

Hidden Tax Liens Loom Larger: Sixth Circuit Promotes Less Stringent Notice Requirements for IRS and More Cumbersome Search Protocols for Secured Lenders

By James J. Holman

Secured lenders are now accustomed to the stringent requirements for capturing a borrower's name "letter-perfect" on financing statements under UCC § 9-503(1). Even the simplest deviation from this requirement may jeopardize the validity of a filed financing statement and open the lender up to potential lien and priority challenges, particularly in the context of a borrower's bankruptcy case. With its June 21, 2005, decision in *United States v. Crestmark Bank*, the United States Court of Appeals for the Sixth Circuit refused to apply the same strict "letter-perfect" name requirement to the Internal Revenue Service (the "IRS") when it files a notice of tax lien against a delinquent taxpayer. In the wake of *Crestmark*, secured lenders monitoring their borrowers' tax compliance must search broadly in order to ensure that their liens are not compromised by priming tax liens that might otherwise go undetected if a search were limited only to the borrower's correct legal name.

In *Crestmark*, Spearing Tool and Manufacturing Co. (the "Borrower") entered into secured financing arrangements (the "Credit Facilities") with Crestmark Bank and Crestmark Financial Corporation (together, the "Lender"). As security for the Credit Facilities, the Borrower pledged to the Lender a security interest in essentially all of its assets. The Lender perfected its security interest by filing financing statements bearing the Borrower's precise legal name in the office of the Michigan Secretary of State as required by Michigan's adoption of UCC § 9-503(1).

Following extension of the Credit Facilities, the Borrower failed to keep current its federal employment tax obligations. On October 15, 2001, the IRS filed notices of tax lien against the Borrower that identified "Spearing Tool & Mfg. Company Inc." as the delinquent taxpayer. Although the Lender periodically searched the Secretary of State's Office for tax lien filings, it did so using the Borrower's

exact legal name and therefore did not uncover the tax lien filings made by the IRS, which used abbreviations rather than the correct legal name. The Lender also ignored initial warnings from the Secretary of State's office that it "may wish to search" under the alternative name. Following the Borrower's ultimate bankruptcy filing, the Lender sued the IRS to determine the validity, extent and priority of the tax liens specifically as they related to the Lender's properly perfected liens under the Michigan UCC.

On the IRS' appeal, the Lender argued that the IRS' failure to use the Borrower's precise legal name violated Michigan state law with respect to the required form of a lien notice, and that the tax liens against the Borrower therefore were invalid to the extent that they impacted the Lender's prior perfected security interest. The court of appeals rejected this position and held that: (1) federal law, not state law, governs the form of notice required for the IRS to comply with the federal tax lien statute; and (2) the IRS complied with the federal law requirements by providing information about the taxpayer such that a "reasonable and diligent search would have revealed the notices of the federal tax liens."

Following *Crestmark*, lenders should consider trying to protect themselves against potentially priming federal tax liens on a borrower's assets by obtaining broader searches in the applicable state office designated for federal tax lien filings. Commonly abbreviated corporate names should be included in searches. Lenders should also ascertain the name in the IRS records for the borrower's taxpayer identification number. Moreover, to the extent that the state office identifies a possible relevant variation such as the Michigan office did in *Crestmark*, a lender should proceed to conduct a search under this name to ensure that all reasonable steps are taken to identify and address potentially priming tax liens. |||

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Settlement Payments, the Stockbroker Defense and the Enron Cases

By Christopher J. Redd

Stockbrokers Beware: When Payments Are NOT Common in the Securities Trade

Section 546(e) of the Bankruptcy Code (the “Code”) limits the ability of a trustee or debtor in possession to avoid a transfer of property (either as a preference or as a constructively fraudulent transfer) to the extent the transfer constitutes a settlement payment made by or to a commodity broker, forward contract merchant, stockbroker, financial institution or securities clearing agency. This provision, at least as it relates to the settlement of securities transactions, has been referred to as the “stockbroker defense” and is just one of several safe-harbor provisions in the Code designed to protect financial markets from the disruption that might occur as the result of a market participant’s insolvency. The scope of this so-called stockbroker defense, however, has been the subject of much litigation and conflicting opinions among the courts.

