ECKERT SEAMANS

Bankruptcy & Restructuring

OVERVIEW

Eckert Seamans' Bankruptcy and Restructuring Group maintains a national practice with extensive experience in the representation of debtors, secured lenders, creditors' committees, equity holder committees, trustees, and creditors in turnarounds, loan workouts, collections, and bankruptcy proceedings, as well as buyers pursuant to both Chapter 11 plans and bankruptcy Section 363 auction sales. The firm also regularly represents clients in restructurings and liquidations occurring outside of formal bankruptcy proceedings.

Our practice and its attorneys are recognized regularly by a number of legal publications and organizations. *Chambers USA: America's Leading Lawyers for Business* recognizes Eckert Seamans as a top law firm for bankruptcy/restructuring. In addition, lawyers in the Bankruptcy and Restructuring Group have received awards from M&A Advisors and the Turnaround Management Association.

Through our multidisciplinary approach and the vast resources available to us through the firm as a whole, we provide our clients with cost-effective and productive representation. In particular the firm's nationally recognized expertise in aviation, energy, hospitality, intellectual property, and public finance has enabled Eckert Seamans' Bankruptcy and Restructuring Group to be on the forefront of important issues.

CREDITORS, INSURERS & SUPPLIERS REPRESENTATION

For its lending clients who confront troubled loan recoveries and specialized collection matters, Eckert Seamans develops strategies that may include litigation and/or forbearance agreements, and recommends innovative means of minimizing the negative consequences or costs of a future bankruptcy. The firm also helps clients navigate through replevin actions, mechanic's lien proceedings, foreclosures, receiverships, and assignments for the benefit of creditors. We have extensive experience in defending creditors against preference claims brought in Chapter 7 and Chapter 11 bankruptcy proceedings. Our group also advises lenders on preventing and defending lender liability claims.

Eckert Seamans frequently represents parties with special rights or interests in bankruptcy cases, such as prospective purchasers, reclaiming sellers, Perishable Agricultural Commodities Act claimants, possessory lien holders, administrative claimants, landlords, tenants, directors and officers of troubled companies and parties to executory contracts with debtors, such as franchisors, licensees, and long-term suppliers.

In addition, we regularly represent clients in the automotive industry such as vehicle finance companies in bankruptcy proceedings. Eckert Seamans also represents insurance carriers and sureties in matters relating to insureds who have filed for bankruptcy protection. The issues in such proceedings range from assumption and rejection of insurance contracts to application of political risk and credit risk policies and have included matters before the United States Supreme Court.

BANK REPRESENTATION

Members of the firm have acted as counsel to various banks. One such client includes The Bancorp Bank, for which we have served as counsel and represented its interests in various Chapter 7 and Chapter 11 bankruptcy proceedings.

REPRESENTATION OF MULTI-UNIT FAST FOOD FRANCHISEES/OWNERS

Members of the firm regularly represent franchisees/owners in the fast food industry as debtors in Chapter 11 proceedings and out-of-court workouts and restructuring.

DEBTOR REORGANIZATION & COUNSELING

When representing borrowers, we utilize our extensive experience to formulate a range of strategic business options for our clients. Eckert Seamans guides clients through the challenges of restructuring by formulating, negotiating, and documenting debt restructuring plans, debt settlements, and new or negotiated financing arrangements. Members of our practice have represented debtors in various

industries resulting in successful reorganizations.

REAL ESTATE WORKOUTS, FORECLOSURES & CHAPTER 11S

Eckert Seamans has represented lenders, debtors, and equity interests in numerous real estate reorganization proceedings, including prepackaged Chapter 11 cases, complex construction and development reorganizations, hotel and hotel chain Chapter 11 cases, and mortgage broker liquidations. The firm regularly conducts foreclosures – both judicial and non-judicial.

CAPITAL MARKETS SECURITIZATION STRUCTURING & RESTRUCTURING

The firm regularly counsels clients on structuring and financing single purpose bankruptcy remote entities (SPE). We prepare and negotiate related true sale and non-consolidation issues and opinions.

MUNICIPAL RESTRUCTURING/CHAPTER 9

In addition to the firm's work in corporate bankruptcies, the firm's bankruptcy lawyers, in conjunction with the firm's public finance attorneys, advise numerous clients on municipal bankruptcies and workouts. Together, we have advised diverse clients in conjunction with bond offerings for distressed municipalities, counseled clients on the distinctions between Act 47 and the Bankruptcy Code, and advised parties in interest who do business with distressed municipalities and those municipalities that are in Chapter 9 proceedings. As such, our attorneys regularly advise as a team on Act 47 issues, receivership issues, and potential bankruptcy remedies. Members of the firm have represented municipal debtors in Chapter 9 as well.

CREDITOR/EQUITY COMMITTEE REPRESENTATION

Members of the firm have gained distinction for the representation of various creditors' committees and equity security holders' committees. Notably, members of the firm represented Marvel Entertainment Group, Inc. and its subsidiaries in a bankruptcy case.

CHAPTER 7 TRUSTEE REPRESENTATION

Eckert Seamans has served as counsel for the Chapter 7 trustees in large technology companies that failed in the early 2000 meltdown of the "tech industry," involving such companies as Net2000 Communications Inc., Network Plus Inc., and Log On America LLC.

EXECUTORY CONTRACTS & LEASES

The firm is well-versed in the special bankruptcy laws governing executory contracts and unexpired leases.

WORKOUT & BANKRUPTCY LITIGATION

Our bankruptcy and restructuring attorneys handle related litigation arising from bankruptcy proceedings, such as preference and fraudulent conveyance actions, relief from automatic stay proceedings, lender liability claims, equitable subordination claims, plan confirmation objections, guaranty enforcement, foreclosures (judicial and nonjudicial), and borrower fraud actions.

