

**Bernard W. Costich, JD, CPA/CFF, CFE**  
**National Practice Leader for the Restructuring, Bankruptcy and Insolvency Practice**  
**Crowe LLP**

**June 27, 2019**

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**I. Professional:**

<u>Professional:</u>	<u>Accrediting Agency or Jurisdiction</u>	<u>Date of Admission</u>
Certified Public Accountant	New York	1981
Attorney	New York	1985
	United States Bankruptcy Court for the Southern District of New York	1986
Certified in Financial Forensics ("CFF")	American Institute of Certified Public Accountants	2010
Certified Fraud Examiner ("CFE")	Association of Fraud Examiners	2010

**II. Professional Organizations:**

<u>Accrediting Agency or Organization</u>	<u>Date of Admission</u>	<u>Active/Inactive</u>
American Institute of Certified Public Accountants ("AICPA")	1981	Active
<ul style="list-style-type: none"> <li>Certified in Financial Forensics ("CFF")</li> </ul>	2010	Active
New York State Society of Certified Public Accountants	1981	Active
The New York State Bar Association	1985	Active
The Association of the Bar of the City of New York	1994	Active
The Association of Fraud Examiners		
<ul style="list-style-type: none"> <li>Certified Fraud Examiner ("CFE")</li> </ul>	2011	Active
American Bankruptcy Institute	2001	Active
Turnaround Management Association	2011	Active
Association of Insolvency and Restructuring Advisors	2011	Active
Register of Mediators for the U.S. Bankruptcy Court for the Southern and Eastern Districts of New York	2005	Active

### III. General Professional Experience

#### A. Professional Experience

- Appointed Chapter 11 Trustee and Examiner by the U.S. Bankruptcy Courts in the Southern and Eastern Districts of New York and District of Connecticut.
- Retained by debtors in possession and chapter 11 and chapter 7 trustees as accountant and financial advisor.
- Litigation accounting services (both prosecution and defense) in cases involving preference and fraudulent conveyance transfers, breach of contract, collection, valuation, and professional malpractice.
- Retained as expert witness in accounting/auditor malpractice actions and preparation of Rule 26 Reports.
- Retained as expert in preference transfers and preparation of Rule 26 expert reports.
- Retained as accountant by Creditors' Committees.
- Retained as CEO/CRO for financially troubled entities.
- Negotiated and implemented numerous Plans of Reorganization including a NYSE company, NASDAQ companies and a privately held \$400 million (sales) manufacturer.
- Prepared pre-packaged plan for a \$80 million (sales) manufacturer.
- Supervised the due diligence efforts and negotiations involving the \$210 million acquisition of a U.S. manufacturer by a foreign investor.
- Prepared, negotiated and implemented asset sale and/or debt restructuring programs on behalf of approximately 50 companies.
- Negotiated tax settlements.
- Supervised the wind-up of a \$150 million (sales) organization.

*Industry experience:* manufacturing, equipment leasing, equipment servicing, consumer products, retail, real estate and construction, not for profits, hospitality (restaurants, hotels, and nightclubs) and oil, gas and propane distributorships.

**B. Employment History**

- 2017-Present **CROWE LLP, New York, NY**  
**Partner-National Practice Leader for the Restructuring, Bankruptcy & Insolvency Practice**
- 1/2011-2016 **Partner-Bankruptcy & Insolvency Practice**
- 5/1986-1/2011 **BERNARD W. COSTICH, CPA, JD, New York, NY, Greenwich and Wilton, CT**  
**Owner**
- 1984-1986 **DEAN WITTER REYNOLDS, INC., New York, NY**  
**Tax Attorney to Chief Financial Officer**
- Provided general corporate tax planning, new product analysis, review of proposed acquisitions, analysis of proposed and enacted legislation and negotiated tax settlements.
- 1978-1984 **COOPERS & LYBRAND, New York, NY**  
**Tax Supervisor and Project Manager**
- Supervised the preparation of tax returns, ruling requests, opinion letters and memoranda.
  - Evaluated and conducted due diligence of possible acquisition candidates for clients and advised as to the financial, accounting and tax implications.  
Areas of expertise: corporation reorganizations, mergers and acquisitions and consolidated return regulations.

