King & Spalding

Real Estate Lender Workout Training

February 2024

Agenda

- Considerations in Distressed Real Estate Situations
- Assessing Restructuring Alternatives in Distressed Situations
- Potential Lender Remedies
- Lender Liability Issues
- Guarantor Issues and Liability Triggers

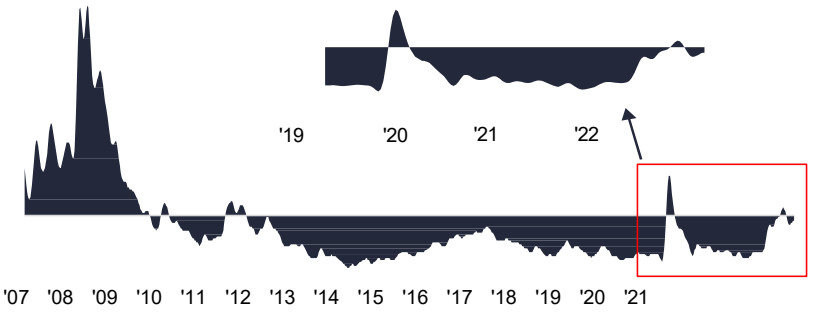
More Distress on Horizon?

Unlikely to see debt markets fully open up for retail, office and hotels in near future given current investor sentiment and tightening financial conditions

Key Themes to Monitor

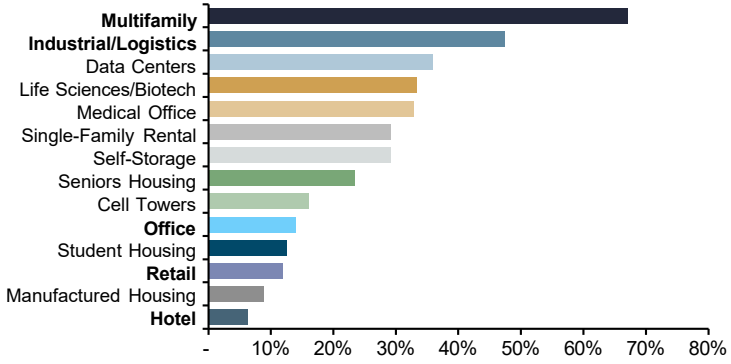
- **Tightened monetary policy; potential recession with large amount of debt outstanding from wave of cheap debt**
- **Certain sectors (retail, office, lodging) likely subject to increased operating pressure**
  - Decreased demand reduces operating cash flow; increased need for TIs / concessions to place tenants drags CF as well
  - Higher cost to finance assets due to secular uncertainty further impacts CF (specifically retail / office / urban hotels)
- **Large institutional owners handing back the keys to lenders**
- **Bankruptcies across real estate sectors (not just office)**
- **International market impacts (China, Europe, etc.)**

Fed Response to Inflation Driving Tightening Financial Conditions



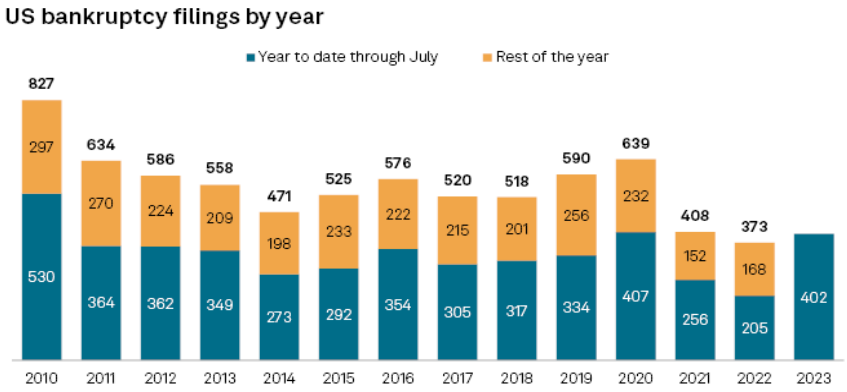
Note: Chart reflects Adjusted National Financial Conditions Index prepared by the Chicago Federal Reserve.

Investor Allocations Show Lack of Appetite for Hard Hit Sectors



Source: WMRE Institutional Investor Survey, S&P Global Market Intelligence, Chicago Federal Reserve.

BK Filing Frequency Increasing in 2023



Considerations in Distressed Real Estate Situations

As a Reminder.....

