

Survive 2016 7 tips for contractors



Some sectors of the building and construction industry have done well in the last year and others continue to struggle. What will face us in 2016 and what should we be doing to make sure we not only survive it, but prosper?

Tip 1. Be careful who you deal with

One of the primary reasons that contractors end up in financial difficulty is because they contract with the wrong people. Before you even contemplate entering into a contract with a builder or proprietor, make sure you know who they are, what their history and reputation is in the industry. There are a number of checks you can carry out to get an idea of the kind of company you plan to contract with.

Tip 2. Don't sign the wrong contract

Another major reason why contractors end up in significant strife is because they sign contracts which have onerous terms and conditions when they do not need to. Dozens of businesses end up in disaster every year because they signed contracts with indemnity clauses they do not understand and for which they cannot obtain insurance. Remember, the rules: he or she who controls the risk should be the person who wears or bears it; make sure you understand the risks you are assuming; don't accept those you do not have to.

Contracting is your focus.

Advising Contractors is ours.

Tip 3. Be forever watchful

Keep a close eye on the party you have contracted with. Beware the stories in the marketplace. Watch out for slow payment. Take every argument or dispute seriously and weigh it up to determine whether you are still dealing with a reputable, solvent entity. If you suspect you are not, you are probably right. You are better off assuming there might be a problem and taking appropriate steps to protect yourself (eg subcontractors' charges or payment claims) than ignoring the risk not running the gauntlet.

Tip 4. Make sure your paperwork will support you

In our experience at least **50% of disputes** and court cases **are lost by a party simply because their paperwork is not up to scratch**. This is what "contract administration" is all about. Know the procedures under your contract particularly for extensions of time and claiming variations and make sure you comply with them. If you do not meet the contract requirements, you are likely to lose the "paper war" and ultimately the dispute.

The other thing to bear in mind is that if a matter does go before a Court or Tribunal or to Adjudication, the decision maker is more likely to look favourably on the party who appears to have been reasonable throughout. **Never be rude** in your correspondence or dealings with the party **and always respond to correspondence** from the other party in a timely and appropriate manner.

Tip 5. Do not kid yourself

Many contractors run into problems because they pull the wool over their own eyes. They fail to see problems that are there and fail to address them once they see them. **It is important to see your position for what it really is** and if you are in a bad spot, work out what are your opportunities, contingencies and calculate your best "out". To do this, you may well need to take legal advice. The most important thing is not to sit on your hands and pretend everything will work out at the end of the day because, in many cases, it simply does not.

Tip 6. Be prepared for the worst

You can be the most careful of contractors, you can understand every risk, deal with it as best you can and have excellent paperwork. However, the fact is quite often things are simply beyond your control. You cannot control the destiny of those above you. The reality is, any business large or small, can fail and

when it does, it will drag others down with it. **You need to make sure that if your number is up, you do not lose everything you own**. This comes down to proper business structuring and personal asset protection. If you have not addressed this already, now is the time to do something about it.

Make sure you do everything you can to separate your risks from your assets and your risks from your risks. If you do not know what we mean by that, give us a call. Ensure you have proper protection structures in place. You will need legal as well as accounting advice, and yes it will cost you some money, but a little spent now is a lot better than losing everything you and your family own.

Tip 7 Stop procrastinating and act now!

We have many war stories we can relate about clients who have thought about these issues but have not followed through, with the result that they ended up losing everything. On the other hand, we have had the great pleasure of seeing clients who have planned for the worst and survived despite tremendously stressful periods, under enormous financial pressure. **Ultimately they kept their homes and personal assets, ready to live and trade another day.**

Call to speak with one of our lawyers today.

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