BERGER SINGERMAN
FLORIDA'S BUSINESS LAW FIRM

DISTRESSED M&A & RESTRUCTURING

Berger Singerman's Business, Finance & Tax attorneys, working closely with our Dispute Resolution and Business Reorganization colleagues, respond rapidly and effectively to crisis and distress situations. We have demonstrated our ability to assist clients in achieving their goals through our successes in some of the largest and most complex reorganizations in the United States. We advise and assist clients in overcoming business and legal challenges in workouts, corporate reorganizations, receiverships, liquidations, bankruptcy and insolvency proceedings, debt refinancings and asset and business sales. Our clients in this practice area include distressed businesses and bankruptcy debtors, secured and unsecured creditors, directors and officers of financially troubled or insolvent companies, banks and other financial institutions, trustees, receivers and liquidators, and private equity, corporate and other potential buyers of distressed businesses and assets.

We have handled matters for the full spectrum of participants in restructuring and bankruptcy matters across a wide array of industries, including aviation, energy, financial services, gaming, health care, real estate, retail and technology. These representations greatly benefit from our longstanding relationships with many of the leading financial intermediaries and advisors that participate in this field, including investment bankers and turnaround and forensic specialists.

The core of our Distressed Transactions & Corporate Restructurings practice focuses on representing debtors, creditors and potential acquirers in their efforts to restructure, rehabilitate, refinance and transfer distressed businesses to new capital structures or control in a manner that maximizes their value. We also assist financially healthy companies with the implementation of changes to their corporate, governance and capital structures to enhance their value or protect them from the consequences of investments in distressed companies. In addition, we assist our clients with asset protection strategies, including the creation of bankruptcy-remote entities and structuring acquisitions of troubled businesses or their assets.

Representative Matters

PITTSBURGH HOTEL

Berger Singerman represented a substantial unsecured creditor of an iconic Pittsburgh hotel in connection with a series of inter-related reorganization transactions that included (a) acquiring 100% of the equity in the entity owning the Hotel, (b) defeating the attempts of the Hotel's senior lender, BlackRock, to obtain title to the Hotel by lifting the automatic bankruptcy stay and foreclosing, and (c) replacing the Hotel's franchise with another premier franchise flag, and (d) ultimately restructuring the senior loan and other claims on favorable terms. Berger Singerman negotiated and implemented a diverse and integrated transaction structure that included (a) senior financing from a large private equity firm, under its $49.6 million loan to the hotel, (b) up to $11 million in junior mortgage financing from our client as Plan Proponent, (c) a new Hotel Management Agreement with the largest hotel franchisor in the world, and (d) $8 million of additional financing the new hotel franchisor provided, secured by the hotel's equity.

Berger Singerman attorneys commenced this engagement by structuring, negotiating and implementing (a) the acquisition of all the debtor's equity for non-cash consideration, involving arrangements to prosecute a Plan of Reorganization for the Hotel and related $62 million in debt, including a subordination of our client's claims to

other unsecured claims upon successful consummation of the reorganization plan, and (b) the replacement of the hotel's recently terminated franchise agreement with a new arrangement from one of the world's largest hotel franchisors. The team proceeded in structuring, negotiating and implementing arrangements among the hotel's private equity senior lender, the new hotel's new franchisor, the hotel's general unsecured creditors and our client, providing for our client to retain 100% of the hotel equity while restructuring all debt and claims against the hotel, including substantial compromises in the amounts due to creditors with whom the hotel would no longer trade or deal.

EXECUTIVE JET AIRCRAFT DEALER

Berger Singerman represented one of the world's largest independent dealers of executive jet aircraft in connection with the work out and restructuring of its floor plan secured lending arrangements aggregating to more than $500 million. Each of the several floor plan loans were held by a distinct lender and secured by discrete pools of aircraft collateral. The engagement required analysis of each loan relationship to design, negotiate and implement a coordinated transaction structure that would resolve each of the loans within the same overall terms and structure, provide arrangements to determine, secure and pay any deficiencies from agreed minimum prices, all in compliance with complicated "most favored nations" provisions affecting certain of the loan work out agreements. The Berger Singerman team succeeded in concluding all of the work out arrangements within the tight timeline the lenders' required, including the elimination of well more than $100 in secured and personally guaranteed debt.

