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April 15, 1996

Volume 10, Number 7

Caldor Retention Program

The Rest of the Story

by *Nina Novak*

It recently was widely reported that the Caldor Corporation, in Chapter 11 reorganization since September of 1995, had received approval from the bankruptcy court to implement an employee performance retention program. The compensation program, typical in Chapter 11 situations, was designed to provide incentives to 536 employees considered to be "key" to the operation of the company as it moves through the reorganization process. In announcing the approval of the retention program, it also was reported that the program had the full support of the creditors' committee, the bank committee, and the equity committee.

What was not quite as readily reported was that the program, as originally proposed and presented in November 1995, was opposed by shareholders and was objected to by

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Turnarounds in Slovenia and Russia

Strategic Management Partners Lends Expertise

by *Debra Brennan*

John Collard of Strategic Management Partners, Inc., teamed with the Hiram L. Pettyjohn Company to provide services in the Central European Market. The purpose of the joint venture was to advise investors on transactions, raise a fund to provide capital to invest in turnaround situations, provide turnaround management expertise to troubled or nonprivatized companies, and to advise governments and companies on privatization and successful turnaround activities.

The venture bid the Slovene Special Restructuring Programme, which includes managing an asset management fund totaling about \$80 million, and the management of unsuccessful privatization and turnaround efforts. Slovenia is part of the former Yugoslavia and prior to Yugoslavia breaking up it had eight percent of the population and 40 percent

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Confidentiality of Creditors

Krystal Company Sets Narrow Terms

by *Debra Brennan*

The Krystal Company, an operator and franchisor of 256 quick-service hamburger restaurants filed a voluntary petition under Chapter 11 of the U.S. Bankruptcy Code for the purpose of resolving claims filed against the company by current and former employees alleging violations of the Fair Labor Standards Act. About 5,000 employees filed claims in unspecified amounts alleging that they worked time for which they were not compensated.

Easte Brinkley, a member of the creditors' committee of Krystal Company, signed a set of by-laws which provided a confidentiality clause. All non-public information disclosed to the committee as well as the matters discussed at committee meetings are confidential and any information shared with an attorney could not be used for any purpose

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Caldor, *from page 1*

the Official Committee of Equity Security Holders.

"By January, there was pressure to agree to a slightly revised form of the program as earlier proposed. We said no to it and offered a counter proposal to which we received no reply," according to Stephen B. Selbst, an attorney with Berlack, Israels & Liberman, the New York law firm representing the equity committee. "After a month's worth of discovery and the filing of our objection to the retention program, we ended up in litigation over it. We finally settled only after significant revisions were made to the program," explained Selbst.

Among the features of the retention program that were amended, the basis for granting bonuses to top officers of the corporation was modified. As originally proposed, the granting of bonuses was under the control of the Board of Directors. The modified program instead sets performance criteria. The amended program also establishes a formula for determining bonuses for the year 1997.

Another significant modification to the retention program is that it is established on a monthly accrual basis. Cash benefits are to accrue monthly for a maximum period of 24 months. They are to be paid in two equal installments, one on the effective date of the Plan of Reorganization, the other six months after such effective date. In order for covered employees to participate in the program, the company must successfully emerge from Chapter 11. According to the term sheet between the debtor and the equity committee, the debtor is obligated to consult with the equity committee with respect to extending or modifying the retention program.

According to Selbst, the percentages of base compensation set forth in the retention program are to be reduced such that the cash cost of the program as originally projected will be reduced by approximately \$1.2 million over the 24-month period of the program. The reduction is to be allocated among the program's participants at the sole discretion of the debtor. The program will help replace lost stock incentives that the "key employees" were to receive.

"We feel this should only be a one year bankruptcy case," said Selbst. "We don't feel this is a two year case. For each month under 24 months, we should be able to save the company approximately \$830,000," he added.

Slovenia, *from page 1*

of the GNP. This program is sponsored by the Slovenia Government, banks in Slovenia with troubled portfolios, and the European Bank for Reconstruction and Development (EBRD). The goal is to maximize the value of these investments and return the principal plus capital gains to the Slovene government, banks, investors, EBRD, the equity holders and stakeholders upon the sale of these enterprises.

