As of 3/27/2018

Peter L Borowitz, Mediator

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On December 31, 2007, after three decades at Debevoise & Plimpton, Peter Borowitz retired from the partnership, so that he could focus exclusively on acting as mediator in all types of commercial disputes, with particular emphasis on disputes arising in domestic and cross-border bankruptcies and out-of-court restructurings.

Education:
Harvard College, A.B. 1974 summa cum laude.
Harvard Law School, J.D. 1978 magna cum laude. Harvard Law Review. Sears Prize.

Law Firm Experience
Mr. Borowitz joined Debevoise & Plimpton in 1978, became a partner in 1986, and retired from the partnership as of December 31, 2007. While his career initially focused on the representation of debtors in bankruptcies and workouts (such as Chrysler, Western Union, and Baldwin United), in later years he primarily represented institutional lenders and other creditors in domestic and cross-border restructurings in and out of court.

His major cases in the United States include representation of creditors of Orion Pictures, TWA, Eastern Air Lines, Continental Airlines, Enron, USGen, Calpine, Kmart, Crown Pacific, Oregon Arena, Dulles Greenway, Massey Ferguson and Reading & Bates.

He has also been involved in numerous cross-border cases such as Sea Containers, Parmalat Canada, LJ Hooker, AeroMexico, Mexicana, Kvaerner, and Burmeister and Wain.

He has often advised institutional lenders in connection with complex leveraged-lease and project-finance transactions.

Mediation Experience:
As counsel in numerous complex corporate restructurings in and out of court, Mr. Borowitz has had substantial experience in negotiating settlements of debtor/creditor and intercreditor disputes. Prior to his retirement from Debevoise, he represented parties in bankruptcy mediations in the USGen and Lynx Chapter 11 cases.
Since his retirement from Debevoise, Mr. Borowitz has served as mediator in a number of major Chapter 11 cases. Recent matters include:

- Adelphia Chapter 11 case in the Southern District of New York- mediation of a major claims dispute between Adelphia and General Dynamics

- Appalachian Fuels Chapter 11 case in the Eastern District of Kentucky-mediation of (i) breach of fiduciary duty and fraudulent transfer claims asserted by the Liquidating

Trustee of the App Fuels Creditor Trust against various officers and directors and other defendants and (ii) claims relating to D&O insurance policies issued by AIG and Zurich

- Bearing Point Chapter 11 case in the Southern District of New York- mediation of multiple complex preference claims asserted by the BearingPoint Liquidating Trustee against American Express

- BearingPoint Chapter 11 case in the Southern District of New York-mediation of multiple complex preference claims asserted by the BearingPoint Liquidating Trustee against Ernst & Young

- Energy Future Holdings Chapter 11 case in the District of Delaware--mediation of Chapter 11 plan issues relating to the TCEH Debtors

- Lehman Brothers Holdings Chapter 11 case in the Southern District of New York-mediation of claims (including federal securities law claims) asserted by Federal Home Loan Bank of Pittsburgh against Lehman Brothers Holdings, Inc. and Structured Asset Securities Corporation

- Madoff SIPA Liquidation case in the Southern District of New York--mediation of clawback claims asserted by the Madoff Trustee against Alpha Prime Fund Limited, a fund organized under Bermuda law

- Madoff SIPA Liquidation case in the Southern District of New York--mediation of clawback claims asserted by the Madoff Trustee against Herald Fund SPC (In Official Liquidation), a fund organized under Cayman Islands law

- Madoff SIPA Liquidation case in the Southern District of New York--mediation of clawback claims asserted by the Madoff Trustee against Primeo Fund (In Official Liquidation), a fund organized under Cayman Islands law

- Madoff SIPA Liquidation case in the Southern District of New York--mediation of clawback claims asserted by the Madoff Trustee against (i) Thema International Fund pie, a UCITS fund organized under Irish law, (ii) Thema Fund Limited and Thema Wise Investments Limited, funds organized under British Virgin Islands law, and (iii) Lagoon Investment Limited and Hermes International Fund Limited, funds organized under British Virgin Islands law

- Madoff SIPA Liquidation case in the Southern District of New York--mediation of clawback claims asserted by the Madoff Trustee against Vizcaya Partners Limited (a British Virgin Islands fund), Asphalia Fund Ltd. (a Cayman Islands fund), Zeus Partners Limited (a British Virgin Islands fund), and Bank J. Safra Sarasin (Gibraltar) Ltd. (a Gibraltar bank)

- Madoff SIPA Liquidation case in the Southern District of New York--mediation of clawback claims asserted by the Madoff Trustee against Westport National Bank

- Polaroid Chapter 7 case in the District of Minnesota--mediation of complex preference claims asserted by the Polaroid Chapter 7 Trustee against Flextronics

- Refco Chapter 11 case in the Southern District of New York--mediation of fraudulent conveyance adversary proceeding

- Rhodes Companies Chapter 11 case in the District of Nevada--mediation of adversary proceeding brought by Litigation Trust, including fraudulent conveyance and breach of fiduciary duty claims

- SemCrude Chapter 11 case in the District of Delaware-mediation of more than a dozen lawsuits involving (Q Uniform Commercial Code claims arising from non-uniform oil and gas lien provisions of the laws of Oklahoma, Kansas and Texas, (ii) six separate plaintiff groups of independent oil producers, and (iii) twelve separate defendant oil companies (including BP, Chevron, ConocoPhillips, Husky, Plains, Sunoco and Valero)

