

5

2:08-7465

RECEIVED
OCT 29 2009
R.J. HAINES



METRO COMMUNITY BUILDERS
BUILDERS/DEVELOPERS

OCTOBER 28, 2009

TO: CAROLYN JOHNSEN
ATTORNEY AT LAW

FAX: 602-495-2696 - 5 Pgs.

FROM: MICHAEL J. PELOQUIN

DEAR Ms. JOHNSEN:

RE: MORTGAGES, LTD. - CHAPTER 11

I TOOK NOTICE OF YOUR RECENT BANKRUPTCY COMMENTS IN THE BUSINESS JOURNAL ON OCTOBER 23, 2009. YOUR HEADING - "WHAT BANKRUPTCY CANNOT DO."

*RESTRUCTURE A COMPANY THAT HAS NO BUSINESS. BANKRUPTCY CANNOT SUBSTITUTE FOR THE LACK OF VIABILITY. THERE NEEDS TO BE A CORE BUSINESS TO REORGANIZE.

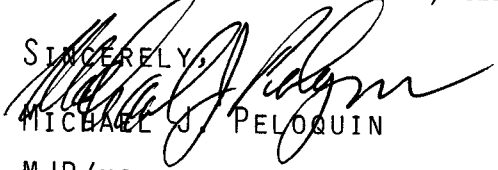
WHAT "CORE BUSINESS" DID MORTGAGES, LTD. HAVE IN YOUR HONORABLE OPINION?

I SAY THIS COMPANY HAD NO ABILITY TO REORGANIZE; IT LOST ITS STATE LICENSE TO MAKE ANY NEW LOANS AND ITS EXISTING LOANS WERE ALL IN DEFAULT AND SHOULD HAVE BEEN MANAGED UNDER A CHAPTER 7.

MORTGAGES, LTD. AND ITS CHAPTER 11 ALLOW SEVERAL BANKRUPTCY LAWYERS TO GET "FAT" AND THE INVESTORS IN THIS COMPANY HAVE YET TO SEE A DOLLAR; ALLOWING THE LAWYERS TO REAP MILLIONS IN LEGAL FEES AND ON-GOING EXPENSES.

I HOPE MY DAUGHTER WHO IS HEADED TO WEIL GOTSHAL IN WASHINGTON, D.C. ALWAYS WILL REMEMBER THAT TO BE A LAWYER MEANS TO BE TOTALLY HONEST. MR. COCHRAN (JERRY) WAS TOTALLY HONEST WHEN WE FILED OUR CHAPTER 7 MOTION FOR MORTGAGES, LTD. LAST SUMMER.

P.O. Box 15195 • Phoenix, Arizona 85060 • 602-478-7700 • Fax: 602-667-0299

SINCERELY,

MICHAEL J. PELOQUIN
MJP/MS

CC: JERRY COCHRAN, Esq.
DON GAFFNEY, Esq.
BILL HAWKINS
JUDGE RANDOLPH HAINES
MEGAN PELOQUIN
KATHY REECE, Esq.

Continued from page 5

bite of the apple. Most judges will follow the unwritten rule that debtors should have at least one opportunity to restructure. But, a debtor that abuses the system will be in trouble. It behooves a debtor to get it right the first time; it behooves a creditor to be patient. Cash is king. From either side of the aisle, cash wins at the end of the day. From a debtor's perspective, available cash is critical to get through the administrative expenses associated with the Chapter 11, and to weather the period of time when cash may not be available from a pre- or post-petition lending source. From a creditor's perspective, a quick resolution of its claim is usually advisable inasmuch as cash is available early on in the case and everyone is optimistic that the debtor will survive. That may not be the situation down the road.

WHAT BANKRUPTCY CANNOT DO

- **Save money initially.** Chapter 11 is an expensive process in terms of professional fees, disbursements to the United States Trustee's Office, and uncompensated time for management to spend on bankruptcy matters.
- **Allow the debtor to hide out.** Chapter 11 is often referred to as a fish bowl. The financial reporting requirements are extensive and creditors are given carte blanche ability to explore the debtor's books and records.
- **Restructure a company that has no business. Bankruptcy cannot substitute for the lack of viability. There needs to be a core business to reorganize.**
- **Force creditors or customers to continue doing business with the company.** Trade vendors, which supply on an open account, can require COD payments and are not required to extend credit terms. Customers without a contractual obligation to purchase from the debtor can simply quit the relationship.