**IV. Experience and Familiarity with Bankruptcy Laws**

I have over 30+ years of relevant bankruptcy experience. Specifically, I have been appointed as an Examiner and Chapter 11 Trustee in cases filed in the Southern and Eastern Districts of New York and the District of Connecticut. I have also been employed by financially troubled entities including debtors as an interim Chief Executive Officer, and Chief Restructuring Officer, as a financial advisor and as an accountant. I have also been retained by chapter 11 and 7 trustees in numerous cases as an accountant and financial advisor. Lastly, I have served as an accountant and financial advisor to creditors' committees and have been retained by both chapter 11 and 7 trustees and defendants for the purposes of providing litigation support or in certain cases, to serve as an expert witness in connection with claims involving preference or fraudulent conveyance transfers and professional malpractice (accountants).

**V. Mediation Training**

Advanced Negotiation and Mediation Skills Training Workshop sponsored by NASD Dispute Resolution and the Southern and Eastern Districts of New York U.S. Bankruptcy Courts, held in September, 2005. (26.5 hours)

Forum Annexed Mediation sponsored by the Center for Continuing Legal Education, Association of the Bar of the City of New York. March, 2006 (3.5 hours)

Ethics & Tactics in Mediation & Settlement Negotiations sponsored by the Center for Continuing Legal Education, Association of the Bar of the City of New York. February, 2007 (3.0 hours)

## **VI. Pertinent Mediation Experience**

My mediation experience includes both participation as one of the parties and serving as a mediator. Specifically, as CEO for a financially troubled entity and as an accountant to a debtor, I have represented the plaintiff in six separate mediations involving construction disputes, four separate mediations involving equipment leases, one mediation involving a general commercial/contract dispute and a mediation involving professional malpractice (attorney) dispute. As an accountant to chapter 7 trustees, I have provided representation in more than 50 cases involving preference and fraudulent conveyance transfers and D&O breach of fiduciary duty claims. I have also been retained to mediate a commercial dispute involving a prepetition claim and a claim for setoff. This case, which was filed in the United States Bankruptcy Court for the Southern District, was successfully mediated.

In connection with my appointment as Examiner, I am frequently asked to resolve disputes between various parties including the debtor and creditors, to assist the various parties in interest in their settlement discussions and in their negotiations for a consensual plan of reorganization.

As account to Chapter 7 Trustees, or defendant preference creditors, I am frequently asked to prepare expert reports in connection with Bankruptcy Code Section 547 including analysis of Section 547(c) defenses.

## **VII. General Pertinent Business or Legal Experience**

Since May, 1986, I have concentrated my practice in corporate bankruptcies. For the last 25 years, I have been retained by numerous financially troubled entities including debtors as an interim Chief Executive Officer, Chief Restructuring Officer, as a financial advisor or an accountant. I have also been retained by chapter 11 and 7 trustees and creditors' committees in numerous cases as an accountant and financial advisor. I have also served as a Liquidating Trustee for a post-confirmation debtor or liquidating trust created pursuant to the debtor's plan of reorganization. Finally, I have been appointed both as operating chapter 11 trustee and as examiner in numerous cases filed in the Southern and Eastern Districts of New York and District of Connecticut.

As a CPA, MBA graduate and an attorney who possesses in excess of 40 years of significant business and legal experience, the last 30+ of which is working with financially troubled entities, I believe that I possess both a unique skill set and perspective for mediating disputes involving alleged preference and fraudulent conveyance transfers, general commercial disputes and with respect to cases involving accountants, breach of accounting and auditing standards.

### **A. Areas of Expertise**

- Accounting and Audit Standards
- Bankruptcy and Insolvency including preference and fraudulent conveyance transfers
- Post-acquisition dispute resolution both as a consultant to Buyer/Seller and as a neutral arbitrator in connection with M&A disputes involving earn-out payments, working capital true-ups and similar issues.

## **VIII. Fee Structure (Compensation and Expense Reimbursement)**

Hourly Rate: \$550 per hour

Disbursements charged in conformity with Guidelines issued by the Bankruptcy Court for the Southern District of New York and the United States Trustee.