Law360

Kirkland & Ellis' restructuring group recently sealed a landmark environmental settlement in the reorganization of Tronox Inc. and solidified its strong reputation in real estate bankruptcies by shepherding the sale of Innkeepers USA Trust and adjusting to difficult circumstances on the fly, earning it a place among *Law360*'s Bankruptcy Groups of 2011.

BANKRUPTCY Group of the Year: KIRKLAND

From humble beginnings as a single-digit lawyer outfit based in Chicago in the late '90s, the group has blossomed into a dynamic, 100-attorney strong practice with international offices in London and Munich.

Kirkland hangs its hat on being a leader in complex cross-border restructurings and having dedicated bankruptcy professionals abroad allows the firm to provide quick and seamless guidance on tricky multinational issues that invariably arise in today's restructuring realm, such as pension obligations at international affiliates, according to partner Anup Sathy.

The group cut its teeth by representing United Air Lines Inc. in its marathon, three-year bankruptcy that had begun in 2002 in the wake of disruptions in the industry caused by the 9/11 terrorist attacks. The firm, led by partner James Sprayregen, guided the carrier through heated renegotiations of its collective bargaining agreements with various unions and the largest termination of a pension plan in U.S. corporate history.

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The United case was a "real driver in making Kirkland a successful practice," long-time partner Richard Cieri said.

The Kirkland team has now developed a niche in aviation restructurings and has bona fide wins in the real estate and chemical industries, according to Sathy, evidenced by 2011's banner victories in the Innkeepers and Tronox bankruptcies.

The practice, however, is far from limited by its success and reputation in these areas, following the market to distressed companies in a variety of sectors.

"We operate as generalists and adapt to whatever the market requires," Sathy said.

Tronox, a pigment maker driven into bankruptcy in 2009 by crushing legacy environmental liabilities heaped on the company after its spinoff from Kerr-McGee Corp., emerged in February after Kirkland helped forge one of the largest environmental settlements in bankruptcy history.

The settlement — covering 2,800 sites around the country — called for Tronox to pay $270 million in cash plus most of the proceeds from a suit over its spinoff, resolving $2 billion in claims from the U.S. Environmental Protection Agency alone.

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A watershed moment in the case came when Tronox terminated an agreement to sell the company's assets to Huntsman Corp. for $425 million and pursued a stand-alone restructuring. This shift in strategy was facilitated by the deft negotiating and drafting of Tronox's stalking horse agreement, which, per its terms, allowed Tronox to abandon the sale process midstream to the delight of its creditors.

Partner Pat Nash was pivotal in securing a stalking horse agreement with flexibility to pursue a stand-alone reorganization, making an impact in his first case with the firm after leaving Skadden Arps Slate Meagher & Flom LLP. Pointing to the agreement, Tronox was able to convince skeptical financiers that the alternative path contemplated was viable, Nash said.

"When we got out of the auction, everything came together then," partner Jon Henes said.

The end result was a successful reorganization plan based on an enterprise value of $1.3 billion, compared to Huntsman's $425 million offer, and the company's current market capitalization is around $2 billion, according to Nash.

And Kirkland's efforts were not lost on the judge overseeing the case.

"It's an extraordinary achievement" and "in the best traditions of Chapter 11," U.S. Bankruptcy Judge Allan L. Gropper said of Tronox's plan.

Kirkland also showed its knack for adjusting to untimely developments in a case when it pushed through the $1 billion sale of Innkeepers' 64 hotels to a joint venture between Cerberus Capital Management LP and Chatham Lodging Trust in October.

On the eve of consummating the sale in August — with attorneys "literally counting the money from the wires," according to Sathy — Cerberus backed out, spooked by the credit downgrade of U.S. debt.

Innkeepers then sued for specific performance, bringing the buyers back to the table for a settlement that allowed the sale to go through and the company to exit court protection.

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"But when you think about the breadth of our practice," with 100 attorneys, "that's a practice in and of itself," Nash said.

Kirkland represented an ad hoc committee of TerreStar Networks Inc. noteholders in the bankruptcy sale of the satellite provider to Dish Network Corp. for $1.4 billion in September. The firm worked with a group of 31 hedge funds to "go into court with one voice" and helped convince the company to scuttle a previous plan that would have left TerreStar under the control of EchoStar Corp., another lender, Sathy said.

Other notable Chapter 11 cases successfully guided by Kirkland in 2011 include pizza chain Sbarro Inc., which exited court protection in November after casting off 70 percent of its debt load and securing access to $35 million in new capital through its prenegotiated plan, and Corus Bankshares Inc., "one of the few bank holding companies to successfully reorganize after the failure of its subsidiary bank," according to Kirkland.

The Kirkland lawyers all touted the team concept at the firm, both within the restructuring group and across practice areas, as a major component to its success.

While restructuring work slowed considerably in 2011 — and the outlook for the coming year is marred by the mixed signals of improving U.S. economic data against troubling signs in Europe — Kirkland's restructuring team focuses on the long-term, according to Henes, building its brand and training young attorneys for the unique work of a restructuring professional.

"We've seen ups and downs in the past 15 years, but we've always stayed busy," he said. "The reality is, whether it's going to be sector-specific or more generic, we view ourselves as a mainstay in the restructuring community."

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Sathy echoed this point, noting that his team is a passionate and relatively young group, not satisfied with prior successes.

"We have the resources internally to take the group to the next level. We all feel like owners because it wasn't handed to anybody — it was built from the ground up," Sathy said.