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Subchapter V in the COVID-19 Era

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General Overview of Subchapter V



Purpose of Subchapter V

- The purpose of the Small Business Reorganization Act (“SBRA”) is to “streamline the process by which a small business debtor reorganizes its affairs.”
- To create a less burdensome way for small business debtors to file for bankruptcy relief.



Who can file a case under Subchapter V?

- A Small Business Debtor as defined by 11 U.S.C. §10151(D)
 - A person engaged in commercial or business activities;
 - Debtor's aggregate noncontingent debts are less than \$2,725,625;
 - 50% or more of its debt is related to business activities;
- Subchapter V is not available for:
 - A single asset real estate business;
 - An entity that is subject to reporting requirements under §13 or 15(d) of the Securities Exchange Act of 1934;
 - An Affiliate of a Debtor.
- Coronavirus Aid Relief and Economic Security Act (CARES Act) amended the SBRA to extend the debt limit to \$7.5 million until March 27, 2021.
- Debtor must elect to be treated as a case under Subchapter V.



Subchapter V Debtor's Duties and Powers

- Upon Subchapter V election, the Debtor must comply with all filing and reporting required by §308 and §1116 of the Bankruptcy Code.
- Debtor operates the business with the rights and powers of a trustee except the duties specified in paragraphs (2), (3), and (4) of § 1106(a).
- Debtor can be removed as Debtor in Possession for "failure to perform obligations," but can be reinstated upon request of a party in interest.



Subchapter V Debtor's Duties and Powers – Cont'd

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Subchapter V Case Administration

- SBRA incorporated new sections 1181-1195 to Chapter 11 of the Bankruptcy Code.
- Official Forms have been revised to integrate new Subchapter V provisions.
- Interim Rules have been adopted by local jurisdictions to amend the Federal Rules of Bankruptcy Procedure.
- No unsecured creditor's committee, unless appointed by the Court.
- No U.S. Trustee fees paid by the debtor.
- Status conference must be held within 60 days of bankruptcy filing. Debtor must file Status Conference report 14 days prior to status conference hearing.
- Debtor must file reorganization plan within 90 days of bankruptcy filing. Can be extended for cause.
- Only debtor can file a plan of reorganization.
- Attorneys are not disqualified for having a pre-petition claim of less than \$10,000.
- Deadline to file Proofs of Claim is set by the Court.



Property of the Estate in a Subchapter V Case

- Debtor retains possession of assets.
- Post petition earnings and acquisitions, as defined by §1115, are not property of the estate in individual cases under Subchapter V.
- However, if the Court approves a cramdown plan, property of the estate includes post-petition assets and earnings for individuals and businesses under Subchapter V.



Role of the Trustee in a Subchapter V Case

- Subchapter V trustee oversees and monitors the case.
- Can appear and be heard on specific case matters, including:
 - Valuation of property subject to a lien;
 - Confirmation of a plan;
 - Post-confirmation modification of a plan;
 - Sale of property of the estate.
- Facilitates a consensual plan
- Makes distributions under non-consensual plan
- Perform duties under §704(a)(2), (5), (6), (7) and (9) of the Bankruptcy Code.
- Perform duties under §1106(a)(3), (4) and (7) of the Bankruptcy Code.



Confirmation of Subchapter V Plan

- Only Debtor can file a plan.
- No Disclosure Statement required, unless ordered by the Court.
- Plan must include:
 - History of business operation;
 - Liquidation Analysis;
 - Projections to sustain proposed plan payments.
- Plan must “provide for the submission of all or such portion of the future earnings or other future income of the debtor”.
- Claim secured by debtor’s principal residence can be modified if new value received was in connection to business and not used to purchase the residence.
- Administrative expenses may be paid through the plan.



