

# Negotiating & Drafting Commercial Credit Agreements

**A jam-packed, value-laden thorough treatment of new law and major issues involved in commercial credit agreements.**

## **Highlights include:**

- Working with variants: term/revolving; size; collateral; syndications
- Customizing a credit agreement: lender and borrower perspectives
- Understanding LIBOR in base rate loans
- Working with mechanics and pricing issues
- Negotiating asset-based lending provisions – IRC 956 problems, borrowing bases, collateral access, etc.
- Utilizing conditions, representations and non-financial covenants – IP, solvency, etc.
- Working with financial covenants – EBITDA, “covenant-lite” transactions, etc.
- Handling defaults
- Syndicating the credit
- Reviewing “boilerplate” provisions
- Managing the closing and payoff



Minnesota State Bar Association  
Continuing Legal Education  
*Your State Bar at Work For You*

**Monday, February 22, 2010**  
**Minnesota CLE Conference Center**

Seventh Street and Nicollet Mall  
Third Floor City Center, Minneapolis

*Video replay details inside.*

# Faculty

**Peter L. Harris**

*Course Co-Chair*

Dorsey & Whitney LLP; Minneapolis

**James M. Pfau**

*Course Co-Chair*

Faegre & Benson LLP; Minneapolis

**David Chalfant**

Wells Fargo Legal Department; Minneapolis

**David B. Clark**

Faegre & Benson, LLP; Minneapolis

**Lynn M. Gardin**

Fredrikson & Byron, P.A.; Minneapolis

**Cassandra H.M. Headrick**

Dorsey & Whitney LLP; Minneapolis

**Michael R. Holden**

Faegre & Benson, LLP; Minneapolis

**Rebecca Malloy**

Dorsey & Whitney LLP; Minneapolis

**Peter T. Nelson**

Dorsey & Whitney LLP; Minneapolis

**Erin A. Phillips**

US Bank; Minneapolis

**Christopher M. Scotti**

Oppenheimer, Wolff & Donnelly, LLP; Minneapolis

**Carrie L. Seele**

Fredrikson & Byron, P.A.; Minneapolis

**Mark H. Tranovich**

Oppenheimer, Wolff & Donnelly, LLP; Minneapolis

# Schedule

8:30 – 9:00 a.m. Check-in and Continental Breakfast

9:00 – 9:15 a.m.

## Welcome

Why bother with credit agreements; variants: term/revolving; size; collateral; syndications; how customized should a credit agreement be; lender vs. borrower perspectives.

*Peter L. Harris and James M. Pfau*  
Course Co-Chairs

9:15 – 10:15 a.m.

## Mechanics and Pricing

What is LIBOR?, evolution of “daily LIBOR” component in base rate loans; swing line loans; letter of credit provisions; yield protection, capital adequacy, etc.; *Adelphia*; interest rate hedges.

*Michael R. Holden and Peter T. Nelson*

10:15 – 10:30 a.m. Break

10:30 – 11:15 a.m.

## Asset-Based Lending Provisions

Borrowing bases; lock box/controlled disbursement; special collateral problems (deposit accounts, motor vehicles, aircraft, ships, intellectual property, foreign collateral); collateral access; IRC 956 problems.

*Lynn M. Gardin and Carrie L. Seele*

11:15 a.m. – 12:00 p.m.

## Conditions, Representations and Non-Financial Covenants

IP covenants; MAC/materiality qualifiers; solvency representations; permitted acquisitions.

*David Chalfant*

12:00 – 1:00 p.m. Lunch (on your own)

1:00 – 1:50 p.m.

## **We Mean Business: Financial Covenants**

Defining EBITDA; “covenant-lite” transactions; rolling vs. annualized vs. year-to-date covenants; debt/lien/investment baskets.

*David B. Clark*

1:50 – 2:20 p.m.

## **Defaults**

Grace periods; cross-defaults; baskets.

*Christopher M. Scotti and Mark H. Tranovich*

2:20 – 2:30 p.m.            Break

2:30 – 3:10 p.m.

## **Going Big Time: Syndicating the Credit**

Amendments; assignments and participations; role of the LSTA terms; GMFS and other 363 cases; implications for amendment provisions generally.

*James M. Pfau and Erin A. Phillips*

3:10 – 3:30 p.m.

## **So-Called “Boilerplate”: Not as Dead as You Think**

Governing law; choice of forum; expenses; indemnification; arbitration clauses; confidentiality.

*Peter L. Harris and Rebecca Malloy*

3:30 – 4:00 p.m.

## **Managing the Closing and Payoff**

Dealing with outstanding letters of credit; bank funding requirements; third-party deliveries.

*Peter L. Harris and Cassandra H.M. Headrick*

# Course Information

## LIVE PRESENTATION

**Minneapolis**  
**Monday, February 22, 2010**  
Minnesota CLE Conference Center  
Seventh Street & Nicollet Mall  
Third Floor City Center

## VIDEO REPLAYS

Schedule times for replays are subject to change due to abbreviated lunch and break periods. Start times are as indicated below. Please register at least one week in advance to secure your copy of the course materials on the day of the seminar.

**Minneapolis – 3/8/10**

**Minneapolis – 3/31/10**

**Registration 8:30; Replay 9:00**

Minnesota CLE Conference Center  
Seventh Street & Nicollet Mall  
Third Floor City Center

**Rochester – 3/19/10**

**Registration 8:30; Replay 9:00**

Minnesota School of Business  
2521 Pennington Drive NW

## CREDITS

Minnesota CLE is applying to the State Board of CLE for **5.5 CLE credits**.

## CANCELLATION / NO-SHOW POLICY

Paid registrants who cancel their registration at least 72 hours before the program will receive a full credit on their account; if fewer than 72 hours, a \$25 administrative fee will be deducted. Paid registrants who fail to attend will receive the written materials. Passholders may purchase the course materials at 50% of the full retail price.

## ACCOMMODATION

If you have a disability and need an accommodation in order to attend this seminar, please contact Minnesota CLE as soon as possible at 2550 University Avenue West, Suite 160-S, Saint Paul, MN 55114 or call 651-227-8266 or 800-759-8840.

## QUESTIONS?

Please call Minnesota CLE at **651-227-8266** or **800-759-8840** or visit us online at [www.minncle.org](http://www.minncle.org).

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## REGISTRATION/ORDER FORM

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543-10 | vjo

### PLEASE "✓" APPROPRIATE BOX BELOW:

#### LIVE – 2/22/10

\$275 MSBA  \$275 paralegal  \$335 standard rate

#### VIDEO

\$245 MSBA  \$245 paralegal  \$305 standard rate

Location \_\_\_\_\_ Date \_\_\_\_\_

### NEW LAWYER DISCOUNT!

I was first admitted to the bar after February 22, 2007, and have deducted \$60 from the registration fee marked above.

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### PROGRAM MATERIALS:

I cannot attend. Please send me the following:

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at \$90 each plus shipping &  
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