



- M.Com Dissertation -

FACTUAL EVALUATION OF RESCUE FEASIBILITY:
A REASONABLE PROSPECT APPROACH

by

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Prov 16:8

Better is a little with righteousness than great revenues with injustice.

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Important notice:

In this document, reference is made to the researcher and researchers interchangeable. While the researcher undertook the research, the supervisors contributed to the writing of the two paper format.

CHAPTER 1

CHAPTER 1:	Introduction
CHAPTER 2:	Literature Review
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CHAPTER 5:	Summary and Conclusion

1. INTRODUCTION

1.1 BACKGROUND & PROBLEM STATEMENT

Business rescue practitioners as well as affected parties have the difficult task to make crucial decisions that could possibly improve, and ultimately eliminate, the distress of a firm under business rescue. These decisions are almost always made under conditions of information asymmetry or liability data integrity.

One of the most, if not the most, important decision to be made by practitioners is the determination of initial reasonable prospect. For the purpose of this study, the initial reasonable prospect can be described as the initial evaluation by the BRP to determine the immediate prospect of the business (feasibility of the possible rescue). This prospect will be the main pre-requisite for the BRP to undertake the rescue, or the court to place the business under rescue.

An applicant is required to place before the court a factual foundation for the existence of a (initial) reasonable prospect that rescue will achieve the primary object or the secondary object of business rescue; whether or not 'reasonable prospect' has been established is a factual inquiry to be made on a case by case basis; (the primary object of business rescue is to facilitate the continued existence of a company in a state of insolvency (s 128(1)(b)(iii)); the secondary object of business rescue is, in the event that the primary object is not viable, to facilitate a better return for the creditors or shareholders of a company (s 128(1)(b)(iii)), as described in the Act.

Neither a clear definition nor a prescriptive method to determine reasonable prospect are included in the Act, causing extensive ambiguity and conflict in the industry. At the current level of development of the industry, practitioners rely on their personal skill (objective) and experience (subjective) to determine reasonable prospect. These "skills" and "experience" cannot always be explained to external individuals and are sometimes referred to include a gut feeling (or cues). If this "gut" feeling (or cues) can be explored and explained, it might help resolve the vagueness practitioners experience when determining the reasonable prospect of a firm applying for business rescue.

BRP's use more than the "facts"/ reports provided to determine the initial reasonable prospect; signalling theory - or the process of using subconscious cues to make decisions, play a large role in the determination of initial reasonable prospect. "Initial" reasonable prospect refers to the positive evidence that provides motivation to proceed with rescue proceedings (pre-assessment).

According to Bergh and Gibbons (2011:546), signalling theory was cultivated to assist the process of analysing the reactions and interpretations of decision-makers when working in environments of incomplete and/or asymmetrical information conditions.

1.2 PURPOSE STATEMENT

The purpose of this study is to investigate and identify the specific "cues" used by BRP's that help them make decisions regarding the prospect (of which should be reasonable) of the company to be rehabilitated to financial solvency.

For this, a thematic analysis was done of interview data obtained via open-ended interviews with purposively selected BRP's. The interviews were focussed on "cues" used during decision making of the Business Rescue process, specifically the determination of initial reasonable prospect under conditions of lacking data integrity. These findings were triangulated with signalling theory and literature (including the Act) on business rescue and decision making by BRP (sense-making). A map is formulated to guide BRP's through the maze that is determining reasonable prospect under asymmetrical information conditions. This study takes place in a South African context.

1.3 RESEARCH QUESTION

As of day 1 of rescue, when the BRP is appointed, reasonable prospect is in question. Reasonable prospect changes throughout the rescue proceedings and must be factually supported by the first creditors meeting and continue until second creditors meeting. Before any "factual" determinations can be made, the BRP is required to determine the "initial reasonable prospect". This may change before day

10, but must be "vaguely" visible for the BRP to proceed with the mind set of rescuing the company in distress.

Although reasonable prospect is the starting point of the business rescue process, regardless of whether the business will be placed in rescue or liquidation, the Act does not provide any guiding process to determine.

The courts have not been easily persuaded to allow financially ill companies into the business rescue process. Before the court will place the firm under supervision, in a business rescue regime, the court must be fully satisfied that there is an actual "reasonable prospect" for rescuing all affected parties partaking in the rescue process (Sher, 2013:25).

The primary research questions that guide this study are as follows:

- What constitutes reasonable prospect?
- How can initial reasonable prospect be determined?
- What is signalling theory?
- Is signalling theory relevant to determining initial reasonable prospect?

These are underpinned by the following research questions:

- Are financial ratios enough to determine reasonable prospect?
- What signals are relevant to the business rescue practitioner?
- Which signals can be used to determine reasonable prospect?
- Does experience play a role in signalling theory?
- And if so, how?

1.4 ACADEMIC VALUE AND CONTRIBUTION OF THE STUDY

There is a significant void in the available research on reasonable prospect in business rescue, hindering development and growth of the regime. By identifying relevant methods of determining (initial) reasonable prospect may contribute to the better understanding of business rescue process and possibly help train future BRP's.

The study aims to identify practical methods of determining reasonable prospect and the degree to which they can be used in the process of business rescue to prove reasonable prospect factually. There after the researcher explores the relevance, appropriateness and use of signalling theory on the determination of initial reasonable prospect in business rescue.

1.5 DELIMITATIONS AND ASSUMPTIONS

The study has numerous delimitations related to context, constructs and theoretical perspectives. The study was done in a South African context and in respect of The Companies Act of 2008 and the conditions of reasonable prospect relevant to that version of the law. Findings are aimed to support and develop the skills of BRP's and are in no way a prescriptive perspective process to be followed. All rescue cases are unique and must be approached as such. Due to the complexity of the market, time constraints and the difference in experience of BRP's the findings are not always applicable or practical to every rescue.

The rest of this thesis contains the following chapters:

- Background and context of the study.
- Article 1: Factual Evaluation of Rescue Feasibility: A Piece of the Reasonable Prospect Puzzle.
- Article 2: Factual Evaluation of Rescue Feasibility: Part 2 A Signalling Theory Approach.
- Summary and Conclusion.

1.6 LIST OF ABBREVIATIONS

Table 1.1: List of abbreviations

BR	Business Rescue
BRP	Business Rescue Practitioner
CIPS	Companies Intellectual Property Commission
PCF	Post Commencement Finance
the Act	Refers to Chapter 6 of the Companies Act 71 of 2008.
DIP	Debtor in possession
UP	University of Pretoria

CHAPTER 2

CHAPTER 1: Introduction

CHAPTER 2: Literature Review

CHAPTER 3: Article 1

CHAPTER 4: Article 2

CHAPTER 5: Summary and Conclusion

2. LITERATURE REVIEW

2.1 REVIEW OF THE COMPANIES ACT 71 OF 2008, CHAPTER 6

BUSINESS RESCUE PROCEEDINGS (COMMENCEMENT)

Business Rescue, as defined by the Act in section 128(1) (a), means proceedings to facilitate the rehabilitation of a company that is financially distressed by providing for,

1. the temporary supervision of the company and the management of its affairs, business and property;
2. a temporary moratorium on the rights of claimants against the company or in respect of the property in its possession;
3. the development and implementation, if approved, of a plan to rescue the company by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner that maximises the likelihood of the company continuing in existence on a solvent basis or, if not possible for the company to so continue in existence, results in a better return for the company's creditor or shareholders that would result from the immediate liquidation of the company.

There are two objectives to business rescue:

1. to keep companies alive and lengthen the prosperity that stakeholders such as employees, shareholders and creditors can seize from it (Joubert, 2013:550)
2. secondly, that where there is no possibility of rehabilitation of the firm and continuing its existence on a solvent basis, the business rescue will result in better returns for creditors and all/ most affected parties (section 128(1)(b)(iii) of the Act) compared to the return of an immediate liquidation (Levenstein, 2008:13).

Chapter 6 of the Companies Act 71 of 2008 came into effect on 1 May 2011; thus allowing rescue procedures (Pretorius, 2014) vaguely comparable to Chapter 11 in the USA (Balovich, 2002) and administration in the UK (United Kingdom, 2006). Business rescue proceedings can commence in two ways, firstly the board of the company can voluntarily place the company under supervision (section 129(1)(2)) and secondly via a affected person who applies for a court order to place the company under supervision (section 131(1)). After considering the application, the court may decide to place the company in business rescue if the requirements of section 131(4) (a) is met or to dismiss the application according to section 131(4) (b).

The two main requirements for business rescue to commence and must satisfy the court, include:

1. the company is financially distressed (section 129(1)(a) and section 131(4)(a)(i)).
2. there appears to be a reasonable prospect of rescuing the company (section 129(1)(b) and section 131(4)(a)(iii)).

The meaning of financially distressed as defined in section 128(1)(f) includes the scenario where the company is unable to pay creditors or where the company will become unable to pay creditors in the next six months (Levenstein, 2008:12). Reasonable prospect however is not defined by the Act. 'Reasonable prospect' does not necessarily mean reasonable possibility; however, it means a prospect based on reasonable grounds and not speculative suggestions or vague averments (Southern Palace Investments 265 (Pty) Ltd v Midnight Storm Investments 386 (Pty) Ltd).

During voluntary filing, the distressed company nominates (section 129(3)(b)) a business rescue practitioner (BRP) in accordance with section 138, whereas the affected person (section 131(5)) who brought about the court application or the court (interim BRP) may nominate a BRP in accordance to section 138 of the Act. A BRP, an independent and qualified person, who acts as an officer of the court (section 140(3)(a)) as prescribed by The Act and is appointed to navigate the company back to financial health such that it continues to exist on a solvent basis.

The BRP is delegated to navigate the company to make a financial recovery such that it continues to exist on a solvent basis. The initial objective of Business Rescue is to keep companies alive and lengthen the prosperity that numerous stakeholders, employees, shareholders and creditors seize from it (Joubert, 2013:550). The BRP is required to bring a variety of business management skills to the business. As an officer (agent) of the court, the BRP has the responsibilities, duties and liabilities of director of the company, as set out in sections 75 (financial interests), 76 (conduct) and 77 (liabilities) of the Act. All the above takes place within the supreme task of compliance with the Act and its procedures (Pretorius, 2013). The BRP has total control of the firm until s/he presents the business rescue plan (section 128(1)(a)(iii)) to the creditors, where the power is shifted to the creditors via their votes. If the creditors vote in favour of the business rescue plan, the rescue proceedings continue and the BRP is in control again, implementing the plan to rescue the company by restructuring its affairs, business, property, debt and other liabilities, and equity (Pretorius & Rosslyn-Smith, 2014).

A Business rescue plan has various requirements and standards to uphold, and is an integral part in the successful turnaround of the business. Twenty-five business days, with extensions, are granted to the BRP after appointment to formulate and disclose a feasible business plan (section 150(5)(a) and (b)).

The objective of the plan is to detail the contrivance and results to be used that the company can overcome its financial adversities and resume normal commercial operations on a solvent basis (Pretorius & Rosslyn-Smith, 2014:27). In the event that this is not possible, the implementation of the proposal must result in a better return for the company's creditors or shareholders that would result from immediate liquidation of the company. Section 150 of the Act prescribes the content to be presented in the business rescue plan. The overarching mandate is to provide satisfactory direction to the affected parties for them to reach a judgement regarding its ratification. Section 150(2) details distinct fundamentals to be included in the document; however, this only result in the bare minimum required for compliance, and it is generally accepted that the plan should go beyond it (Pretorius & Rosslyn-Smith, 2014:29). Again, the absence of guidelines for (initial) reasonable prospect is pertinent in this section of the Act.

The continued proceedings described in the Act are irrelevant to this study.

2.2 CONTEXT OF STUDY

During the investigative phase of business rescue, the BRP has to analyse all aspects of the distressed business (section 141(1)) in order to identify the origin of distress, possible solutions to the distress and most importantly, the prospect (of which should be reasonable) of the business being rehabilitated to financial solvency. Before any of these questions can be answered, the BRP has to work through financial statements, management reports and numerous other documents in order to make sense of the business situation. Sense making is a collective phrase used to describe all processes of interpretation and meaning production utilised by individuals and groups to depict and emulate on phenomena (Bean & Hamilton, 2006; Brown, Stacey & Nandhakumar, 2008).

To make sense of what is going on, the BRP has to consider the three fields that collectively (section 138(2)(c)) form business rescue; law, management and finance (accounting). Each of these fields has their own perspective on business rescue, its usefulness and application. When tackling any part of business rescue, all three fields must be incorporated in the decision making. The same is applicable to the determination of reasonable prospect.

The term "reasonable prospect" is only mentioned in the Act as a pre-requisite for business rescue proceedings to commence, but no definition is included in the Act. Reasonable prospect is dynamic in nature and must be evaluated continuously throughout the business rescue process; at any point in time during the rescue that the BRP is of opinion that there no longer exist a reasonable prospect, the business rescue proceedings are ended according to section 132(2) of the Act. For the purpose of this study, the author has focussed on the initial reasonable prospect determined by the BRP. The initial reasonable prospect can be described as the initial evaluation by the BRP to determine the immediate prospect of the business (feasibility of the possible rescue). This prospect will be the main "driver" for the BRP to undertake and continue with the rescue, or the court to place the business under rescue.

One of, if not the biggest, constraint BRP's face during this process is information asymmetry and liability of poor data integrity (Pretorius, 2014:9). In the business rescue industry, data used for critical decision making are often subject to misrepresentation, obscuring and suppression for several reasons (Pretorius & Holtzhausen, 2008). Examples include inflated debtors data to improve balance sheets, overestimated sales projections that inflate demand figures, manipulated inventory projections, overvalued assets, incorrect attributions of causes to protect positions, and withholding of certain information to protect vulnerable projects and questionable decision making from the past. Although some of these cases might be intentional, there are also some that are unintentional due to biases, heuristics or perceptive shortcuts (Pretorius & Holtzhausen, 2008:100) by those involved in the process.

