



AMERICAN  
BANKRUPTCY  
INSTITUTE

# 2020 Midwestern Virtual Bankruptcy Institute

## **ABI Talks**

*Sponsored by B. Riley Advisory  
Services*

## **The Rhetoric and Reality of Student Debt**

**Inez Feltscher Stepman**

*Independent Women's Forum | Winchester, Va.*

## **Not Your Parents' Loan**

**Lee R. Keith**

*Neocova | St. Louis*

## **Energy in Bankruptcy**

**Mark A. Craige**

*Crowe & Dunlevy | Tulsa, Okla.*

## **Health Care in Bankruptcy**

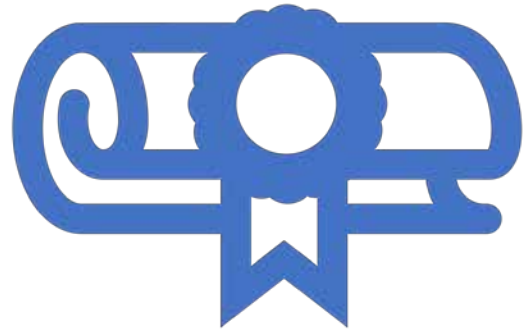
**Andrew C. Helman**

*Murray Plumb & Murray | Portland, Maine*

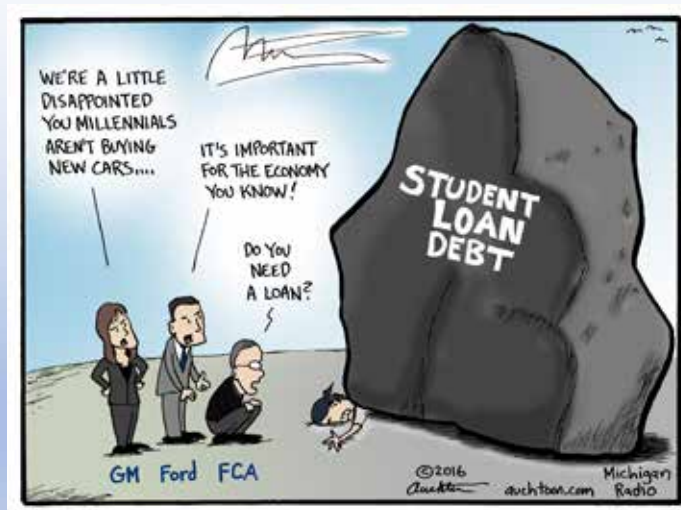


# Student Debt: Rhetoric and Reality

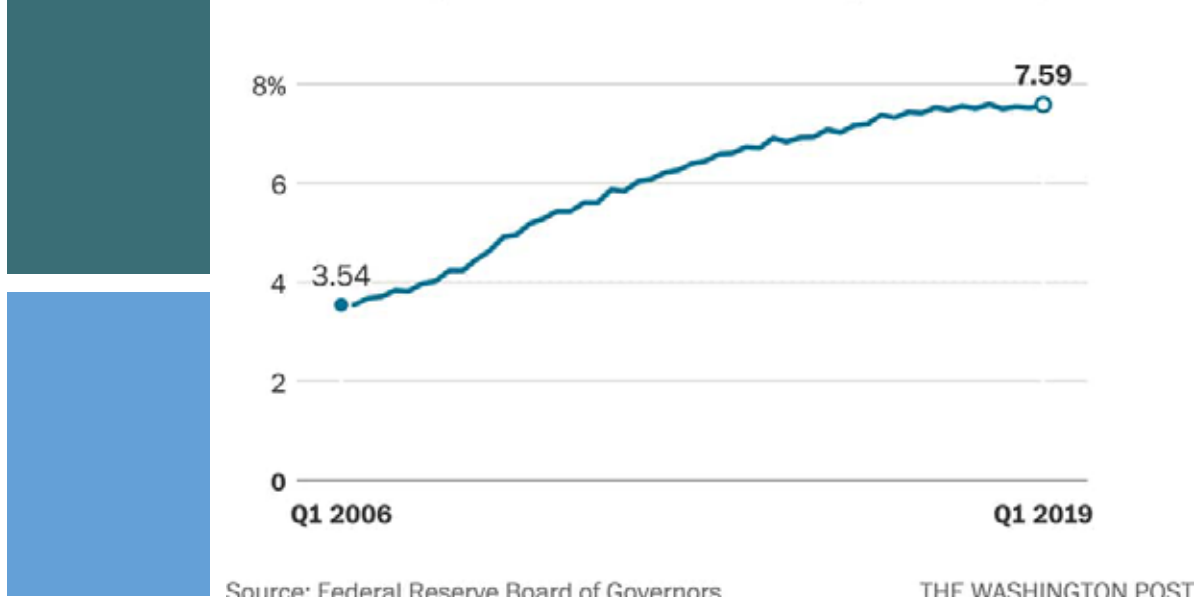
*Inez Feltscher Stepman*  
Independent Women's Forum



