

# SULLIVAN & CROMWELL LLP

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## Lawyers



### Michael H. Torkin

Partner

#### New York

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#### PRACTICES & CAPABILITIES

**Restructuring**

**Bankruptcy**

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#### EDUCATION

**1997, Osgoode Hall Law School, J.D.**

**1993, University of Western Ontario, B.A.**

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#### BAR ADMISSIONS

**New York**

Michael is a partner in the Firm's General Practice Group, focusing on Bankruptcy & Restructuring matters. Michael represents debtors in Chapter 11 reorganizations and out-of-court corporate and financial restructurings. He also advises private equity and hedge funds in connection with distressed transactions and special situation investments. Michael routinely advises boards of directors of financially distressed companies on fiduciary matters. Recent representations include: **Aurobindo Pharma USA Inc.** in connection with its 363 acquisition of **Natrol Inc.**; **Eastman Kodak Company** in its chapter 11 proceeding and global reorganization; **AT&T Inc.** in connection with the proposed 363 acquisition of **Nextel Mexico**; **NewPage Holdings Inc.** in connection with its acquisition by Verso Paper Corp.; Official Committee of Unsecured Creditors for **Energy Future Holdings**; and Official Committee of Unsecured Creditors for **Dendreon Corporation**.

*Chambers Global* named Michael as a leading attorney, who "brings a creative and learned approach to reorganizations, out-of-court restructurings and distressed M&A matters" and *The Legal 500 United States* reported he has "a flourishing reputation in the market" with clients "who describe his work as 'incredibly competent.'" *Chambers USA* wrote that clients say he is "incredibly incisive and very impressive." Michael also has been recognized by *The M&A Advisor* as one of the top "40 under 40" M&A, financing and turnaround professionals in 2010 and by *Turnarounds & Workouts* as one of 12 "Outstanding Young Restructuring Lawyers" in each of 2009 and 2010.

#### Publications

- "Concurrent Rights Offerings by Chapter 11 Debtors," *The Bankruptcy Strategist* (January 2014) (co-author)
- "Filing for Chapter 11 Bankruptcy – What You Need to Know," *Aspatore* (June 2011)
- "Major Legal and Financial Factors Impacting Chapter 11 Restructurings in 2011," *Aspatore Thought Leadership* –

### *Bankruptcy and Financial Restructuring Law 2011*

(co-author)

- “The Evolution of Creditors’ Rights During the Economic Crisis,” Recent Trends and Relevant Case Law in Creditors’ Rights, Aspatore – *Inside the Minds*, 2010 Edition
- “Emerging Trends in Enforceability of Bankruptcy Waivers in Second Lien Financing Transactions,” *Bloomberg Law Reports – Bankruptcy Law* (July 2010) (co-author)
- “Foreign Investment in US Real Estate: Bankruptcy Aspects,” *AFIRE Guide to US Real Estate Investing* (January 2010) (co-author)
- “Termination Premiums Under ERISA held to be Dischargeable Prepetition Claims,” *The Bankruptcy Strategist* (May 2008) (co-author)

### **PLC Global Finance Update (Co-author)**

- “The Seventh Circuit’s Decision in ReGen Capital Creates Confusion: When is an Assumed Contract not an Assumed Contract?” (March 2011)
- “The Visteon Decision: The Third Circuit’s Strict Construction of the Bankruptcy Code Continues” (August 2010)
- “Fifth Circuit Ruling Clarifies Ability of Foreign Administrators to Bring Avoidance Actions in Chapter 15 Proceedings” (April 2010)
- “General Growth Ruling Places the Bankruptcy Remoteness of SPEs into Question” (March 2010)
- “The Recoverability of Post-petition Attorneys’ Fees in US Bankruptcy Proceedings” (February 2010)
- “Metavante Decision: Dispute Under Section 2(a)(iii) of ISDA” (September 2009)
- “Bar Date Order in the Lehman Brothers Chapter 11 Cases” (July 2009)
- “Winstar Decision Increases Risk that Strategic Partners/Lenders Could be Subject to One-year Look-back Period for Preferential Payments” (April 2009)
- “The Fourth Circuit Court of Appeals Declines to Limit the Bankruptcy Code Definition of ‘Swap Agreement’ to Contracts Traded in the Open Market” (March 2009)
- “SemCrude Decision Could Spell the End to Triangular Set-off Agreements” (February 2009)
- “Lessons from Lehman: Limiting Market Risk with ‘Good Faith Affidavits’” (January 2009)

### **Professional Activities**

Mr. Torkin is a member of the American Bankruptcy Institute, INSOL International and Turnaround Management Association.