REPURCHASE AGREEMENTS & SECURITIES CONTRACTS

Members of the firm have testified and advised Congress and advised clients on the special treatment provisions of the bankruptcy code governing repos and securities transactions. Recently much of this work has been shaped by proposed changes to the bankruptcy safe harbor provisions. Our attorneys have also worked on SIPA proceedings in bankruptcy courts under the Securities Investor Protection Act.

REPRESENTATIVE MATTERS

- Representation of nationwide vehicle finance companies in various bankruptcy proceedings. Such clients include Manheim Remarketing, Inc. t/a Manheim New Jersey and Manheim Pennsylvania, NextGear Capital, Inc., and Automotive Finance Corporation.
- Representation of various creditors' committees and equity security holders' committees. Notably, members of the firm represented Marvel Entertainment Group, Inc. (the largest creator and

publisher of illustrated action and adventure material in the United States and its subsidiaries in a bankruptcy case. Members of the firm also served as co-counsel to the Unsecured Creditors' Committee in the nationally recognized bankruptcy filed by the Philadelphia Inquirer in the Eastern District of Pennsylvania.

- The firm represents debtors and/or equity interests in numerous reorganization proceedings, including prepackaged Chapter 11 cases. Our attorneys have represented the controlling partners in the Historic Landmark for Living bankruptcies in filing 38 prepackaged Chapter 11s (with over $240 million of secured debt, in excess of $170 million unsecured debt, and 2,500 limited partners), refinancing the debtors, and confirming Chapter 11 plans transferring the properties to new entities controlled by management all in a period of 85 days.
- Members of the firm's bankruptcy and public finance group currently represent a New York municipality that recently successfully confirmed a federal Chapter 9 debt adjustment plan. The municipality's debt adjustment plan involves a revenue sharing formula negotiated between the municipality, its unions, local governments, and creditors. The revenue sharing formula between the old creditors and local governments changes over the estimated three to four year life of the plan according to actual future revenues and future refinancing options dependent upon the state of the municipal finance markets. Once the creditors are paid in full (without interest), all future revenues are paid to the local governments.
- Eckert Seamans and its members have served as counsel to receivers appointed by state and federal courts and in various instances have been appointed as the receiver. Eckert Seamans represented the receiver, a member of the firm appointed to wind up the affairs of the nonprofit St. Francis Health System. This receivership is to our knowledge the largest of its kind to take place in Pennsylvania. Members of the firm have served as or represented receivers in matters commenced by the U.S. Postal Service, the Environmental Protection Agency, and the U.S. Department of Justice.
- Members of the firm regularly represent franchisees/owners in the fast food industry as debtors in bankruptcy and in out-of-court workouts:
    - Chapter 11 proceedings in the cases of Target Food Systems Inc. (the owner and operator of 33 Wendy's Restaurants); Midland Food Services LLC (owner and operator of 81 Pizza Hut Restaurants located in Ohio, West Virginia, Kentucky, Michigan, Maryland and Virginia) and the Twins Group PH, LLC (owner and operator of 61 Pizza Hut Restaurants in Ohio, Indiana and Kentucky).
    - Out-of-court restructurings include two large Pizza Hut franchises, involving a workout of a loan default in excess of $6 million, together with various other disputes and indebtedness in excess of $3 million.
    - Successful out-of-court restructuring of a publicly traded franchisor and operator of over 500 fast food restaurants burdened by substantial debt, held by a syndicate of lenders.
- Members of our practice have represented debtors in various industries resulting in successful reorganizations:
    - Represented Home Health Corporation of America Inc. and 34 of its related companies, leading providers of comprehensive home healthcare services and products, in successful Chapter 11 proceedings.
    - Represented the debtor in the complex reorganization of DVI Inc., a proceeding that involved a company that had originated, securitized, and sold in excess of $2 billion of loans.
    - Represented the holding company of The Sands Hotel and Casino as a debtor in the Bankruptcy Court in New Jersey resulting in a confirmed plan of reorganization.
- Other debtor representations in Chapter 11 bankruptcy proceedings include Metro Care, Inc. (a company providing vehicles and services for the transport of disabled individuals in Philadelphia and the surrounding area) which was reorganized through a confirmed plan of reorganization; Emerald Equipment Leasing, Inc. (a lessor of shipping containers, which involved complex litigation resulting in a judgment in favor of Emerald in excess of $5 million) allowing for a substantial recovery for creditors; and a confirmed plan of reorganization for Dockside Refrigerated Warehouse, Inc. (holding a substantial leasehold interest in a warehouse facility at the Gloucester Marine Terminal on the Delaware River).
- The firm has appeared on behalf of creditors and other parties of interest in a number of notable

bankruptcy cases. These cases include: Adelphia Communications Corporation; Caesars Entertainment Operating Co.; Chrysler Corporation; Corinthian College; Conesco; Enron Corp.; Fleming Corp.; Flying J; Friede Goldman Halter; Horizon Natural Resources; Howard Delivery Services; K-Mart Corporation; Lehman Bros.; Lyondell Bassell; Parmalat; Pilgrims Pride; Quaker Coal; Taylor Bean & Whitaker; TOUSA, Inc.; and WR Grace.

- The firm has represented many creditors, suppliers, and customers in aviation bankruptcies including Eclipse Aviation, Braniff International Airways, Continental Airlines, US Airways, Delta Airways, TWA, Northwestern, United, Frontier Airlines, and Hawker Beechcraft.