PREFACE

Bankruptcy—the very word often strikes fear in the hearts of surety underwriters and claims persons. And for good reason—bankruptcy court is very much like its own country, complete with natives (the bankruptcy bar) who speak a language foreign to our own (filled with acronyms and code numbers); its own set of rules and customs (many of which are unwritten); strange rituals (such as confirmation, cramdown and conversion), and judges who have a pretty free hand to do “equity” (translated—a great deal of discretion). Venturing into this world without a native guide can prove costly.

This book is not intended to replace the advice of seasoned bankruptcy professionals, but is intended to demystify the secret bankruptcy society. To do that, we have enlisted the aid of surety lawyers who also swim in the murky waters of bankruptcy.

The book is ordered loosely on how a bankruptcy normally progresses, from the first days of filing through the Chapter 11 plan confirmation process. The book closes with an overview of how a surety can avoid bankruptcy issues. While these activities should often take place long before the principal contemplates bankruptcy, the chapter is placed at the end as bankruptcy must be understood before it can be planned for and adeptly avoided. Remember that “victorious warriors win first and then go to war, while defeated warriors go to war first and then seek to win.” (Sun Tzu, The Art of War). We hope that we have provided some tools to aid the surety from pre-bankruptcy planning through the close of a bankruptcy case.

A special thank you from the Editors to David Krebs for all his trust, support, and encouragement during the often daunting task of producing this publication and the corresponding Spring program in New Orleans. In addition to being a formidable advocate for his clients, David has been for us a mentor, a therapist, an inspiration, and a friend.

It is appropriate that the program presented with the publication of this book will be held in New Orleans, a town steeped in rich tradition and mysteries of its own. The Editors dedicate this book to the spirit and tenacity of the City of New Orleans and its residents. Laissez les bon temps roulez!!
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