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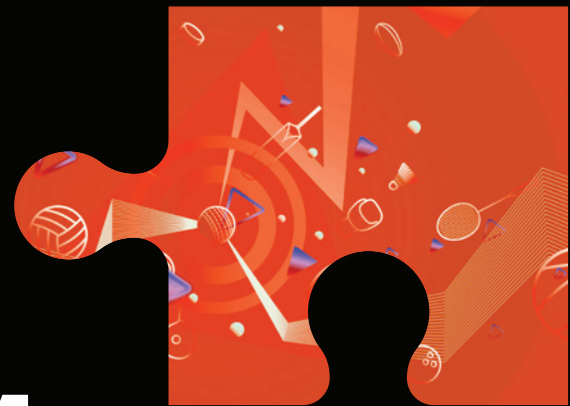
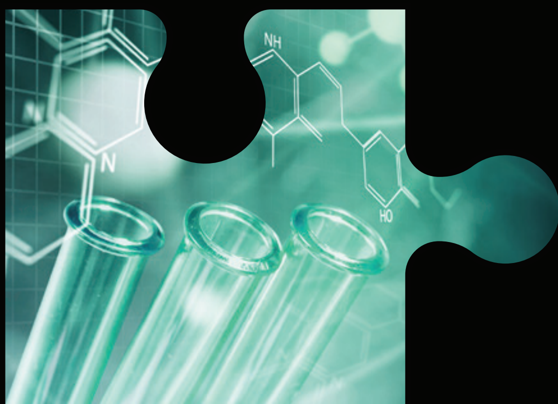
MARCH 2024



THE 2024 DEALMAKERS OF THE YEAR



Courtesy photo

JOSHUA SUSSBERG AND CIARA FOSTER

By Justin Henry

As COVID-19 posed an existential threat to cinemas, lawyers at Kirkland & Ellis thought the communal experience of seeing a movie in the theater should be salvaged. It just might require some "contentious" negotiations with creditors.

Take it from partner Joshua Sussberg, who saw Top Gun: Maverick in the theater with colleagues in the months leading up to the Chapter 11 filing of client Cineworld.

"There are movies that are really not meant to be seen anywhere but the theater," he said. "Even since the pandemic has subsided, these blockbuster moves continue to outperform."

As the global box office revenue fell 72% in 2020, Cineworld saw an even more precipitous decline of 80%. At the time of its Chapter 11 filing, Cineworld found itself with more than $5 billion in funded debt. In November 2020, Sussberg and partner Ciara Foster began helping the company explore liquidity opportunities.

When "major liquidity problems" from occupancy limitations persisted in the summer of 2022, Sussberg said they asked lenders for another cash infusion. Negotiating with lenders who had already provided ample liquidity prior to bankruptcy was "challenging" and "contentious," Sussberg said.

"Over the course of three years, we negotiated and secured multiple extensions of liquidity to help get to the other side of COVID," Sussberg said. "Unfortunately, two or three loans wouldn't be enough liquidity, so Chapter 11 was needed to restructure."

One of the options for capital infusion was an acquisition of Cineworld, though Sussberg said valuation would be low given the company's distressed state. Instead, Sussberg and Foster asked lenders to withdraw their claims in exchange for equity in a restructured company.

"The sale process that we ran didn't represent what anyone believed was a maximization of value, because prices were so low and it was in a distressed sale," Sussberg said. "We demonstrated to lenders that there was more value for them by converting to equity in the business."

The plan of reorganization, executed on July 31, allowed for the release of $4.53 billion in debt, $800 million in equity capital and $1.46 billion in exit financing.

"It was obviously a lot of pressure, but we got there in the end by showing them the best alternative for the company was the one that we arrived at," Foster said.

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