Negotiation of the contract is complete and the project is underway. Collard's unique experience with successful conversions of contractors who have been providing services and products to the U.S. government and have converted to commercial and international markets led to his ability to undertake this project. Many of the companies in central Europe were once defense-based factories that now need to convert to peacetime markets. According to Collard, "managing the resources to achieve successful turnaround was most important."

Collard also entered into a contract with the World Bank to advise on privatization and turnaround activities and to develop a course to train turnaround and privatization professionals and government officials in the Russian Federation and Central Europe. The course is scheduled to be given in 15 to 20 locations throughout the Russian Federation and former Soviet Union.

Collard spent four days in Moscow visiting with the head of the Bankruptcy Agency, the Agency for Privatization and local offices with practices in the region, and several troubled enterprises.

"What an awakening. We found that the bankruptcy laws have no teeth, they are rarely enforced. Besides, many laws in this part of the world change from year to year, or can be interpreted as the local officials see fit," said Collard. "Because the equity holders (often the banks or government having major shares) are responsible for the debts, managers have little or no responsibility for their actions. They can do what they like, are often not held accountable and cannot (or with much difficulty) be replaced. It is a tough situation to enter a turnaround when a fundamental of our western strategy is to build, or replace if required, a qualified and responsible management team to carry out the turnaround. Everyone is willing to talk about change, yet they indicate that they can only change if the law allows it so."

Krystal, *from page 1*

except in connection with the conduct of the business of the committee, and the attorney receiving such disclosure would also have to agree to be bound by the rules of confidentiality.

Through her attorney, Easte Brinkley petitioned the court to determine the validity of the confidentiality provisions of the by-laws, claiming that the by-laws are overly broad. She claimed that since the creditors' committee is investigating the financial condition of the debtor, that investigation may become extremely important and relevant with regard to the treatment and classification of claims.

Brinkley stated in her motion that she is willing to enter into appropriate confidentiality agreements with the debtor with regard to non-public information provided by the debtor to the committee that would have any bearing upon the value of the debtor's stock as long as such confidentiality stipulations contain provisions allowing matters to be used during court proceedings, if subsequently deemed relevant or necessary. However, communications from counsel to the committee or among committee members, or information provided by the accountants or other advisors of the committee concerning public information or otherwise not confidential information should not be subject to confidentiality. While the judge denied the motion, saving the issue to address at a later date in the event of an actual conflict, an interesting question arises as to whether creditors, unable to use confidential information, could prejudice their own remedy by being a member of a creditors' committee, the vehicle available to creditors for control of the diminution of their claim.

Attorney Grant Stein of Alston & Bird, counsel to the creditors' committee in the Krystal case, speaking about creditors' committees in general, stated that there is a tension between individual interests and fiduciary duties of a committee member. He felt that the fiduciary duty should be of paramount interest, and that committee members are not only interested in ultimately looking out for their own pocketbook.

While committee members in the Krystal case may be motivated by the claims of other creditors as well as their own, there is no better example of a case wherein the claimants are interested in money, in fact their own wages which they claim they never received, and for sure that money is their paramount interest.

Research Report

Who's Who In Forstmann & Co., Inc.

by Nancy Wolfe

Forstmann & Co., the largest domestic manufacturer of woolen fabrics and the second largest manufacturer of worsted fabrics in the United States, filed for bankruptcy protection in the Southern District of New York on September 22, 1995. The company cited rising wool costs and a weak apparel retail market, as well as the inability to pay interest charges and continue to conduct business, as its reasons for filing.

Forstmann is a publicly held company with 50.4 percent of stock owned by Odyssey Partners, L.P. At the time of its filing, Forstmann reported assets of \$219 million and liabilities of \$190 million.

The New York-based company, with operating plants in Georgia, has approximately 2,560 employees. Forstmann produces high quality wool-blend and synthetic fabrics for both men's and women's apparel and is the sole producer of the wool fabric used in U.S. major league baseball caps. Apparel manufacturers around the world use Forstmann fabrics to produce brand-name and private label clothing ranging from moderate-priced to designer styles. Forstmann also produces fabric for school uniforms and billiard tables.

Debtor-in-possession financing was approved by the Bankruptcy Court in October 1995 for \$85 million through GE Capital Corp. On January 17, 1996, the Court extended Forstmann's exclusivity period to May 20.