## How big is the problem?

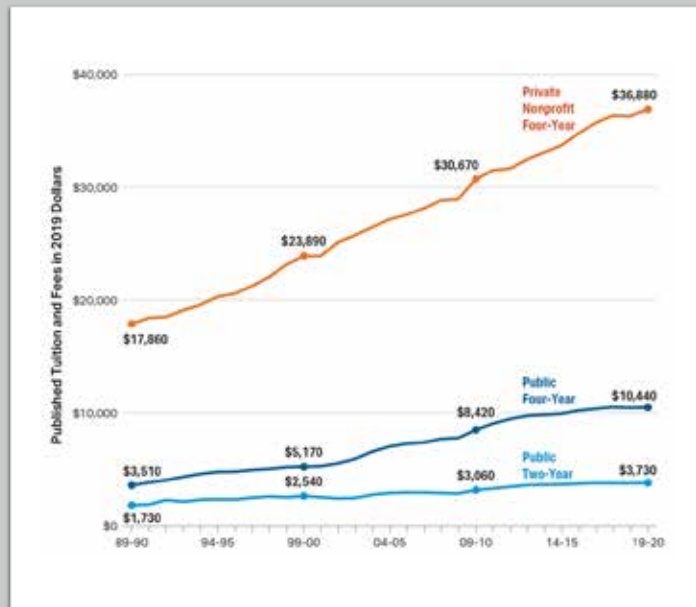


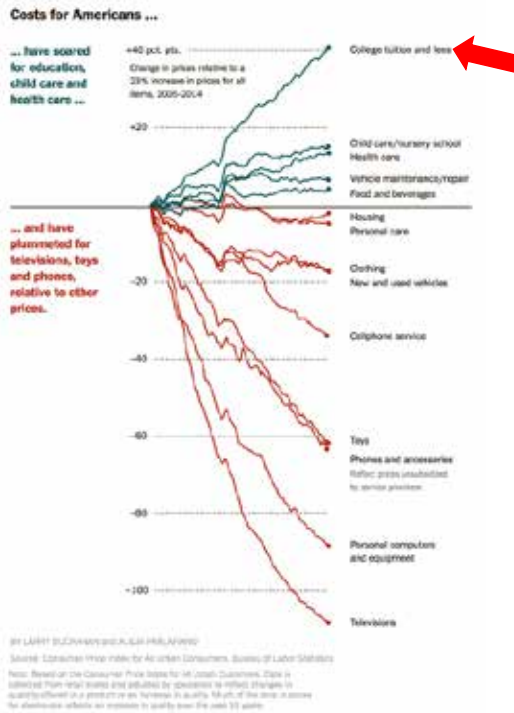
Total outstanding student loan debt as a share of gross domestic product



