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News for People Tracking Distressed Businesses

October 1, 1996

Volume 10, Number 15

Jamesway Landlords Scream Unfair Affirmed Leases To Be Rejected-And the Rent?

By Debra Brennan

According to Neil Herman of Zalkin, Rodin & Goodman in New York, one of the co-counsel representing the landlords of certain Jamesway stores, his clients have had their "substantive rights stripped away by procedural crap." That is, after Jamesway filed a petition in Chapter 11 for the first time, the leases were affirmed, and in fact the debtor negotiated rent reductions with the landlords. Since the leases were affirmed, Herman claims that his clients have every right to expect 100 cents on the dollar for the term of their leases.

Now that Jamesway has filed a second petition in Chapter 11, however, the debtor is seeking to reject the leases, and the claims of the landlords will become unsecured and will be capped at one year's rent. Herman has argued that rather than liquidating in

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Will Suppliers Ship the Goods? FoxMeyer Plagued By Liquidity Problems

by Debra Brennan

Robert Peiser, Vice Chairman and Chief Executive Officer of FoxMeyer Drug Company, has stated that the company does not run an overly complex or sophisticated business. He claims that there were significant management mis-steps which led to the filing of a voluntary petition in Chapter 11. Despite the simplicity of its business, if FoxMeyer does not receive shipments and trade credit, it could be facing a nightmare. If FoxMeyer cannot pay for the shipments, even on a C.O.D. basis, it's over. With a \$288 million first quarter loss, prospects do not appear good.

One of FoxMeyer's problems is that it is the fourth largest wholesaler of pharmaceutical products, health and beauty aids. That is, it is not indispensable. There are at least three other wholesalers who can take on the business, without the threat of

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Bad Press Insurance

CrisisFund Offers Coverage To Deter Negative Image

by Colleen Harty

National Union Fire Insurance Company is now offering coverage to corporate executives to combat bad publicity arising from crisis-based corporate events. "The turnaround management industry is maturing," reflected John Collard of Strategic Management Partners, Inc., upon this innovative approach to providing companies with the means to allay bad press.

National Union will provide up to \$50,000 in coverage to insured officers and directors for costs to pay a public relations firm to handle negative publicity during crisis corporate events. The insurance is automatic with the purchase of three other National Union products, according to Ty Sagalow, National Union Divisional Senior Vice President.

This bad press endorsement called CrisisFund permits management to claim coverage

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Jamesway, from page 1

Jamesway I (or converting Jamesway I to a Chapter 7) which would have resulted in an undisputed administrative priority for the landlords' claims, the debtor filed a second Chapter 11 case, even though their first case was still open. By filing Jamesway II, the debtor can now reject the leases and the claims will not be considered administrative claims for payment.

The debtor and the creditors' committee are vigorously opposing the motion according to Paul Traub of Traub, Bonacquist & Fox in New York, attorney for the creditors' committee. The debtor is relying heavily on a case on point that was decided in the appellate court of the Seventh Circuit, *In re Jartran, Inc.*, which held that a second or "serial" filing is acceptable if the filing is in "good faith."

The landlords argue that *Jartran* was wrongly decided through a mistaken reading of Section 365(g) of the Bankruptcy Code, by giving debtors an opportunity to revoke a creditor's administrative priority, thereby making the administrative claim protection permissive rather than automatic. In their Memorandum of Law, the landlords argue that the debtors' "heads we win, tails the landlords lose" theory of lease assumption should not be condoned. They claim that Congress did not intend for debtors to have a "do over" right after a lease assumption."

While this issue has never been addressed in the Bankruptcy Court for the Southern District of New York, the issue is ripe. The Bankruptcy Code in no way specifically prohibits serial bankruptcies, and this court will probably not attempt to eliminate the right to file twice.

Of course Jamesway could have rejected its leases to begin with, in the first Chapter 11, and the landlords' claims would have been unsecured and capped from the beginning. It is arguable that the landlords actually made more money than they might have if the leases were originally rejected. But Herman argues that the landlords actually lost money because they agreed to rent reductions, and tied up property which could have been re-leased during Jamesway II.

The new caveat for all landlords dealing with tenants after they have filed one Chapter 11 may be to temper their generosity with the mathematical probability of success.

The hearing is set for October 2.

FoxMeyer, from page 1

slow or no payment.

