

Independent Arbitrator

RICHARD M. GRAY

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Personal Summary

Richard Gray is a retired partner of Milbank, Tweed, Hadley & McCloy LLP, where he practiced for approximately 32 years as a US domestic and international corporate finance lawyer in the firm's offices in New York, London, Singapore and Hong Kong. He is now an independent arbitrator with subject matter expertise in banking, financial and corporate matters, particularly those involving complex contracts. He has experience in more than 40 completed cases as sole arbitrator, panelist, chair and expert witness in cases administered by AAA, CPR, FINRA and the New York State Unified Court System, that included issues arising in business dissolutions, corporate governance, intercreditor disputes, collective action, agent's authority, and loan documentation. He has also testified in US Federal Bankruptcy Court as an expert witness on the syndicated loan market and has heard cases involving legally contested disputes as a member of municipal tribunals acting as arbiters on matters of fact and law.

Subject Matter Experience

MILBANK, TWEED, HADLEY & MCCLOY LLP - Mr. Gray joined Milbank in 1981 and was a partner for over 22 years from 1990 until his retirement in 2013. He was a member of the firm's Legal Opinion Committee and Training Committee, and the global head of the firm's mentoring program. He focused primarily on transactions and restructurings in North America and Latin America while working in New York, transactions in Europe, Africa and the Middle East while working in London, financial and corporate restructurings resulting from the Asian Financial Crisis while working in Singapore, and leveraged acquisitions while working in Hong Kong, where he pioneered the use of US-style structures for the then-nascent leveraged acquisition market in Asia.

TRANSACTIONAL EXPERIENCE – Mr. Gray's principal transactional focus during his years of legal practice was large, complex domestic and international financings and investments in a variety of industries, including media & telecommunications, satellites, mining, oil & gas, financial institutions, construction, and franchising. He has represented financial institutions, hedge funds, private equity investors, corporate institutions, financial and strategic acquirors, project sponsors, insurance companies, and governmental entities. A few examples of his engagements include a project financing for the Kumtor gold mine in Kyrgyzstan with OCA support, a structured vendor financing for an international satellite launch services provider, a sovereign loan facility for the Central Bank of Turkey, a government-supported financing for the construction of a semiconductor fabrication facility in Malaysia, structured pre-export financings for Latin American companies, a joint venture investment in a Southeast Asia regional satellite telecommunications company, a sovereign debt rescheduling in Africa, and many leveraged buy-outs in North America, Latin America, Europe and Asia.

RESTRUCTURING EXPERIENCE – Mr. Gray was the lead finance partner representing the senior secured creditors in the bankruptcy and restructuring for the LyondellBasell Group, one of the world's largest petrochemical companies, with affiliates in many countries, involving over US\$22 billion of indebtedness spread among several classes of creditors and multi-jurisdictional injunctions. He also played instrumental roles in the bankruptcies of Enron and Lehman Brothers by reverse-engineering off-balance sheet and other financial transactions, and he was the lead finance partner in financial restructurings for a major healthcare provider, a nationwide fast food franchise, several residential developers, and other companies in a variety of industries. In Asia, he was the lead partner in many restructurings, including for a regional securities firm (the first successful restructuring during the Asian Financial Crisis), Astra International (the first debt-equity swap during the Asian Financial Crisis), four KSOs (public/private telecommunications joint ventures) and other telecommunications companies in Indonesia, pulp and paper manufacturers, and telecommunications and infrastructure companies in the Philippines.

SUBSTANTIVE EXPERIENCE – Mr. Gray has extensive practical experience to bring to bear in properly interpreting contractual rights and obligations in financial and investment disputes. Throughout his career, he has structured transactions, drafted and interpreted agreements and addressed disputes with careful analysis of legal issues arising from mergers and acquisitions and the financing thereof; disputes between joint venture partners; subordination agreements, intercreditor agreements and disputes between creditors of different classes; the role of administrative agents and interbank disputes

under syndicated loan facilities; defaults by lenders; LIBOR, investment vehicles; and multi-jurisdictional conflicts of laws.

