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Q&A With Munsch Hardt's Rick Kopf

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Richard O. Kopf is a shareholder in Munsch Hardt Kopf & Harr PC's Dallas office. He was one of the firm's founding partners, is currently the firm's vice chairman, and has served as the firm's managing partner, chief operating officer and chief financial officer.

His representation of entrepreneurial real estate investors includes acquisition, development, construction, financing, leasing and sale transactions of all types of income and non-income producing real property, with an emphasis on the lodging and resort industries, comprising the acquisition and development of mixed-use projects, hotels, condominiums, and golf course properties.

Q: What is the most challenging case or deal you have worked on and what made it challenging?

A: The most challenging case was a sale that I handled during the peak of the recent real estate downturn. While not a tremendously complicated matter, a successful closing was imperative to my client as that sale would pay off a loan that was in default and was personally guaranteed by the principals of my client.

If it did not close, the lender would initiate foreclosure and litigation under the guaranty, each of which would trigger defaults under a number of other loans and contractual obligations. Bottom line, the sale had to close or my client would go down the tubes. At the same time, the buyer was stretching to close on the purchase as his equity and debt were waffling. As a result, we were put in the position of essentially walking on egg shells to keep the buyer comfortable while not giving any indication as to the absolutely critical nature of the transaction to our client.

Q: What aspects of your practice area are in need of reform and why?

A: Usury laws are archaic and unnecessary in the commercial financing arena. Sophisticated borrowers and lenders should be free to negotiate the best deal possible without having to limit their negotiations based on the legislature's perspective of what interest rate is "too high." Why should an arbitrary cap be placed on the lender's ability to negotiate? As a result, deals have to be structured in ways around those laws, which increases cost, complexity and, in certain cases, kills the deal.

Q: What is an important issue relevant to your practice area and why?

A: Access to and availability of debt financing. In today's environment, many traditional lenders are under strict regulatory pressure to reduce their exposure to commercial real estate. Without new debt, projects do not get off the ground and existing loans mature without a refinancing source for payment.

Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.

A: Bill Sechrest, retired from Winstead PC. Bill was an attorney who truly understood the client's business and in negotiating contracts, etc., he focused on key issues that impacted that business rather than on the minutia that many other attorneys seem to focus on.

Q: What is a mistake you made early in your career and what did you learn from it?

A: Early in my career, I participated in a settlement negotiation meeting with a client, another party and their attorney. During that meeting, the lawyer for the other party made a statement that I did not agree with, but I did not challenge at the time because I assumed my client could tell he was just puffing. Rather, when the meeting was over, I met with my client and pointed out my disagreement with the statement that had been made by that other attorney.

My client then told me that he wished I had expressed my disagreement at that time because he had taken positions and agreed to certain matters assuming that the other attorney's position was correct. The lesson that I learned was how important it was to really know my client and not to make assumptions about what he understood and what he didn't.

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