

COMMERCIAL FINANCE TRANSACTIONS

Course Syllabus

Title: Commercial Finance Transactions: Understanding Commercial Loan Agreements and Key Negotiation Points.

Instructors: Todd Ransom and Jeff Nichols (bios and contact info attached). Various guest speakers will also be included as per the syllabus.

Catalogue Description: This course will immerse students in practical business and legal concepts inherent in commercial financing transactions and demonstrate how those issues manifest themselves in the financing documents drafted by lawyers. Students will learn the provisions of financing documents and, importantly, learn the legal and business issues behind the provisions. The tools and concepts taught in class lectures will be implemented by students in practice through negotiation and drafting of a commercial loan utilizing real world current forms of a Term Sheet and Credit Agreement. This course will provide the basic foundational legal and business concepts related to commercial loan agreements with which practicing attorneys wish all first-year attorneys were already familiar.

The first part of the course will lay the groundwork for the principal provisions of a commercial loan based upon assigned readings from *The LSTA's Complete Credit Agreement Guide, Second Edition*, and lectures on commercial loan transactions. In the second part of the course, students will be divided into Borrower and Lender teams serving as the lawyer for their respective “clients” to negotiate key provisions in a Term Sheet and Credit Agreement for a commercial loan. The “clients” will be the course instructors and/or associates working with the course instructors at their respective law firms who will be acting as bankers or corporate borrowers, respectively. With input from the client, groups will negotiate and agree on the final Term Sheet and Credit Agreement. The final work product will be a Credit Agreement redlined against the form. At the end of the course, in class, each group will discuss the final “deal” that was struck and explain the principal points of contention and how they drafted compromises in the documents.

In addition, the course will provide practical advice for a legal career in finance and cover specialty finance topics including different structures and legal issues that arise in financing different types of assets.

Credit Hours: Two hours. Thursdays from 4:00-6:00pm.

Proposed Schedule: 15 weeks, consisting of 15 two-hour classes. Classes 1-8 will cover assigned readings from the LSTA textbook along with lectures related thereto. Classes 8-14 will be split between in-class negotiations and additional lectures on specialty topics. Class 15 will be the final exam.

Reading Assignments: Students will be assigned portions of *The LSTA's Complete Credit Agreement Guide, Second Edition*, by Michael Bellucci and Jerome McCluskey (“LSTA”) and various supplemental readings. Lectures will follow the reading assignments and students should be prepared to discuss reading materials in class. The final exam will be based heavily on reading materials and therefore it is imperative students comprehend and stay on schedule with all reading materials.

Other Assignments: In between classes, students will have conference calls with their “clients” and prepare redlines of a form Term Sheet and Credit Agreement for review by opposing counsel prior to the in-class negotiation sessions.

Class Structure: The classes will include both traditional lecture and transactional negotiation. The first part of the course is intended to provide students with a background foundation to understand basic concepts

in the loan agreement structure, while the second part of the course is designed to provide an overview of specialty topics. During the second part of the course, students will be able to apply this basic foundation of loan agreements through interaction with their “clients” and negotiation of specific points in the Term Sheet. The instructors (and/or associates working with the course instructors) will serve as the “clients” for purposes of the negotiations. Students will then incorporate the agreed changes to the Term Sheet into the Credit Agreement and negotiate further the final provisions of the Credit Agreement. Prior to the final class, students will be required to submit versions of their negotiated Term Sheet and Credit Agreement showing the changes that were agreed between the parties. The penultimate class will be lecture and discussion with time reserved for students to present the results of their “deal”.

Prerequisites: First year contracts. The instructors are accustomed to training associates with no exposure to finance or loan documentation.

Grading: Students will be graded on class participation (10%) and are expected to attend all classes, participate in the drafting and negotiation exercises and submit their final work product (45%), and a final exam (45%). In the event of illness or other extenuating circumstances causing a student absence, the student must make arrangements with the professors and their negotiation team member to complete missing work. A final exam will be administered at the final class.

Learning Outcomes: Students will learn the basic principles of loan transactions, and how those principles are embodied in loan documentation. In addition to the substantive knowledge, students will gain insight into a career path. Increasingly the corporate or transactional legal departments of major law firms are a source of employment for law students, but students have limited opportunities to experience this type of practice during law school. Students who have already chosen this career path will be better prepared, having completed part of the training of a first-year associate.

Experiential Requirement: This course will satisfy the requirements of an experiential course under the applicable guidelines as a “simulation course”.