Borrower Defaults

- **Monetary Defaults**

Failure to Pay Interest or Principal
Failure to Pay Real Estate Taxes
Failure to Pay Insurance Premiums

- **Covenant Defaults**
  - Failed to perform an obligation required
  - Took an action prohibited by loan documents

Failure to Meet Financial Covenants
Lease approval/maintenance
Management agreement
SPE status
Unpermitted transfers
Additional debt
Additional liens
Material contracts
Bankruptcy

- **Misrepresentations**

Title to Real Property
Permits and Licenses
Insurance and Taxes
Power and Authority
Environmental Matters

Confirming the Default

Review Your Loan Documents

- Notice obligations
- Cure periods (including extensions)
- Notice and cure periods (where lender has to send a notice) v. grace periods (where lender does not have to send a notice)
- Materiality qualifiers (including material adverse effect)
- Knowledge qualifier

Lender's Remedies

Immediate Actions

- Default Interest
- Late charges
- Acceleration
- Prepayment Penalties
- Sweep Cash

Long Term Actions – Under NY Law

- Sue on the Note
- Sue on Guaranties
- Collecting on a guaranty judgment

Long Term Actions – at the Property

- Judicial Foreclosure
- Non-Judicial Foreclosure
- Deed In Lieu of Foreclosure
- Mortgage in Possession
- Receivership

Lender Actions to Preserve the Status Quo

Pre-Negotiation Agreements

Pre-Negotiation Agreement Typically includes:

1. Description of the loan (parties and amounts outstanding);
2. Acknowledgement by Borrower and Guarantor that the loan is in full force and effect;
3. Agreement that discussions are voluntary and either party can terminate discussions at any time;
4. Agreement that discussions are non-binding until reduced to writing signed by both parties;
5. Acknowledgement by parties that there is no obligation to enter into any agreement;
6. Acknowledgement that no discussions/communications are admissible in any subsequent litigation;
7. An acknowledgement by Borrower that:
   - Lender has not agreed to forbear from the exercise of remedies and Lender can exercise remedies at any time and is not limited in doing so;
   - Borrower should continue to pursue all alternatives;
   - Borrower is obligated to pay all attorneys fees and expenses of Lender (try to obtain additional Guarantor liability for fees)

The Pre-Negotiation Agreement MAY Include:

1. An acknowledgement by Borrower of defaults;
2. Waiver of claims, offsets and defenses against Lender; and
3. A reservation of rights by Lender

AS THE LENDER TRY TO OBTAIN

(1) Binding Discussions
(2) Paying a Fee
(3) A General Release
(4) Use of Discussions in Future Litigation
(5) Acknowledging defaults or guarantor liability
(6) A Rep Bringdown/Reaffirmation

Co-Lender/Participation/Repo/CMBS/ Mortgage and Mezzanine Loan Relationship

- Discussions may be going on in the background for co-lender relationships, participation and repo facility relationships (which borrower would not necessarily know even exist), servicer/controlling classholder relationships for CMBS deals and intercreditor relationships
- Various parties have competing interests and may be disagreeing on possible strategies
- Mortgage and mezzanine lender having separate discussions with borrower and both lenders may require separate PNAs, as well as a PNA among the lenders.
- Consent requirements under the “lender documents” – it is important to know what rights you have as a co-lender vis-à-vis the other lenders. When does that change?
- Pay-downs – particularly for repo facilities; the mortgage lender may be looking for a paydown because it is getting margin called on the back-end
- Mezzanine lender’s cure rights:
  - Mezz lender has its own concerns/issues once there is a mortgage loan default (e.g., it has certain cure periods under the ICA), which may drive certain decisions by mezz lender that differ from mortgage lender

Best Practices for Communications with Counterparties

Communication Is an Art.

Never admit to anything in writing without thinking through the consequences. *Proper preparation of internal memoranda and reports and external communications correspondence is critical. Communications should be accurate, objective and unemotional. This includes internal Borrower/Sponsor communications.*

Limit emails, texts, messaging and written memoranda to official communication

- This includes **both** messages to the borrower/sponsor/co-lender **and** colleagues
- Text messages and other media (e.g., Bloomberg messaging and voice recordings) are discoverable and can greatly undermine legal arguments
- Even with phones and voicemail, be careful what you say given liberal one-sided consent laws for audio/voice recording
- Include counsel on communications to preserve privilege arguments (*note privilege only applies in certain limited scenarios*)
- Note that business memos/plans are ***not*** privileged and will be subject to discovery
- Be extremely careful about different communications with partners, sponsors and/or guarantors unless jointly represented by counsel or a common interest agreement is in place
- If in doubt or have a question, ***call*** counsel ***on the phone***

Assessing Restructuring Alternatives in Distressed Situations

Yet Another Reminder to…..