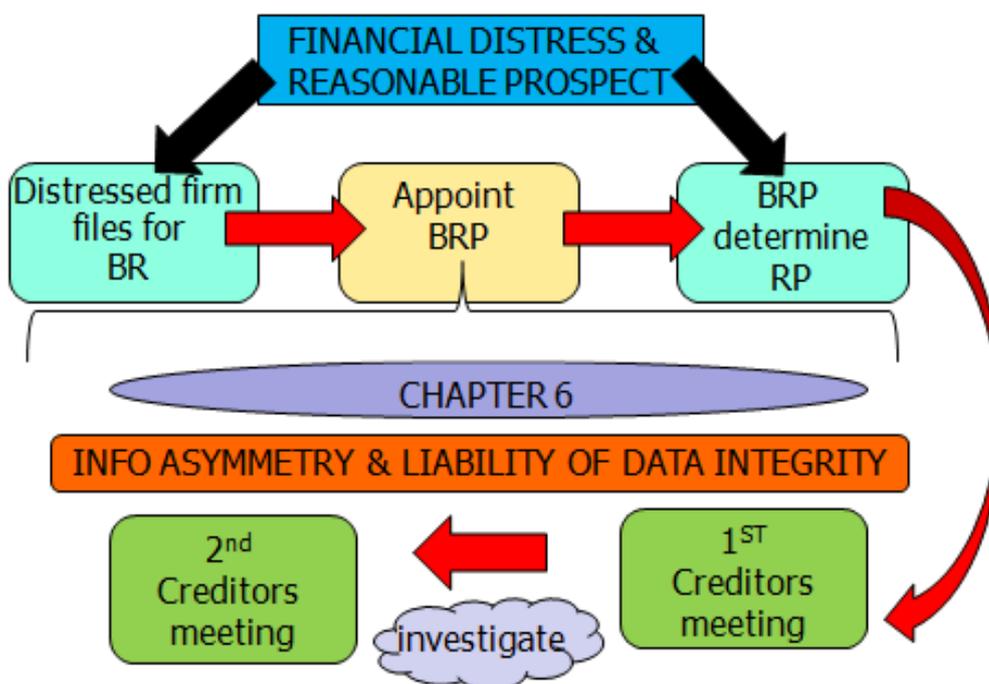


Figure 2.1: Summary of business rescue commencement.

Article 1 specifically focuses on the explanation of (initial) reasonable prospect as well as the factual determination thereof (from a law, management and finance (accounting perspectives) under the condition of information asymmetry and the liability of data integrity. Due to time constraints and the lack of trustworthy information, it is rarely possible to determine reasonable prospect factually and that a subjective decision making process is integral to the processes followed by BRP's.

Article 2 therefore focuses on the subjective thought process followed by BRP during decision making, especially during the determination of initial reasonable prospect. This process can be explained through the application of signalling theory and sense making under conditions of information asymmetry.

The study was guided by the research question, as set out in chapter 1 and designed in the manner set out in table 2.1 (p.20, comprehensive Yin table) to achieve the research objectives.

Figure 2.2 (p.22) depicts Bergh and Gibbons (2010) conclusion of the stock market's reaction to the hiring of a market consultant through a signalling theory approach. Each block explains the consequence of the action put out in the previous block. This model contributed to the thinking behind this study and is provided to create context to the author's train of thought.

Table 2.1: Research design components according to Yin (2003).

Component	Description
Research problem	As described in the Companies Act 71 of 2008, the presence of reasonable prospect must be evident in order for a business to file for rescue. BRP's and affected parties struggle to determine this variable as it is not defined in the Act and no prescribed method of determining the reasonable prospect of a distressed firm being rehabilitated to financial solvency. This is a source of conflict in the business rescue industry. By investigating the different approaches to reasonable prospect and possibly identifying a way to factually determine reasonable prospect by incorporating the objective and subjective though process followed by BRP's, may contribute to the development business rescue and the training of BRP's.
Research Question	<p>The primary research questions that guide this study as follows:</p> <ul style="list-style-type: none"> • What constitutes reasonable prospect? • How can initial reasonable prospect be determined? • What is signalling theory? • Is signalling theory relevant in determining initial reasonable prospect? <p>These are underpinned by the following research questions:</p> <ul style="list-style-type: none"> • Are financial ratios enough to determine reasonable prospect? • What signals are relevant to the BRP? • Which signals can be used to determine reasonable prospect? • Does experience play a role in signalling theory? • And if so, how?
Context	Business rescue practitioners (and other parties) calculating the extent to which an organisation has deteriorated and the probability of turning the organisation around, in the initial stages of the rescue process.
Propositions/ Hypothesis	<ol style="list-style-type: none"> 1. Reasonable prospect is clearly defined. 2. Reasonable prospect is determined factually. 3. Signalling theory gives clear purpose of use. 4. Signalling theory is relevant to the Business Rescue industry.

	<p>5. Signalling theory contributes to the decision making process of affected parties.</p> <p>6. Relevant signals to the practitioner are identified</p>
Phenomenon Investigated (UoA)	(Initial) Reasonable prospect and its measurement.
Unit of observation	<ul style="list-style-type: none"> • Literature • Chapter 6 of the Act • Qualitative interview • Triangulation of findings
Method	<ul style="list-style-type: none"> • Study of literature on signalling theory as well as concepts of financial distress and reasonable prospect, and the Act. • Interviews with relevant parties • Triangulation of findings
Logic linking the data to the propositions	<p>Reasonable prospect is the basis of determining the possibility of rescue. It may contribute to business rescue if methods of determining reasonable prospect was identified that could assist BRP's. Therefore I propose research in this area by studying relevant literature on different factors (objective and subjective) that might assist BRP's to determine the (initial) reasonable prospect of a distressed business.</p>
Criteria for interpreting the findings	<p>Methods and tools from literature and practice stating the measurement of reasonable prospect.</p> <p>A credible manner in which factual reasonable prospect can be identified and measured in the industry of business rescue under conditions of asymmetrical information.</p> <p>A credible manner in which decision making routines (during business rescue) regarding initial reasonable prospect, can be explained under conditions of asymmetrical information.</p> <p>Better understanding of signalling theory and how it can be exploited to the BRP's advantage during business rescue.</p>

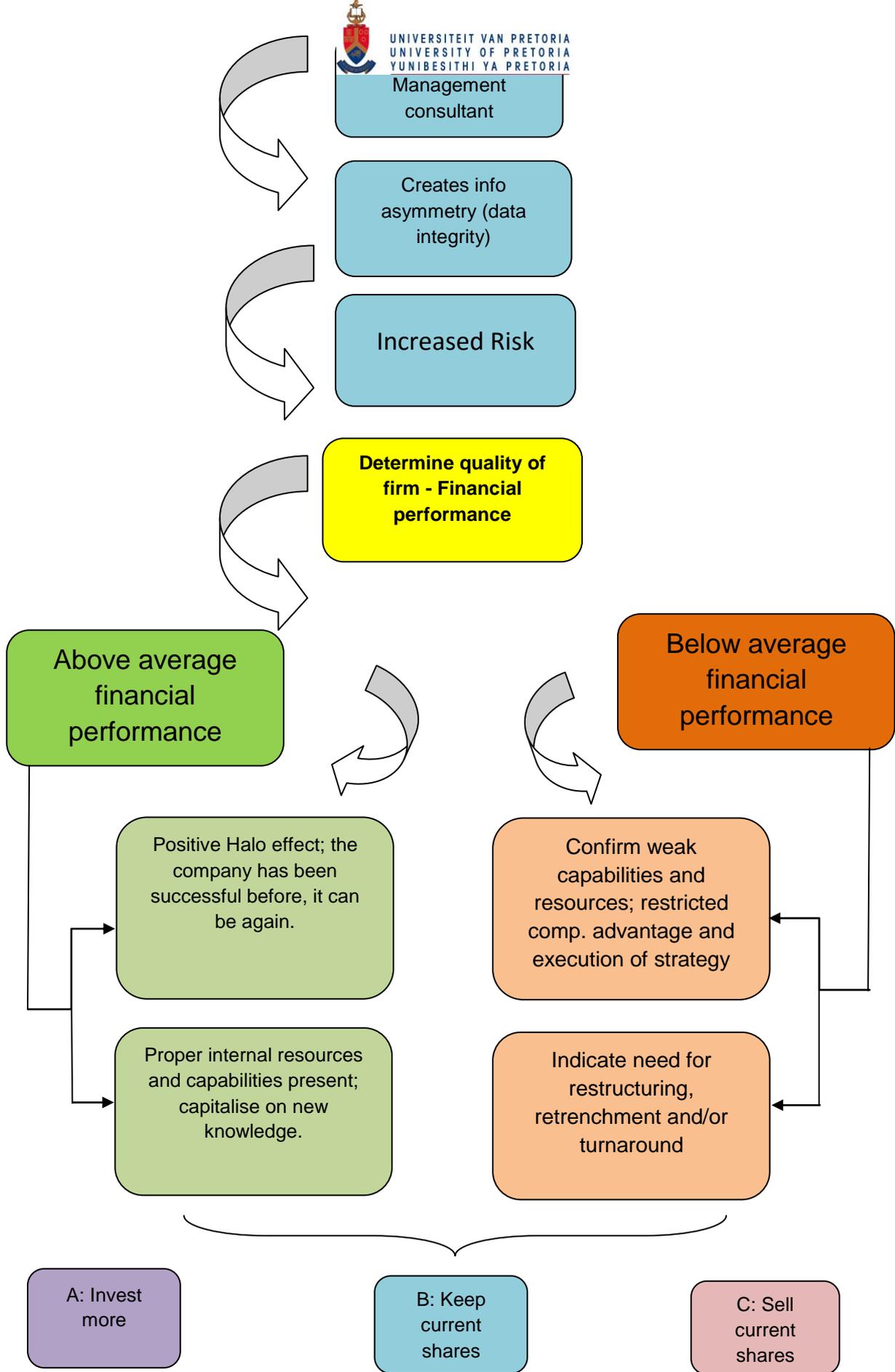


Figure 2.2: Signalling theory explained through the stock market (example).

2.3 RESEARCH ETHICS

The researcher has strived to the highest standards of excellence and morality in all research activities as described in the Code of Ethics for Research of The University of Pretoria and complied with the professional standards of the occupation including integrity, quality and accountability. The researcher was dedicated to obtaining a non-bias, objective view and minimizing any poor data liability by side stepping any negligent and hasty errors while executing accurate and strict judgement throughout the study.

Consent to participate was received from subjects as per guidelines of the University of Pretoria, ensuring all subjects were provided with needed information regarding the study including the purpose of the study, the sponsor, who the researchers are, how the data will be used as well as what is required from them during participation. Subject's participation was completely voluntary and they had the option of withdrawing from the study at any time without consequence.

All subjects were granted the privilege of confidentiality and anonymity during (and after this study) in order to protect them against any damage to their person and or their organisation and to preserve the purpose of the study.

CHAPTER 3

CHAPTER 1: Introduction

CHAPTER 2: Literature Review

CHAPTER 3: Article 1

CHAPTER 4: Article 2

CHAPTER 5: Summary and Conclusion

FACTUAL EVALUATION OF RESCUE FEASIBILITY: ONE PIECE OF THE
REASONABLE PROSPECT PUZZLE.

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ABSTRACT

Orientation: As required by various sections in The Companies Act 71 of 2008, the appointed practitioner in a rescue must place before the court facts proving reasonable prospect; this is mainly determined through the subjective thought process of the practitioners who rely on his/her experience and knowledge in rescue and/or business management. This appears in direct contrast to the requirements set out by several court cases. There are many questions surrounding the determination of reasonable prospect as there is no benchmark for business rescue practitioners to work towards or a prescribed process to be followed.

Research purpose: This article investigates different methods available to business rescue practitioners to factually determine (initial) reasonable prospect and guide the decision making process during the initial stages of the rescue.

Motivation for the study: Business rescue is still in its infancy and reasonable prospect is one of the many vague but yet mandatory for initiating business rescue procedures. A better understanding of reasonable prospect and possible ways to factually measure it will contribute greatly to the business rescue regime.

Research design and approach: The research studied numerous methods of determining financial distress and decline (literature) as well as relevant cases (law) of rescue accepted or declined in court, on the basis of reasonable prospect. Triangulation of findings assisted to conclude on a series of possible tools to be utilised during the business rescue process.

Main findings: Reasonable prospect is mainly based on the practitioner's experience and opinion. Factually proving reasonable prospect remains difficult due to the presence of information asymmetry and the liability of data integrity. Due diligence is important and academic methods of determining financial distress/decline/position mostly serve as a communication tool to creditors.

Practical/managerial implications: Business rescue practitioners and other affected parties could benefit from the insights obtained through this study. Confirming possible methods that could assist with the factual determination of (initial) reasonable prospect can contribute to business rescue education/ development as well as avoid the current conflict that surround the subject. Practical benefits for affected parties that must use reasonable prospect are also proposed.

Contribution/value add: Identifying relevant methods of determining (initial) reasonable prospect may contribute to the better understanding of business rescue and possibly help future education of BRP's.

Key words: Turnaround, business rescue, reasonable prospect, financial distress, decision making

"Change is not a threat, it's an opportunity. Survival is not the goal, transformative success is". - Seth Godin

3.1 INTRODUCTION

According to the CIPC's most recent quarterly report of 30 September 2015, the number of business rescue filings amounted to 1121 between 2011 and 2014 (an average of 39 filings per month) with only 270 reported cases that ended due to termination of business rescue proceedings (section 132(2)(b)) or substantial implementation of the business rescue plan (section 132(2)(c)(ii)). This emphasises the intense need for improved business rescue practices to contribute to the increased number of businesses that leave rescue successfully.

As prescribed in The Companies Act 71 of 2008 (here on referred to as the Act), section 129(1)(a) and (b), the presence of financial distress and reasonable prospect must be evident in order for a business to file for rescue (Conradie & Lamprecht, 2015:2; Gribnitz & Appelbaum, 2015:99). Business rescue practitioners as well as affected parties struggle to determine these variables as they are overshadowed by a subjective thought process, which differ from one individual to the next; contributing the accumulation of conflict in the industry (Baird & Lorence, 2012). Affected parties (section 128(a)) are forced to make important decisions under information asymmetry and liability of poor data integrity conditions on a regular basis (Lee, Pipino, Strong & Wang, 2004:89; Pretorius & Holtzhauzen, 2008:100; Wang, 2006:60).

For the purpose of this study, the initial reasonable prospect is described as the initial evaluation by the BRP to determine the immediate prospect of the business (feasibility of the possible rescue). This prospect remains the main driver for the BRP to undertake the rescue, or the court to place the business under rescue. It is important to note that reasonable prospect is dynamic in nature and must be evaluated continuously throughout the rescue proceedings.

By completing an in-depth study of relevant literature and other written works on the subject, the researcher was able to determine the aspects of reasonable prospect and different methods from the law, finance and management perspective in

business rescue and its related decision-making processes. Understanding this complex phenomenon and utilising it during decision making by practitioners, can contribute to the comprehensive thought process followed during the business rescue process. Business rescue, as a young industry can benefit from improved guidelines for decision making, especially regarding initial reasonable prospect.

The purpose of this paper is to identify and explore the different methods available to the business rescue practitioner during his investigation and determination of the distressed company's initial reasonable prospect.

3.2 METHODOLOGY

TABLE 3.1: Research design components according to Yin (2003).