Confirmation of Subchapter V Plan – Cont’d

- Once plan is filed, there is no deadline to obtain confirmation.
- Voting and confirmation schedule is set by the Court.
- A plan shall be confirmed as a “consensual plan” if all requirements of §1129(a), except paragraph (15), are met.
- Cramdown provisions for Subchapter V cases are guided by §1191(b), which does not require an accepting class.
- Plan must not discriminate unfairly and be fair and equitable with all classes.
- To be considered fair and equitable a plan must:
 - provide all projected disposable income of the debtor for a period of 3-5 years; or
 - the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor.
- No “Absolute Priority Rule”



Confirmation of Subchapter V Plan – Cont'd

- “Disposable Income” is defined by §1191(d) as income received by the debtor and that is not reasonably necessary for:
 - the maintenance or support of the debtor or its dependents;
 - post-petition domestic support obligations; or
 - expenditures necessary for the continuation, preservation, or operation of debtor’s business.
- Necessary business expenditures include payroll, utilities, rent, insurance, taxes, inventory, amongst other expenses.
- Debtor makes plan payments under consensual plan.
- Trustee makes payments under cramdown plan.



Discharge in a Subchapter V Case

- Individual and Businesses filing under Subchapter V receive a discharge upon confirmation of a consensual plan.
- Discharge is entered after the debtor completes plan payments under a cramdown plan.



SBRA – CARES Act* Considerations

* The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) signed into law by President Trump on March 27, 2020



Increased Debt Ceiling

Pursuant to 11 U.S.C. Section 101(51D)(A), a small business debtor means a person engaged in commercial or business activities that has aggregate noncontingent liquidated secured and unsecured debts as of the petition date or the date of the order for relief not to exceed \$2,725,625, excluding debts owed to affiliates or insiders (the “debt ceiling”).

The CARES Act raised the debt ceiling to \$7,500,000 for only one year, thereby allowing more debtors to file cases under Subchapter V.



Paycheck Protection Program (“PPP”) 1st Draw Loans

The CARES Act provided for the Small Business Administration (“SBA”) to make loans that would be fully forgiven if at least 60% of the loan proceeds were spent on payroll and the remainder on mortgage interest, rent and utilities.

While debtors are generally barred post-petition from receiving PPP loans many debtors received PPP loans pre-petition which are pending SBA forgiveness. Notably, as set forth below, the combined PPP lender’s and SBA’s timeline for loan forgiveness (150 days) exceeds the expected lifespan of a Subchapter V case (90 days):

1. PPP lender – has 60 days to review the borrower’s application for forgiveness and notify the SBA as to whether all or a portion of the loan qualifies for forgiveness and
2. SBA – has 90 days after receipt of the PPP lender’s determination to remit payment to the lender and grant loan forgiveness.



Eleventh Circuit Decision

When applying for a PPP loan, the applicant was required to indicate whether it is “presently involved in any bankruptcy”. An affirmative response by the applicant resulted in the SBA’s denial of the application and a wave of litigation filed by chapter 11 debtors against the SBA. To date, the courts have been split as to whether chapter 11 debtors are entitled to receive PPP loans.

Case in point is *USF Federal Credit Union, et al. v. Gateway Radiology Consultants, P.A.*, 2020 WL 7579338 (11th Cir. December 22, 2020) where the court of appeals reversed the bankruptcy court and decided that the SBA acted within its rulemaking power by precluding the chapter 11 debtor from receiving a PPP loan under the CARES Act. Notably, the debtor was a small business debtor (more on this to come in the next slide).



Other CARES Act Relief for Small Business

1. Economic Injury Disaster Loan: Loans up to \$10,000 for businesses experiencing a temporary loss of revenue
2. Shuttered Venue Operators: Authorizes the SBA to make grants to live venue operators (e.g. theaters, movie theaters, concert producers) who demonstrate a loss of revenue of 25% or more.
3. Loan modification and debt relief programs



SBRA – CAA* Amendments

* The Consolidated Appropriations Act, 2021 (“CAA”) signed into law by President Trump on December 27, 2020 and is reportedly the longest bill ever passed by Congress.



PPP 2nd Draw Loans

The CAA provides bankrupt companies the break they are desperately seeking by amending section 364 of the Bankruptcy Code as follows:

(g)(1) The court, after notice and a hearing, may authorize a debtor in possession or a trustee that is authorized to operate the business of the debtor under section 1183, 1184, 1203, 1204, or 1304 of this title to obtain a loan under paragraph (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), and such loan shall be treated as a debt to the extent the loan is not forgiven in accordance with section 7A of the Small Business Act or subparagraph (J) of such paragraph (37), as applicable, with priority equal to a claim of the kind specified in subsection (c)(1) of this section.