In a quick effort to get the shipments going, a trade lien program was instituted to protect postpetition vendors. The company agreed to waive potential preference claims in favor of each supplier that ships to it on normal trade terms. The amount waived is tied to the amount of trade credit extended by each supplier. According to the company, this should resolve potential preference claims that upset the relations of the company with its vendors.

The Court approved an order providing that all suppliers who ship on mutually agreeable terms will receive prompt payment for inventory shipped after the August 27 filing date and a first priority lien on the Company's inventory up to \$100 million and an administrative priority claim for all current shipments. The court commended the parties for linking postpetition shipments to a waiver of preference claims. Robert Peiser said that with the stronger trade credit lien program in place, vendors have every reason to restore normal purchasing terms.

The company has reported \$5.1 million of prepetition claims and there are reports of an employee exodus as well. Since May 1, 11 directors, vice presidents and senior vice presidents along with 36 sales employees have terminated their employment. A "Stay Pay" bonus plan has been offered as a solution, with a cost of over \$9.5 million over the next ten months.

In addition to the shipping and credit problems facing FoxMeyer, some very real trade claim losses may add to the company's unpopularity. It has been reported that trade claims were selling at bids of 49 cents on the dollar when the bottom fell out and they may be worth half that now, with the promise of some law suits to follow, pitting some of the largest drug companies against some of the largest investment firms. It seems that the investment firms are now trying to back out of their original offers. But the fact that the drug companies were so eager to find buyers for their claims immediately after the filing portends a difficult climate for FoxMeyer to convince shippers to keep the business flowing.

An effort to sell FoxMeyer for \$25 million plus the assumption of debt fell through at the end of the summer, and it only took a little over two months after the re-finance to go into Chapter 11.

Bad Press, from page 1

when management feels that a crisis event is likely to have a major impact on stock value. Sagalow said that a company's quick take on a negative situation could help shift public opinion and cut losses resulting from negative public perception. Examples of such a crisis event include negative earnings or sales announcements, elimination or suspension of a dividend, asset write-off, debt restructuring and bankruptcy.

The idea for this innovative insurance coverage came from the underwriting ranks, according to Sagalow. "One of our underwriters has a friend who works for a crisis management firm and they discussed it over a beer," stated Sagalow. The underwriter then passed this idea up through the ranks at National Union. Sagalow noted that this insurance is "cutting edge" since the insurance monies will be provided although the insured may or may not suffer damages.

National Union has teamed up with six public relations firms to handle the crisis management services: Abernathy MacGregor Group, Kekst and Company, Robinson Lerer & Montgomery, Sard Verbinnen & Company, Sitrick and Company and Kroll Associates. An insured may alternatively choose a different PR firm subject to National Union's approval.

Michael Gross, spokesperson for Robinson Lerer & Montgomery, reported that his firm was "approached by National Union because of our reputation." Gross also added that the "recognized value of crisis communication advisement" is the impetus behind CrisisFund.

According to Sagalow, CrisisFund is "not only to protect you from a claim but to prevent a claim before it happens." Sagalow reasoned that "crisis management firms are good at making sure that full information is passed on so investors can make reasoned decisions based on the facts." Additionally, Sagalow noted that fast dissemination of information affects the cap on damages for shareholder actions under the Private Securities Litigation Reform Act. According to Sagalow, this limitation on damages provision was a motivating force behind CrisisFund.

Sagalow reports the response to CrisisFund as "tremendous excitement and enthusiasm." Whether or not CrisisFund will be effective has yet to be tested. "We'll have to see when the claims come in," stated Sagalow.

Research Report

Who's Who in Barney's, Inc.

by Nancy L. Wolfe

Barney's Inc. filed for Chapter 11 reorganization on January 10, 1996 in the Southern District of New York. The owners of the glitzy New York-based designer clothing store said they filed because of a dispute with their Japanese partner, Isetan Co. Barney's charged that Isetan failed to fulfill the financial agreement the two entered into in 1989. Each side has sued the other on different issues involved in the case.

At the time of filing, Barney's listed assets of \$351.5 million and liabilities of \$361.4 million, including \$349.2 million in unsecured debt and disputed claims of \$12.2 million. Barney's has obtained \$100 million in debtor-in-possession financing from Chase Manhattan Bank.

Barney's, a specialty retailer of men's and women's apparel, targets sales to customers desiring high-quality, high-fashion clothing. The company was founded by the grandfather of the current owners in 1923. Under the leadership of brothers Gene and Robert Pressman it grew to become a showcase for top designers with 15 stores in the United States, employing over 2,000 people, and two stores in Japan. Rapid expansion of Barney's eventually caused the company to become short of the cash flow it needed to pay creditors, analysts say.

