American College of Bankruptcy

Small Business Restructuring Act Panel

August 20, 2020 | 1:00 p.m. EDT | Zoom Webinar

SBRA Panel August 20, 2020 Hypothetical

Debtor is a single-member limited liability company engaged in the production of widgets. It owns the building in which it conducts operations.

The building and the debtor's equipment, inventory, and accounts receivable secure a term loan to Local Bank in the amount of $ 2.6 million, with a maturity date in eight years. The market value of the collateral, net of selling expenses, is $ 2.0 million.

A key part of the Debtor's equipment is its Deluxe Widget Fabricator that it financed with Acme Equipment Financing. Local Bank consented to the financing. The net market value of the DWF is $ 300,000, which is also the amount owed. When the debtor defaulted six months ago and Acme was on the verge of obtaining a writ of possession to recover its collateral, the father of the debtor's principal purchased the Acme obligation. Shortly thereafter, Father realized that Acme's security interest had not been properly perfected and filed a corrected financing statement.

The debtor's principal personally guaranteed the debts to the Bank, Acme, and the credit card company. In addition, the principal a couple of years ago borrowed $ 75,000 from Second Bank, secured by a second mortgage on his residence, and used the money to finance the business. The principal has no income or business activity other than his employment by the debtor.

The debtor has general unsecured debt of $ 300,000, which includes approximately $ 20,000 owed on a major credit card.

The debtor is current on payroll and taxes. The debtor pays payroll one week in arrears and makes monthly deposits of withholding and FICA taxes.