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feature

## RUGBY WA VOLUNTARY ADMINISTRATION

### A 'bounce out' strategy to save jobs and rehabilitate rugby union in WA.

In 2017, Rugby Australia removed the Perth-based Western Force rugby union team from the Super Rugby Competition.

This followed a drawn-out process where the Melbourne Rebels and Western Force were placed in direct competition to see which team would survive. Despite significantly superior results on the park, plus better attendances at games and stronger participation in Western Australia, Rugby Australia made the controversial decision to axe the Western Force.

In response to being removed by Rugby Australia, the Western Australia Rugby Union (Rugby WA) challenged the decision in the Supreme Court of NSW and the Court of Appeal.

In both instances, the decision by Rugby Australia was upheld. This left Rugby WA exposed to a cost order of up to \$1 million, which was aggressively pursued by Rugby Australia.

This did not bode well for Rugby WA given its financial circumstances. Once the Western Force had been removed from the Super Rugby Competition, it was reduced to running competitions in Western Australia only, and did not have the financial capabilities to pay the cost order.

After negotiations broke down between Rugby Australia and Rugby WA for a commercial compromise, Rugby WA's directors determined they had no option but to seek professional guidance. They decided to appoint KordaMentha as voluntary administrators.

#### RUGBY AT RISK?

The appointment of administrators was highly publicised as it put the sport of rugby in Western Australia at risk by imperilling Rugby WA.

At the time there were very real fears that rugby would cease as a sport in Western Australia, which has the third-highest level of rugby participation in Australia.

Should Rugby WA fail, Rugby Australia's purported fallback position was to establish a new organisation in Western Australia to run club rugby.

However, we believed this was foolhardy as there was a strong distrust and lack of respect from the local Western Australian community towards Rugby Australia, given the removal of their team from the Super Rugby Competition and the pursuit of legal costs. While Rugby Australia was confident of their fallback position, support was wafer-thin.

Immediately upon being appointed, we implemented a 'bounce out' strategy where we would hand the organisation back to the directors at the second meeting of creditors.

To achieve this outcome, we needed to make Rugby WA solvent again and provide a funding pathway for future survival and ultimately long-term growth. This would require Rugby Australia and the Western Australian State Government, plus the law firm representing Rugby WA, to walk away from their debts, which collectively totalled more than \$4 million.

#### BOUNCE-OUT TACTICS

The three key creditors would only walk away from their debts if *all* the key creditors agreed to walk away. In addition, each of them needed to see a long-term viable future and business plan for rugby in Western Australia.

This was incredibly challenging because rugby in WA was thrown into a state of flux. It was unclear what the future held for international competition and corporate sponsorship. Also, the voluntary administration (VA) process was during a critical phase of preparation for the upcoming club competition season, which was now in doubt.

# The voluntary administration process, while placing rugby in Western Australia in significant uncertainty and jobs at risk, was ultimately the framework we used to bring warring stakeholders together.

The negotiation was fast paced, and it quickly became clear that tensions and emotions were high on both sides.

We felt that the key was to build trust through transparency and clearly defining what a successful outcome looked like. If people could see where they were going and have an end result outlined for them, a successful outcome was more likely.

The relationship between the parties had eroded so badly that the biggest risk to the bounce out strategy was the lack of trust. We realised that progress wasn't possible through an all-party negotiation, because everyone was still looking backwards and wondering why Rugby WA was in voluntary administration. People were in blame mode, and we needed them to be in solution mode.

Through separate and time-intensive meetings with the three key creditors, as well as the directors, we reached a position where debts would be compromised if everyone opted-in and we could demonstrate a financially viable future.

## ENTER TWIGGY

Mining and cattle magnate Andrew 'Twiggy' Forrest was the jet-fuel for future financial viability and growth. Twiggy is the major shareholder and ex-CEO of Fortescue Metals Group. He is also a passionate Western Australian, with strong philanthropic values.

Twiggy had previously indicated he would financially support rugby in Western Australia. Most saliently, he had joined the Western Force players on the field after the final game in the Super Rugby Competition. He openly and publicly pledged his support for rugby and the Western Force.

Twiggy came to the table to be part of the resurrection of rugby in WA. However, he would only do so if there was an alignment of objectives between Rugby WA and Rugby Australia. This alignment for the future of rugby in WA was critical in his mind, as the sport needed to let go of the previous acrimony and move forward with the governing bodies pulling in the same direction.

This was achieved through iterative meetings with the separate stakeholder groups and getting everyone to sacrifice and also commit.

Twiggy agreed to provide significant cash flow support for Rugby WA for the coming years and underwrote the state-of-the-art Centre of Excellence property lease. Equally important was the decision by the creditors to compromise their debts, and the directors to personally provide financial support. Absent this commitment and sacrifice from creditors and the directors, Twiggy would not have provided financial support.

At the first meeting of creditors, we announced the bounce out strategy. We issued our Section 439A Report to Creditors on the same day, recommending Rugby WA be

handed back to the directors as it was now solvent. The fact that this happened over a short period was critical to the success of the strategy. If it had of been slow and protracted, the creditors would have lost faith that each of them would ultimately come to the table.

Even more critically, the Rugby WA employees would have lost faith and jumped ship. Their passion for rugby and Western Australia was unwavering, and if there was no pathway forward, the employees would have departed, along with the heart and soul of rugby in the state.

The employees were inspirational in their passion for the success of rugby in Western Australia, and their steadfast refusal to walk was a sign of their great integrity.

The reconstruction deal was also the impetus for Twiggy and Rugby WA to create the Global Rapid Rugby Competition, a fast-paced weekly tournament based out of Perth featuring the Western Force and countries from the Asian region.

## HAPPY ENDING

The voluntary administration process, while placing rugby in Western Australia in significant uncertainty and jobs at risk, was ultimately the framework we used to bring warring stakeholders together.

By focusing on the future and promoting a proactive solution mode, rather than a blame mode, we could successfully rehabilitate Rugby WA.

This a great example of a VA being used to reenergise an organisation on the brink of collapse, save jobs and provide a foundation for future financial growth. ▲