turnarounds & workouts
News for People Tracking Distressed Businesses

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Credit Bid Limitations

Philadelphia Newspapers Case Hurts Secured Creditors

by Julie Schaeffer

A federal appeals court has ruled that Philadelphia Newspapers, LLC, can bar its senior lenders from using their debt to purchase the company at auction – a decision that upends past thinking on credit bidding and reduces lenders' rights in such sales.

Philadelphia Newspapers – which owns the *The Philadelphia Inquirer* and the *Philadelphia Daily News* – was acquired in July 2006 for $515 million. Funding for the acquisition came in part from a $295 million loan from a group of lenders, including Angelo, Gordon & Co., CIT Group, Eaton Vance Management and Credit Suisse. The loan was secured by a first-priority lien in substantially all of Philadelphia Newspapers' property.

In February 2009, amid a dramatic decline in revenues and a debt structure "out of

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Picture Perfect

Combined Effort Rescues Ritz Camera

by Dave Buzzell

Founded over 90 years ago, Ritz Camera grew to become the largest photo retailer in the country. No other company came close to equaling Ritz's presence, which had, at its peak, over 900 camera stores nationwide. Ritz was built by its namesake, Edward Ritz, on the business model that customers wanted a friendly neighborhood camera store just around the corner where they could take their film and have it developed in the back.

That model began destructing when people switched from film to digital photography and began finding their developers on the Internet. The overhead of maintaining hundreds of photo stores became less supportable. Still, until recently, Ritz operated 800 stores and generated annual revenue in the neighborhood of $1 billion. The company also owned

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Resurrection

Fallen Subprime Lender Emerges from Bankruptcy

by Julie Schaeffer

Fremont General Corp. has become one of the first fallen subprime mortgage lenders to successfully emerge from bankruptcy.

"Not many of these companies have returned intact," says John Schaefer, a partner at Newport Beach, California, law firm Manderson, Schafer & McKinlay LLP, which advised Signature Group Holdings LLP, the winning bidder for Fremont General. "It's quite a turnaround story."

Fremont General, based in Anaheim Hills, California, was once was the fifth-largest U.S. subprime mortgage lender with more than 3,500 employees. It collapsed along with the subprime mortgage market in June 2008.

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line with current economic realities," according to Chief Executive Officer Brian P. Tierney, Philadelphia Newspapers filed for bankruptcy protection. At the time, the value of the loan was approximately $318 million.

On August 20, 2009, Philadelphia Newspapers filed a plan of reorganization that provided for almost all of its assets to be sold at a public auction, free and clear of liens, pursuant to Section 1123(a) and (b) of the Bankruptcy Code.

Under the terms of the plan, the lenders would not have their full claim treated as a secured claim under section 1111(b) of the Bankruptcy Code, and would be limited to the proceeds from the auction. Those proceeds would total $56.5 million – a stalking-horse bid that would result in $37 million in cash plus a distribution of real property valued at approximately $29.5 million.

The lenders wanted to "credit bid," or use the full value of their $318 million debt in their bid to purchase the company. When filing its plan of reorganization, however, Philadelphia Newspapers required all bidders to pay cash – a move that would result in secured creditors having no ability to credit bid.

The lenders objected, arguing that it was an accepted tenet of bankruptcy law that lenders could protect their loans by using their debt to bid on collateral that was put up for sale. Since the company's plan called for a sale, the lenders said, it was logical to assume that the law allowed credit bidding.

In justifying its requirement, Philadelphia Newspapers pointed to a section of the Bankruptcy Code that describes two ways in which a plan of reorganization can be approved over the objections of lenders. One is a sale with credit bidding; another is providing lenders with the "indubitable equivalent" of their debt, a term first used in 1935 by Judge Learned Hand, which means the fair value of their debt. Philadelphia Newspapers claimed that it had a choice as to which provision to use as a test of the plan's fairness, and it was choosing the indubitable equivalent standard.

Judge Stephen Raslavich of the U.S. Bankruptcy Court for the Eastern District of Pennsylvania ruled in favor of the lenders, but U.S. District Judge Eduardo C. Robreno overturned that ruling.

Finally, on March 22, 2010, in a two-

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Boater's World, the second largest retailer of marine equipment and supplies.

Then the recession hit, and it is here that Irving Walker and Gary Leibowitz enter the picture. Walker and Leibowitz are attorneys for Cole, Shotz, Meisel, Forman & Leonard and co-counsel to Ritz Camera in its bankruptcy proceedings.

