

Oilfield Services Seminar

Deleveraging Using the Bankruptcy Court – the Good, the Bad and the Ugly

PRESENTED BY:

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Overview

- Chapter 11 Themes
- Debtor in Possession
- Players
- Types of Debts
- DIP Financing
- Executory Contracts
- Plan of Reorganization – Exit from Chapter 11
- Chapter 11 Chronology
- Case Study

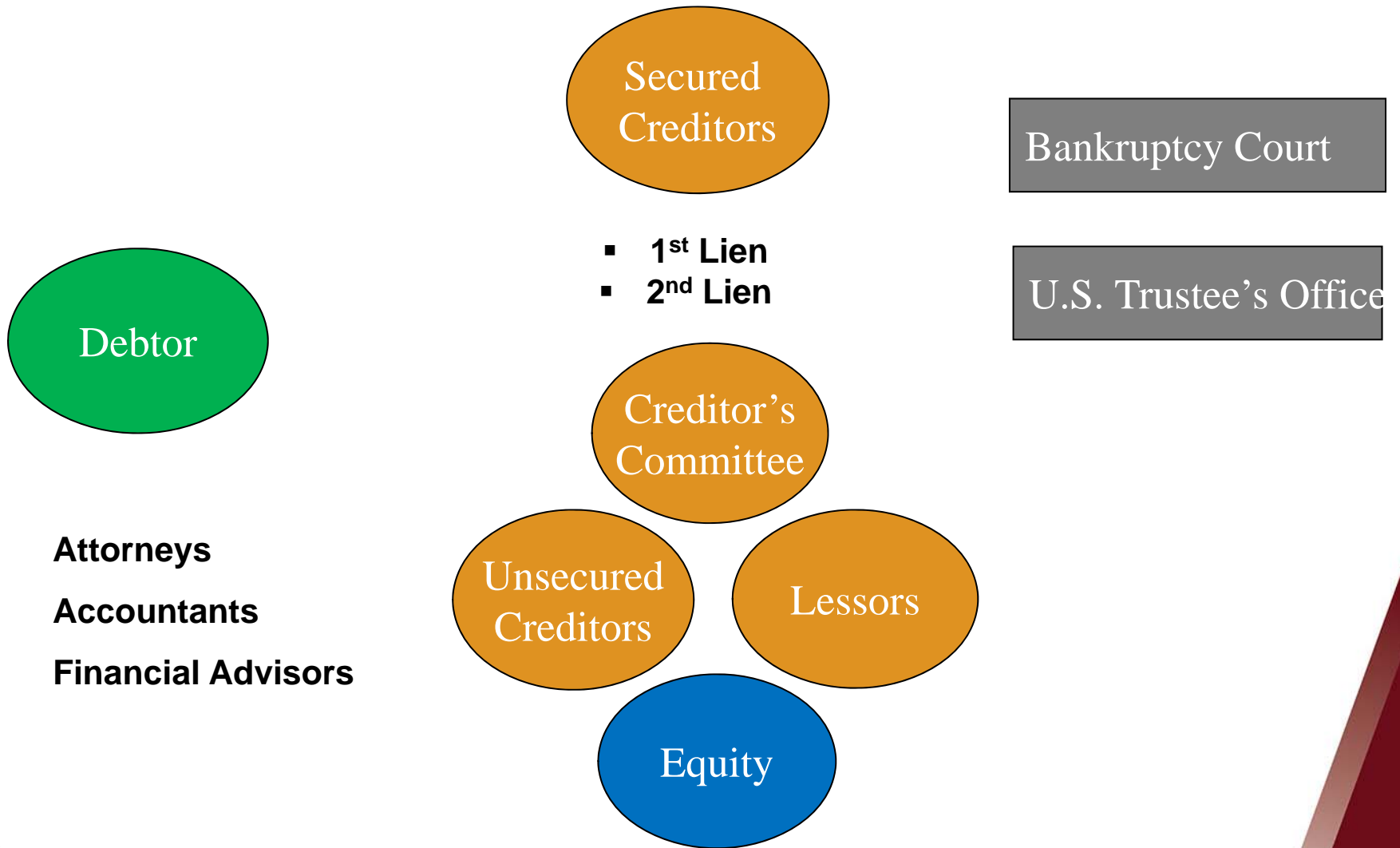
Chapter 11 Themes

- Fresh start ideology
- Reorganization
- Bankruptcy Code has tools to fix:
 - Operational issues
 - Balance Sheet – deleveraging
- Primary process – plan of reorganization (not necessarily a sale)