About one month after the Chapter 11 filing, Barney's and Isetan partially settled their dispute, with Barney's agreeing to pay Isetan \$3.5 million in exchange for being allowed to draw on its \$100 million in financing to keep its stores operating during the restructuring.

One solution being discussed among the parties is that Saks Holding Co., Inc., the holding company for Saks Fifth Avenue, and Isetan could jointly develop a reorganization plan for Barney's. However, Barney's maintains that it is not for sale.

The Debtor

John P. Brincko of Brincko Associates, Inc., and **Charles W. Bunstine II** serve as co-Chief Operating Officers and members of the Office of the Chairman. **Gene and Robert Pressman** are co-Chairmen and co-Chief Executive Officers. **Fred Pressman** is chairman of the Executive Committee of the Board of

Directors. **Irvin A. Rosenthal** is Senior Vice President of Administration. **John Dubel** is Senior Vice President and Chief Financial Officer.

The firm of **LeBoeuf, Lamb, Greene & MacRae, L.L.P.** in New York City is counsel to the debtor. Partner **John P. Campo** heads the firm's efforts in the case assisted by partners **John S. Kinzey** and **Peter Ivanick**. The firm has represented the secured creditor in One Times Square Associates and the Equity Committee in Columbia Gas.

Mitchell J. Baker in White Plains, New York, who previously worked for Barney's, is special counsel assisting LeBoeuf, Lamb on Isetan litigation issues.

Brincko Associates, Inc. in Los Angeles is restructuring advisor to the debtor. President **John P. Brincko** has been involved in successfully reorganizing various other companies such as Knudsen Foods, Globe Securities and OmniMedical.

Special labor relations counsel to the debtor is **Proskauer Rose Goetz & Mendelsohn, LLP** in New York City. Partner **L. Robert Batterman** handles the case there.

Ernst & Young LLP in New York City serves as the debtor's accountant. Partners **Alan Holtz, Ken Reiss** and **Mark Manoff** handle the case for the firm.

The Blackstone Group L.P. in New York City is financial advisor to the debtor. Managing Director **Martin F. Lewis** is in charge.

Chase Manhattan Bank in New York City provides debtor-in-possession financing to Barney's. Managing Director **William Repko** handles the case. **Betsey Kelley** and **Katherine Duncan** head the bank's efforts in its role as co-chair of the creditors' committee.

The firm of **Zalkin, Rodin & Goodman** in New York City represents Chase Manhattan Bank. Partners **Richard Toder** and **Robert Scheibe** handle the case.

Stephen H. Case of **Davis Polk & Wardwell** in New York City is the mediator in the case. He is assisted by associate **Lawrence Burian**. Other bankruptcy clients include the debtor in

Columbia Gas and the debtor in Combined Properties.

Sitrick and Co. in Los Angeles provides public relations counsel to Barney's. Managing Director **Sandra Sternberg** handles the case. Other clients include the debtors in Clothestime, the Los Angeles Kings, and House of Fabrics.

Official Committee of

Unsecured Creditors

Members of the committee are **Chase Manhattan Bank** (Chair), **Teachers Insurance & Annuity Association, Amalgamated Insurance Fund, Protective Life Insurance Co., Isetan of America, Inc., BNY Financial Corp., The Donna Karan Co., Marzotto (USA) Corp., Banco di Sicilia, Foothill Capital Corp.,** and **Cargill Financial Services Corp.**

Counsel to the committee is **Stroock & Stroock & Lavan** in New York City. Partners **Lawrence Handelsman** and **Robert Raskin** handle the case along with associate **Denise Wildes**. Other bankruptcy clients include the debtor in Columbia Gas and the creditors' committee in Metallurg, Inc.

Deloitte & Touche LLP in New York City is the accountant for the committee. Partner **Holly Felder Etlin** leads the firm's efforts in the case.

Counsel to Saks

Gibson, Dunn & Crutcher in New York City is counsel to Saks. Partners **James Ricciardi** and **Charles Marquis** and associate **Janet Weiss** are in charge of the case. Previous bankruptcy clients include the creditors' committee in UDC Homes and the debtor in Forgotten Woman.