Component	Description
Research problem	As described in the Companies Act 71 of 2008, the presence of financial distress and reasonable prospect must be evident in order for a business to file for rescue. Financial distress is clearly defined in section 128(1)(f) of the Act but reasonable prospect has no clear definition of guidelines. Business rescue practitioners as well as affected parties struggle to determine this variable as they are overshadowed by a subjective thought process, which differ from one individual to the next. This is a source of conflict in the industry. By analysing methods from all three perspectives relevant to business rescue, factual evidence may be derived to support the determination of initial reasonable prospect.
Research Questions	<ol style="list-style-type: none"> 1. What is reasonable prospect in business rescue? 2. How can reasonable prospect be determined factually?
Context	Business rescue practitioners (and other parties) calculating the extent to which an organisation has deteriorated and the probability of turning

	the organisation around, in the initial stages of the rescue process.
Phenomenon Investigated (UoA)	Reasonable prospect and its measurement.
Unit of observation	<ul style="list-style-type: none"> • Literature • BRP techniques and tools
Method	<ul style="list-style-type: none"> • Qualitative interview • Literature study of reasonable prospect and associated terms. • Study of the Act.
Logic linking the data to the research questions	Reasonable prospect is the basis of determining the possibility of rescue and should be well understood and agreed upon (to a degree) in order to establish a well-developed process/system of business rescue in South Africa. It may contribute to business rescue if methods of determining reasonable prospect was identified that could assist BRP's. Therefore I propose research in this area by studying relevant literature on different factors that might assist BRP's to determine the reasonable prospect of a distressed business.

3.2.1 Epistemology

With the objective of answering the research questions in mind, the researchers were aware of their own methodological beliefs (including values and assumptions) and the fact that these beliefs would unmistakably influence her research, and most likely create bias in interpreting the data. The following information is provided to inform the reader about the 'intellectual climate' in which the research was conducted.

The theory of knowledge (epistemology) of the researchers describe how one can discover underlying principles about social phenomena and clearly show the existence thereof (Pretorius & Holtzhausen, 2013:474).

The interpretive (constructionist) paradigm was followed during this research - it focuses on the world from the point of view of an individual or group interacting in and with it (Denicolo & Becker, 2012). Interpretivistic research can also be described as research with collectiveness; descriptive or qualitative research and is usually conducted when theory or previous research is lacking. In this case the factual determination of (initial) reasonable prospect in business rescue has only been researched vaguely. Interpretive research emphasises the understanding of a social reality in a specific context, from the participants' view of sense making. This paradigm depicts multiple realities, depending on the context and content of the situation, demanding a holistic approach to address the variables in the system being analysed. Hypothesis testing is not relevant in this paradigm, but the answering of the research questions stated is of utmost importance. The data will more often be qualitative of nature (Berniker & McNabb, 2011), but do not exclude quantitative data/ findings. Verification of data is important and can be accomplished through comparing findings from different sources through triangulation (Decrop, 1999); for example compare findings of interviews with findings of observation/questionnaire responses (Denicolo & Becker, 2012).

For this study the researchers preferred the interpretivistic over the positivistic paradigm, because she set out to uncover the detailed practices of BRP's and not a relationship that might occur as a result of certain phenomena during the business rescue process. Most of the data recovered was in the form of interviews, descriptive questionnaires and open ended discussion with pre-determined individuals, who has the data necessary to conduct the research (purposive selection). Case studies can also be used if the responses are insufficient.

3.2.2 Ontology

Ontological position consists of the researchers' views on the very nature and essence of research reality (Maedche, 2002:13). The researchers are acceptant rationalists (Katz, 1998) who believe that knowledge sprouts from overlapping findings after investigations/ experimentations by numerous individuals from different situations. If these findings support one another, they can be seen as patterns; some of which can be precedent. Rationalism views the main source and test of knowledge to be reason; the theory in which the criterion of the truth is not sensory but intellectual and deductive - reality has a logical structure.

Open minded, non- biased analysis of data was pursued. An acceptance of the findings, even when against beliefs and norms is critical to deliver conclusions parallel with actual practices. If a researcher finds it difficult to conduct objective research, structured data- gathering methods is a safe choice to prevent contamination of the study and was opted from.

Causes and responses differ in certain situations and patterns aren't always black or white - grey areas (multiple realities) do exist and need to be addressed as well. The context and content of a situation influences studies and can't be seen as simple observations (Loewenstein, Thompson & Bazerman: 1989).

3.3 LITERATURE REVIEW

3.3.1 Business rescue: history and overview

Formal turnaround management from a South-African perspective is still in its early stages (Holtzhauzen, 2010:29). Judicial management, a form of formal turnaround (Loubser, 2012:2), was first introduced in South Africa in 1926 and although widely regarded as unsuccessful because it presented no catalyst to pursue rehabilitation of the organisation over liquidation, the Van Wyk de Vries Commission regarded it sufficient enough to recommend it be retained in the 1973 Companies Act (Joubert, 2013: 552). In light of mounting international pressure, South Africa introduced a

modern turnaround regime, known as business rescue (Chapter 6 of Companies Act 71 of 2008) (Burdette, 2011; Rosslyn-Smith & Pretorius, 2014:8).

Business rescue, as defined by the Act, refers to the proceedings to facilitate the rehabilitation of a company that is financially distressed by providing for the temporary supervision of the company and the management of its affairs, business and property, as well as a temporary moratorium on the rights of claimants against the company or in respect of the property in its possession (Chapter 6 of Companies Act 71 of 2008).

The initial objective of business rescue is to keep companies alive and extract greater value that stakeholders such as employees, shareholders and creditors can seize from it (Conradie & Lamprecht, 2015:2; Joubert, 2013:550). Business rescue can also serve a second objective that where there is no possibility of rehabilitation of the firm and continuing its existence on a solvent basis, the business rescue will result in better returns for creditors and affected (section 128(1)(b)(iii) of the Act) parties compared to the return of an immediate liquidation (Levenstein, 2008:13).

Chapter 6 of The Companies Act 71 of 2008 came into effect on 01 May 2011 allowing rescue procedures vaguely comparable to Chapter 11 in the USA (Balovich, 2002) and administration in the UK (Parliament of the United Kingdom, 2006). According to Chapter 6 of the Act, in order to file for business rescue, firms must be financially distressed. The meaning of financially distressed as defined in section 128(1)(f) includes the requirement where the company is unable to pay creditors or where the company will become unable to pay creditors in the next six months (Levenstein, 2008:12).

The Act describes the following two ways of entering business rescue; first option is voluntary filing by the board of the company (section 129(1)) if the company adheres to the requirements set out in section 129(1)(a) and (b). The second option described is an application to court by an affected person (section 128(a)) to place the company under supervision and commence rescue proceedings. It is important to note that in both cases reasonable prospect is a requirement. After considering the application, the court may decide to place the company in business rescue if the

requirements of section 131(4)(a) are met or to dismiss the application according to section 131(4)(b) (Conradie & Lamprecht, 2015:5).

During voluntary filing, the distressed company nominates (section 129(3)(b)) a business rescue practitioner (BRP) in accordance with section 138, whereas the affected person (section 131(5)) who brought about the court application or the court (interim BRP) may nominate a BRP in accordance to section 138 of the Act. A BRP, an independent and qualified person, who acts as an officer of the court (section 140(3)(a)) as prescribed by the Act and is appointed to navigate the company back to financial health such that it continues to exist on a solvent basis. (Conradie & Lamprecht, 2015:5).

The BRP is required to bring a variety of skills to the business (Pretorius, 2014). As an officer (agent) of the court, the BRP has the responsibilities, duties and liabilities of a director of the company, as set out in sections 75 (financial interests), 76 (conduct) and 77 (liabilities) of the Act. All the above takes place within the "supreme task" of compliance with the Act and its procedures (Pretorius, 2013). The BRP has total control of the firm until s/he presents the plan to the creditors, where the power is shifted to the creditors via their votes. If the creditors vote in favour of the business rescue plan, the rescue proceedings continue and the BRP is in control again, implementing the plan to rescue the company by restructuring its affairs, business, property, debt and other liabilities, and equity (Pretorius & Rosslyn-Smith, 2014).

A business rescue plan has various requirements and standards to uphold, and is an integral part in the successful turnaround of the business. Twenty-five business days, with possible extensions, are granted to the BRP after appointment to formulate and disclose a feasible business plan. The objective of the plan is to detail the procedures and strategies to be used for the company can overcome its financial adversities and resume normal commercial operations on a solvent basis (Pretorius & Rosslyn-Smith, 2014:27). In the event that this is not possible, the implementation of the proposal must result in a better return for the company's affected parties than would result from immediate liquidation of the company. Section 150 of the Act prescribes the content to be presented in the business rescue plan. The overarching mandate is to provide satisfactory direction to the affected parties for them to reach a

judgement regarding its ratification. Section 150(2) details distinct fundamentals to be included in the document however, these only results in the bare minimum required for compliance, and it is generally accepted that the plan should go beyond it (Pretorius & Rosslyn-Smith, 2014:29).

All the above can only take place if reasonable prospect was established at the onset of the process.

3.3.2 Asymmetrical information and liability of data integrity.

Decision making, during business rescue, depends on the quality of information provided (Pretorius, 2014:9). Data integrity refers to correctness, completeness, wholeness, reliability and truthfulness of the data available for decision-making (Lee et al., 2004:89; Wang, 2006:60). For more than a century, formal economic models of decision-making mechanisms were based on the hypothesis of perfect information, where such information asymmetries were rejected (Connelly, Certo, Ireland & Reutzel, 2011:42). According to Stiglitz (2000) there are two types of information where asymmetry is particularly relevant, namely: information about quality and information about intent.

In the business rescue industry, internal data used for critical decision making are often subject to misrepresentation, obscuring and suppression for several reasons (Pretorius & Holtzhauzen, 2008). Examples include inflated debtors data to improve balance sheets, overestimated sales projections that inflate demand figures, manipulated inventory projections, overvalued assets, incorrect attributions of causes to protect positions, and withholding of certain information to protect vulnerable projects and questionable decision making from the past. Although some of these cases might be intentional, there are also some that are unintentional due to biases, heuristics or perceptive shortcuts in the perception of those presenting it (Pretorius & Holtzhauzen, 2008:100).

There are two main types of data needed during the business rescue process; financial data, including income statements, balance sheets and transaction records as well as management records, such as supply reports and data interpretations

(Lee *et al.*, 2004:90) - which is highly susceptible to inaccuracies and human error, limitations and biases. Verification and authentication of data is a time-consuming process, and time is not abundantly available during business rescue. The liability of data integrity therefore depends on the business rescue practitioner's ability to verify and authenticate data for decision-making. The reluctance of verifying data regularly leads to assumptions and contributes to poor strategy choices (Pretorius & Holtzhausen, 2008:101).

An argument by Barker and Barr (2002:963) highlights that top management has a large impact, as the key contributor to the downswing and ultimate failure of the business if it fails to adapt strategies. Top management's apprehensions are important influences on decisions affecting organisational performance. These authors suggest that the way in which the top management team perceives the causes of failure determines the extent of its recovery actions (Pretorius & Holtzhausen, 2008:101). Business rescue practitioners are dependent the apprehensions of management, as they are a fundamental source of information.

The management may frame the requested information according to self-serving benefits or based on the members' specific knowledge structures, influencing the data integrity. Management is also contingent on subjective opinions of subordinate management through overconfidence (Shepherd, 2005:125), escalation of commitment (Shepherd, 2005:129), risk perception and misconceptions (Le Roux, Pretorius & Millard, 2006). In order to succeed in rescuing a deteriorating firm, the practitioner must identify and conquer these obstacles. According to Engelbrecht (2014), in order to identify foul play in financial statements, it is advisable that the practitioner compare statements to a minimum of six month's formal banking transaction statements. In doing so, the practitioner (or his accountant) will promptly determine whether the provided data mirrors the true position of the firm, before commencing with reasonable prospect determinations and calculations.

3.3.3 Reasonable Prospect

As discussed by Pretorius (2014), judging reasonable prospect is a major source of conflict between different parties in the business rescue industry. Distinguishing

reasonable prospect relies on numerous moderators and mediators of judgement, and the opinions of individuals clash frequently as there is no standardised method for determining reasonable prospect, which is mentioned in the Act but not clearly defined.

'Reasonable prospect' (a term not defined in The Companies Act) does not necessarily mean reasonable possibility; however, it means a prospect based on reasonable grounds and not speculative suggestions or vague averments (*Southern Palace Investments 265 (Pty) Ltd v Midnight Storm Investments 386 (Pty) Ltd*). The presence of reasonable prospect is a prerequisite for business rescue practices to commence and the reliability of the information used, to determine reasonable prospect, is crucial to ensure the trustworthiness of the prospect being determined.

An applicant is required to place before the court a factual foundation for the existence of a reasonable prospect that business rescue is likely to achieve the primary object or the secondary object of business rescue; whether or not 'reasonable prospect' has been established is a factual inquiry to be made on a case by case basis; (the primary object of business rescue is to facilitate the continued existence of a company in a state of insolvency (section 128(1)(b)(iii)); the secondary object of business rescue is, in the event that the primary object is not viable, to facilitate a better return for the creditors of a company (section 128(1)(b)(iii)), as described in the Act.

Currently, reasonable prospect often depends on subjective thought processes with no formal framework of calculating objective facts that can be used to ratify it from a business perspective (*Oakdene Square Properties (Pty) Ltd and Others v Farm Bothasfontein (Kyalami) (Pty) Ltd (SCA)*). The reluctance of affected parties to share reliable financial and/or other information contributes to the stagnant and complex process. Courts have to decide whether distressed businesses are to be liquidated or placed into rescue, using mainly the subjective opinions of rescue practitioners and/or opposing parties in court.

3.3.4. Different perspectives when determining initial reasonable prospect.

Law, finance (accounting) and management all play an important role in business rescue procedures and a working knowledge of these fields do benefit the BRP in his/her endeavours. It is also important to understand the different approaches followed by these perspectives when (initial) reasonable prospect is the topic at hand.

There are numerous relevant methods and calculations reported in the body of knowledge and available to BRP's from a finance (accounting) and management perspective. For the purpose of this paper, the author focussed on more practical methods used to measure business decline and sustainability. Altman (1968 & 1997) followed a more pessimistic approach when developing the Z-score to predict business decline where Timmons and Spinelli (2003) chose a more optimistic approach, identifying the elements compulsory for a business to exist.

3.3.4.1 Law Perspective

The first reported business rescue judgement was on 30 May 2011 (the same month as the new Act came into effect) and was made by Judge Makgoba in *RA Swart v Beagles Run Investments 25 (Pty) Ltd*. The matter was brought and decided on argument basis and was contended by creditors as an abuse of process. They argued that the application was the climax of attempts by the firm to sidestep debtor's payments. Makgoba ruled in favour of the creditors and argued that the interest of creditors should carry the day, if they are weighed against the interests of the firm itself. Makgoba also argued that the requirement of a "reasonable prospect" for rescuing a company must mean a "reasonable probability" of rescue; he then went on to follow the law, relating to the judicial management of companies, which was the previous regime for financially distress companies in South-Africa, abolished by the provisions of the new Act. In the exercise of his discretion, after weighing the facts as to whether there was such a "reasonable probability" of rescue; judge Makgoba denied the application of business rescue.

