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In This Issue:

No Negotiating Fee in Bon-Ton

by Julie Schaeffer

Bankrupt retailer Bon-Ton Stores is liquidating after a judge rejected a potential bidder's demand for $500,000 to keep negotiating.

Pennsylvania-based Bon-Ton, founded in 1854, is one of the country's largest department store chains. It operates 256 stores in 23 states under the Bon-Ton, Bergner's, Boston Store, Carson's, Elder-Beerman, Herberger's, and Younkers brands.

Continue on page 2 →

KSS/Takata—A Cross-Border Success

by Julie Schaeffer

Key Safety Systems (KSS) has completed a $1.6 billion acquisition of bankrupt Takata Corporation in an innovative cross-border transaction.

"This was the largest product liability recall in our nation's history, and the deal, by protecting supply, stabilized the automotive sector," says Ron Meisler, a partner at Skadden, Arps, Slate, Meagher & Flom LLP, which served as legal counsel to KSS.

Continue on page 6 →

WeChat, WeNotice

by Christopher Patalinghug

The United States Bankruptcy Court for the Eastern District of Virginia has authorized the use of a social media app to notify certain foreign creditors in the Chapter 11 reorganization cases of GreenTech Automotive, Inc., and its five debtor-affiliates.

The Sterling, Virginia-based company, which developed electric cars, asked the Bankruptcy Court to limit the number of recipients of future

Continue on page 10 →

Bon-Ton, *from page 1*

The company filed for Chapter 11 bankruptcy protection in February, placing the blame for its troubles on e-commerce. "Bon-Ton, with a significant geographic operating footprint and operating presence, is dependent on store traffic, which has decreased as customers shift increasingly toward online retailers," the company, which hadn't been profitable since 2010, said in its filing.

The company contacted 28 potential investors in an effort to obtain a going-concern offer that would save at least part of its business and some of its jobs. But the only offer it received was from a consortium that includes commercial landlord Namdar Realty Group and real estate investment trust Washington Prime Group (for whom Bon-Ton is a significant tenant) as well as investment firm DW Partners. That consortium had offered to inject $128 million into the retailer and keep it operating, but requested a $500,000 fee to cover its expenses as it considered making a potential offer.

According to Bon-Ton's lead bankruptcy attorney, Kelley Cornish of Paul, Weiss, Rifkind, Wharton & Garrison, the fee request was unusual, but the company's circumstances justified an exception. They portrayed that $500,000 fee as a requirement for the consortium to move forward with a formal bid.

The company filed for Chapter 11 bankruptcy protection in February, placing the blame for its troubles on e-commerce. "Bon-Ton, with a significant geographic operating footprint and operating presence, is dependent on store traffic, which has decreased as customers shift increasingly toward online retailers," the company, which hadn't been profitable since 2010, said in its filing.

Paul Huygens, a founding principal of Province Inc., says paying a negotiating fee is "a tough call" that depends on who wants the fee and the circumstances. If the buyer is credible, with a track record in the space, and if the case dynamics are such that the buyer thinks it might have the rug pulled out from under it after doing the diligence, then he thinks a fee is appropriate. "We've had cases where those payments were made," he says. "Oftentimes secured lenders act supportive of a sales process, but they're really not, and have no intention of allowing bids less than their debt to go through, so as a potential buyer, why would you spend the time and money if you suspect you can't clear the secured debt?"

For their part, senior lenders, including Brigade Capital Management and Contrarian Capital Management, opposed the fee, in part because they didn't believe the consortium was serious enough about this opportunity to fund the cost of the due diligence on their own.

Ken Rosen, a partner at Lowenstein Sandler LLP, agrees. "The fact that the potential suitor was unwilling to go out of pocket even a minimal amount of money to pursue a transaction tells me that there was a lack of commitment or seriousness about the deal and, instead, should be deemed to be just a desire to explore and poke around if it can be done on someone else's nickel," he says.

Bob-Ton postponed a scheduled auction twice in the hopes that the consortium would make a binding offer, but when they failed to do

Bon-Ton, *from page 2*

so, U.S. Bankruptcy Judge Mary Walrath of the District of Delaware ruled that a liquidation—which would involve shutting down stores and firing 23,000 full- and part-time employees—must go on. According to Walrath, bankrupt companies are only allowed to pay fees such as the one the consortium proposed after a binding offer that complies with all court-approved auction rules.

Ultimately, an auction was held, and the top bid in the two-day auction was $775.5 million from liquidators Great American Group and Tiger Capital Group and a group of Bon-Ton's debt holders.

Ultimately, an auction was held, and the top bid in the two-day auction was $775.5 million from liquidators Great American Group and Tiger Capital Group and a group of Bon-Ton's debt holders.

The fee was the most notable aspect of the case, but it also illustrates (again) the struggles of the retail sector, whose defaults hit a record high during the first three months of 2018, according to Moody's.

"The Bankruptcy Code limits the time period within which store leases must be assumed or rejected," says Rosen. "As a consequence, there is much less time for a debtor to downsize and to see how things go in a couple of seasons before having to liquidate. Retailers today either prove themselves very quickly or else liquidate very quickly in Chapter 11."

Some believe that with the right plan, Bon-Ton would have been purchased instead of liquidated. "Bon-Ton is another example, like Sports Authority, of a Chapter 11 retail company doomed to fail from the outset when the fulcrum secured lender decides the company is worth more to them in a quick liquidation and publicizes that to the world, instead of giving the company support for a short period of time in Chapter 11 to find a buyer," says David Wander, an attorney at Davidoff Hutcher & Citron, which represents two Bon-Ton vendors.

Rosen isn't sure. "If someone had bid on just the profitable locations or clumps of stores in the more profitable markets, maybe something might have been preserved," he says. "But, the bidder would have had to be another department store retailer with a more efficient and effective infrastructure and management team already in place. In other words, there was too much broken with Bon-Ton for it to be attractive as a standalone entity for a financial buyer. The other problem was that, although Bon Ton is a well-known name, it was not so iconic. It wasn't a store that consumers would say, 'I'm not going to Macy's, Penney's, Sear's, Kohl's or Target. I really love the service and selection at Bon-Ton.'"