Assessing Alternatives: Loan Document Review

1. Locate a complete set of loan documents
2. Determine whether all documents signed and delivered
3. Determine whether documents to be recorded were properly recorded and continuation statements filed
4. Determine whether title policy was issued
5. Review loan files, including correspondence for waivers and amendments
6. Evaluate Lender's collateral position (are there holes that Lender or Borrower may need to fix?)
7. Identify agent, trustees and servicers (do you have the right to replace if necessary?)

Never Make Assumptions About What Is In Your Loan Documents

Assessing Alternatives: Borrower and Guarantor

1. Analyze repayment capacity and potential capacity to provide additional collateral
2. Evaluate property management and leasing
3. Consider relationship with Lender/Servicer
4. Evaluate Lender's litigation history
5. Evaluate Lender's right to sell the loan
6. Evaluate the guarantees
   - Exposure under guaranty documents
   - What are carveout triggers
   - Creditworthiness and liquidity of Guarantors
   - Legal impediments to collection

What Might the Borrower Seek?

- Buy time to refinance or sell property
- Buy time to lease up
- Maintain control of property cash flow
- Reduce loan obligations
- Avoid recourse liability
- Extend loan maturity date
- Minimize personal liability
- Avoid added equity contributions
- Avoid defer tax consequences
- Avoid cross defaults
- Maintain management of property
- Release of guarantors

Assessing Alternatives: the Property and the Problem

1. Assess the Collateral Value
   - Appraised Value (but note risk in doing so)
   - Need for additional capital expenditures or leasing costs
2. Assess Market Conditions
3. Assess Property Conditions
   - Status of Project – Completed?
   - Environmental Phase I
   - Property Inspection
   - SNDAs and Estoppels in place
   - Entitlements

Things Lender May Require:

- Organizational Chart
- New appraisal
- New title report
- UCC search
- Updated Borrower financials
- Updated Guarantor financials
- Phase I Environmental report
- Property conditions report
- Updated Survey
- Estoppel certificates
- SNDAs

Determine Nature and Severity of the Problem

Likely Workout Alternatives

Strategies pursued will depend on borrower/sponsor and lender motivations, documentation, collateral quality, perspectives on likely asset value, cash flow profile, and idiosyncratic facts

Potential Assessment	Execution Alternatives
Largely liquid asset; limited benefit from current owner / manager	Rescue Financing
Viable asset(s) / operations with excess leverage	Amend & Extend Recapitalization (as opposed to Extend & Pretend…)
Operational challenges / differentiated management	
Longer-term asset, but need for capital	Discounted Payoff
Nominal debt and potential equity recovery will take time, but business plan / path exists	Deed in Lieu / Consensual Equity Transfer
Persistent degradation of value anticipated	
Time, holding structure, or impairment necessitates liquidity / transaction	Foreclosure / Receivership / Sale
Competing collateral interest / unencumbered or under levered asset pools / competing priority claims	
Lack of motivation / attractive basis for reinvestment	Bankruptcy Process

Potential Lender Remedies

Options for Documenting a Workout

Temporary Waiver	• Waives default for **finite** period of time • Allows lender to continue to evaluate the situation
Permanent Waiver	• Waives default for all purposes • Eliminates rights of lender to pursue remedies based on default
Forbearance Agreement	• Preserves default but precludes lender from exercising remedies for a period of time • Usually premised on future borrower performance
Amendment	• Eliminates default for all purposes • Memorializes new agreement among borrower and lender
Discounted Payoff Agreement	• Provides for release of lender's lien upon payment of a portion of loan balance • Ends relationship between lender and borrower
Deed In Lieu	• Conveyance of property to lender or designee • Release of borrower (but may preserve claims against guarantor)

