

HAWKINS HATTON SAVES PLASTERING FIRM FROM GOING TO THE WALL



We have played a pivotal role in securing the future of a leading Midlands plastering company, helping to secure more than 100 jobs in the process.

Roseville Plastering Ltd based in Coseley near Wolverhampton was forced into a pre-pack administration deal after accumulating bad debts of around £2million in the last five years.

Working round the clock over an intense three day period, we advised Roseville Contracts Limited who were able to purchase the assets of Roseville Plastering out of administration.

With a turnover of more than £12.5 million, Roseville Plastering was one of the major plastering businesses in the Midlands undertaking work for a large number of "blue chip" clients in the building sector including Wates Construction, Galliford Try, Carillion, Lend Lease, Shepherd Construction and Thomas Vale Construction. The company also worked on a number of high profile projects such as Birmingham Library and Birmingham International Airport.

As well as taking a lead role on the business purchase agreement, we were heavily involved with negotiations to secure release of security and incoming funding working in conjunction with the bank, funders and their lawyers. We also worked closely with David Whale at MDP, the lead accountants who played an instrumental role in negotiating the financial aspects of the transaction.

As a result of the pre-pack administration deal, more than 100 staff and sub-contractor jobs have been saved.

Mark Kelsey, managing director of Roseville Plastering, said: "We have an excellent reputation for quality and performance within the construction industry, but the combination of bad debt, disputed accounts and slow payments, unfortunately put the business in a perilous position. We are happy that the jobs have been saved and are now looking forward to a positive future as Roseville Contracts Limited."

Colin Rodrigues, our corporate partner, who led on all legal aspects of the agreement, said: "The deal had to be finalised within three days of instruction which meant we had to ensure that all the documents were agreed over the weekend in time for completion which coincided with the appointment of the administrator."

"The negotiations were difficult, not only due to time pressures, but because the administrators would not provide any guarantees on title. Fortunately, we were able to secure the transaction within a short time frame which has enabled Roseville to protect jobs for the future."

Congratulations to Ruth



We are delighted to welcome our latest recruit, baby "Eva Grace Murday", the first daughter of our Corporate Lawyer Ruth Murday.

Eva weighed in at 7lb 7oz on Thursday 24 January 2013 03.48am. Eva has apparently been sleeping well on the basis that Ruth has been reciting Halsbury's Laws in lullaby fashion.

We all wish Ruth and Eva well and look forward to welcoming Ruth back.

LISTER TRADE FRAMES COMPLETES MANAGEMENT BUY OUT

The management team of Lister Trade Frames Limited, a window, door and conservatory manufacturer and installer based in Stoke-on-Trent, has completed its management buyout (MBO) of the business from the Lister Family

The management team comprises Directors Mark Warren, Phil Warren, Darren Pusey and Derrith Turner who have all held senior roles at Listers since 2000. Under their management, the company has tripled its turnover and won a number of major industry awards, including the coveted National 'Fabricator of the Year' Award on three occasions, most recently in 2012.

Founded in 1976, Listers employ 110 people at their premises in Fenton, Stoke-on-Trent. The company manufactures glazing products in Aluminium, PVCu and Composite materials, but their focus is on providing added value for its trade customer base by offering supplementary business support such as personalised marketing, training, technical survey support and a wide range of other business advice services.

Malcolm Cook and James Ward from PKF Accountants and business advisers acted as lead advisers for the management team. Our corporate team advised the management team, led by Colin Rodrigues, with assistance from Ruth Murday.

Malcolm Cook, a partner in PKF's Birmingham office, said: "This transaction demonstrates that it is possible to complete buy-outs in the current funding climate if you have a sound business plan, a strong management team, and advisers who really understand the market. We are pleased to have supported Mark, Phil and Darren during the deal and are confident that they will continue to successfully expand the business in the future."

Colin Rodrigues, our corporate partner, said: "As with any management buy-out a key part of our role was to ensure that the deal progressed smoothly and was brought to a successful conclusion. We also had to keep in mind the expectations of the senior team who are now very well placed to build on the success they have achieved in the business over the previous years."



Back Left to Right - Phil Warren, Sales Director, Listers, Mark Savill, NatWest Commercial Banking, Mark Warren, Managing Director, Listers, Darren Pusey, Operations Director, Listers.
Front Left to Right - Colin Rodrigues, Corporate partner, Hawkins Hatton, Derrith Turner, HR and H&S Director, Listers, Malcolm Cook, PKF (UK) LLP.

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NO DISPUTE – IT’S BEST TO AVOID COSTLY COURT PROCEEDINGS by Harminder Sandhu

Commercial disputes can be costly and time consuming to resolve. In this article Harminder Sandhu, our managing partner and head of litigation, looks at how an open and realistic approach is often the best way of solving a problem.

Given that we are in the business of law, it may come as a surprise to discover that one of the main objectives of our dispute resolution department is to avoid litigation wherever possible by helping our clients resolve commercial disputes in a cost effective and swift manner.