The fee was the most notable aspect of the case, but it also illustrates (again) the struggles of the retail sector, whose defaults hit a record high during the first three months of 2018, according to Moody's.

Attorneys at Paul, Weiss, Rifkind, Wharton & Garrison, which represented Bon-Ton, DLA Piper, which represented the consortium, which represented senior lenders Brigade Capital Management and Contrarian Capital Management, did not respond to a request for comment. ¤

Research Report

Who's Who in Cenveo, Inc.'s Bankruptcy Cases

by Carlo Fernandez

Headquartered in Stamford, Connecticut, Cenveo, Inc. (OTCMKTS: CVOVQ) is a global provider of print and related resources. It traces its roots back almost 100 years, to 1919, as the first consumer envelope manufacturer in Denver, Colorado.

At present, Cenveo is the largest envelope manufacturer and one of the largest labels manufacturers in North America. Its print, envelope, and label business segments employ nearly 5,200 individuals in the United States and maintain over 40 locations in the United States, as well as a number of locations in India and the United Kingdom.

For the fiscal year ending Dec. 30, 2017, Cenveo generated gross revenues of $1.59 billion.

After reaching an agreement with holders of a majority of its first lien debt to support a Chapter 11 plan of reorganization, Cenveo and its domestic subsidiaries filed voluntary petitions for reorganization under Chapter 11 of the U.S. Bankruptcy Code in White Plains, New York (Bankr. S.D.N.Y. Lead Case No. 18-22178) on Feb. 2, 2018.

The Chapter 11 filing does not include foreign entities, such as those located in India.

As of Dec. 31, 2017, Cenveo disclosed total assets of $789.5 million and total debt of $1.426 billion. As of the Petition Date, the company had funded indebtedness of $1 billion:

- *$125.6 million outstanding under an ABL Revolving Credit Facility with Bank of America, N.A. as administrative agent (the "ABL Agent");*
- *$50 million aggregate principal amount of 4% Senior Secured Notes due 2021 (the "FILO Notes") issued to AllianzGI US High Yield Fund and Allianz Income and Growth Fund;*
- *$540 million aggregate principal amount of 6% Senior Priority Secured Notes due 2019 (the "First Lien Notes");*
- *$250 million aggregate principal amount of 8.5% Junior Priority Secured Notes due 2022 (the "Second Lien Notes"); and*
- *$104 million aggregate principal amount of 6% Senior Unsecured Notes due 2024 (the "Unsecured Notes").*

Robert G. Burton, Sr., Cenveo's Chairman and CEO, said the proposed reorganization plan, filed April 3, 2018, will reduce the company's leverage by $700 million, and allows the company to quickly emerge from chapter 11 with a stronger balance sheet.

To fund its chapter 11 cases, Cenveo arranged a $190 million ABL DIP facility provided by the Prepetition ABL Lenders and a new $100 million DIP term facility backstopped by more than a majority of the holders of First Lien Notes.

Upon the motion of Brigade Capital Management, LP, Judge Robert D. Drain directed the U.S. Trustee to appoint an examiner in the chapter 11 cases of Cenveo and its debtor-affiliates. The examiner is authorized to review and to report on Cenveo's and the committee's ongoing and respective investigations and analysis of any monetary compensation received by, and transactions involving, members of the Burton family or other insiders from Cenveo.

Debtors

Kirkland & Ellis LLP is the debtors' legal counsel. **Jonathan S. Henes**, the president of Jonathan S. Henes, P.C., and a partner at Kirkland, is the lead attorney working on the chapter 11 cases. Restructuring group partner **Joshua A. Sussberg**, associate **George Klidonas**, and associate **Natasha Hwangpo** are also onboard as attorneys.

Zolfo Cooper, LLC, is the debtors' bankruptcy consultant and special financial advisor. **Eric Koza** is the managing director of Zolfo Cooper responsible for the engagement.

Rothschild Inc. is the debtors' financial advisor and investment banker. **Stephen Antinelli**, the managing director and Co-Head of Restructuring for North America at Rothschild, leads the engagement.

Neil Augustine co-led the Rothschild team in performing the engagement. After Augustine moved to **Greenhill & Co., LLC**, the debtors engaged effective April 1, 2018, Greenhill & Co, as co-financial advisor and co-investment banker. The engagement is headed by Augustine, who serves as vice chairman and co-head of North American Financing Advisory at Greenhill.

VanRock Real Estate Consulting, LLC, is the debtors' real estate consultant. **Robert DePiero** is a founding principal of VanRock.

BKD, LLP, is providing audit advisory services to the debtors, with the engagement team led by **Keith Galante**, partner.

BDO USA, LLP, is the debtors' auditor and accountant. **Anthony Castellano**, a partner of BDO, has primary responsibility for providing services to Cenveo.

Ernst & Young LLP is the debtors' tax advisor. **Howard Tucker**, a partner at the firm, leads the EY team in providing services related to the bankruptcy. **Andrew Prevelige**, also a partner, leads the EY team in providing the services related to tax provision.

Prime Clerk LLC is the notice,

Research Report

Who's Who in Cenveo, Inc.'s Bankruptcy Cases

Continued from page 4

claims and balloting agent, and administrative advisor.

Lenders

Stroock & Stroock & Lavan LLP is counsel to the Ad Hoc Group of First Lien Noteholders. The engagement is led by partners **Brett Lawrence** and **Erez E. Gilad**, and associates **Matthew G. Garofalo** and **Gabriel E. Sasson**.

Ducera Partners LLC is the financial advisor to the Ad Hoc Group of First Lien Noteholders.

As of March 1, 2018, members of the Ad Hoc Group of First Lien Noteholders are **683 Capital Partners, LP, BulwarkBay Investment Group LLC, Carl Marks Management Company, CRG Financial, LLC, Graham Capital Management, L.P., HMS Equity Holding, LLC, J.H. Lane Partners, LP, Main Street Capital Corporation, Mudrick Capital Management, L.P., Nut Tree Capital Management LP, Phoenix Investment Adviser LLC, Scott's Cove Management LLC, Sound Point Capital Management, L.P., Taconic Capital Advisors L.P., Whitebox Advisors LLC, Wilfrid Aubrey LLC,** and **Wolverine Asset Management, LLC**. As of March 1, 2018, members of the Ad Hoc Group hold 62.3% of the $540 million total principal amount of First Lien Notes, 2.86% of the total principal amount of Second Lien Notes, and 100% of the $50 million DIP term loans outstanding.

