CORPORATE DISTRESS AND REORGANIZATION LAW
LGST 2460 / 6460
Spring 2023

Prof. Vince Buccola
Legal Studies & Business Ethics Department
Huntsman Hall 649
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Class Meetings
Mondays & Wednesdays, 3:30 – 5:15p
Huntsman __
Note: Class follows the MBA calendar (see agenda below)

Office Hours
Tuesdays, [TIME TBD] (or by appointment)
Huntsman 649

Canvas
https://canvas.upenn.edu/courses/1689763

Course Description

Never does law play a more prominent role in investment and managerial decisionmaking than when a company faces financial distress. The value of claims on a distressed firm depends not only on business fundamentals, but also, crucially, on how the law can be expected to divvy up control and cash-flow rights among parties with imperfectly cooperative incentives. Working knowledge of the law is thus required for anyone who hopes to operate in distressed situations—whether as an investor, advisor, or manager. This course aims to develop that knowledge. By the end of the semester, students who take this course seriously should: (1) grasp the conceptual and historical foundations of law’s response to financial distress; (2) understand how the fundamentals of workout and bankruptcy law commonly play out (and determine investor recoveries) in the modern environment; and (3) be familiar with cutting-edge practices and unresolved dilemmas at the forefront of distress today.

Familiarity with basic corporate finance principles will be helpful but is not required. Students willing to spend time on Wikipedia can thrive without any previous exposure.
Assessment

For LGST 6460

- Professionalism (20%)
- Final Exam (80%)

For LGST 2460

- Professionalism (20%)
- Group Presentation—Case Study (20%)
- Final Exam (60%)

Policies

This course will involve a combination of lecture, discussion, and “Socratic” questioning. Cold calling will be a regular feature of class. To make the course as valuable to your friends (and you) as possible, please observe the following norms:

- Do the Reading. You should complete assigned readings before class. Completion means more than having skimmed. You should be ready to answer questions about the assigned texts and discuss them critically.

- But Tell Me If You Didn’t. Schedules get busy. If you are unable to finish the readings, email me at least one hour before class, and I will not call on you (max four times in the semester).

- Don’t Pretend to Have Read What You Haven’t.

- No Electronic Devices in Class. If you have an extraordinary need, please talk with me.

Text

Course pack [study.net] available via Canvas.

// tentative agenda on next page
1. **JAN. 18:** Introduction; The Legal Bases of Capital Structure and Conflict  
   **Readings** none

2. **JAN. 23:** Bankruptcy for Merchants  
   **Readings** 13 Eliz. c. 5  
   *Twyne’s Case*  
   Tabb, *History of the Bankruptcy Laws* [pp. 5–14]  
   **Assignment** recoveries problem set

3. **JAN. 25:** Railroads and the Equity Receivership  
   **Readings** Bond of the Washington Manchester Railroad Co.  
   Rosenberg, *A New Scheme of Reorganization* [pp. 523–29]  
   *Railroad v. Howard*

4. **JAN. 30:** The New Deal Vision  
   **Readings** Skeel, *Debt’s Dominion* [pp. 101–13; 119–27]  
   *Case v. Los Angeles Lumber Products Co.*  
   In re *Atlas Pipeline Corp.*  
   Trust Indenture Act of 1939, § 316(b)

5. **FEB. 1:** Reorganization Under the Bankruptcy Code (as Intended)  
   **Readings** 11 U.S.C. §§ 109(d); 301, 303(b); 1107(a); 1112(b)(1), (4)  
   In re *General Growth Properties*

6. **FEB. 6:** Collateral Protection and Estate Management  
   **Readings** 11 U.S.C. §§ 362(a), (d); 363(b); 365(a), (b)(1)  
   *United Savings Association v. Timbers of Inwood Forest*  
   In re *Kmart*

7. **FEB. 8:** Financing Bankruptcy  
   **Readings** 11 U.S.C. § 364(a)–(d)  
   Huebner, *Debtor-in-Possession Financing*  
   In re *Los Angeles Dodgers*  
   Zumbro, *DIP and Exit Financing Trends* [optional]
8. **FEB. 13:** Marshaling Resources

*Readings*
- 11 U.S.C. §§ 547(b); 101(31)(B)
- 11 U.S.C. §§ 548(a)(1); 101(32)(A)
- 11 U.S.C. § 550(a), (b)
*Metropolitan Life v. RJR Nabisco*
*In re Tribune Co. Fraudulent Conveyance Litigation*

