



Global
Restructuring
Review

100

2019

The guide to specialist cross-border restructuring
and insolvency practices 2019

company’s substantial connection to the city-state. It is also advising the judicial manager of Technics Oil & Gas, which is dual-listed in Singapore and Taipei, in its US\$220 million restructuring. WongPartnership is acting in the restructuring of Asian commodities trader Noble Group for the ad hoc committee of noteholders, alongside international counsel Akin Gump. The restructuring eventually led to a COMI shift to London and the approval of parallel schemes of arrangement by courts in England and Bermuda, following the approval of a much-amended restructuring plan by creditors.

The firm is also acting for the receivers and managers of two Indian companies, Lanco Resources International and Amtek Global Technologies, which are among a dozen the Reserve Bank of India has ordered to undergo restructuring under India’s new Insolvency and Bankruptcy Code. The latter case was of substantial complexity due to Amtek’s subsidiaries in the UK, Italy, Germany, New York, Japan, Mexico and Brazil. It also required a bespoke sale process in relation to its assets in those jurisdictions, and Amtek’s major shareholder was undertaking an ongoing corporate insolvency resolution process at the same time as its receivership.

Young Conaway Stargatt & Taylor LLP

The Delaware firm won a GRR Award for its work on the innovative restructuring of Ukraine’s Metinvest

Global head of restructuring and insolvency	Pauline Morgan
Restructuring lawyers in Who’s Who Legal	6

History of the practice

Young Conaway was founded in 1959 by **Hy Young, James Conaway, Bruce Stargatt** and **William Taylor**. Its highly regarded bankruptcy and restructuring practice – which is the largest in the US district of Delaware – has experience across a number of sectors including energy, financial and professional services, food and beverage, healthcare, media and real estate.

Network

The bankruptcy group is based in Wilmington, where partner **Pauline Morgan** heads the practice. It has played a leading role in most significant bankruptcies in the district.

The wider firm also has offices in Georgetown and New York.

Who uses it?

Young Conaway represents debtors, creditor committees, secured and unsecured creditors, purchasers, plan sponsors, and shareholder groups in jurisdictions throughout the US and further afield. It has particular experience advising private equity funds on distressed portfolios.

Past clients include Canadian gold miner Crystallex International, Chicago-based publisher Sun-Times Media Group, holding company Indalex Holdings Finance, and one of the oldest professional baseball teams in the US, the Los Angeles Dodgers.

Historic track record

The firm played a major role in the huge US\$7.3 billion cross-border insolvency of the global telecoms group Nortel Networks, advising the

joint administrators of Nortel Networks UK and its affiliated debtors in the US.

Morgan was instructed by the world’s largest print maker AbitibiBowater in the cross-border restructuring of its US\$6 billion debt. It successfully emerged from CCAA and Chapter 11 proceedings at the end of 2010 and later changed its name to Resolute Forest Products.

She also represented women’s retailer Coldwater Creek in Chapter 11 proceedings initiated to restructure the firm’s US\$361.3 million debt.

In another significant case, the firm acted as co-counsel, with Willkie Farr & Gallagher, to Canadian gold minder Crystallex in its Chapter 15 proceedings in Delaware following an initial CCAA filing in Canada.

Elsewhere, in New York, it served as special counsel for Irving Picard – the trustee to the Madoff estate – following the US investor’s US\$65 billion Ponzi Scheme.

Recent events

During the research period, Young Conaway helped complete the US\$2.7 billion restructuring of Ukrainian steelmaker Metinvest via three schemes of arrangement in the UK filed in parallel with three separate Chapter 15 recognition proceedings in Delaware. Baker & McKenzie and Allen & Overy advised on the UK schemes, while Young Conaway did the US side. All three firms picked up an award for the deal at the inaugural GRR Charity Awards ceremony in 2017 for “innovation in cross-border insolvency and restructuring”.

Three Japanese debtors in the Takata group hired Young Conaway as US counsel in a Chapter 15 application to recognise their Tokyo bankruptcy processes, and also for the Chapter 11 proceedings of their US affiliate TK Holdings. Takata entered bankruptcy in June 2017 following the global recall of around 120 million faulty airbag inflators it had produced. The Delaware court recognised Takata’s Japanese bankruptcy in November 2017, rejecting objections from drivers who had commenced a multi-district litigation against the group. In April 2018, all of Takata’s global assets – bar those related to the manufacture of airbag inflators – were sold to Michigan-based competition Key Safety Systems for US\$1.6 billion, after a settlement was reached between the company, creditor groups, and injured drivers.

With Cleary Gottlieb Steen & Hamilton, and Stevens & Lee, the firm also acted for temporary buildings provider Modular Space Holdings in a pre-pack Chapter 11 case. Modular Space’s pre-pack plan was approved in February 2017 after an Ontario court recognised its Delaware proceedings as foreign main proceedings – a necessity since one of the Chapter 11 debtors was Canada-incorporated.

In other Canada-related matters, the firm acted as US counsel to sports equipment manufacturer BPS Holdings – a subsidiary of New Hampshire-based Performance Sports Group – and its affiliates in dual plenary proceedings under the US Bankruptcy Code and the Companies Creditors Arrangement Act (CCAA) in a case that also featured a cross-border protocol.

