swiftly. They soon found a buyer for the retail business and identified a group of parties interested in purchasing the commercial and retreading entities. They hoped they had averted their crisis.

Unfortunately, once they ran the numbers, it became evident that the money the Zellers would make from the sale of their four businesses was not enough to cover their combined debts. While the amount would have satisfied some of the bank debt, many secured obligations and vendor debts would remain. The possibility of collections, lawsuits and burned bridges was extremely worrisome for Jim and David.

At this point, all the Zellers wanted was an exit from both the retail and commercial operations, but the timing of the pending sales was extremely disruptive to their accounting department. As a last-ditch effort, the Zellers sought advice from a consulting firm whom they paid \$20k over the course of six months and received no results whatsoever. By the time the Zellers made contact with Second Wind, they were dubious about trusting another firm. The reality was that the bank had initiated the early stages of the liquidation process, which would have destroyed the entire enterprise, so they had to act quickly.



Second Wind's Solution

Business default typically creates an adversarial relationship between borrowers and lenders. SWC's involvement removes that adversity by working with all parties involved to create pragmatic and mutually beneficial solutions.

The fundamental concept is simple: if the business can be preserved, rather than shut down and liquidated, all parties will benefit.

SWC accomplishes this global benefit through a mechanism called a Uniform Commercial Code (UCC) Article 9 Sale. The Article 9 Sale is a form of asset sale conducted cooperatively between the bank and guarantor. Unlike in liquidation, this sale of business assets is conducted while a business is operational, rather than after it has shut down. Not only does this form of sale spare the bank the time and costs of liquidating used business assets at auction, but more importantly, it fully preserves the business operation itself, without interruption.

By result of the Article 9 Sale, debt is fully removed from the business operation. The defaulting borrower will continue to earn from the business, affording them the means to reasonably settle personal guaranties on debts removed from the business.

The Process



Second Wind began with an assessment of Zeller company financials for each of the four locations. After review and discussions with the Zellers, it was determined that two of the four locations were not viable business entities. SWC negotiated and collaborated with the creditors to close and liquidate those non-viable businesses.

Next, the SWC team put a reorganization plan in place for the remaining two viable operations. They reviewed the debt schedules for each business to corroborate the identity of the senior lender in order to determine who the reorganization plan would flow through.

SWC then found a buyer for the assets of these two viable businesses and engaged the first position lender to move forward with the Article 9 sale to separate the debt from the underlying business operation. Utilizing this process, the Zeller's remaining business' values and operations were preserved within a new, debt-free entity that would be both viable and financeable moving forward.

Furthermore, certain assets essential for daily operations were encumbered by Purchase Money Security Interests (PMSIs). These are seller-financed pieces of equipment that give the seller a super-priority lien on that particular asset. Under normal default situations, PMSI holders can either repossess the asset or demand a full cash repayment. SWC's process included these Purchase Money assets in the short sale, which provided a discount to the purchasing entity and an easy recovery for the PMSI lenders.

The client also owned commercial real estate in other holding companies out of which his businesses operated. Those properties had been leveraged by second and third mortgages for business operations, so SWC worked with the junior lien holders to release the property liens, leaving the first position mortgages in place.

Jim and David Zeller had personally guarantied all of the business loans. SWC worked with each guarantor to determine the cost and strategies associated with personal guaranty settlements. Each guarantor came to their own conclusions regarding how they wanted to resolve their guaranties. One decided to have SWC settle the guaranties via a negotiated reduction of amounts owed; the other decided to file personal bankruptcy.

Results



With a clear roadmap in place, the Clients were able to close their non-profitable companies and reorganize the profitable ones in a way that avoided the trials of business bankruptcy. In total, nearly \$5MM was removed from the company balance sheet.

The debt-free, cash flow positive business would allow the Zellers to earn over the course of the debt-workout to provide for the ability to meet personal financial obligations as well as the settlement terms of all personal guaranties on defaulted loans made to the previous business entity.

Throughout the process, business operations remained uninterrupted, thereby shielding the company's distress and subsequent reorganization from public view.