FURNITURE RETAILER

Berger Singerman represented a Florida-based upscale furniture retailer with 24 locations in Florida, Texas, Arizona, North Carolina and Nevada in a complex dual-track process administered through a chapter 11 bankruptcy proceeding involving (i) the potential sale of the business and related assets as a going concern, or (ii) the liquidation of the business using national "going out of business" firms to facilitate the orderly sale of the Company's tangible assets. In addition, the engagement involved the negotiation and closing of debtor-in-possession financing of up to $25 million to fund the Company's operations during the process. Berger Singerman ultimately represented the Company in successful auction for "going out of business" agency sale arrangements, which generated $101 million in total net proceeds for the benefit of the senior/DIP lender, two subordinated lenders, management group lenders and unsecured creditors. In addition, Berger Singerman administered a separate intellectual property auction and asset purchase sale of the Company's intellectual property assets. Berger Singerman transaction attorneys led the negotiations and documentation for the Agency Agreement relating to the "going out of business" sales, the DIP financing, and the intellectual property sale.

NURSE STAFFING COMPANY

Berger Singerman represented a publicly traded company and the largest provider of per diem nurse staffing in the United States which operated out of more than 120 offices in 40 states, in connection with the sale of the Company's assets and business (as a going concern) for approximately $120 million as part of a restructuring under chapter 11 of the Bankruptcy Code. The Company operated without long term contracts with its thousands of employees and even more customers, which made the restructuring and sale processes extremely fragile. The Berger Singerman team coordinated closely with the client to develop and implement timely, sensitive and effective communications to customers and employees, while negotiating and implementing complex agreements for the successful sale.

PRIVATE EQUITY FIRM

Berger Singerman represented a private equity firm in connection with the acquisition one of the largest manufacturers of car wash equipment in North America (the "target"). The transaction commenced with the acquisition of the target's "fulcrum security", in this case, its senior loan in default, continued with the acquisition of the target's assets, and concluded with the refinancing of the business. The negotiations for each of the first two transactions included the target's junior lender, whose business position and asserted goals changed during the course of the transactions, considerably complicating this process. The representation also included detailed analysis of a possible reorganization in bankruptcy, although the team ultimately achieved the client's objectives without a Chapter 11 filing. The transaction concluded with a recapitalization and

refinancing of the business, including the issuance of a new class of preferred stock, placement of new senior and junior debt, and a new corporate structure with advantageous tax results for the client and the target.

REAL ESTATE DEVELOPMENT ENTERPRISES

Berger Singerman represented a series of real estate development enterprises, as owners and mortgagors under more than $520 million of debt, in their out-of-court restructuring and global settlement with five different banking/lending syndicates and the holders of other claims. The global settlement included the surrender or transfer of various real estate parcels and equity ownership in real estate development enterprises, for various considerations including releases in favor of obligors and guarantors, as well as substantial cash payments among the various lending syndicates as required to consummate the interlocking settlement arrangements. This representation required analysis of, and designing and implementing a strategy to address, complex and interrelated issues regarding real estate developments and financings, each involving somewhat different ownership structures, and distinct bank syndicates and lenders. Berger Singerman advised the owners/guarantors in all aspects of the settlement, including financing analyses, bankruptcy issues, loan restructuring, and negotiation and preparation of hundreds of complex settlement-related documents. Berger Singerman negotiated consensual financial settlement arrangements among various ownership, guarantor and lender groups, culminating in favorable global settlements of the lenders' claims and the owner/guarantor's liabilities.

REAL ESTATE PROVIDER

Berger Singerman represented Florida's leading vertically integrated, single source real estate provider in connection with short sales of several commercial properties in Florida. The clients acted as manager of the selling entities, broker for the transactions, and a minority investor in the newly organized entities that acquired the properties. The representation required analysis and balancing of the client's sometimes competing interests and varying legal responsibilities and opportunities as seller, broker, borrower, and investor in the buying entities as the transaction timeline advanced, and implementing the results of that analysis as the transactions consummated. The representation began with Berger Singerman's successful negotiation with the properties' initial lenders to accept a discounted payoff on the outstanding $26 million loans, and retire the interests of the property's original equity owners. These initial agreements allowed the short sales to proceed, which required formation of new purchasing entities, structuring and documenting the relationships among the equity participants in the buying entities, negotiate and implement a major tenant's lease amendment, resolve potential tax issues, negotiate and document the properties' new mortgage financing, and document the client's role in the properties' management after the closing. The context of the transactions and market conditions compressed these transactions into a tight time frame, which further complicated these interlocking negotiations to achieve an early closing and consummation.