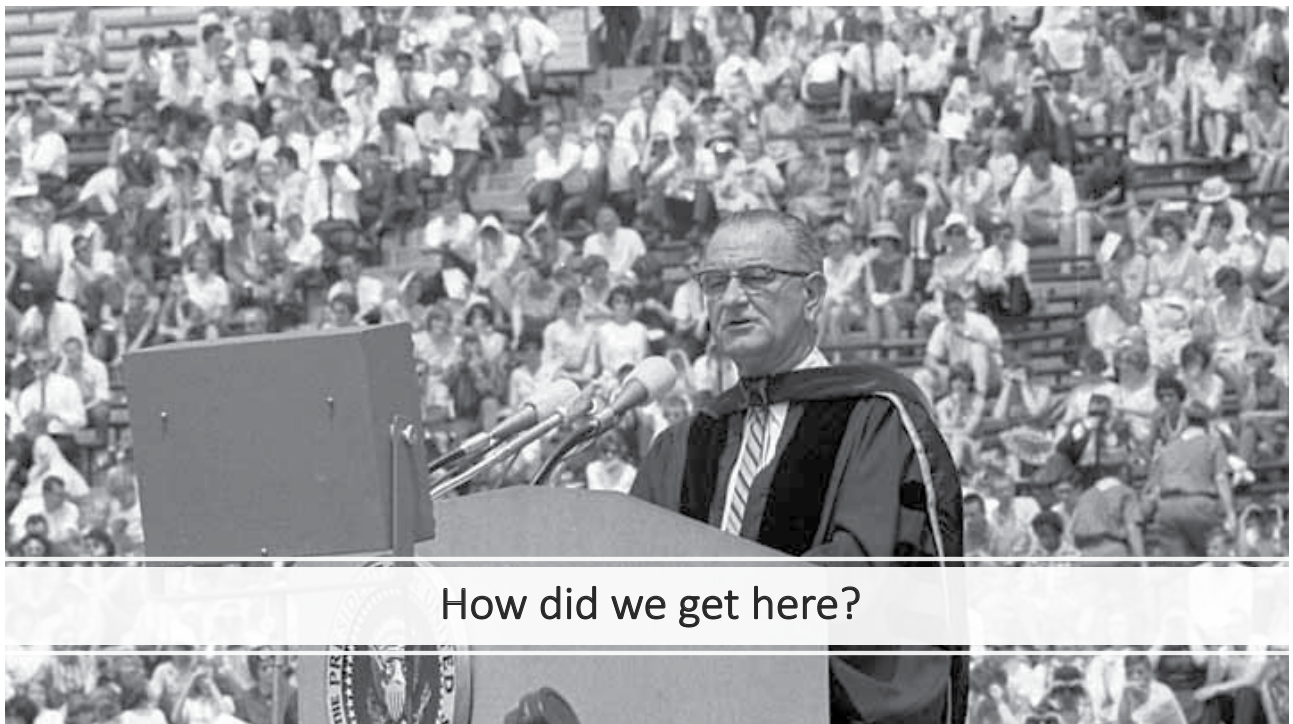
Average Published Tuition and Fees in 2019 Dollars by Sector, 1989-90 to 2019-20

Source: College Board





It doesn't have to be this way.