Syllabus:

Class 1 (Jan. 16): Introduction to Commercial Finance Transactions

1. Discussion of class format, structure of lecture and negotiation process.
2. Discussion of the elements of commercial loan documentation and the uses and purposes of different loan structures (term, revolver, first lien/second lien, acquisition finance, project finance, etc.).
3. Survey of form Term Sheet and Credit Agreement.

Required Reading for Class 1:

- LSTA Chapter 1 (The Credit Agreement) and Chapter 2 (Commitments, Loans, and Letters of Credit)
- Skim form Term Sheet and Credit Agreement – *Forms will be emailed to students. Please print the forms and bring a copy to class.*

Class 2 (Jan. 23): Interest, Fees and Payment Terms in Loan Agreements; Understanding Borrowing Bases

1. Discussion of fundamental principles of interest, fees and payment terms in the loan agreement.
2. Discussion of general borrowing base mechanics and collateral valuation as it relates to loan amounts.

Required Reading for Class 2:

- LSTA Chapter 3 (Interest and Fees) and Chapter 4 (Amortization and Maturity)

Class 3 (Jan. 30): Conditions Precedent in Loan Agreements

1. Discussion of the ancillary documents negotiated and executed to document loan transactions including: promissory notes, mortgages, and security agreements.
2. Discussion of other conditions precedent and post-closing, ongoing conditions.

Required Reading for Class 3:

- LSTA Chapter 5 (Conditions Precedent)

Class 4 (Feb. 6): Representations and Warranties in Loan Agreements

1. Discussion of the structure and use of borrower representations in the loan agreement.

Required Reading for Class 4:

- LSTA Chapter 6 (Representations)

Class 5 (Feb. 13): Covenants in Loan Agreements

1. Discussion of the structure and use of borrower affirmative, negative and financial covenants in the loan agreement.

Required Reading for Class 5:

- LSTA Chapter 7 (Covenants)

Class 6 (Feb. 20): Security and Remedies in Loan Agreements

1. Discussion of guarantees, security interests and other credit enhancements.
2. Discussion of defaults and remedies against the borrower and collateral.
3. Discussion of restructuring, bankruptcy and debtor-in-possession financing.

Required reading for Class 6:

- LSTA Chapter 8 (Guarantees and Security) and Chapter 9 (Defaults and Enforcement)

Class 7 (Feb. 27): Borrower Provisions; Leveraged Lending Guidance; Banking Crisis and Market Impacts; Kickoff Meeting for Negotiations

1. Discussion of “boilerplate” provisions, borrower rights in the loan agreement, and Leveraged Lending Guidance.
2. Discussion of market impacts on the banking industry stemming from the 2007 banking crisis.
3. Assignment of Lender/Borrower teams for the loan negotiations, dissemination of client contact information, and discussion of client interaction process and negotiation of the Term Sheet and Credit Agreement.

Prior to next class, students will contact their clients to discuss business terms of proposed loan based on initial draft of Term Sheet and identify issues for negotiation.

Required reading for Class 7:

- LSTA Chapter 12 (The Boilerplate), Chapter 13 (Borrower Rights) and Chapter 14 (Regulatory Developments)

Class 8 (Mar. 5): Loan Syndications; Assignments and Participations; Hedging and the Rise of Alternative Lending Sources; Term Sheet Negotiations

1. Discussion of standardized syndicated loan agreements, intercreditor agreements and assignment of loans.
2. Negotiation of changes to the Term Sheet based on client input and identification of any “open” business terms.

Prior to next class, students will contact clients with open business issues list and seek feedback on acceptable terms under the Term Sheet.

Required reading for Class 8:

- LSTA Chapter 10 (Interlender, Voting, and Agency Issues; Defaulting Lenders) and Chapter 11 (Assignments and Participations)

Class 9 (Mar. 19): Term Sheet Negotiations

1. Negotiation of final terms of the Term Sheet based on client feedback.

Prior to next class, Borrower/Lender teams will prepare a written mark-up to the Credit Agreement illustrating their respective concerns.

Class 10 (Mar. 26): Credit Agreement Negotiations; Guest Speaker

1. Negotiation of Credit Agreement based on the discussions since last class.

Prior to next class, both sides will identify their final open issues with respect to the Credit Agreement and prepare to discuss such issues in class at an “all-hands call.”

2. Guest speaker: Theresa Einhorn – Career Advice for Finance Lawyers

Class 11 (Apr. 2): Credit Agreement Negotiations; Guest Speaker

1. Negotiation of final language for agreed terms of Credit Agreement.

Prior to next class, Borrower Counsel will revise and circulate to Lender Counsel a redline "execution" draft of the Credit Agreement.