Akin Gump Strauss Hauer & Feld LLP is counsel to **Brigade Capital Management, LP**, with partners **Michael S. Stamer**, **David M. Zensky**, **Stephanie Lindemuth**, and **James R. Savin**, and counsel **Kevin M. Eide** as the primary attorneys assigned to the case. As of the Petition Date, Brigade held more than 66.1% of the Second Lien Notes and 16.4% of the First Lien Notes.

Otterbourg P.C., led by member **Daniel F. Fiorillo**, attorney **Andrew M. Kramer**, and attorney **Chad B. Simon**, represents **Bank of America, N.A.**, the ABL Agent.

Pryor Cashman LLP, led by partner **Seth H. Lieberman**, partner **Patrick Sibley**, and associate **Matthew W. Silverman**, represents **Wilmington Savings Fund Society, FSC**, the DIP term agent and successor indenture trustee to the First Lien Notes.

Arent Fox, LLP, led by partner **Andrew I. Silfen**, and associate **Beth M. Brownstein**; and **Frederic Dorwart, Lawyers PLLC**, led by **Samuel S. Ory**, are attorneys to **BOKF, National Association**, the successor trustee to the Second Lien Notes.

Bank of New York Mellon was previously the indenture trustee for the First Lien Notes, Second Lien Notes and Unsecured Notes.

Willkie Farr & Gallagher LLP, led by partner **Joseph G. Minias**, associate **Daniel I. Forman**, and associate **Gabriel Brunswick**, serves as counsel to **AllianzGI US High Yield Fund** and **Allianz Income and Growth Fund**, the holder of 100% of the FILO Notes. **Riker, Danzig, Scherer, Hyland & Perretti LLP**, led by partner **Joseph L. Schwartz**, partner **Curtis M. Plaza**, and counsel **Tara J. Schellhorn**, serves as counsel to the Bank of New York Mellon, indenture trustee for the FILO Notes. Counsel for the FILO Notes Trustee primarily will handle issues customary for indenture trustee work, while counsel for Allianz will primarily handle the substantive issues relevant to the FILO Noteholders..

Creditors' Committee

The U.S. Trustee for Region 2 appointed an official committee of unsecured creditors, comprised of: (1) **Wilmington Trust, National Association**, (2) **Pension Benefit Guaranty Corporation**, (3) **Graphic Communications Conference of the International Brotherhood of Teamsters National Pension Fund**, (4) **United Steelworkers**, (5) **Evergreen Packing, Inc.**, (6) **Gadge USA, Inc.**, and (7) **Citibank, N.A.** Wilmington Trust is the successor trustee for the Unsecured Notes.

Lowenstein Sandler LLP is the committee's bankruptcy counsel. Partners **Kenneth A. Rosen, Mary E. Seymour,** and **Bruce Buechler**, and counsel **Eric S. Chafetz** are the attorneys with primary responsibilities in representing the committee.

FTI Consulting, Inc., is the financial advisor, with the engagement headed by **Samuel E. Star**, senior managing director at FTI.

Examiner

Susheel Kirpalani, a partner and chairperson of **Quinn Emanuel Urquhart & Sullivan, LLP**'s Bankruptcy and Restructuring Group, was appointed as examiner. The examiner tapped his own firm as principal counsel to assist him in connection with his review and report on the investigations being conducted by Cenveo and its Creditors' Committee.

Bankruptcy Judge

The Honorable **Robert D. Drain** is the case judge. ¤

KSS/Takata *from page 1*

"[It] shows that Chapter 11 provides useful tools to craft a successful solution for even the thorniest and most complex situations," says Ronit Berkovich, a partner at Weil, Gotshal & Manges LLP, which served as legal counsel to Takata.

"This was the largest product liability recall in our nation's history, and the deal, by protecting supply, stabilized the automotive sector."

The 85-year-old Japanese automotive supplier Takata developed the country's first driver-side airbag system in the 1980s with Honda. But its phase-stabilized ammonium nitrate (PSAN) airbag inflators, used by most of the world's largest carmakers, had a tendency to explode in humid conditions, sometimes unleashing metal shrapnel. That caused hundreds of injuries and more than 20 deaths, leading to massive recall of and estimated liabilities of more than $12 billion. Unable to cover those liabilities and ancillary costs, as well as lost business from original equipment manufacturers (OEMs), Takata filed for bankruptcy protection.

Meisler, Berkovich, and Steve Daniels agree Takata's bankruptcy required some innovative restructuring. Daniels is a partner at Skadden, Arps, Slate, Meagher & Flom LLP.

Takata's situation involved a combination of difficult circumstances that created a uniquely challenging restructuring, says Berkovich. "Takata was a truly global company with substantial operations in over 20 countries facing criminal liability, ongoing mass tort liability of an unknown amount, public safety and regulatory issues, including the largest automotive recall in U.S. history," she explains. "Obtaining the agreement of all the global Takata entities, more than 15 global OEMs, and the purchaser on all terms of this complicated deal was challenging."

One challenge, says Meisler, was that no buyer was going to risk acquiring Takata, only to step into Takata's shoes and be subject to Takata's liabilities, which, by any measure, exceeded its value. "Each buyer competing required some level of indemnity from the OEMs in order to get comfortable pursuing this transaction. Of course, while the OEMs wanted to protect supply, they also wanted to minimize their risk with respect to such an indemnity."

"To find a buyer of its operations, Takata needed to find a way to ring-fence the buyer from the rupture-related liabilities, while still ensuring ongoing supply to its automotive customers and prioritizing public safety and the completion of the recalls," says Berkovich.

"[It] shows that Chapter 11 provides useful tools to craft a successful solution for even the thorniest and most complex situations."

Another challenge was the sheer scope of the liability. An estimated 360 million airbag inflators were affected, and it was difficult to know where they were. "We couldn't do an insolvency proceeding in every jurisdiction in which there was a potential issue, so we did a lot of analysis to figure out where to do insolvency proceedings, where to do out-of-court asset sales and how to manage the runoff of the liabilities in out-of-court jurisdictions so that they wouldn't wind up being an issue for KSS," says Daniels.