Essentially, this language opens the door for subchapter V, chapter 12 and chapter 13 debtors to apply for PPP loans. Or does it ???



PPP 2nd Draw Loans (continued)

The amendment will:

(A) take effect on the date on which the [SBA] Administrator submits to the Director of the Executive Office for United States Trustees a written determination that, subject to satisfying any other eligibility requirements, any debtor in possession or trustee that is authorized to operate the business of the debtor under section 1183, 1184, 1203, 1204, or 1304 of title 11, United States Code, would be eligible for a loan under paragraphs (36) and (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)); and (B) apply to any case pending on or commenced on or after the date described in subparagraph (A). . . .

While it appears debtors-in-possession may have a second bite at the apple, the timing of these PPP loans is solely at the SBA's discretion.

The amendment, if it becomes effective, sunsets on December 27, 2022.



Extension of Time to Perform Under an Unexpired Non-Residential Real Property Lease

Section 365 (d) of the Bankruptcy Code is amended to provide an extension of time to perform under an unexpired non-residential real property lease to 60 days for Subchapter V debtors who are experiencing financial hardships due to COVID-19 (either directly or indirectly). The Court may extend for another 60 days if the debtor demonstrates it is continuing to suffer financial hardships due to COVID-19. While administrative expenses, unpaid rent obligations at the time of confirmation may be spread over the life of the plan.

The amendment sunsets on December 27, 2022.



Hot Topic Issues in Subchapter V Cases



Hot Topic Issues: Redesignation

- The Small Business Reorganization Act of 2019 (“SBRA”) became effective on February 19, 2020.
- Nothing in the SBRA addresses whether it applies to all cases or only to cases commenced after the effective date of the Legislation.
- Courts are divided as to whether redesignation to a Subchapter V is permitted in a pending non-Subchapter V Chapter 11 case. The only common trend these diverting opinions have is that “re-designation will not necessarily be proper in all Chapter 11 petitions commenced prior to the effective date of SBRA”. In re Bonert, 2020 Bankr. LEXIS 1783, at **7-8, 2020 WL 3635869, at *3 (Bankr. C.D. Cal. June 3, 2020).



Hot Topic Issues: Redesignation – Cont’d

- The majority of courts that have addressed the issue have found that a debtor who filed a Chapter 11 petition prior to the effective date of SBRA may amend the petition to elect treatment under Subchapter V.
- For instance, in In re Ventura, 615 B.R. 1 (Bankr. E.D.N.Y. April 10, 2020), the court allowed the debtor to proceed under Subchapter V, even though the debtor’s petition had been filed 15 months prior to the effective date of SBRA and both the debtor and a creditor had filed competing plans of reorganization. The Ventura court held that “any practicality and scheduling issues arising from a SBRA designation in a case commenced prior to the effective date of the SBRA” could be resolved by an extension of any SBRA-specific deadlines. Id. at 15.
- The court authorized redesignation to Subchapter V over the objection of the creditor who had filed a competing plan, reasoning that “in general, the new subchapter V provisions do not impair the vested property interests of creditors and, therefore, the concerns supporting application of the canon of statutory construction disfavoring the retroactive application of new law are absent.” Id. at 16. See also In re Body Transit, Inc. d/b/a Rascals Fitness, 613 B.R. 400, 408 (Bankr. E.D. Pa. Mar. 27, 2020); In re Moore Properties of Pers. Cty., LLC, 2020 WL 995544 (Bankr. M.D.N.C. Feb. 28, 2020).



