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are going to see many great companies' business models, particularly in the West, being challenged and many of them will fall by the wayside and whole industries will disappear.

I was talking to one of my Canadian BOG classmates about a week ago who pointed out to me that most people who are not business owners themselves view business like they do a game of football that you either win or lose. He said that it isn't like that at all because in a game of football there is a full time siren. In busi-

ness it is never full time as the game goes on and on with no real end or respite. You have to constantly make the best of every situation, adapt, re-invent and keep your work rate higher than the competition to stay ahead of them. He is finding his business model being challenged by the new global economy and when he looks back over the last 15 years he says 13 of them were great and only two have been bad, so the scoreboard is okay and he has received tremendous personal satisfaction in creating opportunity and prosperity for his people and all other stakeholders in his

business for the risks he has taken. It's not about the money to him either. As we head into 2013 I can't help thinking that the number 13 is considered unlucky by some people. It's not unlucky from where I am sitting right now and I think it will be a great year of re-invention, opportunity and proving J. Barry Griswell's adversity paradox theory.

All for now – **Brad Skelton, The Shipping Bloke. ■**

*Subscribers can access the complete story and unabridged blogs through the Business Acumen digital magazine.*

## What happened to Business Acumen?

We tell this personal story to illustrate the points made throughout this Liquidation Epidemic special report: There must be a better way.

**T**he decimation of Australia's SME sector – including far too many agribusinesses and generational family concerns – is now a fact. The concern now is that new businesses, many similar to the types that have vanished, along with others completely new and reliant on new technologies, are being touted as Australia's ticket to new economic and employment success.

If that had been the official realisation in 2009 rather than 2014, *Business Acumen* may not have even needed a feature report of this nature.

*Business Acumen* is not seeking to blame but to explain.

From our own experiences of liquidation and the evidence we present in this report, we see that an attitude change is needed among such pivotal organisations to the business sector as the Australian Taxation Office, the Australian Securities and Investment Commission and the major banks.

This is a plea for collaboration with business people rather than blind

procedure. Our business development system might work better if these organisations adapt to the new environment wrought by the digital revolution – a revolution in which there is more connection, more collaboration and more integration. It means the ATO, the banks and ASIC becoming economic team players instead of judgemental spectators. Right now, Australia is losing.

*Business Acumen* magazine's then-owning company, Acumen Media Pty Ltd, was directed into liquidation in the Federal Magistrates Court of Queensland on March 23, 2012, at the request of the ATO. It was the magazine's eighth year of publication.

The first year of *Business Acumen Queensland* – 2004 – had been tough, but from then up until 2009, with the GFC and financial collapse of several major advertisers, the magazine had enjoyed steady circulation among CEOs, business owners, government and business leaders, along with vital advertising revenue growth.

*Business Acumen* had been invited to join the business community-minded mentoring group Queensland Leaders in 2006, and began an association of circulating to, and drawing fascinating stories from, its group of leading Queensland CEOs. A mark of the integrity of Queensland Leaders has been that this association continues today, strong-

er than ever, and it was encouragement from Queensland Leaders that helped energise *Business Acumen's* return to full print and online publication this year.

The magazine teamed up with Zernike Australia which had also launched its Innovation Series in 2004, in a fruitful partnership that endures to this day and has expanded to Melbourne and Sydney.

*Acumen* acted out its mantra of being overwhelmingly positive about business and striving to help create business opportunity through publicity. The magazine and website had a clear focus on innovation and presented many inspirational case studies. A simple but welcomed formula.

There were many winners who knew how to leverage the positive publicity *Business Acumen* generated, and was increasingly sought out for, by business leaders.

There was also the ongoing relay, to business leaders and owners, of information on government programs, grants and changes brought through the taxation system by the ATO. This was all part of the business community service territory for *Business Acumen* magazine.

None of this was considered or deemed relevant when, on March 23, 2012, ATO's representative legal firm, Gadens Lawyers, told the court its client believed Acumen Media Pty Ltd should be wound up and its assets liquidated to recover a taxation debt of, by that time, more than \$160,000. It was a mix of GST, PAYE, penalty fees and penalty interest.

### FLOOD OF PROBLEMS

A post-Queensland flood income and cashflow crisis throughout 2011 had meant there had barely been enough cash available to keep staff employed, let alone service the ATO debt.

The ATO's position was that it was 'not confident' of Acumen Media's legal representative's claim that the debt would be



served by the impending publication of its 160-page *2011-12 Queensland Yearbook*.

In the Queensland floods of January 2011, Acumen Media's offices at Kerry Rd, Archerfield, had not quite been inundated – but the *Yearbook's* key client list throughout Queensland certainly had.

That was why the *Yearbook* became known as the *2011-12 Yearbook* ... the aftermath of the floods had prevented publication. Most regions were now deeply in crisis. They invariably asked not to feature until the crisis had been sorted out. It was to take more than 12 months.

