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Teaching Materials on Business Reorganization Under the Bankruptcy Code

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TEACHING MATERIALS
ON
BUSINESS REORGANIZATION
UNDER THE BANKRUPTCY CODE

By

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AMERICAN CASEBOOK SERIES

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PREFACE

When a business is in financial difficulty, the owners of the business and/or the creditors of the business must decide whether to:

(1) negotiate a workout
(2) liquidate the business
(3) seek relief under the Bankruptcy Reform Act of 1978.

One form of bankruptcy relief is liquidation under Chapter 7. This book does not deal with Chapter 7. In most law schools, Chapter 7 is covered in a course on debtor-creditor law. Happily, in many law schools, Chapter 7 is covered using Epstein and Landers, Debtors and Creditors (West 1978).

Another form of generally available bankruptcy relief is "reorganization" under Chapter 11. These materials focus primarily on Chapter 11.* Through the use of original textual notes, problems, law review excerpts, actual forms, and reported cases, Business Reorganization Under the Bankruptcy Code covers the six stages of a Chapter 11 proceeding:

(1) Commencement of a Case
(2) Operation of the Business
(3) Preparation of the Plan
(4) Creditor Acceptance of the Plan
(5) Judicial Confirmation of the Plan
(6) Post-Confirmation Concerns

The forms and reported cases arise from proceedings under the Bankruptcy Act of 1898. Chapter 11 of the Bankruptcy Reform Act of 1978 replaces Chapters X, XI, and XII of the Bankruptcy Act of 1898. Chapter 11 borrows a number of concepts from Chapters X, XI, and XII. Cases decided under these chapters will be very helpful in working with Chapter 11 until a body of case law under Chapter 11 develops.

Obviously, we believe that it is important to read these materials closely. However, careful consideration of the applicable provisions of the Bankruptcy Code is even more important. It is a new statute. To date, not a single business has been rehabilitated under

* Some businesses are eligible for relief under Chapter 13 of the Bankruptcy Reform Act of 1978. See section 109(e), Chapter 13 is briefly considered on pages infra.
Chapter 11. There are a number of important questions about a Chapter 11 proceeding that have not yet been answered. Accordingly, in studying Chapter 11, one should look not only for the answers there provided but should also challenge such answers, discover what has been unanswered, and determine how that should be answered.

December, 1979

David G. Epstein
Myron M. Sheinfeld

XVI
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>PREFACE</td>
</tr>
<tr>
<td>TABLE OF CASES</td>
</tr>
<tr>
<td>TABLE OF STATUTES</td>
</tr>
</tbody>
</table>

## UNIT I: NON–BANKRUPTCY BUSINESS REHABILITATION

Coogan, Broude & Glatt, *Comments on Some Reorganization Provisions of the Pending Bankruptcy Bills* ........................................ 1  
Munves, *Annual Report* ………………………………………………………. 6  
Financial Statement: Phatt’s Domino Corp. .............................. 11  
Houston Garden Center Creditors’ Agreement ...................... 17

## UNIT II: OVERVIEW OF BUSINESS REHABILITATION UNDER THE BANKRUPTCY LAWS

A. Bankruptcy Act of 1898

House Report 95–595, Report of the Committee on the Judiciary, on Bankruptcy Law Revision ........................................ 22  

B. Bankruptcy Reform Act of 1978

1. Chapter 11 .................................................. 27  
2. Chapter 13 .................................................. 30  

## UNIT III: COMMENCEMENT OF A BANKRUPTCY PROCEEDING

A. Initial Filing .................................................. 33  
B. Consolidation .................................................. 34  
In re Commercial Envelope Mfg. Co., Inc. .............................. 34  
C. Automatic Stay .................................................. 44  

## UNIT IV: PEOPLE INVOLVED IN THE BANKRUPTCY REHABILITATION PROCESS

A. Bankruptcy Judges .................................................. 48  
B. Debtors in Possession, Receivers, Trustees .............................. 52  
C. Creditors’ Committees .................................................. 57  

Epstein & Sheinfeld Bus. Reorgan. ’79 Pamph. AOB  XIX
TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>In re Bohack Corp.</td>
<td>60</td>
</tr>
<tr>
<td>D. Securities and Exchange Commission</td>
<td>64</td>
</tr>
</tbody>
</table>

