

In The News

Akerman Uses Innovative Subchapter V Strategy to Complete Bankruptcy in 33 Days

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In what could be a game-changer for small businesses in financial distress, an Akerman team recently guided a client through bankruptcy in just 33 days using an innovative strategy for prepackaged Chapter 11 bankruptcies under Subchapter V.

An Akerman team led by Bankruptcy and Reorganization Partner [Eyal Berger](#) represented a Florida-based health supplements distributor in its \$9 million bankruptcy (including contingent, unliquidated, and affiliated debt). The multidisciplinary team, which included Corporate Partner [Teddy Klinghoffer](#), Special Counsel [Adam Swick](#), and Associate [Amanda Klopp](#), sought to file bankruptcy under Subchapter V of Chapter 11. Subchapter V is a relatively recent option for small businesses with aggregate non-contingent and liquidated debt of less than \$7.5 million.

Lead lawyer [Eyal Berger](#) also saw this case as an opportunity to assemble a prepackaged Chapter 11, wherein BPI's largest creditor would allow the company to restructure its balance sheet and agree on a consensual plan of reorganization prior to filing bankruptcy. The restructuring involved forgiving approximately \$900,000 of debt, converting in excess of \$5 million of debt into equity, and funding approximately \$1.8 million for the payment to

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holders of the company's remaining debt. This resulted in the discharge/satisfaction of approximately \$6.5 million of debt and a much cleaner balance sheet for the client.

The case began September 18, 2023, and was confirmed on October 20, 2023 — a record result for exiting Chapter 11 under Subchapter V and possibly the first prepackaged Subchapter V to receive plan approval.

“We are very pleased with what we accomplished for our client,” Berger said. “We’re also very excited about the potential benefits this new application of Subchapter V could have for small business clients, including startups and franchisees, as well as the commercial lenders who serve them.”

Regional banks are among the most common sources for small business loans. Because of that, they are also among the most common creditors listed in Subchapter V Chapter 11 bankruptcies, making this complex, costly, and time-consuming legal process a serious challenge. Berger believes by negotiating a consensual prepackaged Chapter 11 plan prior to the commencement of a Subchapter V case, Akerman can alleviate that challenge substantially.

“For the parties involved in these proceedings, time really is money. So having a strategy that can expedite the process is a win-win,” Berger said.

About Akerman

Akerman LLP is a top 100 U.S. law firm recognized among the most forward-thinking firms in the industry by Financial Times. Its more than 700 lawyers and business professionals collaborate with the world's most successful enterprises and entrepreneurs to navigate change, seize opportunities, and help drive innovation and growth.