Related Experience

- Expert witness in US Federal Bankruptcy Court, including expert report and in-court testimony, on the loan syndication market.
- Heard more than 50 cases, which included sworn testimony and parties represented by counsel, of legally contested matters involving local zoning ordinances, residency, and school infractions, as a member of municipal governmental tribunals acting as arbiters of fact and law.
- Prepared and submitted claim under political risk insurance during the Asian Financial Crisis on behalf of clients.
- NGO observer of UNCITRAL proceedings for the development of its Model Law on Secured Transactions.
- Representative of municipal board, as the Chair of its Legal Review Committee and the Chair of its Negotiations Committee, in the mediation of a multi-million-dollar judgment and in collective bargaining negotiations.
- NGO observer in Guantanamo Bay, Cuba of pre-trial hearings for 9/11 defendants.
- Lecturer at Columbia Law School on leveraged finance.

Publications and Speaking Engagements

Co-author of the first edition of the leading textbook in the US for syndicated loan documentation, *The LSTA's Complete Credit Agreement Guide* (1st ed. 2009, winner of the Burton award for legal writing), and former member of the Editorial Board of Butterworth's Journal of International Banking and Financial Law. A more complete list of publications and speaking engagements is attached.

Professional Recognition

As a practicing lawyer, Mr. Gray was recognized by Chambers (Banking Finance Lawyer for Latin America and the United States), International Who's Who of Business Lawyers (Banking), and AsiaLaw. He was the lead lawyer for many transactions honored as "Deals of the Year" by prominent industry periodicals over the years for financial restructurings, acquisition financings and debt-equity-linked transactions. *The LSTA's Complete Credit Agreement Guide* (1st ed. McGraw-Hill, 2009), of which he is a co-author, won the Burton legal writing award for best compendium.

Professional Affiliations

Chartered Institute of Arbitrators: Fellow; American Arbitration Association (AAA): Commercial Panel; International Institute for Conflict Prevention & Resolution (CPR): Panel of Distinguished Neutrals (Banking, Accounting and Financial Services Panel & General Commercial Panel); Financial Industry Regulatory Authority (FINRA): Roster of Public Arbitrators; New York State Courts: Court-Appointed arbitrator; Institute for Transnational Arbitration (ITA): Advisory Board, Americas Initiatives Committee; United States Council for International Business (US affiliate of the ICC); New York International Arbitration Center (NYIAC); Asian Institute of Alternative Dispute Resolution (AiADR): Fellow; New York City Bar Association: Arbitration Committee (former member of Asian Affairs and Foreign and Comparative Law Committees); New York State Bar Association: Banking Law Committee, Derivatives and Structured Law Committee, Committee on Domestic Arbitration, Committee on International Banking, Securities and Financial Transactions, International Disputes Resolutions (IDR) Committee, Committee on International Insolvencies; American Society of International Law; International Bar Association; Asia Society.

Education

HARVARD LAW SCHOOL – J.D. 1981, *cum laude*.

STANFORD UNIVERSITY – B.A. 1978, with distinction, Honors in Economics, Phi Beta Kappa.

Selected Speaking Engagements

"Case Study: LyondellBasell Restructuring, Selected Intercreditor and Enforcement Issues," 49th International Association of Young Lawyers (AIJA) Annual Congress, Amsterdam, August 24, 2011.

"The LSTA's Complete Credit Agreement Guide," LSTA, New York City, 2010, 2011, 2012, 2013.

"CAM Exchanges," New York City, September 23, 2009 (industry-wide global webcast presentation under the auspices of the LSTA).

"Amend and Extends & Forward Start Facilities," LSTA, New York City, May 27, 2009.

"Libor Market Disruption," New York City, Fall, 2008 (industry-wide global conference call presentation under the auspices of the LSTA).

"Financing Considerations for Leveraged Acquisitions," Management Buy-Outs Asia, IBC Asia Limited, Hong Kong, March 21, 2002.