Acumen Media's solicitor's March 23, 2012 request that an adjournment of the case be made for that publication to complete (and advertising funds to be collected) was rejected on the ATO's objection.

There had already been several adjournments granted – which the Registrar noted were at the ATO's request – and this latest request by the defendant's legal representative was opposed. The Registrar took the ATO's advice that day, appointing the pre-nominated liquidator, Bentleys.

There were 38 small and medium businesses being considered in that session. Most of those were set to be liquidated by the ATO and just a couple of other petitioners.

## 20-20 HINDSIGHT

Editor and Acumen Media director Mike Sullivan was in the court that day, watching this disastrous turn of events unfold.

In his briefcase, at his feet, were two copies of that *Yearbook*, numbers 999 and 1000, produced on Acumen Media's in-house Lanier digital press the previous day. Another 9000 copies of that edition were set to be printed and distributed over the following weeks.

Mr Sullivan, a former courts reporter, realised in a cold sweat that he had made the disastrous and fundamental mistake of not representing the company himself.

But he was tired. Mr Sullivan later admitted his mind was blunted and exhausted after 18 intense months of fighting to keep the company alive. *Acumen* had endured a steady loss of clients, many with large unpaid advertising bills, to liquidations and closures, accompanied by the same frenetic tightening of bank credit and loan covenants that all Australian SMEs experienced from 2008 onwards.

After a period of leniency following the January 2011 Queensland floods, in which payments were spasmodic, a directors penalty notice for PAYE payments arrived in September 2011.

Urgent phone contact took place, desperately seeking the case officer for the company. As frustrating as the phone chase was, stretching to hours of waiting time, there seemed to be an opportunity to complete the publication – although the ATO again wanted more company information, cashflow and budget projections so it could assess again if Acumen Media was viable.

Discussions ensued with initially understanding and courteous ATO staff and written proposals were made outlining the situation so the company could be given time to complete the all-important *Yearbook*, collect the revenues and service the debt.

The first black mark went against Acumen Media when budgets and accounts figures, such as the aged payables and receivables ledgers, reached the ATO a day later than specified, mainly because of technical barriers in the ATO's system at that time.

The Acumen Media team was astonished to learn that these items had to be either received by mail or faxed, by the deadline. They could not be e-mailed. What was not understood, when the 20 fax pages finally did go through, after two days of attempts, was that the nine final crucial pages had dropped off. They had apparently not transmitted, although there had been no warning.

In a letter, a week later, the ATO pointed out that all the information requested had not been received. This accelerated the winding up action.

## RESCUE ACTION

When, on the fated afternoon of March 23, Mr Sullivan called in to the office of the appointed liquidators, Bentleys, in the Brisbane CBD, the first commiserative words uttered to him were, "We didn't expect to see you here today ..."

The liquidators shook their heads in disbelief as its editor dropped a copy of the freshly printed *Yearbook* on the table, 9000 copies short of solving the problem. There were various options explored for selling the business, printing the *Yearbook*, collecting the income and recovering the situation.

Over the following two weeks, as Mr Sullivan began writing the detailed eulogy for Acumen Media in the form of the required financial, legal and property records – gathering everything of



*Hit hard by the Queensland floods, the Yearbook's complete publication should have saved the company.*

"value" for the liquidators – he began to understand that his own legally-required actions were driving more nails into the coffin, not resuscitating the business.

For a start, access was removed to all bank accounts.

The liquidator controlled them. This allowed them to collect more than \$20,000 in past advertising payments, eventually divided up as the court-deemed payment to the ATO of \$5087.50 and \$15,000 retained by the liquidator as fees. In the liquidator's final report, it would be pointed out that this sum was less than half what the costed \$33,000 fee should have been.

Clients and suppliers were notified by the liquidator, as is part of the legal process, from the supplied MYOB file lists. A notice was posted in the daily newspaper.

The vital digital presses were dismantled and taken away, Lanier fearing justifiably that the machines may be resumed.

The Acumen Media land lines and VoIP phones were summarily cut off. Company mobile phones were also cut off and numbers lost. The landlord was notified and made moves to change the locks on the building, but was thankfully persuaded to hold off.

Discussions ensued with Bentleys, but all had the same hurdles: no funds could be clawed back, the rights had to be purchased, and funds were needed for staff, printing and distribution.

The fight was steadily lost. *Business Acumen* staff had valiantly tried to hang on, without pay and in their spare time, to be ready for the re-birth, but to no avail.

In hindsight, Mr Sullivan reasoned that what killed Acumen Media was that he was no longer dealing with the ATO, in the final crucial stages, in seeking the best outcome for all.

By shifting the liquidation action to an external legal service, paid to effectively complete the liquidation task, the ATO's discretionary powers were lost to the process.

Everybody lost. This has been the experience of too many businesses and creditors in recent years. Surely Australia can find a better way? ■

A more detailed version of this story, with extra observations is available to subscribers.

**Next edition: Recovery.**