"It was the proverbial perfect storm," says Walker. "A whole confluence of events came crashing down on Ritz Camera."

"For one," continues Walker, "the recession hit the boating industry very hard. Boater's World didn't sell yachts or boats, but their business was dramatically impacted, and Ritz started losing a lot of money at a time when their photo store business was struggling. Then there was the fact that banks had become very concerned about lending to retailers. You could count on one hand the number of banks that wanted to be in retail lending, so the ability to get financing to carry on retail activities or even support an acquisition were nonexistent."

Nonetheless, fourteen months after filing for bankruptcy, Ritz Camera successfully emerged as a going concern: smaller, but having paid off its secured creditors and making a higher-than-expected distribution to unsecured creditors.

How did Ritz pull it off? Cooperation and good fortune, says Walker. The first thing the company needed was a plan to extend Ritz's cash flow. Cole brought in FTI Consulting as financial advisor. "FTI knew the lenders. They brought instant credibility," says Walker. "We developed a business plan showing that Ritz could go forward, but because credit was so tight, it became apparent Ritz would have to file for bankruptcy and only get financing from the banks in the context of a Chapter 11. We negotiated extensively for the most favorable DIP loan we could get and then filed Chapter 11. We had a very clear path as to what we were seeking in Chapter 11. We focused on each step."

The first step was for Ritz to pay down its bank debt and create more liquidity, which it did by disposing of Boater's World. Boater's World sold for over $40 million and dramatically reduced bank debt. Ritz next sold the photos stores that were not profitable and made no sense going forward. This generated enough cash flow to pay off the secured debt.

"Early on we were able to pay off the

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The company subsequently became the object of a fierce bidding war by multiple creditor and equity constituents because it had $769 million in net operating losses that could be used to offset future tax liabilities if the bankrupt lender continued to operate as a going concern.

"Nobody wanted to resurrect a subprime lender," says Chris Manderson, also a partner at Manderson, Schafer & McKinlay LLP. "But everyone wanted to create some sort of new business that could utilize the net operating losses to shelter future income."

"That opportunity is very rare, and was really the prize here," says Schaefer.

Indeed, it was such a prize that at one point there were six competing plans. "One got knocked out at the disclosure statement stage, so five were sent to the stakeholders for voting," says Schaefer. "A group represented by Munger Toll and Ranch Capital dropped out early in the process because they didn't get the support they expected from stakeholders. That left four plans: one from the equity holders' committee, one from the creditors' committee, one from New World, and one from distressed investment firm Signature Group."

That led to months of alliance building. "Virtually every group advancing a separate plan objected to every other proposal, and various stakeholders moved to shuffle their votes from one plan to another," said a *Bankruptcy Law 360* article about the case.

"In the middle of the shootout, New World reached a settlement with Signature and threw its support behind a joint Signature/New World plan and asked the judge overseeing the bankruptcy in the Central District of California to support the Signature plan with the inclusion of New World," says Schaeffer. "The equity committee chose not to be part of the settlement and went it alone, but did not prevail."

In exchange for a stake of approximately 10 percent, Signature's reorganization plan pumped $10.3 million into Fremont, which Schaefer says will come out of bankruptcy cash-positive.

Signature plans to manage the reorganized debtor through its newly formed subsidiary CP Management Inc. and run it as a commercial finance business targeting mid-sized companies

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Research Report

Who's Who in Xerium Technologies, Inc.

by Francoise C. Arsenault

Xerium Technologies, Inc. (Xerium) is a leading global manufacturer and supplier of consumable products used in the production of paper products and roll technology products installed in paper-making machines. Xerium's Clothing Segment consists of engineered synthetic textile belts that allow for the extraction of water while transporting paper through a paper-making machine. The company operates its Clothing Segment primarily through two brands: Weavexx, in North America, and Huyck Wangner, outside North America. In North America, clothing products are manufactured by Xerium's domestic operating subsidiary Weavexx, LLC and by Xerium Canada Inc. Outside North America, clothing products are manufactured by various worldwide operating subsidiaries. The company's Roll Covers Segment encompasses the covering and servicing of large metal rolls upon which paper machine clothing products are often mounted and between which paper travels as it is processed from a "wet slurry" to a finished paper product. The company operates its Roll Covers Segment worldwide under the brand name Stowe Woodward and within China under the additional brand name Xibe. The company produces and distributes spreader rolls worldwide under the brand name Mount Hope and in Europe under the brand name Robec.