UNIT V: OPERATING THE BUSINESS

<table>
<thead>
<tr>
<th>A. Authorization</th>
<th>67</th>
</tr>
</thead>
<tbody>
<tr>
<td>In re W. T. Grant Company</td>
<td>68</td>
</tr>
<tr>
<td>B. Obtaining Credit</td>
<td>72</td>
</tr>
<tr>
<td>In re North Central General Hospital Corp.</td>
<td>74</td>
</tr>
<tr>
<td>In re Texlon Corp.</td>
<td>77</td>
</tr>
<tr>
<td>C. Use of Encumbered Property</td>
<td>79</td>
</tr>
<tr>
<td>1. What Property is Encumbered</td>
<td>80</td>
</tr>
<tr>
<td>2. Policy Considerations</td>
<td>80</td>
</tr>
<tr>
<td>Murphy, Use of Collateral in Business Rehabilitations: A Suggested Redrafting of Section 7-203 of the Bankruptcy Reform Act</td>
<td>80</td>
</tr>
<tr>
<td>Webster, Collateral Control Decisions in Chapter Cases—Clear Rules and Judicial Discretion</td>
<td>81</td>
</tr>
<tr>
<td>Rosenberg, Beyond Yale Express: Corporate Reorganization and the Secured Creditor’s Rights of Reclamation</td>
<td>83</td>
</tr>
<tr>
<td>3. Case Law Under Bankruptcy Act of 1898</td>
<td>86</td>
</tr>
<tr>
<td>Continental Illinois National Bank and Trust Co. v. Chicago, Rock Island &amp; Pacific Ry. Co.</td>
<td>87</td>
</tr>
<tr>
<td>In re Yale Express Systems, Inc.</td>
<td>88</td>
</tr>
<tr>
<td>In re Bermec Corporation</td>
<td>90</td>
</tr>
<tr>
<td>In re American Kitchen Foods, Inc.</td>
<td>96</td>
</tr>
<tr>
<td>4. Section 363</td>
<td>108</td>
</tr>
<tr>
<td>D. Setoffs</td>
<td>110</td>
</tr>
<tr>
<td>Diversa-Graphics, Inc. v. Management &amp; Technical Services Co.</td>
<td>111</td>
</tr>
<tr>
<td>In re Applied Logic Corp.</td>
<td>114</td>
</tr>
<tr>
<td>Katz v. First Nat. Bank of Glen Head</td>
<td>127</td>
</tr>
<tr>
<td>E. Leases and Executory Contracts</td>
<td>136</td>
</tr>
<tr>
<td>Shopmen’s Local Union No. 455 v. Kevin Steel Prods., Inc.</td>
<td>138</td>
</tr>
<tr>
<td>In re Ryan Co., Inc.</td>
<td>144</td>
</tr>
<tr>
<td>F. Utilities</td>
<td>147</td>
</tr>
</tbody>
</table>

UNIT VI: FORMULATION OF THE PLAN

<table>
<thead>
<tr>
<th>Tracy, Life in the Toils of the Bankruptcy Act</th>
<th>149</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Who Prepares the Plan</td>
<td>157</td>
</tr>
<tr>
<td>B. Contents of the Plan</td>
<td>157</td>
</tr>
<tr>
<td>In re American Kitchen Foods, Inc. Plan</td>
<td>158</td>
</tr>
</tbody>
</table>
TABLE OF CONTENTS

In re Pine Gate Associates Plan ........................................ 165
  1. Classification of Claims ......................................... 171
  2. Funding the Plan .................................................. 172
     a. Sale of Assets ............................................... 172
     b. Loans ......................................................... 173
     c. Issuance of Securities ....................................... 173
House Report 95–595 .................................................... 176
Kaplan Disclosure Statement ........................................... 180

UNIT VII: APPROVAL OF THE PLAN ...................................... 194
A. Creditor Acceptance ................................................ 194
  1. Solicitation of Acceptance ...................................... 194
  2. Required Number of Acceptances ................................ 195
  3. “Not Impaired Under a Plan” .................................... 196
Trost, Business Reorganizations Under Chapter 11 of the Bankruptcy Code ................................................. 196
  4. Section 1111(b)(2) Election ..................................... 200
B. Judicial Confirmation ................................................. 202
  1. Bankruptcy Act of 1898 ........................................... 202
  2. Bankruptcy Reform Act of 1978 .................................. 206
     a. Plans Accepted by All Impaired Classes ..................... 207
     b. Plans Accepted by Less Than All Impaired Classes ....... 208

UNIT VIII: POST-CONFIRMATION CONCERNS .......................... 211
A. Binding Effect of the Plan ........................................ 211
B. Discharge ............................................................ 211
In re Ryan ............................................................. 213
C. Modification of the Plan .......................................... 214
D. Tax Considerations ................................................ 215

*