### **Awards and Recognitions**

- *Chambers Global: The World's Leading Lawyers for Business* – Bankruptcy (2010, 2011)
- *Chambers USA: America's Leading Lawyers for Business* – Bankruptcy (2012, 2013)
- *M&A Advisor* – recognized among the “Top 40 under 40” M&A, financing and turnaround professionals (2010)
- *Turnarounds and Workouts* – recognized as one of 12 “Outstanding Young Restructuring Lawyers” (2009, 2010)
- *The Legal 500 United States* (2009, 2010, 2012, 2014, 2015)

### **SELECTED REPRESENTATIONS**

#### **Debtor Assignments**

- Eastman Kodak Company in its Chapter 11 reorganization
- America Online Latin America in its Chapter 11 reorganization
- Gilat Satellite Networks in the restructuring of its bank debt and publicly-traded bonds and Section 304 proceeding
- Marc Ecko Enterprises in connection with its restructuring and sale of a 51% interest to Iconix Brand Group
- Oneida in its prenegotiated Chapter 11 reorganization
- PMI Group in its pending chapter 11 case
- Remy International in its prepackaged Chapter 11 reorganization
- Smarte Carte in its prepackaged Chapter 11 reorganization
- Versatel Telecom International, N.V., in its prenegotiated restructuring and Chapter 11 case, and joint Dutch proceeding

#### **Official Committee Counsel Assignments**

- Counsel to official committee of unsecured creditors in Energy Future Holdings Chapter 11 proceedings
- Counsel to official committee of unsecured creditors in Dendreon Chapter 11 proceedings

#### **Special Situation Transactions**

- Avenue Capital and DDJ Capital Management in connection with an \$80 million debtor-in-possession financing and 363 acquisition of substantially all of the assets of Milacron Inc.

- DDJ Capital Management, Goldentree, AIG and Bennett Management in the prepackaged Chapter 11 reorganization of Hights Cross Communications
- RPM International in connection with its subsidiaries', SPHC and Bondex, asbestos related Chapter 11 cases
- Numerous domestic financial institutions in connection with their living wills and resolution strategies
- France Telecom, as bondholder and preferred equity holder, in the attempted out-of-court restructuring of NTL Inc. and subsequent Chapter 11 proceeding
- Francisco Partners, as equity sponsor, in connection with Electrical Components International prepackaged Chapter 11
- Numerous hedge funds, financial institutions and corporations in connection with the Lehman Brothers insolvency proceedings

### **M&A and Strategic Transactions**

- Anglo American in its in-court 363/plan acquisition of the international grinding media business of GS Industries
- AT&T in connection with its proposed 363 acquisition of Nextel Mexico
- Aurobindo Pharma USA Inc. in connection with its 363 acquisition of Natrol Inc.
- Chinese strategic buyer in connection with the proposed 363 acquisition of Emivest LLC's assets
- Dycom, Inc., as 363 stalking horse bidder for assets of Orius Corp.
- Florida Crystals in its acquisition of C&H Sugar Company, Inc.
- Gildan Activewear in its proposed in-court 363 acquisition of Fruit of the Loom
- Macquarie Bank Limited in its acquisition of Smarte Carte Inc.
- Macquarie-led investment syndicate in the acquisition of AIR-serv Holdings
- Schonfeld Securities, LLC in its 363 acquisition of Broadway Trading and Heartland Securities
- CVS Caremark Corporation in its acquisition of Coram
- Sichuan Tengzhong Heavy Industrial Machinery Co., Ltd in its proposed acquisition of Hummer from General Motors
- Tyco Capital in its bid to acquire the leasing business of Comdisco in a 363 transaction
- Versa Capital Management in connection with its 363 acquisition of United Retail Group

## **Stakeholder Assignments**

- Bechtel Corporation in the \$600 million out-of-court restructuring of Metromedia Fiber Network and subsequent Chapter 11 proceeding, including the sale of its \$89 million distressed promissory note
- Capital Products Partners LP in connection with a restructuring of three charter contracts with Overseas Shipping Group, and monetization of its \$50 million rejection damages claim
- Citibank, as synthetic lease agent, in the restructuring of AMERCO, parent of U-haul Corporation
- Federal Republic of Germany regarding legal matters related to the restructurings of the General Motors Group and Adam Opel GmbH