Chapter 11 – Debtor-in-Possession

- Creation of estate
- Management remains in place
- Court supervision
- Ordinary course transactions

Players



Types and Priority of Debts

- DIP Loan
- Secured debt
- Priority unsecured debt
 - Administrative expenses
 - Prepetition employee wages
 - Prepetition taxes
 - 20-Day Deliveries of Goods
- Unsecured debt
- Subordinated debt
- Equity (Stockholders)

What is DIP Financing?

- “Debtor in Possession Financing”
- A debtor often needs new financing while in bankruptcy
- Pre-petition secured debt is “frozen” and therefore new financing is needed
- Postpetition financing provides liquidity to address bankruptcy crunch and vendor/customer concerns
- Amount of DIP financing must be sized to case and Debtor needs

Executory Contracts and Leases

- Executory contracts and leases may be assumed or rejected
- Ability to reject allows Debtor to negotiate better terms as a condition to assumption
- Deadline to assume or reject – until chapter 11 plan is confirmed (other than leases of non-residential real property)

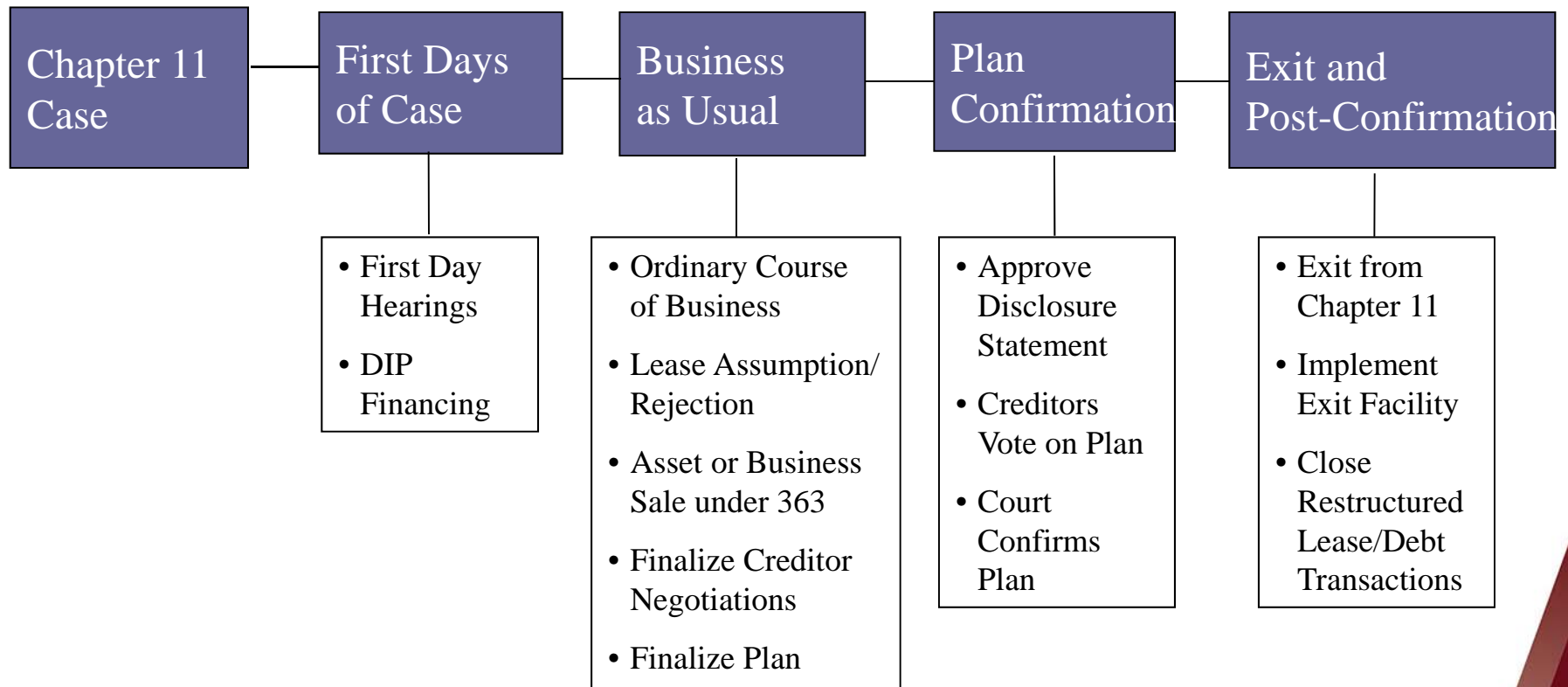
Executory Contract Rejection

- Rejection terminates debtor's obligations under contract
- Rejection treated as a breach of contract and usually results in a rejection damage claim to be treated under the plan of reorganization
- Rejection damage claim is typically treated as an unsecured claim under plan of reorganization

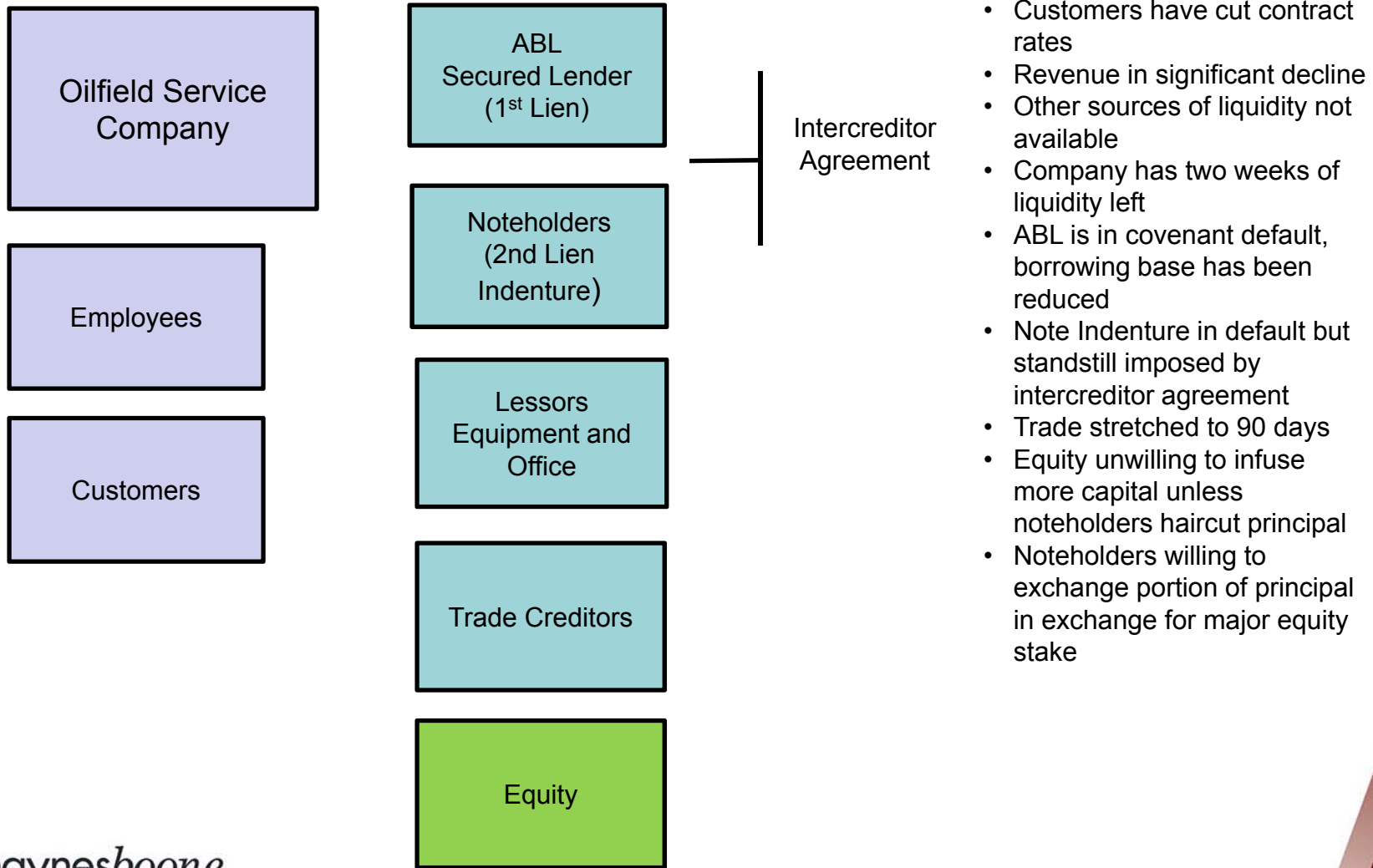
What is the Exit from Chapter 11? Plan of Reorganization