We are very conscious that the time our clients spend focussing on disputes is valuable time diverted from the more productive areas of running their business. What’s more, given that a dispute can often turn personal, it is even more important that we take a strategic approach to managing the issues by ensuring all possible options to resolution are explored at the outset before costs become prohibitive.

The court process can be unpredictable and no matter how strong the case may be it does not necessarily lead to a successful outcome in court. We always remind our clients that we are dealing with a Court of Law not Justice, and as both sides cannot be right there should always be scope for reaching a sensible compromise.

In these difficult economic times we are increasingly encountering disputes regarding unpaid invoices for work rendered or products supplied. Often both parties are owed substantial sums by the other and each party seeks to identify performance issues to avoid or delay payment.

Our approach to resolving these types of disputes centres on providing clear commercial advice on our client’s legal position and robustly defending spurious allegations made by the debtor. We are able to very quickly expose the weaknesses of our



Harminder Sandhu

opponent’s allegations by tactically volunteering evidence to substantiate our client’s claim. The key is not to hold back, but to “lay your cards on the table” and persuade your opponent as early as possible of the strength of your position. This then provides you with the platform to negotiate a commercial settlement.

It is all too easy to become entrenched in a position or matter of principle and lose sight of the commercial relationship with the other business. This often leads to one or both parties issuing legal proceedings and once litigation commences most lawyers follow the process and commercial compromise becomes more difficult as legal costs escalate.

By taking a refreshingly different approach we are able to review our client’s position at every opportunity with the sole aim of ascertaining how we can extract our client from an expensive dispute, whilst agreeing terms which are acceptable to the business.

We would rather our client pay a small sum of money to his opponent to extinguish the risk and time associated with a dispute than our client incur that sum in legal fees with us.

For this reason we offer all our client’s a free initial appraisal of their dispute with a view to agreeing a resolution strategy. Where we believe we can add value we will provide a cost estimate for the implementation of our services and once appointed we provide costs estimates and agree budgets for each stage of the process so clients are always in control of their exposure.

We have extensive experience of alternative forms of dispute resolution including arbitration and mediation. Over the page we look at how our services are supporting Advanced Direct Mail, the Halesowen based data management and mail fulfilment business.

TWO VERY DIFFERENT DISPUTES – TWO SUCCESSFUL RESULTS FOR ADM

Two very different disputes - involving a stolen bin and a faulty photo-copier – were all successfully resolved for Advanced Direct Mail, a client with over 75 years experience of direct mailings with a national client base.

In all cases our dispute resolution department worked closely with Terry Barratt, managing director of the company, who is in no doubt that the advice from Hawkins Hatton helped avoid costly and time consuming court proceedings.

“There are many firms claiming to be able to offer litigation including several of the larger corporate organisations, but unlike Hawkins Hatton, they are not able to provide the same detailed quality of service,” said Terry. “The team’s no nonsense; clinical approach is aimed at saving you time, money and getting the best result. What I particularly like is that they give you all the options, but provide guidance on which one is more suitable in reality.”

For Advanced Direct Mail each case required a different approach with Hawkins Hatton offering a bespoke service to come up with a solution that delivered the best client outcome. “On one occasion Hawkins Hatton litigated a case against a huge corporate business which resulted in a very good settlement outside of court,” explained Terry.

The team approach adopted by Hawkins Hatton has also meant that disputes have been resolved as efficiently as possible. “They have more than one capable person to deal with matters and the partners at the top are always fully involved at every step to ensure the issues are dealt with accordingly,” added Terry.

Case Study 1 - Dispute with Recycling Company

This contractual dispute centred on legal arguments about the incorporation of the other side’s terms and condition in a contract. The recycling company had not brought its terms and conditions to ADM’s attention and we were able to successfully argue that ADM had not had sight of them or been made aware of their existence so they had not been incorporated.

We argued that as the terms and conditions did not bind ADM they were therefore not liable for a stolen bin and the losses associated with the same.

Case Study 2 - Dispute with a Supplier

ADM were in dispute with a supplier in relation to the functionality of a Xerox Copier Printer. The machine was a substantial investment for ADM and the dispute was against a much larger organisation which was intent on standing firm. The supplier provided documentation to substantiate their contention that the printer’s performance was consistent with the specification throughout the relevant contract period.

However, we took issue with their reliance on the data which was conflicting. The printer did not achieve either the planned service call rate or even half of the maximum duty cycle.

We conducted a long without prejudice meeting at our offices which was attended by several representatives from the supplier. Whilst this did not lead to a settlement on the day, shortly after a settlement was achieved on favourable terms for our client. We always encourage round table meetings with an agreed agenda at an early stage as this is an excellent forum to force decisions on issues rather than hiding behind protracted correspondence. In the long run it is also less expensive than rounds of correspondence which do little other than facilitate legal debate.



Left to right: Harminder Sandhu, Managing Partner, Hawkins Hatton and Terry Barratt, Managing Director, Advanced Direct Mail