Ultimately, a deal involved working closely with OEMs, which had the most at stake, since vehicle safety regulations didn't make it easy for them to simply swap out the Takata inflators. The OEMs—fierce competitors that are not accustomed to working together—formed a negotiating group. All had different perspectives, and all were interested in managing their own risk.

KSS/Takata *from page 6*

"Working with this group, and their financial advisors and attorneys, to hammer out the terms of the deal was not like anything I'd seen before," says Daniels.

"Substantial credit should be given to the automakers' advisors, who worked tirelessly to complete a global integrated transaction," says Eric R. Goodman, Esq., a partner at Baker Hostetler LLP, which represented AB Volvo and PSA, a French manufacturer of autos sold under the Peugeot and Citroën brands, among others.

The result was what Meisler and Daniels call a "patchwork" of different transactions, including cross-border bankruptcies and recognition proceedings in the United States, Japan, and Canada and out-of-court asset sale transactions in Germany, Mexico, and China.

The KSS acquisition of Takata—which was funded by a consortium that included KSS's Chinese parent company Ningbo Joyson Electronic, private equity firm PAG, and Future Industry Investment Fund—included substantially all of Takata's global assets.

Not part of the deal, Takata's PSAN-related operations will be run by a reorganized Takata and eventually will be wound down. At the same time, the restructuring created a trust, the Takata Airbag Tort Compensation Trust Fund (TATCTF), which compensates individuals who have suffered personal injury or wrongful death caused by PSAN airbag inflators. "Any claimant who was injured as a result of a PSAN inflator manufactured before closing gets channeled into a trust and cannot assert a claim against KSS or any participating OEM," says Meisler.

Ultimately, a deal involved working closely with OEMs, which had the most at stake, since vehicle safety regulations didn't make it easy for them to simply swap out the Takata inflators. The OEMs—fierce competitors that are not accustomed to working together—formed a negotiating group.

Takata's assets have been integrated into KSS and the resulting entity, which forms a global safety-supply auto parts company with approximately 60,000 employees in 23 countries, is now called Joyson Safety Systems.

The consensus-building approach was noted by both Meisler and Berkovich.

"When we were in court for confirmation, we had a largely consensual deal, and all the major stakeholders were resolved," Meisler says. "One thing that speaks volumes is the indemnity agreement with the OEMs. We were able to sign up OEMs comprising 99.8% of the 360 million faulty inflators purchased. So, OEMs accounting for approximately 600,000 of 360 million inflators did not sign up, the vast majority of which related to one OEM."

"Although various creditor groups, including the unsecured creditors committee, the tort creditors committee, and the future claims representative, initially opposed the Chapter 11 plan, Takata and its professionals worked hard to cause all parties to come together on a global settlement, eventually leading to a mostly consensual confirmation hearing at which the plan was approved by the court," says Berkovich.

The global nature of the deal required lawyers from around the world, including teams from Chicago, New York, and Delaware in the United States, as well as Hong Kong, Tokyo, and Hamburg in Germany. In addition to Skadden, KSS was advised by Jefferies LLC (lead financial advisor), KPMG (financial advisor), and UBS Investment Bank (additional financial advice). In addition to Weil, Takata was advised by Nagashima Ohno & Tsunematsu and Freshfields Bruckhaus Deringer (legal counsel), PricewaterhouseCoopers (financial advisor), and Lazard (investment banker). ¤

Research Report

Who's Who in The Weinstein Co.'s Bankruptcy Cases

by Carlo Fernandez

The Weinstein Company is a multimedia production and distribution company launched in 2005 in New York by Bob and Harvey Weinstein, the brothers who founded Miramax Films in 1979. TWC also encompasses Dimension Films, the genre label founded in 1993 by Bob Weinstein.

TWC has produced numerous critically acclaimed and commercially successful films, receiving 23 Academy Awards, including Academy Awards for Best Picture for The Artist and The King's Speech, and 113 Academy Award Nominations.

TWC's assets consist primarily of intellectual property, distribution rights, and cash flows related to its film library, television productions, and portfolio of unreleased films.

TWC dismissed Harvey Weinstein in October 2017, after dozens of women came forward to accuse him of sexual harassment, assault or rape.

The Weinstein Company Holdings LLC and 54 affiliates sought Chapter 11 protection in Delaware (Bankr. D. Del. Lead Case No. 18-10601) on March 19, 2018, with a deal to sell most of its assets to a unit of private equity firm Lantern Asset Management LLC for $310 million, absent higher and better offers.

Prepetition, The Weinstein Co., which has been forced to pursue a sale due to lawsuits over Harvey Weinstein's alleged sexual misconduct, was in serious talks to sell the assets to Mediaco Acquisition, LLC, a consortium of investors that includes Ron Burkle's private equity firm Yucaipa Companies, Lantern Asset Management, former Obama administration official Maria Contreras-Sweet and other investors. The consortium had offered $500 million in an out-of-court transaction but the deal unraveled.

On March 19, 2018, two days before the bankruptcy filing, the debtors and Lantern signed a stalking horse purchase agreement, under which Lantern has agreed to purchase the assets of the debtors under Sec. 363 of the Bankruptcy Code for $310 million, unless binding rival offers are submitted by the end of April 2018.

With major industry players sitting out of the bankruptcy auction, the debtors won court approval to sell the assets to the lone bidder, Lantern. Lantern, run by Andy Mitchell and Milos Brajovic, said it will maintain the company's business intact as a going concern and offer employment to most of the company's employees.