- Plan and Disclosure Statement
- Exclusivity (120 days / 180 days)
- Classify debts
- Treat debts
- Absolute Priority Rule
- Creditors vote on plan by class (2/3 amount; 1/2 number for class to carry)
- Cramdown if class rejects

Chronology of Chapter 11 Case



Case Example



Case Example - Possible Strategies

Prepack

- Pre-bankruptcy: obtain affirmative vote of all major creditor groups (and potentially equity) to a restructure to be implemented in chapter 11
- Likely needs a sponsor to provide liquidity on exit
- May be difficult if note indenture requires 100% approval to debt for equity exchange
- Bankruptcy would also implement rejection of burdensome contracts and leases
- Trade creditors “sail through.”

Pre-Negotiated

- Pre-bankruptcy: negotiate plan support agreement with major creditor groups
- Need only 67% of noteholders to agree for class to carry under a plan
- Plan support agreement would provide for creditor affirmative vote for a plan that implements restructure described in plan support agreement
- Likely needs a sponsor to provide liquidity on exit
- Bankruptcy would also implement rejection of burdensome contracts and leases
- Trade could be impaired

No Deal (Old School)

- Pre-bankruptcy: no deal negotiated
- Need to reach deal with one significant creditor in order to “cramdown” others – confirm plan without their consent
- Could confirm plan without support of noteholders and trade
- Existing equity likely wiped out
- Bankruptcy would also implement rejection of burdensome contracts and leases
- Trade could be impaired

Case Example Discussion - Why File Bankruptcy?

- Critical Question – is there a core business to reorganize?
- Delay exercise of creditor remedies
- Restructure debts, deleverage
- Right size or refocus business, shed line of business or operations
- Eliminate burdensome contracts
- Implement restructure with less than 100% creditor approval
- Attract new investment
- Obtain necessary liquidity to bridge reorganization

Case Example Discussion - Bankruptcy Preparation

- Consider plan objectives / alternatives
- Consider / negotiate DIP Loan
- Manage cash and 13 week cash flow
- Prepare 1st day pleadings
- Analyze customer / vendor issues
- Determine contracts to reject
- Fund tax escrow accounts and payroll
- Consider cost (committee and DIP Lender)
- Professional Assistance
- Pre-filing Checklist

Case Example Discussion – Dealing with Stakeholders

- Senior lenders – avoid the “crank down”
- Mezzanine / sub-debt / second lien debt – can be multiple tranches with disputes over the “fulcrum”
- Trade Creditors – are they critical?
- Preferred equity – conversion issues
- Equity – fragmented equity that is not aligned or out of the money
- Must have sound “reorganization cure” and exit business forecast to gain support of stakeholders
- Employees – KEIPS and KERPS
- Management’s Role

Conclusion:

What does a successful pre-negotiated deal look like?

- Terms of Plan Support Agreement
 - ABL Lender provides DIP loan, upon exit from bankruptcy ABL lender receives paydown from equity infusion
 - Achieve 67% noteholder approval in support of plan; 60% of principal exchanged for 80% of new equity in reorganized company
 - Old Equity receives a tip (5%) but buys back in on a rights offering for 15% of new equity
 - Operational restructuring through rejection of burdensome contracts
 - Trade receives less than full payout, but opportunity for future business

Questions?

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- Retail
- Telecommunications
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Education:

B.A., Texas A&M University

William Snyder

Principal, Deloitte CRG

With executive and entrepreneurial experience spanning more than 25 years, William Snyder has restructured, managed, and guided a multitude of companies in a wide variety of industries.

As a broadly experienced interim executive and advisor who has participated in the restructuring of more than 70 companies, Mr. Snyder brings a results-driven leadership style to complex and crisis situations.