## Rhetoric vs. Reality:

## Consequences of the Higher Education Act



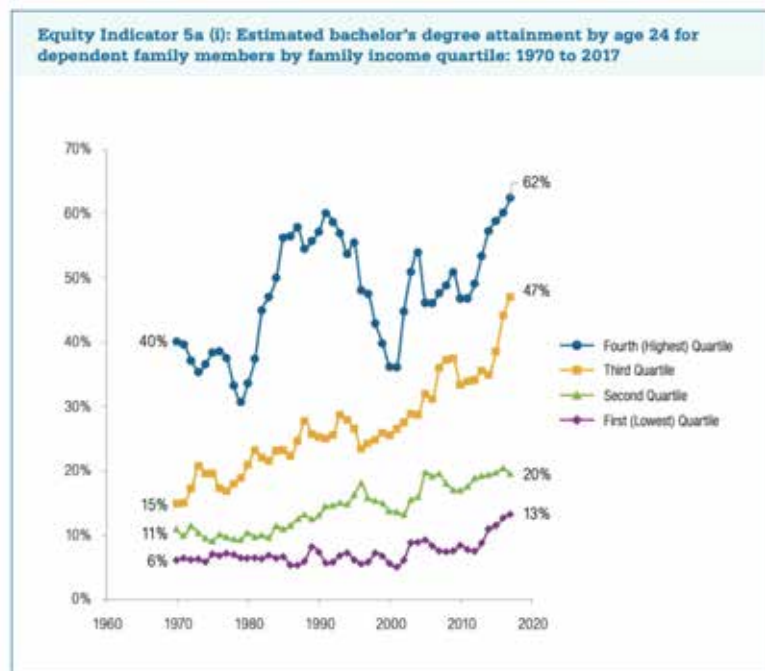
*Massive increase in cost*



*Devaluation of the high school diploma*



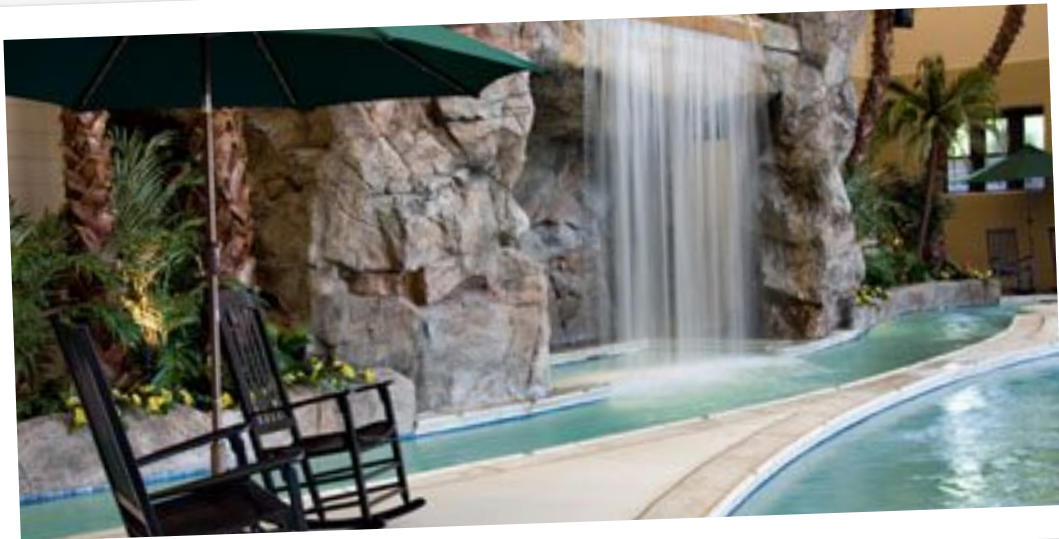
*Credential treadmill*



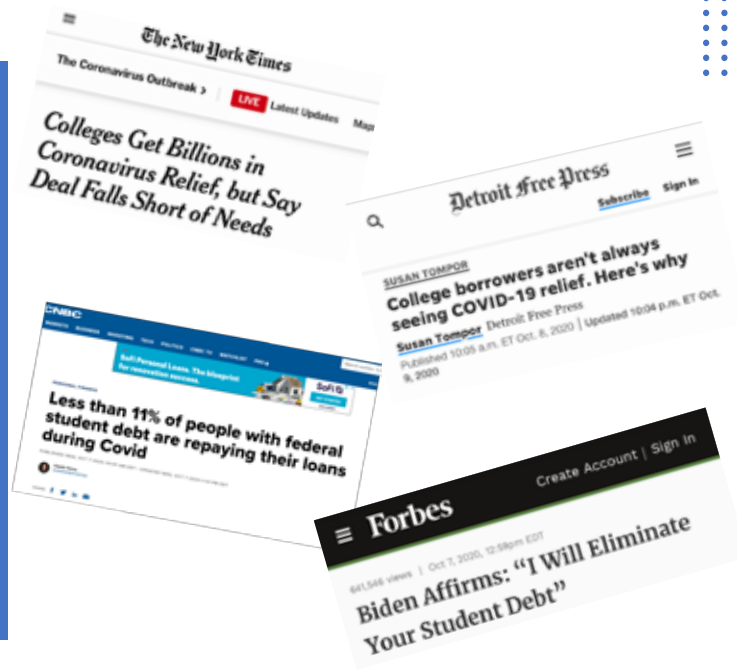




What are colleges delivering for the money?