Hot Topic Issues: Redesignation – Cont'd

- Other courts, however, have declined to grant redesignation to subchapter V. For instance, in In re Double H Trans. LLC, 2020 Bankr. LEXIS 1341 (Bankr. W.D. Tex. Mar. 5, 2020), the Court concluded that “to permit the Debtor to now elect ‘Subchapter V’ status at this stage of the bankruptcy case [that is, 116 days after the Debtor filed its Original Petition,] would create a procedural quagmire and likely create ‘cause’ to dismiss or convert the Debtor’s case”. Id. at 554.
- In addition, the Double H Trans. LLC court also considered that a debtor is required to file documents required by Section 1116(1) (most recent balance sheet and other financial information) when electing Subchapter V treatment as a small business debtor, 11 U.S.C. § 1187(a), and that in that case, the amended petition filed by the debtor electing Subchapter V treatment did not include the required financial information.



Anomaly Cases Under Subchapter V



Anomaly Cases– Cont'd

- In re R&G Group Holdings, LLC, Case No. 20-11961 (Bankr. D. De.) (consolidated) (“Regus”)
 - Regus is an on-demand and co-working company with a wide presence across the U.S. and Canada. It serves as the parent company and lender of the leases of the individual Regus corporations across the country.
 - Regus’ business model consists of entering long-term, non-residential leases with landlords’ properties, and later subleasing the properties to their client base.
 - From a bankruptcy perspective, the practical effect of this model is that these individual corporations hardly have any secured creditors
 - As occupancy rates decreased as a result of the COVID-19 pandemic, the business model began to falter and one by one, many of the Regus subsidiaries began to file for bankruptcy as they were not receiving any revenue from the sub-tenants
 - The first group of Regus affiliates filed under Subchapter V.
 - However, due to the number of subsidiaries that have ultimately filed for bankruptcy and the consolidation of the cases, the consolidated case was re-designated to a regular Chapter 11 reorganization.



Anomaly Cases – Cont'd

- In re Jose Burgos Negron, Case No. 20-03200 (MCF)
 - On January 2, 2015, the Debtor filed a Chapter 13 petition (case no. 15-00003) subsequently was voluntarily converted to a Chapter 11 case. The case was dismissed on December 28, 2015.
 - On January 31, 2018, the Debtor filed a Chapter 13 petition (case no. 18-02932), which was subsequently voluntarily converted to a small business Chapter 11. The Debtor did not file the disclosure statement or plan of reorganization within the drop dead 300-days established in Section 1121(e)(2) of the Bankruptcy Code and this the case was dismissed on January 12, 2020.
 - On August 14, 2020, the Debtor filed a subsequent bankruptcy petition for relief as a Chapter 11 small business case under Subchapter V.
 - The Debtor is a self-employed businessman who engages in the rental of 15 apartments located in Cayey, PR, with no other additional business activity.
 - Because the previous bankruptcy case had been dismissed within the year of the filing of this subsequent bankruptcy petition, the Debtor requested the continuation of the automatic stay under § 362(c)(3).



Anomaly Cases – Cont'd

- Creditor opposed to the continuance of the automatic stay under 11 U.S.C. § 362(n)(1), the automatic stay does not come into effect when a small business case is refilled within 2 years of the dismissal of a previous small business case. The Debtor alleged that the automatic stay should apply under 11 U.S.C. § 362(n)(2), which affords a list of circumstances where the general rule under § 362(n)(1) does not apply.
- The court denied the continuance of the automatic stay under § 362(c)(3) but “the Debtor’s argument under 11 U.S.C. § 362(n)(2)(B) is denied without prejudice for failure to file a detailed motion with the factual basis for his request.” Reconsideration litigation on this contested matter ensued.
- In the meantime, the secured creditor objected to the designation of Subchapter V stating that this case is in fact a SARE case, which is ineligible under Section 1182(1)(a) of the Bankruptcy Code (a Subchapter V debtor is “a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and **excluding a person whose primary activity is the business of owning single asset real estate**)”).



