

## PRACTICE

# Bankruptcy, Restructuring & Workout

## KEY CONTACTS

Mark W. Powers

T. 508-926-3427

E. [mpowers@bowditch.com](mailto:mpowers@bowditch.com)

George W. Tetler III

T. 508-926-3437

E. [gtetler@bowditch.com](mailto:gtetler@bowditch.com)

## PARTNERS

[Mark W. Powers](#)

[George W. Tetler III](#)

## PARALEGALS

[Brian O. Allen](#)

## OVERVIEW

## BANKRUPTCY, RESTRUCTURING & WORKOUT

Our clients rely on our cost-effective, practical business solutions for the complex issues that arise in Chapter 11 and other insolvency cases. We bring added value to clients with our interdisciplinary approach and understanding of how complex transactions and the underlying structure can be attacked, defended or restructured to the benefit of our clients.

Our restructuring, bankruptcy and workout team has a long history of substantial engagements in the region's largest bankruptcy and insolvency proceedings. We are supported by attorneys in other practices with expertise in key areas of law involved in major disputes arising in Chapter 11 cases, including employment and labor, pension law, environmental law, tax, real estate, mergers and acquisitions and complex litigation.

We have represented a range of clients in diverse industries such as manufacturing, technology, utilities, telecommunications, healthcare and real estate developers in complex Chapter 11 and other insolvency cases.

### How we can help

- Corporate restructuring
- Insolvency proceedings
- Sale or acquisition of troubled companies/divisions
- Asset sales
- Valuation disputes
- Subordination actions
- Tort and environmental actions
- Corporate governance issues
- ERISA and employment issues involving pension plans and retention plans

- Loan restructuring and workouts, foreclosures and secured-party sales
- Secured creditor representation in bankruptcy
- Debtor-in-possession financing
- Fraudulent conveyance actions
- Preference actions

## Who we help

- Secured and unsecured lenders and DIP lenders
- Bank syndicates
- Boards of Directors and director committees
- Debtors
- Creditors' committees
- Equity holder committees
- Liquidating trusts
- Trustees and other fiduciaries

## EXPERIENCE

### Preserving Bargained-For Contractual Benefits in Bankruptcy

A client in the energy field entered into a series of purchase agreements to supply renewable energy credits to a counterparty that provided natural gas and electricity to its commercial and residential customers. We successfully designated the purchase agreements as forward contracts under the Bankruptcy Code to permit our client to promptly terminate the purchase agreements and sell the energy credits to a third party at fair market value.

### Overcoming an Architect's Bankruptcy To Expedite Completion of a Development Project

A client was the owner/developer of a project for the construction of two-hundred residential apartment units. In the middle of the project the architect ceased doing business and filed a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code. The client anticipated significant delays, but we successfully leveraged the bankruptcy code's protections given to licensees of intellectual property with the contract's grant of a non-exclusive license on the project's Instruments of Service to require the bankruptcy trustee to promptly turnover the project's drawings and specifications in CAD format to permit the client to complete the project in a timely fashion.

### Helping a client through a difficult financial strait

A client in the transportation field experienced financial difficulty. After efforts to sell the company failed, we represented the company in its bankruptcy case and successfully negotiated a resolution of several critical issues protecting the company's officers and board members from liability, including claims by the taxing authorities for unpaid taxes, and claims asserted by vendors threatening to sue the company's officers.

## A difficult case on behalf of a creditor

Our client was a regional bank that had provided a loan to a condominium developer who subsequently filed for bankruptcy. The borrower asserted various lender liability claims against the bank. While that suit was pending, the bank moved to lift the automatic stay in the bankruptcy court and, due to success on an important issue at trial, was able to negotiate a settlement agreement that included a release of all claims against the bank. This was an example of trying the case well and advising the client of the leverage it had obtained to negotiate a favorable agreement that released all claims against it.

## Helping a bank client-creditor

A regional bank in New England and the Mid-Atlantic turned to us for help collecting a multi-million dollar construction loan on an incomplete condo project that involved extensive litigation in the bankruptcy court. The client realized the return of all of its principal and interest and costs.

## Recovery for critical vendor in chapter 11

A game developer requested representation in the administratively insolvent chapter 11 proceedings of a large toy retailer. Advising our client to opt out of a critical settlement with creditors, we were able to secure significantly better recovery.

## Secured lender “credit bid” in section 363 sale

Guided lender client through the successful acquisition of a multi-unit apartment complex in Worcester, Massachusetts via a sale under section 363 of the Bankruptcy Code.

## Company restructurings

Obtained confirmation of the chapter 11 plan of a Tier 1 automotive supplier, with a hundred-year history in Massachusetts. Previous debtor-side representations include the 2015 reorganization of an oil & gas exploration company with extensive leasehold interests in the southern United States, and the 2014 reorganization of national retailer Brookstone.