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**CURRENT INDUSTRY TRENDS /  
INDUSTRIES TO WATCH:  
Retail, Energy/Coal, Education, Gaming**

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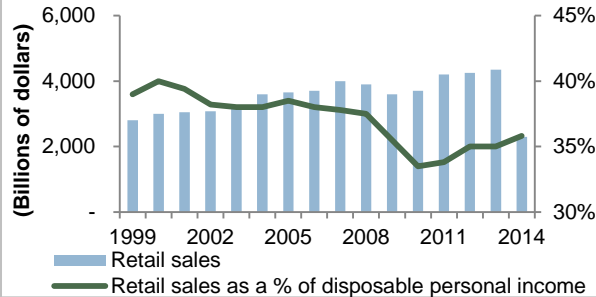
# Retail

## Industry Perspectives

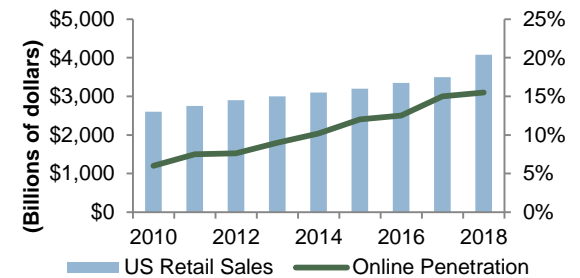
### Observations

- **General economic weakness**
  - Consumer confidence remains cautious
  - Weak labor force participation rate
  - Retail sales as a percentage of disposable income remain low
  - Stagnant wages among middle class constrain demand growth
- **Changes in consumer shopping behavior**
  - Structural shift from brick & mortar shopping to e-commerce
    - U.S. online retail expected to grow approximately 9.5% annually from \$263 billion in 2013 to \$414 billion in 2018
  - Decline in mall traffic: Closing of “anchor tenants” result in higher vacancy rates and lower shopping mall foot traffic
- **Changing consumer preferences create winners and losers**
  - Online and mobile commerce continue to perform strongly
  - Weak sales trends in Apparel Retailers and Department Stores
  - Bright spots include Luxury and Discounters

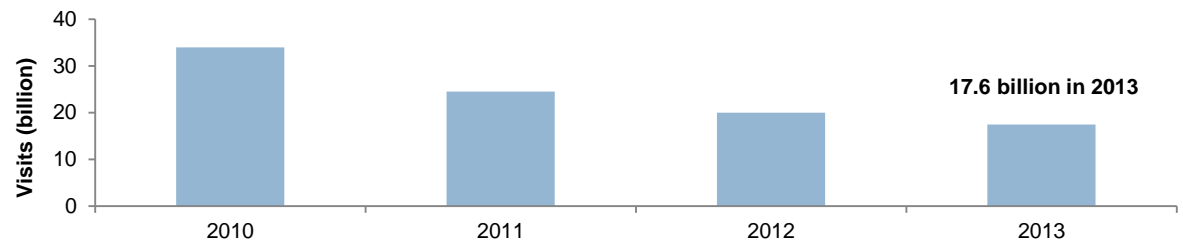
### Disposable Personal Income and Retail Sales



### Forecasted U.S. E-commerce Sales Growth



### Total Retail Foot Traffic in U.S. Shopping Malls



### Selected Stressed/Distressed Companies in Retail Industry

Issuer Name	Credit Rating	Total Debt	Total Leverage	Unsecured Pricing
Toys "R" Us Inc.	B-	\$ 5,424.0	9.4x	79%
J. C. Penney Company, Inc.	CCC+	5,262.0	NM	72%
Sears Holdings Corporation	CCC+	3,892.3	NM	92%
Claire's Stores Inc.	B-	2,401.3	9.9x	70%
The Gymboree Corporation	CCC+	1,244.6	13.8x	33%
Quiksilver Inc.	B-	840.7	23.4x	59%
RadioShack Corp.	CCC-	668.0	NM	40%

Source: Bloomberg, Capital IQ, Wall Street Research, Wall Street Journal.

## Reasons to Watch

- **Retail market has experienced decline due to:**
  - **Growing online marketplace**
  - **General economic weakness**
  - **Changes to consumers' expectations**
  - **Increased competition**
  - **Stagnant consumer spending**
  - **Weak consumer confidence**
  - **Decline in mall traffic due to closing of anchor tenants**

## Notable Filings/Distressed Situations

- Coldwater Creek
- Brookstone Holdings Corp.
- RadioShack
- Sears
- Toys “R” US
- J.C. Penney
- American Apparel
- Gymboree

## Legal Issues & Considerations

- **Obstacles to restructuring & going concern sales**
- **Shortened time to evaluate leases**
- **Tendency to liquidate or conduct quick sale process**
- **§ 363 Sales**
  - **Intersection of §§ 363(f) & 365**
    - **Intellectual Property**
  - **Credit Bidding**