Anomaly Cases – Cont'd

- Because the Court had not ruled on the automatic stay contested matter and had previously ruled that there was no automatic stay in place, secured creditor proceeded with the foreclosure of the real estate in state court. Debtor filed another motion to reinstate the automatic stay.
- The secured creditor also objected to the confirmation the Subchapter V plan of reorganization.
- On November 25, 2020, the Debtor filed a motion requesting entry of order converting the case to a Chapter 11 SARE. Meanwhile, Oriental has continued to foreclose on the Debtor’s property in State Court proceedings.
- On December 8, 2020, the Debtor filed an Amended Voluntary Petition to change the case to a SARE.
- The resolution of the contested matter on whether the automatic stay is or not in place under § 362(n) is still pending.
- The confirmation hearing was continued *sine die*.



Anomaly Cases – Cont'd

- In re La Merced Limited Partnership, S.E., Case No. 18-06858 (ESL)
 - On November 27, 2018, the Debtor filed a Chapter 11 bankruptcy petition) as a “Single Asset Real Estate”.
 - On November 8, 2019, Debtor and its main secured creditor filed a *Stipulation* for its treatment under the plan. The stipulation stated that the amounts to be paid and established that a final payment in the amount on or before January 30, 2020. Should debtor fail to pay such amounts on or by January 30, 2020, and/or present a commitment letter accrediting that the financing will close within thirty (30) days of such date, Debtor will automatically and irrevocably consent to the sale of the mortgaged property to the highest bidder under Section 363 of the Bankruptcy Code. The Court approved the stipulation.
 - The Debtor defaulted the stipulation and secured creditor urgently moved to Court to compel the sale of the property under § 363 as stipulated, which this Honorable Court granted. Debtor still did not comply and instead objected to the sale of the property alleging that it could set aside the terms of the *Stipulation* under the doctrine of *rebus sic stantibus*. Further litigation ensued.
 - The Court declined to apply the doctrine of *rebus sic stantibus* and secured creditor proceeded with the sale of the property under § 363 and corresponding bidding procedures.



Anomaly Cases – Cont'd

- Debtor proceeded to file a notice of appeal from the *order* granting the motion to compel the sale of property without seeking prior leave to appeal and filed a motion to stay pending appeal, which the Court denied.
- The sale of the property moved forward. The only bid received was from the secured creditor for the full amount of its credit under Section 363(k).
- Hours before the confirmation hearing, Debtor moved for the re-designation of its SARE case to a Subchapter V.
- Secured creditor and the US Trustee objected sustaining that a Single Asset Real Estate debtor is ineligible for Subchapter V relief under 11 U.S.C. § 1182(1)(A).
- The Debtor subsequently moved for the voluntary dismissal of the case.



Anomaly Cases – Cont'd

- In re Jeilin Clara Gomez Mojica, Case No. 19-07314 (BKT)
 - On December 16, 2019, the Debtor filed a Chapter 13 petition. After a motion to dismiss for exceeding the § 109(e) cap amount for Chapter 13 eligibility, the Debtor moved for conversion to Chapter 11, Subchapter V case.
 - The Debtor sought to cramdown a \$1.3 million loan to \$200,00.00.
 - Creditor moved for relief from the automatic stay under the jurisdictional doctrine of the probate exception. The Court granted the request for the automatic stay under the probate exception, which meant that the real estate property lied beyond the jurisdiction of the case.
 - The Debtor continued to insist on the cramdown under the advantages of the recently approved Subchapter V provision and filed two adversary proceedings to that extent and a Subchapter V Plan of Reorganization.
 - Creditor objected to confirmation and again moved for dismissal, arguing that it was a SARE case ineligible for a Subchapter V relief under Section 1182(1)(a) of the Bankruptcy Code and that the only real estate property from where the Debtor generated most of her income lied beyond the jurisdiction of the Bankruptcy Court under the probate exception doctrine.
 - On the date the debtor was ordered to respond, she moved for the voluntary dismissal.