- 360networks Chapter 11 case in the Southern District of New York-mediation of disputes between the Postconfirmation Representative and 360networks

- Tousa Chapter 11 case in the Southern District of Florida-mediation of Chapter 11 plan issues (including major fraudulent conveyance and preference claims)

- Tousa Chapter 11 case in the Southern District of Florida--mediation of (i) claims by three groups of plaintiffs against directors and officers and (ii) coverage issues relating to two towers of D&O insurance involving multiple policy periods and twelve insurers (including AIG, ACE, Allied World, Arch, AXIS, Beazley, Chubb, Travelers, XL (US and Bermuda), and Zurich)

- Tousa Chapter 11 case in the Southern District of Florida--mediation of more than fifty preference actions (100% of which were settled through mediation)

- US Capital/Fashion Mall Chapter 11 case in the Southern District of Florida--mediation of Chapter 11 plan issues

Mediation Speeches:

- "Mindful Mediation--The Ways and Means of Successful Bankruptcy Mediation'--On October 9, 2017 Mr. Borowitz appeared as a panelist at this program in Las Vegas sponsored by the ABA Business Bankruptcy Committee in connection with the Annual Meeting of the National Conference of Bankruptcy Judges.

- "The Potential for, and the Challenges of, Mediation in Cross-Border Insolvencies"--On April 22, 2017 Mr. Borowitz appeared as a panelist at this program in Washington, DC sponsored by the American Bankruptcy Institute in connection with its Annual Spring Meeting.

- "Potpourri of Current Market Developments in Chapter 7 and Chapter 11 Business Cases and Mediation"--On April 25, 2016 and April 26, 2017 Mr. Borowitz appeared as a

panelist at this program in New York sponsored by the Practicing Law Institute in connection with its annual conference "Bankruptcy & Reorganizations: Current Developments."

- "Somewhere Beyond the Sea: The Challenges of Mediation, Cross Border and in the Caribbean"--On February 5, 2016 Mr. Borowitz appeared as a panelist at this program at the Annual Caribbean Insolvency Symposium in San Juan of the American Bankruptcy Institute.

- "Making the Best of a Bad Situation: Successful Strategies for a Bankruptcy Mediation"--On January 11, 2016 Mr.
- Borowitz appeared as a panelist at this program in Dallas sponsored by the ADR Section of the Dallas Bar Association.

- "Plan Mediation in Bankruptcy"--On June 2, 2014 Mr. Borowitz appeared as a panelist at this program in New York sponsored by the Bankruptcy & Reorganization Committee of the New York City Bar.

- "Helping Your Client Navigate the Mysteries of Mediation"--On April 10, 2013 Mr. Borowitz appeared as a panelist at this program in Ft Lauderdale sponsored by the Bankruptcy Bar Association of the Southern District of Florida.

- "So You Can't Agree on Plan Terms: Does Plan Mediation Work?" -On October 13, 2011 Mr. Borowitz appeared as a panelist at the ABA Chapter 11 Subcommittee program at the Annual Meeting in Tampa of the National Conference of Bankruptcy Judges.

- "Examiners and Mediators" -On May 6, 2011 Mr. Borowitz appeared as moderator of this panel at the Annual Conference in New York of the American Bankruptcy Institute.

- "The Rat Pack is Back: A Simulated Multi-Party Mediation of a Chapter 11 Dispute Arising from (i) a Leveraged Lease of a Las Vegas Casino and (ii) the Operation of the Claims Limitation Under Section 502(b)(6) of the Bankruptcy Code"--On October 19, 2009 Mr. Borowitz appeared as moderator of this panel sponsored by the ABA Business Bankruptcy Committee at the Annual Meeting in Las Vegas of the National Conference of Bankruptcy Judges.

- "Three's a Crowd: The Tough Task of Resolving Multi-Party Disputes"- On April 17, 2009, Mr. Borowitz appeared as a panelist at the Spring Meeting in Vancouver of the ABA Business Law Section.

- "Bankruptcy Mediation" - On October 5, 2007, Mr. Borowitz presented this speech at the Fall Meeting in New York of the American College of Investment Counsel.

Mediation Training:

- 40-hour Mediation Certification course, sponsored by the Institute for Conflict Management in October 2006

Member of Panel of Mediators:

- U.S. Bankruptcy Court, District of Delaware
- U.S. Bankruptcy Court, Southern District of New York
- U.S. Bankruptcy Court, Eastern District of New York

Professional Activities:

- American Bar Association, Business Bankruptcy Committee - 1981 to Present
    - Co-Chair, Alternative Dispute Resolution Subcommittee--2017 to Present
    - Chair, Executory Contracts Subcommittee--1993-1995
    - Chair, Avoiding Powers Subcommittee--1989-1993
- International Insolvency Institute--2015 to Present
- American Bankruptcy Institute--2011 to Present

Selected Publications:

- "Waiving Subrogation Rights and Conjuring Up Demons in Response to Deprizio,· 45 Business Lawyer 2151 (1990).

- "A New Twist on Twist Cap: Invalidating a Preferential Letter of Credit in In re Air Conditioning,· 103 Banking Law Journal 368 (1986).

- "Working Out with the Government: The Chrysler Loan Guarantee Program,· Journal of Law and Commerce (1984).

- "Real Property Foreclosure as a Fraudulent Conveyance: "Proposals for Solving the Durrett Problem,· 38 Business Lawyer 1605 (1983).