

# DEALING WITH THE DISTRESSED SWINE PRODUCER

**Presented by Phil Kunkel  
Minnesota Pork Board  
Pork Lenders Meeting  
July 6, 2009**

## Get the Facts

- **Location of Animals**
- **Status of Animals**
- **Critical Vendor Status**
- **Contracts**
  - **Marketing Agreements**
  - **Finishing Agreements**
  - **Nursery Agreements**
  - **Pig Purchase Agreements**
  - **Feed Supply Agreements**
- **Health/Performance Issues**
- **Management Issues**
- **Animal Welfare Issues**

# Analyze Borrower's Business

- **Cost to Finish and Market Animals**
- **Contract Review**
  - **Marketing Agreements**
    - **Minimum Deliveries**
    - **Price**
    - **Payment Terms**
    - **Term**
    - **Assignment**
  - **Finishing Agreements**
    - **Minimum Obligations**
    - **Term**
    - **Payment Terms**
    - **Delinquencies**

# Analyze Borrower's Business

- **Contract Review (continued)**
  - **Nursery Agreements**
    - **Minimum Obligations**
    - **Term**
    - **Payment Terms**
    - **Delinquencies**
  - **Pig Purchase Agreements**
    - **Minimum Obligations**
    - **Term**
    - **Payment Terms**
    - **Delinquencies**

# Analyze Borrower's Business

- **Contract Review (continued)**
  - **Feed Supply Agreements**
    - **Minimum Obligations**
    - **Term**
    - **Payment Terms**
    - **Delinquencies**
  - **Management Contracts**
  - **Commodity Accounts & Hedging Positions**
  - **Contract Claims/Defenses**

## Analyze Borrower's Business

- **13-Week Projection**
- **Liquidation Budget**
- **Borrower Cooperation/Attitude**
- **Third Party Cooperation/Attitude**

## Legal Review

- **Loan Documents**
- **UCC Filings/Statutory Liens**
- **Contract Assignments**
- **Manure Easement Assignments**
- **Permit Compliance**
- **Environmental Compliance**
- **Defenses/Offsets/Lender Liability Claims**
- **Third Party Claims/Defenses**
- **Control of Cash**

# Restructuring Issues and Options

- **Third Party Agreements**
  - **Contract Renegotiation**
  - **Termination of Contracts**
  - **Wind Down**
  - **Addressing Delinquencies**
- **Loan Restructuring**
  - **Wind Down**
  - **Additional Collateral**
  - **Credit Enhancements**
  - **Additional Equity**
  - **Restructuring Fees**
  - **Liquidation/Bankruptcy Enhancements**

# Liquidation Issues and Options

- **Involuntary Liquidation**
  - **Liquidation Management**
  - **Cost**
  - **Third Party Actions**
- **Receiver**
  - **Creditor Entitlement**
  - **Multi-State Operations**
  - **Environmental/Permit Issues**
  - **Indemnification**

# Bankruptcy

- **Chapter 7**
  - **Automatic Stay Relief**
  - **Liquidation of Assets**
- **Chapter 11/12**
  - **Funding of Operating Expenses**
  - **Maintaining Critical Vendors**
  - **Sale of Assets**
  - **Assignments of Contracts**
  - **Limitations on Reorganization Plans**

## Contact Information

- Phil Kunkel  
[phillip.kunkel@gpmlaw.com](mailto:phillip.kunkel@gpmlaw.com)  
320.202.5335
- Jeff Peterson  
[jeff.peterson@gpmlaw.com](mailto:jeff.peterson@gpmlaw.com)  
320.202.5339

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