## Case/Decision of Note

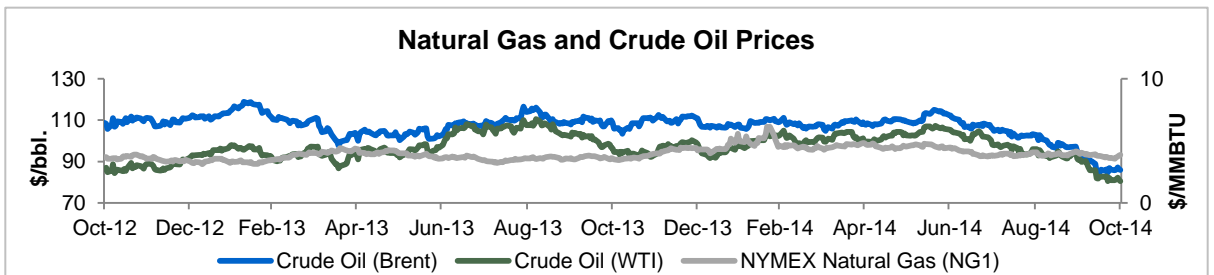
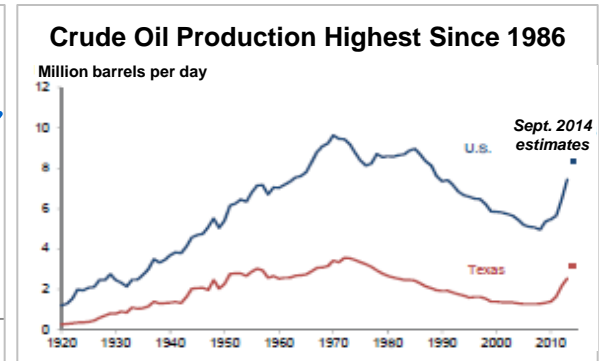
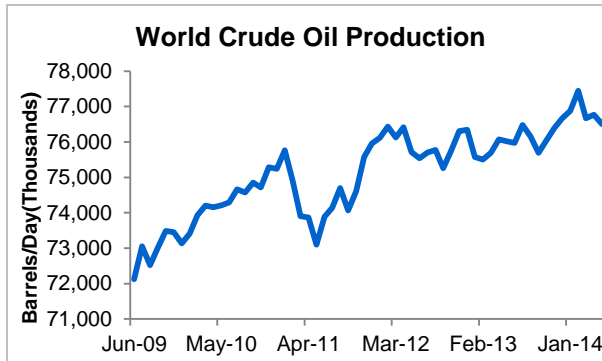
- ***In re Crumbs Bake Shop, Inc.*, Case No. 14-24287 (Bankr. D.N.J. October 31, 2014) (Kaplan, J.)**
  - § 363(f) sale does not extinguish § 365(n) rights absent consent
  - Trademark licenses can be protected by § 365(n)

# Energy

## Industry Perspectives - Oil

### Observations

- **Weak demand pressuring crude prices**
  - China growth slowing
  - Weak Eurozone economies
- **Significant supply from Saudi Arabia driving prices lower**
  - Action in response to growth in U.S. production
  - U.S. crude oil production rose to 8.8mb/d at the end of September 2014, highest level of production since 1986
- **As a result, prices have declined from recent peak of \$115.0 to \$83.8 per barrel**



### Selected Distressed Companies in Energy Industry

Issuer Name	Credit Rating	Total Debt	Total Leverage	Unsecured Pricing
Halcón Resources Corporation	B	\$ 3,447.0	5.9x	81%
Sandridge Energy, Inc.	B	3,195.2	3.8x	89%
Quicksilver Resources Inc.	CCC-	1,989.0	9.6x	59%
Hercules Offshore, Inc.	B	1,210.7	3.8x	59%
Connacher Oil and Gas Ltd.	Caa2	1,075.0	15.8x	64%
Goodrich Petroleum Corp.	B-	537.5	20.3x	87%
Milagro Oil & Gas Inc.	D	383.4	6.9x	70%

Source: Bloomberg, Capital IQ, Federal Reserve Bank of Dallas, Wall Street Research.

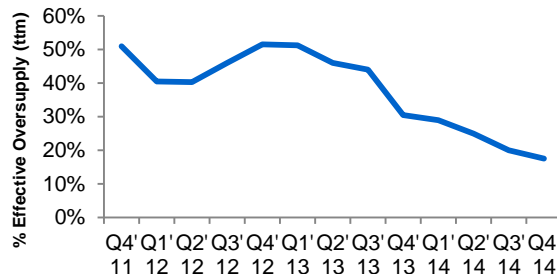
# Energy

## Industry Perspectives - Solar

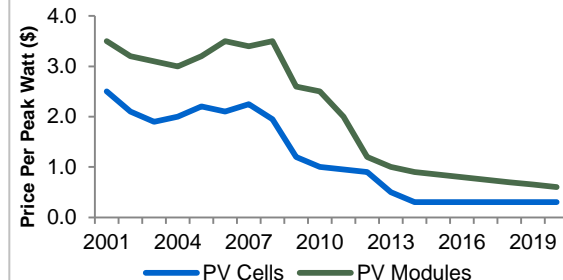
### Observations

- Despite technology improvements, solar remains less cost-efficient than traditional power sources absent government subsidies
- Competition and oversupply resulted in solar module pricing pressure
- Continuing excess production capacity for wafers and modules
  - Estimated excess effective oversupply of approximately 20%
  - Oversupply exacerbated by Chinese solar manufacturers
  - Selective Chinese government support for domestic solar industry
- Demand challenged by reduction and/or elimination of government subsidies to users of solar electricity
  - United States: Expiration of 1603 Program; 30 percent Investment Tax Credit ("ITC") to expire at the end of 2016
  - Germany: Amended Renewable Energy Sources Act ("EEG") resulting in cut to renewable energy rebates effective as of August 2014
  - UK: Continued Reduction in UK government's Feed-in-Tariffs; recent proposal to cut subsidy regime for large scale (>5MW) solar installations
  - Italy, Spain & Greece: Reduction in solar power tariff incentives

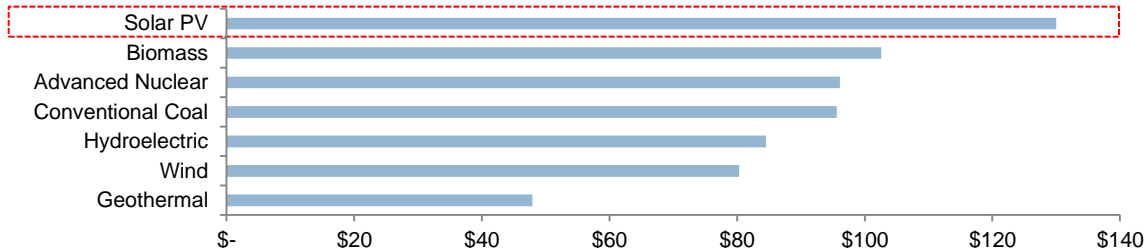
### Photovoltaic Module Effective Oversupply