Counsel to Isetan

Isetan of America, Inc. is represented by **Hughes Hubbard & Reed** of New York City. Partner **Yasuo Okamoto** heads the case for the firm along with partners **David LeMay, David W. Wiltenburg,** and **Howard Kaufman.**

The Trustee

Mary Elizabeth Tom is Acting U.S. Trustee in the office of the U.S. Trustee.

The Judge

The judge is **The Honorable James L. Garrity, Jr.**

Tracking

Hayes Microcomputer

Hayes Microcomputer Products, Inc. appointed Marshall Tolansky to the position of Vice President of Marketing. Former Vice President of Marketing of modem manufacturer U.S. Robotics, Tolansky developed key strategies that resulted in the explosive growth of that company. He has most recently been the Chief Executive Officer of Core Strategies, the high technology growth marketing consulting firm. Joseph Formichelli, President and Chief Executive Officer of Hayes said, "Our ability to attract experienced, talented people is critical to our continued turnaround. Marshall's track record in designing growth-oriented programs was an important factor in selecting him to lead our marketing efforts."

Clothestime

The Clothestime Inc. announced results for the second quarter ended July 27, 1996. Sales for the quarter were \$59.5 million compared with \$89.3 million last year. A significant portion of the sales reduction was due to a reduction of 190 stores. The loss for the second quarter this year includes reorganization costs of \$4.3 million. The loss per share was 30 cents this year vs. a loss of 3 cents per share for the same quarter last year. Clothestime currently operates 364 women's apparel stores located in 17 states and Puerto Rico.

Jay Jacobs

Jay Jacobs Inc. reported results for its second quarter ended July 27, 1996. Sales for the second quarter were \$16,472,000 compared to \$18,799,000 for the same quarter last year. Total sales declined by 12 percent as a result of a 15 percent decline in the number of stores during the second quarter. The company's same store sales increased 1 percent during the second quarter. A loss of \$653,000 or 11 cents per share was reported compared to a loss of \$589,000 or 10 cents per share for the second quarter of last year.

During the first six months ended July 27, 1996, comparable store sales decreased by 3 percent. As a result of the decline in sales, primarily related to the first quarter, the company's liquidity is under pressure. The company is experiencing a problem funding ongoing operations and plans for expansion have been put on hold. The company is currently seeking additional sources of

capital to strengthen its working capital position.

Caldor

Second quarter results for The Caldor Corporation show that same store sales declined 7.5 percent for the quarter, and net sales declined 7.2 percent. The net loss for the first half of 1996 was \$71.7 million. In the comparable period in 1995 the net loss was \$11.1 million. Don Clarke, chairman and chief executive officer of Caldor stated, "The company, as planned, continues to have significant credit availability, currently aggregating approximately \$242 million under our DIP bank facility. We made several changes during the quarter designed to improve the Company's future performance, including changing our marketing strategy." The company opened its sixth new store for 1996 in Silver Spring, Maryland and plans to open a seventh store in Brooklyn, New York later in the year.

Bradlees

Mark A. Cohen, Bradlees' Chairman and Chief Executive Officer said, "First half results were disappointing. However, we are encouraged by the increase in our August comparable store sales and, particularly, by the success of our August Home Sale and Back-To-School campaign." August comparable store sales were up 12.2%, over August, 1995, making August the fourth consecutive month of improving comparable store sales trends. Year-to-date comparable store sales declined 11 percent. But Cohen maintains that they are "intent on transforming Bradlees into a more fashion, quality and service oriented retailer than any of our competitors." As a consequence of closing 26 stores this year, the company has reduced the size of its DIP financing facility to \$200 million. The company's exclusivity period has been extended to February 1, 1997, allowing one more holiday season for Bradlees to pull out of its slump.

Phar-Mor

ShopKo Stores Inc., out of Green Bay Wisconsin, and drug store chain Phar-Mor Inc. announced they will combine in a merger that values Phar-Mor at about \$100 million. The deal will result in a new company called Cabot Noble Inc. Phar-Mor chairman and chief executive

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Calendar

12th Annual Farm, Ranch and Agri-Business Bankruptcy Institute
October 24-25, 1996
Holiday Inn
Lubbock Plaza, Lubbock, Texas
Contact: Max Tarbox (806) 797-7781

Turnaround Management Association Annual Conference
November 8-12, 1996
J.W. Marriott, Washington, D.C.
Contact: Joseph Carol
(312) 857-7734 Fax: 312-857-7739

Commercial and Bankruptcy Law in the Next Millenium
Mid-South Commercial Law Institute
November 14-15, 1996
Hermitage Hotel, Nashville, Tennessee
Contact: Robert K. Rasmussen
Vanderbilt Law School
(615) 322-2810

