

# Real Estate Solutions

## Special Servicer Advisory Services

Special Servicers face multiple challenges including changing market conditions, investigatory and forensic issues, borrower liquidity constraints and bankruptcies, disputes related to servicing agreements, “tranche warfare” and a host of other issues associated with commercial and residential mortgage-backed securities (CMBS and RMBS).

FTI Consulting’s highly experienced professionals are experts at addressing these matters. We provide a broad spectrum of services that can help special servicers identify and pursue strategies to maximize recovery in particularly complex or adversarial cases. Our reputation for technical excellence, in-depth analytics, practical objectivity and negotiating expertise are all critically important to our clients’ success.

### AWARDS & ACCOLADES

**The Deal**

#1 U.S. Restructuring Advisor  
of the Year  
16 Consecutive Years

**Forbes**

America’s Best Management  
Consulting Firms  
8 Consecutive Years

**WWL**

Who’s Who Legal: Arbitration  
Expert Firm of the Year Law  
Business Research  
8 Consecutive Years

### A SAMPLING OF OUR SERVICES



**Financial Advisory and  
Expert Witness Testimony**



**Forensic Investigations  
and Litigation Consulting**



**Workout Strategy  
and Negotiations**



**Disputed Valuations**



**Bankruptcy Interest Rate  
and Plan Feasibility**



**Receiverships and  
Interim Management**



**Challenges to Special  
Servicing Standards**

## CAPABILITIES

### Dispute & Litigation Advisory

We assist with every phase of the dispute resolution process, starting from early case assessment, pre-litigation strategy and discovery to litigation/mediation consulting, expert testimony and trial. FTI Consulting helps special servicers resolve a range of CMBS counterparty disputes, including breach of representations and warranties, waterfall distributions and other matters.

### Restructuring & Bankruptcy Advisory

Clients seek our expert help with liquidity assessment and cash flow analysis; bankruptcy plan negotiation, feasibility and interest rate analysis; negotiation of sales procedures and oversight of \$363 asset sales; interim management services, including receiver and trustee services; and buy- and sell- side services related to REO and distressed debt interests.

### Forensic Accounting Investigations & Analysis

FTI Consulting provides specialized services to address a range of challenges, including embezzlement and misappropriation, regulatory inquiries and fraud claims.

### Valuation Services

FTI Consulting's valuation experts have an extensive record of providing collateral valuation opinions, fairness and solvency opinions, strategic advisory and transaction support and dispute support and services.

### Fiduciary and Interim Management

FTI Consulting provides industry-leading fiduciary and interim management services in complex circumstances which require trusted, experienced professionals to serve as independent custodians of real estate and other assets. We work throughout the U.S. and internationally.

## LANDMARK CASES: CLIENT SELECTED SUCCESS STORIES

### Dispute & Litigation Advisory

In 2015, the iconic Peter Cooper Village/Stuyvesant Town, a massive, 11,250-unit residential project located in New York City, was sold on behalf of the CMBS Trust which had gained title to it in a much-publicized foreclosure action. Holders of certain certificates disputed the distribution of more than \$600 million out of \$5.3 billion in total sales proceeds on account of default interest paid to the special servicer, arguing that the distribution constituted what is known as "gain-on-sale" proceeds, which should have been distributed for the benefit of certificate holders. A team at FTI Consulting prepared an expert report and provided deposition and trial testimony in support of the special servicer, which was critical to the district court's ruling in favor of the special servicer.



### Bankruptcy and Restructuring

A team at FTI Consulting was retained by the special servicer in connection with \$1 billion of CMBS debt following the portfolio owner's bankruptcy filing. The experts at FTI Consulting advised the client during extensive negotiations of the cash collateral order and DIP loan sizing and agreement. We analyzed portfolio's financial and operational performance and cash flows, provided input on debtors' projections and budgets, and advised on reorganization and asset sale efforts. The debt was repaid in full, with post-petition interest.



### Bankruptcy Testimony re: Default Interest

Professionals at FTI Consulting prepared an expert report regarding the economic rationale for and reasonableness of the lender's claim for default interest. The lender's claim was secured by a mixed-use retail center in California. The bankruptcy court ruled in favor of the lender and issued a written opinion with frequent references to the FTI Consulting team's expert report.

In re 3MB, LLC, Debtor  
Case No. 18-14663-B-11

### Alleged Breach of the PSA

A team at FTI Consulting was retained by the special servicer of the \$3 billion CMBS loan associated with the Atlantis Casino Hotel in Paradise Island, Bahamas to provide the analytics and dispute advisory services in connection with the loan modifications that had been approved by the special servicer and subsequently challenged by certain certificate holders.



### Forensics and Lockbox Compliance

When Innkeepers USA filed for Chapter 11 bankruptcy, a team of professionals at FTI Consulting was retained by the special servicer for the benefit of the CMBS Trust. Our role included forensic analysis and recovery of diverted cash collateral, expert testimony which led to a legal defeat of debtors' initial restructuring proposal, which was harmful to the Trust, multiple valuation analyses, review of financing, sale and bankruptcy plans, ongoing analysis of the hotel portfolio and monitoring of cash flow. The team at FTI Consulting worked closely with the debtor's advisors and potential bidders to maximize the value from the ultimate \$363 sale of the portfolio and recovery to the Trust.



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FTI Consulting is an independent global business advisory firm dedicated to helping organisations manage change, mitigate risk and resolve disputes: financial, legal, operational, political & regulatory, reputational and transactional. FTI Consulting professionals, located in all major business centres throughout the world, work closely with clients to anticipate, illuminate and overcome complex business challenges and opportunities. © 2023 FTI Consulting, Inc. All rights reserved. [fticonsulting.com](https://www.fticonsulting.com)