### Price / Peak Watt Trend



### Estimated Levelized Cost of Electricity (\$/MWh) for Plants Entering Service in 2019<sup>1</sup>



### Selected Distressed Companies in Solar Industry

Issuer Name	Geography	Credit Rating	Total Debt	Total Leverage	Unsecured Pricing
LDK Solar Ltd.	China	NA	\$ 5,149.5	NA	10%
Hanwha SolarOne	China	NA	5,018.0	18.8x	-
ReneSola Ltd.	China	NA	871.9	8.3x	65%

Source: Bloomberg, Capital IQ, Solarbuzz, Wall Street Research, Deal Pipeline, U.S. Energy Information Administration, Database of State Incentives for Renewables & Efficiency.

<sup>1</sup> Provided by U.S. Energy Information Administration.



## Reasons to Watch

- **Coal market has experienced decline due to:**
  - **Industry-specific pressures in the U.S.**
  - **Changes in international coal markets**
  - **Increased use of fracking**
  - **Increased environmental regulations**

## **Notable Filings/ Distressed Situations**

- **James River Coal**
- **Walter Energy**
- **Alpha Natural Resources**
- **Xinergy Inc.**

## Legal Issues & Considerations

- **Liquidity Issues**
  - **Mechanisms for creating flexibility**
- **Legacy Liability Issues**
  - **Renegotiating collective bargaining agreements**
  - **Modifying onerous pension/retiree benefit obligations**

## Legal Issues & Considerations

- **Environmental Liabilities and Increased Regulation**
  - **High costs of compliance**
  - **Reclamation and pollution claims may be non-dischargeable or entitled to administrative priority**
  - **Exposure to mass tort liability under health and safety regulations**

## Legal Issues & Considerations

- **Potential Successor Liability**
  - **May further limit ability of company to effectuate an asset sale**

## Cases/Decisions of Note

- ***In re Marcal Paper Mills, Inc.*, 650 F.3d 311 (3rd Cir. 2011)**
  - Withdrawal from pension plan triggered admin claims for work attributable to post-petition period
- ***In re Wheeling-Pittsburgh Steel*, 50 B.R. 969 (Bankr. W.D. Pa. 1985), *aff'd* 52 B.R. 997 (W.D. Pa. 1985)**
  - Discussing legal standards for rejecting a CBA pursuant to Bankruptcy Code § 1113

## Cases/Decisions of Note

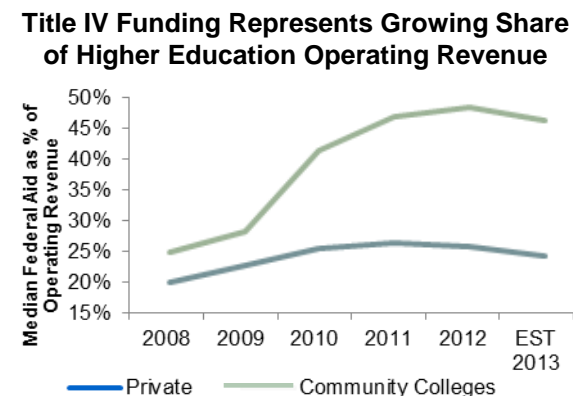
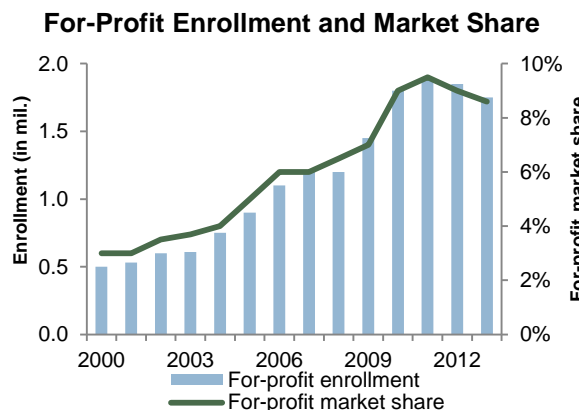
- ***United States v. LTV Corp. (In re Chateaugay Corp.)*, 944 F.2d 997 (2d Cir. 1991)**
  - **Distinguishing between orders to clean up accumulated waste (which give rise to a claim) and orders to stop ongoing pollution (which give rise to a non-dischargeable ongoing obligation)**

# For-Profit Education

## Industry Perspectives

### Observations

- **Significant competition from for-profit and traditional institutions**
- **Enrollment declines**
  - Stagnant economy and challenged employment prospects
  - Affordability issues for students
  - Adverse publicity and increased regulatory focus
- **Heightened legal scrutiny**
  - State attorney generals investigations
- **Near term impact from more stringent regulations**
  - Dependence on Title IV finding makes sector susceptible to any changes to Federal guidelines / parameters for student aid
  - Newly finalized Gainful Employment rule entails tougher new metrics used to determine Title IV funding
    - Effective as of July 1, 2015



### New Gainful Employment Regulation Summary

#### Accountability

- Access to Title IV funding / government aid tied to student outcomes
  - Income to loan servicing requirement standards

#### Transparency

Institutions will be required to make a series of public disclosures. Disclosures will include information such as costs, earnings, debt and completion rates

### Selected Distressed Companies in For-Profit Education Industry

Issuer Name	Credit Rating	Total Debt	Total Leverage	Unsecured Pricing
Education Management Corp. (Pending Exchange Offer)	NA	\$ 1,514.6	6.9x	NA
Corinthian Colleges (Winding Down)	NA	141.6	2.0x	NA

Source: Moody's Investor Service, Bloomberg, Capital IQ, Debtwire, US Department of Education National Center for Education Statistics.