In its quarterly report to the SEC for the period ended January 28, 1996, Forstmann & Co. stated that, due to unfavorable economic conditions, it expects that operating results will continue to be "strained" throughout fiscal 1996, thus raising doubts whether the company will be able to "continue as a going concern." For this period, the company reported an operating loss of \$3.9 million and a net loss of \$9.1 million on net sales of \$33.3 million. These figures compare with an operating income of \$1.5 million and a net loss of \$1.9 million on

net sales of \$43.5 million for the same period in 1994. The current quarterly figures include reorganization items amounting to \$2.9 million.

The Debtor

The President and Chief Executive Officer of Forstmann is **Robert Dangremond**, who took office in August 1995. At the same time, **F. Peter Libassi**, a director of the company, was elected non-executive Chairman of the Board. Dangremond is also a principal of Jay Alix & Associates, crisis managers in New York and Michigan.

Rodney J. Peckham is the debtor's new chief financial officer. **Peter Roaman** is the executive vice president for marketing and design.

The counsel for the debtor is **Debevoise & Plimpton** of New York City where partner **Richard Hahn** is the leading attorney. He is assisted by partner **George Maguire** and associates **Lena Mandel** and **Andrew Glenn**. Recent clients include the debtors in the cases of the Gitano Group Inc., Charter Medical Corp., Thompson McKinnon Securities, Inc. and Homeland Stores, Inc.

The debtor has retained **Hunton & Williams** in Atlanta as special counsel for environmental matters under the direction of **James Levine**. **Constangy, Brooks & Smith** is special counsel for labor and employment matters. **Ruth L. Flemister** directs the firm's efforts in the case in the Atlanta office. **Day, Berry & Howard** in Hartford, Connecticut, act as special counsel for general corporate matters under the supervision of **Martin L. Budd**.

Deloitte & Touche, LLP are providing accounting services. The efforts are led by **H.P. Dykes, Jr.**, a partner in the firm's Atlanta office.

General Electric Capital Corp., the provider of debtor-in-possession financing for Forstmann, is represented by **King & Spalding** in Atlanta. Partners **James A. Pardo, Jr.**, and **Paul K. Ferdinands** head the firm's efforts.

Official Committee of Unsecured Creditors

The creditors' committee includes **Block & Behrens Pty.**, **CIBA-Geigy Corp.**, **ConAgra Wool Pty Ltd.**, **Export Advisors, Inc.** (Co-chairman), **Grace Brothers, Ltd.**, **Indchem, Inc.**, **James E. Kjorlien** and **Wellman, Inc.** (Co-chairman).

Stroock & Stroock & Lavan in New York is the counsel to the committee under the leadership of partner **Fred Hodara**. He is assisted by associate **David P. Simonds**. Recent clients of the firm include the bondholders' committee in Grand Union, the debtor in Columbia Gas, and the creditors' committees in Barney's, Anacomp, Burlington Motors, Lykes Steamship and WRT.

The committee has retained **Houlihan Lokey Howard & Zukin**, a specialty investment banking firm in New York City, as financial advisors. Efforts for the firm are headed by managing directors **Irwin Gold** and **David Preiser** with the assistance of vice president **Joseph A. Julian, Jr.** and associate **Alexandra Ahrens**. Recent bankruptcy clients include the debtor in First City Bancorp., senior noteholders in Grand Union, the official bondholders' committee in Macy's, and the informal bondholders' committee in Kash 'N Karry, Inc.

Noteholders

Counsel for the senior secured noteholders is **Milbank, Tweed, Hadley & McCloy** in New York City. **Stephen J. Blauner**, a partner with the firm, is in charge of the case.

The Judge

The Honorable James F. Garrity, Jr. of the U.S. Bankruptcy Court of the Southern District of New York presides over the case.

The Trustee

In the office of the U.S. Trustee in New York City, **Diana Adams** is involved in this case.

Tracking

Kmart

Kmart announced an agreement with Chemical Bank for a debt-refinancing package that includes \$3.7 billion in loans from several lenders. The refinancing of \$3 billion in existing Kmart debt, and the addition of \$700 million in loan funds to ignite a comeback is a deal which Floyd Hall says is "a milestone in Kmart's turnaround program." The agreement should give Kmart flexibility to pay vendors and compete in the tight retail market.