Pursuing the Guaranty

Key Legal Issues

- **Borrower Bankruptcy – doesn't automatically stay claims against guarantor**
  - Bankruptcy Doesn't Automatically Stay Claims Against Guarantor
  - Bankruptcy Court May Extend Temporary Stay to Protect Guarantors (injunction standard)
- **Process for Pursuit:**
  - Demand Letter (review guaranty and loan agreement; check address updates)
  - Lawsuit (Complaint or Motion for Summary Judgment)
  - Above the Line Recourse – Requires Loss
- **Guarantor Defenses:**
  - One Action Rule/Election of Remedies
  - Anti-Deficiency/Sale Confirmation
  - Community Property Issues
  - (Extensive) Waivers of Defenses in Guarantees
  - Wrongful Foreclosure
- **Timing:**
  - Lawsuit – 8-18 months+
  - Motion for Summary Judgment (N.Y.) – 3 months
- **Execution & Collection**

Mezz Loan Remedies – Foreclosure of Pledge

Because collateral (equity interest) is personal property enforcement is under Uniform Commercial Code (UCC) – **Generally consistent across all states**

To foreclose on the pledged collateral:

- A default (which can include a cross-default) must occur under the mezzanine loan.
- The foreclosure must be reasonable in method, manner, time and place.
- The mezzanine borrower and other parties in interest must have timely notice of the foreclosure.
- The three basic methods to foreclose pledged collateral are:
  - Private disposition
  - Public disposition
  - Strict Foreclosure

The mezzanine loan foreclosure does not affect either the existence or terms of the mortgage loan or the mortgage lender's lien on the property

If after foreclosing the mezzanine loan, the new mezzanine lender cannot prevent a mortgage default, the mezzanine lender’s interest can be wiped out by a subsequent foreclosure of the mortgage loan

Article 9 Foreclosure

Article 9 of the UCC provides a framework to allow a secured party to foreclose its security interest in personal property after a default without judicial proceedings

ADVANTAGES

- Substantially uniform across all states
- An Article 9 sale may be accomplished very quickly, if “friendly”
- Because there is no court involvement, Article 9 sales can be cost-effective
- A secured party retains the right to pursue the debtor and any guarantors for a deficiency claim

DISADVANTAGES

- Notice is required and sale must be “commercially reasonable”
- Interested parties can commence litigation to obtain an injunction against the Article 9 sale
- The buyer does not receive an order holding that the sale is free and clear of liens
- An Article 9 sale cannot be used to sell mortgaged real property

UCC: Public Sale

A UCC disposition must be "reasonable" at each stage of the sale, including:

Debtor / secured party must give proper notice of the sale. At minimum, notice must go to any entity that has a secured interest in the company (whether UCC or statutory).

- Generally, the timing of notice is deemed reasonable if it is given at least 10 days in advance of the sale and includes specific information, including identifying the debtor, the collateral, and the time and place of the disposition.
- There is a "safe harbor" that the persons noticed are presumptively reasonable if the secured lender notifies anyone that held an interest in the company not less than 20 days but not more than 30 days prior to the disposition. However, there is little case law surrounding this safe harbor.

KEY RISKS

- Following notice, sponsor / company may put the company into bankruptcy in lieu of permitting the foreclosure sale.
- Sponsor / company may seek to enjoin a foreclosure sale in other ways, including filing an injunction or a TRO in state or federal court.
- Similarly other third parties that receive notice may seek to throw a wrench in the foreclosure by filing the company for an involuntary bankruptcy filing or otherwise seeking court relief to halt the sale.
- A buyer may have heightened exposure to successor liability claims that would largely be eliminated if the assets were acquired through a bankruptcy filing.

Sale of Distressed Note & Mortgage

"As Is, Where Is" Transaction

- Limited representations and warranties
- Limited Indemnities
- Caps on Amount and Time for Indemnity
- Floor for Indemnity Claims

Speed and Certainty of Closing v. Price

Marketing Process

- Off Market Sale
- Broker
- Debt X

Question: Will Lender Allow Borrower to Participate in Sale?

Benefits

- Protect some potential upside in rebound
- Maintain control of the Property
- May result in higher bid that reduces potential exposure

Risks

- Lender gets sneak peak at Borrower financial wherewithal
- Could trigger recourse (will need carveout)
- Potential tax consequences on CODI

Lender Liability Issues

Lender Liability: What Is It?

