

### An Overview of Selected Creditors' Rights Issues Facing the Energy Sector

We counsel Fortune 500 companies, financial institutions and small businesses at the complex intersection of creditors' rights, energy and environmental law.

The following is a partial list of creditors' rights and insolvency related issues for which we have supported clients, and that may be of interest to your legal team. The Creditors' Rights attorneys at Babst Calland are experienced in navigating such matters and have the resident knowledge and experience in the energy industry to make a difference in understanding how best to assess, plan and implement your legal strategy.



#### Bankruptcy Issues

- The Automatic Stay – What you can and can't do when a supplier or customer goes into bankruptcy
- Executory Contracts and Unexpired Leases – Can a landowner in bankruptcy undo an oil and gas lease that has been signed, sealed and delivered? What happens to a Joint Operating Agreement when the operator files for bankruptcy?
- Proofs of Claim – Getting your fair share from the bankrupt debtor
- Asset sales in bankruptcy – Opportunities to acquire assets free and clear of most liens, claims and encumbrances
- Preference and fraudulent transfer defenses – You may not get to keep what is rightfully yours
- Treatment of overriding royalty interests, net profit interests and production payments

#### Secured Financing Issues

- Reduced borrowing bases under reserve-based revolving credit facilities
- Priority and relationship of statutory mineral liens to UCC security interests
- Oil and gas pipelines as transmitting utilities
- Article 9 Sales – You may have the opportunity to purchase assets from a secured lender when it forecloses

#### Distressed Vendors/Counterparties

- Managing A/R – Collecting what you're entitled to
- Managing A/P – Are you paying the right party?
- Collection Issues – Contract remedies and legal remedies

#### Sheriff's Sale/Tax Sales

- Lien priority – Which interests are first? Second, third, etc.?
- Judgments, mortgages and tax liens – How is title affected?
- Execution proceedings – Are oil and gas leases divested and could a Sheriff's sale be an opportunity to buy?

# ENERGY AND NATURAL RESOURCES

## Creditors' Rights & Insolvency Law

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Attorneys at Law  
*Where Trust and Value Meet...*

### Bankruptcy Remote Structuring for Joint Ventures and Investments

- Limiting the credit risk of your counterparty
- Exercising control over the venture/investment
- Limiting the damage that can be done in bankruptcy

*Let us know if you are interested in discussing these or any other matters in more detail with Babst Calland's team of Creditors' Rights attorneys.*

*To request a confidential meeting or additional information, please contact:*

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