Unsurprisingly, the case that had become the locus classicus of judicial interpretations, of the requirements for business rescue applications, did not follow Makgabo when it was handed down six months later by judge Eloff in the *Southern Palace Investments 265 (Pty) Ltd v Midnight Storm Investments 386 (Pty) Ltd*. Eloff argued that the requirements of reasonable prospect of recovery must mean something less, than the recovery should be a "reasonable probability". The judge remarked that the business rescue provisions heralded a new era and that the old mind-set of the creditor being almost entitled to a winding-up order, as if a right was inappropriate. Business rescue was to be preferred to liquidation. However even though he held that the substantive test (referring to the requirements of section 129(1) that must be adhered to) has a lower threshold than for judicial management, it still lies within the discretion of the court whether or not to grant an application for business rescue. The requirements of a "reasonable prospect" for rescuing the company must be read with the definition of business rescue section 128(1)(b). If the applicant stated that the company would recover, the court demands that such allegations must contain some "concrete and objectively ascertainable details going beyond mere speculation" of the following facts: the likely costs of rendering the company capable of resuming its business, the likely availability of the necessary cash resources and any other necessary, and why the proposed plan will have a reasonable prospect of success. On the facts, the application was denied.

As mentioned by Floor (2013), the Southern Gauteng High Court in *Oakdene Square v Farm Bothasfontein (Kayalami)* denied the application to place the company that owned the Kayalami race track under business rescue and ruled that the dearth of recent financial statements would make it improbable for the business practitioner to successfully restructure the operations of the company. The court also sanctioned the indication by the majority of shareholders that they would vote against any manifestation by the business rescue practitioner.

In another court case, *AG Petzetakis International Holdings Ltd v Petzetakis Africa (Pty) Ltd*, the court found, based on the facts available to the court, that the company under discussion was beyond rescue unless it received a large financial injection (otherwise known as post commencement finance) but there was no indication present that such a financial injection would be forthcoming. Therefore the court

denied the application to be put under business rescue because of no reasonable prospect.

The prospects for a successful rescue may vary from case to case; as a general rule however, the company filling for business rescue is required to present objectively ascertainable details showing that the company has a reasonable prospect of being rescued successfully (Floor, 2013).

Based on the court cases mentioned, reference to factual, concrete, objective and ascertainable details appear to be the basic requirements. The evidence however, reported in these cases points to the absence of these, hence the research questions of this study. This paper proceeds to report literature on business related tools to determine reasonable prospect under significant time constraints.

3.3.4.2. Business Management Perspective

In order for the BRP to determine the feasibility of a rescue, he/she must determine whether the distressed business at hand has all the components needed to function as a profitable business after rescue proceedings has ended. Some of these components can be introduced during the rescue if they are absent, where others are integral to a business to exist at all and cannot be added later on during the life cycle of the business. Relevant (basic) entrepreneurial and business management principles are explored to define these components needed.

3.3.4.2.a Opportunity Analysis

The main objective of the Opportunity Analysis (or OA), as broadly discussed by Timmons and Spinelli (2003:79-113), is to establish whether an opportunity exists for doing meaningful business. The analysis explores six areas of opportunity, unexampled for every business in its explicit context. The OA originated when research was conducted on new business opportunities, the buying/ selling of an existing business and found applicable for determining the presence of reasonable prospect under distress situations in businesses.

During the OA, all aspects of the business are looked at separately, dividing all operations in six main business model groups, namely: demand for concept offering (value propositions), team and resources, competitive environment (profitability) and finance. The opportunity analysis then judges the potential of the proposed start-up venture through its feasibility. By using this analytical approach, for a distressed firm where the same principles apply, the weakest link in the business chain can be identified and improved to obtain better returns or to establish reasonable prospect. The OA lends itself to the use for determining reasonable prospect from a feasibility perspective as it questions whether the elements crucial for a business to exist are present at the specific point in time (Nieman & Pretorius, 2004).

An opportunity scorecard can be used to analyse the different business elements of a venture (Choi & Shepherd, 2004; Shepherd, 1999). The scorecard includes the following fields of analysis, value proposition and venture support, product/ solution demand, competitive environment, economic model, cash flow issues and managerial resource fit.

Each of these elements can be judged and the interpreted accordingly, ranging from an excellent opportunity to a dangerous opportunity.

3.3.4.2.b "Do we have a business" -Test

The "Do we have a business" test (or DWAB test) was built on the foundations of the feasibility principles and the opportunity analysis, and still builds on the pillars provided by these analytical methods. Basically the test" comprises of five questions, covering the elements needed for a business to exist, to be answered by a reasonable and experienced business person. These elements must be properly managed in order for the venture to be operated profitably (Timmons & Spinelli, 2003:79-113).

The questions covered in the "test", include whether there are *demand* for the product and/ or service? This refers directly to the concept offering and the significance of the demand thereof. This demand can be defined as the utility of goods/ service from an economic agent. Does the *capacity* exist to deliver on the

demand? Capacity can also be described as the output capability over a specific time period, infrastructure and the human resource capacity. Is there a profitable *business case* in motion? This question refers to the reasoning behind initiating the business/ project and whether there is economic logic supporting the business model. Are the *cash flow* projections positive? This can be described as the amount of liquidity moving through the business and/ or the ability of the business to pay immediate creditors. Are there potential flaws (caveats) in the business model that may render the other factors useless? These caveats can be any constraints to optimal functioning of the business. These questions are progressive where one can have an eliminating power.

This analysis overlaps with the opportunity analysis, previously explored, to a large extent suggesting the elements to be tested are the right ones. These models focus on the requirements of early judgements concerning feasibility to be followed up by validity testing and due diligence type analyses (Gillman, 2001).

3.3.5. Financial Management (Accounting) Perspective

As set out in the introduction of this paper, the definite presence of financial distress is required for business rescue proceedings to commence. Therefore the study explored the most popular methods of determining distress from a financial perspective, namely financial ratios, the Altman Z-score and discriminant models as well as general cash flow ratios as predictors.

3.3.5.a Financial ratios

When analysing traditional financial or accounting ratios, a definite variation can be observed between the ratios of financially healthy and deteriorating firms (Altman, 1968:590). Altman's study implied a definite potential of ratios as "predictors of bankruptcy". The most significant indicators include ratios measuring profitability, liquidity and solvency included in Table 3.2: Formulas for relevant financial ratios.

Although viewed as a handy tool for measuring the financial position of a firm, ratios can be susceptible to "faulty interpretation and potentially confusing" (Altman,

1968:591). Any ratio analysis needs to be done in accordance to the specific industry of the firm. Comparing ratios of two firms from contrasting industries would be idle. Other major determinants of the effective measurement through ratios are the size of the firm as well as the current economic climate in which it operates. Financial ratios tend to deflate ratio statistics and therefore a large part of the size effect may be lost.

In essence, when calculating ratios of a firm, one embarks on an in- depth analysis of the firms results compared to the industry benchmark/norm, taking into account the size of the firm as well as the current economic climate dictating at the time (Jooste, 2006:7). Analysing ratios depend on financial figures (data) that are trustworthy following some viability testing and potentially due diligence (Gillman, 2001:3). The existence of reasonable prospect is required mostly before such process have been embarked upon, thus is associated with early feasibility judgements. Financial ratios are a handy tool to be used by BRP's to determine the area of distress in a business where after it might be easier to establish reasonable prospect.

Table 3.2: Financial Ratios: Determining the main problem areas of a distressed business.

Ratio	Formula	Description
Profitability	Gross profit margin = gross income / sales Operating profit margin = operating income/ sales Net profit margin = net income / sales	Profitability ratios shows the amount of each sales unit (in percentage) left after all expenses have been paid. It is very useful when comparing companies in similar industries. A higher profit margin indicates that a company is more efficient at converting sales into actual profit.
Liquidity	Current ratio = current assets/ current liabilities Quick ratio = current assets -	Liquidity ratios measure the ability of the company to meet its short term debts when they fall due.

	inventory / current liabilities Net working capital to sales ratio = current assets - current liabilities / sales	
Solvency	Solvency ratio = after tax net profit + depreciation / total liabilities	Solvency ratios measure the company's ability to meet its long term debts when they fall due.

International Financial Reporting Standards (IFRS) are principles-based Standards, Interpretations and the Framework adopted by the International Accounting Standards Board (IASB). IFRS represent a set of internationally accepted accounting and financial management procedures, which has been required from all South African listed firms since 2005. Available online: <http://www.ifrs.org/Pages/default.aspx>

3.3.5.b Multiple Discriminant Analysis and the Z-Score Analysis.

The Multiple discriminant analysis (MDA) has been regarded as the most popular (Altman & Narayanan, 1997:2) technique to predict financial failure among firms, as researchers have tested numerous other techniques with disappointing outcomes. MDA seems to be the de facto benchmark for the comparison of distress prediction models for various reasons (Altman & Narayanan, 1997:2). It is important to view Altman's Z-score model hand-in-hand with the MDA model; Edward Altman is famous for using the discriminant analysis in developing his renowned Z-Score analysis.

The discriminant function used is as follows (Altman, 1968:594; Paston, Harmon & Gramlich 2011:46): $Z = .012X_1 + .014X_2 + .033X_3 + .006X_4 + .999X_5$; where X_1 = Working capital / Total assets, X_2 = Retained earnings/ Total assets, X_3 = Earnings before interests and tax / Total assets, X_4 = Market value of equity / Book value of total debt, X_5 = Sales / Total assets and Z = Overall index.

Once the Z-score has been determined, it is compared to Table 3.3 for interpretation.

Table 3.3: Interpretation of the Altman Z-score (Paston *et al.*, 2011:47):

Z-Score	Description (Indicator of :)
> 2.99	Healthy
<1.81	Bankrupt (Failed)
1.81 - 2.99	Zone of Ignorance / Grey zone; susceptible to error.
2.675	"Midpoint" in "zone of ignorance", Z value that discriminates best between bankrupt and healthy firms.

When interpreting the Z-score, evaluators are required to be cognisant of two issues; firstly, less time and effort would be spent on firms scoring a high Z-value (> 3.0) than firms scoring low Z-values and would signal a very thorough investigation (Altman, 1968:608). Secondly, firms scoring a Z-value under the "zone of ignorance" experience a decline in their stock of up to 45%, from date of analysis to date of actual failure; an average period of 15 months were documented (Altman, 1968:608).

Altman published an evolved version of the Z-score model in 1997, which provides the opportunity, for companies under analysis, to be grouped into two homogeneous categories, namely developed country models; characterised by detailed history of prediction failure, accessible corporate financial data, minimal government intervention as well as sophisticated regulations to protect investors and developing country models; characterised by the absence of a free market economy, greater government interference and the absence of conditions prevalent in developed countries (Altman & Narayanaa, 1997:3).

Altman also used a larger amount of financial data to investigate the firms and found that models with several years of data available outperformed a similar model (model of 1968) with data from only one year prior to failure (Altman & Narayanan, 1997:6). The use of absolute financial statements (1-8 years), provided by an external accounting firm, contributed to the accuracy of classification - it is of absolute importance that the data used is reliable and a true version of the actual operations within the business. In business rescue, however, such data is rarely available. However, data integrity has proved to be lacking in most cases (Pretorius & Holtzhauzen, 2008).

The Altman Z-score is a handy tool when failure prediction is the main objective of the BRP (Altman, 1968) but since the business is already in distress when rescue proceedings are initiated, calculating the company z-score seems less useful, unless its aim is to use it in a scorecard for sustainable implementation. Within the realm of data integrity one expects its application to be rare.

3.3.5.c Cash Flow ratio's

Various studies have concluded on the importance of cash flow information. Cash flow can be seen as the heart of the business and the essence of its very existence (Jooste, 2006). Cash flow directly measures a firms "ability to pay" short/medium term debt and offers amplitudes to evaluate performance. A sign of the continuum of failure is the problem of irregular cash flow; indicating underperformance (Boyatzis, 1982). Cash flow ratios therefore measure (confirm) and support the existence of financial distress rather than indicate reasonable prospect directly.

In 1993 a study was conducted by Giacomino and Mielke to evaluate firms' performance via the use of cash flow ratios. They sampled companies of the chemical, food and electronics industries, among the Fortune 500 (of that specific year). They calculated ratio averages over three years for comparison, from financial statements provided by the companies, compliant with SFAS 95. See Table 3.4 for summary of cash flow ratios they found most significant in the determination of financial health amongst firms in the highly related industry.

Table 3.4: Cash Flow Ratios (Healthy vs distressed)

	Ratio	Description
Sufficiency Ratios: Ability of firm to provide cash for its cash requirements.	1. Cash flow adequacy = $\text{CFFO}^* / (\text{long term debt} + \text{purchases of assets} + \text{dividends paid})$	Evaluates the ability to generate sufficient cash to meet primary obligations.
	2. Long-term debt repayment = $\text{Long-term debt payments} / \text{CFFO}^*$	Evaluates the sufficiency of cash flow to settle long term debt.
	3. Dividend pay-out = $\text{Dividends} / \text{CFFO}^*$	Evaluates the sufficiency of cash flow to pay dividends.
	4. Reinvestment = $\text{Purchases of assets} / \text{CFFO}^*$	Evaluates the sufficiency of cash flow for reinvestment and maintenance of asset structure.
	5. Debt coverage = $\text{Total debt} / \text{CFFO}^*$	Estimates the number of years to repay debt at the current level of cash flow.
	6. Impact of depreciation of write-offs = $(\text{Depreciation} + \text{amortisation}) / \text{CFFO}^*$	Evaluates the % cash from operating activities due to adjustments and amounts written off.
Efficiency Ratios: Extent to which cash is generated over time and relative to other companies.	7. Cash flow to sales = $\text{CFFO}^* / \text{Sales}$	Indicates the % of each rand sale from operating activities which is realised in cash.
	8. Operating index = $\text{CFFO}^* / \text{Income from continuing operations}$	Compares cash flow from operating activities with income from continued activities.
	9. Cash flow return of assets = $\text{CFFO}^* / \text{Total assets}$	Evaluates the cash flow from assets utilised.

**CFFO : Cash flow from operations*

In summary, there are numerous variables pre required for the usefulness of CFR's to consider when using cash flow ratios as indicator of a firm's financial health (Jooste, 2006:6-10). Firstly, industry norms must be used preferably averages over three or more years, for comparison. When calculating norms, financial statements of years with similar economic climates must be used. Firms from developing countries and first world countries cannot be compared as well as firms from different industry segments. Lastly, firms with a significant difference in size cannot be compared. Cash flow statements can merely indicate/confirm a problem area in the business which is already in distress; not indicating reasonable prospect.

3.4. DISCUSSION AND CONCLUSION

The usefulness of the models explored in this paper appear limited for determining reasonable prospect, some more than others. Timmons and Spinelli's (2003) opportunity analysis and DWAB test do support the determination of initial reasonable prospect but can't be used in isolation. The IFRS liquidity and solvency ratio's provide guidance to find the origin of distress but their usefulness regarding the determination of initial reasonable prospect yields vague conclusion.