The United States Bankruptcy Court for the Southern District of New York also addressed issues of whether payments under certain arguably unusual (if not intentionally fraudulent) transactions constituted settlement payments under § 546(e).

The root of the conflict can be traced to the definition of the term “settlement payment” in the Code. With respect to securities transactions, “settlement payment” is defined in § 741(8) as “a preliminary settlement payment, a partial settlement payment, an interim settlement payment, a settlement payment on account, a final settlement payment, or any other similar payment commonly used in the securities trade.” The circularity and open-endedness of the definition have simply left too much room for interpretation.

Indeed, in the past, several courts considering application of § 546(e) have interpreted the term “settlement payment” in an extremely broad manner as essentially any payment made toward the completion of any type of securities transaction. *See, e.g., Bevill, Bresler & Schulman Asset Mgmt. Corp. v. Spencer Sav. & Loan Ass’n*, 878 F.2d 742, 751 (3d Cir. 1989). Other courts, however, have balked at

giving the statutory language such a broad meaning in cases where the multi-party clearing system of intermediaries and guarantees used in the public securities markets is not implicated. *See, e.g., Jackson v. Mishkin (In re Adler; Coleman Clearing Corp.)*, 263 B.R. 406, 479 (S.D.N.Y. 2001). For these latter courts, protecting transactions not involving the clearance system would do damage to one of the primary policies behind the use of avoidance powers in bankruptcy cases, i.e., the preservation of the debtor’s estate for all creditors. A split of authority is evident in cases involving failed leveraged buy-outs of publicly traded securities where the cash and securities are distributed through a financial intermediary. *Compare, e.g., Lowenschuss v. Resorts Int’l, Inc. (In re Resorts Int’l, Inc.)*, 181 F.3d 505, 516 (3d Cir. 1999) and *In re Kaiser Steel*, 952 F.2d at 1239 with *Munford v. Valuation Research Corp.*, 98 F.3d 604, 610 (11th Cir. 1996) and *Wieboldt Stores*, 131 B.R. at 664.

It should be noted, though, that not all securities cases (not even all LBO cases) involve publicly traded securities. In cases involving purely private transactions, the courts appear to be more aligned in refusing to apply § 546(e). *See, e.g., Kipperman v. Circle Trust (In re Grafton Partners L.P.)*, 321 B.R. 527, 529 (B.A.P. 9th Cir. 2005) (finding “non-public transactions in illegally unregistered securities are not ‘commonly used in the securities trade’”). In a recent trend, courts have also declined to apply § 546(e) to protect transactions tainted by fraud, illegality or other irregularities. *See Adler Coleman Clearing Corp.*, 263 B.R. at 481 and *Grafton Partners*, 321 B.R. at 529. While § 546(e) does not protect settlement payments determined to be intentionally fraudulent transfers received by a transferee in bad faith, in many cases intentional fraud and bad faith may not be present or provable. In two recently published opinions arising out of the *Enron* cases, the United States Bankruptcy Court for the Southern District of New York also addressed issues of whether payments under certain arguably unusual (if not intentionally fraudulent) transactions constituted settlement payments under § 546(e).

The Enron Cases

The first case, *Enron Corp. v. Bear, Stearns Int’l Ltd. (In re Enron Corp.)*, 323 B.R. 857 (Bankr. S.D.N.Y.

