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EXPERTISE

Bankruptcy & Creditors' Rights, Mergers & Acquisitions, Commercial Litigation, Trial, Crisis Management

EDUCATION

University of Denver Sturm College of Law, J.D., *Order of St. Ives*, 2013

Marquette University, B.A., *magna cum laude*, 2006

ADMITTED IN

Colorado

Kyler Burgi is a partner at Davis Graham & Stubbs LLP. His practice focuses on bankruptcy and creditors' rights, distressed assets and opportunities, mergers and acquisitions, and complex commercial litigation.

Mr. Burgi has a diverse bankruptcy & creditors' rights practice that spans multiple industries, including oil & gas, mining, real estate, retail, tech, and recreation. He helps lenders, borrowers, trade creditors, mechanics' and oil and gas lien holders, and equity holders develop and implement strategies to navigate in-court and out-of-court restructurings, bankruptcy proceedings, judicial and non-judicial foreclosures, and receivership actions. Mr. Burgi defends clients against preference and fraudulent transfer claims in courts across the country. He also represents debtors and trustees in Chapter 7 and Chapter 11 bankruptcies.

Mr. Burgi assists clients with purchases of distressed assets out of court as well as through judicial and non-judicial foreclosures, assignments for the benefit of creditors, and Section 363 sale processes. He works closely with clients to structure transactions that drive value and minimize risk, as well as to execute successful bidding strategies, obtain court approval, and on post-closing matters. He also consults on commercial transactions and mergers & acquisitions to help clients manage risks associated with insolvency and bankruptcy.

Mr. Burgi has litigated matters throughout Colorado and the Mountain West. Mr. Burgi is a creative strategic

thinker and persuasive writer who has guided clients to successful results in numerous lawsuits and arbitrations, including adversarial business separations, fraud claims, oil and gas disputes, toxic tort cases, breach of contract actions, and real estate disputes. He is admitted to practice in U.S. District Court for the District of Colorado, U.S. District Court for the Southern District of Texas, U.S. Bankruptcy Court for the District of Colorado, and U.S. Bankruptcy Court for the Southern District of Texas.

Mr. Burgi is the immediate past co-chair of the Colorado Bar Association Bankruptcy Subsection. He has been named among the "Ones to Watch" in the area of Commercial Litigation (2021-2023) and Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law (2022-2023) by *Best Lawyers*, an annual guide issued by publisher Woodward/White Inc, and named a "Rising Star" by *Colorado Super Lawyers*. Mr. Burgi was recognized by *Chambers USA*® and named a "Leader in their Field" for Bankruptcy/Restructuring.

Mr. Burgi is a graduate of the Leadership Denver 2023 class, a foundation leadership program that strives to educate and inspire people who want to make a difference as community leaders. He currently serves on the University of Denver Sturm College of Law Alumni Council. He previously served on the Prosper Colorado Leadership Council.

Before joining DGS, Mr. Burgi served as law clerk to the Honorable Philip A. Brimmer of the U.S. District Court for the District of Colorado.

Mr. Burgi received his J.D. from the University of Denver Sturm College of Law, where he graduated first in his class. While in law school, he competed nationally as a member of the Sturm College of Law's ABA-NTC National Trial Team, served as an editor of the *Denver University Law Review*, and interned for the U.S. Attorney's Office.

Prior to law school, Mr. Burgi worked as a television news reporter. Outside of the office, he is an avid golfer and enjoys skiing.

REPRESENTATIVE MATTERS

Bankruptcy & Creditors' Rights

- Counsel to secured lender and plan sponsor in bankruptcy of coal company, resulting in consensual creation of reclamation trust.
- Counsel to prepetition secured and DIP lender in bankruptcy of mining company, obtaining assets through successful credit bid.
- Counsel to secured lender in judicial foreclosure and receivership action involving ski resort development, securing appointment of receiver to manage property.
- Debtor's counsel for energy company, resulting in successful Section 363 sale of assets.
- Counsel to statutory lienholder in state-court foreclosure and Chapter 11 proceeding, protecting claim against attack from debtor and lender and securing favorable disposition.
- National bankruptcy counsel for publicly traded customer service provider, publicly traded oil and gas company, and nationwide real estate advisor and operator.
- Counsel to secured creditor of consumer products company, resulting in Article 9 foreclosure and follow-on bankruptcy.
- Counsel to Chapter 11 trustee in sale of shopping center, resulting in confirmed plan that provided for payment in full of unsecured creditors.
- Counsel to lender in bankruptcy of developer of Aspen property valued in excess of \$30 million, obtaining dismissal of bankruptcy.

Distressed Opportunities

- Counsel to purchaser of distressed nationwide furniture manufacturer and retailer through Article 9 foreclosure and assignment for the benefit of creditors.
- Counsel to secured creditor and oil and gas operator that initiated foreclosure proceedings, forcing sale and purchase through Canadian BIA proceeding.
- Counsel to purchasers of intellectual property and technology assets through assignments for the benefit of creditors.
- Counsel to successful bidder in Section 363 sale of logistics software company.
- Counsel to bidder in Section 363 sale of third-largest coal producer in the United States.
- Counsel to bidders in numerous Section 363 sales of oil and gas, real estate, and other assets.

Commercial Litigation

- Lead counsel for foreclosing lender in litigation brought by metro district challenging foreclosure.
- Lead counsel in successful preliminary injunction hearing on behalf of energy industry client.
- Lead trial counsel in breach of contract action, resulting in award in excess of \$5 million.
- Briefed and successfully argued motion to dismiss fraud claims, which sought in excess of \$30 million in damages, asserted against private equity client.

PRESENTATIONS & PUBLICATIONS

- Speaker, American Bankruptcy Institute Rocky Mountain Bankruptcy Conference, 2021–2022
- "Navigating Bankruptcy Sales of Oil & Gas Assets," Institute for Energy Law Young Energy Professionals Workshop: The Oil & Gas Sessions, February 2021
- "Purchasing Oil & Gas Interests from a Distressed Company or Out of Bankruptcy: How to Survive (and Thrive) in a Bankruptcy Sale of Oil and Gas Assets," Rocky Mountain Mineral Law Foundation, October 2020
- "Spring Bankruptcy Case Law Update," CBA-CLE, April 2018