His recent interim-management engagements include:

- Consulting partner on several E&P companies including Dune Energy and Quicksilver Resources
- Consulting partner on O&G service firms
- Court-appointed chief restructuring officer (CRO) of the Texas Rangers baseball team
- Court-appointed examiner of Mirant, a \$6.5 billion merchant energy company
- CRO of Pilgrim's Pride Corporation, a \$8.5 billion integrated poultry company
- CRO of a \$250 million fire engine and chassis manufacturer
- Chief operating officer (COO) of a \$200 million furnishing retailer
- Chief executive officer (CEO) of a \$210 million mattress retailer
- Chief financial officer (CFO) of a \$250 million building products manufacturer
- CFO of a \$250 million computer manufacturer
- Primary advisor to a \$500 million staffing company, a \$1.4 billion logistics company and a \$2 billion construction contractor

Previously, Mr. Snyder was president of his own financial consulting company, The Snyder Company, where he managed family investments that included operating companies, limited partnerships and securities. Additionally, he has been principal in a variety of different companies and held positions in increasing responsibility for global bottling companies in the United States. Mr. Snyder has served as an interim-Officer/Examiner/Trustee in more than 20 bankruptcies and is a frequent speaker and presenter on a wide range of turnaround topics.

Mr. Snyder is a Certified Turnaround Professional and has received numerous distinctions over the years, including being named to Turnarounds & Workouts' 2007 People to Watch list, an honor he shares with 11 professionals nationwide. Additionally, he was recently selected to join the American College of Bankruptcy as a Fifth Circuit Fellow.



This biography may refer to client engagements performed prior to joining Deloitte Financial Advisory Services LLP ("Deloitte FAS") in the Deloitte Corporate Restructuring Group ("Deloitte CRG")

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Education:

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Donald R. Martin

D. R. Martin & Associates

Donald R. Martin offers exceptional depth in the operational and financial leadership of company turnarounds, restructurings, cash flow improvements, bankruptcies, and acquisitions and divestitures. He has more than 20 years of troubled situation and interim management experience.

A few notable engagements include:

- Chief Restructuring Officer for public E&P company. Filed chapter 11 anticipating a 363 sale.
- Interim CFO to a modular building manufacturer that provided wellsite offices and housing
- Interim chief executive officer (CEO) to a laminated packaging manufacturer
- Financial restructuring consultant, and later CEO and board of directors member, for a \$140 million modular construction company
- Post-acquisition interim CFO to a \$150 million international aerospace company
- Post-acquisition interim CFO to a durable medical equipment supplier
- Interim CFO to a \$100 million helicopter manufacturer
- Interim CFO and chief restructuring officer (CRO) to a \$500 million retail chain with 44 stores in 14 states
- Financial advisor and CFO to a \$500 million contractor
- Interim CFO and CEO to an oil field services company
- Financial consultant and acting CRO during bankruptcy to a home décor manufacturer
- Turnaround and profit enhancement consulting during an out-of-court restructuring of a \$70 million oilfield service company

Mr. Martin served as CFO, vice president, and board of directors member for a \$1.2 billion multi-national engineering construction company that engineered and installed offshore drilling platforms and performed onshore and offshore foundation construction.



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Haynes and Boone's Bankruptcy Practice

Some Key Facts...

- One of the largest and most experienced business reorganization practice groups in the U.S.
 - 25 Full-Time Bankruptcy Attorneys
- More highly-rated bankruptcy lawyers than any other law firm in the State of Texas
 - *Best Lawyers*® 2015 recognized 13 of the attorneys in the areas of Bankruptcy & Creditor Debtor Rights/Insolvency & Reorganization Law and Bankruptcy Litigation
 - *Chambers USA* and *Chambers Global* 2014 leading United States bankruptcy firm
- Awarded the *Latin Lawyer* 2013 Restructuring Deal of the Year for role as counsel to consenting creditors in the ground-breaking bankruptcy case of Vitro, Mexico's largest glassmaker
- Extensive experience in the energy, oil and gas, oilfield service and petrochemical industries