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# For-Profit Education

## Reasons to Watch

- **Decline in overall enrollment**
- **Poor graduation rates**
- **Increased regulatory scrutiny**
  - **Allegations of (1) falsification of student job placement rates and (2) forcing students into high-interest loans that they cannot repay**
  - **Higher federal loan default rates than traditional public institutions**
  - **New federal rules for “gainful employment in a recognized occupation” (July 2015)**

# For-Profit Education

## Notable Filings/ Distressed Situations

- **ITT EDUCATIONAL SERVICES (Indiana)**
  - SEC enforcement action due to misleading information provided to students
  - LC issuance to DOE due to failure to timely submit compliance audit
- **EDUCATION MANAGEMENT CORPORATION (Pennsylvania)**
  - stock delisting, followed by out of court exchange and new stock issuance
  - minority noteholder litigation to block exchange
- **CORINTHIAN COLLEGES (California)**
  - breach of credit agreement, then sued by CFPB over misleading recruitment tactics
  - ultimate sale of certain schools and orderly wind down for others
- **DELTA EDUCATION (Virginia)**
  - out of court refinancing
- **ATI ENTERPRISES (Texas)**
  - regulatory non-compliance, foreclosure followed by chapter 7 filing
- **FCC HOLDINGS/ANTHEM EDUCATION (Florida)**
  - loan default, leading to sale of schools followed by chapter 11 filing

## Legal Issues & Considerations

### ■ Loss of Title IV funding

- Title IV of the Higher Education Act of 1965 authorizes taxpayer-funded federal student aid programs that “provide grants, loans and work-study funds from the federal government to eligible students” in college/career schools
- Title IV funding typically constitutes a large portion of a for-profit institution’s revenue (up to 90%)
- Any entity that files for bankruptcy, or for which a controlling affiliate has filed, loses eligibility to draw funds under Title IV
- Potential two-year wait to regain funding once lost

## Legal Issues & Considerations

- **Can a debtor successfully assert that the DOE's revocation of Title IV eligibility and stripping of funding after a bankruptcy filing violates the anti-discrimination provision of § 525(a) of the Bankruptcy Code?**
  - § 525(a) prohibits governmental units from denying, revoking, suspending, or refusing to renew a license, permit, charter, franchise, or other similar grant to an entity solely because of such entity's status as a debtor
  - The only two reported decisions on point have determined that once a company files for bankruptcy, it loses Title IV eligibility – irrespective of § 525(a)
  - Should Congress amend?

## Legal Issues & Considerations

- **As a result of the dire consequences that can result from a bankruptcy filing, companies that derive revenue from Title IV – and their creditors and equityholders – have utilized alternative restructuring or financing options (*i.e.*, out-of-court transactions)**
- **For example:**
  - Sales of Title IV schools (*e.g.*, *FCC Holdings*)
  - Teach outs (*e.g.*, *FCC Holdings*)
  - Exchange offers (*e.g.*, *EDMC*)
  - State law remedies (*e.g.*, foreclosure)

## Legal Issues & Considerations

- **Constraints on out-of-court transactions**
  - The availability of a particular transaction structure may be determined by reference to the school's constituent or debt/equity documents
  - Depending on structure, lack of comfort/familiarity by regulators and/or accrediting bodies may prolong or prevent implementation of transaction
  - May require a significantly longer runway and greater level of cooperation and willingness to compromise from parties in interest than if bankruptcy was an option

## Legal Issues & Considerations

- **New “gainful employment” rules beginning July 1, 2015**
  - On Oct 31, 2014, the DOE and Office of Management and Budget published the finalized rules, which set in place new metrics that impact Title IV funding for for-profit education institutions
  - Framework of accountability for schools, and transparency for potential students
  - Goal is to rein in student debt and penalize/eliminate colleges that fail to help students achieve “gainful employment”
  - Tougher requirement for funding and shorter path to ineligibility
  - According to DOE press release accompanying rule, 1,400 (out of 5,500) programs would fail the new accountability metric – as compared with 193 programs under the previous 2012 regulations
  - The final rule is less stringent than what was previously proposed in March 2014, pursuant to which 1,900 programs would have failed

## Legal Issues & Considerations

- The test for funding eligibility under the new rules is whether the estimated annual loan payment of a program's typical graduate (*i.e.*, excluding those who drop out/default on their debt) is less than 20% of the graduate's discretionary income or 8% of his/her total earnings
  - A program is ineligible for funding if it is in the "zone" for 4 consecutive years or it "fails" in 2 out of any 3 consecutive years
  - THE "ZONE": If the estimated annual loan payment of a program's typical graduate is between 8% - 12% of the graduate's total earnings or between 20% - 30% of his/her discretionary income
  - FAIL: If the estimated annual loan payment of a program's typical graduate is greater than 12% of the graduate's total earnings and greater than 30% of his/her discretionary income
  - Objecting parties claimed that the 8% cut-off should be higher and stated that debt incurred prior to the new rule should not be affected
  - Will begin application against 2016 results for schools



# For-Profit Education

## Cases/Decisions of Note

- ***In re Lon Morris College*, Case No. 12-60557 (Bankr. E.D. Tx. Aug. 20, 2012) (Parker, J.)**
- ***In re Betty Owen Schools*, 195 B.R. 23 (Bankr. S.D.N.Y. 1996)**
  - Both holding debtor loses Title IV eligibility due to bankruptcy filing
  - ***“[I]t is a clearly expressed subsequent Congressional choice that the public policy supporting access to bankruptcy relief must necessarily yield in this limited instance to the public policy protecting students and their investment in their education, as well as protecting the vast sums of money that American taxpayers invest into higher education for its citizens through the availability of federally backed student loans.”*** (Parker, J., Bankr. E.D. Tx. (*Lon Morris*))

