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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

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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, Debtor 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.

David G. Epstein
Myron M. Sheinfeld

December, 1979
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>PREFACE</td>
<td>XV</td>
</tr>
<tr>
<td>TABLE OF CASES</td>
<td>XXIII</td>
</tr>
<tr>
<td>TABLE OF STATUTES</td>
<td>XXV</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
TABLE OF CONTENTS

In re Bohack Corp. ........................................ 60
D. Securities and Exchange Commission ............. 64

UNIT V: OPERATING THE BUSINESS

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

UNIT VI: FORMULATION OF THE PLAN

Tracy, Life in the Toils of the Bankruptcy Act ............ 149
A. Who Prepares the Plan ................................ 157
B. Contents of the Plan ................................ 157
In re American Kitchen Foods, Inc. Plan .............. 158
# TABLE OF CONTENTS

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

## UNIT VII: APPROVAL OF THE PLAN

A. Creditor Acceptance
   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
   1. Bankruptcy Act of 1898 202

Report of the Commission on the Bankruptcy Laws of the United States 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

A. Binding Effect of the Plan 211
B. Discharge 211

In re Ryan 213

C. Modification of the Plan 214
D. Tax Considerations 215

*