Xerium's customers include paper and container manufacturers, including the International Paper Company, MeadWestvaco Corporation, and Smurfit-Stone Corporation. The company operates 38 facilities in 13 countries, 32 of which are manufacturing facilities. As of January 1, 2010, the company employed approximately 3,290 workers worldwide. For the fiscal year ended December 31, 2009, Xerium generated approximately $500 million in net sales. As of the same date, the company reported total assets of about $693.5 million and total liabilities of approximately $813.2 million. The company is headquartered in Raleigh, North Carolina.

In its bankruptcy petition, company officials attributed the Chapter 11 filing to a number of factors, including the decrease in the global demand for paper products. According to the petition, the decrease in global demand has resulted in a surplus of paper inventory at paper-making companies and corresponding curtailments and idling of paper-making machines. In addition, officials reported that Xerium's customers have experienced difficulty in raising funds in the capital markets, resulting in a corresponding contraction in the customers' demand for the company's products and services. In 2009, Xerium cut jobs and implemented other cost-cutting measures. The company's 2009 third quarter sales totaled $130.3 million, down about 18 percent from the previous year.

Xerium and 15 of its affiliates filed pre-packaged Chapter 11 petitions with the United States Bankruptcy Court for the District of Delaware on March 30, 2010. The restructuring plan proposed by the company would reduce the company's debt of approximately $620 million for $10 million in cash, $410 million in new loans, and 82.6 percent of the company's publicly held stock, for a total reduction in debt of about $150 million. Under the restructuring plan, shareholders will own 17.4 percent of the company's shares and will receive warrants to purchase up to an additional 10 percent. The restructuring involves Xerium's companies in the United States, Canada, Austria, and its non-operating holding companies in Italy and Germany. The company's operating entities in Europe, Asia, South America, Italy, and Germany are not part of the bankruptcy court process or the restructuring. The bankruptcy court approved the request of Xerium for DIP financing in the amount of $80 million ($20 million in revolving loans and a term loan of $60 million).

On May 12, 2010, the judge confirmed the pre-packaged Chapter 11 Plan of Reorganization and the Disclosure Statement filed by Xerium and its affiliates. On the same day, the judge also directed the U.S. Trustee not to convene a meeting of a committee of creditors or equity security holders. The company's plan of reorganization became effective on May 25, 2010.

The Debtor

Stephen R. Light is the Chairman, Chief Executive Officer, and President of Xerium Technologies. **David G. Maffucci** is an Executive Director and the Chief Financial Officer. **Kevin L. McDougall** is Executive Vice President and General Counsel. **David J. Pretty** is the President of Xerium, North America. **Joan Badrinas Ardevol** is the Chief Technology Officer.

Cadwalader, Wickersham & Taft LLP is serving as the bankruptcy counsel to Xerium. **John J. Rapisardi** and **George A. Davis**, partners with the firm, and **Sharon J. Richardson**, special counsel for financial restructuring, head up the team.

Richards, Layton & Finger, P.A. is acting as co-counsel to Xerium. The team includes **Mark D. Collins**, a partner with the firm.

Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP is serving as special corporate counsel to Xerium. **Amos U. Priester, IV**, a partner with the firm, is working on the case, along with **Anna B. Osterhout**, a senior attorney.

Baker & McKenzie is special European corporate counsel to Xerium. **Dr. Olaf Gebler**, a partner in the Frankfurt, Germany office, is working on the case, along with **Dr. Regina Engelstaedter**, also a partner in the Frankfurt office.

AlixPartners LLC is providing restructuring and financial consulting services to Xerium. **Brian J. Fox**, a managing director in the New York office, **Michelle Campbell**, a managing director in the Los Angeles office, and **Michael Hartley**, a director in the firm's Dallas office, are working on the engagement.

Rothschild Inc., serving as financial advisor and investment banker, is headed by managing directors **Stephen S. Ledoux** and **Daniel Gilligan**.

Ernst & Young LLP is providing Xerium with auditing and tax advisory services. **Michael T. Constantino**, a partner, leads the engagement.

The Trustee

The U.S. Trustee is **Roberta A. DeAngelis**.

