The Changing Faces of Turnaround

What’s Next? Sudden & Second Thoughts

Here we are…..Where do We go?
Panel Members

- Nicholas B. Jalowski, Cambridge Financial Services
- Stephen B. Ravin, Saul Ewing LLP
- Claudia Z. Springer, Reed Smith LLP
- Christopher W. Stavrakos, HSBC Bank USA, N.A.
- Marc Weinsweig, Weinsweig Advisors LLC

Moderator
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Slide Presentation
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The Changing Faces of Turnaround: Agenda

- Consolidations and Evolutions
- Is America Becoming Less Entrepreneurial?
- The “Ebbs and Flows” of Bankruptcy
- Lender Influences
- 2014/2015 Outlook
- Differentiators in a Changing Environment
The Changing Faces of Turnaround

• Consolidations
• Fisker
• Free Lane Star Publishing
• Venue
• STG
• Pricing Pressures
• Billing Pressures
• Metric Pressures

• Private Equity
• Hedge Fund Influence
• Regional vs. National
• Unsecured Committees
• Brookstone/Coldwater
• Sbarros
• Litigation vs. Recovery
• Contingency vs. Hourly
Consolidations and Evolutions: New or Continuing Trends?

**IT HAS TO CHANGE THE WAY WE THINK**

- Bank Consolidations
  - More Competition

- More ABL shops in a crowded market

- **Industry Shrink/Broadening Focus**
  - One Stop Shopping/Broadening Product Offerings /Multi Specialty
  - Not looking for Silo Focused - Stutman Treister & Glatt and other bankruptcy boutiques

- **How do these challenges bring opportunities? Does it change the way we think?**
Is America Less Entrepreneurial: Declining Business Dynamism

- For the first time since the Carter administration, more businesses are failing than being created.*

* Source: The Brookings Institution
The “Ebbs and Flows” of Bankruptcy

- **What are the attractions?**
  - How have they changed?
  - Are “true” reorganizations ever going to return to previous levels? If so, when?

- **What are the major influences?**
  - Lenders - selling loans to “loan to own” entities rather than “working out”
  - Workout Departments Shrinking to Reduce Costs
  - Is venue shopping making a return to prominence?
Chapter 11 Filing Statistics

- Chapter 11 filings dropped 10% in 2013 to 9,564.*

The Ever-Popular 363 Sale

363 Sales of All or Substantially All Assets in Large, Public Company Bankruptcies, as a Percentage of all Cases Disposed, by Year of Case Disposition

Source: UCLA-LoPucki Bankruptcy Research Database

Note: Large public company cases are defined as including companies with assets of $100 million or more (measured in 1980 dollars) and that are required to file 10-K forms with the SEC.
The “Ebbs and Flows” of Bankruptcy: Liquidation v. Reorganization

- **Advantages**

- **Limitations and Other Issues**
  - Timelines: Can Debtors push the envelope too far?
  - Limitations on Credit Bidding for “Cause”
    - Fostering a robust bidding process
    - Discouraging inequitable conduct – Is respect an issue?
    - Questionable lien positions
    - *Fisker / Free Lane-Star Publishing Co.* cases
    - Don’t be a pig!
The “Ebbs and Flows” of Bankruptcy: Non-Bankruptcy Alternatives

Availability of Non-Bankruptcy Alternatives:

- Assignments for the Benefit of Creditors
- Receiverships
- Out-of-Court Restructurings
- Article 9 Sales
- Sell and be done!

Are non-bankruptcy alternatives still on the rise?

Are these alternatives more conducive to middle market/lower middle market companies?
Funding Influences in a Borrower’s Market

**Equity /Mezzanine Funds/Lender Influences**

- A plethora of constituencies fighting over the same deals
- Don’t “want a turnaround” firm
- Plenty of liquidity ($70 to $100 Million Company)
- Options for healthy vs. unhealthy companies
Funding Influences in a Borrower’s Market

Regulators are urging banks to avoid financing leveraged buyouts that would put debt on a company of more than six times its EBTIDA.

Still, 40% of U.S. private-equity deals this year have used leverage above that ratio.

Source: Gillian Tan, *Debt Rises in Leveraged Buyouts Despite Warnings Regulators Urge Banks to Avoid Financing High Levels of Debt*, May 20, 2014 (Wall Street Journal)

- **From the Bank**
  - Centralized national v. local
  - Use of RFP’s
  - Institutional control of constituent agendas

- **From Counsel**
  - Lateral movement
  - Use of RFP’s
  - Less “bankruptcy” and more “restructuring”

- **From the Consultant**
  - Duration compression
  - Fee compression
  - Sweat equity payments v. dollar payments
    - Is this gaining more traction?
Where is the Work?

- **Healthcare**
  - Impact of Obamacare

- **Energy**

- **Municipalities**
  - Municipal bonds are defaulting at the slowest pace in at least five years

- **Retail**
  - Franchise Proliferation (Sbarros; Radio Shack)
  - Liquidation of “big box” stores
  - Loss of big mall anchor stores
  - Landlord issues

- **Printing/Paper/Publishing**
Differentiators in a Changing Environment

- **How to Stand Out in the “New Normal”**
  - What are companies doing to adapt?
  - Perspectives of a
    - Turnaround Manager
    - Lender
    - Financial Advisor
    - Attorney
  - Why *You* versus Somebody Else?
  - Alternative Fee Arrangements