## Pandemic Impact



## Real Solutions vs. Rhetoric



REINTRODUCE NATURAL LIMITS:  
FREEZE OR REDUCE STUDENT  
LOAN AVAILABILITY.



INNOVATIVE FINANCING: ISAS VS.  
LOANS.



ENCOURAGE ROUTES TO SUCCESS  
THAT DON'T INCLUDE AN  
EXPENSIVE FOUR-YEAR DEGREE.



GIVE UNIVERSITIES A STAKE IN  
STUDENT OUTCOMES.

# Alternative Business Credit Options

Presenter: Lee R. Keith  
President of Banking Services

neocova

PREPARED FOR THE AMERICAN BANKRUPTCY INSTITUTE

## Four Objectives for This Session

- 1 Review alternative sources for business loans.
- 2 Discuss advantages to alternative business loans.
- 3 Explain concerns regarding alternative business loans.
- 4 Discuss Impact on the Business Bankruptcy Process.

neocova



### Alternate Sources for Business Loans

1. Lantern – Small Business Financing Options. (2011)

#### Available Loans

- SBA Disaster Relief
- SBA 7(a)
- SBA 504
- SBA Express
- Lines of credit

#### Process

- Answer a few questions and Lantern will search for offers from a number of lender
- Ability to compare rates and fees

\*Owned by SoFi



neocova

### Alternate Sources for Business Loans

2. Quick Loans Direct – Small Business Loans. (2015)

#### Available Loans

- Purchase Inventory
- Meet operating expenses
- Address payroll needs

#### Process

- Automated applications
- Fund within 24 hours
- Available loans up to \$1 million
- Claims to provide offers within 5 minutes



neocova

## Alternate Sources for Business Loans

### 3. Ondeck - Small Business Loans. (2006)

#### Available Loans

- Term Loans - \$5,000 - 250,000
- Lines of credit - \$6,000 – 100,000

#### Process

- Simple online application
- Tailored options
- Work directly with loan officer

\*Efficient use of data analytics and digital technology to aggregate and analyze thousands of data points to assess the credit-worthiness of smaller businesses rapidly and accurately



neocova

## Alternate Sources for Business Loans

### 3. Ondeck (continued)

#### Minimum Requirements

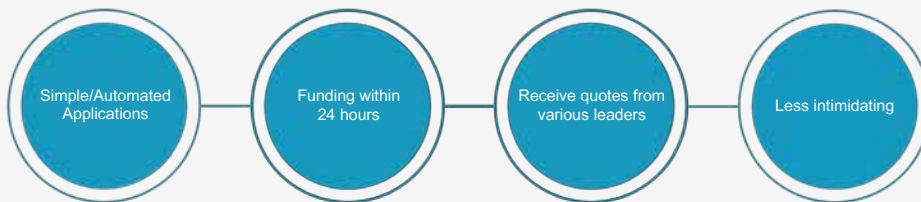
- Time in Business – 1 year (minimal)
- Personal FICO Score - 600 (minimal)
- Business Annual Revenue - \$100,000 (minimal)
- Business Bank Account – already established

\*\$13 Billion of Business Loans extended since 2006



neocova

## Advantages to Alternate Sources of Business Loans



neocova

## Concerns to Alternate Sources of Business Loans

- Are tough questions being addressed?
- Are rates and terms sacrificed for timing?
- Is the whole relationship being evaluated?
- Cash flow – is it evaluated in total (leases, total obligations, etc)?
- Are rates shocked for future cashflow considerations?

## Concerns to Alternate Sources of Business Loans (cont.)

Can the assumption that borrowers with strong credit scores address the requirements of being a business owner?

