

Supplier and Customer Representation in Restructurings

Overview

Dentons knows that suppliers and trade vendors face particular problems when escalating distress, loss of industry confidence and rapidly changing global demand affect a customer's outcomes or undermine a customer's effectiveness. You need a partner that can anticipate the needs and actions of industry, vehicle, parts, luxury goods, services and other suppliers. You need a partner with the experience to help you speedily achieve favorable outcomes.

Timing, anticipation and speed of reaction have been key to success in Dentons' partner representations in various industries, including:

- Auto parts suppliers and metal fabricators
- Luxury and other finished retail goods suppliers, importers and distributors
- Solid-state broadcast industry and other technology deliverables
- Metal, coal and other raw earth ore suppliers in long-term and spot delivery contracts
- Oil, gas and energy suppliers and customers

Each representation poses a need for Dentons' demonstrated experience, industry knowledge and dedication to assisting in the planning and implementation of successful recovery strategies. We can help to consider a range of critical matters, including:

- Awareness of brand impact
- Products' short shelf lives
- Fungible goods
- Consignment and toll manufacturing limitations
- Reclamation timing

In some jurisdictions, committees of trade creditors are essential for customers' survival and the balancing of competing considerations, and we have deep expertise in the practical realities of such committees. Suppliers and trade vendors are also prime targets for payment recovery efforts by insolvency trustees and administrators. We have also consulted customers whose concerns involve a supplier of key components or services, such as software or intellectual property which may liquidate or undergo lengthy delays in meeting customers' needs. Dentons' tactics and commercial behavior maximize your chances for success and timely settlements.

Representative Experience

- **Accuride Corporation:** Serving as counsel for the Official Committee of Equity Security Holders in the Chapter 11 case of this leading supplier of wheels, seats and other components to heavy-duty truck manufacturers. We prepared and argued for a comprehensive alternative valuation, which exceeded the debtors' valuation by more than

US\$250 million, on behalf of the Official Committee of equity security holders. We also presented alternative senior and mezzanine financing proposals to replace the debtors' proposed exit financing—an expensive rights offering and backstop package, which was highly dilutive to existing equity. We vigorously and successfully defended attacks on the formation and existence of the equity committee and its right to retain professionals. The confirmation hearing was adjourned at the equity committee's request. Ultimately, a global settlement was structured with additional recoveries for shareholders, including the agreement of an insider shareholder to forego part of its recovery under the plan for the benefit of other shareholders.

- **Chrysler:** Representation of the US Treasury Department in connection with its financing of Chrysler. We also represented the PBGC on all matters in the cases, including in its role as a member of the Official Committee of Unsecured Creditors. We helped negotiate a complex resolution of pension issues in the case, including a US\$800 million guarantee of pension liability among the PBGC, Chrysler, Cerberus and Daimler. We also represented several Tier 1 and 2 suppliers in connection with the preservation of their rights under supply contracts with Chrysler and its subsidiaries.
- **Customer structuring:** Working with customers of financially troubled suppliers to protect the customer and their supply of necessary goods or support services in front end or modified transactions. These have included financing to suppliers, purchase of suppliers, toll manufacturing arrangements, termination rights and other protections.
- **Delphi Corporation:** Represented several of Delphi's major trade creditors and suppliers of this tier I supplier. Issues addressed included reclamation, filing proofs of claim, negotiating claim purchase forms with claims traders, pre-versus post-petition treatment, set-off and recoupment, purchase orders, alleged long-term contracts, new business and other ongoing trade relationship issues.
- **Echo:** Representing leading global consumer goods company as Second Lien Lender in clothing designer restructuring.
- **General Motors Corporation:** Representation of the US Treasury Department in connection with its bridge financing of General Motors. This financing paved the way for an orderly sale of General Motors. We also represented several Tier 1 and 2 suppliers in connection with the preservation of their rights under supply contracts with General Motors and its subsidiaries.
- **Goody's Family Clothing Inc.:** Representing leading global consumer goods company as one of the largest Chapter 11 Trade Creditors.
- **JJB Sports:** Acting for a major sports supplier in relation to retailer JJB Sports' financial difficulties in the UK.
- **KB Toys, Inc.:** Representing leading global consumer goods company as Chapter 11 Trade Creditor and post petition international retail sourcing company.
- **Linens Holding Co.:** Representing leading global consumer goods company as one of the largest unsecured creditors and member of the official Unsecured Creditors Committee and Preference Defendant.
- **Mervyns' Holdings, LLC:** Representing leading global consumer goods company as official member of Unsecured Creditors Committee.
- **Polbita:** Providing the owner of Polbita, one of Poland's largest drugstore chains, with comprehensive restructuring advice, including on existing €50 million credit facilities, bridge financing of €12 million, standstill and workout with more than 100 suppliers, and preparation of bankruptcy filings envisaging the procedure for an accelerated voting on composition (during the so-called preliminary meeting of creditors). As a result of a successful out-of-court restructuring and bridge financing, the client regained liquidity and withdrew bankruptcy filings.
- **SunEdison, Inc.:** Serving as counsel to a Chinese renewable energy company in protecting its claim in Chapter 11 cases and acquiring assets from the affiliates of the Debtors.
- **Valeo:** Providing advice regarding insolvency and bankruptcy of Valeo's automotive parts supplier, Maflow Poland. This involved general advice on bankruptcy risks (inter alia, we anticipated the shifting of the COMI of the Polish company to Italy and provided the client with advice in the light of the European Insolvency Regulation), a bankruptcy-proof payment structure (including financing of sub-suppliers) and ways to secure continued product deliveries by a bankrupt supplier as well as representing the client vis-à-vis the Polish administrator. The advice concerned a still rare case where the main bankruptcy proceedings with respect to a Polish company were declared abroad (Italy), with secondary proceedings in Poland. This situation usually complicates the status of stakeholders; in the case at hand the level of complexity was accentuated even further owing to a conflict between administrators from the main and secondary proceedings (which led to conflicting instructions regarding payments and threats of production stoppages).

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