

# **BANKRUPTCY PROFESSIONAL:**

## **SPOTLIGHT**



**Daniel A. Lowenthal**  
**Partner**  
**Patterson Belknap Webb & Tyler LLP**

With a history that dates back nearly 100 years, Patterson Belknap Webb & Tyler's nearly 200 lawyers provide the full range of legal services in more than 20 practice groups. The firm focuses on both commercial law and litigation and its client roster ranges from "pharmaceutical and medical device companies to major media and publishing empires; from cultural landmarks to famous entertainers; from consumer products to sophisticated financial products; from foreign companies seeking to transact business on U.S. stock exchanges to U.S. companies doing business abroad."

Patterson Belknap emphasizes a penchant for "independent thinkers"—further asserting, "A hallmark of the firm is our independence of thought." In keeping with this philosophy, the firm explains that it "carefully manages growth and purposefully operates with a single office in New York City." This localization allows for "concentrated quality control," and the firm's approach led to its inclusion in the *National Law Journal's* list of firms possessing "the nimbleness and adaptability that come from lean operations and strong client ties."

Daniel A. Lowenthal, one of Patterson Belknap's 55 Partners, works in the firms' Business Reorganization & Creditors' Rights and Real Estate Workouts groups. The Business Reorganization & Creditors' Rights group represents fiduciaries, financial institutions, creditors' committees, developers, manufacturers, licensors, and other businesses, partnerships, individuals and foreign and domestic government agencies in bankruptcy matters and bankruptcy-related litigation. In addition the firm also boasts a wide range of international practice speci-

alties and particular expertise with pre-negotiated and prepackaged bankruptcies.

When a client's Chapter 11 filing is necessitated, Patterson Belknap focuses on creditor representation, debtor-in-possession financing arrangements, creditors' committee representation, loan workouts, litigation, intellectual property representation, acquisition of distressed companies, conducting investigations, transactions with distressed parties, real estate workouts and reorganizations, trusteeships and state court proceedings and ERISA and bankruptcy consulting.

Mr. Lowenthal's practice is devoted to the representation of domestic and international entities involved in complex commercial disputes across a wide range of industries. A corporate bio states that he has received Martindale-Hubbell's highest "AV" rating. We talked to Dan about professional collaboration, multi-national proceedings and the defining characteristics of a great Judge.

\* \* \* \*

BP: When and why did you join Patterson Belknap?

DL: I joined Patterson Belknap in February 2008. Many firms were looking to expand their business reorganization groups, and I thought that Patterson Belknap offered me a great opportunity to further develop my practice. I saw the firm's platform as a particularly strong one for continuing my practice representing creditors' committees, secured lenders, indenture trustees, individual creditors and for handling other restructuring matters and commercial dis-

putes. And Patterson's client base makes us well positioned to serve as conflicts counsel for debtors and creditors' committees.

**BP:** Patterson Belknap takes pride in its independence and tremendous client loyalty. What advantages does Patterson Belknap have over its larger firm counterparts?

**DL:** Having practiced at larger firms in the past, I find Patterson Belknap to be unique among firms of our caliber that represent some of the world's leading business entities. While our work is global, we are based in one office in New York City. Being together under one roof fosters an unusually effective level of collaboration among our lawyers. It also affords us a greater ability to exercise quality control over all aspects of our practice and the service we provide to clients.

**BP:** Your corporate bio cites proficiency with international/cross-border proceedings. Can you tell us about a recent proceeding involving multi-national complexity?

**DL:** Throughout my career, I have represented corporations headquartered in other countries that need legal assistance in the US. That work continues at Patterson, where we are regularly engaged in cross-border proceedings.

For example, we are representing the former C.E.O. and other directors and officers of Glitnir Banki of Iceland, who have been sued in New York by the bank's foreign representative for damages of \$2 billion. This is a great example of the collaboration of our bankruptcy team and commercial litigators working together on a sophisticated international matter. We also recently represented a Brazilian bank in a cross-border insolvency case in New York.

**BP:** How critical are effective litigation skills in a Bankruptcy Court?

**DL:** Great litigation skills are critical in Bankruptcy Court. Persuading the Court that our clients' positions are correct requires both a deep understanding of the bankruptcy law combined with the ability to articulate it as relevant to the specific facts in a highly persuasive manner. One of the things that I enjoy most about the practice is being able to make my client's legally compelling case in a manner that demonstrates it effectively to the Court. The best

bankruptcy lawyers are comfortable on their feet in Court.

**BP:** In addition to the Business Reorganization & Creditors' Rights group, you also work with the Real Estate Workouts. What trends do you anticipate in near term?

**DL:** Given the economic climate and the problems that the real estate market has encountered, it is no surprise that workouts in the industry have been increasing. We should see more bankruptcy cases similar to Tarragon Corporation, a real estate company that filed for Chapter 11, along with 24 affiliated companies, in January 2009. I represented the Creditors' Committee.

In June of this year the bankruptcy court confirmed a Plan of Reorganization for all 25 debtors in the case. This case was particularly gratifying because the judge praised the efforts of our firm and the other professionals involved for achieving a consensual restructuring of these complex companies in such a difficult economic environment.

**BP:** What characteristics make a good U.S. Bankruptcy Court Judge?

**DL:** The best judges are always well prepared on the bench and work hard to achieve the right result. Bankruptcy courts are courts of equity. Judges must do more than just apply the law to the facts. They need to understand how the issues at hand fit into the larger issues facing a company that is trying to reorganize. The business and legal issues are often complex. But the best judges can work through them, often under severe time pressure and with a lot of money at stake, while also mindful of the real-world implications of their decisions.

**BP:** What representations have brought you the most satisfaction?

**DL:** Several matters stand out. The Tarragon case that I mentioned was satisfying. I also represented one of two court-appointed examiners in the Enron bankruptcy case. We analyzed Enron's off-balance sheet transactions with four entities. The matter was challenging and complex.

In the second US Airways bankruptcy case, I represented the Retiree Committee. At stake were the retirement benefits of thousands of retired airline em-

ployees. We did a seven-day trial that was covered by the media and in a courtroom packed with retirees. And, unrelated to bankruptcy, when I was an Associate, one of the Partners I worked with was appointed by a federal judge to serve as a special master in charge of redistricting the voting districts of Nassau County, New York. We worked virtually non-stop to propose districts that would be approved. The matter was both fun and educational.

BP: What haven't you done that you'd like to do in your career?

DL: I've represented bankruptcy trustees and examiners but haven't served as a trustee or an examiner. I'd like the opportunity to do so. I think my background and experience would make me well-suited for serving in both roles.

**Patterson Belknap Webb & Tyler LLP**

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