What is the method of collection in the event of default or slowness in the economy? ie. Covid – 19

Can the terms of the note be renegotiated?



neocova

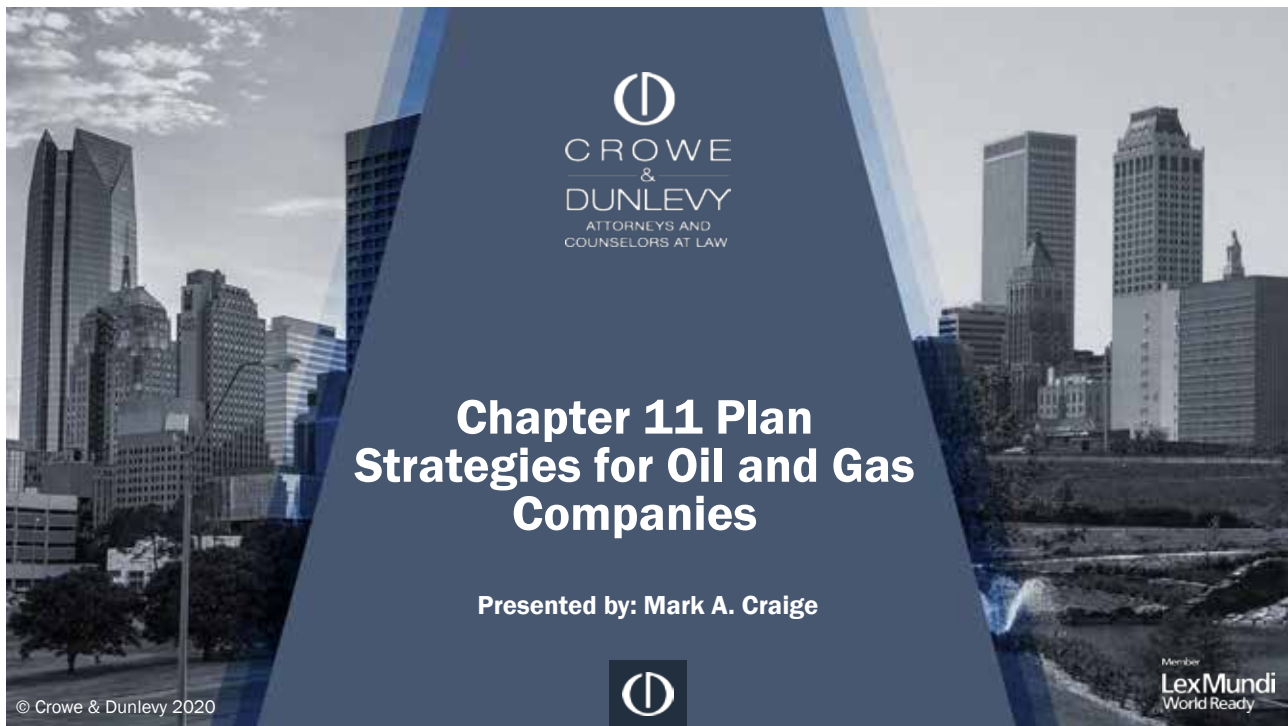
## Considerations in the Bankruptcy Process


Impact of multiple creditors

Lien perfection and priority issues

Fraud issues

Other considerations




  
CROWE  
&  
DUNLEVY  
ATTORNEYS AND  
COUNSELORS AT LAW

## Chapter 11 Plan Strategies for Oil and Gas Companies

Presented by: Mark A. Craige

© Crowe & Dunlevy 2020



Member  
**LexMundi**  
World Ready

## Mark A. Craige



- Director in the firm's Tulsa office
- Bankruptcy & Creditor's Rights Practice Group
- \*Subsequent information should not be understood as, or considered a substitute for, specific legal advice. For inquiries, please contact Mark A. Craige, or another licensed attorney.

© Crowe & Dunlevy 2020





## Pre-2015

- Many exploration and production (E&P) companies in the years prior to 2015 borrowed based on crude oil prices in excess of \$100 per barrel.
- Price of crude oil and natural gas at the well head has declined since 2015.