2005) (*Enron I*), involved an equity forward transaction in which Enron agreed to purchase shares of its own publicly traded common stock from Bear, Stearns International Limited and Bear, Stearns Securities Corp. (“Bear Stearns”) at a specified price per share and at a specified future termination date. According to various SEC filings, Enron entered into these types of transactions, at least in part, to hedge against the increased cost (if its stock price rose) of complying with certain incentive-based employee compensation plans. The record in the case reflected that Bear Stearns purchased Enron stock from third parties to hedge its contractual obligations to Enron. The transaction documents contained a provision evidencing the intent of the parties such that Bear Stearns would not have “any of the rights that rank senior to a common shareholder of Enron Corp.”

The original terms of the forward transaction, entered into in May 2000, required Enron to purchase 323,000 shares of Enron stock at a per share price of \$79.415 (subject to certain adjustments) on May 24, 2001. While the parties subsequently amended the terms of the transaction to increase the per share price and extend the termination date, Enron ultimately settled the forward transaction on August 22, 2001, by paying Bear Stearns approximately \$26 million in exchange for the 323,000 shares. Enron Corp.’s stock was trading at \$36.68 per share on the agreed termination date, which was only three and one-half months before the company’s bankruptcy filing.

After Enron commenced its bankruptcy cases on December 2, 2001, the company brought an adversary proceeding against Bear Stearns claiming that the \$26 million payment was avoidable as a constructively fraudulent transfer, and that the payment violated Oregon state law (Enron Corp. was incorporated in Oregon) as an unlawful stock redemption or distribution to a stockholder while the company was insolvent. Bear Stearns filed a motion to dismiss the adversary proceeding, asserting that Enron’s attempt to avoid the payment was barred by the stockbroker defense, i.e., the payment constituted a settlement payment to a stockbroker and a forward contract merchant under § 546(e).

Significant portions of the parties’ briefs focused on

the conflicting case law regarding the stockbroker defense initially developed by the cases cited above. Bear Stearns argued that the \$26 million payment was clearly a “settlement payment” to a stockbroker under § 546(e), citing the cases that interpreted the term broadly. Citing *Munford* and *Wieboldt*, Enron argued that the transaction was a “one-off” private transaction between two parties that, if unwound,

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would have no impact on the public markets.

In the end, the court focused on Enron’s argument that the payment violated Oregon’s corporation law as an unlawful distribution to a shareholder while the company was insolvent. Citing *Adler Coleman Clearing*, Enron had argued that the illegal and void payment could not be considered a settlement payment “commonly used” in either the securities or forward contract trade. The court seemed to accept this argument, assuming for the purposes of the motion to dismiss that Enron was insolvent at the time, or as a result, of the payment. The court went a step further, however, by holding that no settlement payment had occurred because there was no valid securities transaction to settle. Since, under Oregon law, the payment and the transaction as a whole were deemed void (as opposed to voidable), the protection offered to settlement payments by § 546(e) would not apply.

The question of whether certain payments were, in fact, “commonly used in the securities trade” was determined to be an issue reserved for trial in the second *Enron* case. In *Enron Corp. v. J.P. Morgan Securities, Inc. (In re Enron Corp.)*, 325 B.R. 671 (Bankr. S.D.N.Y. 2005) (*Enron II*), Enron was seeking to recover for its estate certain payments it made within 90 days of its bankruptcy filing on account of unsecured and uncertificated short-term commercial paper notes it had previously issued through J.P. Morgan. The offering memorandum pursuant to which the notes were issued provided that the notes were not redeemable or subject to voluntary

prepayment prior to maturity. Nevertheless, in a series of transactions shortly before its bankruptcy, Enron paid over \$1 billion to the defendants on account of the notes. The payments were made to and through J.P. Morgan and certain other securities brokers.

Enron alleged that the payments amounted to prepayments of the notes prior to maturity and, further, that the par value paid on the notes was significantly more than the notes' market value. Enron therefore sued to recover the payments as both preferential and fraudulent transfers. Various of the defendants filed motions to dismiss the claims, arguing that the payments were not prepayments on the debt evidenced by the notes, but were instead settlement payments on account of the purchase price for the notes, which were securities. Thus, the defendants argued that the stockbroker defense of

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§ 546(e) applied to bar Enron's preference and fraudulent transfer claims.

