PENDER & COWARD
ATTORNEYS AND COUNSELLORS AT LAW

PRACTICE AREA

DEBT RESTRUCTURING, WORK OUT AND BANKRUPTCY

In some instances where loans are not paid as agreed where the lender does not want to start the legal collection process, we are able to negotiate favorable work out agreements on behalf of our clients. At other times, however, when no work out arrangement can be reached, the persons or entities obligated to repay the debt file Bankruptcy to prevent judgement, collateral recovery and/or liquidation. Our experienced Bankruptcy attorneys provide comprehensive legal services to lenders confronted with either a Chapter 7, 11, Subchapter V or 13 debtor, including motions for relief from stay, plan objections, fraudulent conveyance and non-dischargeability actions. We have on many occasions been able to obtain increased recoveries from debtors above what they proposed.

Debt Restructuring and Workouts

When loans are not paid as agreed or some other term of the loan documents is violated, there are generally two courses of action, one discussed in the Collection and Collateral Recovery page of our website {Marathon can insert link to that page}, and the other being a "work out" or restructuring of the debt. Depending on the nature of the loan default, lenders and borrowers may be able to negotiate some modification of the original terms of the loan so as to give the borrower "breathing room" for the business to become profitable again. Our attorneys have extensive experience in negotiating and documenting these arrangements on behalf of lenders after having worked on hundreds of loans involving many millions of dollars. Consumer Bankruptcy

If a work out cannot be arranged, a consumer may choose to file a Chapter 7 or Chapter 13 Bankruptcy to obtain either a discharge of debts or a plan to repay some of the debts owed. We are experienced in filing proofs of claim, motions for relief from stay and objections to confirmation in order to maximize the recovery even in the face of limited income and assets.

Commercial Bankruptcy

Commercial debtors have historically filed under Chapter 11 and proposed a plan of reorganization for approval by creditors and the Court. A more recent alternative is for debtors to file under the relatively new Subchapter V, a streamlined version of Chapter 11. In either event, we are prepared to aggressively participate on behalf of our lender clients to achieve the maximum possible recovery. We are also very experienced in filing not only motions for relief and plan objections, but fraudulent conveyance and non-dischargeability actions which are sometimes necessary when a debtor has sought to hide assets from the Bankruptcy Court and creditors or have not been entirely honest in the handling of their affairs.

Receiverships

There are occasions where there are serious business improprieties, so the borrower does not want them exposed to the watchful eye of the Bankruptcy Court. Although our attorneys have filed involuntary Bankruptcy petitions in these situations, an alternative is a state court receivership action. The focus is not as much on the inability to pay debts as it is on mismanagement of affairs, stealing from the company and the like, or waste or neglect of the collateral.