Anomaly Cases – Cont'd

- In re Jose R Delgado and Cynthia Nogue Cruz, Case No. 20-03405 (EAG)
 - On August 28, 2020, Jose R Delgado and Cynthia Nogue Cruz (the "Debtors") filed petition for relief under Subchapter V of Chapter 11. Debtors run a non-incorporated supermarket in Bayamón, PR. The property is far too devalued, and their income does not cover the mortgage payments.
 - Debtor attempted to modify their mortgage loan pursuant to the property's value under Subchapter V.
 - The Debtors attempt to restructure the mortgage agreement with its only secured creditor, Banco Popular de Puerto Rico (BPPR). They are also trying to turnover \$4,000 seized by BPPR from their bank account, which the Debtors rely on to finalize the costumer transactions.
 - On October 15, 2020, the U.S. Trustee filed an *Objection to Debtor's Application to Employ Attorney and Request for Disgorgement of \$5,000* for the following reasons:
 - Failure to disclose the ownership of a motorboat in Schedule A/B;
 - Listing their vehicle as a 2015 BMW 3700, but describing it as a 2019 BMW X2 (it turned out that the Debtors had bought a new car one day after filing for bankruptcy petition);
 - failing to file a motion requesting permission to acquire post-petition financing (for the purchase of the car); and
 - deficient filings.
 - A hearing is scheduled for January 22, 2021 to consider the disgorgement request and subsequent replies.
 - On November 25, 2020, the Debtor filed a Reorganization Plan under Subchapter V.
 - BPPR amended its proof of claim of \$387,288.89 into \$186,000.00 secured claim based on the value and \$201,288.89 as unsecured to be paid pro-rata.
 - The plan is currently pending confirmation.



Anomaly Cases – Cont'd

- In re Travel Concepts, LLC, Case No. 20-03281 (ESL)
 - On August 21, 2020, Travel Concepts, LLC (the “Debtor”) filed petition for relief under Subchapter V of Chapter 11.
 - The Debtor is a travel agent, providing various travel services on a commission basis. It used to operate its business mainly in Sears and Kmart stores in Puerto Rico. With the rise of the COVID-19 pandemic, the Debtor was unable to get refunded for a significant number of payments made on behalf of paying customers, which in turn ushered a myriad of claims against the Debtor.
 - Sears’ bankruptcy case had a significant impact on the Debtor because it will only pay an estimated 1% of its \$1,815,889 claim.
 - Since filing for relief, the Debtor has been actively recovering owed sums from airlines, hotels and cruise ships, thus reconciling some of the active claims against the Debtor.
 - On November 16, 2020, the Debtor filed a *Small Business Subchapter V Plan*.
 - Confirmation plan is currently pending.



Questions?

Faculty

Gustavo A. Chico-Barris is a member with Ferraiuoli LLC's Bankruptcy & Creditors' Rights Practice Group, the Dispute Resolution Group/Commercial Litigation Division and the Insurance Practice Group in San Juan, P.R. He previously clerked for Chief Bankruptcy Judge Enrique S. Lamoutte at the U.S. Bankruptcy Court for the District of Puerto Rico and was a partner in a boutique law firm in Puerto Rico doing corporate counseling, real estate transactions, commercial litigation and insurance practice. Mr. Chico-Barris focuses his legal practice in advising and representing creditors in all aspects of bankruptcy, including judicial proceedings in chapters 7, 11, 12 and 13 cases, and out-of-court financial transactions and restructuring. He has gained considerable negotiation skills and ample litigation experience before federal and state trial and appellate courts, agencies and arbitration forums on creditors' rights and bankruptcy, commercial litigation, insurance regulation, claims under the Gramm-Leach-Bliley Act, real estate transactions, bond claims, insurance claim and fraud claims. Mr. Chico-Barris is admitted practice law in the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of Massachusetts and New York. He is also admitted to the U.S. Supreme Court and the U.S. Court of Appeals for the First Circuit, U.S. Bankruptcy Appellate Panel for the First Circuit, U.S. Court of International Trade, and the U.S. District Courts for the District of Puerto Rico, District of Massachusetts, Eastern District of Wisconsin, Eastern and Western Districts of Texas, and Eastern District of Missouri. Mr. Chico-Barris serves an adjunct professor of bankruptcy law with the University of Puerto Rico School of Law. He received his B.A. in international relations in 1999 from Tufts University and his J.D. in 2002 from American University School of Law.