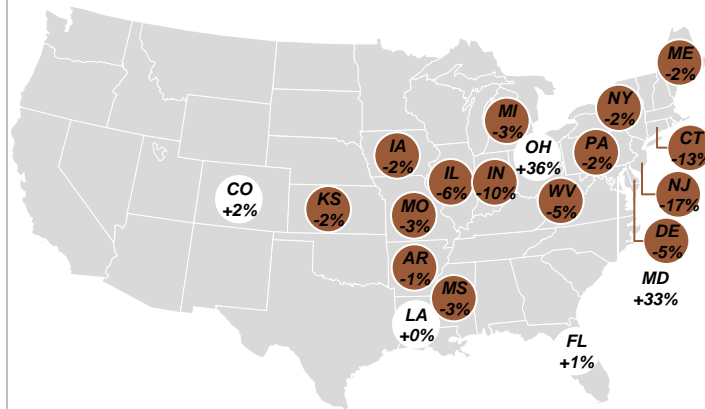
# Gaming

## Industry Perspectives

### Observations

- **Legislative developments led to an increase in new competitors that have stolen revenues from existing properties**
  - Driven by tax revenue pressures, 39 states currently have casino gambling of some kind (up from two in 1988)
  - States including Massachusetts, New York, Illinois and Michigan continue to examine the legalization and expansion of gaming within their borders
- **Oversaturation across regional markets**
  - Northeast: 26 casino openings in the Northeast since 2004
  - Mid-Atlantic: New casino openings in Maryland and Pennsylvania have increased competition for existing casinos
  - Midwest/South: Revenues remain constrained
- **Atlantic City hard hit by regional competition**
  - Five of 12 casinos have closed this year
  - Trump Taj Majal at risk of closure
- **Tribal gaming issues currently debated**
  - State Negotiations: Expiring tribal-state compacts have resulted in renegotiated revenue sharing provisions not previously included
  - Opposition to Off-Reservation gaming
- **General economic weakness has limited demand improvement**
  - Slowly improving labor market
  - Stagnant wages among lower income customer base

### Regional Gaming Trends – YTD September 2014



### Gaming Trends by State

Market	YTD 2014	YTD 2013	% Chg
Indiana	1,464.7	1,668.0	-12.2%
West Virginia	501.0	566.2	-11.5%
Illinois	987.6	1,067.7	-7.5%
Connecticut	724.9	782.4	-7.3%
Delaware	275.9	296.2	-6.9%
Atlantic City	\$1,848.9	\$1,973.5	-6.3%
Kansas	237.3	251.4	-5.6%
Mississippi	1,418.8	1,479.7	-4.1%
Missouri	1,123.2	1,167.0	-3.8%
Iowa	933.3	965.3	-3.3%
Florida	299.5	309.0	-3.1%
Pennsylvania	2,071.3	2,128.7	-2.7%
Maine	70.9	72.8	-2.7%
New York	1,281.7	1,315.6	-2.6%
Detroit	891.4	914.9	-2.6%
Colorado	506.6	511.8	-1.0%
Louisiana	1,664.7	1,662.7	0.1%
Ohio	641.1	639.3	0.3%
Nevada	7,373.7	7,320.9	0.7%
Rhode Island	357.2	318.7	12.1%
Maryland	580.3	485.1	19.6%

Results through August 2014 except Rhode Island

### Selected Distressed Companies in Gaming Industry

Issuer Name	Credit Rating	Total Debt	Total Leverage	Unsec / 2nd Ln Pricing
Caesars Entertainment Corporation	CCC-	\$ 20,463.2	25.1x	16%
Mashantucket Pequot Gaming, Inc	SD	1,700.0	NA	NA
Rock Ohio Caesars	Caa2	1,003.6	14.2x	NA
Trump Entertainment Resorts, Inc.	NR	298.5	NA	NA
River Rock Casino	NR	169.6	4.7x	8%
Tunica-Biloxi Gaming Authority	CCC	NA	NA	60%

Source: Bloomberg, Capital IQ, S&P Report, Wall Street Research, Deal Pipeline, Company SEC Filings.

## Reasons to Watch

- **Desire of financial institutions to invest in gaming operations**
- **Casino profitability and debt repayment ability generally suffering**
- **Recent proliferation of casinos outside of Las Vegas and Atlantic City, as well as expansion of Indian gaming and gambling at racetracks**
- **Economic state of, and casino decline in, Atlantic City (e.g., closures of Revel, Trump Plaza, Showboat, Atlantic Club – possibly also Taj)**
  - **Less competition not improving business at remaining casinos**
- **Increase in online gaming leading to fewer brick and mortar casinos**
- **Delay or elimination of major capital projects**

## Notable Filings/ Distressed Situations

- **Caesars (“Good Co./Bad Co.”; litigation between company and first/second lien debtholders)**
- **Trump Entertainment Resorts (chapter 11 filings in NJ in February 2009 and Del. in September 2014)**
- **Revel (chapter 11 filings in NJ in March 2013 and June 2014)**
- **Atlantic Club (chapter 11 filing in NJ in November 2013 after failed sale in December 2012 due to lack of regulatory clearance)**
- **Indiana Downs (chapter 11 filing in Del. in April 2011)**
- **Centaur/Hoosier Park (chapter 11 filing in Del. in March 2010)**