© Crowe & Dunlevy 2020



## U.S. Crude Oil Price (Per Barrel)



© Crowe & Dunlevy 2020



(Source: [Macrotrends.net](https://www.macrotrends.net))

## Pre-2015

- Costs of operating wells ranges from \$15-\$30 per barrel, often referred to as the “Lifting Cost.”
- **EBITDAX** (earnings before interest taxes, depreciation and amortization) is a valuation metric used specifically for E&P companies.
- The calculation of EBITDAX excludes costly exploration expenses and give the true EBITDA of the firm.



© Crowe & Dunlevy 2020



## Chapter 11 Bankruptcy Strategies

© Crowe & Dunlevy 2020

## Plan 1

- EBITDAX is positive and sufficient to retire large percentage of debt over time.
- May nor may not require Debtor-in-Possession (DIP) Loan.
- Traditional reorganization whereby the plan restructures the debt obligations to match EBITDA.
- Asset liquidation not a significant feature.
- Existing equity may or may not be retained.

© Crowe & Dunlevy 2020



## Plan 1

- The pre-petition company continues to operate post-confirmation.
- Usually includes new capital infusion or capital partner for new exploration.
- The Chapter 11 Plan is used to modify payment terms for both secured and unsecured creditors, structure for resolution priority & creditor claim disputes and creditor trust typically used to prosecute avoidance & litigation claims unsecured creditors.

© Crowe & Dunlevy 2020



## Plan 2

- EBITDAX is too small to fund traditional plan, break even or negative, but market value of assets is sufficient to payoff significant portion of secured claims.
- DIP financing is necessary and usually provided by existing secured lender.
- Primary purpose: Sale of substantially all of the assets.
- The pre-petition company and exiting equity do not continue post-confirmation.



© Crowe & Dunlevy 2020



## Plan 2

- The Chapter 11 Plan is used to resolve avoidance claims, priority & creditor claim disputes and distribution of liquidation proceed, typically by means of liquidating trust.
- No new capital
- § 363 rather than the plan is the sale vehicle
- Sale is typically an auction by means of Stalking Horse method:
  - Initial bidder(s) identified
  - Standardized Asset Purchase Agreement
  - Court approved bidding procedures and breakup fees
  - Marketing period
  - Data room
  - Auction sale
  - Court approves sale(s) to highest bidder(s)

© Crowe & Dunlevy 2020





## Plan 3

- EBITDAX is too small to fund traditional plan, break even or negative, but market value of assets is not sufficient to payoff significant portion of secured claims.
- DIP & exit financing is necessary and usually provided by existing secured lender.
- Primary purpose: Secured Lender becomes principal equity holder post-confirmation via “Debt or Equity Swap” to allow Lender to hold assets for a sale at a later time when market value of assets increases due to energy prices rising.
- The pre-petition company and exiting equity do not continue post-confirmation.
- The Chapter 11 Plan is used to accomplish the debt for equity swap, resolve avoidance claims, priority & creditor claim disputes and distribution of liquidation proceed, typically by means of liquidating trust.

© Crowe & Dunlevy 2020



## Plan 4



© Crowe & Dunlevy 2020





## Plan 4

- EBITDAX is negative, market value of assets is not sufficient to pay off meaningful portion of secured claims and lifting costs exceed value of extracted hydrocarbons by significant amount.
- Good financing is unavailable from any source.
- Chapter 11 should not be filed. Only option is to shut down and possibly file Chapter 7.

© Crowe & Dunlevy 2020



### Contact

Mark A. Craige  
918.592.8878  
mark.craige@crowedunlevy.com  
crowedunlevy.com



CROWE&DUNLEVY  
ATTORNEYS AND COUNSELORS AT LAW



### Oklahoma City

Braniff Building  
324 North Robinson Avenue  
405.235.7700



### Tulsa

500 Kennedy Building  
321 South Boston Avenue  
918.592.9800



### Dallas

2525 McKinnon Street  
Suite 425  
214.420.2163

To sign up for Crowe & Dunlevy news, legal updates and seminars, please visit [crowedunlevy.com/subscribe](https://crowedunlevy.com/subscribe)

© Crowe & Dunlevy 2020