"Lessons Learned from the Asian Turmoil," Brazil: Assessing the Impact, Milbank, Tweed, Hadley & McCloy LLP, New York City, February 8, 1999.

"Key Aspects of Corporate and Debt Restructuring," Corporate Legal Counsel in Asia, The Asia Business Forum, Singapore, August 2, 1999.

"Innovative Project Financing under the Effects of the Currency Crisis," Fourth Roundtable on Asia-Pacific Telecommunications: Looking Beyond the Currency Crisis, The Economist Conferences, Hong Kong, December 4, 1998.

"Overview of the Restructuring Process," Debt Restructuring in Asia, Asia International Communications Conferences Asia Limited, Singapore, June 24, 1998

"Restructuring Strategies for Telecommunications Projects," Raising Capital for Telecom Operations, IBC Asia Limited, Singapore, April 17, 1998.

"Refinancings and Collateral Protection," Restructuring Asian Projects, AIC Worldwide, Hong Kong, April 16, 1998.

"Restructuring in Indonesia," Debt Restructuring in Asia, The Export-Import Bank of Japan (now known as JBIC), Tokyo, April 9, 1999.

Debt Restructuring Workshop, AIC Executive Summit, Singapore, June 26, 1998.

"Overview of Restructuring Issues," Debt Restructuring in Asia, Singapore, June 24, 1998 (AIC Worldwide).

"Refinancings and Collateral Protection," Restructuring Asian Projects, Asia International Communications Conferences Asia Limited, Hong Kong, April 16, 1998

"Project Financing for Strategic Telecom Alliances and Joint Ventures," Pacific Telecommunications Conference, Honolulu, January 11, 1998.

"Structuring Financing for Wireless Projects and Joint Ventures," Cellular, Wireless & Cable Finance '97, International Business Communications Asia Limited, New York City, November 18, 1997

"Financing & Building Strategic Alliances for Wireless Satellite Projects in Asia," Asia Wireless Summit '96, World Resource Group, Washington, D.C., September 25, 1996

"Netting and Separate Entity Issues," Regulation Compliance & Risk Management for Derivative Projects, Strategic Research Institute, New York City, January 13, 1994.

Selected Publications

"The Arbitration of Intercreditor Disputes Among Financial Institutions," NYSBA New York Dispute Resolution Lawyer (Fall 2018, Vol. 11 No. 2)

"Lenders' Trade Group Adopts Optional Arbitration Clause for Model Latin America Documentation," Alternatives (January 2018).

"Collateral Allocation Mechanisms," Butterworths Journal of International Banking and Financial Law (September 2010), co-author.

"Debt Repurchases," International Financial Law Review (April 2010), co-author.

The LSTA's Complete Credit Agreement Guide, co-author (1st ed. McGraw-Hill, 2009), recognized as "Best Law Firm Compendium" by the Burton Awards for Legal Achievement 2010.

"Transfers of Syndicated Loans," International Financial Law Review (December/January 2009), co-author.

"Loan Participations: US and UK Compared," International Financial Law Review (October 2009), co-author.

"Debt Buybacks, Defaulting Lenders and Libor Market Disruption," The Loan Market Chronicle 2009 (LSTA).

"The Market Disruption Clause," International Financial Law Review (December 2008/January 2009)

"Chapter 5: Understanding the Credit Agreement," co-author, The Handbook of Loan Syndications & Trading (McGraw-Hill, 2007).

"Why Banks Should Look at Market Flex and MAC Clauses," International Financial Law Review (April 2003), co-author.

"Facing the Legal and Structural Issues of Cross-Border LBOs in Asia," International Financial Law Review (February 2001).

"Asian Restructuring," Banking Yearbook 1999 (International Financial Law Review, Special Supplement, July 1999).

"The Asian Financial Crisis," Banking Yearbook 1998 (International Financial Law Review, Special Supplement, July 1999).

"Does the Crisis Bring Default Under MAC Clauses?" International Financial Law Review (April 1998).

"Satellite Finance: Money Matters," Asia Pacific Satellite Magazine (June 1997).