

## Bankruptcy MVP: Kramer Levin's Kenneth Eckstein

By **Pete Brush**

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Kramer Levin Naftalis & Frankel LLP's restructuring pros can be found working many high-profile bankruptcies, and co-head Kenneth Eckstein's work leading the 45-lawyer group and piloting Genco Shipping & Trading Ltd. out of its \$1.4 billion bankruptcy this year have earned him a spot on Law360's list of Bankruptcy MVPs.



Kenneth Eckstein

Genco, which won approval to exit bankruptcy on the strength of a carefully negotiated prepackaged plan in July, was a success for Eckstein's team that will be looked at closely by other shipping companies that hit the shoals of debt because of their often-unpredictable revenue streams.

But Genco's plan — crafted after diligent dealings with company executives, debtholders and financial adviser The Blackstone Group LP — was confirmed over the opposition of an official equity committee that vigorously disputed its valuation.

With only minimal delay to the proceedings, Eckstein and his Kramer Levin team took up the valuation battle and prevailed when the bankruptcy court overruled the equity committee's objections, finding that Genco was insolvent and using an industry-specific net asset value calculation offered by the debtors.

U.S. Bankruptcy Judge Sean H. Lane didn't think it appropriate to use a competing, discounted cash flow methodology pushed for by the equity holders.

"We were able to get the case through bankruptcy and emerge in less than 90 days," Eckstein said. "We made some interesting precedent on how [it's] appropriate to value shipping companies that are going through Chapter 11," he said, calling net asset value "the right standard" to use in the shipping industry given the cyclical nature of its revenues.

Genco ended up converting \$1.2 billion in bond debt into new equity, amended and restated the maturity and key covenants of two separate bank loan facilities, and raised \$100 million of new equity in Chapter 11.

"We took the leverage all the way down. Eliminating the leverage was extremely valuable to the

company because it gave it a great deal of stability going forward,” Eckstein said.

The Genco matter was one of many where Kramer Levin's lawyers — along with restructuring co-head Thomas M. Mayer — can be found and where Eckstein busies himself while overseeing Kramer Levin dynamic practice, which includes some 10 partners and 10 lawyers who specialize in the trading of distressed debt.

“Whenever you have a large group, you have to provide leadership. We try to lead by example,” Eckstein said. “I'm very proud of how collegial a department we have. We've developed the ability to work very cooperatively on both developing and serving clients.”

The coming year will likely prove to be no less busy to Eckstein, who leads the Kramer Levin team that represents the official unsecured creditors' committee in the case of NII Holdings Inc. — a U.S.-based provider of mobile communication services operating under the Nextel brand in Latin America.

In September the company sought Chapter 11 protection in the Southern District of New York, listing approximately \$8 billion of debt on its balance sheet.

The five-member committee consists of Capital Research and Management Co., Aurelius Investment LLC, Wilmington Trust NA, Wilmington Savings Fund Society, and American Tower Corp. Under Eckstein's guidance, the committee is working with NII and various creditor groups to achieve a resolution of intercreditor issues and put in place a plan that allows the company to swiftly emerge.

Eckstein also leads the Kramer Levin team representing about 30 institutions that collectively hold \$6 billion in first-lien bonds issued by bankrupt Caesars Entertainment Operating Co., which owns and operates Caesars Palace in Las Vegas and more than 30 other casinos and resorts under the Bally's, Harrah's and Horseshoe brands.

Caesars has transferred many of its most-valuable and growth-oriented properties and intellectual property assets to affiliated entities and engaged in numerous other financial transactions. In August both Caesars and the indenture trustee for its second-lien notes commenced litigation in New York and Delaware state courts regarding the propriety of these transactions.

Eckstein said the Caesars matter will prove to be "extremely complex."

“There's been a lot of press and a lot of litigation,” he said. “It's going to continue to be very active in 2015.”

Eckstein also serves on Kramer Levin's executive committee, and when he's not working in bankruptcy court, he keeps himself busy lecturing on bankruptcy law, including recently at the New York University School of Law — discussing Residential Capital LLC's complex Chapter 11, another of his firm's cases — and at a distressed debt conference held by Citibank NA.

“I've had a fairly busy teaching and lecturing schedule,” Eckstein said.

--Editing by Edrienne Su.