Lender Liability refers to an umbrella of claims alleging lender misconduct and liability

- **Control Over Borrower**
  - Control (e.g., making day to day decisions for borrower)
  - Fiduciary Duty (e.g., lender takes on role of business advisor to borrower)
  - Direct Liability as Principal (e.g., lender holds itself out as controlling borrower)
  - Environmental (e.g., lender acts as an owner or operator or asset manager)
  - Mortgagee in Possession
- **Administration**
  - Breach of Loan Commitments (e.g., failure to fund when required)
  - Fraud (e.g., threatening actions with no intention to follow through)
  - Negligence (e.g., with borrower's collateral or with servicing standards)
  - Good Faith, Fair Dealing and Acting Consistently (e.g., changing course of dealing re: accepting loan payments
  - Construction Issues (e.g., failure to use due care after foreclosing)
- **Third Party Involvement**
  - Interference with borrower's contractual third-party relationships (e.g., tenants, prospective tenants, brokers)
  - Confidentiality Breaches
- **Bad Acts**
  - Economic Duress (e.g., lender conditions its compliance with existing funding obligations based on additional consideration;)
  - Aiding and Abetting borrower's fraud (e.g., lender aware but stays silent)

Lender Liability: Why Does It Matter?

Lender Liability claims are typically asserted by Borrowers and Guarantors to gain leverage

- **Successful Claims Can Result In:**
  - equitable subordination (i.e., loan becomes junior in priority)
  - excuse of performance by borrower
  - money damages, including punitive damages
  - injunctive relief
  - vote designation in borrower's bankruptcy case
- **Impacts Lender's Business By:**
  - diversion of time, energy, resources and focus
  - increased legal fees and other dispute-related costs
  - negative impact on industry reputation
  - sets bad precedent, both internal and external
- **How do Lenders get in trouble?**
  - not following best practices
  - treating conversations and communications too loosely
  - not thinking defensively (i.e., acting so as to avoid claims)
  - not fully understanding loan provisions, rights and remedies

Lender's Claim in Bankruptcy: Risks

Equitable Subordination

- Bankruptcy Court subordinates Lender's debt to debts of other creditors or to equity interests of shareholders.
- *See In re Yellowstone Mountain Club, LLC*, No. 08-61570-11, 2009 WL 3094930, at *8 (Bankr. D. Mont. May 12, 2009), *vacated*, No. 08-61570-11-RBK, 2009 WL 10624435 (Bankr. D. Mont. June 29, 2009) ("Credit Suisse's actions in the case were so far overreaching and self-serving that they shocked the conscience of the Court.").

Recharacterization

- Bankruptcy Court recharacterizes Lender's debt as equity.

Equitable Disallowance

- Minority of courts recognize theory to disallow a Lender's claims on equitable grounds.

Vote Designation in Confirmation Process

- Not a true "cause of action," but a Bankruptcy Court can significantly impair a Lender's ability to protect its rights in plan confirmation process by nullifying Lender's confirmation votes.

Equitable Subordination & Recharacterization

Sponsor serves as Secured Lender and an individual Creditor requests Sponsor's claim to be equitably subordinated or recharacterized. What is the risk to the Sponsor?

- A subordination claim against an insider will be analyzed under heightened scrutiny but will still require more than a mere allegation.
- Was there an equity relationship between Sponsor and Debtor?
  - Undercapitalization: A guaranty provided by an "insider" is not *per se* undercapitalization.
  - Waiving fees and entering into a forbearance agreement do not on their own indicate an equity relationship.
- If Sponsor plays both a debt and equity role, do the relevant transactions demonstrate that the Sponsor was able to "clearly identify and document debt versus equity arrangements"?
  - *See In re Optim Energy, LLC*, No. 14-10262 (BLS), 2014 Bankr. LEXIS 2155 (Bankr. D. Del. May 13, 2014).

Lender Liability: **What It Is Not**

- It is **not** enforcing terms of loan documents as written.
- It is **not** enforcing Lender's rights and remedies under applicable state or federal law.
- It is **not** Lender refusing to advance new money if Borrower/Debtor is in default.
- It is **not** Lender making additional "protective" loans to a distressed Borrower.
- It is **not** Lender refusing to amend a loan, waive a default or enter into a forbearance agreement.
- It is **not** Lender asking for or receiving additional collateral for a loan as consideration to waive, or forbear from enforcing, a default.
- It is **not** Lender requiring Borrower/Debtor to retain an advisor as a condition to forbear or waive a default, so long as Lender does not control advisor and his/her decision-making.