## Legal Issues & Considerations

- **Use of, and liens against, casino cash**
  - Cash is located in the casino cage, in the gaming machines, at the gaming tables, and in the form of chips
  - Open issue of whether “cage cash” is subject to “all asset” lien of a secured creditor
    - often explicitly carved out of security interest
    - is neither in possession of lender nor in controlled accounts as required for perfection under UCC
  - Issue under § 552(b) of the Bankruptcy Code regarding post-petition cash generated by gaming equipment or tables
    - If post-petition cash generated from use (compared to sale/exchange/ disposition) of encumbered equipment does not constitute “proceeds,” it is not pre-petition lender’s collateral because security interest does not attach to post-petition revenue unless “proceeds, products, offspring, or profits” of pre-petition collateral
  - Also, is the cash comingled, further impairing ability to claim security interest?
  - Could be an important unencumbered asset -- if “cage cash” is freed up, debtor may be able to use it for operations or distributions to creditors

## Legal Issues & Considerations

- Use of Bankruptcy Code § § 1113 and 1114 to reduce labor costs
  - Casinos often employ unionized labor, and to cut necessary costs (e.g., pensions and health/welfare contributions), may need to avail themselves of the protections afforded by the Bankruptcy Code's process for rejecting CBAs/retiree benefits
- The requisite tests required for rejection may be easier to satisfy in certain jurisdictions (e.g., 2<sup>nd</sup> Circuit) than others (e.g., 3<sup>rd</sup> Circuit)
  - For example, the 3<sup>rd</sup> Circuit interprets the “necessary modifications” prong of the § 1113 test to mean that such modifications must be necessary to avoid a liquidation, as opposed to increasing the likelihood of a successful reorganization
  - Notwithstanding this potentially higher burden, Judge Gross permitted the *Trump* debtors to reject and modify their CBA (post-expiration) to implement new terms because they would otherwise liquidate without the requested relief

## Legal Issues & Considerations

### ■ State and local regulatory and license issues

- Competing goals of BK policy (providing payment to creditors and allowing rehabilitation) and regulatory bodies (protecting consumers, maintaining integrity of gaming industry, maintaining stable source of tax/licensing revenue)
- The more jurisdictions in which a gaming company does business, the more regulators that come into play
- Certain gaming licenses/approvals may be required for (1) substantial equity holders and purchasers to assume control or voting power, or (2) parties assuming operational roles (*i.e.*, officers, directors)
  - The issue of how much decision making power a lender can have over a casino without being deemed to be in control is complex
  - May give borrower leverage in loan renegotiations after default, as lender may be unable to conduct gaming operations due to burdensome or unachievable licensing requirements, but shutting down would decimate its collateral value
- Plan of reorganization, asset or foreclosure sales and DIP financings may also need to be submitted to regulatory agencies for licensing review and approval

## Legal Issues & Considerations

### ■ Tax issues

- The gaming industry is highly taxed ,which can weigh heavily on a business that is rapidly losing money
- Local/state governments may be unwilling to provide requisite tax relief necessary to rehabilitate



## Cases/Decisions of Note

- ***In re Trump Entertainment Resorts, Inc.*, Case No. 14-12103 (Bankr. D. Del. Oct. 20, 2014) (Gross, J.)**
  - Approval of motion to reject CBA with union and implement modifications
- ***In re Revel AC, Inc.*, Case No. 14-22654 (Bankr. D.N.J. Oct. 7, 2014) (Burns, J.) and *In re RIH Acquisitions NJ, LLC*, Case No. 13-34483 (Bankr. D.N.J. Dec. 26, 2013) (Burns, J.)**
  - Bankruptcy courts approved § 363 sales





## FRANK A. MEROLA

PARTNER

### Contact Information

Tel: (310) 556-5802  
Fax: (310) 407-6302  
[finerola@stroock.com](mailto:finerola@stroock.com)

### Practice Group

Financial Restructuring

### Education

J.D., UCLA School of Law, 1988; Order of the Coif; Order of the Barrister; Moot Court Honors Program – Board of Judges, 1988; Distinguished Advocate, 1987

B.S., *cum laude*, Georgetown University, 1985

Frank Merola is a partner in Stroock's Financial Restructuring Group and has more than 25 years of experience in business reorganization and bankruptcy. Mr. Merola has advised debtors, creditors, acquirers and equity holders in both Chapter 11 and out-of-court restructurings across a range of industries. He also focuses his practice on the representation of ad hoc and official creditor committees and equity holders. Prior clients include Sirius Satellite Radio, Federated Stores, Inc., Harbinger Capital Partners, Tennenbaum Capital Partners and Prentice Copley Investment Group. Mr. Merola has developed a sub-specialty advising parties in casino resort restructurings and bankruptcies.

Prior to joining Stroock, Mr. Merola worked at Jefferies & Co., Inc. as managing director in the Recapitalization and Reorganization Group, and as an attorney at Stutman, Treister & Glatt, P.C., a Los Angeles-based boutique law firm.

### Representative Matters

- Aladdin Hotel & Casino (official creditors' committee)
- Arizona Charlie's (debtor)
- ATP Oil & Gas (debtor)
- Crusader Energy (debtor)
- Deepwater Horizon Oil Spill Trust (trustee)
- Fontainebleau Las Vegas (ad hoc committee of noteholders)
- Gateway Casinos (ad hoc committee of noteholders)
- Gold River Hotel & Casino (debtor)
- Herbst Gaming (official creditors' committee)
- Innkeepers USA Trust (official creditors' committee)
- Insight Health (debtor)
- MSR Resorts Golf Course LLC (official creditors' committee)
- Resort at Summerlin (debtor)
- Sands Atlantic City (secured creditor)
- Tronox, Inc. (official creditors' committee)

- Tropicana Hotel & Casino (noteholder)
- Trump Hotel & Casino Resorts (equity committee)

### Honors and Awards

- Listed in *Super Lawyers*
- Recognized by *Best Lawyers in America*
- 2007, Recipient, Large Company Transaction of the Year Award, Turnaround Management Association (USA Capital First Trust Deed Fund)

