ART DE LEX

RESTRUCTURING AND BANKRUPTCY

12 years

Of the support for restructuring and bankruptcy

www.artdelex.ru

The legal regulation of bankruptcy is a key problem encountered by business owners in the course of entrepreneurial activity. From the standpoint of beneficiaries, bankruptcy is a thorny stage in the sheltering of assets from third-party claims. From the standpoint of creditors, bankruptcy offers the chance to regain the rightful ownership of assets. In the never-ending battle of interests among creditors, management, and owners, the ones who emerge victorious from bankruptcy are those who have the advantage of high-quality legal expertise representing them in the resolution of any disputes.

The restructuring and bankruptcy practice is a core focus at ART DE LEX. We have the resources and experience needed to effectively handle projects in this nuanced field. Our specialists have successfully advocated the interests of state banks, private lending institutions and their beneficiaries, major manufacturing, commercial and trading organizations, construction companies, and agricultural enterprises in bankruptcy cases.

ART DE LEX attorneys have extensive experience representing the interests of creditors and debtors at all stages of bankruptcy procedures, offering the full range of the services required for the effective defense of the client’s interests.

We offer a full range of legal services in the areas of restructuring, insolvency, and bankruptcy (including transborder matters). The practice’s specialists have frequently represented the interests of creditors in the collection of troubled debt, successfully defended the interests of debtors in bankruptcy cases, and preserved the assets and lowered the risks of company executives being held to subsidiary liability.

In our handling of restructuring and bankruptcy projects, we reinforce our project team with specialists in the fields of tax, corporate law, and criminal law, professionals in the areas of appraisal and conservatorship, and experts in real estate. This makes it possible to provide comprehensive legal support in all matters that might arise during bankruptcy procedures.

Professional achievements of the practice area

ART DE LEX is a recognized leader in the field of bankruptcy according to the law firm ranking directory Pravo.Ru-300.

Pravo.Ru-300

ART DE LEX is listed in the rankings by the business newspaper Kommersant of the leading Russian law firms for bankruptcy law.

Kommersant

We successfully represented the interests of Engeocom JSC in the bankruptcy of its subsidiary, the primary subcontractor in the construction of a Moscow metro station.

Successful case

We handled procedures involving the financial rehabilitation and bailout of the country's largest retail bank. Investtorgbank, with state assistance that totaled RUB 72 bln. During the bailout procedures, our attorneys conducted a detailed financial investigation, handled the process of recovering damages from the bank's controlling entities, worked with the bank's debtors, and coordinated interaction with the regulator and the Deposit Insurance Agency.

Successful case

We successfully represented the interests of NVision Group JSC (MTS Group) in the bankruptcy case of one of MGTS' key contractors in a GPON project (fiber-optic home internet).

Successful case

Services

Representing the creditor's interests in bankruptcy procedures

- Evaluating the legal implications and risks of various bankruptcy scenarios.
- Defending the client's interests during the formation of the creditors register and defending against the inclusion in the register of baseless creditor claims.
- Challenging transactions concluded by the debtor to the detriment of creditors' interests.
- Holding the debtor's controlling entities, as well as the members of their management bodies, to subsidiary liability for the debtor's obligations, and securing the recovery of damages from such individuals.

Defending the rights of a Russian financial investment holding (Promsvyazkapital JSC) making investments in the Russian financial sector, with managed assets in excess of RUB 1.2 trln, in the bankruptcy of one of Russia's largest elevator-building plants, Serpukhovsky Liftostroitelny Zavod (SLZ)

Formulating and implementing a strategy to have Investtorgbank PJSC (part of the TKB Bank banking group) recognized as a secured creditor with a claim right of RUB 526 mln in the bankruptcy of Zeleny Grad JSC.

Formulating and implementing a set of measures to prevent the initiation against one of the country's largest elevator-building enterprises, KMZ, of bankruptcy procedures at the initiative of some of the country's largest state banks: Vozrozhdenie Bank PJSC (a subsidiary of VTB Bank PJSC) and Promsvyazbank PJSC. We implemented measures to restructure the debt to these two banks in the total amount of roughly RUB 8 bln.

Providing legal support, from the risk-assessment stage to the levy of execution, in the recovery from private individuals of a debt in excess of RUB 80 mln.

Defending the interests of Moskapstroy-TN OJSC, a leading customer in the Russian real estate market, in the settlement of a dispute over the recovery of debt under loan agreements in the amount of RUB 400 bln.

Providing comprehensive legal support in the disputes of a major leasing company to shield the lessor from the bad-faith collection of cash funds on general civil or bankruptcy grounds. The total amount of shielded assets exceeded EUR 10 mln.

Defending the interests of Engeocom JSC, one of Russia's largest construction holdings, in a major bankruptcy dispute embroiling its subsidiary. We formulated and implemented a strategy to defend our client's interests in the bankruptcy case, culminating in a reduction of the claims brought by the tax authorities (one of the creditors), and in the prevention of the register's inclusion of a creditor claiming fictitious debt.