The court denied the motions to dismiss, holding that a number of factual issues would have to be determined at trial, including the issue as to whether the payments were made on account of antecedent debt or for the purchase of "securities" as that term is defined in the Code. Assuming that the notes were securities, however, the court also held that evidence must be presented as to whether payments prior to the maturity date at significantly above market prices and contrary to the offering memorandum could constitute settlement payments commonly used in the securities trade. While it is impossible to predict the outcome of any trial on this issue, the tone of the opinion suggests that the court had its doubts as to whether the defendants could make the necessary evidentiary showing.

The *Enron* decisions will give many in the securities and other financial market industries reason for

concern. It should be noted that the International Swaps and Derivatives Association, the Securities Industry Association and the Bond Market Association filed a joint *amicus curiae* brief supporting Bear Stearns' motion to dismiss in *Enron I*. The Bond Market Association filed another *amicus curiae* brief supporting the defendants' motions to dismiss in *Enron II*. These industry observers and other market participants are likely to argue that the decisions represent an overly restrictive view of § 546(e) and the other safe harbor provisions of the Code, and that these types of decisions could ultimately put financial markets at risk; in fact, denying application of § 546(e) in *Enron II* could mean the unwinding of a large number of payments to close to a hundred defendants.

On the other hand, the safe harbor provisions such as § 546(e) were primarily designed to protect ordinary or routine transaction payments. Certainly one could at least legitimately question whether the payments made by Enron as outlined in *Enron I* and *Enron II* were ordinary or "common" in the securities trade. While there may be legitimate reasons – and it may even be perfectly lawful or even ordinary in most circumstances – for large corporations to enter into transactions involving their own publicly traded securities, these types of transactions raise characterization issues that are simply not present in cases where the underlying securities are issued by a third party. For instance, had the stock which was the subject of the equity forward agreement in *Enron I* been issued by an unaffiliated third party, the purchase of the stock could not have been considered a distribution to a shareholder. Similarly, the purchase of notes in *Enron II* could not be considered a payment of debt if the notes were not issued by Enron.

In the end, the lesson for financial institutions is that when they engage in transactions that, either themselves or due to their use in a particular situation, push the boundaries of what is common in the industry, they risk having the payments they receive in connection with such transactions exposed to attack as constituting preferential or fraudulent transfers. In sum, financial institutions should not assume that § 546(e) will protect every payment that a party to the transaction might label a "settlement payment." |||

Collection Efforts Don't Necessarily Thwart the Ordinary Course Defense

By Rudolph J. Di Massa, Jr. and Wendy M. Simkulak

Both bankruptcy and non-bankruptcy practitioners are aware that a trustee (or a debtor) can avoid certain transfers made by a debtor prior to a filing under 11 U.S.C. § 101, *et seq.* (the “Bankruptcy Code”). In particular, pursuant to § 547(b) of the Bankruptcy Code, the trustee may avoid any transfer of an interest of the debtor in property (1) to or for the benefit of a creditor; (2) for or on account of an antecedent debt; (3) made while the debtor was insolvent; (4) made within 90 days before the date of the filing of the petition; and (5) that enables the creditor to receive more than such creditor would receive if the case were a case under chapter 7 of this title. These “preferential transfers” can be recovered for the benefit of the debtor’s estate pursuant to § 550 of the Bankruptcy Code.