Best Practices

Policy Actions

- **Follow Standard Practices**. Follow normal internal procedures. Escalate as appropriate. Consult/involve in-house/external counsel, even early on. Deviation from standard practices or making a hasty/quick decision, may expose the borrower or guarantor to recourse liability or worse. Get buy-in from all parties early.
- **Communication Is an Art**. Communications should be accurate, objective, succinct and unemotional. Applies to external and internal communication (internal could be disclosed in litigation), including text messages and voice recordings. Be detailed in what you are sending. Add appropriate disclaimers. External verbal communications may require two people (for validation purposes).
- **Be Judicious**. Exercise discretion wisely – don't act quickly or just because you can. Think through all consequences in advance.

Early Assessment Practices

- **Know Your Documents**. Know exactly what the loan documents say – make no assumptions.
- **Early Audits**. Goes for loan files too – legal audit of all correspondence, credit and collateral files.
- **Is Proper Documentation in Place?** Default notices, pre-negotiation agreements, reservation of rights letters, strict compliance letters.
- **Early Warning Signs?** Identify early signs of distress (e.g., loss of large tenant, declining rent collections, worsening local market conditions, nearing maturity, etc.). Being proactive can lead to more restructuring options, sponsor/lender cooperation, and better outcomes.
- **Back to Square One**. If any deviation exists from standard practices or loan document requirements, lender should send a strict compliance notice to begin enforcing loan as written.

Best Practices

Legal Involvement

- **Attorney-Client Privilege Matters**. Know the importance of attorney/client privilege and how easily it can be waived by sending a copy of a communication to an outsider, like a broker or consultant (or a borrower or lender). Hold this dear and close.
- **Early In-House Involvement Is Key**. At first sign that a loan may be in trouble, in-house counsel should be made aware. If problems are not solved early, involve counsel and multiple parties in responses.

When Taking Action…

- **Stay in Your Lane**. Lender is a lender – not an owner. As a lender, think through lender liability claims (even without merit). As a borrower, do not allow the lender to push a breach, refuse to honor or refuse to make payments under contracts to others.
- **Don't Take Actions Outside of Your Documents**. Do not take actions not permitted under your loan documents. Doing so can be very problematic if not specifically set forth in the documents (e.g., using/moving cash in contravention of cash management provisions).
- **Know What Can Trigger Recourse Liability**. As a borrower, confirm that the action(s) you are about to take will not trigger recourse liability for the borrower or guarantor. If you are unsure, consult your attorneys.
- **Think Through the Counterparties' Likely Next Moves.** Most bank lenders have experienced workout professionals and asset managers who have been through numerous situations. Experienced sponsors may have the same or may engage a work-out advisor. Use your advisors to help you game plan the likely next steps, responses, and outcomes to help you achieve your desired end result.

Guarantor Issues and Liability Triggers

Possible Guarantor Liability

Types of Guaranties

- Payment Guaranty
- Completion Guaranty
- Carry Cost Guaranty
- Non-Recourse (Bad Acts) Guaranty
- Environmental Indemnity

Bad Act Guaranties

- Many commercial mortgage loans are structured as non-recourse loans
- "Bad act," "Bad-boy" or "non-recourse carve-out" guaranty used as deterrent
- Guarantor personally liable if certain "bad act" events occur
  - Prohibited acts:
    - Waste, fraud, etc.
    - Bankruptcy of borrower (both voluntary and involuntary)
    - Borrower consenting to or acquiescing in or joining in an application for the appointment of a receiver for borrower or the Property
    - Borrower admitting in writing its insolvency or inability to pay debts as they come due
    - Failing to maintain SPE status

NOTE: Waiver of any rights to assert claims for contribution, indemnity and subrogation

Other Guaranties

- Know what other obligations may arise under the other guaranties (e.g., does your completion guaranty include commenced tenant improvements, is the payment guaranty limited, etc.?).
- Are there burn-offs or other possible releases the lender should be aware of (e.g., a “tender” provision under a carry guaranty, sunset provisions in the environmental indemnity)?
- What is the possible exposure to Guarantor – if there is material exposure under a completion guaranty or a carry guaranty, or if there is a payment guaranty, then walking away becomes less of an option for guarantor.