It was also counsel to the foreign representative of Canada’s Catalyst Paper Corp, alongside Sidley Austin. Catalyst and 13 Canadian and US affiliates were restructured under the Canada Business Corporations Act in a plan that became effective in January 2017. The plan was recognised in Delaware under Chapter 15 where the court agreed to apply section 365(e) of the US Bankruptcy Code on assumption or rejection of executory contracts and unexpired leases.

Just at the beginning of the research period, Young Conaway also helped New Zealand-based auto parts group UCI Holdings and its US

subsidiaries complete a Chapter 11 plan and exit bankruptcy by the close of 2016. The group’s Delaware proceedings received recognition in New Zealand in July 2016 under its Insolvency (Cross Border) Act 2006.

Yulchon

An innovator in Korean bond restructurings

Partners in restructuring team	8
Active cross-border restructuring and insolvency matters	20

History of the practice

Yulchon had a baptism of fire, being founded in 1997 just as the Asian financial crisis of the late 1990s was getting under way. Restructuring and insolvency was part of the firm’s DNA from the very beginning, when it dusted off Korea’s rarely used bankruptcy and insolvency laws and responded to the changing environment with an expanded practice that handled some of the most important bankruptcy, workout and corporate restructuring cases of the time.

The firm defines itself as being equally strong both in and out of court, and is seeking to follow what it sees as an increasing trend of companies seeking flexible out-of-court corporate rescues. It has sought to import new tools to Korea’s restructuring scene, which have expanded the out-of-court options available in the Korean market, including in the 2014 debt-for-equity swap of trading company STX Corporation’s publicly listed bonds. That deal broadened the horizons for debt workouts in Korea, and formed the template for subsequent major bond restructurings, leading debtors such as Dongbu Metal and Posco Plantec to the firm’s door looking for a similar outcome.

The practice’s major names are **Chul Man Kim**, a former judge who joined the firm after 20 years at Kim & Chang, STX counsel **Ki Young Kim** and **Sun Kyoung Kim**.

Who uses it?

Hyundai Merchant Marine, Hapag-Lloyd, Procter & Gamble International Operation, Gillette Shanghai and Daewoo Shipbuilding & Marine Engineering, to cite just a few household names. Korean banks including Kookmin, Woori, Shinhan, KEB Hana, Industrial Bank of Korea, BNK Kyongnam Bank and NongHyup Bank have all retained the firm’s services, as has asset management firm KTB.

Historic track record

The firm had its first big cross-border success in 2009 on behalf of an Italian creditor, filing a bankruptcy petition in Korea against a Dutch

company that was already undergoing bankruptcy proceedings in Netherlands, and thereby creating the first parallel bankruptcy case following Korea’s enactment of its 2005 bankruptcy law. Those Korean proceedings allowed for the liquidation of assets worth almost 1.7 trillion won. The firm followed up that success later the same year in a distressed M&A deal allowing Taiwanese client MediaTek to acquire a Korean IT venture company, using Korean bankruptcy proceedings to allow the client to acquire the company free and clear.

In 2013 Yulchon also advised STX Pan Ocean, as it was then called, throughout its entire rehabilitation process, and represented it in a number of claim finalisation proceedings, going on to represent the buyer in the shipping company’s US\$1.7 billion sale. Since then, the company has gone simply by the name Pan Ocean. While previous workouts in Korea were limited to only restructuring loans from major financial institution, STX opened the way for a broader scope of debt to be restructured, including bond debts.

The firm was behind one of Korea’s biggest recent rescues in 2016, for Hyundai Merchant Marine (HMM), which included a restructuring public bonds, adjusting of loan terms and conversion of bond debt into equity over the course of only four months. The impressiveness of that outcome for HMM has only gained in stature since then, after fellow shipping company Hanjin went into liquidation, despite a debt-to-equity ratio almost half HMM’s. Yulchon teamed up with Cleary Gottlieb Steen & Hamilton as international counsel for this case.

In 2017, the firm achieved Korea’s first M&A deal through a stalking-horse bidder, advising on industrial wire maker Kiswire’s acquisition of engineering company Hanil E&C. Earlier, Yulchon had won a court order placing Hanil E&C into rehabilitation proceedings.

It also advised Daewoo Shipbuilding & Marine Engineering (DSME) in its 2017 bond restructuring, ordered as a condition of a US\$2.6 billion state bank bailout. The firm agreed a debt-for-equity swap with DSME’s biggest bondholder, the national pension service, after which the remaining bondholders approved an exchange converting half of their debt to equity and extending the maturity of the remainder by three years.

Recent events

The firm is tight-lipped about much of its work, but it is currently acting on restructurings in New York, Indonesia, Germany, Hong Kong, Singapore, Japan, Norway, China, and – naturally – South Korea.

The firm hired a new consultant in **Kap Soo Son**, who joined after 20 years at Kookmin Bank as general manager of its business loan manging unit, giving the firm non-legal experience at the coalface of many of Korea’s major financial restructurings. Partner **Jung Ik Cho** left the firm in October 2018 after he was appointed to the judiciary.