COZEN O'CONNOR

Client:

**Spring Street Group**

# CLEARING HURDLES TO BUILD YOUR PORTFOLIO

When FIKA, a chain of specialty espresso bars celebrating chocolate and the Swedish coffee culture, found itself in need of investors, our client saw an exciting opportunity to grow its portfolio. But the situation was complex: FIKA was financially distressed, burdened by significant legacy costs associated with a recent rapid but unsuccessful expansion. So our client, Spring Street Group, the family office of a prominent New York City family, called on Cozen O'Connor for help.

Our first order of business was to structure a transaction that would protect our client from FIKA's legacy liabilities. Although numerous structures were proposed and considered, based on our recommendation, the client chose an asset purchase, pursuant to section 363 of the Bankruptcy Code. Next, an acquisition vehicle — FIKA Acquisitions, LLC — was formed and an operating agreement structured in order to allocate the membership interests amongst the investors and document the economic waterfall of distributions to members. The acquisition vehicle was to be owned by a group comprised of our client, FIKA's largest secured lender, and a member of FIKA's existing management. FIKA Acquisitions acquired the FIKA secured debt through a capital contribution and was further funded with cash by our client. In addition, it was agreed that certain members of FIKA's current management would enter into employment agreements, thereby ensuring the continuity of valuable operational knowledge and expertise.

As the formation of the acquisition vehicle was taking place, FIKA's financial liquidity issues worsened, threatening to derail the transaction. Our client was willing to lend money to temporarily keep FIKA afloat, but needed protection in case the acquisition never materialized. To meet this need, Cozen O'Connor crafted loan documents whereby several secured loans were first made to FIKA Acquisitions, LLC. That entity, which was now the holder of the FIKA secured debt, could then lend additional funds under the pre-existing loan facility to the FIKA business. That structure offered maximum protection to our client and, at the same time, enabled FIKA's business to survive and continue operations until a sale could close.

Next up, the team negotiated with FIKA's bankruptcy counsel the terms under which FIKA could use FIKA Acquisitions' cash collateral while FIKA operated in bankruptcy. Simultaneously, Cozen

O'Connor negotiated the terms and conditions of a sale and prepared a "stalking horse" purchase agreement with FIKA's bankruptcy counsel. In addition, the team negotiated the terms and conditions of bidding and auction procedures that would be required in connection with the bankruptcy sale process. Although the filing of the FIKA entities' chapter 11 cases was accelerated due to complications arising out of their failure to pay sales taxes, the bankruptcy cases were filed and cash collateral usage was approved by the Bankruptcy Court.

The Bankruptcy Court later approved the bidding and auction procedures for the FIKA sale, the business assets were marketed by highly regarded investment bankers, FIKA Acquisitions' bid was selected by FIKA as the best offer, and the transaction was approved by the Bankruptcy Court. The complex transaction was then closed.

"We were very pleased with the work that Cozen O'Connor did for us on this challenging project," the client reported. "The lawyers at Cozen O'Connor who handled this engagement were first-rate professionals who helped us to achieve a legal and corporate structure that served our business interests and guided us through the bankruptcy process seamlessly."

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## ATTORNEYS

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## CAPABILITIES

Bankruptcy, Insolvency & Restructuring

Corporate

[redacted]