The Judge

The judge is the **Honorable Kevin J. Carey**. ¤

Credit Bid, *from page 2*

to-one opinion, a panel of judges from the Third Circuit Court of Appeals agreed with Raslavich that the Bankruptcy Code requires only that the lenders receive the indubitable equivalent of their debt, so Philadelphia Newspapers could bar its senior lenders from credit bidding.

The judges' decision was based on the fact that the word "or" was used in the Bankruptcy Code to spell out how to ensure that a bankruptcy plan is fair to lenders. The use of the word "or," the judges ruled, meant the company could choose whichever of the two provisions it wanted as a test of a plan's fairness.

The ruling was a big win for Philadelphia Newspapers, which believed other bidders would hesitate to take part if they knew the senior lenders could credit bid.

But bankruptcy law experts say the decision has implications that reach far beyond Philadelphia Newspapers and will be closely read in the bankruptcy

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secured debt of $54 million plus," says Walker. "That eliminated the primary cause of almost all retail business failures in a Chapter 11 – pressure from secured lenders. By being able to take care of the secured lenders, we essentially eliminated that pressure point."

Next the company had to deal with the landlords, a task made more difficult by the amended Bankruptcy Code. Ritz had no more than 210 days to assume or reject leases. According to Walker, the time constraints of deciding what leases to keep and then, more importantly, buying new inventory for the fall season without having secured adequate financing, made it highly unlikely for Ritz to have a successful, traditional reorganization. "The idea of filing a plan, going through months of court procedure, and coming out as the same company reorganized was impractical. We immediately went into a sales process."

Leibowitz agrees that the amended Code was a hurdle to overcome. "The 210-day outside limit was a major challenge, but it is not because the landlords were hostile to the reorganization. Our experience is that landlords are cooperative if they view the debtor as a responsible tenant and they believe in the business. The problem lies more with the lenders. They looked at the outside date of 210 days and said 'Well, since we don't know what will happen and we might need to liquidate your collateral at your various retail locations, we will take the 210-day period and back it up 90 days because that's what the sales process will require.'"

Leibowtiz continues: "And so lenders create benchmarks for paying down the secured debt or getting a plan confirmed. It is very rare for a Chapter 11 debtor, particularly during a recession, to address restructuring issues that quickly. In our case, we had a very good experience with the landlords."

The sale attracted two types of bidders: liquidators and the Ritz family. There was also a stalking horse contract from an unrelated third party that was probably going to liquidate the company.

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Resurrection, *from page 2*

that have been starved for funding in the last two years. "It's a huge, unserved market and Signature has an opportunity to make Fremont a premier player, not only through direct and syndicated loans, but as an investor of distressed debt, and equity," says Schaefer.

Lance McKinlay, also a partner at Manderson, Schafer & McKinlay LLP, says the deal was noteworthy not just because of the $769 million in net operating losses and the bidding war, but because it illustrates the importance of a restructuring firm having multi-disciplinary skills. "All proposed restructuring plans involved merging two subsidiaries into the parent company in order to keep the net operating losses alive," says McKinlay. So we had mergers, issuance of stock, SEC exemptions…a lot of things occurring on a lot of different levels. So this case involved a unique confluence of SEC, tax, and corporate reorganization issues."

"At the end of the day this case was won by strategy," says Manderson. "And being dealmakers who happen to be lawyers was important. All of us have substantial experience in mergers and acquisitions, securities, and corporate governance as well as restructurings." ¤

Calendar

American Bankruptcy Institute
17th Annual Northeast Bankruptcy Conference
July 8-11, 2010
Ocean Edge Resort
Brewster, MA
Contact: www.abiworld.org

American Risk and Insurance Association
ARIA 2011 Annual Meeting
August 7-10, 2011
San Diego Marriott Hotel & Marina
San Diego, CA
Contact: www.aria.org

National Association of Bankruptcy Trustees
2010 Annual Conference
September 29-October 3, 2010
The Fairmont
San Francisco, CA
Contact: www.nabt.com

Turnaround Management Association
TMA 2010 Annual Convention
October 6-8, 2010
JW Marriott Grande Lakes
Orlando, FL
Contact: www.turnaround.org

Practising Law Institute
Mergers and Acquisitions 2010: What You Need to Know Now
Oct 7-8, 2010
PLI California Center-San Francisco
San Francisco, CA
Contact: www.pli.edu

National Conference of Bankruptcy Judges
84th Annual Conference
October 13-16, 2010
New Orleans, LA
Contact: www.acbj.org