The Weinstein Company Holdings estimated $500 million to $1 billion in assets and $500 million to $1 billion in liabilities as of the bankruptcy filing. The debtors' principal secured and unsecured indebtedness consist of:

- *$156.4 million outstanding under a senior secured revolving credit facility, with Union Bank, N.A., now known as MUFG Union Bank, N.A., as administrative agent and letter of credit issuer (the "Union Bank Senior Credit Facility");*
- *$15.6 million outstanding under a secured term loan credit facility ("UnionBanCal Junior Credit Facility") with UnionBanCal Equities, Inc., as administrative agent;*
- *$18.1 million outstanding under a term loan facility with Bank of America, N.A., as administrative agent ("Bank of America Credit Facility");*
- *$45.5 million outstanding under a secured full recourse promissory note issued to AI International Holdings (BVI) Ltd ("Access Industries Credit Facility");*
- *$42.5 million under revolving credit facility with MUFG Union Bank, as administrative agent ("TWCP Production Credit Facility");*
- *$66.6 million in outstanding secured debt obligations related to individual film and television projects ("Single Film Loans");*
- *$8.30 million outstanding to Viacom Media Networks related to the advancement of expenses for payroll and certain international rights associated with the television series "Scream";*
- *$3.30 million on account of TWC's guarantee of Next Take Production, Inc.'s obligations related to the advancement of expenses for payroll associated with the third season of the television series "Scream"; and*
- *$11.19 million debt to Robert Weinstein under an unsecured demand note dated as of Feb. 5, 2018.*

Debtors

Cravath, Swaine & Moore LLP is the debtors' bankruptcy counsel. The principal attorneys designated to represent the debtors are partner **Paul H. Zumbro**, Corporate Department managing partner **George E. Zobitz**, and partner **Karin A. DeMasi**, in New York.

Richards, Layton & Finger, P.A., is the debtors' local counsel. Bankruptcy & Corporate Restructuring Department chair **Mark D. Collins**, director **Paul N. Heath**, counsel **Zachary I. Shapiro**, associate **Brett M. Haywood**, and associate **David T. Queroli**, in Wilmington, Delaware, are the principal attorneys designated to represent the

Research Report

Who's Who in The Weinstein Co.'s Bankruptcy Cases

Continued from page 8

debtors.

FTI Consulting, Inc., is the restructuring advisor. FTI, through its senior managing directors **Robert Del Genio** and **Luke Schaeffer**, is providing interim management services to the company and its affiliates. Messrs. Del Genio and Schaeffer have been appointed as the debtors' chief restructuring officer and chief strategy officer.

Moelis & Company LLC is the investment banker, with the engagement headed by **Carlos Jimenez**, the firm's managing director.

Epiq Bankruptcy Solutions, LLC, is the claims and noticing agent, and administrative advisor.

Lenders

Sidley Austin LLP, led by partner **Jennifer C. Hagle**, and **Young Conaway Stargatt & Taylor, LLP**, led by vice chairman and partner **Robert S. Brady**, associate **Elizabeth S. Justison**, and partner **Sean M. Beache**, serve as co-counsel to the DIP Agent and Prepetition Agent. **Houlihan Lokey** is the financial advisor. **MUFG Union Bank, N.A.**, formerly known as Union Bank, N.A., is presently the administrative agent for itself and the DIP Lenders.

Burr & Forman LLP, led by partner **J. Cory Falgowski**, and **Irell & Manella LLP**, led by partner **Jeffrey M. Reisner**, and associate **Kerri A. Lyman**, serve as counsel to MUFG Union Bank, as administrative agent under the TWCP Facility, and lender under the Spy Kids facility.

Katten Muchin Rosenman LLP, led by partner **William B. Freeman**, represents **UnionBanCal Equities, Inc.**, as Junior Administrative Agent.

Quinn Emanuel Urguhart & Sullivan, LLP, led by partner **Susheel Kirpalani**, who leads the firm's Bankruptcy and Restructuring Group, and of counsel **Scott Shelley**, in New York, and of counsel **Bennett Murphy** and **Jennifer Nassiri**, in Los Angeles; and **Montgomery McCracken Walker & Rhoads, LLP**, led by partner **Natalie D. Ramsey**, and partner **David Lee Wright**, serve as counsel to **AI International Holdings (BVU) Ltd.**

Luskin, Stern & Eisler LLP, led by **Richard Stern** and **Stephan Hornung**; and **Morris, Nichols, Arsht & Tunnell LLP**, led by **Derek C. Abbott**, **Daniel B. Blutz**, and **Matthew B. Harvey**, serve as counsel to **Viacom International Inc.**

Ashby & Geddes, P.A., led by president and managing partner **William P. Bowden**, and **Paul Hastings LLP**, led by partners **Andrew V. Tenzer**, and **Susan Z. Williams**, represent **Bank of America, N.A.**, and **First Republic Bank.** First Republic is a lender on three secured facilities that financed certain projects.

Creditors' Committee

The Office of the U.S. Trustee for Region 3 on March 28, 2018, appointed five creditors to serve on an official committee of unsecured creditors: (1) **Louisette Geiss**, (2) **Sandeep Rehal**, (3) **Access Digital Cinema Phase 2 Corp. c/o Cinedigm**, (4) **Light Chaser Animation**, and (5) **William Morris Endeavor Entertainment**.

Two members of the Committee are alleged victims of sexual harassment. Louisette Geiss is a plaintiff in the action styled Louisette Geiss v. The Weinstein Company Holdings LLC, et al., Case No. 1:17-cv-09554 (S.D.N.Y.). Sandeep Rehal is a plaintiff in the action styled Sandeep Rehal v. Harvey Weinstein, et al., Index No. 151-738/2018 (N.Y. Sup. Ct.).

Pachulski Stang Ziehl & Jones, LLP, is the legal counsel to the creditors' committee, with the engagement headed by **Bradford J. Sandler**, partner.

Berkeley Research Group, LLC, is the committee's financial advisor. The BRG professionals assigned to the engagement are managing directors **Jay Borow**, **David Judd**, **Kyle Herman**, **Joseph Vizzini**, and **Vernon Calder**, associate director **Matthew Babcock**, director **Joseph Woodmansee**, and **Kevin Cho**. **R. Todd Neilson**, an exclusive independent contractor and managing director of BRG, is also working on the case.

Founders

Bayard P.A., led by directors **Scott D. Cousins** and **Justin R. Alberto**, and associate **Daniel Brogan,** serves as counsel to Harvey Weinstein.

Adam Landis, founding partner of **Landis Rath & Cobb LLP**, and **Adam Harris**, partner at **Schulte Roth & Zabel LLP**, are representing Robert Weinstein in connection with the Chapter 11 cases.

Buyer

Akin Gump Strauss Hauer & Feld LLP, led by partners **Stephen B. Kuhn**, and **Merdith A. Lahei**, is representing Lantern Entertainment LLC, the winning bidder for the debtors' assets.