Kmart's Board of Directors approved the three-year agreement which will result in \$2.5 billion in revolving credit and \$1.2 billion in short-term loans. Interest rates will be based on financial performance. Collateral for lenders will be placed on all material and unencumbered assets of the company, excluding mortgages. Kmart may grant second priority security interests in its inventory to vendors. Marvin P. Rich, executive vice president for strategic planning said they would continue to explore the sale of securities, divestiture of non-core assets and a sale-leaseback of real estate.

Hayes Microcomputer

Incredibly enough, another deal has fallen through for Dennis Hayes. The night before the merger was to close, Northern Telecom called it off. Dennis Hayes, chairman and CEO said, "We are deeply disappointed that Nortel elected to terminate the merger on the night before the expected closing."

Evidently Nortel refused to reconsider its decision even after heavy lobbying by Hayes. ACMA Ltd., the company which was providing significant investment in the Nortel deal stated that they are still considering an investment in Hayes.

Dennis Hayes said, "The employees of Hayes have overcome too many obstacles and come too far during our reorganization not to overcome this latest challenge. We have turned our company around, fixed our operations, paid down our secured debt to a zero balance, released four new products in the last three weeks, and just ended the best quarter in the history of the company."

Based on discussions with six separate potential investors, Hayes expects to secure either equity or debt facilities sufficient to fully fund its plan of reorganization.

Rockefeller Center

Mitsubishi Estate Co. said it will report its first annual loss of about \$934 million as a result of a failed investment in Rockefeller Center. Mitsubishi Estate invested in the office complex in midtown Manhattan seven years ago when real estate prices were high. But as the real estate market declined, financial troubles overcame the owners, and they stopped making payments on the \$1.3 billion mortgage. In September, the owners agreed to transfer title to the mortgage holder. In November, the investment group Goldman, Sachs & Co. and David Rockefeller put together an ownership deal to take control of Rockefeller Center, which deal was recently approved at a shareholder's meeting, despite a last ditch effort by Sam Zell's investment group to prevent approval by the shareholders.

Bradlees

Bradlees Inc. reported results for the fourth quarter and fiscal 1995. Total sales for the quarter were considerably lower than the same quarter last year. This year's fourth quarter sales were \$592.4 million compared to fourth quarter sales of 1994 of \$692.5 million. The net loss for the quarter was \$108.9 million or \$9.54 loss per share. Total sales for fiscal 1995 were \$1.84 billion compared with \$1.98 billion for fiscal 1994 (one week shorter than fiscal 1995). The real story for fiscal 1995 is the comparable store sales showing a sizeable decline of 13.6 percent. Not unexpectedly, reorganization costs cut into earnings in a fourth quarter charge of \$44 million and a fiscal 1995 charge of \$65 million. The company is in compliance with covenants contained in its \$250 million DIP financing agreement. Mark A. Cohen, Bradlees' chairman and CEO remained confident of improved results in 1996.

Today's Man

Today's Man announced sales and operating results for the fourth quarter and end of the fiscal year. While David Feld, Chairman and CEO of Today's Man expressed disappointment with the results, he stated the causes for the low figures as significant restructuring charges, a disappointing holiday season and heavy markdowns. Sales for the quarter were \$82.7 million, a ten percent increase compared with sales of \$75.4 million for

Calendar

ABI Annual Spring Meeting

April 25-28, 1996
Grand Hyatt Hotel
Washington, D.C.
Sponsor: American Bankruptcy Institute
Contact: (703) 739-0800

The Prepackaged Chapter 11 Seminar

April 29, 1996-New York
May 1, 1996-Chicago
May 3, 1996-San Francisco
Sponsors: Jay Alix & Assoc., Alex, Brown & Sons, Coopers & Lybrand, O'Sullivan, Graev & Karabell, Price Waterhouse, Young, Conaway, Stargatt & Taylor, and Securities Data Pub.
Contact: Colleen Gallacher
(212) 765-5311

NACBA Annual Convention

May 17-19, 1996
Hilton Palacio del Rio Hotel
San Antonio, Texas
(703) 803-7040
Fax (703) 802-0207

