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Dated: 1 /2023

<u>I. Profession</u>	<u>Accrediting Agency or Jurisdiction</u>	<u>Date of Admission</u>
Attorney	State of New York	June 22, 1992
	U.S. District Court, S.D.N.Y.	August 25, 1992
	U.S. District Court, E.D.N.Y.	August 25, 1992
	State of New Jersey	December 28, 1992
	U.S. District Court, D.N.J.	February 1, 1993
	U.S. Court of Appeals. Second Circuit	September 16, 1998
	U.S. District Court, W.D.N.Y.	October 17, 2000
	U.S. Court of Appeals, Seventh Circuit	April 16, 2010

<u>II. Professional Organization</u>	<u>Date of Admission</u>	<u>Active/Inactive</u>
New York State Bar Association	1992	Active
American Bankruptcy institute	1995	Active
Turnaround Management Association	2004	Active

III. General professional experience

I have practiced law for nearly thirty years, concentrating primarily on bankruptcy, corporate restructuring and workouts, distressed acquisitions, and commercial litigation, primarily in the debtor-creditor context. I have represented debtors, secured and unsecured creditors, trustees, assignees for the benefit of creditors, creditors' committees, hedge funds, real estate investment trusts, distressed asset purchasers, debtor-in-possession lenders, insurance companies, acquirers of distressed debt landlords, corporate officers and directors, and investment advisors in connection with complex restructuring and bankruptcy matters.

I have experience in real estate and other commercial bankruptcies, out-of-court restructurings, and pre-negotiated plans of reorganization, have advised buyers of distressed assets, and have provided strategic counseling regarding the potential bankruptcy implications of transactions. I also have experience handling a wide variety of litigation, including appeals, involving lender liability and equitable subordination claims, lien priority disputes, preference and fraudulent conveyance actions, lease recharacterization, fiduciary duties of corporate officers and directors, claims trading disputes, and other claims that arise in the debtor-creditor context.

While the primary focus of my practice has been related to bankruptcy and insolvency matters, I have also represented parties in state and federal courts, including appeals, regarding commercial disputes, including lien priority disputes, title matters, control over religious corporations, business divorce, contract disputes, and other matters.

IV. Experience and Familiarity with Bankruptcy Law

- Dewey Ballantine, Associate in Bankruptcy Department, 1991-1993;
- Herrick, Feinstein LLP, Associate (1994-2000) and Partner (2001-2013) in Bankruptcy Department;
- Rubin LLC, Member (2013 to present)

In addition to the foregoing, I am a member of the Board of Editors of *The Bankruptcy Strategist* and I served on the Advisory Board for the American Bankruptcy Institute's Asset Sales Databank and contributed toward its build-out.

V. Mediation training

I completed a twenty-hour credit course on Commercial Mediation sponsored by the Dispute Resolution Section of the New York State Bar Association and Fordham University School of Law, conducted on March 13-15, 2012.

VI. Mediation experience

I have served as a mediator in adversary proceedings related to, among others, the Borders Group (Bankr. S.D.N.Y.), Coda Automotive (Bankr. D. Del.), Dewey & LeBoeuf (Bankr. S.D.N.Y.), Direct Access Partners (Bankr. S.D.N.Y.), Furniture Brands (Bankr. D. Del.), Gaspari Nutrition, Inc. (Bankr. D.N.J.), hhGregg, Inc. (Bankr. S.D. Ind.), RORA LLC (Bankr. E.D.N.Y.), and WP Steel (Bankr. D. Del.) bankruptcy cases. These examples include service on a panel of mediators in large cases, and handling "one off" or "stand alone" mediations that materially affect the course of the bankruptcy case. I have also served as a mediator in complex litigation pending in the Commercial Division of the Supreme Court of the State of New York for the County of New York. In the Covid-19 era, I have handled mediations in which the parties, including multiple defendants and their counsel, participated remotely. I have also represented parties in the mediation of actions pending in bankruptcy and federal district courts. In my experience, mediations are successful when the mediator listens carefully to the parties, demonstrates patience and perseverance, and concentrates on understanding the interests and needs of the parties.

VII. Area of Expertise

Areas of expertise include: business bankruptcy, out-of-court workouts, corporate restructuring, distressed acquisitions, commercial litigation, and mediation.