### Memberships

- Turnaround Management Association, Former Director
- Association of Certified Turnaround Professionals, Former Director
- Member, American Bar Association (Business Law Section and Subcommittee on Entertainment, Gaming and Real Estate Related Issues)
- Member, Los Angeles County Bar Association (Commercial Law and Bankruptcy Section)
- Chairman, Legislative Action Committee for Turnaround Management Association, 1996-1998
- Member, State Bar of California (Debtor/Creditor Relations and Bankruptcy Committee), 1987-1991

### Speeches and Events

- Speaker, Fiduciary Duty Issues, National Conference of Bankruptcy Judges, San Diego, California, October 26, 2012
- Speaker, "Bad Boy Guarantees," American Bankruptcy Institute – Southwest, Las Vegas, Nevada, September 14, 2012
- Speaker, "How to Achieve a Successful Restructuring in Today's Changing Legal and Business Environment," Turnaround Management Association Annual Convention, San Diego, California, October 26, 2011
- Speaker, "Surviving a Distressed Credit Scenario," Native American Finance Officers Association Annual Conference, Jersey City, New Jersey, September 15, 2011

- Speaker, "Distressed Credit and Debt Management," Native American Finance Officers Association Spring Finance Conference, Pala, California, March 22, 2011
- Speaker, "The Chips Are Down: Dealing with Casino Bankruptcy Cases," National Conference of Bankruptcy Judges, New Orleans, Louisiana, October 14, 2010
- Speaker, "Industry Trends – Who Will Benefit From and Who Will Labor Under the Economic Recovery," Turnaround Management Association Distressed Debt Conference, Las Vegas, Nevada, January 27-29, 2010
- Speaker, "Snake Eyes – Casino Bankruptcies," National Conference of Bankruptcy Judges, October 18-21, 2009
- Speaker, "Understanding Capital Markets," American Bankruptcy Institute – Southwest, Lake Tahoe, September 10-12, 2009
- Speaker, "Financial Institutions and Hot Topics," California Bankruptcy Forum Annual Conference, Carmel, California, May 17, 2009
- Speaker, Rights Offerings, Kellogg Business School Conference, Chicago, Illinois, May 6, 2009
- Milken Institute, "Taking Control of Restructurings to Drive Successful Turnarounds," Beverly Hills, California, April 28, 2009
- Speaker, Rights Offerings, Turnaround Management Association Distressed Investing Conference, Las Vegas, Nevada, January 27, 2009
- Speaker, "Chaos in the Boardroom: A Day in the Life of a Director in a Distressed Company," Turnaround Management Association Annual Conference, New Orleans, Louisiana, October 29, 2008

### Admitted to Practice

California, 1988; U.S. District Court, Southern District of California; U.S. District Court, Central District of California; U.S. District Court, Northern District of California; U.S. District Court, Eastern District of California; U.S. Court of Appeals, Ninth Circuit

## Jayme Goldstein, Esq.

Jayme Goldstein is a partner in the Financial Restructuring Group of Stroock & Stroock & Lavan LLP, and focuses his practice on representing ad hoc groups of hedge funds, private equity funds, banks and large investment managers in in-court and out-of-court restructurings. He also has developed significant experience representing debtors, official creditors' committees, acquirers of distressed assets, DIP lenders and indenture trustees.

*Turnarounds & Workouts* named Mr. Goldstein one of 2014's "Outstanding Young Restructuring Lawyers", and he was also listed as a *New York Super Lawyers* "Rising Star" in 2012 and a *New York Super Lawyer* in 2013 and 2014. He is a member of the American Bankruptcy Institute, the Association of the Bar of the City of New York (for which he is a member of the Bankruptcy Committee) and the Turnaround Management Association. In addition, Mr. Goldstein has contributed to a number of articles and treatises covering issues present in the distressed marketplace.

Mr. Goldstein received his B.A., *magna cum laude*, from Brown University in 1999 and his J.D. from Cornell Law School in 2002, where he was an Associate Editor of the *Cornell Law Review*.





**Melissa A. Hager**

Of Counsel  
New York  
(212) 336-4324  
mhager@mofo.com

Melissa A. Hager has more than 20 years of experience advising a wide array of clients in complex business reorganizations, debt restructurings, asset sales, and insolvency matters throughout the country. Ms. Hager regularly represents official and ad hoc creditors' committees, debtors, secured creditors and financial institutions in numerous industry sectors including financial services, real estate and real estate development, mortgage servicing, hospitality and lodging, energy, telecommunications, healthcare, and retail. Her experience also includes representation of bankruptcy examiners, bankruptcy trustees, liquidating trustees, and other post-confirmation creditor fiduciaries.

Ms. Hager serves as the membership and sponsorship director of the New York network of the International Women's Insolvency & Restructuring Confederation (IWIRC) and is a member of the American Bankruptcy Institute. She has been rated AV preeminent by her peers in the Martindale-Hubbell Peer Review Ratings.

Ms. Hager received her B.A., *cum laude*, from Providence College and her J.D., *magna cum laude*, from Quinnipiac School of Law in Hamden, CT, where she was an editor of the *Law Review*.

## **Representative Matters**

- ***In re Energy Future Holdings Corp., et al.***

(Bankr. D. Del.) Counsel to the official committee of unsecured creditors in the chapter 11 cases of Texas power company Energy Future Holdings Corp. and its affiliates, which filed for bankruptcy in April 2014. This is the 10<sup>th</sup> largest bankruptcy in U.S. history with the debtors holding approximately \$40 billion in debt.

- ***In re MF Global Holdings Ltd., et al.***

(Bankr. S.D.N.Y.) Counsel to Louis J. Freeh, former Federal Judge and Director of the Federal Bureau of Investigation, as chapter 11 trustee for MF Global in its chapter 11 bankruptcy proceeding. With \$41 billion in assets at the time of filing, MF Global was the largest bankruptcy filing of 2011 and the eighth-largest in U.S. history. This case involves a wind-down of an extremely complex global operation and the realization of value from various entities in the MF Global Group, many of which are in their own administration or liquidation proceedings domestically and internationally.