Fundamentals of Bankruptcy Law Annual ALI-ABA Course of Study
November 14-16, 1996
Washington Court Hotel
Washington, D.C.
Contact: Alexander Hart, ALI-ABA
(215) 243-1630 or (800) CLE-NEWS

ABI Winter Leadership Conference
December 5-7, 1996
Westin Mission Hills Resort
Rancho Mirage, California
Contact: Kristi Mumford
(703) 739-0800

3rd Annual Conference on Distressed Debt
December 9-10, 1996
The Helmsley Park Lane Hotel, N.Y.
Contact: The Strategic Research Institute
David Henderson (212) 247-2653

INSOL '97 - 5th World Congress
March 23-26, 1997
New Orleans, Louisiana
Contact: Richard A. Gitlin, Chmn.
Hebb & Gitlin
One State Street, Hartford, Conn. 06103
(203) 240-2720 Fax: (203) 278-8968

Special Report

Profile: House of Fabrics, Inc.

by Nancy L. Wolfe

U.S. Bankruptcy Court for the Central District of California

Judge: The Honorable Kathleen Lax

Case No. 94-50065KL

Counsel to the Debtor:

Michael A. Morris

Stutman, Treister & Glatt, P.C.

Filed: November 3, 1994

Emerged from Chapter 11: July 10, 1996

Time in Chapter 11: 2 years, 8 months

Counsel to the Creditors' Committee:

Lawrence A. Diamant

Robinson, Diamant, Brill & Klausner, P.C.

Background

The House of Fabrics is a retail fabric, notion and sewing machine chain, selling, at its peak, through 556 stores in 40 states. The California-based company was incorporated in Delaware in 1946. Over the years, changes in consumer preferences away from sewing and towards home decorating and crafts negatively affected the stores' sales. In addition, the weak economic conditions in Southern California and in retail in general added to the company's burdens and, despite a restructuring effort, it filed for bankruptcy protection under Chapter 11 in November 1994. House of Fabrics also closed 64 unprofitable stores and liquidated its inventory. For the third quarter ended December 21, 1995, the company reported a net loss of \$73.2 million on sales of \$90.6 million compared with a net loss of \$25 million on sales of \$141.8 million for the same period in 1994.

Bankruptcy

In March 1995, the Bankruptcy Court approved \$20 million in debtor-in-possession financing from the debtor's bank group, which was headed by the Bank of America, and the company agreed to prepare its reorganization plan by July 1996. During the Chapter 11 process, the unsecured creditors' committee requested that the Court disband the official equity committee, or at least put a cap on compensation to the equity committee's professionals, on the grounds that the cost of the equity committee outweighed its value. The Court denied the request, and also allowed members of the equity committee to trade in the company's securities if procedures were instituted to prevent insider trading. Three new Board members entered the picture during the Chapter 11 period, forming part of a core of independent members who would dominate the Board after the company's emergence from Chapter 11.

House of Fabrics saw improvements in its sales during 1995, as well as a decrease in its losses. The company reported a 12.4 percent increase in sales and credited it to modifications in its merchandising and store operation procedures. Gross profits as a percentage of sales also increased.

The most difficult issues in this case, says House of Fabrics attorney Michael Morris of Stutman, Treister & Glatt in Los Angeles, were business issues. "For a good part of the time, the lenders and the company had differing views on what constituted a reasonable business plan," he says, "and it took a long time to resolve those differences." He credits Judge Kathleen Lax for her accommodating approach in the case, allowing the parties to work out their difficulties on their own and holding hearings when necessary. Although there were many disagreements among the parties, Morris adds, there was surprisingly little litigation. The attorney for the creditors' committee, Lawrence Diamant of Robinson, Diamant, Brill & Klausner, in Los Angeles, agrees, saying that credit goes to all of the attorneys as well as to the judge.

The Plan

The disagreements were basically resolved when House of Fabrics received financing from CIT Group in May 1996 for a \$60 million revolving line of credit as part of its reorganization plan. The financing would cover an initial period of three years and was supported by the major parties, including the company's bank group, led by Bank of America. The financing was viewed by company officials as the boost it needed to provide the liquidity and operating options necessary to rebuild and revitalize its business. The company had raised additional cash earlier in the year by closing 86 more stores and a distribution center and liquidating the merchandise.