Bankruptcy and Reorganization

May 30-31, 1996
Sheraton Palace Hotel, San Francisco
Sponsor: Practicing Law Institute
Contact: (800) 260-4PLI

Central States Bankruptcy Workshop

May 30 - June 2, 1996
Grand Traverse Resort
Traverse City, Michigan
Sponsor: American Bankruptcy Institute
Contact: (703) 739-0800

Commercial Loan Workouts

June 10-11, 1996
The Westin Hotel, Chicago, Illinois
June 17-18, 1996
World Trade Institute, New York
Sponsor: Executive Enterprises
Contact: (800)-831-8333

Western Mountains Bankruptcy Law Institute

June 27-30, 1996
Jackson Lake Lodge
Jackson Hole, Wyoming
Sponsor: Norton Institutes
Contact: (800)-628-9988

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Special Report

Profile: Freymiller Trucking, Inc.

Case No. 95-12095-BH; SIC 4213

Filed: April 20, 1995

U.S. Bankruptcy Court for the Western District of Oklahoma

Plan confirmed: January 5, 1996

The Honorable Richard L. Bohanon, presiding

Time in Chapter 11: 8 1/2 months

Case History Update

Background: Freymiller Trucking is a long-haul truckload carrier of temperature controlled and time-sensitive materials with service to the 48 contiguous states, Canada and Mexico. During 1994, the company moved from Bakersfield, California to Oklahoma City, Oklahoma, experiencing the costs of a business disruption and a slower than expected realization of operating efficiencies. Despite negotiations of note payments, the company had difficulties meeting equipment payments and was unable to obtain new capital sources. It filed a voluntary Chapter 11 petition and then focused on downsizing its operations and reducing its overhead costs and expenses, decreasing its number of tractors and trailers by 49 and 47 percent, respectively. As of September 30, 1995, the debtor had a total of 469 employees. Although by October 1995, the debtor began to realize results from its downsizing, it also experienced revenues significantly below budgeted levels.

Plan Information: As part of the First Amended Plan of Reorganization filed on October 25, 1995, all of the existing Freymiller common stock was to be canceled and ten million shares of new common stock issued for the benefit of the unsecured claimants. The plan contemplated the purchase of assets of the debtor to AmeriTruck Distribution Corp. The Court confirmed the plan on January 5, 1996. Subsequently, on February 8, AmeriTruck announced that it completed the purchase of certain assets of Freymiller for \$2.7 million in cash and the assumption of about \$2 million in existing equipment financing. AmeriTruck said that Freymiller will operate as a division of its CMS Transportation unit, with Don Freymiller remaining as Chairman of Freymiller's executive committee.

Professional Fees for Bankruptcy Services*

Debtor & Debtor-in-Possession	Time Period	Fees	Expenses	Total
General Bankruptcy Counsel: Crowe & Dunlevy, Oklahoma City, OK	4/20/95-2/6/96	\$436,404	\$43,163	\$479,567
Special Bankruptcy Counsel: Tomlins & Goins, Tulsa, OK	4/20/95-1/31/96	\$9,520	\$1,414	\$10,934
Special Litigation Counsels: Scopelitis, Garvin, Light & Hanson, Indianapolis, IN;	10/1/95-2/6/96	\$5,883	\$416	\$6,299
Kalish, Forrester & Torres, Phoenix, AZ;	10/1/95-2/6/96	\$2,223	\$48	\$2,271
Klein, Wegis, DeNatale et al., Bakersfield, CA;	4/25/95-1/31/96	\$11,097	\$759	\$11,856
Alala, Mullen, Holland et al., Gastonia, NC	4/20-11/9/95	\$2,707	\$38	\$2,745
Accountants: Price-Bednar, Tulsa, OK	4/20-12/31/95	\$73,280	\$2,322	\$75,602
Creditors' Committee				
Local Counsel: Lyle S. Vaughn, Oklahoma City, OK	4/20/95-2/6/96	\$6,242	\$756	\$6,998
Counsel: Bronson, Bronson & McKinnon, Los Angeles, CA	5/12-10/31/95	\$65,741	\$10,943	\$76,684
Accountants: Coopers & Lybrand, Houston, TX	5/17/95-2/6/96	\$56,061	\$4,818	\$60,879
Committee Members		\$0	\$4,515	\$4,515
Totals		\$669,158	\$69,192	\$738,350

*Source: Fee applications of the parties to the case and Orders of the Bankruptcy Court.

