

CITY BAR CENTER FOR CLE

BANKRUPTCY & RESTRUCTURING FOR REAL ESTATE PROFESSIONALS

Wednesday, February 24, 2010 / 6:00 p.m. to 9:00 p.m.

According to recent news reports, U.S. office vacancies are at a five-year high, apartment vacancies are at a 23-year record, and retail centers are showing the greatest share of empty store-fronts since 1992. All this unused space makes it difficult for owners to pay their mortgagees. This seminar will prepare the bar and other real estate professionals for the expected demand for professionals who are able to provide counsel with regard to the workout and restructuring of distressed properties. This program will provide skills you can bring to the table to most effectively represent clients during the current phase of the business cycle.

The panel will begin by discussing the distressed mortgage and other loans made during the past few years to finance commercial real estate ventures. Speakers will address all phases of the process for the disposition of such distressed real estate, including pre-workout matters, the consensual workouts, foreclosure, and bankruptcy.

Later, issues regarding the workout of commercial leases, including those for office, retail, and other similar interests will be addressed. Our speakers will pay particular attention to the negotiation and drafting of consensual lease modification and early termination agreements, as well as post-default and bankruptcy matters.

Program Chair

Ira L. Herman
Thompson & Knight LLP

Faculty

Andrew Berman
Managing Director
Real Estate Finance
CIBC World Markets Corp.

Harold J. Bordwin
Principal, KMPG LLP
Managing Director & Co-Group Head
KPMG Corporate Finance

Sheon Karol
Partner
CRG Partners LLC

Demetra L. Liggins
Thompson & Knight LLP

Paul A. Rubin
Herrick, Feinstein LLP

Joseph H. Smolinsky
Weil, Gotshal & Manges LLP

Sponsoring Association Committee:
Real Property Law, Melvyn H. Halper, Chair

Agenda

- 6:00–6:05 **Introduction**
- 6:05–6:55 **Distressed Real Estate: How We Arrived Here**
Lending Structures & Their Impact on the Ability of Parties to Restructure Distressed Real Estate in the Current Economic Environment
- Traditional Real Estate Lending Structures
 - Non-Recourse Lending, SPEs & Bankruptcy Remote Vehicles
 - Securitization, the CMBS Markets & the Role of the Special Servicer
 - Mezzanine Loans
 - Second Lien Loans
- Harold J. Bordwin, Sheon Karol & Demetra L. Liggins*
- 6:55–7:05 **Break**
- 7:05–7:55 **Bankruptcy as the Driver: Strategies for Borrowers & Lenders**
- Forbearance & Modification Compared
 - Default Related Issues
 - New Value & Additional Collateral from Borrower
 - Guarantees
 - Management
 - Protecting Asset Values: Competing Liens & Operating Expenses
 - The Bankruptcy Overlay
 - Automatic Stay
 - Single Asset Real Estate Status
 - Use of Rents to Operate the Project (Cash Collateral)
 - Adequate Protection
 - Valuation as the Driver of the Process
 - Section 506 of the Bankruptcy Code
 - Understanding the Effect of Chapter 11 & Requirements for Confirmation of the Chapter 11 Plan with Regard to Distressed Properties
- Andrew Berman, Ira L. Herman & Demetra L. Liggins*
- 7:55–8:00 **Break**
- 8:00–8:50 **Working Out the Distressed Commercial Lease**
- Tenant Distress
 - Landlord Issues: Forbearance & Modification
 - Tenant Issues
 - The Market as a Driver
 - Landlord Distress: What Can a Tenant Do to Protect a Leasehold Interest?
 - Guarantees & Third Party Credit Support
 - The Bankruptcy Overlay
 - Assumption or Rejection
 - § Timing Issues
 - § What Happens Between Filing of a Bankruptcy Case & Assumption or Rejection?
 - § Requirements for Assumption
 - § The Effect of Assumption
 - § Rejection & the Effect of Rejection
 - § Rejection Damages
 - § Security Deposits
 - § Third Party Credit Support: Guaranties, Letters of Credit, etc.
- Paul A. Rubin & Joseph H. Smolinsky*
- 8:50–9:00 **Question & Answer Session**

New York & California Credit: 3.0 credits total: 2.0 skills & 1.0 professional practice.
This live program provides New York & California transitional/non-transitional credit to all attorneys.

Illinois Credit: 2.75 general MCLE credits.

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Live Program (includes materials):
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 \$240 Member \$350 Nonmember

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 \$335 Member \$405 Nonmember

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Registration Information

Program Location: All programs will be held at the New York City Bar 42 West 44th Street, New York, NY 10036.

To Register: Call 212.382.6663; fax 212.869.4451; mail registration form to the City Bar Center for CLE, 42 West 44th Street, New York, NY 10036 or register online at www.nycbar.org.

Advance registration is advised. An additional fee of \$25 will be charged for "walk-in" registrations—those received later than 3:00 p.m. one business day prior to the program.

Scholarships & Discounts: Financial scholarships are available; please call 212.382.6663 for an application. All applications must be submitted three weeks prior to the program. *50% discounts off of member and non-member prices are available for government and public interest attorneys, students and academics.* A 20% discount off of member and nonmember prices are available for firms and corporations that register four or more people for a combination of programs or video replays.

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Please allow 3-5 weeks for delivery of CDs, DVDs, and materials.

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