

## Business, Corporate Finance, and Tax

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### Bankruptcy and Creditors' Rights

#### Contact

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During times of economic uncertainty, our bankruptcy and creditors' rights lawyers can be a valuable resource if your legal problems, including litigation, involve insolvency or bankruptcy.

The majority of our clients in this area are creditors, mostly commercial enterprises. These clients include retail and manufacturing firms across a variety of industries as well as small banks and other financial institutions.

#### Resolving Litigation and Other Disputes

Our litigation services include representing creditors in bankruptcy proceedings, successfully prosecuting lawsuits seeking to collect large debts and favorably resolving disputes over the validity and priority of liens.

Garvey Schubert Barer's bankruptcy practice is nationwide. Our lawyers appear on behalf of clients in federal courts throughout the country.

#### Moving Transactions Forward

An economic downturn breeds bankruptcies. Yet it also presents an opportunity for those with money to purchase assets from bankrupt estates at bargain prices. Our bankruptcy and creditors' rights lawyers have represented purchasers in many such acquisitions.

#### Cost vs. Benefit

We take a cost-benefit approach to your legal problems. We work with you to make sure the legal time and resources being spent on a problem are commensurate with the probable outcome.

#### Added Benefit of Using Our Firm

As a client you will receive exceptional personal service, including a high degree of responsiveness. In addition, you will have access to a wide range of legal expertise. Garvey Schubert Barer is a full-service firm with lawyers practicing in virtually every major area of law. Thanks to this expertise, we almost always have the resources needed to capably handle all your legal problems, including tax, immigration and real estate matters.

#### Litigation

When the economy badly stumbles, disputes and lawsuits usually increase. In that environment, whether you are a creditor or a debtor, you are more likely to need help prosecuting a lawsuit or defending against one. Our bankruptcy and creditors' rights lawyers provide the legal services you require to favorably resolve litigation and other disputes.

#### Clients

Much of our litigation practice involves representing creditors, secured and unsecured, in bankruptcy courts. In many of these cases, our creditor client wants to collect a large debt, has an ongoing relationship with a debtor or is involved in litigation (other than the bankruptcy proceeding) with the debtor.

Our bankruptcy practice is national; we have appeared on behalf of clients in nearly every state.

#### Breadth of Services

Examples of our litigation services include

- ▶ Recovery by a creditor of a debtor's fraudulent or preferential transfer of property in violation of the bankruptcy laws

- ▶ Disputes over the validity or priority of liens on a debtor's property
- ▶ Relief from "stays," procedural devices that delay the time when a creditor can enforce its rights against a debtor in bankruptcy
- ▶ Dischargeability actions and appeals of bankruptcy court decisions
- ▶ Lawsuits to collect large debts, typically those involving \$500,000 or more
- ▶ Enforcement of real property and Uniform Commercial Code liens

### **Foreclosures**

We represent creditors in foreclosures, including highly complex ones. On behalf of our clients, we enforce both judicial and nonjudicial foreclosures of security interests in a debtor's property, both real and personal. Our services also involve counseling creditors on self-help remedies available to them under the Uniform Commercial Code. In addition, we litigate defenses and counterclaims asserted against clients by borrowers and guarantors, including defenses and counterclaims based on a theory of lender liability.

### **Transactions**

If you have the financial resources, an economic meltdown is a perfect time to purchase assets out of bankruptcy estates at bargain prices. Our bankruptcy and creditors' rights lawyers have represented purchasers in many of these transactions. Examples include representing purchasers of assets from the following bankruptcy estates: Schwinn (Colorado), Stairmaster (Washington), NPR, Inc. (Delaware), Universal Gym (Mississippi) and Aloha Airlines (Hawaii). We have the experience and expertise required to help you plan, implement and maximize the value of these transactions.

### **Additional Transactional Services**

In addition to helping clients purchase out-of-bankruptcy assets, our lawyers provide the legal services clients need when a debtor becomes insolvent. These include

- ▶ Negotiating out-of-court workouts, including collaborating with turnaround consultants
- ▶ Helping reorganize the financial affairs of financially troubled individuals and entities
- ▶ Drafting forbearance agreements (arrangements where a creditor agrees not to exercise legal rights against the debtor so long as specified payments are made)

### **Preventing Problems, Controlling Costs**

If you are a creditor, the best way to control legal fees in an insolvency or bankruptcy situation is by taking preventive steps before a debtor becomes financially distressed. An important one is having us review agreements with customers and vendors before they are signed. That way, you fully protect yourself if the other party becomes insolvent or files for bankruptcy. We can also counsel you on the most effective way to securitize loans.

### **Matching Costs and Benefits**

If you are a creditor, your response to a debtor's potential or actual insolvency may require you to enter into complex transactions. Often these require extensive legal services. We work closely with you to make sure we match up our services with the results you want to achieve.