Kodak vote leaves two options, but only one is likely

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Think of it as the business equivalent of a “Choose Your Own Adventure” book.

Eastman Kodak Co., working its way through bankruptcy, has come to a critical fork in the road. Down one path, the thousands of creditors whom Kodak owes money sign up for a small repayment, and Kodak gets to move on from its Chapter 11.

Down the other, those creditors could vote against Kodak’s proposed solution. And that would leave the company’s plans for getting out of bankruptcy in limbo.

The former is the direction Kodak is counting on. It received U.S. Bankruptcy Court approval last week to mail out tens of thousands of thick packets spelling out to all those various creditors its plans for wrapping up its bankruptcy, repaying what debt it can, and starting its second life as a commercial printing technology company. Included in those packets are ballots, with Kodak hoping to get a majority of those creditors to back its plan. The Rochester-based printing and imaging company’s hope is to be back in U.S. Bankruptcy Court on Aug. 20, getting its approval for the plan, with everything wrapping up Sept. 3.

Bankrupt companies that don’t get enough “yes” votes on their reorganization plans typically try again with a plan recrafted to be more enticing to classes of creditors who did not approve the last one, said bankruptcy expert Kenneth M. Ayotte, a professor at Northwestern University School of Law. “Bankruptcy’s all about negotiating — dividing the spoils in such a way you can get consent,” he said.

The judge also has the option of a “cram down” — forcing creditors to accept a plan they don’t want. That option sometimes comes up in situations where a company has so few assets many creditors get nothing back, and thus might not be inclined to approve such a plan, Ayotte said.