Worth Reading

Contesting Confirmation A Creditor's Perspective -Second Edition

1996-1 Supplement

By Robert L. Ordin

Publisher: Aspen Law & Business

For ordering: (800) 447 - 1717

By Debra Brennan

Contesting Confirmation -- A Creditor's Perspective explores the broad spectrum of legal, equitable and factual issues that permeate the confirmation process, the final step in the Chapter 11 case. Robert L. Ordin, a former United States Bankruptcy Judge, covers a wide variety of issues potentially affecting the strategy and outcome of a creditor's challenge to a debtor's proposed plan of reorganization.

The 1996-1 Supplement to *Contesting Confirmation* features expanded coverage and analysis of main areas of interest to the practitioner, including:

A greatly expanded discussion of classification, including analysis of "restrictive classification," a standard adopted by the court in *In re Bloomingdale Partners*, and "business justification" as a basis to separately classify unsecured deficiency and trade creditors, as argued by the debtor in *In re Barakat*.

A new section discussing "administrative convenience" under section 1122(b) as a basis for separate classification, including analysis of *Oxford Life Ins. Co. v. Tucson Self-Storage, Inc.*, *In re Rivers End Apartments, Ltd.*, and *In re EBP, Inc.*

A new section discussing the right to elect under section 1111(b)(2).

An entirely revised Chapter 5, addressing the "allowed secured claim." Important issues analyzed include: costs, fees and charges of secured creditors; upon what date the allowed secured claim is fixed; valuation, change in amount of the allowed secured claim during the case; treatment of postpetition payments under the plan; Bankruptcy Code section 1111(b); and post-petition interest in "solvent" estates.

A new section addressing notice of confirmation proceedings, including analysis of *In re Westway Ford, Inc.*

A new section addressing the "power" of the court vs. the "exercise" of such power, including a discussion of *In re Bankeast Corp.*

An expanded discussion of the doctrines of *res judicata* and collateral estoppel, including an analysis of *In re Mai Systems Corp.*; a new section discussing whether equitable estoppel may preclude post-confirmation amendment to schedules; and the *res judicata* effect of orders approving sale of assets, with discussion of *In re International Nutronics, Inc.*

And a new section discussing section 1144 as the exclusive basis to revoke the confirmation order.

Filing instructions for the supplement pages are included and are very easy to follow.

Confirmation of the debtor's reorganization plan is the final and often conclusive phase of the Chapter 11 process. This book and supplement provide a comprehensive research tool analyzing hundreds of cases since the mid-1980's, where creditors have objected to confirmation of a reorganization plan. All of the chapters fall within five general discussions: procedural issues; section 1129(a) of the Bankruptcy Code, which prescribes the requirements for confirmation; section 1129(b) of the Bankruptcy Code, which addresses "cramdown," a procedure implemented when the requirements of section 1129(a) are not met; the classification of claims; and post-confirmation issues.

Robert L. Ordin is of counsel to Murphy, Weir & Butler in Los Angeles

Tracking, from page 4

the fourth quarter last year. The loss for the fourth quarter translated into \$2.38 per share, and the loss for the year amounted to \$3.29 per share. Comparable store sales for the quarter decreased seven percent, and for the year the decrease was one percent. After the store closings in the greater Chicago area, New York, Washington, D.C. and Florida, the company will operate 25 stores in New York, Philadelphia and Washington, D.C.

The restructuring charge of over \$19 million attributed to asset write off and lease rejection cost amounted to a loss of \$1.77 per share. In addition, there was a cost of \$1.9 million in severance payments for exiting executives.

Hamburger Hamlet

Two orders regarding the Chapter 11 reorganization of Hamburger Hamlet Restaurants Inc. have been announced by the Bankruptcy Court in the case. The exclusive period of time has been extended to July 8, 1996. In addition, the stipulation under which the company is permitted to use cash collateral has been extended to the same date, and will automatically be extended to September 9, 1996, so long as the plan is timely filed. In addition, the company has filed documents with the SEC claiming it would be unable to file its 10-K on a timely basis due to a loss of key personnel who could file the 10-K. Clearly, Hamburger Hamlet is scrambling to stay in business and turn around the remaining restaurants.