VIII. General pertinent business or legal experience

B.S., The Wharton School of the University of Pennsylvania, 1986.
J.D., Fordham University School of Law, 1991 (cum laude; Member of Law Review).

I have also attended numerous continuing legal education programs sponsored by, among others, the American Bankruptcy Institute, the National Conference of Bankruptcy Judges, the American Bar Association, the New York State Bar Association, and the Commercial Law League of America.

IX. Other Pertinent Information

As referenced below, I have written articles and lectured on mediation in bankruptcy cases. I have also commented on bankruptcy cases issues and have been quoted by various media outlets, including *The Wall Street Journal*, *Reuters*, *the Associated Press*, *Crain's New York Business*, *The Sports Business Journal*, and *Dow Jones Daily Bankruptcy Review*. References are available upon request from counsel for plaintiffs, defendants, and from experts.

Publications

The Impact of Amended RPAPL § 749(3) on Commercial Tenant Bankruptcies
The New York Law Journal
October 20, 2022

Commercial Lease Assumption Under Chapter 11
Commercial Leasing Law & Strategy
August 2022

The Commercial Landlord's Checklist for Tenant Bankruptcies, In Plain English
January 2022

Open Questions Regarding Disallowance Under Section 502(d)
The Bankruptcy Strategist
June 2020

Involuntary Petition Damages
American Bankruptcy Institute Journal
September 2019

Preference Attacks to Recover Prepetition Compensation Paid to Consultants of Troubled Companies
The Bankruptcy Strategist
April 2019

Substantive Non-Consolidation Opinion Letters
The Bankruptcy Strategist
September 2017

When is Mediation Appropriate, and Must a Mediator Be Retained Pursuant to Bankruptcy Code § 327(a)?

The Bankruptcy Strategist

February 2016

Is There Standing to Prosecute Fraudulent Transfer Claim if Unsecured Creditors Have Been Paid in Full?

The Bankruptcy Strategist

June 2014

Ten Suggestions for a Successful Mediation

American Bankruptcy Institute Journal

November 2014

Not Every Ipso Facto Clause is Unenforceable in Bankruptcy

American Bankruptcy Institute Journal

August 2013

Court to Reassess Severance Payment as Part of Reorganization Plan

New York Law Journal – Corporate Restructuring and Bankruptcy Special Section

June 24, 2013

A Lesson about a Secured Lender's Claim for Attorneys' Fees

American Bankruptcy Institute Journal

April 2013

Viewpoint: Contract Counterparties Facing Sales Must Be Vigilant

Dow Jones

January 8, 2012

Disagreement over Absolute Assignments of Rents Reappears

The Bankruptcy Strategist

September 2012

Case Study: In Re Northstar Development

Law360

May 2, 2012

Foreclosure Sale of Non-Debtor's Property Voided as Violation of Automatic Stay

Real Estate Finance Journal

December 2011

The Long View Following In re Longview Aluminum

Bankruptcy Law360's Expert Analysis

November 2011

Innocent Investors in Ponzi Schemes Should be Entitled to Equitable Credit: The Plight of the Innocent Investor

The Bankruptcy Strategist, Vol. 28, No. 12

October 2011

Absolute Assignments of Rents Survive Filings

American Bankruptcy Institute Journal

February 2011

The Pendulum Swings Again: The Assault on Secured Creditors

ABF Journal

Part I: May/June 2010, Part II: July/August 2011

Heightened Pleading Standards Apply to Avoidance Complaints

The Bankruptcy Strategist, Vol. 27, No. 1

November 2009

Strategic Thinking for the Mezzanine Lender

The American Bankruptcy Institute Journal, Vol. 28, No. 8

October 2009

How to Identify a Non-Statutory Insider

The Bankruptcy Strategist, Vol. 26, No. 6

April 2009

Small Players Can Make Big Differences in Large Bankruptcy Cases

Bloomberg's Bankruptcy Law Reports

December 24, 2007

Protecting Directors of Troubled Companies from Personal Liability

Bloomberg's Bankruptcy Law Reports

September 10, 2007

Hedge Funds: Privacy Considerations in Bankruptcy Proceedings

Complinet

March 28, 2007

Deepening Insolvency is Sinking Fast

The Bankruptcy Strategist, Vol. 24, No. 27

December 2006- January 2007

Recharacterizing Debt: How the Third Circuit's Decision in Submicron Systems Alters the Playing Field

The Bankruptcy Strategist

March - April 2006

Liability for Refusing to Deliver an Assignment of Mortgage?

