
Bankruptcy Court Rejects Challenge to Pre-Bankruptcy Uptier Transactions

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There have been several so-called “uptier” transactions over the last several years, where lenders have provided “rescue financing” to a distressed company senior in priority to existing debt. While there has been significant commentary about whether such financings are contractually permitted, there have been few decisions analyzing challenges to such transactions. In *Bayside Capital Inc. v. TPC Group Inc. (In re TPC Group Inc.)*, the United States Bankruptcy Court for the District of Delaware (Goldblatt, J.) recently held that pre-petition transactions where certain, but not all, bondholders provided new financing and received liens senior to those on existing debt that were not prohibited by the applicable indenture or other related agreements.

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