bodman

Bankruptcy and Debtor-Creditor Rights

calm the storm

Our Bankruptcy and Debtor-Creditor Rights attorneys help clients manage risk and seize opportunities in a financial crisis.

Our attorneys emphasize creative, practical approaches to achieve our clients' objectives in a timely, cost-effective manner. Our core group of attorneys draws upon the expertise of specialists in other practice areas as needed, including banking, pension benefits, litigation, environmental, tax and real estate.

We have a comprehensive practice in the areas of bankruptcy, reorganization, workouts, and debtor-creditor rights. Because we represent many financial institutions, we regularly represent the interests of lenders in workouts, bankruptcies and troubled credit situations in nearly all industries, using our experience to help preserve collateral value and maximize realization. Our attorneys also assist creditors and creditors' committees, trustees, purchasers of assets and lessors of real and personal property. We also assist business clients with acquisitions, financial restructurings, and other debtor-creditor issues.

SERVICES

Our Group provides the following services:

- **Advising lenders in loan workouts and restructurings**
- **Advising lenders on lender liability matters**
- **Representing manufacturing companies, especially in the automotive industry, in dealings with troubled suppliers**
- **Counseling creditors and debtors in all aspects of bankruptcy reorganizations, liquidations and related litigation**
- **Counseling financially troubled companies**
- **Advising purchasers of troubled companies, including purchasers of assets in bankruptcy sales**
- **Representing clients in creditor compositions, assignments for the benefit of creditors, receiverships, and bankruptcy proceedings**
- **Defending clients in bankruptcy preference, fraudulent transfer, lender liability, and other litigation**

REPRESENTATIVE MATTERS

Bodman has represented lenders in numerous bankruptcies and troubled credit situations, including the Chapter 11 bankruptcies of:

AIR TRANSPORT INT'L, LLC	OXFORD AUTOMOTIVE, INC.
ASC INCORPORATED	PHARMED GROUP HOLDINGS, INC.
COLOR STAR GROWERS OF COLORADO INC.	PLASTECH ENGINEERED PRODUCTS, INC.
CYNERGY DATA, LLC	PRO GOLF OF AMERICA, INC.
HA-LO INDUSTRIES, INC.	SCHWINN/GT CORP.
HOSTESS BRANDS, INC.	UNI BORING CO., INC.

We have negotiated and documented cash collateral orders and Debtor in Possession (DIP) financing facilities in many Chapter 11 cases.

REPRESENTATION OF FINANCIAL INSTITUTIONS AND LENDERS

- **Representation of an Agent Bank in a Workout of a $100 Million Syndicated Credit Facility to an Oil Field Service Company in the Fracking Industry**

  We are representing the agent in a workout of a $100 million syndicated credit facility to an oil field service company specializing in the fracking of oil and gas wells. Bodman attorneys have negotiated forbearance agreements and related documentation that have enhanced the bank group's position while providing financial accommodations to the borrower as it pursues a sale of its assets.

- **Representation of Agent-Lender Bank in a $110 Million+ Syndicated Credit Facility Workout that Resulted in Full Payment to Agent-Lender Bank**

  Bodman represented a bank as agent and lender in the workout of a syndicated credit facility of more than $110 million, including revolving credit loans, term loans, and letter of credit facilities. Collateral included real estate located in 15 states and Canada and the loans were in both Canadian and U.S. currency. We negotiated with counsel to all parties to provide forbearance and two rounds of bridge financing to the borrowers, avoiding bankruptcy and leading to a successful refinancing and payment in full to our client.

- **Representation of Agent Bank in $170 Million Loan Workout to Acquire Multifamily Complexes in Florida**

  A team of Bodman attorneys successfully represented the agent bank in a workout involving more than $170 million of loans to four borrowing entities and six guarantors used to acquire four Florida apartment complexes for conversion to condominiums.

- **Representation of Banks in a $75 Million Tier-1 Automotive Supplier Credit Facilities Workout Repayment Plan**

  Our firm represented the agent bank and another bank in a three-lender group in a workout relating to $75 million in credit facilities to a Tier-1 automotive supplier with multiple plant locations. The matter resulted in a successful refinancing and repayment of the banks in full.