Although there are numerous ways available to pursue initial reasonable prospect, the fact that data integrity is seldom guaranteed, forces BRP's to exploit more than one type of analysis and/or process during their investigations. The practitioner's experience and expertise will be the driver of which, and in what combination, the above discussed analogies can be utilised. There will always be inaccuracy when working with data processed by individuals, due to error and bias of human nature, but through using more than one method of analysis, this span of error can be narrowed down. Every business is unique and must be analysed as a whole in its environment and industry compared to similar and competing organisations.

In conclusion, the quick but factual measurement of initial reasonable prospect still remains elusive. Reasonable prospect is a complex phenomenon and BRP's require much experience and knowledge in the different fields of business to accurately determine reasonable prospect under asymmetrical information conditions. The BRP's main field of experience (law, management or finance/accounting) may influence (bias) the perspective with which the BRP approach the determination of reasonable prospect. These perspectives each has its own cues/signals that BRP's use to make sense during the initial stages of business rescue. By taking advantage of these signals, the uncertainties associated with asymmetrical information conditions can be reduced and certain cues can be used to help guide decision making.

3.5 LIMITATIONS AND FUTURE RESEARCH

This paper is limited to theoretical conclusions and court judgments only and no real-time observations by individuals in the business rescue industry. It is evident that none of the methods discussed are of any value if the data used is unreliable. Data integrity is of the utmost importance in the financial calculations and evaluation of a businesses' financial health. In order for business rescue to be successful, the determination of a trustworthy reasonable prospect is crucial and which is only possible if the data provided is sufficient and therefore reliable and true to reality.

This study focussed only on the objective (factual) ways available to determine initial reasonable prospect, but what about the subjective aspects of this process? Further, how can the subjective determination be identified, measured and presented in courts with sufficient validity? Fact remains, the determination or reasonable prospect is required early in the business rescue process and generally in the face of the liability of poor data integrity after the fact of financial distress, which makes it difficult to apply "factual detail" to support reasonable prospect. It is therefore important that research be extended to include "human effects" in decision making such as signalling theory and the use of heuristics.

Signalling theory can assist the process of analysing the reactions and interpretations of decision-makers when working in environments of incomplete and/or asymmetrical information conditions (Bergh *et al.*, 2012). Signalling theory

may be of assistance during decision making in business rescue, especially during the determination of (initial) reasonable prospect as it utilises the subjective thought process that may be of use to BRP's when factual determinations are lacking.

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CHAPTER 4

CHAPTER 1: Introduction

CHAPTER 2: Literature Review

CHAPTER 3: Article 1

CHAPTER 4: Article 2

CHAPTER 5: Summary and Conclusion

FACTUAL EVALUATION OF RESCUE FEASIBILITY:
A SIGNALLING THEORY APPROACH

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ABSTRACT

Orientation: As required by various sections in the Companies act, the practitioner must place before the court facts proving reasonable prospect; this is mainly determined through the subjective thought process of the practitioners who rely on their experience and knowledge in rescue and/or business management. Signalling theory may contribute to better understand the thought processes followed by BRP's during their efforts to determine reasonable prospect.

Research purpose: This article investigates the relevance and utilisation of signalling theory by BRP's during their efforts to determine (initial) reasonable prospect that guide the decision making process during the initial stages of rescue.

Motivation for the study: Business Rescue is still in its infancy and reasonable prospect is one of the many vague but yet compulsory elements needed for initiating business rescue procedures. A better understanding of reasonable prospect and how signalling theory may contribute to the determination thereof may contribute greatly to the business rescue regime.

Research design and approach: The research followed a qualitative approach to interview purposively selected BRP's currently active in the industry, to derive frequently used signals during their efforts in determining reasonable prospect. Thereafter the findings were triangulated with previous study findings on reasonable prospect as well as literature on signalling theory to possibly identify tools to be utilised during the business rescue process.

Main findings: Reasonable prospect is mainly based on the practitioner's experience and opinion which in turn contributes to the BRP's ability to recognise signals between the distressed business and the BRP. Factually proving reasonable prospect appears very difficult due to the presence of information asymmetry and the liability of data integrity but signalling theory may help to decrease the uncertainty. Due diligence must be applied throughout the business rescue process. Academic methods of determining financial distress/decline/position mostly serve as a communication tool as the business is already in distress with the commencement of business rescue proceedings.

Practical/managerial implications: BRP's and other affected parties could benefit from the insights obtained through this study. Confirming possible signals (signalling theory) that could assist with the determination of (initial) reasonable prospect can contribute to Business Rescue education/development as well as avoid the current conflict that surround the subject. Practical benefits for affected parties that must use reasonable prospect are also derived.

Contribution/value add: By identifying signals that are useful when determining (initial) reasonable prospect may contribute to the better understanding of business rescue and possibly help train future BRP's.

Key words: Signalling theory, business rescue, reasonable prospect, turnaround

“While we are free to choose our actions, we are not free to choose the consequences of our actions.” - Stephen R. Covey

4.1 INTRODUCTION

At the start of business rescue proceedings, BRP's generally use financial reports as a compass to find the origin of financial distress. These tools (informal or formal) are frequently misleading (Pretorius and Holtzhauzen, 2013) forcing BRP's to use alternative ways to gain information under conditions of asymmetrical information (Berg, Connelly, Ketchen & Shannon, 2012:1334).

High levels of uncertainty are one of the ruling characteristics of information asymmetry (Lee, Pipino, Strong & Wang, 2004) and according to Bergh et al. (2012), signalling theory yields an interpretative model for strategic management research as it depicts the manner in which key strategic actors (top managers, owners and other stakeholders) "navigate informational uncertainties" as well as the perilous uncertainties related to them.

Bergh and Gibbons (2011:546) described signalling theory as being cultivated to assist the process of analysing the reactions and interpretations of decision-makers when working in environments of incomplete and/or asymmetrical information conditions (Bergh *et al*, 2012).

The purpose of this paper is to illuminate how signalling theory can assist business rescue practitioner with decision making during business rescue procedures but most importantly, during the determination of initial reasonable prospect. For the purpose of this study, the initial reasonable prospect can be described as the initial evaluation by the BRP to determine the immediate prospect of the business (feasibility of the possible rescue). This prospect will be the main driver for the BRP to undertake the rescue, or the court to place the business under rescue. It is important to note that reasonable prospect is dynamic in nature and must be determined regularly throughout the rescue proceedings.

Understanding possible cues/signals (signalling theory) that could assist with the determination of (initial) reasonable prospect may contribute to BRP training and

development as well as avoid the current conflict that surround the subject. Practical benefits for affected parties that must use reasonable prospect are also derived.

The authors conducted a qualitative study with purposively selected BRP's to possible identify cues/signals relevant to the determination of (initial) reasonable prospect. A thematic analyses and triangulation (Decrop, 1999) of the findings was conducted to produce a "map of sorts" (Cooper & Schindler, 2014) to possibly guide decision-making by BRP's under conditions of information asymmetry.

4.1.1 Key focus of the study

The key focus of this study is to investigate the subconscious "cues" or signals used by BRP's that help them make decisions regarding the (initial) prospect (of which should be reasonable) of the company being rehabilitated to financial solvency; it builds on signalling theory.

4.1.2 Contribution of the study

BRP's and other affected parties could benefit from the insights obtained through this study. Confirming possible signals (signalling theory) that could assist with the determination of (initial) reasonable prospect may contribute to business rescue training/development as well as avoid the current conflict that surrounds the subject.

A qualitative study involving BRP's currently active in the business rescue industry and literature on the subject illuminated the relevance and application of signalling theory during business rescue procedures, especially during the investigative phase when initial reasonable prospect must be determined.

Understanding this phenomenon (signalling theory) and utilising it during decision making by practitioners, can contribute to better understand the comprehensive thought process followed during the business rescue process. Business rescue is still young and can benefit from guidelines for decision making, especially regarding

initial reasonable prospect as this is the "bar" for the BRP accepting a rescue or the court placing the firm under rescue.

4.2. LITERATURE REVIEW

4.2.1 Information Asymmetry and Signalling Theory

In economics, information asymmetry occurs when one entity to a transaction has more or higher quality information than the other (Belogolovsky & Bamberger, 2014:1709). One way for buyers to manage their risk is to identify the noticeable and mutable characteristics (Bergh and Gibbons, 2011:546) that affect the limited probability of the seller's performance. Such a characteristic is known as a signal. According to Spence (1973) abreast entities attempt to communicate or "signal" certain information to their unbriefed transaction partners in order to evoke advantageous behaviour (for them, the informed) by decreasing the levels of uncertainty (Belogolovsky & Bamberger, 2014:1709) and was identified as strategic signalling by Connelly, Certo, Ireland and Reutzel (2011:45).

Spence (1974) referred to signals by describing them as a scheme or fluke that reshape the beliefs or conveys the information to others; classified as credible communication. The potency of resolving information asymmetries are dependent on the veracity with which recipients interpret signals received (Belogolovsky & Bamberger, 2014). According to Bergh *et al.* (2012), signalling theory yields an interpretative model for strategic management research as it depicts the manner in which key strategic actors (top managers, owners and other stakeholders) "navigate informational uncertainties" as well as the perilous uncertainties related to them.

4.2.2 Theoretical components underlying signalling theory

Signallers form the core of signalling theory and are often referred to as the insiders who obtain information about individuals/products or organisations that is not available to outsiders (Connelly, Certo, Ireland & Reutzel, 2011:44); this information can be positive or negative.

Signals are used by signallers or insiders to obtain this positive or negative information and they must decide whether or not to transmit it to outsiders. In principal signalling theory focuses on the communication of positive information in an effort to transmit quality organisational facets (Connelly *et al.*, 2011:44). The preeminent characteristics of an effective signal, as described by Connelly *et al.* (2011), is signal observability, the degree to which outsiders can apprehend the signal and signal cost.

Receivers are individuals/ entities who are outsiders and lack information about the organisation in question but would like to receive this information. Simultaneously, signallers and receivers have somewhat opposing interests; fruitful deceit would lead to the prosperity of the signaller at the expense of the receiver (Bird & Smith, 2005), thus creating a strategic effect utilised by signallers in favour of other alternatives.

Feedback refers to when the receiver send information back to the signaller, referred to as countersignals. The paramount belief is that information asymmetry is applicable in both directions of signalling. Signallers and receivers both yearn for signals in order to determine the reliability of the signals. These are signals receivers pay most attention to and the manner in which they interpret them contributes to the quality (Connelly *et al.*, 2011). Signallers use counter signals to improve their signals thus increasing the reliability (Gulati & Higgens, 2003).

Signalling theory can be illustrated via a circle effect; the signal moving from the signaller to the receiver where after the feedback is bounced back to the signaller, as depicted in Figure 4.1. It shows the interactions between signaller and receiver during signalling and feedback and when each takes place.

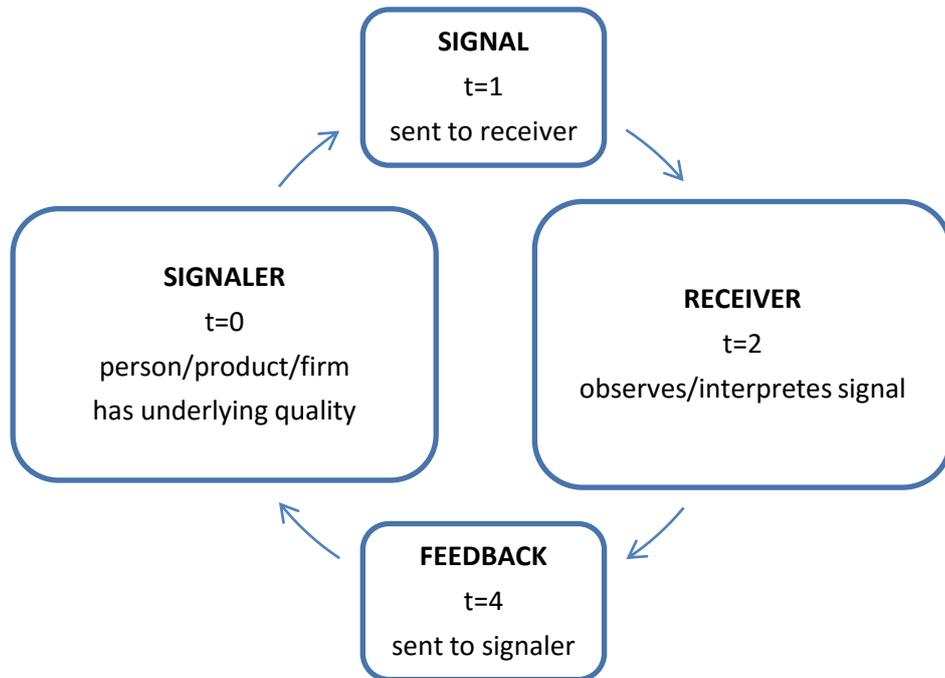


Figure 4.1: Typical signalling process (Connelly *et al.*, 2011:44).

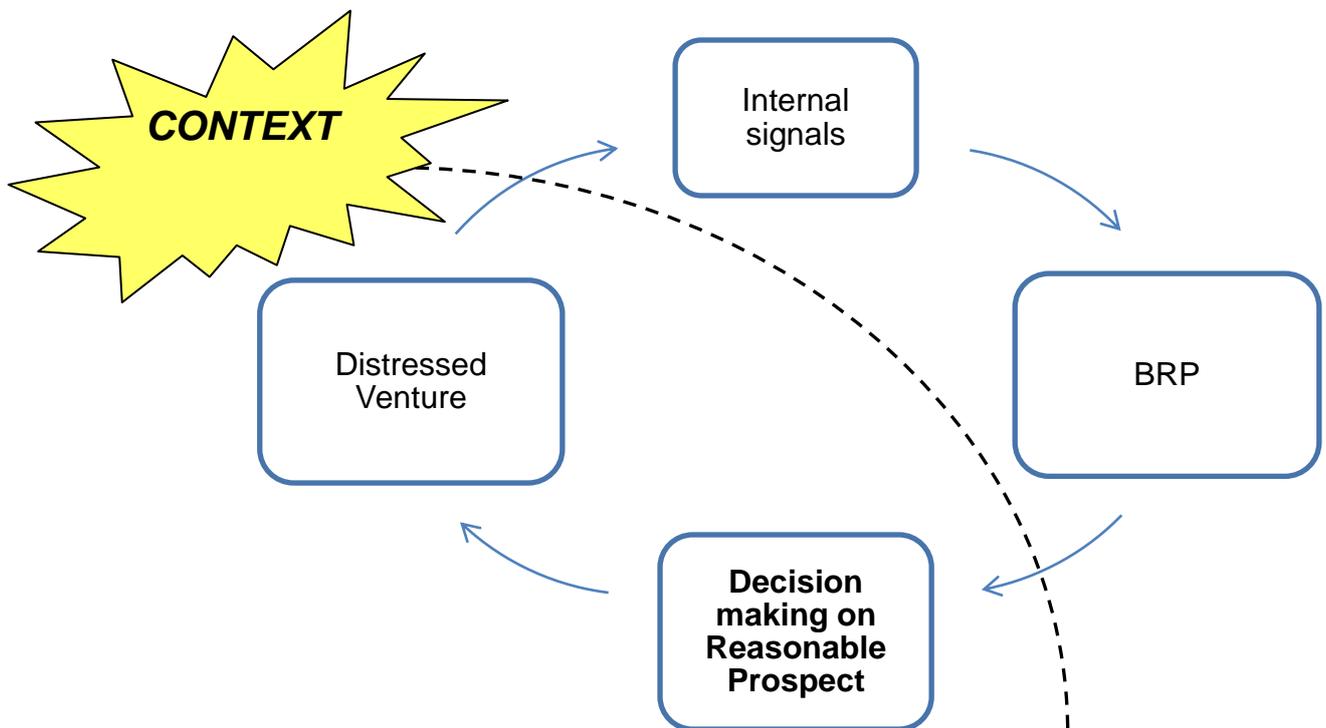


Figure 4.2: Signalling process applied to context of decision making during business rescue.