Real Estate Finance Journal

Summer 2005

Deepening Insolvency: Lender's Victory Over Trustee May Have Far-Reaching Implications

The Bankruptcy Strategist, Vol. 24, No. 4

February 2005

May A Lender Collect Late Charges Together With Default Rate Interest?

The Real Estate Finance Journal

Winter 2004

New Liability Under Deepening Insolvency'

American Bankruptcy Institute Journal, Vol. 23, No. 3

April 2004

Loan Servicer and Its Officers Protected In a Recent Case

The Metropolitan Corporate Counsel

April 2002

Bankruptcy (Chapter 21)

N.J. Foreclosure Law & Practice, New Jersey Law Journal Books

2001

Bankruptcy Remote Clauses Are Not Ironclad

New York Real Property Law Journal, Vol. 25, No.2

Spring 1998

Fleeting Hope For Single Asset Real Estate Debtor

16 American Bankruptcy Institute Journal 1

March 1997

Applying the Freedom on Information Act's Privacy Exemption to Requests for Names and Addresses

58 Fordham Law Rev. Vol.1033, (April 1990).

Speaking Engagements

Featured Speaker, *Amended RPAPL § 749(3) and Commercial Tenant Bankruptcies*

October 26, 2022 – New York City Bar Association, Real Property Law Committee

Panelist, *Defending Preferential Transfer Cases*, New York State Bar Association, Bankruptcy Committee of Business Law Section, August 10, 2020 (provided mediator's perspective).

Featured Speaker, *New York Law Journal Webinar—A Closer Look: Examining Shifts in Corporate Restructuring and Bankruptcy Jurisprudence*, New York Law Journal, June 24, 2013.

Moderator and Presenter, *What is the Executory Contract Bait and Switch?*, American Bankruptcy Institute Unsecured Trade Creditors' Committee, June 5, 2013.

Featured Speaker, *Distressed Real Estate Bankruptcy Seminar – The Borrower You Never Bargained For*, Herrick, Feinstein LLP, May 14, 2013.

Panelist, *19th Annual Distressed Investing Conference*, The Beard Group, November 26, 2012.

Speaker, *LexisNexis Bankruptcy Law Community Podcast*, LexisNexis, November 2010.

Speaker, *Shifting Tactics and Strategies for Lenders in Workouts*, Herrick, Feinstein LLP, March 3, 2010.

Panelist, *Bankruptcy & Restructuring for Real Estate Professionals*, Association of the Bar of the City of New York, February 24, 2010.

Panelist, *Commercial Leasing in a Down Economy*, Law Journal Newsletters webinar, February 23, 2010.

Speaker, *Lender Smackdown*, Herrick, Feinstein LLP and NHB Advisors, January 21, 2010.

Panelist, *Commercial Loan Workouts: An Update from the Front Lines*, Herrick, Feinstein LLP, September 16, 2009 and October 29, 2009.

Speaker, *Acquiring and Profiting from Distressed Real Estate Loans*, Herrick, Feinstein LLP, Ackman-Ziff and Glenmere Capital Partners, LLC, June 25, 2008.

Panelist, *Commercial Real Estate Finance in Challenging Times*, Lorman Education Services, March 28, 2008

Speaker, *Special Problems to Consider in a Bankruptcy Scenario*, Commercial Real Estate Finance in Challenging Times, March 18, 2008.

Panelist, *Purchase and Sale of Bankruptcy Claims*, Ninth Annual Bankruptcy Bench-Bar Conference, New Jersey State Bar Association Bankruptcy Law Section, April 13, 2007.

Main Presenter, *Valuation issues in Bankruptcy*, New York State Society of Certified Public Accountants Joint Meeting of Bankruptcy and Financial Reorganization and Business Valuation Committees, February 17, 2004.

X. Fee Structure:

\$550/hour.

XI. Pro Bono Preference: Brooklyn and/or Central Islip:

Brooklyn