2. Guest speaker: Alan Pope – Moore & Van Allen – Intercreditor / Bankruptcy Issues

Class 12 (Apr. 9): Energy Finance

1. Discussion of key topics in energy finance, including reserve-based lending concepts, commodities hedging issues, conveyance-based financing structures and renewable energy and tax credit structures.

Prior to next class, Lender Counsel will review the "execution" draft, revise as needed, and revert to Borrower Counsel a second redline "execution" draft.

2. Guest speaker: Buddy Clark – Haynes and Boone – Energy Finance

Class 13 (Apr. 16): Private Equity and Alternative Lenders

1. Discussion of the role of private equity in the alternative lending market and related issues and trends.

Prior to next class, Borrower/Lender teams will complete negotiations and finalize "execution" draft of the Credit Agreement and redline marked to the form.

Class 14 (Apr. 23): Final Presentations

1. Students will present, by teams, the key business issues identified by clients and how they negotiated and reached a compromise in the final language. Students will also discuss their assessment of the negotiation process, lessons learned on how to negotiate, talk with clients, and draft Credit Agreement terms consistent with negotiated issues.

Class 15 (Apr. 30) – Final Exam

1. Open book exam based on class readings and lectures.

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the "Let's Talk" program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html

R. TODD RANSOM**PRACTICE AREAS**

- Asset-Based Lending
- Derivatives
- Energy Project Finance
- Financial Services
- Mezzanine Finance & Private Equity
- Real Estate Finance
- Securities & Capital Markets
- Syndicated Lending

EDUCATION

- B.A., State University of New York at Plattsburgh
- J.D., University of Houston Law Center, cum laude
- Blockchain for Business Certificate, Cornell University, 2019

BAR & COURT ADMISSIONS

- Pennsylvania, 2017
- New York, 2010
- Texas, 2004
- *Licensed in New York, Texas & Pennsylvania. Practicing in North Carolina pursuant to Rule 5.5(e) of North Carolina Rules of Professional Conduct.

**MEMBER**

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During his career, Todd Ransom has served as counsel for banks, investment banks, hedge funds, private equity funds, insurance companies and other financial institutions in connection with syndicated, club and single lender financing transactions in various industries, including, leveraged finance, acquisition finance, mezzanine and second lien transactions, asset based lending, margin loans, hedge fund share loans, financing transactions for registered investment companies, prime brokerage and derivatives matters, receivables financing and supply chain finance, equipment finance, and various other structured lending transactions. Todd has also served as counsel for energy companies and financial institutions in connection with syndicated, club and single lender oil and gas reserve based financing transactions, financing transactions secured by midstream pipeline assets and other energy lending and acquisition/divestiture transactions.

Todd's strong mix of regulatory knowledge and transactional experience allows him to provide great value to his clients, many of which are highly regulated entities and require a sound regulatory understanding of various legal regimes. In addition to the transactions described above, Todd has advised clients in connection with margin regulations, broker-dealer regulations, the Investment Company Act of 1940, Rule 144, Section 13, Section 16 and other provisions of the Securities Exchange Act of 1934.

The value Todd is able to provide to his clients is also a result of his understanding of the day to day concerns and sensitivities of his clients given his time spent as an assistant general counsel at one of the world's largest financial institutions.

In addition to the work done for his clients, Todd also regularly speaks and publishes on various topics, including recent presentations on margin regulations, pre-foreclosure rights with respect to equity collateral, key issues in equities financing, and forbearance agreement fundamentals.



Education

- J.D., Southern Methodist University Dedman School of Law, 1996
- M.B.A., Southern Methodist University Cox School of Business, 1996
- B.A., University of Michigan, 1992

Bar Admissions

- Texas
- New York

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Licensed in Texas and New York, Jeff has more than 20 years of experience representing a variety of clients in the energy and finance industries with secured and unsecured credit facilities, project finance and other structured energy transactions. As the co-chair of the Energy Practice Group, Jeff has broad experience in all facets of the energy business with a focus in the merchant energy industry particularly on working with ISDA, NAESB, EEI and other industry form agreements.

Jeff is on the Finance Advisory Board of Practical Law, as division of West Publishing Corporation, assisting with the publishing of materials on Oil and Gas Finance, and regularly teaches classes on Oil and Gas Finance for the Loan Syndications and Trading Association, Inc., a not-for-profit organization which promulgates document standards for syndicated credit agreements.