- **Representation of Financial Institution in Pre-Bankruptcy Workout Proceedings, §363 Asset Sale, and Post-Sale Negotiations in Leading Grower and Wholesaler of Flowers and Nursery Stock's Chapter 11 Bankruptcy**

  Bodman represented a bank in the Chapter 11 bankruptcy of Color Star Growers of Colorado, Inc., a nursery that was one of the nation's largest commercial growers of annual and perennial plants. We were involved in the workout that preceded the bankruptcy and in the negotiation of cash collateral orders and bankruptcy §363 sales of the company's operating assets. We were also involved in post-sale negotiations which resulted in a global settlement of various issues and the filing of a consensual plan of liquidation. *In re: Color Star Growers of Colorado, Inc. and Vast, Inc.*, No. 13-42959 (Bankr. E.D. Tex. filed Dec. 15, 2013).

- **Negotiated $25 Million DIP Financing Order on Behalf of Agent Bank that Allowed Debtor-Credit Card Processor to Continue Business Operations While in Chapter 11**

  Our firm represented the agent bank for a group of lenders in connection with the bankruptcy of Cynergy Data, LLC, a credit card processing company. The total debt for which our client was agent exceeded $48 million. We negotiated a $25 million DIP financing order so that Cynergy could continue to operate until the U.S. Bankruptcy Court in Delaware approved the sale of the company. *In re: CD Liquidation Co., LLC*, No. 09-13038 (Bankr. D. Del. filed Sept. 1, 2009).

- **Representation of Lender-Bank in Pharmaceutical Company's Chapter 11 Bankruptcy Ensures Full Payment of $20 Million+ Loan**

  We represented a bank in the bankruptcy case of Pharmed Group Holdings, Inc., a Florida-based pharmaceutical company, in which the bank's loans, in excess of $20 million, were paid in full. *In re: Pharmed Group Holdings, Inc.*, No. 07-19187 (Bankr. S.D. Fla. filed Oct. 26, 2007).

- **Secured Full Payment and Letter of Credit Facility for Senior Lender to Tier-1 Automotive Supplier and Inventor of Glass-Panel 'Moonroof' System**

  We represented the senior lender to ASC Incorporated, a Tier-1 automotive supplier specializing in sunroof systems; the loan was paid in full and the letter of credit facility cash secured. *In re: St. James Inc.*, No. 07-48680 (Bankr. E.D. Mich. filed May 2, 2007).

- **Representation of Lender of a $150 Million Synthetic Letter of Credit Facility Replacement in Tier-1 Automotive Supplier's Chapter 11 Bankruptcy**

  We represented the letter of credit issuer with respect to a $150 million synthetic letter of credit facility in the Tower Automotive, Inc. bankruptcy in the U.S. Bankruptcy Court for the Southern District of New York. The facility was successfully replaced. *In re: Tower Automotive, Inc. and Post-Consummation Trust*, No. 05-10578 (Bankr. S.D.N.Y. filed Feb. 2, 2005).

- **Representation of Lender Holding $25 Million Loan in Chapter 7 Proceeding**

  We represented the lender of a $25 million loan to Second Chance Body Armor, which filed bankruptcy in the U.S. Bankruptcy Court for the Western District of Michigan. The case resulted in a successful sale and the lender was paid in full. *In re: Second Chance Body Armor, Inc.*, No. 04-12515 (Bankr. W.D. Mich. filed Oct. 17, 2004).

- **Counseled Commercial Bank Related to Issuance of $100 Million+ Letters of Credit to Insurance Companies that the Commonwealth of Pennsylvania Petitioned for Order of Liquidation**

  We counseled a major commercial bank as issuer of over $100 million of letters of credit in the rehabilitation proceedings of Legion Insurance Company and Villanova Insurance Company in Pennsylvania. *Koken v. Villanova Ins. Co.*, Nos. 182 MD 2002, 183 MD 2003 (Pa. Commw. Ct. filed Aug. 29, 2002).

AUTOMOTIVE INDUSTRY

- **Representation of Creditors, Suppliers, and Other Parties in Interest in Chapter 11 Matters**

  We have represented creditors, suppliers, and other parties in interest in major automotive supplier cases, including the Chapter 11 bankruptcies of General Motors Corporation, Chrysler LLC, Delphi Corporation, Dana Corporation, Dura Automotive Systems, Inc., Collins & Aikman Corporation, Blue Water Automotive Systems, Inc., BHM Technologies Holdings, Inc., and Tower Automotive, Inc.