Pepper Hamilton LLP, led by partners **Davis Stratton** and **David Fournier**, is co-counsel to Lantern.

Bankruptcy Judge

The Honorable **Mary F. Walrath** is the case judge. ¤

WeChat *from page 1*

notices regarding its bankruptcy proceedings and to use the WeChat social media app to notify interested parties located in China. The Company said in court papers there are more than 320 investors that may assert creditor claims under certain circumstances. Many of these parties are located in China. The Company said limiting the Notice List will reduce administrative costs and maximize creditor recovery.

WeChat is a Chinese multi-purpose social media mobile application developed by Tencent Holdings Limited that provides for instant text messaging to subscribers. The app was first released in January 2011. Tencent, which also develops online games and provides Internet value added services in China, disclosed in its 2018 first quarter report released on May 16, 2018, that the number of monthly active user accounts of both Weixin, a local version of the app, and WeChat, a re-branding for the international market, topped one-billion, an increase of 10.9% year-on-year.

The Hon. Brian F. Kenney in Alexandria, Virginia, ruled that, for purposes of future administration of GreenTech's case, giving notice to the Chinese Interested Parties using WeChat is sufficient for compliance with Bankruptcy Rule 2002's noticing requirements. GreenTech will (a) post notices and copies of pleadings on a password-protected file share site established by Crowell & Moring, LLP, its bankruptcy counsel, to which the Chinese Investors will receive access through e-mail invitations and passwords; (b) post notices on WeChat; and (c) send notices to the Chinese Interested Parties' by e-mail.

The Hon. Brian F. Kenney in Alexandria, Virginia, ruled that, for purposes of future administration of GreenTech's case, giving notice to the Chinese Interested Parties using WeChat is sufficient for compliance with Bankruptcy Rule 2002's noticing requirements.

WeChat was used in at least two other chapter 11 cases to market and sell a debtor's assets. Lulu Knowlton, a real estate agent with Keller Williams Santa Monica/Pacific Palisades hired by Liberty Asset Management Corporation (Bankr. C.D. Calif. Case No. 16-13575) and Crystal Waterfalls, LLC (Bankr. C.D. Calif. Case No. 15-27769), disclosed in bankruptcy court filings that she used her WeChat account to market California real estate to prospective Chinese buyers.

GreenTech Automotive and five affiliates sought Chapter 11 bankruptcy protection (Bankr. E.D. Va. Case No. 18-10651) on Feb. 26, 2018. The Company was organized in Mississippi in 2009 for the purpose of developing, producing, marketing and financing energy efficient automobiles. In 2010, GreenTech acquired assets including intellectual property, relating to the "My Car" electric vehicle.

From 2009 until 2013, GreenTech raised about $141.5 million in investments as part of an EB-5 Employment-Based Immigration Preference program that offered immigrant investors the opportunity to qualify for permanent U.S. residency by investing specified amounts in certain U.S. job-creating initiatives in economically challenged localities in the United States. According to GreenTech, prior to making an investment, every potential investor was provided with a solicitation package. The offering materials disclosed that the investments were "at risk" within the new enterprise, as was required under applicable EB-5

WeChat *from page 10*

regulations, and that there was no assurance that the investments would be successful or that the investors would ultimately receive permanent residency in the U.S.

WeChat was used in at least two other chapter 11 cases to market and sell a debtor's assets.

In 2013, the conservative-oriented online news organization Franklin Center for Government and Public Integrity, through its watchdog.org web site, published a series of 76 negative articles containing statements GreenTech says were false and defamatory about the company's relationship to Terrence McAuliffe (who at that time was running for Governor of the Commonwealth of Virginia). "GreenTech pursued defamation claims against the Franklin Center in Mississippi and Virginia courts that were ultimately resolved. However, the adverse publicity occasioned by the watchdog.org articles and extensive follow-on coverage in major media had extremely negative impacts on the governmental, investor and public perception of GreenTech and its business," Norman D. Chirite, internal legal counsel to GreenTech, said in first-day court filings.

The Securities Exchange Commission and the Office of the Inspector General of the Department of Homeland Security also conducted separate investigations, which ultimately impaired the Company's reputation. GreenTech also got embroiled in litigation involving Plastech Holdings Company, which accused the Company of tortious interference with PHC's contractual relationship with a Chinese automotive manufacturer, Anhui Jianghuai Automobile Co., Ltd.

While GreenTech secured the dismissal of the Plastech litigation, and is pursuing civil claims against Plastech and its counsel, Susman Godfrey L.L.P., Chirite said the Company exhausted its financial resources battling Homeland Security's U.S. Citizenship and Immigration Services, Plastech and Susman, and the negative perceptions that arose. "GreenTech was forced to substantially limit operations in Mississippi, even though it had been successful in establishing the business opportunity with the Chinese firm JAC and had in fact commenced limited production of its MyCar vehicle in Mississippi."

GreenTech explored outside financing and possible sale options for the past two years, according to Chirite. Although it had some promising leads, those efforts didn't achieve the desired results. "While the Debtors are cognizant of the costs associated with chapter 11, the Debtors believe that, by using the tools available to them under the Bankruptcy Code, they can effectuate a value-maximizing transaction through a plan of reorganization or sales. The Debtors have been and continue to be focused on developing a restructuring solution that maximizes value for all stakeholders," Chirite said.

GreenTech explored outside financing and possible sale options for the past two years, according to Chirite. Although it had some promising leads, those efforts didn't achieve the desired results.

