



2014 Practice Group of the Year

Bankruptcy

From guiding bankrupt Edison Mission Energy away from the brink to a \$2.6 billion sale to clinching Syncora Holdings Ltd. a deal in Detroit's bankruptcy that will keep it in the Motor City for decades to come, the creativity and tenacity of Kirkland & Ellis LLP's restructuring attorneys makes them one of *Law360's* Bankruptcy Practice Groups of the Year.

With more than 100 attorneys in its restructuring practice and hundreds more it can draw upon in a variety of disciplines, Kirkland & Ellis has built itself into a go-to firm for struggling companies in need of a lifeline and creditors looking to protect their stakes in shaky situations. In 2014, the firm managed to do both in a number of representations in which they found innovative ways to reconfigure daunting debt loads and recoup money for those who are owed.

"We're really good at saying not just what's the problem, but what's the solution?" said partner James H.M. Sprayregen.

"Anybody can spot problems, but who can spot solutions?" he said. "With all humility, that's what we like to do, in a creative way, in an out-of-the-box way and in a way that helps not just our clients but really the

constituents to the deal to get something done that's constructive for all."

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These talents were on display in the Edison Mission reorganization and sale, which was finalized last year. A unit of Edison International, the electric power supplier fell into bankruptcy in December 2012 after being bogged down by some \$5 billion in liabilities. But while the company entered Chapter 11 with an

agreement for its creditors to take control of the division, the deal ended up imploding and creditors threatened to sue Edison International.

Yet by October 2013, Kirkland lawyers were able to negotiate a sale of Edison Mission's assets to NRG Energy Inc. for \$2.6 billion. The federal judge overseeing the bankruptcy approved the sale in March 2014. Not only did the move benefit Edison International, whose CEO at the time said it would net the company \$200 million, it also resulted in an about 90 percent recovery for bondholders, according to Kirkland.

"What we did in EME was maximized value for everyone involved, which is exactly what we intend to do in all of our cases," partner Josh Sussberg said.

The restructuring group brought several other big-dollar bankruptcies

over the finish line this past year. They included W.R. Grace & Co.'s nearly 12-year odyssey in bankruptcy and Cengage Learning Inc.'s nine-month sprint to offload \$4 billion of what it owed. But the attorneys say the practice also excels at resolving matters in ways that avoid long, drawn-out litigation.

"We oftentimes get headlines for large Chapter 11 cases like [Edison Mission], but half of what we're doing is out-of-court restructurings or quick, quiet prepacks," said partner Edward Sassower, referring to prepackaged bankruptcy filings.

One of the largest prepacks this past year involved ITR Concession Co. LLC, which operates 156 miles of toll roads in Indiana. Kirkland was able to restructure \$6 billion in debt the company incurred when it gained a 75-year concession to run the toll roads in 2006.

The firm also brought Sbarro LLC through its most recent bankruptcy filing, using the prepackaged bankruptcy process to win support for a cramdown plan of reorganization that enabled secured lenders to take control of the food court pizza chain when it emerged from Chapter 11 for the second time since 2011.

Being able to secure these types of resolutions speaks volumes about Kirkland's reputation as deal makers, honest brokers and, as needed, litigators, said partner Marc Kieselstein.

"It really ended up being a real win-win that was salvaged out of a very, very difficult and challenging situation," Kieselstein said.

"All that can help bring people around to the idea that maybe we should cut a deal going into a bankruptcy situation so we can have a quick and efficient and streamlined case," he said.

In some instances, though, these plans can go off the rails, forcing Kirkland partners to take quick action to steer matters back on track.

The Dolan Co. restructuring from last spring is one example. Envisioning a quick, prepackaged bankruptcy to stave off a liquidity crunch, Dolan saw its plans to enter and exit Chapter 11 go off course when the U.S. trustee in Delaware challenged the deal and appointed an equity committee. This forced Kirkland to bring its litigation resources to the table in a bid to keep the business information provider afloat.

In the end, they were successful.

"We may have had one of the fastest litigated prepacks in history, because we got all of the discovery information, all of the depositions, everything done in less than 30 days so that we could maintain our timing," Kieselstein said. Dolan emerged from bankruptcy in June, two and a half

months after its Chapter 11 filing.

The firm views its work representing companies in bankruptcy as strengthening its hand when taking the other side to stand up for creditors.

"One of our calling cards is that our work on the company-side really helps to inform our ability to represent creditors," said Sussberg, "because we have an understanding and knowledge as to how these companies are going to operate and what they're thinking."

One of these situations involved Syncora Holdings, the monoline insurer whose subsidiary Syncora Guarantee Inc. had guaranteed Detroit's pre-Chapter 9 bonds.

After a high-profile spate of litigation, the insurer agreed to put aside its \$400 million claim against the city in exchange for a variety of assets, including real estate, future parking revenue and an extension of its lease of a toll bridge connecting Detroit to Windsor, Ontario.

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