The Bankruptcy Code recognizes certain defenses to the avoidance and recovery of preferential transfers. Specifically, § 547(c)(2) outlines the “ordinary course of business” defense, which provides that a trustee cannot avoid a transfer to the extent that: (A) the underlying debt on which payment was made was incurred in the ordinary course of business or financial affairs of the parties; (B) the transfer was made in the ordinary course of business or financial affairs of the parties; and (C) the transfer was made according to ordinary business terms. The transferee must prove each of these elements of the defense by a preponderance of the evidence. Section 547 was drafted with the intent to allow a debtor or trustee to recover transfers which “preferred” one creditor over another: a pre-petition debtor, recognizing the inevitability of bankruptcy, might pay certain creditors with which it had a special relationship, or those whose favor it wished to curry with an eye toward doing business once it emerged from bankruptcy. As articulated by the court in *Howard v. Bangor Hydro Electric Co. (In re Bangor & Aroostook Railroad Co.)*, 324 B.R. 164 (Bankr. D. Me. 2005), the intent of the ordinary course of business defense is “to leave normal financial relations undisturbed because their occurrence does not offend the general preference recovery policy, aimed at discouraging ‘unusual action by either the debtor or his creditors during the debtor’s slide into bankruptcy.’”

In *Bangor*, Bangor & Aroostook Railroad Company and Canadian American Railroad Company

(collectively, the “Debtors”) maintained 48 accounts with Bangor Hydro-Electric Company (“Bangor Hydro”). In the 90 days prior to the filing of the Debtors’ bankruptcy petition (also known as the preference period), the pre-petition Debtors transferred \$62,023.71 to Bangor Hydro for payment on overdue electric utility bills. The payment of these transfers roughly mirrored the historical payment delinquency rate that existed between the Debtors and Bangor Hydro prior to the preference period. Another relatively common practice which developed during Bangor Hydro’s dealings with the pre-petition Debtors was Bangor Hydro’s implementation of collection measures in order to shake some payment loose from those two railroad companies, which were habitually late in their payment of Bangor Hydro’s invoices.

...the court found that the Debtors’ “payment practices during the preference period reflect no remarkable departure from the parties’ longstanding course of dealing.”

After the Debtors filed for chapter 11 protection, their trustee sought to recover the \$62,023.71 as preferential under § 547 of the Bankruptcy Code. The parties did not dispute the first element of the ordinary course of business defense, but they did dispute the second and third.

In order to determine whether the transfers were made in the ordinary course of business, the court analyzed the pre-preference period relationship between the Debtors and Bangor Hydro. In particular, the court focused on the four most active accounts and reviewed the payment practices over several different intervals of pre-preference period time – 3 months, 9 months and 24 months. The court compared the pre-preference period averages to the preference period average for each account individually. Noting that historically the Debtors were late with payments and that for some accounts the “payment history was erratic,” the court found that the Debtors’ “payment practices during the preference period reflect no remarkable departure from the parties’ longstanding course of dealing.”

Additionally, relying upon an affidavit of a Bangor Hydro employee, the court found that when a customer account was delinquent, Bangor Hydro's standard practice was to employ collection methods, including making dunning phone calls and entering into payment plans. The court further found that historically "[t]he 'collection mode' became routine (as between Bangor Hydro and the Debtors), as did Bangor Hydro's acceptance of late and erratic payments (from the Debtors)."

The lesson of *Bangor* is that counsel should analyze industry standards, as well as the historical dealings between the parties, in defending a preference action: what may facially seem "extraordinary" to many is not necessarily fatal to an "ordinary course" defense.

The trustee conceded that late payments can become "ordinary" between a debtor and a creditor. However, the trustee contended that because the subject payments were made in response to Bangor Hydro's collection efforts, they could not, as a matter of law, be characterized as ordinary course payments. The court disagreed. Noting that such a bright line rule would in effect exclude from the ordinary course of business defense all payments made after a creditor initiates collection activity, the court rejected the trustee's argument and held that Bangor Hydro had satisfied its burden of proof with respect to § 547(c)(2)(B).