Defending the interests of a construction company against the attempt in a customer's bankruptcy case to void payments of RUB 30 mln for the performance of work.

Preserving the position of the majority creditor of NVision Group JSC, a leading IT company and subsidiary of MTS, within the scope of bankruptcy; holding the administrator to administrative liability and securing their discharge from participation in bankruptcy proceedings; and securing the return of assets to the bankruptcy estate.

Coordinating with law enforcement agencies in the criminal prosecution of a debtor's controlling entities

Representing the interests of the debtor and its beneficiaries in bankruptcy procedures

- Providing legal support in the formulation and implementation of a strategy to prevent bankruptcy, including the preparation of a plan for the restructuring and refinancing of debt obligations.
- Evaluating the possibility and practicality of using bankruptcy procedures for the purposes of business restructuring.
- Defending the interests of the debtor and its controlling entities in creditors' challenges to transactions reasonably concluded prior to the introduction of financial-rehabilitation or bankruptcy procedures.
- Defending the interests of the debtor and its controlling entities in disputes over subsidiary liability.
- Defending the debtor's interests in dealings with law enforcement agencies for the purposes of protecting the interests of the debtor's management and controlling entities.

Comprehensive legal support for a leading Russian bank (among the top 100 banks in terms of assets, and 6th in terms of the volume of issued loans) undergoing a bailout, including the recovery of damages from its controlling entities in connection with the siphoning off of assets in the amount of RUB 30 bln, as well as challenging four interrelated transactions involving the provision of promissory notes in the amount of RUB 3.6 bln during the performance of bailout procedures.

Formulating and implementing a strategy to defend the interests of the debtor, a leading construction company, against bad-faith creditors who were the debtor's affiliates filing the fictitious claims of a commercial bank under certain loan agreements, which they used to cover the actual loan arrangements.

Defending the client's interests in transborder bankruptcy situations

- Supporting a foreign creditor's participation in the insolvency case of a Russian debtor and *vice versa*.
- Representing the client's interests in cases where the debtor's property is located abroad.
- Securing the recognition of foreign bankruptcies and enforcement of international judicial acts.
- Consulting on conflicts-of-law rules and the applicable law.

Providing legal support for the bankruptcy procedures of lending and financial institutions

- Legal support to the activities of official receivers.
- Handling the procedures associated with inclusion in the register of creditors.
- Recovery of assets, including assets located in foreign jurisdictions.
- Legal support for auctions in the sale of the debtor's assets.
- Identification and contesting of the debtor's dubious transactions.
- Imposing subsidiary liability on the debtor's controlling entities.
- Representing the creditor's interests in dealings with law enforcement agencies when the involvement of an attorney is advisable, such as in criminal cases against the debtor's managers or founders.
- Suing for the recovery of debt, including handling the levies of execution.

Providing comprehensive legal support for one of Russia's leading private banks during its participation in the bailout of another lending institution, one of Russia's 50 largest banks.

Advising a group of creditors of a Russian commercial bank, one of the country's 100 largest banks, in that bank's bankruptcy procedures.

Representing the interests of a state bank during bankruptcy proceedings and litigation, by challenging certain transactions involving the settle-and-release transfer of real estate properties worth more than USD 175 mln.

Defending the interests of the creditor, the investment division of Sberbank of Russia, in a dispute seeking the recognition of 7 settle-and-release agreements totaling RUB 2 bln, concluded during the run-up to bankruptcy.

Advising on the temporary administration of a bank, formed by the Deposit Insurance Agency, challenging during the bailout a series of 17 sham transactions, concluded by the bank's previous management, as cover for a suspicious transaction involving the provision of financing in the amount of RUB 300 mln to the bank's controlling shareholder.

Representing the interests of a bailed-out bank in litigation initiated by the bank's shareholders for the purposes of contesting a transaction involving interbank lending worth more than RUB 39 mln.

Representing the interests of a bailed-out bank in litigation initiated by the bank's shareholders for the purposes of contesting a transaction involving interbank lending worth more than RUB 39 mln.

Providing legal support for the bankruptcy procedures of developers

- Providing legal support under the out-of-court settlement of disputes with counterparties and state agencies.
- Representing the interests of our client in litigation involving disputes over rights to real estate properties, as well as disputes arising from construction contracts, lease agreements, sale-purchase agreements, and other agreements.

Defending transactions involving the purchases by the owners of properties in a premium-class cottage development from a developer of infrastructure facilities, valued at over RUB 3 bln, which were concluded in the run-up to the developer's bankruptcy.

Team

Evgeny Arbuzov

Partner, Advocate, Head of Real Estate and Construction Practice

Arbuzov@artdelex.ru