House of Fabrics officials credited their success in emerging from bankruptcy to changes that they had initiated, including new point-of-sale systems in the stores, a new management information system, and improved manager communication with the head office. House of Fabrics officials note that the company has closed over 200 under-performing stores, reduced debt levels, disposed of real estate assets, and reduced administrative expenses.

On July 10, 1996 the Bankruptcy Court confirmed the debtor's reorganization plan. The final plan called for unsecured creditors to receive 93 percent ownership in the new company and for equity holders to receive 2 percent of the stock with warrants to purchase up to an additional 15 percent of the common shares. After being delisted by the NYSE, the company changed the number of shares to be issued under its plan from 13.7 million to 5.1 million in order to increase the price per share and to make House of Fabric stock eligible for listing on NASDAQ. The company recently reported a reduction in its net loss for the second quarter of 1996, from \$11 million in the same period in 1995 to \$5 million for this year.

Worth Reading

Venture Capital and Junk Bond Financing

Author: Frederick D. Lipman

Publisher: American Law Institute-American Bar Association
Committee on Continuing Professional Education

Price: Regular Text: \$85 plus postage & handling
Teacher's Manual: \$20 plus postage & handling
(Special combination offers available)

Format: Paperbound
Regular Text - 797 pages
Teacher's Manual - 62 pages

Contact for Purchase: ALI-ABA 4025 Chestnut Street, Philadelphia, PA 19104-3099
Telephone: (800) CLE-NEWS or Fax: (215) 243-1664

By Debra J. Brennan

This textbook is marketed as the first clinical education text on venture capital and junk bond financing. In fact it is one of the few books to examine these topics, and as one of the first of its kind, it is a very important tool for an attorney whose transactional experience is limited. The book is intended primarily for lawyers who do not have extensive experience in corporate finance. It is designed to bridge the gap between traditional academic law school courses and a corporate lawyer's actual practice.

Frederick D. Lipman, a partner in the firm of Blank, Rome, Comisky & McCauley in Philadelphia, has specialized in corporate finance and securities law for over 35 years. He is a well known expert on initial public offerings and a teacher of corporate finance at the University of Pennsylvania Law School. He has designed this book to provide clinical education materials for law students.

Background information is presented on how to estimate the value of various businesses, how financial markets work, and how securities law, accounting, and corporate law directly relate to a venture capital investment or a junk bond financing. Documents from actual transactions are presented for the two financing methods, equity financing (venture capital transaction) and debt financing (junk bond transaction).

The first draft of a proposed \$1 million venture capital financing of "ABC, Inc.," an early-stage computer software company, involving the sale of convertible preferred stock is used as an example, and the executed copies of an actually completed \$100 million "junk bond" financing for Braniff Airlines is the sample case involving the sale of senior reset notes and warrants. These transactions both exemplify high-risk financing. The two transactions can be compared and contrasted. It is explained *what* one must do to prepare the necessary materials and *how* to approach the process. The documents are footnoted with questions raising issues about defects in the documents from the viewpoints of both the company and the venture capitalist.

The separate teaching manual lays out a 13-session course of study, which provides a good deal of material to be covered in each class. There are answers to the questions raised in the footnotes of the main text and a sample test is provided together with a take-home test and the two best answers to the test by actual students.

While no book can turn an attorney or law student into an expert, or even a competent courtroom attorney, this book does provide a reality of circumstance which enables students to use specific knowledge. This is a sound background to the actual experience, and for either an instructor or an attorney interested in learning the material individually, the teaching manual can be an aid. A suggested reading list is included in the teaching manual on "private placements," "venture capital," and "accounting."

Tracking, from page 4

Robert Haft said, "This friendly merger brings together two companies with complementary strengths and a single merchandising philosophy." Haft will retain his current positions in the newly formed company. Both ShopKo and Phar-Mor will continue to function as separate operating subsidiaries of Cabot Noble. Each share of ShopKo stock will be exchanged for 2.4 shares of Cabot Noble. Phar-Mor shareholders will get one share of Cabot Noble for each share they own. After the stock swap is completed, Supervalu Inc., which owns 46 percent of ShopKo has agreed to sell the Cabot Noble shares it receives back to Cabot Noble for about \$248.4 million. The two companies believe that the merger will bring possible savings of \$15 million to \$20 million a year, and they hope for combined annual sales of \$3.2 billion. There will be 232 stores in 29 states, and the two companies overlap in only one market, so the combination will create minimal store redundancy.