GreenTech estimated $100 million to $500 million in both assets and liabilities in its bankruptcy petition, and is represented by Mark S. Lichtenstein at Crowell & Moring LLP in New York and Kristen E. Burgers at Hirschler Fleischer PC in Virginia. ¤

Special Report

Major Trade Claim Purchasers

by Psyche A. Castillon

Firm	Location	Contact	Phone & Email
ASM Capital V, L.P. www.asmcapital.com	Woodbury, NY	Adam S. Moskowitz	(516) 422-7100 info@ASMCapital.com
Argo Partners www.argopartners.net	New York, NY	Matthew V. Binstock	(212) 643-5446 info@argopartners.net
Bank Julius Baer & Co. Ltd. www.juliusbaer.com	Zurich, Switzerland	Patrik Roos	(041) 58-887-7336 patrik.roos@juliusbaer.com
Baupost Group Securities, L.L.C. www.baupost.com	Boston, MA	Barbara R. O'Connor	(617) 210-8300 client@baupost.com
Bethmann Bank AG www.bethmannbank.de	Frankfurt, Germany	Anja Sonnleithner	49-69-2177-0
Bradford Capital Holdings, LP www.bradfordcapitalmanagement.com	Clifton, NJ	Brian Brager	(630) 750-6789 bbrager@bradfordcapitalmgmt.com
Cherokee Debt Acquisition, LLC www.cherokeeacq.com	New York, NY	Vladimir Jelisavcic	(212) 259-4300 info@cherokeeacq.com
Contrarian Funds, LLC www.contrariancapital.com	Greenwich, CT	Alisa Mumola	(203) 862-8261 amumola@contrariancapital.com
CRG Financial LLC www.crgfinancial.com	Cresskil, NJ	Allison R. Axenrod	(201) 266-6988 info@crgfinancial.com
Deutsche Bank AG, London Branch www.db.com	New York, NY	Rich Vichaidith	(212) 250-5760 richard.vichaidith@db.com
Dreyfus Sons & Co. Ltd. Banqueris www.dreyfusbank.ch	Basel, Switzerland	Eric Zurbuchen	041-61-286-66-66 eric.zurbuchen@dreyfusbank.ch
Empyrean Investments, LLC www.empyrean.com	Los Angeles, CA	Sterling Hathaway	(310) 843-3070 operations@empyrean.com
Fair Harbor Capital, LLC www.fairharborcapital.com	New York, NY	Fredric Glass	(866) 967-4035 info@fairharborcapital.com
Hain Capital Group, LLC www.haincapital.com	Rutherford, NJ	Atara Magder	(201) 896-6100 info@haincapital.com
Illiquidx Limited www.illiquidx.com	London, UK	Galina Alabatchka	044-207-832-0181 alabatchka@illiquidx.com
Silver Point Capital, L.P. www.silverpointcapital.com	Greenwich, CT	David F. Steinmetz	(203) 542-4230 info@silverpointcapital.com
Tannor Partners Credit Fund LP www.tannorpartners.com	Rye, NY	Robert Tannor	(914) 509-5000 management@tannorpartners.com
TR Capital Management, LLC www.trcmllc.com	Woodmere, NY	Terrel Ross	(516) 255-1801 info@trcmllc.com
Whitebox Asymmetric Partners, LP www.whiteboxadvisors.com	Minneapolis, MN	Scott Specken	(612) 253-6001 sspecken@whiteboxadvisors.com
Winland Credit Partners LLC www.becapitalmanagement.com	New York, NY	Thomas Brazisl	(646) 678-2922 thomas@beclaims.com

Worth Reading

Macy's for Sale

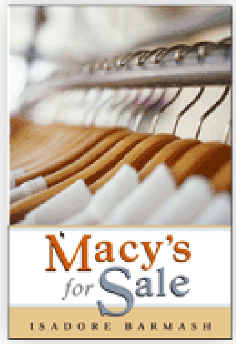
Author: Isadore Barmash

Publisher: Beard Books

Hardcover: 180 pages

List Price: $34.95

Order This Book Online Now »



Isadore Barmash writes in his Prologue, "This book tells the story of Macy's managers and their leveraged buyout, the newest and most controversial device in the modern financial armament" when it took place in the 1980s. At the center of Barmash's story is Edward S. Finkelstein, Macy's chairman of the board and chief executive officer. Sixty years old at the time, Finkelstein had worked for Macy's for thirty-five years. Looking back over his long career dedicated to the department store as he neared retirement, Finkelstein was dismayed when he realized that even with his generous stock options, he owned less than one percent of Macy's stock. In the years leading up to his unexpected, bold takeover, Finkelstein had made over Macy's from a run-of-the-mill clothing retailer into a highly profitable business in the lead of the lucrative and growing fashion and "lifestyle" field.

To aid him in accomplishing the takeover and share the rewards with him, Finkelstein had brought together more than three hundred of Macy's top executives. To gain support for his planned takeover, Finkelstein told them, "The ones who have done the job at Macy's are the ones who ought to own Macy's." Opposing Finkelstein and his group were the Straus family who owned the lion's share of Macy's and employees and shareholders who had an emotional attachment to Macy's as it had been for generations, "Mother Macy's" as it was known. But the opponents were no match for Finkelstein's carefully laid plans and carefully cultivated alliances with the executives. At the 1985 meeting, the shareholders voted in favor of the takeover by roughly eighty percent, with less than two percent opposing it.

The takeover is dealt with largely in the opening chapter. For the most part, Barmash follows the decision making by Finkelstein, the reorganization of the national company with a number of branches, the activities of key individuals besides Finkelstein, Macy's moves in the competitive field of clothing retailing, and attempts by the new Macy's owners led by Finkelstein to build on their successful takeover by making other acquisitions. Barmash allows at the beginning that it is an "unauthorized book, written without the cooperation of the buying group." But as he quickly adds, his coverage of Macy's as a business journalist and his independent research for over a year gave him enough knowledge to write a relevant and substantive book. The reader will have no doubt of this. Barmash's narrative, profiles of individuals, and analysis of events, intentions, and consequences ring true, and have not been contradicted by individuals he writes about, subsequent events, or exposure of material not public at the time the book was written.

First published in 1989, the author places the Macy's buyout in the context of the business environment at the time: the aggressive, largely laissez-faire, Reagan era. Without being judgmental, the author describes how numerous corporations were awakened from their longtime inertia, while many individuals were feeling betrayed, losing jobs, and facing uncertain futures. ¤

About The Author

Isadore Barmash, a veteran business journalist and author, was associated with the New York Times for more than a quarter-century as business-financial writer and editor. He also contributed many articles for national media, Reuters America, and the Nihon Kenzai Shimbun of Japan. He has published 13 books, including a novel and is listed in the 57th edition of Who's Who in America. He was born November 16, 1921, in Philadelphia, Pennsylvania. He died November 9, 2006, in New York City.

