

**Media Advisory**  
**ABI Commission to Reform Chapter 11 Witness**  
**Christopher Kiplok Available to Discuss Today's Testimony**

**New York, May 15, 2013**—Hughes Hubbard Corporate Reorganization & Bankruptcy Group partner Christopher K. Kiplok, who led the liquidations of Lehman Brothers Inc. and MF Global Inc., will be testifying this afternoon at the American Bankruptcy Institute's Commission to Reform Chapter 11 hearing. Kiplok will discuss the impact of safe harbors on a debtor post-petition and he will suggest that the benefit of safe harbor protections should be tied to an obligation to inform the estate of the closeout of the transaction.

In his testimony, Kiplok notes that one of the goals of the safe harbor provisions "is to assist the financial markets by encouraging continued transactions during time of distress." Currently, though, Kiplok points out that "in the event of a failure, particularly a financial firm failure, the safe harbors as currently drafted do little to assist the debtor in understanding the impact of counterparties who exercise their safe harbor rights." He cites his experience leading the liquidations of the largest and eighth-largest bankruptcies (Lehman Brothers Inc. and MF Global Inc., respectively) "where several hundred counterparties availed themselves of safe harbor protections on instruments involving tens of billions of dollars."

Based on his experience in the Lehman Brothers and MF Global bankruptcies, Kiplok makes several recommendations to the Commission. First, he recommends, "that the Commission consider tying a reporting requirement to the exercise of safe harbor rights..." He argues, "Such reporting requirements may help further the policy goals of the safe harbors both pre and post-petition, as speeding the return of estate property can only help expedite distributions and therefore return of capital to the marketplace." In addition, Kiplok recommends that "within a period such as the bar date, financial product counterparties be required to provide the debtor, trustee or other liquidator information regarding their terminated transactions, together with summaries setting forth: (i) the trade information, closeout date and amount believed to be owed; (ii) any collateral or other property of the estate being held by the counterparty; (iii) the valuation statements and the methodology employed in calculating valuation; and (iv) the nature and amount of any setoff or other deduction or adjustment the counterparty intends to assert."

The above quotations are just a few of the highlights from Kiplok's written testimony. His complete written testimony is available on the ABI's website at <http://commission.abi.org/sites/default/files/statements/15may2013/2.pdf>.

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