Bennett Funding

Richard Breeden, trustee of the Bennett Funding Group bankruptcy, painted a gloomy picture when he stated that thousands of creditors may recover as little as 4 cents on the dollar. Breeden said nine Bennett companies in bankruptcy court owe \$674 million to individual investors. They owe another \$215 million to banks and other financial institutions, and about \$100 million to other creditors. Breeden says Bennett Funding's assets total \$309 million, while according to court documents the bankrupt entities said they had about \$925 million before filing for bankruptcy protection. Federal investigators say millions in fraudulent securities were sold to raise money to finance office equipment leases. Many individual investors lost their life savings on Bennett investments.

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<http://bankrupt.com>
or subscribe to the T & W newswire by sending a subscription message to:
listserv@bankrupt.com
Both services are free.

Special Report

Bankruptcy Professionals in Major Canadian Accounting Firms

Firm (Number of Bankruptcy Professionals)*	Representative Senior Professionals		
Arthur Andersen 79 Wellington St. West Toronto Dominion Centre Toronto, ON M5K 1B9 (8 bankruptcy professionals in 5 offices)	Toronto (416) 515-2424 John Curran Brian Deazeley Cameron McCaw Melvin Zwaig	Montreal (514) 848-1641 Marcel Roy	Vancouver (604) 688-8111 James Stuart
Coopers & Lybrand 145 King St. West Toronto, ON M5H 1V8 (29 bankruptcy professionals in 14 offices)	Toronto (416) 869-1130 Alan Driver Gary Hassard Tony Cancelliere Christie Clark Hazel Claxton Anthony Gibbons	Montreal (514) 876-1500 Andre Giroux Sebastian Ianitello	Vancouver (604) 661-5700 David Bowra Craig Bushell Darryl Eddy Gary Powroznik
Deloitte & Touche 181 Bay St., BCE Place Bay Wellington Tower Toronto, ON M5J 2V1 (32 bankruptcy professionals in 14 offices)	Toronto (416) 601-6150 David Murray Bruce Bando Bob Bougie Greg MacLeod Harlan Schonfeld Wes Treleven	Montreal (514) 393-7115 Serge Dubois Gaetan Laflamme Michael Pelland	Vancouver (604) 669-4466 George Abakhan Bill Bakk John Bottom David Connop Colin Topley
Ernst & Young Ernst & Young Tower Toronto Dominion Centre Toronto, ON M5K 1J7 (25 bankruptcy professionals in 12 offices)	Toronto (416) 864-1234 Harold Stephen Roy Baldwin Stuart Clinton Roy Drost Murray McDonald David Richardson	Montreal (514) 875-6060 Chuck Bissegger Richard Messier Sylvain Vincent Stanley Wener	Vancouver (604) 683-7133 Larry Prentice
KPMG Peat Marwick Commerce Court West Toronto, ON M5L 1B2 (39 bankruptcy professionals in 23 offices)	Toronto (416) 777-8500 Gary Colter Robert Sanderson Joseph Tucker Nicholas Brearton Michael Creber Robert Cumming	Montreal (514) 840-2100 Gilles Campeau Ronald Boisvert Francois Gouin	Vancouver (604) 691-3000 Garry Young Todd Martin A. Colin Rogers Robert Rusko
Price Waterhouse Box 190, Suite 3300 1 First Canadian Place Toronto, ON M5X 1H7 (57 bankruptcy professionals in 17 offices)	Toronto (416) 863-1133 Norm McPhedran Steven Goldberg Glen Harloff John Nyholt Zareer Pavri Bernie Wilson	Montreal (514) 938-5600 John Campbell Luc Chabot Jacinthe Charbonneau Russell Goodman Bernard Lebrecque Guy LeBlanc	Vancouver (604) 682-4711 Roger Burgon Eleanor Joy Martin Roberts

*Number represents senior professionals spending more than 50 percent of their time on bankruptcy-related matters.

Gnome de Plume Some Guys Have all the Luck

By Christopher Beard

Being lucky is best. Sometimes the fortunate catch a wave. And sometimes they make out when a rising tide lifts all boats. Either way, being lucky is best.

There's good luck and then there's Abbey Butler's and Mel Estrin's luck. Each owns approximately 25 percent of FoxMeyer Health, a New York Stock Exchange company that is the parent of FoxMeyer Drug. FoxMeyer Drug is the fourth largest drug wholesaler in the United States, a \$5 billion business, which filed Chapter 11 on August 27, 1996.

