

Q&A With Dechert's Joe Heil

Law360, New York (January 30, 2012, 2:11 PM ET) -- Joseph B. Heil is co-chairman of Dechert LLP's finance and real estate practice, and managing partner of the firm's San Francisco office. He focuses his practice on securitized lending, workouts, restructurings, commercial mortgage servicing, debt funds, mezzanine debt, preferred equity and private equity transactions.

Early in Heil's career, as counsel for a rating agency client, he helped to develop the criteria used in rating commercial mortgage-backed securities transactions. In 1998, he left Dechert to become the chief legal officer of Capital America/Nomura Asset Capital Corporation. Since his return, he has substantially grown the San Francisco office. He has also served on various committees of the CRE Finance Council and is a longstanding member of the Mortgage Bankers Association of America, the American College of Real Estate Lawyers and the American Bar Association.

Q: What is the most challenging case or deal you have worked on and what made it challenging?

A: The \$2 billion acquisition of Beverly Enterprises Inc. by Fillmore Capital Partners. This deal had it all: high-stakes mergers and acquisitions with a difficult seller, tax issues, a maze of health care regulations, five tiers of real estate financing, two tiers of corporate financing, employee benefit and executive compensation issues, antitrust issues, and real estate issues — all on an unbelievably short time frame with a real deadline.

Our client started the transaction as a lender on a piece of the transaction and ended up buying the whole company. Years later that company is still our client: Golden Living. Golden Living is a private company with some 43,000 caregivers and 61,000 patients.

Q: What aspects of your practice area are in need of reform and why?

A: I answered this exact same question in 2009, and I said that we need more accountability for risk-taking. That hasn't been fixed at all. Since 2009, there have been a number of attempts at financial regulation, and all of them have essentially failed. The root problem still exists: There are individuals that make huge amounts of money by making bets with someone else's money. The regulations that have been passed are complex, loaded with unknowns and fail to reconcile the need for a robust lending system with the risks inherent in any lending system.

Q: What is an important issue relevant to your practice area and why?

A: The need to return to the basics. We have just come out of a period of deals where “structure” ruled: layers on layers of debt, complex intercreditors and complicated rights. When tested in the downturn, the results were surprising for some. Risk-taking and structure are perfectly appropriate under the right circumstances, but they don’t supplant the need for good properties, good sponsorship, clear documentation and sound underwriting.

Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.

A: Harry Mixon at Prudential. One of the best lawyers I have ever known. He has been around the block and quickly cuts to the heart of each issue. He is practical, smart, feisty and demanding. He is very good at what he does. He is one of those guys that is so good that he makes you want to do a good job just to satisfy him. He is also one of the most decent people I have ever dealt with.

I have been working with Harry for years, and I feel the same way working for him now that I did eight years ago. Here is a guy that is so good and so demanding that I have to be at my absolute best every time I deal with him just to keep up. Can anyone stay ahead of Harry or out-negotiate Harry? Gracie, his Samoyed, can, but otherwise, I would say no.

Q: What is a mistake you made early in your career and what did you learn from it?

A: When I started my career, I worked on a number of deals with lawyers on the “other side” who were significantly senior to me. Much of what I learned was trial by fire. I remember “negotiating” with a partner at another law firm on a point that I had not fully thought through. That partner demanded that I give one practical example of what I was concerned about. I couldn’t. I never forgot that lesson. I learned not to negotiate for anything unless I know the practical reason why I need what I am asking for.