

# BUSINESS RESTRUCTURING SERVICES

## PREFERENCE CLAIMS DEFENSE ANALYSIS

### THE NATURE OF PREFERENCE CLAIMS ANALYSIS HAS DRAMATICALLY CHANGED IN RECENT YEARS.

In the past, litigation arising out of preference avoidance claims was generally peripheral to the bankruptcy itself. Today, many bankruptcy matters are fraught with numerous complex litigation and investigatory issues related to preference claims.

BDO Consulting assists creditors and law firms by providing comprehensive preference claims defense services including customized analyses, reports and related litigation support. In conjunction with our preference claims defense analysis, we provide comprehensive and detailed reports along with expert witness testimony, if needed.

#### ►HOW CAN BDO CONSULTING HELP?

For many years, BDO Consulting has aided its clients in the defense of preference actions. Our experience with these claims has enabled us to develop analytical tools that simplify the analysis by using computer software including Access, Excel and Idea. Our custom-built models enable us to manipulate the underlying data in various ways to assess the application of the new value and ordinary course of business defenses to the alleged preferential transfers. We can perform various iterations for counsel to assist in the analysis of these potential preference defenses. In addition, our analyses draw upon available industry data and BDO Consulting's industry experience.

#### ►INDUSTRY EXPERIENCE

- Retail
  - Apparel
  - Computer & Electronics
  - Food
  - General Merchandise
  - Home Furnishing
  - Internet
- Chemical
- Construction
- Energy
- Financial Services
- Manufacturing
- Paper Products
- Technology
- Telecommunications
- Textiles



#### ►OUR PROFESSIONALS

Our well-credentialed Business Restructuring professionals have extensive experience in preference claims analysis and defense proceedings. We can also provide industry leaders as needed. Many of our Restructuring professionals are certified public accountants, certified turnaround professionals, certified insolvency and restructuring advisors, former operating executives and financial analysts, and help us provide sound results in a cost-effective manner.

## ►ANALYTICS WE PERFORM IN PREFERENCE DEFENSE MATTERS

BDO Consulting's tools will analyze transactional data between the parties during the preference period and during the appropriate historical date range (the "testing period"). The appropriate historical date range will vary based on the facts and circumstances and acts as the baseline for the preference period. Based on this information, we perform statistical and other analyses to determine what portion of an alleged preference may be eliminated by defenses available under the Bankruptcy Code, most commonly the new value and ordinary course of business defenses.

We can calculate preference exposure under various scenarios and assumptions, and can run multiple iterations. This information can enhance your ability to effectively negotiate with the suing party in order to achieve the most favorable outcome for your client.

BDO Consulting can also draw upon industry data to perform analysis to determine whether industry payment practices can be a benefit to the preference defense of your client.

Fees for these services are reasonable and generally represent a small fraction of your client's alleged preference exposure. We can provide you with an estimate of our fees upon request.

BDO Consulting provides litigation, investigation, business restructuring and risk advisory services to clients in the United States and internationally. Our highly experienced and well-credentialed professionals leverage the global industry and accounting knowledge of the BDO International network, providing rapid, strategic advice to assist our clients.

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