Figure 4.2 illustrates the application of signalling theory (Figure 4.1) during the decision making process on reasonable prospect by the BRP. In this context the distressed venture is the signaller and the BRP is the receiver of signals. The distressed venture sends signals internal to the organisation to the BRP who in turn uses the signals to determine whether or not the distressed business has a reasonable prospect. All these signals are received under conditions of information asymmetry and liability data integrity as well as the context of this study described in chapter 1.

Signalling theory has been used in various industries for improved sense making and to reduce uncertainty under conditions of incomplete or asymmetrical information. Sense making is a collective phrase used to describe all processes of interpretation and meaning production utilised by individuals and groups to depict and emulate on phenomena (Bean & Hamilton, 2006; Brown, Stacey & Nandhakumar, 2008). Sense making, to an extent, can be explained as a prolific fabrication by individuals and groups who extract meaning from complex and sometimes mystifying data. Sense making is a quest for "plausibility and coherence", which exemplifies experience and possibility, must be reasonable and yet memorable whilst upholding the self and reverberating to others (Brown *et al.*, 2008; Sandberg & Tsoukas, 2014; Weick, 1995). According to Weick (1995:14), "To engage in sense making is to construct, filter, frame, create, facticity... and render the subject into something more tangible" (Sandberg & Tsoukas, 2014: 8). Signals appear to be at the centre of the sense making process.

When evaluating a situation where there is information asymmetry and risk, players will consider signals/attributes patterns before deciding how to respond. The stock market appears to focus on the signals that means the most to it and uses them to help guide decision making (Bergh & Gibbons, 2011). In the labour market job applicants engage in behaviours to reduce information asymmetry that hampers the selection ability of prospective employers by distinguishing themselves from low-quality prospects through the costly signal of rigorous higher education (Spence, 1973) When looking at signalling theory from a corporate governance perspective,

CEO's signal ephemeral quality of their firms to potential investors via the observable quality of their financial statements (Zhang & Wiersema, 2009).

Signalling theory can potentially explain how BRPs make decisions regarding (initial) reasonable prospect as they use signals (Spence, 1973) derived from different evaluation tools, documents and observations obtained during their investigations. According to Spence (2002) signalling theory is mainly focussed on decreasing the level of information asymmetry firstly between two entities; one being the distressed company and the other being the BRP as an officer of the court (Section 140(3)(a)), as described by the Act in section 140(3)(a) and secondly between the BRP and the affected parties, especially the creditors.

4.2.3 Reasonable Prospect

'Reasonable prospect' (a term not defined in the Companies Act; section 129(1)(b)) does not necessarily mean reasonable possibility; however, it means a prospect based on reasonable grounds and not speculative suggestions or vague averments (Southern Palace Investments 265 (Pty) Ltd v Midnight Storm Investments 386 (Pty) Ltd). The presence of reasonable prospect is a prerequisite for business rescue practices to commence (section 129(1)(b)) and the reliability of the information used, to determine reasonable prospect, is crucial to ensure the trustworthiness of the prospect being determined. This determination must be made within strict time frames (section 150(5)).

An applicant is required to place before the court a factual foundation for the existence of a reasonable prospect that rescue will achieve the primary objective or the secondary objective of business rescue; whether or not 'reasonable prospect' has been established is a factual inquiry to be made on a case by case basis. The primary objective of business rescue is to facilitate the continued existence of a company in a state of insolvency (section 128(1)(b)(iii)) where the alternative objective includes that in the event that the primary object is not viable, business rescue must facilitate a better return for the creditors or shareholders of a company (section 128(1)(b)(iii)), as described in the Act.

Reasonable prospect appears to be considered as a generally vague concept, subject to the interpretation, depending on whoever is asked to judge it. Therefore the aim of this study is to better understand how reasonable prospect judgements are achieved based on the utilisation of signalling theory.

4.3 RESEARCH DESIGN AND METHODOLOGY

4.3.1 Research objectives and questions

Although the determination of initial reasonable prospect is the starting point of the business rescue process, regardless of whether the business will be placed in rescue or liquidation, the Act does not provide any guidelines to do so.

Today, the courts have not been easily persuaded to allow financially ill companies into the business rescue process. Before the court will place the firm under supervision, in a business rescue regime, the court must be fully satisfied that there is an actual "reasonable prospect" for rescuing all affected parties partaking in the rescue process (Sher, 2013:25). The research questions are twofold, namely:

1. How can signalling theory help confirm initial reasonable prospect?
2. What signals (cues) do business rescue practitioners use to determine initial reasonable prospect?

4.3.2 Research Approach

The study aimed to use these questions simultaneously to guide the research. Table 4.1 describes the full research design to the reader.

Table 4.1: Research Design Components according to Yin (2003).



Component	Description
Research problem	As described in the Companies Act 71 of 2008, the presence of financial distress and reasonable prospect must be evident in order for a business to file for rescue. Financial distress is clearly stated however reasonable prospect has no clear guidelines. Business rescue practitioners as well as affected parties struggle to determine these variables as they are overshadowed by a subjective thought process, which differ from one individual to the next. This is a source of conflict in the industry. Signalling theory can contribute greatly to the sense-making process followed by affected parties during the business rescue process.
Research Question	<ol style="list-style-type: none">1. How can signalling theory help confirm initial reasonable prospect?2. What signals (cues) do business rescue practitioners use to determine initial reasonable prospect?
Propositions	<ol style="list-style-type: none">1. The relevance of signalling theory in business rescue is verified.2. Signals influence the decision making of the BRP of reasonable prospect.3. The use of signals is directly related to the BRP experience and intuition.
Context	Business rescue practitioners (and other parties) "calculating" the extent to which an organisation has deteriorated and the probability of turning the organisation around, in the initial stages of the rescue process.
Phenomenon Investigated (UoA)	Signals which are utilised as indicators to assist the business rescue practitioner in the initial stages of the business rescue process, when determining the degree of financial distress and presence or absence of reasonable prospect.
Unit of observation	<ul style="list-style-type: none">• BRPs (junior and senior) currently active in the industry (sample)• Relevant literature on signalling theory• Chapter 6 of the Act
Method	<ul style="list-style-type: none">• Qualitative approach with open ended/ discussion format interview.• Literature study of signalling theory and reasonable prospect.• Study of the Act.• Triangulation of findings.

<p>Logic linking the data to the propositions</p>	<p>BRPs use their intuition and experience to determine whether or not reasonable prospect exists in a distressed company. Their intuition and experience can be analysed by utilising signalling theory. Signalling theory is focussed on decreasing data asymmetry (as well as the liability of (poor) data integrity) during decision making and thus contributes to the better understanding of how BRPs determine reasonable prospect.</p>
<p>Criteria for interpreting the findings</p>	<ol style="list-style-type: none"> 1. A plausible manner in which decision making routines (during business rescue) regarding initial reasonable prospect, can be explained under conditions of asymmetrical information and the liability of data integrity. 2. Better understanding of signalling theory and how it can be exploited to the BRPs advantage during business rescue.

4.3.3 Epistemology

With the objective of answering the research questions in mind, the researchers were aware of their own methodological beliefs (including values and assumptions) and the fact that these beliefs would unmistakably influence their research, and most likely create bias in interpreting the data. The following information is provided to inform the reader about the 'intellectual climate' in which the research was conducted.

The theory of knowledge (epistemology) of the researchers describe how one can discover underlying principles about social phenomena and clearly show the existence thereof (Pretorius & Holtzhausen, 2013:474).

The interpretive (constructionist) paradigm was followed during this research - it focuses on the world from the point of view of an individual or group interacting in and with it (Denicolo & Becker, 2012). Interpretivistic research can also be described as research with collectiveness; descriptive or qualitative research and is usually conducted when theory or previous research is lacking. In this case the application of signalling theory has not been researched in business rescue. Interpretive research emphasises the understanding of a social reality in a specific context, from the participants' view of sense making. This paradigm depicts multiple realities, depending on the context and content of the situation, demanding a holistic

approach to address the variables in the system being analysed. Hypothesis testing is not relevant in this paradigm, but the answering of the research questions stated is of utmost importance. The data will more often be qualitative of nature, but do not exclude quantitative data/ findings. Verification of data is important and can be accomplished through comparing findings from different sources through triangulation (Decrop, 1999); for example compare findings of interviews with findings of observation/ questionnaire responses (Denicolo & Becker, 2012).

The researchers prefer the interpretive over the positivistic paradigm, because they set out to uncover the detailed practices of a BRP and not a relationship that might occur as a result of certain phenomena during the business rescue process. Most of the data recovered was in the form of interviews, descriptive questionnaires and open ended discussion with pre-determined individuals, who has the data necessary to conduct the research (purposive selection).

4.3.4 Ontology

Ontological position consists of the researchers' views on the very nature and essence of research reality (Maedche, 2002:13). The researchers are acceptant rationalists (Katz, 1998) who believe that knowledge sprouts from overlapping findings after investigations/ experimentations by numerous individuals from different situations. If these findings support one another, they can be seen as patterns; some of which can be precedents. Rationalism views the main source and test of knowledge to be reason; the theory in which the criterion of the truth is not sensory but intellectual and deductive - reality has a logical structure.

Open minded, non-biased analysis of data was pursued. An acceptance of the findings, even when against moral/religious etc. norms is critical to deliver conclusions parallel with actual practices. If the researchers find it difficult to conduct objective research, structured data- gathering methods is a safe choice to prevent contamination of the study and was opted from.

Causes and responses differ in certain situations and patterns aren't always black or white - grey areas (multiple realities) do exist and need to be understood as well.

The context and content of a situation influences studies miraculously and can't be seen as simple observations (Loewenstein, Thompson & Bazerman, 1989).

4.3.5 Research setting and background

A thematic analysis was done of interview data obtained via open-ended, discussion type interviews with purposively selected BRPs; including senior and junior practitioners. The interviews were focussed on "signals" and "cues" used during decision making of the business rescue process, specifically the determination of (initial) reasonable prospect under conditions of poor data integrity. Probing questions were prepared to encourage the BRPs to include all aspects of the investigative phase during which they determine the initial reasonable prospect (Weiss, 1994).

The findings were compared (Yin, 2003:98) with signalling theory, and previous research (including the Act) on business rescue and decision making by BRPs (sense-making). A "map of sorts" was formulated to guide BRPs through the "maze" that is determining initial reasonable prospect under asymmetrical information conditions and the absence of data integrity. This study took place in a South-African context.

The interview protocol included a guiding introduction on how the interview questions should be approached by the interviewee as well as the following topics of discussion. BRPs were asked: In your experience/opinion:

1. What is the first thing you look for when you arrive at the business/offices?
2. What do you understand under the term "reasonable prospect"?
3. Tell me about the process you follow to determine reasonable prospect?
4. How do you determine the demand for the business product or service?
5. Do you use any financial ratios/ calculations to make a decision and how?
6. How do you test the integrity of any documents of the business?
7. Do you consider the number of family members involved in the business?

Followed by several probing questions to ensure detail filled answers. (Full interview protocol available as Appendix E.)

4.3.6 Sampling

The researchers approached the subjects individually requesting participation. The subjects were six purposively selected BRPs with a "good" reputation in die business rescue industry. All subjects had tertiary qualifications but were selected based on their position in decision making during the business rescue process. The subjects were between the ages of 30 - 65 years with working experience in law, accounting and management.

4.3.7 Data analysis

By implementing investigator triangulation (Decrop, 1999:158; Yin, 2003:98) the researchers were able to obtain quality evidence limited by the fact that only one source of information was utilised during this study; the business rescue practitioners. By analysing the evidence (including all interview audio recordings, notes, documents supplied by BRPs, comparisons between answers, BRP personal skills and background, thematic analysis of interviews) on different occasions the researchers were able to identify relevant signals/cues and how they are used by BRPs, as set out in the research questions and propositions. These signals as well as indicators thereof, were categorised under the different perspectives embodied during business rescue proceedings; law, management and finance (accounting).

4.3.8 Strategies used to ensure quality data

Since the main source of evidence during this study was qualitative interviews with purposively selected BRPs, the quality of the answers recorded was insured by asking a number of probing questions when BRPs didn't reach the depth needed for the study. These probing questions were broken down from the main inquiry by leading the interviewee to explain aspects of their actions, even the subconscious and elementary. The interviews were specifically focussed on the process followed when determining initial reasonable prospect. There after investigator conversation (Yin, 2003:34) was implemented to better understand how BRPs determine initial reasonable prospect.

4.4. FINDINGS

The researchers report the findings by categorising the identified signals and indicators under the relevant perspectives of law, management or finance (accounting). These perspectives form the three legs of business rescue and must be evaluated individually and together during the business rescue proceedings. Some signals do form part of more than one perspective and overlapping findings were indicated. The findings do support the research questions and propositions set out at the beginning of this study which included that signalling theory is relevant to decision making during business rescue and significant signals supporting the determination of initial reasonable prospect was identified.

Subjects confirmed and elaborated the existence of asymmetry of information, the liability of data integrity and time pressure. All confirmed that often the provided information is insufficient and therefore they seek alternatives to signal the "real" status of the firm to them.

A table summarising all the relevant findings can be found in Appendix C.

4.4.1 Law Perspective

The law related signals identified during the study are directly derived from the financial statements thus can also serve as financial signals. The first signal is identified through the determination of technical or commercial insolvency of the firm. Technical insolvency (firm's liabilities outweighs its assets but with immediate cash flow available to a degree) will signal the need for business rescue while commercial insolvency (firm's liabilities outweighs assets and no immediate cash flow accessible) will signal the need for liquidation. "There must be a reason why they are filing for rescue, they must be under distress. So a company that is already insolvent is difficult to save, if (only) technically insolvency it is easier to save the company" (Senior practitioner).

The BRPs involved in this study knew the Act well and carried a copy of the Act with them to all business rescue related meetings and procedures. The BRPs and/or BRP

firms mostly outsource all legal work to specialised law firms during a business rescue and seek advice from these firms when their law skills are lacking.

The signals used are clear but subject to liability of data integrity.