Unlike the first and second prongs of the defense, which focus on the relationship between the parties, the third prong, commonly referred to as the "objective" test, considers the practices within the creditor's industry. It is generally accepted that "only dealings so idiosyncratic as to fall outside [the broad range of practice in the creditor's industry] should be deemed extraordinary and therefore outside the scope

of § 547(c)(2)(C)." Relying on affidavits from an employee of Bangor Hydro and an employee of one of Bangor Hydro's competitors, the court found that electric utilities in Maine often take various steps to collect from delinquent customers and tolerate chronic performance outside regular invoice terms. Similar to his argument on the second prong, the trustee urged that industry practices regarding financially distressed debtors do not reflect "ordinary business terms" under § 547(c)(2)(C). Once again, the court rejected the trustee's argument, stating "[i]f the terms in question are ordinary for industry participants under financial distress, then that is ordinary for the industry." Finding that the manner in which Bangor Hydro dealt with the Debtors was within normal industry practice for utility companies, the court held that Bangor Hydro satisfied the requirements of § 547(c)(2)(C). Accordingly, the transfers were protected from avoidance by virtue of the ordinary course of business defense outlined in § 547(c)(2) of the Bankruptcy Code.

The lesson of *Bangor* is that counsel should analyze industry standards, as well as the historical dealings between the parties, in defending a preference action: what may facially seem "extraordinary" to many is not necessarily fatal to an "ordinary course" defense. However, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the "Act") amends § 547(c)(2) to relieve a creditor from having to establish that a transfer was made within the ordinary course of business *both* as between the parties and within the industry generally. Therefore, for all adversary proceedings related to a bankruptcy case filed *after* the effective date (October 17, 2005) of the Act, a creditor can defend a payment from avoidance by a trustee if the payment was made in the ordinary course of business *either* between the parties or in the industry. For those adversary proceedings related to a bankruptcy case filed *before* October 17, 2005, however, a creditor will still have to prove that a payment was made in the ordinary course of business between the parties *and* in the industry. |||

About Duane Morris Attorneys

John Collen, of the Chicago office, moderated a CLE panel discussion on “Selling Real Estate in Bankruptcy” at the American Bankruptcy Institute’s Annual Spring Meeting, held in Washington, D.C. on April 30. John is co-chair of the Institute’s Real Estate Committee. As an adjunct professor, he will be teaching a course in partnership bankruptcy in St. John’s LL.M. program this fall.

Skip Di Massa, of the Philadelphia office, co-chaired the Mid-Atlantic Bankruptcy Workshop from August 4-6 in Cambridge, Maryland. This is the American Bankruptcy Institute’s first annual event for the mid-Atlantic region’s preeminent insolvency professionals.

Walter J. Greenhalgh, of the Newark office, will serve as a program panelist at the Essex County Bar Foundation Debtor-Creditor Committee’s Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 seminar to be held on September 29 in Newark, New Jersey. **David H. Stein**, of the Newark office, who will serve as a program moderator, currently is the ECBA Debtor-Creditor Committee Co-Chair. The panel will discuss the most significant changes in the law, affecting commercial and consumer law practitioners.

Jennifer Hertz, of the Boston office, was selected to attend the 2005 First Circuit Judicial Conference, a yearly gathering of judges and practitioners from the First Circuit, which took place in Newport, Rhode Island, from June 19-21. Ms. Hertz was selected to attend by the Bankruptcy Judges for the District of Massachusetts.

William Katchen, of the Newark office, will serve as a panelist at the New Jersey Turnaround Management Association’s Annual CFA, RMA, TMA Joint Networking Reception on September 28 in Iselin, New Jersey.

Larry Kotler, of the Philadelphia office, spoke on deepening insolvency at the American Bankruptcy Institute’s Southeast Bankruptcy Workshop held from July 28-30 on Kiawah Island, South Carolina. He will speak on “Issues Arising from Debt Trading in Mega Cases” at the Distressed Debt Summit 2005: Risks, Returns and Rewards. The conference will be held October 6-7 in New York City.

Ken Latimer, of the Chicago office, was recently selected to be included in the forthcoming 60th Diamond Edition of *Who’s Who in America*. This unique edition will profile the country’s most accomplished men and women from across all fields of endeavor.

