

THE CREDIT TIMES



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CCC of NY is pleased to be co-sponsoring the 75th Anniversary Celebration of the Credit Research Foundation (CRF) in conjunction with the CRF Annual Expo and Forum in Nashville, Tennessee, August 5th-7th.

CRF has long been regarded as a fantastic benchmarking, education, and networking resource for high-level financial practitioners.

CCC of NY is proud to have been chosen as a coveted Platinum Partner of the Foundation, distinguishing our agency as one of the best in class in the third-party commercial collection industry.

With a nod to our partnership with the CRF and in line with their 75th anniversary, CCC of NY has chosen to share the article below, which was written by Kenneth A. Rosen, Esq. and Phillip J. Gross, Esq. of Lowenstein Sandler, LLP and was first published in the Q3, 2023 CRF Perspective.

This article is an informative and insightful look at how an unsecured creditor can potentially gain "Critical Vendor Status" in a bankruptcy case and what the implications of the status are. If you are familiar with commercial bankruptcy law, this may be a great refresher, and if you are not, you may find the content extremely insightful.

For more information on how to become a CRF Member or to register for the upcoming Annual Expo, please visit: www.crfonline.org.

~Chad Haynie, EVP Global Revenue, CCC of NY

Securing Critical Vendor Status in Bankruptcy Cases

Navigating bankruptcy can be daunting for vendors, who often face the grim reality of minimal recovery on their owed debts. However, there's a strategic avenue that could significantly alter this outcome: becoming a "critical vendor." Here's a deeper dive into what this entails:

Understanding Critical Vendor Status:

In the complex world of bankruptcy proceedings, a critical vendor holds a pivotal role. These vendors provide goods or services crucial to the debtor's reorganization efforts, often possessing unique offerings or occupying a sole-source position. Consequently, they may receive preferential treatment, gaining the opportunity to recoup part or all of their pre-bankruptcy claims.

Navigating the Process:

Securing critical vendor status is no easy feat. It typically hinges on the debtor's discretion, with court approval being essential. Vendors must proactively engage in negotiations, seeking favorable post-petition credit terms and incorporating clauses that allow for agreement modification under certain circumstances.

Key Strategies for Vendors:

Crafting a robust strategy is imperative for vendors eyeing critical status. This includes not only negotiating credit terms but also safeguarding against preference claims and staying vigilant about case developments. Diversifying customer bases can also mitigate reliance on any one debtor, reducing the likelihood of needing critical status in the first place.

Criteria for Determination:

The road to critical vendor status is paved with specific criteria. Factors such as product exclusivity and the vendor's indispensable role in the debtor's operations are carefully weighed. Vendors should assess their own positions against these criteria and take proactive steps to strengthen their case.

Authors & Contacts:

For those seeking further guidance in navigating the complexities of bankruptcy proceedings, reaching out to legal experts is advisable. Kenneth A. Rosen, Esq., can be contacted at rosenkennethalan@gmail.com or (973) 493-4955, while Philip J. Gross, Esq., can be reached at pgross@lowenstein.com or (973) 597-6246.

Conclusion:

In an environment where recovery for general unsecured creditors is often minimal, securing critical vendor status could be a game-changer for vendors. By understanding the process, implementing key strategies, and leveraging expert advice, vendors can significantly enhance their prospects in bankruptcy cases.

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