

Agribusiness & Food

Perhaps because of our deep roots in the Midwest, Gray Plant Mooty has a special affinity for agribusiness clients. These clients—including national trade organizations, producers, and lenders—look to our team for expert counsel in state and federal law, as well as extensive experience in the agriculture industry.

We support agribusiness clients in matters of:

- Business formation, capitalization, and transactional services
- Business succession planning
- Cooperatives
- Creditors' rights and bankruptcy
- Dispute resolution and litigation
- Food labeling and safety
- Marketing and production contracts
- Project finance
- Real estate
- Regulatory

Business Formation, Capitalization, and Transactional Services

Our attorneys can address your business needs, including the purchase and sale of businesses, financing and operational needs, the issuance and repurchase of equity, governance matters, business and capital formation and structure, lending arrangements, securities law compliance, and real estate transactions. We have represented a number of companies in connection with acquisitions and sales of assets.

- Represent a feed processing and production facility; meat processor; sugar beet processor; agricultural procurement management and finance company; citrus processing company; design build engineering firms in ag-processing; elevator owners and operators; retail sunflower products and confectionary sunflower company; tomato processing and private label brand company; hybrid corn company; canola processor; plant for canola meal; large grain originator, broker, and exporter; and large pork producer in connection with the development and distribution of a specialized software product.
- Represent a company that intends to design, develop, and manage community-based energy plants that will generate biofuel, electricity, livestock feed, and other outputs generated from sweet sorghum and other alternative non-food inputs. We have assisted the company in organizing as a Minnesota LLC, raising seed capital, and obtaining exclusive rights to pelletization technology from Europe.
- Represent a company that provides containerized transportation and marketing services for grain and grain products to Asian and European destinations. We assisted the company in reorganizing from a Massachusetts LLC to a Minnesota LLC, raising \$4 million of equity capital from institutional and angel investors (including \$1.5 million from GPM introductions), organizing multiple operating subsidiaries, establishing a line of credit with a national lender, and preparing contracts with customers and suppliers.
- Represent food and beverage manufacturers in connection with various issues, including trademark, labeling, advertising, co-packing arrangements, joint ventures, distribution, custom manufacturing, licensing, asset sales and purchases, etc.
- Represented pork producers in negotiations with veterinary/animal science device manufacturers and distributors, meat producers, etc., in connection with a project to develop, test, use, and market RFD technology in the pork industry.

- Represented U.S. interests of international farming and agricultural management companies in Europe and South America.

Business Succession Planning

Our attorneys believe that business succession is more than just the reduction of tax exposure, an accumulation of information to encourage a successful transfer of assets, or the proactive and cooperative passage of ownership between generations. It's all of these things, delivered by professionals who understand and care. You know that your family and your business are connected, and you can trust our attorneys to share that understanding.

Cooperatives

Combining our transactional, financing, regulatory compliance, risk avoidance, and dispute resolution experience with our extensive knowledge of cooperatives, corporations, and limited liability companies, we provide in-depth analysis, advice, and representation to clients on organizational structure, operations, finance, taxation, applicable antitrust, and securities law issues, and reorganization and dissolution. Our attorneys understand the issues facing agriculture and combine our industry knowledge with broad legal experience to satisfy the business and legal representation needs of the most complicated agribusiness projects and operations, whether large or small.

- Represented a local cooperative in the development of an ethanol plant.
- Represented cooperatives in development of biofuel refineries.
- Represented a large sugar processor and its related subsidiary in a registered offering.
- Advised an agricultural cooperative on various cooperative and tax law issues including tax treatment of patronage dividends, maintaining a qualified cooperative tax status, governance issues, board selection, and contract issues.
- Represented an agricultural cooperative in the purchase of a cheese processing plant.
- Completed permitting and compliance work for an agricultural cooperative.
- Worked on a pet food manufacturing joint venture between a cooperative and a milling company.

Creditors' Rights and Bankruptcy

We provide sophisticated, cost-effective counsel in business bankruptcy cases, restructurings, and workouts throughout the United States.

- Served as Chapter 11 and Chapter 7 trustee and represented trustee in a case brought by a Minnesota-based food processor.
- Served as Chapter 11 and Chapter 7 trustee in a meat processing case.
- Served as Chapter 11 and Chapter 7 trustee in a multi-state livestock producer bankruptcy resulting in the liquidation of 79,000 head of cattle.
- Represented the lead lender in the Chapter 11 Delaware bankruptcy filing of VeraSun Energy Corporation, a multi-state, multi-location ethanol producer that resulted in the forced credit acquisition of seven ethanol facilities located in Minnesota, North Dakota, Iowa, Nebraska, and Michigan, and the subsequent sale of the ethanol facilities by the lender group.
- Served as Chapter 11 and Chapter 7 trustee and represented trustee in the winding down of a Minnesota-based meat processor.
- Represented lenders and livestock feed suppliers in various statutory lien disputes involving multi-million dollar claims.
- Represented hog producers in connection with the Farmland Industries bankruptcy matter.

