



**MJBiz™**  
**Finance**  
Forum

A small orange line graph with four data points connected by thin lines. The points are arranged in a jagged upward trend from left to right.

# Cannabis and the Courts: Alternatives When Bankruptcy Is Not an Option



**Robert Hoban**

**Co-Chair, Cannabis  
Practice**

**Clark Hill, PLC**

# Bankruptcy and Cannabis

A common remedy not available to cannabis operators.

- Bankruptcy – Chapter 11 and Chapter 7
- Marijuana still federally illegal
- Operators forced to rely on state and common-law protections





# What is the alternative for cannabis operators?



- Arbitration and dispute resolution
- Asset sales
- Hiring managed service operators
- Receiverships



# What is a Receivership?



- A protective judicial umbrella
- A powerful tool to secure assets
- A court-controlled, 3<sup>rd</sup> party custodian of an entity's property, finances, and other general assets

# Why rely on a Receivership?

- Protects creditors and/or assets
- Restructure companies
- Company heading towards bankruptcy or financial distress
- Improve operations



# Why a Receivership for Cannabis?

- Bankruptcy courts throw out medical and adult-use cannabis cases
- A turn-around tool
- Allows for objectivity and transparency



# How is a Receivership Triggered?

- Financial Distress
- Distressed Assets
- Fraud
- Regulatory Issues
- Failing Operations
- Initiated via a court action from an affected party





# The Details

## What happens when a company is in Receivership?



- Identify Problems
- Reduce Costs
- The Team
- Repeat

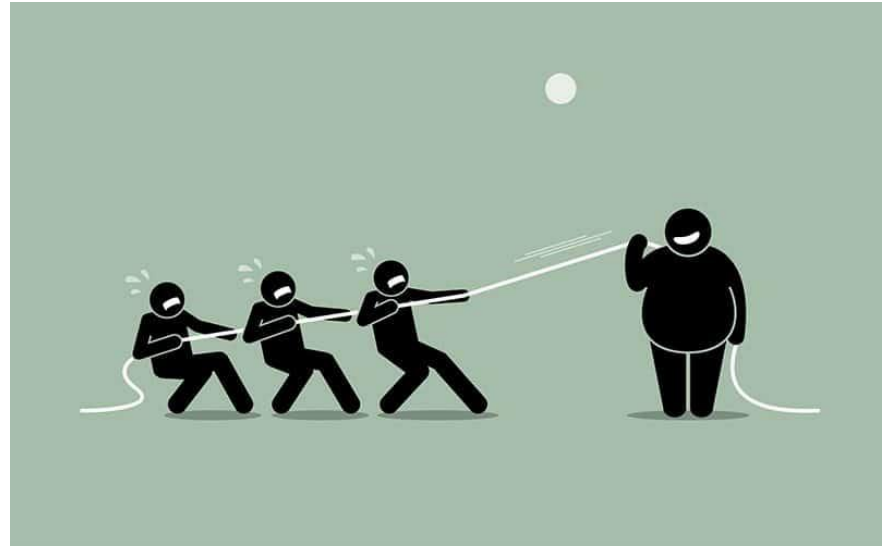
# The Role the Courts and State Governments Play



- State laws trump judicial appointments (Yates)
- Only a handful of states have enacted statutory protections

# Conflicting Interests in a Receivership

- Regulators v. Receivers
- Objectives differ: One is concerned with the entity they are appointed to, the other is concerned with the general public
- Communication between stakeholders is key



# Is a Receivership Right for You?



- What problems are you facing?
- Short term vs long term goals
- What is end game or exit?
- Making sure the right individual is appointed

# Thank you!



**Robert Hoban**

*Co-Chair, Cannabis Practice*

**Clark Hill, PLC**

**[rhoban@clarkhill.com](mailto:rhoban@clarkhill.com)**