Thad Wilson

Thad Wilson
Partner
Corporate, Finance and Investments

Atlanta: +1 404 572 4842
thadwilson@kslaw.com

King & Spalding

Thad Wilson is a partner, trusted counselor, and skilled attorney who represents financial institutions, companies, directors and officers, and other parties in stressed and distressed situations and related litigation, including in Chapter 11 bankruptcies, out-of-court restructurings, foreclosures, assignments for the benefit of creditors, and other corporate and insolvency matters.

Recognized as a leading bankruptcy lawyer in Chambers USA and as 2023 Georgia Bankruptcy Litigation “Lawyer of the Year” by *Best Lawyers*, where his clients commend him for being an "excellent lawyer who is strategic and deal-oriented" and for "help[ing]. . . navigate complex processes,” Thad specializes in representing parties in high-stakes litigation, jury trials, and insolvency proceedings involving lender liability, creditors’ rights, fraudulent transfers, and alter ego. Thad also frequently advises boards of directors and special board committees in connection with restructurings and liability management transactions, constructing bankruptcy-related corporate compliance programs, and defending against government investigations. Many of Thad's matters have involved real estate restructurings and disputes, as well as cryptocurrency, technology, media and telecom, energy, healthcare, and financial services ventures and companies.

In 2021, Thad was honored for his legal accomplishments and community involvement by the Atlanta Business Chronicle as one of Atlanta's "40 Under 40," along with other "up and comers," including a U.S. Senator and a former Major League Baseball MVP. Thad is deeply devoted to the Atlanta community and a proud member of the board of directors of the YMCA of Metro Atlanta.

Thad has been interviewed on television and podcasts and has been quoted in numerous publications, including the *Wall Street Journal*, *Yahoo Finance*, *Bloomberg News*, on a variety of financial and bankruptcy-related topics.

Christine O’Connell

Christine O’Connell
Partner
Corporate, Finance and Investments

New York: +1 212 556 2101
ckoconnell@kslaw.com

Christine O’Connell is a partner in King & Spalding’s Corporate, Finance and Investments practice. She represents major investment banks, private equity funds, and other institutional lenders in the origination, acquisition, disposition, and restructuring of both mortgage and mezzanine construction, bridge, balance sheet, and securitized loans and preferred equity investments in connection with the acquisition, development, redevelopment, and refinancing of various asset classes throughout the United States.

In addition, Ms. O'Connell advises clients on structuring and negotiating complex loan transactions, from loan origination to the restructuring and work out of, and the exercise of remedies (including foreclosures and deed in lieu of foreclosure arrangements) under, such loans. Ms. O'Connell has experience working on the formation of joint ventures, corporations, limited partnerships, and limited liability companies in connection with her representation of developers, investors, property managers, and hotel owners in a variety of transactions that include the purchase, sale, and financing of various real estate assets.

Scott Levine

Scott Levine
Partner
Corporate, Finance and Investments
(Real Estate)

New York: +1 212 556 2326
slevine@kslaw.com

Scott Levine is a partner in King & Spalding's Corporate, Finance and Investments practice. He focuses on both commercial real estate finance and development. Mr. Levine represents a diverse group of clients, including institutional bank and fund lenders, property owners and operators and institutional investors.

Mr. Levine advises on many aspects of real estate transactions, including regularly representing a variety of lenders in mortgage and mezzanine originations, workouts and restructurings. He also advises on the acquisition, financing, holding and disposition of lodging and hospitality properties, shopping centers, office buildings, mixed-use projects and undeveloped land throughout the United States.

Israel Dahan

Israel Dahan
Partner
Trial and Global Disputes

New York: +1 212 556 2114
idahan@kslaw.com

Israel Dahan focuses on high-stakes litigation matters. For over 20 years, Israel has represented public and private companies, financial institutions, corporate executives and other individuals involved in state and federal shareholder securities class actions and derivative actions, as well as in complex commercial litigation matters. He has extensive experience litigating cases involving the federal securities laws, the fiduciary obligations of corporate directors, fraud, RICO, tortious conduct and breach of contract.

In addition, Israel has defended debtors, secured lenders, and other creditors and individuals in bankruptcy litigation matters, including those involving claims for fraudulent conveyance, preferential transfers, equitable subordination, breach of fiduciary duty and corporate veil piercing.

He also has represented and advised companies Involved in internal investigations, and investigations and regulatory proceedings pursued by U.S. and foreign regulators.