- Represented lenders in connection with the financing, restructuring, and workout of loans for crop production, cattle feeding, and swine production as well as biodiesel, ethanol, pork processing, and wind power facilities.
- Represented a secured lender in connection with a defaulted loan relating to development of a swine production facility in Arizona.

Dispute Resolution and Litigation

We can assist your business in its litigation needs by first attempting to avert litigation through use of alternative dispute resolution methods, where possible. If litigation is unavoidable, we utilize an economical and common-sense approach through every stage of the process. We understand that you are not in business to litigate, but sometimes it is necessary to protect your business interests. We are ready and able to assist you when that unavoidable need arises.

- Represent a large producer of liquid egg that has large production facilities in the Midwest with various matters, including litigation and regulatory compliance.
- Represented a state agency, coalition of agricultural trade organizations, and AgStar Financial Services, ACA, as amicus in connection with an insurance and nuisance matter before the Minnesota Supreme Court.
- Represented lenders and livestock feed suppliers in various statutory lien disputes involving multi-million dollar claims.
- Represented state agricultural trade groups as amicus in connection with environmental litigation before the Minnesota Court of Appeals.
- Represented hog producers in connection with litigation growing out of marketing and production contracts.
- Represented a swine producer in connection with Packers & Stockyards Act claims.
- Represented a vegetable processor in connection with environmental claims.

Food Labeling and Safety

In dealing with agricultural processors, our attorneys have been exposed to and have experience dealing with food labeling and safety issues.

- Represent food and beverage manufacturers in connection with various issues, including trademark and labeling.
- Represent a national trade organization in the livestock sector in reviewing and implementing the federal mandatory country of origin labeling statutes and regulations.
- Represented livestock clients in connection with the country of origin provisions in the 2007 Farm Bill and subsequent promulgated regulations.

Marketing and Production Contracts

Our team has developed and negotiated marketing and production contracts for a variety of agricultural-based industries, including the livestock and food processing sectors.

- Negotiate long term marketing agreements—for the sale of over 750,000 pigs annually—and producer subcontracts for a multi-state swine producer.
- Developed state-of-the-art raw product purchase agreements for numerous products for a multi-state food processor.
- Represented a client in connection with the country of origin provisions in the 2007 Farm Bill and subsequent promulgated regulations.

Project Finance

One of our core areas of representation is in the renewable energy sector. We have represented senior lenders in connection with 28 biofuel transactions and among these, is the largest single ethanol financing to close to date—\$477 million. Most of the transactions have involved the financing, construction, and operation of ethanol plants located in

Minnesota, Wisconsin, Michigan, Missouri, and Iowa. In addition to ethanol financings, we have worked with wind farm developers on their financings, development agreements, and real estate.

- Represented AgStar Financial Services, ACA, in the construction and operational financing of various ethanol plants located in Minnesota, North Dakota, Iowa, Nebraska, Indiana and Michigan, with the total financing in excess of \$1.7 billion.
- Represented senior lenders in connection with a \$400 million revolving line of credit for multi-state swine producer.
- Experience with cross-border agricultural transaction work, including capitalization (foreign investment), import/export, and tax.
- Represented AgStar Financial Services, ACA, in the preparation of loan documents in the amount of \$90 million for the construction of a 100 million gallon per year ethanol plant. The loan was successfully closed after encountering a number of challenges related to the borrower's wetland encroachment, the failure to obtain storm water permits, and obtaining water sources.
- Represented a secured lender in connection with a defaulted loan relating to the development of a swine production facility in Arizona.

Real Estate

We work with clients, clients' outside advisors, and other attorneys to reach our clients' tax, business, and estate planning goals. Our attorneys assist clients with real estate sales and acquisitions, leasing, and construction projects. We also have the expertise to help clients with specialized needs in the areas of real estate tax protests, environmental law, tax-deferred (Section 1031) exchanges, zoning and land use law, and real estate based loans.

Regulatory

Our team is active in state and federal regulatory developments and compliance issues. We have represented companies in matters before state regulatory agencies. We are experienced with environmental and land use regulations including land use, zoning powers, eminent domain, the manufacture and disposal of hazardous substances, solid waste disposal sites, and the protection of natural resources.

- Represent a large producer of liquid egg that has large production facilities in the Midwest with various matters, including regulatory compliance.
- Experience with cross-border agricultural transaction work, including regulatory compliance.
- Represented a national trade organization in connection with the livestock provisions contained in the 2007 Farm Bill and subsequent promulgated regulations.
- Represented a client in connection with livestock competition and country of origin provisions in the 2002 and 2007 Farm Bill.
- Represented a swine producer in connection with Packers & Stockyards Act claims.