Summary of Contents

Volume 1

PART I. INTRODUCTION

Chapter 1. Overview

PART II. CONTRACT CLAIMS

Chapter 2. Breach of Contract and Good Faith

APPENDIX 2A. Bank's Appellate Brief Arguing Against Enforcement of Oral Contract

APPENDIX 2B. Complaint Alleging Breach of Duty of Good Faith

APPENDIX 2C. Answer to Allegations of Breach of Duty of Good Faith

Chapter 3. Duress

APPENDIX 3A. Petition Against Bank Alleging Duress

PART III. TORT CLAIMS

Chapter 4. Bad Faith Tort Claims

APPENDIX 4A. Petition of Bank for Hearing on Issue of Bad Faith Tort Recovery

Chapter 5. Breach of Fiduciary Duty

APPENDIX 5A. Jury Instructions Re Investors' Claim That Bank Breached Fiduciary Duty

Chapter 6. Fraud and Misrepresentation

APPENDIX 6A. Complaint with Allegations of Fraud for Failure to Provide Financing

Chapter 7. Negligence

APPENDIX 7A. Counterclaim of Debtor Alleging Negligent Loan Administration

Chapter 7A. Tort of Deepening Insolvency

Chapter 8. Interference

APPENDIX 8A. Complaint by Corporation Bondholders Alleging Tortious Interference with Economic Advantages Due to Leveraged Buyout

PART IV. BANKRUPTCY

Chapter 9. Equitable Subordination

APPENDIX 9A. Bankruptcy Code Subordination Provision

APPENDIX 9B. Trustee's Brief in Support of Equitable Subordination of Lender's Claims

APPENDIX 9C. Lender's Reply Brief Opposing Equitable Subordination

Chapter 10. Fraudulent Transfers

APPENDIX 10A. Fraudulent Transfers and Obligations Under Bankruptcy Code

Chapter 11. Preferential Transfers

Chapter 12. Managing Lender Liability Claims in Bankruptcy Cases

APPENDIX 12A. Brief of Official Committee of Unsecured Creditors in Support of Motions to Terminate Debtors' Exclusive Periods and for Appointment of Examiner with Special Powers

APPENDIX 12B. Creditor's Plan of Reorganization Discharging Lender Liability Claims

Chapter 13. Involuntary Bankruptcy

Volume 2

PART V. STATUTORY CLAIMS

Chapter 14. Fair Labor Standards Act

APPENDIX 14A. Selected Provisions of Fair Labor Standards Act

Chapter 15. Antitrust

APPENDIX 15A. Complaint Alleging Antitrust Violations

APPENDIX 15B. Pretrial Order in Action Alleging Antitrust Violations

Chapter 16. Anti–Tying Provisions

APPENDIX 16A. Bank Holding Company Act
APPENDIX 16B. Thrift Institutions Restructuring Act
Chapter 17. Environmental Claims
APPENDIX 17A. CERCLA Definitions
APPENDIX 17B. Abatement Actions Under CERCLA
APPENDIX 17C. Liability Under CERCLA
APPENDIX 17D. Civil Penalties and Awards Under CERCLA
APPENDIX 17E. Settlements Under CERCLA
APPENDIX 17F. Underground Storage Tank Indemnification Agreement—Buyer and Lender Protection
Chapter 18. RICO
APPENDIX 18A. Racketeer Influenced and Corrupt Organizations Act
Chapter 19. Withholding Taxes
APPENDIX 19A. Selected Internal Revenue Code Provisions
APPENDIX 19B. Selected Treasury Regulations
Chapter 20. Securities Laws
APPENDIX 20A. Definition of Security Under Securities Act of 1933
APPENDIX 20B. Prohibitions Re Interstate Commerce and Mails Under Securities Act of 1933
APPENDIX 20C. Manipulative and Deceptive Devices Under Securities Exchange Act of 1934
APPENDIX 20D. Employment of Manipulative and Deceptive Devices Under SEC Rule 10b–5
APPENDIX 20E. State Securities Law Claims
Chapter 21. Bank Secrecy Act
APPENDIX 21A. Bank Secrecy Act
APPENDIX 21B. Money Laundering Provisions
APPENDIX 21C. Consent Order Provisions Relating to BSA/AML Programs
Chapter 22. Equal Credit Opportunity Act

Volume 3

PART VI. DIRECTOR AND OFFICER LIABILITY

Chapter 23. Duty of Care and Self–Dealing

APPENDIX 23A. Complaint Alleging Breach of Fiduciary Duty of Officer and Director for Making Unsafe and Unsound Loan

Chapter 24. Regulatory and Criminal Sanctions

APPENDIX 24A. Civil Money Penalty Under Federal Deposit Insurance Act

APPENDIX 24B. Criminal Provision Governing Receipt of Commissions or Gifts for Procuring Loans

APPENDIX 24C. Criminal Provision Governing Theft, Embezzlement or Misapplication by Bank Officers or Employees

Chapter 25. COMPREHENSIVE THRIFT AND BANK FRAUD PROSECUTION AND TAXPAYER RECOVERY ACT OF 1990

PART VII. MINIMIZING RISK OF LIABILITY

Chapter 26. Documentation

APPENDIX 26A. United States Arbitration Act

Chapter 27. Workout Strategies

Chapter 28. Lender Liability Litigation

Table of Laws and Rules

Table of Cases

Index