4.4.2 Management Perspective

Management related signals derived amounted to four main signals used by all the BRPs involved in the study. Firstly the demand for the firm's products/services will be signalled through two main tools; order book and sales forecast. The order book signals the demand for the upcoming weeks and can be benchmarked against the past six month's orders as well as related firms in the same industry. "I look at the order book. That's genuine. That's factual." (Senior practitioner) "You have to benchmark the demand against other firms in the same industry..."(Junior practitioner).

Credit notes and complaints can also inform the BRP in testing this demand tool as these documents may shed light on the amount of defective and lower quality products sent back by customers. Sales forecasting has the same objective of establishing demand but is only reliable if the previous months' forecast was accurate (to a degree) and stable.

Secondly, the test for a sustainable business (Timmons & Spinelli, 2003:79-113) is used by most subjects in an informal manner. The "Do we have a business" test (or DWAB test) comprises of five questions, covering the elements needed for a business to exist, to be answered by a reasonable and experienced business person. The elements included in the test are demand, capacity, profitable business case, cash flow and caveats. "You have to look at the market, if there is no more demand for certain products and you are in that market segment, then you have to change your strategy, if you cannot do that you have a problem" (Senior practitioner). A positive result to this test signals "reasonable prospect" to BRPs, if planned restructuring of operations are successfully implemented.

Management reports can be a handy tool when deriving signals, but are highly underutilised as they are mostly absent. Management reports are one of the first

routine reporting processes that are neglected when business experience distress, giving way to poor availability, completeness and detail as well as significant inaccuracies.

Lastly, other signals like the number of family members in the firm and the procedures followed when working with cash also signals to the BRP the prospect of a successful rescue. If family members are occupying positions in the firm (due to nepotism) inefficiency and the loss of cash flow through heightened salaries may be expected. A practitioner mentioned, "...they are normally overpaid for doing very little." while another practitioner stated "...if you've got kitchen table issues about family fights and succession, that becomes very difficult to manage." The unethical handling of cash (including petty cash, company credit cards and facilities) signals a lack of control in the workplace and proper protocols are needed.

4.4.3 Finance/ Accounting Perspective

Financial statements are often the starting point of a business rescue investigation and since time is limited during business rescue procedures, the BRP is forced make do with statements available at the time of commencement, even if they are unaudited or incomplete.

The first signals derived from the statements are those of liquidity and solvency (Altman, 1968:590). Technical insolvency signals the need for business rescue and commercial insolvency signals the need for liquidation, as previously mentioned under the law perspective. These signals are verified (due diligence) by one subject (junior practitioner) by comparing the financial statements to the bank statements and by senior practitioners by visiting the offices/factory of the firm (Gillman, 2001). Traditional cash flow statements (AISB and IFRS) and liquidity ratios, signal the firm's ability to pay short term responsibilities; less than what is required to substantiate financial distress (Section 128(1) (f)).

For example: If the firm is unable to pay its employees (key individuals indicating complexity of rescue) within the next week, the employees may investigate other employment. Employees partially determine the capacity needed to supply the demand; without supply of products there will be no sales and thus no business and

no reasonable prospect (Section 129(1) (b)) which is needed for business rescue proceedings to commence. Therefore a senior practitioner insisted that the first order of business with the commencement of a rescue "...is to restore the capacity of the people, even overreact and tell them that they should not worry, you will sort it out." Thus the ability to pay salaries is a signal used by this subject.

Assets available for redistribution may also serve as a signal of liquidity. This may be visible in the Statement of Financial Position of the firm. This is one strategy available to BRPs to create cash flow if the firm is technically insolvent.

Profitability signals also contribute to a reasonable prospect judgement. Profitability, or margins, refers to the ability of the firm to either supply the same product as competitors at a lower price (taking advantage of higher sales with accumulating small margins) or selling a better quality product than competitors at a higher price (taking advantage of a higher margin at a lower level of sales; sometimes serving a niche market). By lowering the fixed costs per unit or increasing the price per unit (ensuring a higher level of quality and need satisfaction) sales volumes can be improved, creating cash flow. This is directly related to the business case in the DWAB test previously mentioned as well as the reasonable prospect of the distressed firm.

The type of accounting system signals the trustworthiness of the financial statements and adheres to data integrity. If the financial statements are prepared by hand, the BRP might be suspicious of the data integrity as the statements can easily be manipulated. Renown accounting software like Sage Pastel is effective and harder to mould to a pre-required status or bluntly put "...more difficult to cheat..." (Senior practitioner)

Director's loans (debit loans) are often present in financial statements and signals the potential extraction of cash by a shareholder/partner that contributes to the level of distress the firm experiences. Director's loans seem to be made with a personal objective in mind and must be well documented in the accountant notes (attached to the formal financial statements). If the accountant's notes are incomplete or the agreement regarding the loan was not recorded, signals of foul play may be derived.

There are two key individuals or entities that are used by BRPs to determine the origin of distress within the firm and they are also utilised as allies to navigate the firm towards a successful rescue. The financial manager/accountant ought to know the time and origin of distress if the financial statements are up to date. "...they often know what's going on. If they don't know what's going on, it sometimes helps us to understand why there is a mess" (Senior practitioner).

A complete set of financial statements with notes signals a trustworthy and hardworking accountant that can play an integral part in the rescue process. If not, the BRP may prefer to replace the accountant with someone more suitable for the firm's current situation. The continued persistence and skills of the accountant serve as an indicator of rescue complexity. "I have that person (accountant) on speed dial. You can learn a lot from the accountant. They aren't always loyal towards the directors and they are scared people blame them for the business' distress and then get fired. To keep their jobs, they would tell you everything about where the money has been going and towards what. I always build a strong relationship with the accountant" (Junior practitioner).

Some BRPs experience the bank used by the distressed firm as a signal to indicate complexity as well. It has been stated that some banks' risk (or workout) departments (department responsible for firms in business rescue) are more lenient and accommodating than others, contributing to the positive or negative prospect of a successful rescue. One practitioner stated, "For me it is crucial with what bank the business is banking." "In this aspect it totally depends on my working relationship with that banker because this will tell me (whether) I am going to be successful or not."

After establishing that signalling theory is applied during the business rescue process, the findings discussed was limited back to the initial principles of signalling theory, as set out by Connelly *et al.*, (2011:48). In Table 4.2, the characteristics of an effective signal, namely signal observability, outsider apprehension and signal cost is crossed referenced with the three perspectives (law, management and finance/accounting) under which the relevant signals were identified during the study.

Table 4.2: Approximate signal effectiveness to determine reasonable prospect.

			Preeminent characteristics of effective signals (Connelly <i>et al.</i> , 2011)			
Signal	Tools	Category (perspective)	Observability	Outsider Apprehension	Signal Cost	Possible limitation
Technical insolvency (business rescue)	Financial statements	Law & Financial	High*	High	Low	Based on existing financial statements.
Commercial insolvency (liquidation)	Financial statements	Law & Financial	High	High	Low	
Demand	Order book, sales reports & projections	Management	Medium	Medium	High	Expertise dependant. Require operational investigation. Outsider apprehension is limited by access to distress business' daily operations.
Inefficiency	Management reports (or absence thereof)	Management	Medium	Medium	High	
Initial reasonable prospect (positive or negative)	Test elements needed for a business to exist	Management	Low	Low	High	
Employee productivity	Employees	Management	Medium	Medium	High	
Inefficiency/loss of cash	Family members involved (nepotism)	Management	Low	Medium	High	
Ability to create cash flow	Assets available for sale	Financial	Medium	Medium	Low	
Loss of cash	Debtors loan's	Financial	High	Medium	Low	

*General range judged by expert.

4.5. DISCUSSION AND CONCLUSION

During this study it was clear that every BRP uses his/her own academic background together with their experience, skills and intuition to investigate ("intensive self-analysis" or "desk investigation") a distressed firm and ultimately to determine the reasonable prospect of that firm. Some BRPs are of opinion that their intuition guiding their decision making is the result of years of experience through trial and error while others say experience has nothing to do with it and that it is pure (business) logic.

The different approaches followed by senior and junior practitioners also yielded interesting findings, supporting the value of BRP training and development. Junior practitioners tend to prefer working in a team during a rescue, find different opinions regarding reasonable prospect helpful, rely on research (facts) when entering an unknown industry and tend to prefer restructuring of distressed firms. Senior practitioners on the other hand prefer to work alone, rely mainly on intuition, "My gut feeling and first impressions are very important..." (Senior practitioner) for guidance during decision making and in some cases prefer to create better margins (profitability) over restructuring. "You have to create cash flow within acceptable margins; you cannot let the debtors pay you faster and still lose money within the operation. You have to get your margins at a break-even point at least and get the cash, then you are on a good path" (Senior practitioner).

Both parties do utilise solvency and liquidity tools and regard the specific bank involved in the rescue as well as the number of family members employed as an indicator of complexity.

The time restrictions set by the Act contributes to the need for BRPs to make decisions without much "fact" based information, forcing BRPs to rely on their intuition or "gut feeling". Junior practitioners have stated that they learn to look for certain signals or indicators by working with senior practitioners thus feeding off their past experiences. "I like to bounce my ideas off other people, most of the time I talk to the senior practitioners in our firm" (Junior practitioner).

In conclusion, all signals and indicators derived from this study informed three main tests, namely the DWAB, solvency and liquidity tests. "I look at the basics" (Senior

practitioner). Answering the question whether there is a business, evaluates all the elements needed for a business to exist and the solvency and liquidity tests indicate the financial position and cash flow requirements in the short term. BRPs use these elements in different forms to make sense of the distressed firm situation and to create order during an overload of information when determining the initial reasonable prospect of the firm.

Since intuition or "gut feelings" can only be analysed to an extent, there will always be a hint of mystery behind the decision making of BRPs during a rescue. Some BRPs have declined rescues after merely talking to the CEO or board of directors, saying "there is something else going on there" or "I don't trust that guy". When asked to elaborate on their decision the answer was almost always the same; "It's a gut feeling".

Reflecting on the propositions in Table 4.1, the following becomes clear from this initial investigation for better understanding:

The relevance of signalling theory in business rescue is confirmed as BRPs use signals as indicators of suspected occurrences within the distressed business, when making decisions regarding the reasonable prospect of the business. The observability of these signals is related to the BRP's experience (more experienced BRP recognise more signals than junior practitioners) and well as the practitioner's tuition, as explained by various subjects during this study.

4.6 LIMITATIONS AND FUTURE RESEARCH

This study focussed on the BRPs decision making process through applying signalling theory to determine the initial reasonable prospect of the distressed firm. Only variables available at the time of investigation were included in the study, which excluded post commencement finance (PCF). Some BRPs do regard the availability of PCF as a prospect reasonable enough to proceed with business rescue commencement. This is definitely a perspective worth investigating. Although some of the BRPs interviewed during this study do regard PCF as reasonable prospect in the case of commercial insolvency and total illiquidity, most BRPs are of opinion that it's too risky to enter rescue on only one indicator of success. An in depth analysis of

this option within business rescue may yield other variables that indicate success when PCF is the main driver behind the business rescue proceedings. The extent of PCF and reasonable prospect relationship needs investigation.

Another constraint during this study was the time limit the researcher had to gather all needed information from the subjects. Qualitative interviews were conducted with subjects and only the interview audio analysed for significant findings. The researchers are of opinion that more signals may be derived if more time was to be spent with subjects during business rescue proceedings.

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CHAPTER 5

CHAPTER 1:	Introduction
CHAPTER 2:	Literature Review
CHAPTER 3:	Article 1
CHAPTER 4:	Article 2
CHAPTER 5:	Summary and Conclusion

5.1 SUMMARY & CONCLUSION

By now it is clear that reasonable prospect is complex and dynamic in nature and can't be determined with financial ratios and business models in isolation. All three perspectives of law, management and finance must be utilised in unison with the BRP's experience and intuition whilst fending off the consequences of asymmetrical information conditions (Pretorius, 2014:9 During the analysis of these perspectives, it was evident that an objective and subjective view is used by BRP's when determining initial reasonable prospect. The researcher decided to investigate these views separately with hope to gain better understanding and wrote two papers on each of these views respectively. The first paper focussed on the objective view followed during the determination of initial reasonable prospect and focussed on models and ratio's available to BRPs to calculate the extent to which the firm has deteriorated and the possibility of it being rehabilitated to financial solvency. The paper is titled "Factual evaluation of rescue feasibility: one piece of the reasonable prospect puzzle".

The models analysed included the business feasibility model by Timmons (1999), the Z-score calculating failure by Altman (1973) and IFRS financial and cash flow ratios. The findings concluded that none of these models can be used in isolation with the purpose of determining initial reasonable prospect. Timmons and Altman, both of which forms part of the management perspective, has an optimistic and pessimistic approach irrespectively. Altman's z-score predicted failure among firms in related industries which is irrelevant to business rescue as we already know the specific firm is distressed by the time of filing, as described by the Act (section 128(1)(f) and 129(1)(a)). Timmons' opportunity analysis and "Do we have a business" test measures the feasibility of the business model which is very important for the business to proceed on a solvent (and profitable) basis after business rescue proceedings have ceased.

In concluding this paper, the author indentified the significant role that the BRP's experience and intuition played during the determination of initial reasonable prospect. A BRP's experience and intuition form is subjective in nature and can thus be explored under the subjective view followed by BRPs during decision making.

The second paper focused on this specific subjective view, which can be better explained through signalling theory and is titled " Factual evaluation of rescue feasibility: A signalling theory approach

The phenomena of signalling theory was applied to the thought process followed by BRPs during the investigative stages of business rescue. A thematic analysis was done of interview evidence collected from subjects during qualitative interviews. A number of signals or cues used by BRPs to inform the initial reasonable prospect was identified and categorised under the three perspectives mentioned earlier. Indicators of the status of liquidity and complexity of the rescue were also derived.

The paper concluded that the signals and indicators derived from this study looped back to three main tests, namely the DWaB, solvency and liquidity tests; explored in paper 1. The DWaB test (Timmons & Spinelli, 2003:79-113) evaluates all the elements needed for a business to exist and the solvency and liquidity tests indicate the financial position and cash flow requirements in the short term. BRPs use these tests in different forms to make sense of the distressed firm situation and to create order during an overload of information when determining the initial reasonable prospect of the firm.

It was clear that every BRP uses his/her own background training together with their experience, skills and intuition (objective and subjective) to investigate the distressed firm and ultimately to determine the reasonable prospect of the firm. Some BRPs are of opinion that their tuition guiding their decision making is the result of years of experience through trial and error while others say experience has nothing to do with it, that it is pure (business) logic.

The different approaches followed by senior and junior practitioners also yield interesting findings, supporting the value of BRP training and development. Junior practitioners tend to prefer working in a team during a rescue, find different opinions regarding reasonable prospect helpful, rely on research (facts) when entering an unknown industry and tend to prefer restructuring of the distressed firms. Senior practitioners on the other hand prefer to work alone, rely mainly on his/her intuition for guidance during decision making and in some cases prefer to create better margins (profitability) over restructuring. Both parties do utilise solvency and liquidity

tools and regard the specific bank involved in the rescue as well as the number of family members employed as an indicator of complexity.