9. **FEB. 15:** Claims: Size, Classification, and Voting

*Readings*
- 11 U.S.C. § 502(a), (b)(2), (c)
- 11 U.S.C. § 506(a)(1), (b); § 552(a), (b)(1)
*In re Chateaugay*
*Momenteive Performance Materials v. BOKF (In re MPM Silicones)*
- 11 U.S.C. §§ 1122–26
*Dish Network v. DBSD North America (In re DBSD)*

10. **FEB. 20:** Plan Confirmation: Entitlements and End-Arounds

*Readings*
- 11 U.S.C. § 1129(a)(7), (b)
*Bank of America Nat’l Trust & Savings v. 203 N. La Salle*
*Czyzewski v. Jevic Holding*
*In re ICL Holding*

11. **FEB. 22:** The 1990s: Prepacks and the Advent of Creditor Control

*Readings*
- Weiss & Wruck, *Chapter 11’s Failure in the Case of Eastern Airlines*
- 11 U.S.C. § 1126(b)

12. **FEB. 27:** Going-Concern Sales

*Readings*
- 11 U.S.C. §§ 1123(b)(4); 1141(c)
- 11 U.S.C. § 363(b), (f)
*In re Lionel*
*In re Chrysler*
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<thead>
<tr>
<th>Date</th>
<th>Topic</th>
<th>Readings</th>
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<tr>
<td>MAR. 13</td>
<td>Capital Structure Complexities</td>
<td><strong>Readings</strong></td>
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<td>In re LTV Steel</td>
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<td>In re Franchise Service of North America</td>
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<td>In re Owens Corning</td>
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<td>MAR. 15</td>
<td>Decoding Leveraged Credit Documents 1: Bond Indentures</td>
<td><strong>Readings</strong></td>
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<td>Windstream—Note Indenture</td>
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<td>Miller et al., Understanding High-Yield Bonds (optional reference)</td>
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<td>MAR. 20</td>
<td>Bondholder Activism</td>
<td><strong>Readings</strong></td>
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<td>Wilmington Savings Fund v. Cash America Int’l</td>
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<td>U.S. Bank v. Windstream</td>
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<td>MAR. 22</td>
<td>Bond Workout Tactics</td>
<td><strong>Readings</strong></td>
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<td>Trust Indenture Act of 1939, § 316(b), redux</td>
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<td>Katz v. Oak Industries</td>
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<td>Marblegate Asset Mgmt. v. Education Mgmt. Finance</td>
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<td>MAR. 27</td>
<td>Decoding Leveraged Credit Documents 2: Credit Agreements</td>
<td><strong>Readings</strong></td>
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<td>Windstream—Credit Agreement</td>
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<td>TBD (optional reference) [to be available on Canvas]</td>
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<td>MAR. 29</td>
<td>Priming Transactions: Dropdowns</td>
<td><strong>Readings</strong></td>
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<td>Eaton Vance v. Wilmington Savings Fund (Complaint)</td>
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<td>Argos Holdings v. Citibank (Complaint)</td>
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<td>APR. 3</td>
<td>Priming Transactions: Uptiers</td>
<td><strong>Readings</strong></td>
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<td>Audax Credit Opportunities v. TMK Hawk Parent</td>
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<td>Bayside Capital v. TPC Group</td>
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<td>APR. 5</td>
<td>Tapping Derivatives Investors</td>
<td><strong>Readings</strong></td>
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<td>Paulos et al., CDS Auctions: An Overview [pp. 105–20]</td>
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<td>Solus Alternative v. GSO (Complaint)</td>
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<td>Swap Seller Looks to Salvage Bad Bankruptcy Bet</td>
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21. **APR. 10:** Chapter 11 Redux: Support Agreements; Rights Offerings; Releases

*Readings*

11 U.S.C. § 1125

In re *Indianapolis Downs*

11 U.S.C. § 1123(a)(4)

*Ad Hoc Committee v. Peabody Energy (In re Peabody)*

22. **APR. 12:** Cross-Border Insolvency

*Readings*

Mayer Brown: Scheme of Arrangement [Canvas → Files]

Singapore’s New “Supercharged” Scheme of Arrangement

Westbrook, *Chapter 15 At Last*

*In re Ocean Rig UDW*

23. **APR. 17:** Sovereign Debt

*Readings*

*NML Capital v. Republic of Argentina*

The Real Story of How a Hedge Fund Detained a Vessel in Ghana

*Crystallex Int’l v. Bolivarian Republic of Venezuela*

24. **APR. 19:** Spillover / Review

*Readings*

none

25. **APR. 24:** Group Presentations — LGST 2460 (Undergraduates) Only

*Readings*

N/A

26. **APR. 26:** Group Presentations — LGST 2460 (Undergraduates) Only

*Readings*

N/A

**FINAL EXAM:** Date and time TBD