Bankruptcy no longer represents financial disaster – the once-feared “B” word really stands for a positive part of business.

(10-23-09)
WHAT BANKRUPTCY CAN DO

- **Provide at least a short respite from paying creditors.** The automatic stay brings all collection efforts and lawsuits to an immediate halt.
- **Provide an opportunity to alter debt repayment terms.**
- **End troublesome contracts or leases.** The debtor has a relatively unfettered ability to reject contracts or leases which it no longer believes are in its best interest.
- **Allow a business owner to work with creditors for an overall solution and to preserve personal finances.**

No one can predict when the economy will improve or how different businesses will be impacted during the recovery. Phoenix has been through multiple cycles and it always seems to weather the storm. Clearly, bankruptcy can be a useful tool from the perspective of an owner, investor or purchaser. Bankruptcy no longer represents financial disaster—the once-feared “B” word really stands for a positive part of business. ▲

Carolyn J. Johnsen is Chair of Jennings, Strouss & Salmon's Business Restructuring & Reorganization Section. Ms. Johnsen has extensive experience in every aspect of commercial reorganizations, representing both debtors and creditors. She can be reached at 602-262-5906 or cjohnsen@jsslaw.com.



OFFICE of ADMISSIONS

580 Massie Road • Charlottesville, Virginia 22903-1738 • PHONE: 434.924.4676 • FAX: 434.982.2128 • lawadmit@virginia.edu

March 21, 2008

Megan Anne Peloquin
200 North Cleveland Street
Arlington, VA 22201

Dear Ms. Peloquin:

I am very pleased to inform you that the Committee on Admissions has voted to offer you admission to the University of Virginia School of Law Class of 2011. I would like to be the first to offer my congratulations and a very warm welcome to this academic community. The University of Virginia will provide you with an unparalleled legal education, taught by the finest faculty this country has to offer, in a stimulating and collegial environment that is unique among the nation's top law schools.

The University of Virginia School of Law is strongly committed to a mission of serving the Commonwealth and its citizens by offering a premier legal education for Virginia students at a rate far discounted from peer institutions. As a Virginia resident accepted to this law school, you have an opportunity for both a superior education and an exceptional value.

To accept this offer of admission, we require an acceptance deposit of \$250, postmarked by April 30, 2008. A second deposit of \$500 will be due June 15, 2008. Checks should be made payable to the University of Virginia, and should be mailed to the address listed on the enclosed deposit card. Acceptance deposits are non-refundable and are credited toward tuition for the first semester. Tuition for resident students for the 2007-2008 academic year was \$33,500. Tuition for the 2008-2009 academic year will be determined by the Board of Visitors in early April.

Information on links to housing resources, student computing, orientation, the Charlottesville community, and visiting the School of Law can be found in the enclosure with this letter. Additional information for admitted students is posted on our website at www.law.virginia.edu/admissions. I particularly hope that you will accept our invitation to visit us this spring. Whether you elect an individual visit or one of the Admitted Student Open House events, I encourage you to experience for yourself the engaging intellectual environment and warm community that define Virginia Law.

Your superb credentials ensure that you will have a number of excellent options for your legal education, and it is important that you make a thoughtful and considered choice. If I can provide you with information about the University of Virginia, or if I may be of assistance in any way, I hope that you will feel very free to call on me.

Sincerely,

Susan Palmer
Associate Dean for Admissions

Lawyers Set to Profit on Lehman

Weil Gotshal Asks Bankruptcy Court to Approve Record Quarterly Payout of \$55 Million

BY ASHLEY JONES

Lehman Brothers Holdings Inc., which set a record as the largest company to file for bankruptcy protection, is on course to yield one of the biggest bonanzas for lawyers.

New York-based Weil, Gotshal & Manges LLP earlier this week asked a federal bankruptcy judge in New York to sign off on a \$55.1 million payment for its work representing Lehman.

That marks the biggest quarterly fee request made by lawyers representing a bankrupt company, according to Lynn LoPucki,

a law professor at the University of California, Los Angeles, who runs a bankruptcy-fee database. Mr. LoPucki estimates that Weil stands to bring in more than \$200 million in fees by the end of the case. That would exceed the next-highest debtor counsel fee, the \$159 million that Weil earned during the Enron bankruptcy.

A Weil spokesman did not respond to a request for comment.

