

Webcast: Bankruptcy and Financial Distress: Fiduciary Duty and Fraud Considerations for Private Equity Firms

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Private Equity firms and other investors naturally are identifying opportunities and challenges that are arising in the highly disrupted post-COVID 19 markets. But those actions are subject to second guessing by other market participants, official creditors' committees, lenders and regulators. In this hour-long discussion among Gibson Dunn's Bankruptcy and White Collar Defense and Investigations Practice Group Co-Chairs, a leading economic research commentator from Cornerstone and Harvard Business School's renowned Bankruptcy expert, we will identify and address credit and valuation risks, fiduciary duty obligations and potential civil and criminal bankruptcy fraud issues that may embroil even cautious investors who participate in the new market opportunities.

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PANELISTS:

Joel M. Cohen, a trial lawyer and former federal prosecutor, is Co-Chair of Gibson Dunn's White Collar Defense and Investigations Practice Group, and a member of its Securities Litigation, Class Actions and Antitrust & Competition Practice Groups. He has been lead or co-lead counsel in 24 civil and criminal trials in federal and state courts, and he is equally comfortable in leading confidential investigations, managing crises or advocating in court proceedings. Mr. Cohen's experience includes all aspects of FCPA/anticorruption issues, in addition to financial institution litigation and other international disputes and discovery.

Stuart "Stu" Gilson is the Steven R. Fenster Professor of Business Administration at the Harvard Business School. Professor Gilson is an expert on corporate restructuring, business bankruptcy, credit analysis, business valuation, corporate financial analysis, and financial strategy. His research and teaching focus on strategies that companies use to revitalize their business, improve performance, and create value in a challenging business environment. Professor Gilson's research has been cited by news media, including *The Wall Street Journal*, *The New York Times*, *Business Week*, and *Bloomberg*. Professor Gilson has served on the advisory boards of various organizations distressed debt investment funds. Professor Gilson has testified as an expert on a number of high profile bankruptcy matters.

Robert A. Klyman is Co-Chair of Gibson Dunn's Business Restructuring and Reorganization Practice Group. Mr. Klyman represents debtors, acquirers, lenders, ad hoc groups of bondholders and boards of directors in all phases of restructurings and workouts. His practice regularly includes advising PE Firms and boards of directors of portfolio companies with respect to navigating financial distress, and he has significant experience litigating claims for breach of fiduciary duty, equitable subordination, alter ego and related matters arising in chapter 11 cases, both at trial and on appeal. Mr. Klyman also represents (a) debtors in connection with traditional, prepackaged and "pre-negotiated" bankruptcies, (b) lenders and bondholders in complex workouts, (c) strategic and financial players who acquire debt or provide financing as a path to take control of companies in bankruptcy, and (d) buyers and sellers of assets through Section 363 of the Bankruptcy Code.

Allie Schwartz is a principal at Cornerstone Research and the co-head of the firm's bankruptcy practice, where she leads teams in supporting experts during the litigation process. She specializes in valuation of businesses, securities, and financial instruments in the context of bankruptcy, securities litigation, and regulatory disputes. Dr. Schwartz has worked with hedge funds, asset managers, private equity firms, FinTech firms, broker/dealers, and major financial institutions in addressing issues related to valuation and solvency, as well as allegations of insider trading, market manipulation, and disruptive trading.

GIBSON DUNN

Emma Strong is a litigation associate in Gibson Dunn's Palo Alto office. Her practice focuses on internal investigations, government investigations, and enforcement actions regarding business crimes and civil fraud. Ms. Strong also represents clients in high-stakes litigation involving fraud, breach of contract, and patent infringement claims.

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