

COMMERCIAL FINANCE TRANSACTIONS

Course Syllabus

Title: Commercial Finance Transactions: Understanding commercial loan agreements and key negotiation points.

Instructors: Todd Ransom (Bio and contact info at <https://www.troutman.com/professionals/todd-ransom.html>). Various guest speakers may also be included.

Catalogue Description: This course will immerse students in practical business and legal concepts inherent in commercial financing transactions and demonstrate how those issues manifest themselves in the financing documents drafted by lawyers. Students will learn the provisions of financing documents, and, importantly, learn the legal and business issues behind the provisions. The tools and concepts taught in class lectures will be implemented by students in practice through negotiation and drafting of a commercial loan utilizing real world current forms of a syndicated credit agreement and term sheet. This course will provide the basic foundational legal and business concepts related to commercial loan agreements that practicing attorneys wish all first-year attorneys were already familiar with.

The first half of the course will lay the groundwork for the principal provisions of a commercial loan based upon assigned readings from *The LSTA's Complete Credit Agreement Guide, Second Edition*, and lectures on commercial loan transactions. In the second half of the course, students will be divided into borrower and lender teams serving as the lawyer for their respective "clients" to negotiate key provisions in a Term Sheet and Credit Agreement for a commercial loan. The "clients" will be the course instructors and/or associates working with the course instructors at their respective law firms who will be acting as bankers or corporate borrowers, respectively. With input from the client, groups will negotiate and agree on the final Term Sheet and Credit Agreement. The final work product will be a Credit Agreement redlined against the form. At the end of the course, in class, each group will discuss the final "deal" that was struck and explain the principal points of contention and how they drafted compromises in the documents.

In addition, the second half of the course will cover specialty finance topics including different structures and legal issues that arise in financing different types of assets.

Credit Hours: Two hours. Wednesdays from 5:30-7:30pm.

Proposed Schedule: 15 weeks, consisting of 15 two-hour classes. Sessions 1-7 will cover assigned readings from the LSTA textbook along with lectures related thereto. Sessions 8-14 will be split between in-class negotiations and additional lectures on specialty topics. Session 15 will be the final exam.

Reading Assignments: Students will be assigned portions of *The LSTA's Complete Credit Agreement Guide, Second Edition*, by Michael Bellucci and Jerome McCluskey ("LSTA"). Lectures will follow the reading assignments and students should be prepared to discuss reading materials in class. Final exam will be based heavily on reading materials and therefore it is imperative for students to comprehend and stay on schedule with all reading materials.

Other Assignments: In between classes (for Sessions 8-14), students will have conference calls with their "clients" and prepare redlines of form Term Sheet and Credit Agreement for review by their opposing counsel prior to the in-class negotiation sessions.

Class Structure: The classes will include both traditional lecture and transactional negotiation. The first half of the course is intended to provide the student with a background foundation to understand basic concepts in the loan agreement structure, while the second half of the course is designed to provide an overview of specialty topics. During the second half of the course, students will be able to apply this basic

foundation of loan agreements through interaction with their “clients” and negotiation of specific points in the term sheet. The instructors will serve as the “clients” for purposes of the negotiations. Students will then incorporate the agreed changes to the term sheet into the credit agreement and negotiate further the final provisions of the credit agreement. Prior to the final class, students will be required to submit versions of their negotiated term sheet and credit agreement showing the changes that were agreed between the parties. The penultimate class will be lecture and discussion with time reserved for students to present the results of their “deal”.

Prerequisites: First year contracts. The teachers are accustomed to training associates with no exposure to finance or loan documentation.

Grading: Students will be graded on class participation (10%) and are expected to attend all classes, participate in the drafting and negotiation exercises (45%), and submit their final work product and a final exam (45%). In the event of illness or other extenuating circumstances causing a student absence, the student must make arrangements with the professors and their negotiation team member to complete missing work. A final exam (short answer) will be administered at the final class.