- ***In re Global Aviation Holdings Inc., et al.***


Representation of the official committee of unsecured creditors in the chapter 11 cases of *In re Global Aviation Holdings Inc., et al.*

- ***In re Fairfield Residential LLC, et al.***

(Bankr. D. Del.) Represented the official committee of unsecured creditors of Fairfield Residential LLC, a large multi-family and low income housing developer and property manager, in its chapter 11 reorganization. Currently represent the FFR Trust, the liquidating trust that was formed post-petition to liquidate the debtors' remaining assets, resolve claims, and facilitate distributions to creditors.

- ***In re Extended Stay Inc., et al.***

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(Bankr. S.D.N.Y.) Representation of mezzanine lenders owed \$3.3 billion by the debtors in Extended Stay Inc.'s chapter 11 bankruptcy case. Extended Stay is the largest bankruptcy filing in the history of the hospitality industry with nearly \$8 billion in debt.

- ***In re Tricom, S.A.***

(Bankr. S.D.N.Y.) Represented Tricom, S.A. and its affiliates in their chapter 11 proceedings, which involved the restructuring of more than \$700 million. The case represented the first effort to reorganize a public Dominican Republic corporation under chapter 11 of the U.S. Bankruptcy Code.

- ***In re Residential Capital, LLC, et al.***

(Bankr. S.D.N.Y.) Counsel to Residential Capital, one of the largest residential real estate finance companies with assets and liabilities each in excess of \$15 billion, whose business is comprised primarily of loan servicing and origination, and its subsidiary companies, in their pending chapter 11 cases. Residential Capital was the largest bankruptcy filing of 2012 and the case represents the first time ever that a mortgage servicer was able to successfully continue servicing and originating mortgages in bankruptcy and be sold as a going concern.



The Honorable Michael B. Kaplan was appointed as a bankruptcy judge on October 3, 2006, for the District of New Jersey, Trenton Vicinage. Prior to taking the bench, Judge Kaplan served as a Standing Chapter 13 Bankruptcy Trustee. Judge Kaplan received his A.B. degree from Georgetown University (1984) and his J.D. Degree from Fordham University School of Law (1987). He is licensed to practice law in New Jersey, New York and Connecticut, and is admitted to practice before the U.S. Supreme Court, Third Circuit Court of Appeals, U.S. Court of International Trade and various federal district courts.

Over the past twenty-five years, Judge Kaplan has spoken to numerous bar associations and business organizations, including: the New Jersey Judicial College, National Association of Chapter 13 Trustees, National Association of Bankruptcy Trustees, Turnaround Management Association, NY Institute of Credit, Bloomberg, L.P., Federal Reserve Bank of Philadelphia, American Conference Institute, Pennsylvania Bar Institute, National Business Institute and the New Jersey Institute for Continuing Legal Education. Judge Kaplan teaches as an adjunct professor at the Newark and Camden campuses of Rutgers University School of Law. He has authored several articles relating to bankruptcy issues and is a co-author of West's *Consumer Bankruptcy Manual*. Judge Kaplan was the recipient of the National Association of Chapter 13 Trustees' 2006 Distinguished Service Award and New Jersey State Bar Association's 1999 Legislative Recognition Award. In December of 2009, Judge Kaplan was appointed by the Director of Administrative Office of the Courts to a four year term as the Third Circuit representative to the Bankruptcy Judges Advisory Group, and most recently selected as the Bankruptcy Judge representative on the Human Resources Advisory Council to the AO.

Judge Kaplan has also served as Mayor and Councilman for the Borough of Norwood, NJ, and in 2005, he was a candidate for Bergen County Freeholder.



**Leon Szlezinger**  
**Global Co-Head of Restructuring & Recapitalization**  
**(212) 323-3918**  
[lszlezinger@jefferies.com](mailto:lszlezinger@jefferies.com)

Mr. Szlezinger is the Co-Head of Jefferies' Restructuring Department. He has over 25 years of professional experience advising troubled companies and their stakeholders. He has advised company management and Boards, secured lenders, bondholders and equity holders in bankruptcy matters and out-of-court restructurings in United States and overseas.

Mr. Szlezinger has also provided assistance to under-performing businesses, potential acquirers of distressed assets/entities, and advised clients on general business issues. His industry specialization includes healthcare, industrials, real estate, energy and aviation. He has advised significant stakeholders in restructurings such as Energy Future Holdings, Momentive, KV Pharmaceutical, American Airlines, Eastman Kodak, Quebecor, Delphi, Enron, Parmalat and Federal Mogul and has testified on numerous occasions.

Mr. Szlezinger has been a frequent speaker to investors, commercial lenders and law firms and a panelist for organizations such as the American Bankruptcy Institute, International Insolvency Institute and the American Bar Association. He is a former co-chair of the Investment Banking Committee of the ABI. He has frequently been recognized as a top restructuring advisor by The Deal, has been included in the K&A Restructuring Register, a peer group listing of the top 40 corporate restructuring financial advisors in the United States, Bankruptcy Insider as a top creditor advisor and Turnaround & Workouts' People to Watch. He was a recipient of the 2014 Mega Turnaround of the year award from the Turnaround Management Association.

Prior to joining Jefferies, Mr. Szlezinger was a Senior Managing Director at Mesirow Financial Consulting and a Corporate Recovery Partner at KPMG and PricewaterhouseCoopers.

**Education/Professional Certifications:**

- Manchester University, BA (Hons) Economics, 1987
- Fellow Institute of Chartered Accountants in England & Wales
- Certified Valuation Analyst, NACVA
- Securities Licenses: Series 7, Series 24, Series 63