Discovery Zone

Discovery Zone Inc. reported a net loss of \$455 million for the fiscal year ended December 31, 1995. It attributed its loss to the early adoption of FAS No. 121. Its loss for fiscal 1995 also included restructuring charges of \$70 million. The company expects to report revenue of \$295 million for fiscal 1995.

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Both services are free.

Special Report

Nation's Largest Industrial Auctioneers

Firms with more than \$20 million in industrial sales for the year ending December 31, 1995

Rank	Firm	Sales Volume*	Contact	Representative Clients
1	Norman Levy Associates Southfield, MI Tel. (810) 353-8640 Fax (810) 353-1442	\$210 million	Robert Levy President	McDonnell-Douglas Lockheed-Martin Chrysler Corp. General Dynamics
2	Forke Brothers, The Auctioneers, Inc., Lincoln, NE Tel. (402) 421-3631 Fax (402) 421-1738	\$165 million	Robert K. Whitsit CEO	Construction and Manufacturing Companies
3	Koll-Dove Global Disposition Services, LLC Foster City, CA Tel. (415) 571-7400 Fax (415) 572-1502	\$121 million	Ross Dove Chairman/CEO	Hughes Aircraft Loral Corporation Rockwell International Packard Bell
4	Thomas Industries, Inc. Guilford, CT Tel. (203) 458-0709 Fax (203) 458-0727	\$92 million	Tom Gagliardi, Jr. President & CEO	Delta Airlines Pratt & Whitney Aircraft Tandy Figgie International
5	Max Rouse & Sons Beverly Hills, CA Tel. (800) 421-0816 Fax (310) 855-7854	\$81 million	Scott Rouse President	General Mills PepsiCola Smith-Corona
6	Michael Fox Auctioneers, Inc. Baltimore, MD Tel. (410) 653-4000 Fax (410) 653-4069	\$67.8 million	David S. Fox President	American National Can Proctor & Gamble General Electric Kraft Foods
7	Vilsmeier Auction Co., Inc. Montgomeryville, PA Tel. (215) 699-5833 Fax (215) 628-8010	\$46.5 million	Walter F. Vilsmeier CEO	Financial Institutions Utility Companies Construction, Demolition, Excavation Contractors
8	Blackmon Auctions Little Rock, AR Tel. (501) 664-4526 Fax (501) 664-4538	\$38 million	Tom Blackmon President	Construction Companies Trucking Companies Industrial Plants Forestry and Agriculture
9	Plant & Machinery, Inc. Houston, TX Tel. (800) AUCTION Fax (206) 486-8247	\$37 million	Robert J. Braman President	Caterpillar Compaq Computer Shell Oil Southwestern Bell
10	James G. Murphy, Inc. Kenmore, WS Tel. (206) 486-1246 Fax (206) 483-8247	\$35 million	Timothy J. Murphy President	U.S. Marshal Service Small Business Admin. Telephone Companies Banks
11	Continental Plants Corp. Beverly Hills, CA Tel. (310) 276-6311 Fax (310) 276-9499	\$30 million	Mel Peters President	ITT LSB Industries Thermal Electron Sanmina
12	Larry Latham Auctioneers Scottsdale, AZ Tel. (602) 998-1168 Fax (602) 945-3151	\$20 million	Larry W. Latham President/CEO	FDIC U.S. Customs U.S. Treasury

*Figures are self-reported by the listed companies.

Gnome de Plume

Spector Is No Ito

by Christopher Beard

Tort plaintiff lawyers are not my kind of guys. They wear silk ties and Armani suits and walk around with the air of someone doing God's work. And they're unseemly in their pursuit of clients. They're found rubber-necking for the camera around every plane crash and disaster from here to Bhopal. Every Sunday *Sixty Minutes* seems to feature people with some horrible affliction and a couple of tort lawyers who invariably appear to describe the injuries and assign blame. In bankruptcy cases they crowd on to the claimants' committees to get free, debtor-paid professional services and to create an image for themselves as officially sanctioned representatives of the tort plaintiffs. They used to do that, anyway.

