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SMALL BUSINESS

Chapter 11 bankruptcy: To file or not to file?

*** It lifts some burdens but adds others. Many companies don't survive.**

By Cyndia Zwahlen

Small-business owners Constance and Ron Smith of Carson are running out of options.

Battered by the recession, their business selling an anti-slip spray for tires is behind on lease payments. Their warehouse forklift has been repossessed. And their nerves are frayed.

The Smiths, who are passionate about their product, have drained their retirement account, along with their home equity, while piling up credit card debt to keep RonCon Smith Enterprises Inc. afloat.

The couple have talked with attorneys about filing for bankruptcy protection. A Chapter 11 filing under federal bankruptcy laws would let them keep the doors open and reorganize their finances with a smaller debt load while they work to increase sales.

But they were shocked to learn that attorney fees alone could run up to \$50,000.

"We don't have that kind of money," said Constance Smith, the only one currently working at the company that once employed four people. Her husband now works as a security guard for \$10 an hour, she said.

The company has sold the Tyre-Grip adhesive spray to large retailers, such as Canadian Tire Corp., and to individual consumers. It is used to improve tire traction for short distances in snow, ice and slush. RonCon also sells a spray for

the bottoms of shoes.

If pending deals to boost their export sales don't come through, the Smiths may have to consider liquidating the company.

They are not alone struggling in a sea of debt and complicated, sometimes painful solutions. Clobbered by crippling declines in sales, tough standards for loans and punishing increases in credit card interest rates, thousands of small businesses nationwide are seeking bankruptcy protection.

In the last three years, almost 50,000 California businesses with fewer than 100 employees have liquidated or tried to reorganize under federal bankruptcy law, according to credit reporting agency Equifax Inc.

Manufacturing, retail, transportation and construction were hit especially hard. Last year, business bankruptcy filings in the Los Angeles area soared 57% to 4,816, Equifax said.

This year, business and personal bankruptcy filings are expected to jump 25% in the L.A. area, which is more than the 20% nationwide increase expected by the federal bankruptcy courts.

Bankruptcy filings can be an opportunity for struggling businesses of all sizes, says turnaround expert Geoffrey D. Lurie.

He was recently named chief restructuring officer at Culver City-based Rock & Republic Enterprises Inc. The manufacturer and retailer of pricey jeans and edgy shoes filed a Chapter 11 petition for reorganization this month.

"We will use this opportunity to strengthen operations and do a spring cleaning," Lurie said. The move will shave debt off the company's balance sheet and allow it to reject some leases and other contracts, he said.

Most small businesses, though, are finding it tougher to achieve the second chance promised by the bankruptcy code's protections, experts said.

"The economic situation is not allowing them to get a fresh start," said attorney Scott C. Clarkson, a principal at the Clarkson, Gore & Marsella law firm in Torrance.

Fewer loans are available to help companies pay the costs of reorganization. There are also fewer loans available for third parties to acquire all or part of a small firm in Chapter 11 bankruptcy, a once-common outcome of the process.

With the economy still in recovery, many small firms don't have the margin for error they once may have had when trying to revive their business.

"It's very hard for these companies to withstand the process and the expense," said bankruptcy attorney Michael Gottfried of Landau Gottfried & Berger in Los Angeles. "It's hard to come out of it alive."

In Carson, the Smiths hope that sales of Tyre-Grip and Shoe Grip will pick up as the recession's effects ease.

"By the grace of God we are still here," Constance Smith said. "But we don't know how long we can hang on."