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Chapter 11 Dockets www.chapter11dockets.com	Provides access to over 3.4 million court filings in more than 2,200 of the largest Chapter 11 case filings. Cases and docket entries are categorized to facilitate precedent research. Fee service.
Daily Bankruptcy News www.bkinformation.com	Source for Chapter 11 bankruptcy news and case summaries. Links to Chapter 11 cases, code, and rules. News aggregation service providing links to Chapter 11 bankruptcy-related news stories from publications around the world. Fee service.
Debtwire www.debtwire.com	Speedy and in-depth coverage designed to complement other newsfeeds, Debtwire's credit analysis and research teams provide deep technical details and angles to help you understand situations more clearly and find advisory and investment opportunities in stressed, distressed, and restructuring situations in corporate and municipal debt markets. Subscription service.

Special Report

Top Internet Bankruptcy Resources

Continued from page 14

Online Resource	Summary of Site Contents
Legal Information Institute www.law.cornell.edu	Academic source for federal statutes, uniform laws, agency regulations, judicial decisions, and rules. Site also covers state statutes, judicial decisions, and appellate decisions; links to other Internet bankruptcy resources. Maintained by Cornell Law School.
LexisNexis www.lexisnexis.com	Provides authoritative legal sources, public records, company data, and business information. Fee service.
PACER (Public Access to Court Electronic Records) www.pacer.gov	A service of the Administrative Office of the U.S. Courts, PACER allows users to obtain case and docket information from U.S. district, bankruptcy, and appellate courts, and from a U.S. party and case index. Fee service.
Petition LLC www.petition11.com	Curated news distributed weekly to help "democratize information and cut through some of the noise" in major restructuring cases. Free and paid options.
Reorg Research www.reorg-research.com	Dozens of financial and legal experts provide real-time news, commentary, and analysis on issues affecting the distressed debt, event-driven and leveraged finance markets to help subscribers make better business and investment decisions. Subscription service.
Petition LLC www.petition11.com	Curated news distributed weekly to help "democratize information and cut through some of the noise" in major restructuring cases. Free (and frequently snarky) and paid options.
Troubled Company Reporter www.TCRresources.bankrupt.com	Daily news and updates about companies throughout the United States, with assets of $10 million or more, that are reorganizing, restructuring, or showing signs of financial strain. Separate editions cover North America, Asia Pacific, Europe, and Latin America. Subscription service.
UCLA-LoPucki Bankruptcy Research Database www.lopucki.law.ucla.edu	Data collection, data linking, and data dissemination project of the UCLA School of Law. Includes docket searcher, case summaries, professional fee data, trend information and graphs, and published and ongoing research.
WestLaw westlaw.com	Provides comprehensive legal sources, public records, company data, and business information. Fee service.

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Gnome de Plume

Big News: Alix Sees Misalignment Between CEOs and Private Equity Owners

by Deborah Hicks Midanek

AlixPartners released their third annual Private Equity Survey in March. It highlights significant misalignment between portfolio company chief executives and private equity owners, as evidenced by a high rate of CEO turnover. This turnover, unplanned in 34% of investments, may impede earnings growth and slow down harvest by the private equity firms, possibly reducing their realized rate of return.

Seeing the trend would be enlightening. Is CEO turnover increasing or decreasing, and is it more marked in certain industries or companies of a certain size? Looking at the purported drivers of such turnover, the obvious clichés are cited. From the private equity side, CEOs often do not focus enough on growth and seem to have a poor understanding of the urgency of preparing to harvest. From the executive side, it appears that a lack of understanding of the realities of operating a company and the related ups and downs contributes to a pervasive sense of lack of trust.

Reading the report makes this writer want to say “Really, people? What planet are you from? What on earth did you expect?” Various suggestions are made regarding improving front end assessments on both sides, including presumably the engagement of Alix to assist given their sterling reputation in operating companies and advising company executives and owners. Structured interviews, cultural fit assessments, and so on are prescribed.

The notion that private equity firms might suggest that CEO candidates meet with chief executives at other companies in the investor’s portfolio is positioned as the most significant suggestion. To my mind, any CEO candidate who would take a leadership role at a private equity controlled portfolio company without insisting he or she talk with other CEOs leading companies in the same portfolio does not deserve to serve as CEO of anything.

Moving beyond surprise that anyone would be surprised at this “misalignment” persists, let’s take a look at why it does. It seems that very few people focus on the downside of private equity control: the constant pressure to improve earnings, cash flow, margins — in order to get the puppy sold.

To the eager CEO who longs to build franchise value, to grow an enterprise, private ownership can seem very appealing compared to facing the grind of quarterly reports to a fickle public market. That very eagerness can blind the candidate to the rigor required to prepare the company for sale. Some private equity owners take it beyond rigor to forcing a real distortion of the company’s long term value proposition, or, eager to boost equity return, they layer on just too much debt, crushing the ability of the operator to perform.

To the private equity owner, the messiness of daily operating reality, of moving employees, suppliers and customers into a harmonious and profitable relationship is often just not visible. The huge effort required to make that happen consistently, and to make the results grow is taken for granted. It is not seen as a function of human enterprise, but instead as a function of formulae locked into a spreadsheet.

Though people from these two world views can hold conversations and even use similar language to describe what is happening, what each actually means is often lost on the other, as their context for understanding is at polar opposites. To caricature, though he who has the money often believes this means he has the power, he who has the money is often powerless in an environment which requires operating skill. And he who has the operating skill can become trapped in an endless cycle of working to reach impossible goals, while bearing responsibility for the human blood, sweat and tears expended to get there.

When both parties make the effort to put themselves in the other guy’s position and genuinely listen to each other, great magic can occur. But the numbers shown in the Alix report suggest that this happens rarely, as when each is misunderstood, or ununderstood, each clings ever more desperately to the lens through which each is comfortable interpreting the world. The parties start out at extreme disadvantage, often unaware, and only rarely are able to close the gap effectively. ¤

Deborah Hicks Midanek is President of the Solon Group, Inc. and an independent corporate director.
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In The Next Issue...

- Who’s Who in FirstEnergy Solutions Corp.
- Who’s Who in Summit Financial Corp.
- Special Report: Bankruptcy Tax Specialists in the Nation’s Major Law Firms
- Special Report: U.S. Turnaround and Restructuring Firms with European Offices

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