Carol L. Fox, CPA, CIRA, CFA is a senior managing director with B. Riley Financial in Fort Lauderdale, Fla., and has more than 30 years of private and public accounting experience. She previously was with GlassRatner and Kapila & Company, where she focused on forensic accounting, litigation support and bankruptcy. For nearly 20 years, Ms. Fox's practice has focused on her career has concentrated on providing forensic, investigative and bankruptcy services to debtors, creditors, federal bankruptcy trustees and examiners, creditors' committees, court-appointed assignees, the Securities and Exchange Commission, the Department of Justice, law firms and financial institutions. She has provided restructuring and bankruptcy-related services for distressed situations in the health care, life sciences, mining, transportation, e-commerce, real estate, telecommunications, hospitality, agriculture and marine sectors. In addition, she has led high-profile investigations of investment schemes, fraud investigations, internal corporate investigations, due-diligence assignments and matters involving business disputes and quantification of damages. Ms. Fox is a newly appointed subchapter V trustee for the Southern District of Florida. She has served as a fiduciary in bankruptcy court matters and is currently serving as a fiduciary in state court matters. Additionally, she has testified as an expert witness on numerous occasions in federal and state court including testifying as an expert for the Department of Justice in the chapter 11 bankruptcy of Peabody Energy Corporation, *et al.* Ms. Fox has addressed numerous professional organizations on issues relating to bankruptcy, forensic accounting and distressed real estate. In 2019, she was recognized as a Top U.S.A. Woman Dealmaker by the Global M&A Network. She currently serves on IWIRC-Florida's Board of Directors, representing the South Florida chapter. Ms. Fox received her B.S. in accounting from the University of Florida.

Carlos Infante Gutiérrez is the Bankruptcy Practice Leader at Estrella LLC, in San Juan, P.R., and his practice is focused on insolvency and restructuring work on behalf of all affected parties, including individual and business debtors, creditors and creditors' committees. He represents chapter 7, 11 and 13 debtors and commercial creditors, and he is part of the local counsel team that represents the Financial Oversight and Management Board's Special Claims Committee related to claims filed as part of PROMESA. Prior to his tenure at Estrella LLC, Mr. Infante clerked for Hon. Mildred Cabán Flores, Chief Judge at the U.S. Bankruptcy Court for the District of Puerto Rico, where he aided in the management, analysis and resolution of all types of bankruptcy matters during a period of record bankruptcy filings in Puerto Rico. After concluding his bankruptcy clerkship, he founded his own firm, where he provided legal and business consulting services to government entities in Puerto Rico regarding restructuring alternatives, risk-management initiatives, contingency planning, regulatory compliance and the structuring of complex financial transactions. He also provided general corporate advice to private-sector clients focused on maximizing available incentives, including those offered by Acts 20, 22 and 135. In addition, he worked at a boutique law firm in San Juan, where he developed experience conducting internal corporate investigations throughout Latin America. Mr. Infante sits on the advisory board of ABI's Caribbean Insolvency Symposium and is a volunteer for Credit Abuse Resistance Education (CARE). He received his B.A. in business administration from Boston College, his M.B.A. with a concentration in finance from the University of Puerto Rico Graduate School of Business, and his J.D. from the University of Puerto Rico School of Law, where he served as editor of the *University of Puerto Rico Business Law Journal*.

Alan R. Rosenberg is an associate with Markowitz Ringel Trusty + Hartog in Miami, where he represents bankruptcy trustees, creditors, debtors and other parties-in-interest, in all aspects of insolvency proceedings and bankruptcy-related litigation, including the sale of bankruptcy estate assets and the pursuit and defense of avoidance actions and other litigation claims. In addition to his bankruptcy practice, he also represents individual and corporate clients in a wide variety of commercial litigation claims and real estate transactions. In his free time, Mr. Rosenberg enjoys learning about cryptocurrency and blockchain technology, and has been published several times on the subject. He is listed as a *Florida Super Lawyer* "Rising Star" for 2017-18 and a *Florida Legal Elite* "Up and Comer" for 2018. Mr. Rosenberg received his B.S.B.A. in finance in 2008 from the University of Florida and his J.D. *cum laude* from the University of Miami in 2011.