Paul Moore, of the Boston office, served as Co-Chair at the Association of Insolvency and Restructuring Advisors (AIRA) 21st Annual Bankruptcy and Restructuring Conference held in Boston on June 15-18. He also moderated a panel discussion on “Parents and Subs: Issues When a Financially Challenged Company is ‘Part of the Family’” at the American Bankruptcy Institute’s 12th Annual Northeast Bankruptcy Conference, held in Brewster, Massachusetts, on July 14-17.

Neil P. Olack, of the Atlanta office, spoke on mediation as a form of alternative dispute resolution in bankruptcy cases at the American Bankruptcy Institute’s Southeast Bankruptcy Workshop held from July 28-30 on Kiawah Island, South Carolina. Neil also chaired ABI’s Annual Spring meeting held in Washington, D.C. from April 29 - May 1.

Chris Redd, of the Philadelphia office, published an article, “Treatment of Securities and Derivatives Transactions in Bankruptcy, Part I,” in the July/August issue of *The American Bankruptcy Institute Journal*. Part II of the article will appear in the September/October issue.

Margery Reed, of the Philadelphia office, was a guest speaker at the Risk Management Association’s Insurance Industry Credit and Risk Management Round Table that was held in Boston on June 7. She also was a featured speaker at an ABA CLE course titled “Enforceability of Prepayment Premium Provisions in Mortgage Loan Documents.” This teleconference and live audio webcast was held on July 11.

Diane Vuocolo, of the Philadelphia office, moderated a panel discussion on the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 for the New Jersey Institute for Continuing Legal Education. Kevin Ray, of the Philadelphia office, also participated in the panel.

Four of the Duane Morris Business Reorganization and Financial Restructuring partners were recently cited for excellence in the *Chambers USA* survey of the American legal profession. They are: **Kenneth Latimer**, of the Chicago office, for Banking & Finance; **Paul Moore**, of the Boston office, for Bankruptcy; **Margery Reed**, of the Philadelphia office, for Bankruptcy/Restructuring; and **Dave Sykes**, of the Philadelphia office, for Bankruptcy/Restructuring.

Fifteen Duane Morris’ Business Reorganization and Financial Restructuring partners were recently recognized as “SuperLawyers.” The designation was created by Law & Politics Media, Inc. to honor top lawyers, based on voting by their peers. Among the top lawyers in New Jersey, as reported by *New Jersey Monthly* magazine, are: **Walter Greenhalgh**, **Gregory Haworth**, **William Katchen** and **David Stein**, all of the Newark office. Among the top lawyers in Pennsylvania, as reported by *Philadelphia* magazine, are: **Brian Bisignani**, **Skip Di Massa**, **Jim Holman**, **Larry Kotler**, **Margery Reed**, **Dave Sykes** and **Lauren Lonergan Taylor**, all of the Philadelphia office; and **Joel Walker**, of the Pittsburgh office. In addition, **Skip Di Massa**, **Margery Reed**, and **Dave Sykes** were named to the publisher’s national “Top 100” lists, and **Margery Reed** also was named among the “Top 50 Female SuperLawyers” in Pennsylvania. **John Collen**, of the Chicago office, was named a “SuperLawyer” in the state of Illinois. **Neil P. Olack**, of the Atlanta office, was named a “SuperLawyer” in the state of Georgia. Finally, **Paul Moore**, of the Boston office, was listed by *Boston* magazine among the top lawyers in Massachusetts.

About Duane Morris

Duane Morris LLP, among the 100 largest law firms in the U.S., is a full-service firm with over 550 lawyers representing clients across the nation and around the world through 16 offices. Lawyers in our Business Reorganization and Financial Restructuring Practice Group work closely with each client, whether debtor, trustee, lender or creditor, to determine

appropriate strategies for deriving maximum value from a troubled entity. Clients draw on the firm's extensive reorganization experience gained during its involvement in many of the largest restructurings of the past three decades and the capabilities of a national team of bankruptcy lawyers in jurisdictions across the U.S. |||

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