Renaissance American Management, Inc. and the Beard Group
17th Annual Conference on Distressed Investing
November 29, 2010
The Helmsley Park Lane Hotel
New York, NY
Contact: www.renaissanceamerican.com

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Special Report

Bankruptcy Tax Specialists in the Nation's Major Law Firms

Firm	Bankruptcy Tax Attyn.	Senior Bankruptcy Tax Partners		Recent Representative Clients
Akin Gump Strauss Hauer & Feld New York, NY Tel (212) 872-1000 www.akingump.com	10	Howard B. Jacobson Patrick B. Fenn Stuart E. Leblang Douglas W. Killip	Daniel J. Micciche Robin M. Schachter W. Thomas Weir	Creditors' Committees in Washington Mutual, Inc., Nortel Networks, Delta Air Lines, Calpine, Collins & Aikman, Quebecor, Solutia, TOUSA and WorldCom.
Andrews Kurth Houston, TX Tel. (713) 220-4200 www.andrewskurth.com	7	Andrew Feiner Thomas Ford, Jr.	Thomas R. Popplewell	Creditors' Committee in Pilgrim's Pride, Fairpoint, and Lexington Precision; Debtor's Special Tax Counsel in Six Flags Inc., Ad Hoc Creditors Bondholders Committee in Primus Telecommunications.
Bracewell & Giuliani Houston, TX Tel. (713) 223-2300 www.bgllp.com	3	Elizabeth McGinley	James Reardon	Creditors in Crescent Resources, Nortel Networks, Rubicon US REIT, CEMEX; Creditors' Committee in Erickson Retirement Communities; Bondholder group in Greektown; Noteholders in Centro Properties; Creditors of Washington Mutual Bank in Washington Mutual.
Brown Rudnick Boston, New York, London Tel. (617) 856-8200 www.brownrudnick.com	5	Patrick Cox Barbara J. Kelly Vincent J. Guglielmotti	Tracy Fisher Nicole M. Bouchard	LyondellBasel, Six Flags Theme Parks, Tropicana Entertainment, Visteon Corporation, Motor Coach, Pilgrim's Pride, Spansion, GSI Group, Haights Cross Communications Inc.
Jones Day Cleveland, OH Tel. (216) 586-3939 www.jonesday.com	20	Carl M. Jenks Colleen Laduzinski Charolette F. Noel	Edward A. Purnell Candace A. Ridgway	Chrysler (Debtor), Chemtura Corp. (Ad Hoc Committee of Noteholders), Penton Media (Debtor), Dana Corporation (Debtor), FLYi Inc. (Debtor), Kaiser Aluminum (Debtor).
Kirkland & Ellis Chicago, IL Tel. (312) 861-2000 www.kirkland.com	20	Todd Maynes Donald Rocap Patrick Gallagher	Steve Clemens Gregory Gallagher	Charter Communications, The Reader's Digest Association, Visteon, Lear, Tropicana Entertainment, TOUSA, Flying J, Norwood Promotional Products, Tronox, Chemtura, Masonite, Muzak.
Kramer Levin Naftalis & Frankel New York, NY Tel. (212) 715-9100 www.kramerlevin.com	5	Howard J. Rothman	Barry Herzog	Creditor's Committees in Capmark, General Motors, Chrysler, Smurfit Stone Container Corp.; Debtor's Counsel in Bally Total Fitness; and certain equity holders in Visteon and Citadel Broadcasting.
Sidley Austin New York, NY Tel. (212) 839-5300 www.sidley.com	12	Suresh T. Advani Laura M. Barzilai	Ivy H. Jones David C. Miller	Blackrock, Budget Rent A Car Corporation, Drawbridge, Federal-Mogul Corporation, Fortress, Meridian Automotive Systems, Merisant, MI Developments Inc., Northstar, Owens Corning, Pliant Corporation, RH Donnelley, Smurfit-Stone Container, Tribune Company, WestLB AG.
Skadden, Arps, Slate, Meagher & Flom New York, NY Tel. (212) 735-3000 www.skadden.com	42	Kenneth Betts Katherine Bristor Stuart Finkelstein Louis Freeman Cliff Gross Moshe Kushman	André LeDuc David Levy Maxwell Miller Barnet Phillips, IV David Rievman	CIT Group, Delphi Corporation, Paul Allen (as principal shareholder of Charter Communications), Interstate Bakeries, Spectrum Brands, Centro Properties, Access Industries (for LyondellBasell), Hartmarx, Mark IV Industries/Dayco Products, Hayes Lemmerz.
Sonnenschein Nath & Rosenthal New York, NY Tel. (212) 768-6700 www.sonnenschein.com	7	Marc Teitelbaum Bruce Davison Thomas Stephens	Paul Housey Andrea Sharetta	U. S. Department of the Treasury in ongoing matters related to the U.S. automobile industry; Tropicana Entertainment (pre-petition secured lender/proposed exit facility lender); Hancock Fabrics (official committee of equity holders).
Stroock & Stroock & Lavan New York, NY Tel. (212) 806-5400 www.stroock.com	6	Jeffrey Uffner Micah Bloomfield	Mayer Greenberg	Represented controlling bondholders in: Pliant, Lear, Trump, Morris Publishing, Rath Gibson, Caraustar, Fairpoint, Neff and Neenah. Represented official committees in Citadel, Dayton Superior, Barzel and Tropicana.
Sullivan & Cromwell New York, NY Tel. (212) 558-4000 www.sullcrom.com	4	Ronald E. Creamer, Jr. Andrew S. Mason	Andrew P. Solomon David C. Spitzer	Fiat/Chrysler; Fairholme Funds, Inc. and Pershing Square Capital Management, LP; Technicolor (f/k/a Thomson); First Southern Bancorp, Inc.; JPMorgan Chase Bank; New York Community Bancorp, Inc.; Popular, Inc.; R.R. Donnelley & Sons Company.
Weil, Gotshal & Manges New York, NY Tel. (212) 310-8007 www.weil.com	20	Stuart J. Goldring Martin D. Pollack Marc L. Silberberg Mark Hoenig	Larry Horton Jared Rusman Larry J. Gelbfish Robert Frastai	Ongoing representations include: Lehman Brothers, Washington Mutual, General Growth Properties, AIG, General Motors, Magna Entertainment, Extended Stay Hotels, Finlay Enterprises. Completed restructurings include: SemGroup, Panolam International, Simmons, Pilgrims Pride, Nortek, BearingPoint.

