

Final Chapter

Despite specializing in bankruptcy, SulmeyerKupetz, whose seven members have a combined 180 years of experience, seeks to offer diverse practice areas in an attempt to keep clients out of Chapter 11.

By Steven Crighton / Daily Journal Staff Writer

LOS ANGELES — While known primarily for its bankruptcy specialty, SulmeyerKupetz's practice areas are diverse enough to ensure that bankruptcy is just the final tool in an expansive toolbox.

"The lenders don't want companies to file for bankruptcy, and our clients obviously don't want to file for bankruptcy until that becomes absolutely necessary. So our goal becomes to keep them out of bankruptcy," managing member Howard M. Ehrenberg said.

To accomplish that goal, Ehrenberg said the firm utilizes not just its team of bankruptcy specialists, but litigation and transactional attorneys as well.

Ehrenberg said the cohesion of the firm's various departments was showcased in their handling of the disposition of The Club at Shenandoah Springs, a golf course operating out of Thousand Palms. With litigation from the local homeowners association pending and a debt to a secured lender overdue, bankruptcy seemed inevitable.

"While filing a Chapter 11 bankruptcy, we were able to buy some time with the lender as our bankruptcy, litigation and transactional teams all worked together to assist this debtor in confirming a plan of reorganization, resolving pending litigation with members of the homeowners association, and in documenting the successful sale of the property," Ehrenberg said.

The firm, founded in 1952, has grown to 13 attorneys across two offices in Los Angeles and Newport Beach. Formed as a professional corporation, Kupetz said, its firm leaders are considered members rather than partners.

Ehrenberg said one of SulmeyerKupetz's greatest strengths is the length of its attorney's careers with the firm: The seven members have been with the firm for a combined 180 years.

"We utilize the resources of a core group of attorneys who have been with the firm for decades to perform services at a very high level at a price point that is highly competitive," Ehrenberg said.

Alan G. Tippie, member and chairman of the firm's board, has been with the firm for 35 years, having joined only one year after receiving his law degree. Daniel A. Lev, the most recent member to join, has been with the firm since 2001.

Tippie said that being a boutique firm has helped maintain membership, as offering

attorneys autonomy over their work is more appealing than the backseat role they'd likely find at larger firms.

"I think it has a lot to do with our personality as a firm and the fact that it has been managed in such a way that everyone is treated and compensated fairly," Tippie said.

While companies might think of bankruptcy specialists only when all options are exhausted, Ehrenberg said that much like in medicine, early detection is often the key.

"Our preference is to meet the client as soon as they recognize there are even potentially any problems on the horizon. The more we meet the clients, the more options we have to resolve potential issues," Ehrenberg said.

Member David S. Kupetz said that even in situations where a company comes to the firm when the only course of action remaining is bankruptcy, the firm can navigate the process to ensure the best possible outcome for the client.

Kupetz said this was the case in the bankruptcy of No Fear Retail Stores Inc., a clothing line that rose to prominence in the mid-to-late 1990s. The company fell into financial turmoil around the recession, but the company owners were highly resistant to the idea of a bankruptcy.

"It was a difficult period of time, because you were still in the recession period, and it was very tough on retail and secondary markets, where a lot of their stores were," Kupetz said.

Though the company's hesitance towards bankruptcy slowed the process down, the firm still managed to sell off the company assets while their value remained high.

"It worked out excellently, because we were able to maximize the value of their assets, but there could have been a significantly different result had they come to us sooner," Kupetz said.

Hesitation is expected when it comes to bankruptcy, explained Lev, especially with smaller companies where owners consider it "their baby."

"A lot of times, you're acting like a parent. You're trying to approach them to do what's best for them under the bankruptcy code, but oftentimes, they don't like to hear the word 'no,'" Lev said.

Businessman William Wittmeyer contracted SulmeyerKupetz in the Chapter 11 restructuring bankruptcy of Electronic Sensor Technologies Inc. Wittmeyer, the CEO of the company, said that some controlling parties within the company had



Courtesy of SulmeyerKupetz

From left: Victor A. Sahn, Alan G. Tippie, Howard M. Ehrenberg, Mark, S. Horouopian, David S. Kupetz, Elissa D. Miller and Daniel A. Lev, members at SulmeyerKupetz.

been resistant to the idea.

"They did not share the same view as to the financial situation that the company was facing, and that had to be dealt with," Wittmeyer said. "[SulmeyerKupetz] went and took them aside and explained the precise nature of the proposal, and how if the plan wasn't approved, they would be foreclosed on. That got them on board."

While the firm's bankruptcy specialists could be compared to surgeons tasked with excising infected tissue, the firm's transactional and litigation attorneys can be likened more to general practitioners looking to prevent infection in the first place.

"One of the things that makes our practice kind of fun is that it's not theoretical, it's not someone writing me a ten page memorandum on the theories of breach of contract," said Jeffrey M. Pomerance, a transactional attorney with the firm. "They're saying, 'I need a solution. Help me get it.'"

Pomerance prefers to work on restructuring ailing companies to avoid the prospect of bankruptcy altogether. Oftentimes, one setback is all it takes to send a company reeling.

"Sometimes, the market's terrible ... Sometimes, management gets up and leaves and there's a void. Sometimes, you know there's something wrong but you're not sure what it is," Pomerance said.

He compared the many levels of the firm to "peeling back layers of an onion," as every practice is structured towards working clients through various levels of financial distress.

Kupetz said that the economic environment where interest rates are at historic lows and where there is a tremendous amount of liquidity in the financing market has been "a challenging period" for firms focused on business bankruptcy, restructuring and reorganization.

"Chapter 11 filings have been down. That being said, we have been involved in numerous out-of-court restructurings, assignments for the benefit of creditors, corporate transactions, and Chapter 11 and

Chapter 7 bankruptcies" in spite of the downturn, he said.

Tippie said that while the transactional and litigation practices are in lockstep with the bankruptcy practice, they operate independently of it as well. Establishing that fact with clientele, he said, is sometimes a challenge.

"Because we're primarily an insolvency firm, promoting our business litigation as a separate distinct thing in our practice sometimes comes as a surprise even to those who have known us for many years," Tippie said.

The long years spent working together has not only made working cohesively a simple task, member Elissa D. Miller said, but has also kept clients coming back.

David K. Gottlieb, managing member of D. Gottlieb & Associates, said he's worked with SulmeyerKupetz for over 20 years, both in his capacity as a bankruptcy trustee and as a financial advisor.

"You work with someone closely enough, you find out whether you work well together and whether you're on the same wavelength. That's the case here. We're both pretty good at what we do," Gottlieb said, adding that he works with many firms, but SulmeyerKupetz is "one of the handful of firms I work with on a regular basis."

"I would say that they're a thoughtful group, they're always looking at what is to your benefit. Some people go in with their guns blazing rushing headlong towards a final outcome, but they've always got a game plan."

As a CEO, Wittmeyer joked that SulmeyerKupetz was "the best firm that I hope I never have to see again."

"You never want to end up in that situation, but if you know someone who is going through that sort of thing, they are who I would advise they seek out," he said.

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