The fee-payment request, filed Monday in U.S. Bankruptcy Court for the Southern District of New York in Manhattan, tallies work lawyers and other Weil staff members say they have per-

formed between Sept. 15 and the end of January. The firm says it worked more than 100,000 billable hours during that period. Lead lawyer Harvey Miller is asking to be paid \$950 for each of the nearly 795 hours he worked during the period.

An expense request that Weil also filed Monday includes more than \$200,000 for business meals, \$439,000 for computerized and "other" research, \$115,000 on local transportation and \$287,000 on duplicating charges, at 10 cents a page.

"As Lehman's employees
Please turn to page A4

Legal Windfall

Largest fees in completed bankruptcy cases, in millions, and date of filing

Enron, Dec. 2001

\$756.6

WorldCom, July 2002

620.4

Adelphia Comm., June 2002

486.9

UAL, Dec. 2002

296.0

Mirant, July 2003

287.3

Source: Lynn LoPucki, UCLA Law

Lawyers Set to Profit From Lehman Case

Continued from Page One

rushed out of Lehman's offices with boxes and suitcases filled with their belongings. [Weil] attorneys rushed in," the filing reads. "Literally overnight, WGM marshaled its resources the world over, which included over 490 attorneys."

Weil has about 1,300 lawyers world-wide.

Nearly a dozen other law firms have so far submitted fee applications in the Lehman matter, requesting a total of \$27 million. The case's total amount of court-approved fees—to lawyers, financial advisers, restructuring consultants and others—could top \$900 million, Mr. LoPucki estimates.

Lehman's Chapter 11 filing is one of the most complex in U.S. history. The firm's Sept. 15 bankruptcy petition marked one of the biggest shocks in the credit crisis that engulfed Wall Street last summer and continued throughout the fall. At the time of the filing, Lehman had \$613 billion in debts.

In such liquidations, lawyers are paid before creditors. Fed-

eral bankruptcy law requires a judge to approve payments for debtor counsel. A hearing on the request is set for May 13. Lehman creditors have until May 6 to file objections.

The U.S. Trustee's office, which oversees bankruptcy cases, declined to comment. The lead lawyer for the committee of unsecured creditors, Dennis Dunne at Milbank, Tweed, Hadley & McCloy LLP in New York, didn't return a request for comment.

Some bankruptcy experts say the fee requests highlight a fundamental flaw in the process by which advisers get paid, because there are limited ways to verify a firm's charges. Mr. LoPucki, a frequent critic of the bankruptcy process, says firms representing one group involved in a bankruptcy case are often loath to challenge another firm's fees.

John Marquess, the president of Legal Cost Control Inc., a New Jersey-based legal-fee auditor, says that sometimes at the outset of a bankruptcy, a law firm will throw an excess of people on a case. "Bankruptcies are



Weil's filing includes fees for lead bankruptcy lawyer Harvey Miller, 795 hours at \$950 apiece.

by their nature 'Oh my God' situations and sometimes the lawyers will say, 'Let's do whatever we have to to make sure we can get this company out of bank-

ruptcy.' Firms on occasion will later agree to cut their fees, he says.

Most bankruptcy lawyers and experts, while surprised at the size of Weil's request, stopped short of calling it excessive. David Skeel, a bankruptcy-law professor at the University of Pennsylvania, said the fees paid to Weil and other top firms are often worth the results they deliver. "Weil did great work in Enron," he says. "It started in complete chaos, but in the end, creditors got a decent recovery. They sold off assets at decent prices and pulled back money from banks."

The wave of recent filings has meant huge payday for some firms, especially those such as Weil and Kirkland & Ellis LLP, with strong bankruptcy practices. But some troubled companies, including a handful of retailers, have opted to liquidate rather than pursue restructurings, largely due to poor market conditions and an unavailability of debt financing.

—Marie Beaudette contributed to this article.

(10-16-09)

In Brief

Lehman Fee Tally: \$402.9 Million

Lehman Brothers Holdings Inc. paid its lawyers and financial advisers \$402.9 million in the year following its September 2008 collapse, according to documents filed in the failed investment bank's Chapter 11 case. In papers filed with the U.S. Bankruptcy Court in Manhattan Wednesday, Lehman detailed the fees paid to the lawyers and advisers working on its Chapter 11 case between its Sept. 15, 2008, bankruptcy filing and the end of September 2009. The firms working on the case are subject to 10% fee holdbacks, which weren't included in the total. Bankruptcy-fee experts have put the cost of unwinding the firm at between \$800 million and \$1.4 billion.