On June 19, 1996, FoxMeyer Drug pledged all its assets to GECC for a \$475 million line of credit. It used \$198 million to retire a parent's Unsecured Senior Notes. Lucky unnamed noteholders. It also paid a dividend to FoxMeyer Health of \$104 million in assets including a forgiveness of a \$30 million loan and a ton of Phar-Mor stock. Lucky Butler. Lucky Estrin. We are assured that the June 19 deal had nothing to do with the Chapter 11 filing. The problem was "actions of certain suppliers in restricting credit availability." Unlucky suppliers. They were left holding the bag.

GECC is the DIP lender. The \$475 million DIP loan was used to pay GECC the \$351 million outstanding on its June loan and an undisclosed portion was for some administrative expenses. The balance, probably not a princely sum, was for working capital. Under the credit line, the inventory borrowing base is 70 percent of qualified inventory. Real tight for a company with no cash and computer problems.

There was another sign of trouble. A deal to sell FoxMeyer Drug to an investor group headed by William F. Taggart fell through when the buyers couldn't get financing. Lucky Taggart.

But all that didn't deter the vultures. The trade claim buyers were paying in the high 40s for FoxMeyer, the biggest recent distressed investment opportunity. Most vultures were having a lot of difficulty completing their liquidation analysis because not much information was available on the subsidiary. My analysis didn't require any numbers. A company that upstreams over \$100 million in assets from a subsidiary that files 71 days later probably didn't leave much behind. Figure cash is zero. Figure net worth is zero. That's if you're lucky.

If there's no equity base, FoxMeyer's survival depends upon the support of the pharmaceutical companies. And FoxMeyer needs them all. Can you be the primary supplier for a drug store or hospital and tell them you don't have Band-Aids? The claim buyers were taking out the firms whose support FoxMeyer needed to make the business work.

With that background, I called a creditor to see how things were going. I asked if they were shipping. Yep. COD. Bad sign. But FoxMeyer failed to wire the money. Worse sign. Is GECC going to increase availability? Is the parent going to step up? Not likely. Not now.

Thinking I had everything, I started to exit by asking what he thought would happen? He wasn't sure whether FoxMeyer was the first casualty in a predicted market shakeout, but he didn't really care. Of course, the more distributors the better. But their product was getting to market anyway through the other distributors who picked up all the slack. Forget about the manufacturers making a stretch for FoxMeyer.

I didn't bother to call a second creditor.

Withing two weeks after filing, the price of FoxMeyer claims collapsed. Some guys have no luck at all.

Christopher Beard is the publisher of Turnarounds & Workouts

Future Issues:

- *Profile: Merry-Go-Round*
- *Workout Professionals at the Nation's Major Thrifts*
- *Who's Who in Discovery Zone*

Recent Filings

Packaging Research Corp. filed for Chapter 11 protection in the District of Colorado on August 23, 1996. The company bottles and distributes pasta sauces. Accounting services are provided to the debtor by **Arthur Andersen & Co.** Attorney for the debtor is **Matthew D. Skeen of Skeen & Skeen**, Denver, Colorado.

Allison Tracy, Inc. filed for Chapter 11 protection on August 28, 1996 in the Southern District of New York. The company sells women's and junior's slacks, skirts and blouses. Accounting services are provided to the debtor by **Weinick Sanders & Co.** Attorneys to the debtor are **Lazarus & Lazarus**, New York. The company is privately held.

Consumers Distributing, Inc. filed for protection from creditors under the Companies' Creditors Arrangement Act (CCAA) in Canada. The company is a discount retailer that operates catalog showrooms across Canada. Accounting services are provided by **Coopers & Lybrand**.

Piedmont Mining Co., Inc. filed for Chapter 11 protection on September 9, 1996. The company is engaged in exploration for gold and other precious metals and evaluation of gold properties. Accounting services are provided to the debtor by **Price Waterhouse LLP.** Attorney to the debtor is **Joseph B. Chutz** of Charlotte, North Carolina.

Anchor Glass Container Corp. filed for Chapter 11 bankruptcy protection on September 13, 1996 in the District of Delaware. The company manufactures and sells glass containers. Accounting services are provided by **Deloitte & Touche**.

NeoStar Retail Group, Inc. filed for Chapter 11 bankruptcy protection on September 16, 1996 in the Northern District of Texas. The company is a retailer of computer software. Accounting services are provided by **Ernst & Young**.