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The rapid reaction force

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The collapse of Lehman Brothers proved to be a bloody affair for many with ringside seats, not least Eddie Middleton of KPMG's Hong Kong practice.

Ten days after the professional services firm was appointed as a liquidator of some of the bank's Asian entities, Mr Middleton found himself in front of a judge, with his neck bleeding in several places.

He and two senior colleagues had spent the previous few days and nights helping to negotiate the transfer of Lehman's 2,950 Asia-based staff to **Nomura** of Japan in a $225m deal.

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The all-night brinkmanship between Nomura's advisers and KPMG ended on Monday September 29 at 7.55am – minutes before Mr Middleton, Paul Brough and Patrick Cowley were due to attend a court appointment they had arranged to rubber-stamp a sale.

Mr Middleton recalls: "We were late and dishevelled that morning and I shaved in the office toilets, without running hot water. I was bleeding profusely when we went to court."

The story of the deal, which the KPMG advisers describe as the most tense and complex of their careers, shows that the actions liquidators take in the first 100 hours following a big collapse are vital to securing a good deal for creditors and to keeping the company as intact as possible.

After the US parent collapsed on September 15, Lehman's Asia management had hired Rothschild as sell-side advisors to look at the possible transfer of its operations in the region. Meanwhile KPMG recognised that a quick sale would help to swell the creditors' pot – and mitigate tens of millions of US dollars in potential liabilities such as wages and rental leases.

Mr Brough says: "Our immediate goal was to stop the group falling apart and so allow a transfer to proceed. What made this process different was the speed with which we had to act. The more time that passed, the greater the risk that staff would leave and so creditors would not benefit from a sale."

Yet the options available to insolvency practitioners in Hong Kong are constrained by the absence of a statutory corporate rescue regime. Practices in other global jurisdictions, such as administration in the UK, rehabilitation in Japan or Chapter 11 restructuring in the US, are not part of the city's financial lexicon.

So, the first decision KPMG made, on Friday September 19, was to honour that month's payroll. "We were taking a calculated risk which we felt was vital if staff weren't to simply melt away," says Mr Cowley.

KPMG moved to secure Lehman Asia's assets. Computer experts took a copy of Lehman's internal e-mails, a process that required 30 terabytes of memory. Its advisers also took possession of physical paper contracts, documents and property deeds and placed them in a bank vault.

How to keep a failed business going

KPMG's advice on how to make a quick sale:

- Treat staff at the collapsed

Within hours of taking over, KPMG made an announcement to staff informing them of its strategy and plans. Mr Middleton addressed Asia employees by video link on the Friday at 5.30pm – just before they went home for the weekend.

The trio then spent the weekend in Lehman's swanky offices, assisting Rothschild in negotiations with three potential buyers: Nomura, Barclays Capital and Standard Chartered.

By early Monday morning, Nomura had signed a provisional sale agreement to acquire Lehman's trading platform, Asia staff and fixed assets. The KPMG advisers rushed off to court to lodge it with a judge.

The following seven days were tougher. The deal was not binding and could easily unravel given the number of moving parts involved. "We had to keep a lot of balls in the air that week. The sleep deprivation was difficult. It required a lot of stamina," says Mr Brough.

Aside from thrashing out detailed terms of the sale, KPMG was assessing thousands of Lehman's complex trading positions in areas such as derivatives and currency exposure. Lehman also had hundreds of separate registered entities across Asia, many of which had not collapsed. If any did, more liquidators would have had to be appointed, potentially derailing the deal with Nomura.

"It was a very difficult week. The last thing we needed was for the bank's operations in Taiwan, for example, to go into liquidation as this would have complicated negotiations even further," says Mr Cowley.

company with dignity to secure their help. Make a fuss of internal gatekeepers, such as the chief executive's personal assistant.

● Keep staff informed to stop morale sagging, with regular e-mails and "town hall" meetings where senior officers and liquidators face open questions.

● Liquidators should draw widely on their firm's expertise wherever possible. The Lehman Asia sale involved KPMG pulling in advice from colleagues in insolvency, corporate finance, information technology, financial services and tax advisory.

● Try to pre-arrange court hearings. This helps to stop negotiations from drifting and creates a natural deadline by which decisions have to be made.

● Keep payroll going. At Lehman Asia, this kept the business running long enough for it to remain an attractive acquisition.

● Expect to work extremely long hours, so good stamina and a supportive family are helpful.

All the while, the trio was in debate over how tough its negotiating stance should be. The crunch came over the weekend, ahead of the Monday court appearance, as Nomura sought to recast its commitment on rental leases and bargain hard over the advisers' fees. "This is when the major push back came from the other side – the surge," says Mr Brough.

On Monday morning, KPMG decided to hold firm throughout a series of phone calls between 4am and 8am. Nerves started to fray. "I was concerned that the other side might pull out and the deal would be off," admits Mr Middleton.

At five minutes to eight came the final call, yielding to Mr Brough and leaving a relieved Mr Middleton to rush for his razor.

The $225m sale tag comprised $50m goodwill and $175m for fixed assets, or 87.5 per cent of their book value. The proceeds will be handed to creditors across Asia, based on headcount.

The trio advises insolvency practitioners, especially in Asia, to adopt a velvet glove approach in order to get the best results for creditors (see left). "As liquidators, everything you do in the first few hours is crucial. If you don't get trust in the first few hours you never get it," says Mr Brough.

Mr Middleton says: "Marching in and barking orders would not work. We knew from our first conversation with the management team that we were dealing with high-calibre people. We wanted to help, not hinder."

Mr Brough adds: "People can feel very dehumanised by the liquidation process. Some liquidators treat everyone as guilty until proven innocent. We prefer not to work that way."