- **Representation of Lender-Agent Bank in $150 Million Revolving Credit Exit Facility in Tier-1 Automotive Supplier Chapter 11 Bankruptcy**

  Bodman represented a bank as agent and as lender in a $150 million revolving Debtor in Possession (DIP) loan facility to Tier-1 automotive supplier Chassix, Inc. and its affiliates in Chapter 11 bankruptcy proceedings in the U.S. Bankruptcy Court for the Southern District of New York. We represented the same bank as agent and as a lender in a $150 million revolving exit facility to Chassix. Bodman negotiated the DIP and exit financing, documented the facilities, negotiated intercreditor agreements with Chassix's term lenders and negotiated accommodation agreements with Chassix's major customers (General Motors, Ford, Chrysler, Nissan and BMW). *In re: Chassix Holdings, Inc*

., No. 15-10578 (Bankr. S.D.N.Y. filed Mar. 12, 2015).

- **Secured Full Payment and Letter of Credit Facility for Senior Lender to Tier-1 Automotive Supplier and Inventor of Glass-Panel 'Moonroof' System**

  We represented the senior lender to ASC Incorporated, a Tier-1 automotive supplier specializing in sunroof systems; the loan was paid in full and the letter of credit facility cash secured. *In re: St. James Inc.*, No. 07-48680 (Bankr. E.D. Mich. filed May 2, 2007).

- **Representation of Lender of a $150 Million Synthetic Letter of Credit Facility Replacement in Tier-1 Automotive Supplier's Chapter 11 Bankruptcy**

  We represented the letter of credit issuer with respect to a $150 million synthetic letter of credit facility in the Tower Automotive, Inc. bankruptcy in the U.S. Bankruptcy Court for the Southern District of New York. The facility was successfully replaced. *In re: Tower Automotive, Inc. and Post-Consummation Trust*, No. 05-10578 (Bankr. S.D.N.Y. filed Feb. 2, 2005).

REAL ESTATE

- **Experience in Commercial and Residential Real Estate Workouts, Foreclosures and Receiverships**

  We have handled numerous multi-million dollar commercial and residential real estate workouts, foreclosures, receiverships, deeds in lieu of foreclosure and post-foreclosure sales, including:

  - Foreclosure of a 204-unit multifamily project in Novi, Michigan
  - Foreclosure of a 50-bed senior care/assisted living facility in Plymouth, Michigan
  - Acquisition by deed in lieu of foreclosure of a 178-unit apartment project in Detroit, Michigan
  - Liquidation of multiple gas station properties throughout southeast Michigan through receiverships

- **Representation of Agent Bank in $170 Million Loan Workout to Acquire Multifamily Complexes in Florida**

  A team of Bodman attorneys successfully represented the agent bank in a workout involving more than $170 million of loans to four borrowing entities and six guarantors used to acquire four Florida apartment complexes for conversion to condominiums.

OTHER NOTABLE MATTERS

- **Representation of Creditors in the City of Detroit Bankruptcy**

  Bodman represented several creditors in the Chapter 9 bankruptcy proceedings of the City of Detroit, the largest municipal bankruptcy in U.S. history. *In re: City of Detroit, Michigan*, No. 13-53846 (Bankr. E.D. Mich. filed July 18, 2013).

- **Representation of Conservator, Debtor in Possession and Liquidating Agent in the Clean-Up and Resolution of a Notorious Mortgage Lending Fraud Operation**

  Our firm represented the conservator and debtor in possession, and later the liquidating agent, of MCA Financial Corp., RIMCO Financial Corp., their subsidiaries, and certain affiliates, a mortgage lending/servicing operation with hundreds of millions of dollars in assets and debts. Our work resulted in confirmation of a Chapter 11 plan. *In re: MCA Financial Corp.*, No. 99-42172 (Bankr. E.D. Mich. filed Feb. 10. 1999).

- **Represented State Insurance Commissioner in the Liquidation Proceedings of Canada's Fifth Largest Insurer**

  Bodman represented the Commissioner of Insurance for the State of Michigan as Rehabilitator in the matter of Confederation Life Insurance Company, the largest rehabilitation of an alien insurer in U.S. history. *Dykhouse v. Confederation Life Insurance Co.*, No. 1994-078300-CR (Ingham Co. Cir. Ct., filed Aug. 11, 1994).

- **Advised Operating Trustee in Successful Chapter 11 Reorganization of Sanders Chocolates, a Detroit Tradition**

  We counseled the operating trustee in the successful reorganization of Fred Sanders, Inc., a nearly 150-year-old Detroit confectionery company. *In re: Fred Sanders, Inc.*, No. 87-46979 (Bankr. E.D. Mich. filed Nov. 16, 1987).