Haynes and Boone's Bankruptcy Practice

Creditors, Lessors and Purchasers

- Represent Agent for DIP Lenders in ATP Oil and Gas Corp. Chapter 11 pending in Houston, Texas
- Represented Credit Agricole Corporate and Investment Bank as the prepetition lender and agent, and DIP Lender, in the Chapter 11 bankruptcy cases of Trinity Coal Company in Lexington, Kentucky
- Represented DIP agent and pre-petition agent in the Chapter 11 case of Tekoil and Gas Corporation (filed in Houston, Texas) on behalf of the secured lenders who were owed more than \$50 million
- Represented the creditor/lessor in a complex Chapter 11 case in Delaware involving multiple ethanol plants collateralized in separate pools of debt culminating in a Section 363 sale of certain of the ethanol plants to Valero and the lenders credit bidding on the remaining ethanol plants
- Represented the creditor/lessor in the Chapter 11 case of an ethanol plant in a Georgia bankruptcy court
- Represented the creditor/lessor in a pre-packaged Chapter 11 proceeding of an ethanol plant in the Delaware bankruptcy court
- Represented the creditor/lessor in the restructure of an ethanol plant in the Minnesota bankruptcy court through a sale of the assets to a third party investor
- Represented Hyperion Resources, an oil and gas producer, in its bid to purchase the oil and gas assets of an energy company that was operating in Chapter 11
- Represented buyer in connection with its acquisition of an exploration and production company through a creative Chapter 11 plan that was designed to preserve \$100 million in net operating losses
- Represented successful bidder in a competitive auction and acquisition of the five operating oil and gas exploration subsidiaries of Edge Petroleum Corporation in the Edge Chapter 11 cases, filed in the United States Bankruptcy Court for the Southern District of Texas (Corpus Christi Division)

Haynes and Boone's Bankruptcy Practice

Creditors, Lessors and Purchasers (continued)

- Represented Credit Agricole Corporate and Investment Bank as a multi-million dollar senior secured lender, DIP lender and exit lender to various SemGroup entities. SemGroup is a multi-billion dollar global gatherer, distributor, storer, transporter and marketer of crude oil and refined petroleum products. SemGroup and several of its subsidiaries filed Chapter 11 and Credit Agricole was also a secured lender to other SemGroup entities that are not currently in bankruptcy
- Represented the acquirer of a publicly-traded oil and gas company in Chapter 11 case involving multiple off-shore platforms and properties
- Represented Newfield Exploration in acquisition of 200 million in Eagle-Ford oil and gas assets in Chapter 11 of TXCO Energy

Other Noteworthy Representations

- Served as national bankruptcy counsel for ExxonMobil and Total Petrochemicals USA representing a full range of bankruptcy matters across the nation, including dealing with a customers and vendors in bankruptcy or on the verge of bankruptcy and defending against avoidance actions

Haynes and Boone's Bankruptcy Practice

Debtors

- Represented Goldking Holdings, an oil and gas exploration, development and production company that controls approximately 9,000 net acres located in Louisiana and the upper Texas Gulf Coast, and its affiliates in Chapter 11 in the Southern District of Texas
- Represented Dallas-based Cornerstone E&P Company, an oil and gas exploration and production company, and its affiliate in their Chapter 11 proceedings in the Northern District of Texas. The court approved a unique vendor-financing program in lieu of traditional DIP financing, which allowed Cornerstone to finish completion operations on vital wells with an eye towards the ultimate reorganization of the company
- Represented Lothian Oil Company, a privately held oil and gas exploration and production company, in its Chapter 11 case in the bankruptcy court in San Antonio, Texas
- Represented the debtor, Tri-Union Development, in reorganizing its secured, unsecured and governmental obligations associated with the operation of onshore and offshore oil and gas properties. Included in the representation was an analysis of hedged positions for the sale of physical oil and gas production in a rising market, and the restructuring of significant second lien secured bond indebtedness
- Represented CrossPoint Energy Company, an oil and gas exploration and production company, and its subsidiaries in their Chapter 11 proceedings in Dallas, Texas obtaining confirmation of the plan and the reorganization of the debtor
- Represented Bristol Resources Corporation, the debtor, in its Chapter 11 case involving its operation of oil and gas properties located in Texas, New Mexico, and Oklahoma
- Represented EOTT Energy Partners, a crude oil pipeline and marketing company, an affiliate of Enron Corporation, in its fast track pre-arranged Chapter 11. At the time of its Chapter 11 filing, EOTT had \$10 billion in annual sales
- Represented El Paso Refinery, L.P., an oil refinery, in its Chapter 11 case
- Represented a publicly-traded oil field services company as a debtor in a successful pre-negotiated Chapter 11 bankruptcy case, which culminated in the sale of the company for \$195 million

The Haynes and Boone Bankruptcy Team



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Thank You!

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