

PRESENTED AT

35th Annual Jay L. Westbrook Bankruptcy Conference

November 17-18, 2016

Austin, TX

**Six Numbers to Remember – 7, 11, 18, 22,
29, and 363: Oil and Gas Bankruptcy
Exit Strategies and Realities**

**Charles A. Beckham, Jr.
Andrew T. Gillespie
Albert S. Conly
Hon. Stacey G.C. Jernigan**

Author Contact Information:

Charles A. Beckham, Jr.
Haynes and Boone, LLP
Houston, TX

charles.beckham@haynesboone.com
713.547.2243

Andrew Gillespie
Haynes and Boone, LLP
Denver, CO

andrew.gillespie@haynesboone.com
303.382.6202

**SIX NUMBERS TO REMEMBER – 7, 11, 18, 22, 29, and 363:
OIL AND GAS BANKRUPTCY EXIT STRATEGIES AND REALITIES**

Charles A. Beckham, Jr.
Andrew T. Gillespie
Albert S. Conly
Hon. Stacey G.C. Jernigan

Since January of 2015, 90 oil and gas exploration and production companies have sought bankruptcy relief in the United States Bankruptcy Courts. Over \$69.7 billion of debt is at risk in these cases. The easy part for these oil and gas exploration and production companies has been figuring out how to get into bankruptcy. The hard part has been how to get out. This paper and accompanying materials will examine various exit strategies employed by each of the debtors. Appendix A to this article describes how each Chapter 11 and Chapter 7 has dealt with its exit from bankruptcy. Some are still pending with no exit in sight.

I. Reorganization Through Chapter 11

a. Overview of Corporate Reorganizations through Chapter 11

When a debtor encounters financial difficulties that inhibit its ability to pay its debts, the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), provides a debtor relief while simultaneously protecting the interests of its creditors and equity holders, to the greatest extent possible. To that end, Chapter 11 enables a debtor to restructure its balance sheet or liquidate its assets in an orderly fashion. Often times the going concern value of the organization is greater than the sum of its parts. To permit the debtor the appropriate time to form a plan of reorganization or to perform an orderly liquidation, the Bankruptcy Code provides protection through the automatic stay from creditor actions that might otherwise diminish the going concern value of the organization. 11 U.S.C. § 362. Through this mechanism, the debtor is permitted breathing room to formulate a plan of reorganization or perform an orderly liquidation

of some or all of its assets to maximize the going concern value of its assets for the benefit of its creditors and equity security holders.

A case is commenced by filing a petition under Sections 301, 302, or 303 of the Bankruptcy Code. Once commenced, under Section 362 of the Bankruptcy Code, the automatic stay protects the estate's assets from legal actions that arose prior to commencement and collection of judgments entered prior to commencement of the debtor's bankruptcy case. The debtor is permitted to continue to operate its business as a debtor in possession during the pendency of a Chapter 11 case until a plan of reorganization can be effectuated or an orderly liquidation can be accomplished, 11 U.S.C. § 1108. Upon commencement of a Chapter 11 case, under Section 541 of the Bankruptcy Code, the assets of the debtor become property of the estate.

If the debtor intends to reorganize, it is given an exclusive period of 120 days to propose a plan of reorganization, 11 U.S.C. § 1121(b), and for cause and after notice and a hearing the court may increase or decrease the exclusivity period, 11 U.S.C. § 1121(d). Once the exclusivity period expires, either by failure of the debtor to file a plan within 120 days of commencement or, if a plan is filed, failure to gain acceptance within 180 days of commencement, creditors may file their own plans. 11 U.S.C. § 1121(c). It is common in complex Chapter 11 cases for the court to enlarge the debtor's exclusivity period.

The plan of reorganization must, at a minimum, meet the requirements of Section 1123 of the Bankruptcy Code by classifying the claims and interests, specifying any classes of claims or interests that are not impaired, specifying the treatment of impaired classes, providing the same treatment for members of the same class unless a claim or interest holder agrees to less favorable treatment, and providing certain corporate provisions for continuity and selection of officers and

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Six Numbers to Remember—7, 11, 18, 22, 29, and 363: Oil and Gas Bankruptcy Exit Strategies and Realities

Also available as part of the eCourse

[Bankruptcy in the Oil and Gas Industry](#)

First appeared as part of the conference materials for the
35th Annual Jay L. Westbrook Bankruptcy Conference session

"Six Numbers to Remember—7, 11, 18, 22, 29, and 363: Oil and Gas Bankruptcy Exit Strategies and Realities"