Cullen | Dykman

Loan Workout

Obtaining maximum value when faced with a distressed loan, company or property starts well before the initiation of formal foreclosure or bankruptcy proceedings. We work with clients at all stages of the loan restructuring and workout processes to develop and execute strategies that are carefully tailored to the unique circumstances of any distressed situation. Taking a practical and business-oriented approach, the attorneys in our Loan Workout practice coordinate with members of our Banking and Financial Services, Bankruptcy and Creditors' Rights, Corporate, Real Estate, Taxation and Commercial Litigation practices to offer comprehensive solutions that reflect the complexities of the particular circumstances at hand. Our experience includes complex interstate transactions, sometimes involving creditors, lenders and borrowers across the country. Members of our group have appeared before federal and state courts from coast to coast.

Multidisciplinary Representation for Distressed Situations

Our team takes this approach in representing banks, factors, finance companies, family offices and other lenders, special servicers, buyers of distressed loans and properties, and investors in all aspects of loan restructurings and workouts, up to and including pre-bankruptcy planning and bankruptcy filings by borrowers.

Our attorneys advise clients on rights and remedies under all types of loan documents, including credit agreements, promissory notes, guaranties, mortgages, purchase agreements, pooling and servicing agreements, trust agreements, indentures, intercreditor agreements, aircraft leases, equipment leases, servicing agreements, and ISDA derivative agreements.

We provide representation for many different types of out of court distressed debt resolution, including restructurings, extensions and modifications, forbearance, perfection of security interests in various types of additional collateral, debt-to-equity conversions, note sales, deeds in lieu of foreclosure, confessions of judgment, loan assumptions, purchases and dispositions of REO property, assignments for the benefit of creditors and compositions.

If a loan workout is best done as part of a bankruptcy proceeding, for example if the borrower intends to sell property under the supervision of a bankruptcy court, our bankruptcy lawyers are well-versed and well-experienced in all aspects of the chapter 11 process, including Section 363 sales, plans of reorganization, and financing during a proceeding, including debtor-in-possession financing during the case or exit financing to help a borrower exit bankruptcy.

Our Loan Workout attorneys have represented clients in the context of all types of financings, including commercial mortgage loans, collateralized loan obligations, construction loans, bridge loans, mezzanine loans,

preferred equity investments, single and multiple bank lines of credit, and syndicated credits. We also provide true sale, safe harbor and substantive non-consolidation opinion letters in support of various transactions.

Workout Presentations

Our team regularly presents at our financial institution clients about various workout topics and we would be happy to present to your lenders, credit folks and workout officers either in person or virtually (or hybrid). An example of one such webinar, entitled Working Out Troubled Credits Begins At Loan Origination, can be accessed using the following link: https://www.cullenllp.com/blog/webinar-recording-working-out-troubled-credits-begins-at-loan-origination/

Representative Experience

- Represented numerous national and regional banks in hundreds of loan workouts and chapter 11 bankruptcies of all kinds and sizes.
- Represented a regional private college in the restructuring and refinancing of its debt, including the restructuring of publicly-traded bonds.
- Represented a private regional lender in a foreclosure action and the borrower's Chapter 11 bankruptcy involving a multi-million-dollar loan secured by a boutique hotel property in Miami, Florida.
- Represented a public REIT in connection with the restructurings of several large real property investments, including an 1100-unit multi-family building in Michigan and a 450-unit building in Florida.
- Represented a private lender with senior and mezzanine debt secured by an apartment complex in Connecticut in a foreclosure action on the senior debt and separate action on the mezzanine debt resulting in a full recovery.
- Represented money-center bank in the workout of a multi-million-dollar credit line issued to a home health care provider.
- Selected by a money-center bank to represent participants of a multi-million-dollar loan facility in a foreclosure action against a mixed-use property located in Long Island, New York.
- Represented a senior lender in the workouts of eleven multi-family buildings in New Jersey and Pennsylvania.