The time restrictions set by the Act contributes to need for BRPs to make decisions without much "fact" based information, forcing BRPs to rely on their intuition or "gut feeling". Junior practitioners have stated that they learn to look for certain signals or indicators by working with senior practitioners thus feeding off their past experiences.

Since intuition or "gut feelings" can only be analysed to an extent, there will always be a hint of mystery behind the decision making of BRPs during a rescue. Some BRPs have declined rescues after merely talking to the CEO or board of directors, saying "there is something ells going on there" or "I don't trust that guy". When asked to elaborate on their decision the answer was almost always the same; "it's a gut feeling".

5.2 LIMITATIONS AND FUTURE RESEARCH

This study was limited to the evidence collected from the subjects purposively selected for the specific focus of this study. As the study revolved around decision making during business recue, specifically the determination of initial reasonable prospect, the BR's though process was investigated which is directly influenced by his/her background, experience and intuition.

Although factual (objective) and subjective methods of determining the initial reasonable prospect was identified there will always be a degree of mystery surrounding the intellectual process followed by different individuals. Only variables available at the time of investigation were included in the study, which excluded post commencement finance (PCF).

Some BRPs regard PCF as reasonable prospect in the case of commercial insolvency and total illiquidity whilst others are of opinion that it's too risky to enter rescue on only one indicator of success. This is a possible area for future research that would contribute to completing the puzzle of reasonable prospect.

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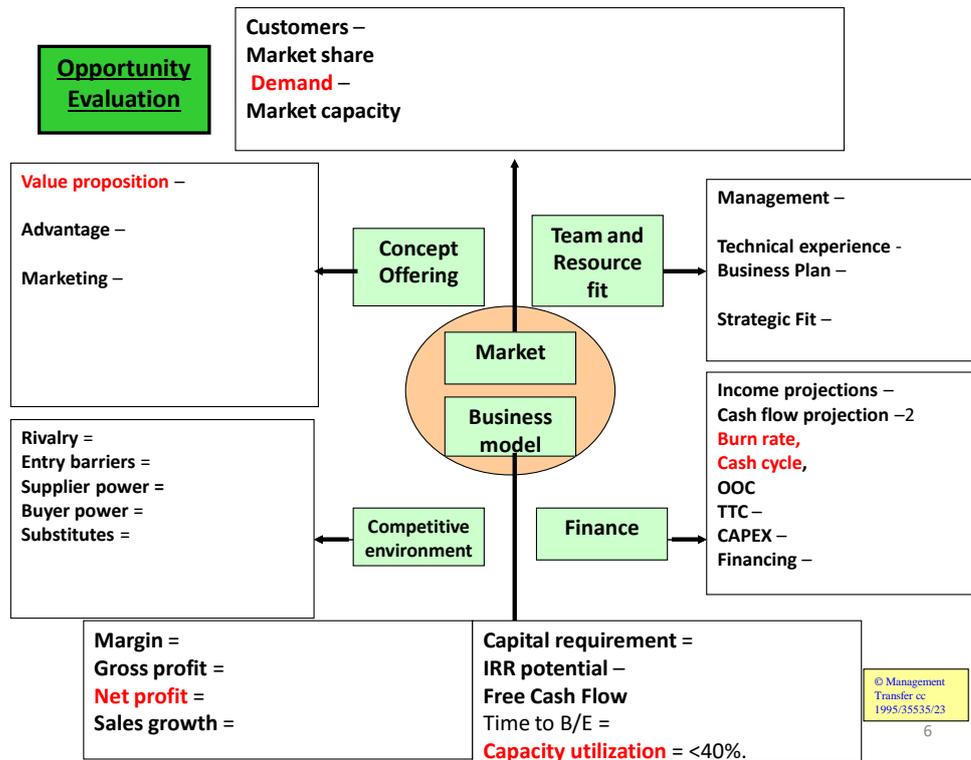
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7.1 APPENDIX A: Opportunity analysis



Adapted from Timmons and Spinelli (2003) and Nieman and Pretorius (2004).

The value proposition and venture that supports it:

1. The idea presents additional value to the potential users.
2. The idea is unique and a hard act to follow indicating unique ability to deliver the solution.
3. The idea is easy to understand and obvious so it will require little to convince people to use it.

Demand for the product/solution:

4. From the evidence, the future market demand for the solution will grow more than the rate of inflation.
5. The projection demand is well researched and backed up by proper research figures.
6. The trend in the environment support the idea and it will be around for longer than 5 years.

Competitive environment:

7. The industry is the start-up or the early growth phase where most competitors are relatively new to it.
8. There are no substitute solution, not even similar to the proposed idea/ solution.
9. Existing players in the market will not react when the idea is introduced to the market as they perceive there are many customers.
10. It is hard to overcome the entry barriers before introducing the proposed solution to the market.
11. The competitive advantage is not based on the price but on other characteristics of the solution.

The economic model:

12. The planned selling price is more than 3 times the variable costs to produce the solution.
13. Breakeven production will easily be achieved and will happen quickly after introduction of the solution.
14. To produce the solution will require little investment in facilities, equipment and resources.
15. The sales forecast is believable and proven (durable demand is definite).

Cash flow issues:

16. Introducing the idea will require regular expenditure as the demand grows.
17. External financing (interest carrying debt) is not needed to get the show on the road.
18. After starting the venture to introduce the solution to the market there will be early positive cash inflows.
19. Once started with introducing the solution to the market, there will be no regular outflows for fixed costs but outflows depend on sales volume,

Management and resource fit:

20. The venture must get the idea that the market is easy to establish.

21. The people must get the idea that the market requires high levels of expertise and knowledge and have both.
22. The people that must bring the product to the market and establish the venture do have what it takes to do so.
23. The structure in place to bring the solution to the market fits well with what is needed.
24. The forecasted sales do not depend in a high level of marketing and promotion expenditure.
25. The venture can be successful on its own and without the support of external bodies/ businesses.

APPENDIX B: "Do we have a business"-test



Adapted from Timmons and Spinelli (2003).

Note:

These questions are progressive where one can have an eliminating power.

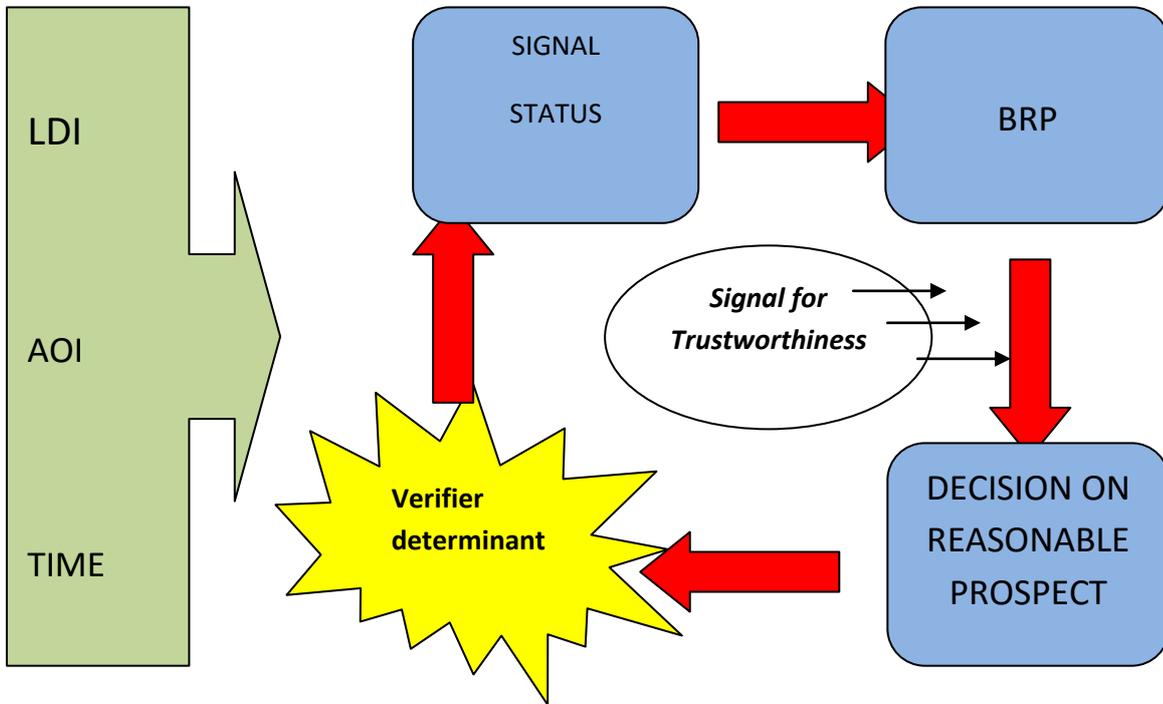
APPENDIX C: Paper 2 findings

	LAW		MANAGEMENT		FINANCE (ACCOUNTING)	
		Signal		Signal		Signal
TOOLS	Technical insolvency Tool check: Junior BRP = bank statements Senior BRP = site visit	Need for business rescue	Order book Tool check: Benchmark, Credit notes/ complaints	demand	Financial statements & cash flows	Technical insolvency = need for business rescue Commercial insolvency = need for liquidation
	Commercial insolvency	Need for liquidation	Sales forecast	Future demand and sustainability.	Cash flow per week	Ability to pay short term; wages and salaries. Linked to DWAB test (capacity)
			Management reports (mostly absent)	Inconsistencies.	Profitability test/ ratios (margins)	Ability to create cash flow and initial reasonable prospect.
			Test elements needed for a business to exist.	Positive: initial reasonable prospect Negative: No prospect	Assets available	Ability to create cash flow.
					Type of accounting system Indicator: Data integrity	Trust worthiness of financial statements.
KEY ENTITY			Employees	Indicator: productivity	Finance Manager / Accountant	Indicator : complexity



					Bank (Risk department)	Indicator : complexity
OTHER			Number of family members involved (nepotism)	Inefficiency and loss of cash flow Indicator : complexity	Director's loans/ debit loans	Extraction of cash contributing to distress. Indicator : complexity
			Procedures followed	Control		

Appendix D: Depiction of context and flow of decision making process leading up to the determination of initial reasonable prospect.



Key:

- | | |
|----------------------|--|
| LDI | Lack of Data Integrity |
| AOI | Asymmetry of Information |
| TIME | Applicable time constraints |
| Verifier determinant | Pretorius & Holtzhausen, 2013: 468-485 |
| BRP | Business rescue practitioner |

APPENDIX E: Interview protocol

<p style="text-align: center;">AC Janse van Rensburg</p> <p style="text-align: center;">M.Com Business Management (Business Rescue)</p> <p style="text-align: center;">Prof. M Pretorius</p> <p style="text-align: center;">Department of Business Management, UP</p> <p style="text-align: center;">Qualitative Research Protocol</p>

Welcome and thank you for your participation today. My name is Andria Jv Rensburg and I am a masters student at the University of Pretoria conducting my qualitative study in fulfilment of the requirements for the degree of Master of Commercii in Business Management (Business Rescue).

Thank you for agreeing to assist me in the process, the interview will take 60 minutes and will include questions regarding your experiences in decision making regarding reasonable prospect in business rescue.

I would like your permission to tape record this interview, so I may accurately document the information you convey. If at any time during the interview you wish to discontinue the use of the recorder or the interview itself, please feel free to let me know. All of your responses are confidential. Your responses will remain confidential and will be used to develop a better understanding of how reasonable prospect is determined under low levels of data integrity.

Your participation in this interview is completely voluntary. If at any time you need to stop, take a break, or return a page, please let me know. You may also withdraw your participation at any time without consequence. Do you have any questions or concerns before we begin? Then with your permission we will begin the interview.

Context of study:

As of day 1 of rescue, when the BRP is appointed, reasonable prospect must be determined. Reasonable prospect changes throughout the rescue proceedings and must be factually supported by day 10 of rescue. Before any of these "factual" determinations can be made, the BRP must determine the "initial reasonable prospect" - the initial positive evidence that provides motivation to proceed with rescue proceedings (pre-assessment). This may change before day 10, but must be

vaguely visible for the BRP to proceed with the mindset of rescuing the company in distress.

BRP's use more than the "facts"/ reports provided to determine this initial reasonable prospect; signalling theory - or the process of using subconscious cues to make decisions, play a large role in the determination of initial reasonable prospect. *According to Bergh and Gibbons (2010: 546) signalling theory was cultivated to assist the process of analysing the reactions and interpretations of decision-makers when working in environments of incomplete and/or asymmetrical information conditions.*

INTERVIEWER USE ONLY:

Research Questions:

3. *How can Signalling Theory help confirm reasonable prospect?*
4. *What signals (cues) do you as business rescue practitioner, use to determine reasonable prospect?*

Questions:

1. Please state your name and surname.
2. What is your current job title and employing company name? (1)
3. What is your main background of work? (2)
(Management, Law or Accounting)
4. How many years' experience do you have in business rescue/ turnaround procedures? (2)
5. How many rescues have you been involved in? (2)
6. Do you work alone or in a team? Why? / Why not? (2)
7. Do you consider it important to have more than one opinion on reasonable prospect? Why? What are the benefits thereof? (2)
8. Do you visit the business whose rescues you are involved in? (2)

9. What is the first thing you look for when you arrive at the business/offices? (1)
10. What do you understand under the term "reasonable prospect"? (2)
11. Tell me about the process you follow to determine reasonable prospect? (3)
12. How do you determine the demand for the business product or service? (3)
13. Tell me about the process you follow to determine whether the business has the capacity to deliver on the market demand? (3)
14. What is the first order of business when commencing with the rescue?
(investigative)(4)
15. What tools do you use to determine reasonable prospect? (5)
16. Do you use financial statements? (5)
17. What is the first thing you look for in these statements?
18. Do you request original bank statements? If no, why not? (5)
19. What part of the statements do you look at first? (5)
20. Do you use cash flow statements? (5)
21. Do you use cash flow projections? (5)
22. Do you use any type of forecasting report? Demand fluctuations? Changes in the economy? (5)
23. Do you use any financial ratios/ calculations to make a decision? (5)
24. How do you test the integrity of any documents of the business? (5)
25. Do you watch any security footage of the business? If yes, what do you look for? (4)
26. Do you speak to the business' accountant? Why/ why not? (6)
27. Do you speak to the business' banker? Why/ why not? (6)
28. Do you speak to employees? If so, what do you ask them? (6)
29. How do you document your discoveries?

30. Do you use any subjective evidence before making decisions? (7)
31. Do you read the vision/mission of the business? Compare to current operations? (7)
32. Do you consider the amount of family members involved in the business? (7)
33. Do you consider "shareholder conflict" as indicator/ judgement? (8)
34. How and why?(8)

If participant wishes to discontinue study, ask if they would be willing to share why:

Thank the participant for his/her participation.