In Dow Corning, Judge Arthur J. Spector got fed up with them and kicked the plaintiff lawyers off the tort claimants' committee. Judge Spector says the tort claimants' committee should be composed of claimants. Makes sense to me. Any way you cut it, Judge Spector is no Judge Ito. Whether he's reversed on this ruling or not, he's going to manage the Dow Corning bankruptcy process.

Dow Corning is a joint venture between Corning Glass and Dow Chemical to develop silicon-based products and polymers. The company, established in 1943, has become a world-wide firm with 8,300 employees.

In early 1992, the FDA declared a moratorium on the sale of silicon breast implants based on anecdotal evidence linking the implants to immune system diseases. Thousands of implant recipients filed lawsuits. A proposed settlement failed and the company filed Chapter 11 on May 15, 1995, to give order to the litigation process.

In Dow Corning, the tort claimants' committee is composed exclusively of tort lawyers except one woman whose claim had been previously adjudicated against her. She doesn't sound like a moderating influence to me. In any event, Judge Spector clearly thinks that gang is disruptive. The plaintiffs' attorneys, forever jealous of each other, are constantly squabbling and fighting for position. For a standard 60-day extension of exclusivity motion the committee generated nine deposition notices. Attack. Take the offensive. Get in their face. Wear them down. That may be good client development, but it's bad business. Such Dream Team antics may have saved OJ, but they don't add value for tort claimants in bankruptcy court.

Those tactics make the management of the business difficult and very unpleasant. In that environment, how do you keep a management team focused? How do you keep the company competitive? How do you attract new talent? Professional executives manage the business for the stakeholders, whoever they might turn out to be. But who wants to live with that abuse? It's distracting. It's emotional. It's wearing. Dow Corning's business and competitive position has to suffer and deteriorate under that kind of pressure.

The bankruptcy process can be tough to manage, but that's the bankruptcy judge's job. Sure, there are problems that must be resolved. Sure, any past errors and mistakes need to be rectified. But a healthy business means more value and more choices and a bigger payday for everybody.

Notwithstanding its problems, Dow Corning is an extraordinarily successful, world-class company with substantial value and many excellent products. It is the goose that lays the golden egg. It is the mother of everyone's recovery in this case.

Judge Spector, be sure to feed the goose.

Christopher Beard is the publisher of Turnarounds & Workouts

Future Issues:

- Dow Corning - Relief for Plaintiffs?
- Who's Who in Lomas Financial Corporation
- Regional and Local Bankruptcy Accounting Firms

Recent Filings

Supreme Slipper Manufacturing Co. filed for Chapter 11 protection in the District of Maine on February 23, 1996. The company manufactures women's house slippers and footwear. Attorney for the debtor is Andrew Cadot.

Wico Corp. and two affiliates, **Wico Gaming Supply Corp.** and **Wico Holding Corp.**, filed for Chapter 11 protection in the District of Delaware on March 21, 1996. The company supplies replacement parts and related supplies for coin-operated game machines. Accounting services are provided by Price Waterhouse. Attorney for the debtor is Mark D. Collins of Richards, Layton & Finger, P.A.

Discovery Zone, Inc., filed for Chapter 11 protection on March 25, 1996 in the District of Delaware. Discovery Zone operates indoor entertainment facilities for children. Accounting services are provided by Arthur Andersen & Co.

The Forgotten Woman, Inc., filed for Chapter 11 bankruptcy protection on March 21, 1996, in the District of Delaware. The Forgotten Woman operates retail stores specializing in larger size clothing for women. Accounting services are provided by Deloitte & Touche. The company is privately held.

Seattle Lighting Fixture Co. filed for Chapter 11 bankruptcy protection on March 21, 1996 in the Western District of Washington. The company distributes lighting fixtures and related products. Attorney for the debtor is Alan D. Smith of Perkins Coie. The company is privately held.

Value Merchants, Inc., filed for Chapter 11 bankruptcy protection on March 21, 1996, in the Eastern District of Wisconsin. The company's wholly owned subsidiary, Everything's A Dollar, operates close-out merchandise stores. Attorney for the debtor is Lewis S. Rosenbloom of McDermott, Will & Emery.