



## Steven B. Smith

Partner

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Steven B. Smith focuses his practice on complex corporate restructuring, liquidations and bankruptcy litigation, including in-court Chapter 11 and Chapter 15 cases and out-of-court workouts. He has extensive experience representing distressed debt investors, bondholders, official and ad-hoc creditor committees, administrative and collateral agents, indenture trustees, stalking horse and other asset purchasers, trade and tort claimants, and other significant parties-in-interest in a variety of jurisdictions across the United States.

Steve is also experienced in the analysis of true sale, non-consolidation, and bankruptcy remoteness principles in opinion and related contexts and has lectured on the topic on numerous occasions.

Steve played an active role in the following reported decisions:

- *Bricklayers and Trowel Trades International Pension Fund v. Wasco, Inc.*, 2015 WL 9459945 (M.D. Tenn. 2015)
- *In re TS Employment, Inc.*, 2015 WL 4940348 (Bankr. S.D.N.Y. 2015)
- *In re Intermet Corp.*, 2009 WL 2868749 (Bankr. D.Del. 2009)
- *In re XO Communications, Inc.*, 2008 WL 4587118 (C.A.2 (N.Y.) 2008)
- *In re Whitehall Jewelers Holdings, Inc.*, 2008 WL 2951974 (Bankr. D.Del. 2008)
- *Houlihan Lokey Howard & Zukin v. High River Limited Partnership*, 369 B.R. 111 (S.D.N.Y. 2007)
- *In re Muscletech Research and Development, Inc.*, (2006), 19 C.B.R. (5TH) 57 (Canada)
- *In re Ad Hoc Committee of Tort Victims*, 327 B.R. 138 (S.D.N.Y. 2005)
- *In re XO Communications, Inc.*, 323 B.R. 330 (Bankr. S.D.N.Y. 2005)
- *In re XO Communications, Inc.*, 330 B.R. 394 (Bankr. S.D.N.Y. 2005)
- *In re Exide Technologies, Inc.*, 299 B.R. 732 (Bankr. D. Del. 2003)

While in law school, Steve served as a judicial intern to Chief Judge William H. Gindin of the U.S. Bankruptcy Court for the District of New Jersey.

### Services

- Restructuring & Finance Litigation
- Commercial Finance and Lending
- Litigation

### Education

- Brooklyn Law School (J.D., 1999)
- Yeshiva University (B.A., 1996)

### Accolades

- Thomson Reuters' New York *Super Lawyers* (2014-2015)
- Thomson Reuters' New York *Super Lawyers, Rising Stars* (2011 and 2013)[Award Methodology](#)

### Memberships & Associations

- Member, Federal Bar Council
  - Bankruptcy Litigation Committee
- Member, New York City Bar Association
  - Bankruptcy & Corporate Reorganization Committee
  - Out of Court Restructuring Subcommittee
- Member, UJA Bankruptcy and Reorganization Group Next Generation Committee
- Member, NYC Bankruptcy Assistance Project Steering Committee
- Board of Editors, The Bankruptcy Strategist
- Member, Strafford Bankruptcy Law Advisory Board
- Master, The Bankruptcy American Inn of Court
- Barry L. Zaretsky Roundtable Steering Committee

### Representative Matters

#### *In re C.T.W. Realty Corp. (S.D.N.Y.)*

Representing the debtor in multi-million dollar restructuring concerning a commercial building in Manhattan.

#### *In re Blackhawk Mining, LLC, et al. (D. Del.)*

Representation of Cantor Fitzgerald Securities as (i) successor administrative agent and collateral agent under a \$660 million first lien facility, (ii) the administrative agent and collateral agent under a \$150 million DIP facility in connection with the chapter 11 case of Blackhawk Mining, and (iii) the administrative agent and collateral agent under an \$85 million exit facility.

#### *Sears - Special Counsel to Creditors Committee*

Acting as special counsel to the creditors committee in investigating and pursuing claims of wrongful conduct in connection with debtors' auction of MTN notes.

#### *Weinstein Companies, LLC*

Representing a bank in connection with a dispute over royalties payable under a licensing agreement.

#### *IRS Realty LLC and ISRS Realty LLC*

Representing a bank as mortgage lender in Chapter 11 cases involving commercial real estate in Westchester County.

#### *In re Gymboree, et al. (S.D.N.Y.)*

Representing a defendant in a WARN Act action arising out of the sale of substantially all of Gymboree's assets.

#### *SunEdison, Inc.*

Counsel to Reorganized SunEdison, Inc. concerning indemnity claims asserted by the syndication agent and lead arranger for a pre-petition second lien loan facility.

#### In re Ample Hills (Bankr. E.D.N.Y.)

Serving as counsel for 16 Debtors, operating 10 retail ice-cream stores in the New York metropolitan area, in connection with recently-filed chapter 11 cases where company is seeking to sell its business as a going concern to restructure approximately \$15 million in debt.

#### In re Whiting Petroleum Corporation, et al. (Bankr. S.D. Tex.)

Representing indenture trustee for convertible noteholders in connection with Debtors' bankruptcy cases.

#### Chinatown Commercial Building Sale Post-Bankruptcy

Represented an affiliate of a New York City-based family office on the approximately \$28.6MM sale of a largely vacant commercial building in the Chinatown neighborhood of Manhattan. The sale was following a bankruptcy court order, in a Chapter 11, single-asset bankruptcy case.

#### In re RLCH, Inc. (Bankr. E.D.N.Y.)

Serving as counsel to the Debtor that owns a seven-story mixed-use building with 23 residential apartments, a community facility, and parking spaces for automobiles and seeks to resolve certain litigation claims, complete repairs of the real property and the condominium approval process, and reorganize its business affairs under chapter 11 of the Bankruptcy Code.

#### Cantor Fitzgerald Securities - Administrative and Collateral Agent in Exit Facility

Represented Cantor Fitzgerald Securities as the administrative agent and collateral agent under an \$85 million exit facility following the successful *Blackhawk Mining, LLC, et al. (Bankr. D. Del.)*, chapter 11 cases, which involved over 100 properties, encompassing active mining complexes in West Virginia and Kentucky and substantial metallurgical and thermal coal reserves in West Virginia, Kentucky, Indiana, Illinois and Ohio. The real estate component included terminating existing mortgages encumbering the properties, preparing new mortgages to secure Cantor's interest, preparing as-extracted collateral filings, reviewing specific requirements related to leasehold properties and title review. Herrick previously represented Cantor Fitzgerald as the administrative agent and the collateral agent under Blackhawk's (i) pre-petition \$660 million first lien term loan facility and (ii) \$150 million DIP term loan facility in connection with the pre-packaged restructuring of approximately \$1.1 billion of debt, which involved assigning the previous administrative agent's interest in all of Blackhawk's properties in West Virginia, Kentucky, Indiana, Illinois and Ohio to Cantor Fitzgerald, as administrative agent.

## Alerts

### November 18, 2020

Herrick's Restructuring & Finance Litigation: 2019-2020 In Review

### March 24, 2020

Beloved Home-Grown Ice Cream Company, Ample Hills, Seeks a Buyer