Learning Outcomes: Students will learn the basic principles of loan transactions, and how those principals are embodied in loan documentation. In addition to the substantive knowledge, students will gain insight into a career path. Increasingly the corporate or transactional legal departments of major law firms are a source of employment for law students, but students have limited opportunities to experience this type of practice during law school. Students who have already chosen this career path will be better prepared, having completed part of the training of a first-year associate.

Experiential Requirement: This course will satisfy the requirements of an experiential courses under the applicable guidelines as a “simulation course”.

Syllabus:

Class 1: Introduction to Financial Transactions

1. Discuss class format and structure lecture and negotiation process.
2. Lecture and Discussion on the Elements of Commercial Loan Documentation and uses and purposes of different loan structures (term, revolver, first lien/second lien, acquisition finance, project finance, etc.).
3. Survey of Form of Term Sheet and Form of Loan Agreement

Required Reading for Class 1:

1. LSTA, Chapters 1, 2 (Read only Sections 2.1.1, 2.2, and 2.4), and 3 (Read only Sections 3.1-3.5): Introduction to commercial lending, types of loans, interest and fees.
2. Print out and familiarize yourself with the Form of Term Sheet and Form of Loan Agreement. Will be emailed to students by Professor Ransom prior to the first class.

Class 2: Elements of Secured Loan Documentation

1. Discussion of fundamental principles of syndicated loan documentation, payment terms and interest, legal opinions and conditions precedent.

2. Discussion of the development and evolution of ancillary documents negotiated and executed to document loan transactions including: promissory notes, mortgages, security agreements.
3. Discussion of general borrowing base mechanics and collateral valuation as it relates to loan amounts.

Required Reading for Class 2:

LSTA, Chapters 4 and 5. Repayment and Conditions Precedent provisions under Loan Agreements.

Class 3: Representations and Warranties in Loan Agreements

Discussion of the structure and use of borrower representations and warranties in the loan agreement.

Required Reading for Class 3:

LSTA, Chapters 6. Representations.

Class 4: Guest Speaker: Energy Finance

Discussion of key topics in energy finance, including reserve-based lending concepts, commodities hedging issues, conveyance-based financing structures and renewable energy and tax credit structures.

Class 5: Covenants in Loan Agreements

Discussion of the structure and use of borrower affirmative, negative and financial covenants in the loan agreement.

Required Reading for Class 4:

LSTA, Chapters 7. Covenants.

Class 6: Security and Remedies under Loan Agreements

Discussion of guarantees, security interests and other credit enhancements. Discussion of defaults and remedies against the borrower and collateral.

Required reading for Class 5:

LSTA, Chapters 8 and 9. Security and Remedies.

Class 7: Interlender Issues; Kickoff Meeting for Negotiations

1. Discussion of interlender, agency and voting issues within the loan agreement.
2. We will assign lender/borrower teams for the loan negotiations, client contact information, and discuss the process of interaction with client and negotiation of the term sheet and loan agreement.
3. Prior to next class, students will contact their clients to discuss business terms of proposed loan based on initial draft of term sheet and identify issues for negotiation.

Required reading for Class 7:

LSTA, Chapter 10. Read only Sections 10.1 – 10.4.

Class 8: In class negotiations – Term Sheet

Class 9: In class negotiations – Term Sheet

Class 10: In class negotiations – Credit Agreement

Class 11: In class negotiations – Credit Agreement

Class 12: In class negotiations – Credit Agreement

Class 13: In class negotiations – Credit Agreement

Class 14: Final Presentations

Students will present, by teams, the key business issues identified by clients, and how they negotiated and reached compromise on final language. Students will also discuss their assessment of the negotiation process, lessons learned on how to negotiate, talk with clients, and draft credit agreement terms consistent with negotiated issues.

Class 15 – Final Exam

Short Answer open-book exam based on the readings and lectures.

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html