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Worth Reading

Crafting Solutions for Troubled Businesses: A Disciplined Approach to Diagnosing and Confronting Management Challenges

Authors: Stephen J. Hopkins and S. Douglas Hopkins
Publisher: Beard Books
Hardcover: 314 pages
List Price: $74.95

So, the first thing to do when dealing with a troubled business is to find the guilty and lop someone's head off! Don't be so quick to react, advise co-authors Stephen J. Hopkins and S. Douglas Hopkins in their thoughtful, well-researched book, *Crafting Solutions for Troubled Businesses*.

The father-son team of Steve and Doug Hopkins are principals of Kestrel Consulting, LLC, a firm they founded in March 2004. Each has more than 25 years of experience working with troubled businesses and providing turnaround advisory and interim management services. Steve got his first taste of a troubled business when, as CFO of an 80-year-old chemical company, Bill Nightingale of Nightingale & Associates assisted him in taking the company through a Chapter 11 filing. The company subsequently emerged from bankruptcy with payment in full to all creditors. Steve then joined Nightingale, staying for 23 years and serving initially as a principal and eventually as president from 1994 to 2000. Doug began working at Nightingale in 1978 as a part-time resource for special projects. After working in this capacity for 10 years, Steve joined Nightingale full time in the late 1980s and became a principal in 1994. Both Steve and Doug have served in various C-level roles in troubled companies, including CEO, CFO, COO, and CRO.

To write this book, the Hopkinses drew upon their vast experience in dealing with troubled companies. They took 100 of the largest projects they have been involved in and applied a "disciplined analysis" to diagnose problem situations and produce successful outcomes. These projects demonstrate the authors' theories and methods in dealing with troubled businesses. The authors also analyze some well-known cases like Enron, WorldCom, and Sunbeam to help the reader connect the dots in a very real sense and use the book for actionable advice.

The book is divided into five parts: 1) Conceptual Approach and Key Issues, 2) Managing the Crisis, 3) The Diagnosis Process, 4) Alternatives and Action Plans, and 5) Lessons Learned in 100 Completed Assignments. Each part has multiple chapters expanding on these themes, and each chapter concludes with a recap of what was discussed. For speed readers and the time crunched, these recaps are an excellent way of extracting from the book the essence of what the authors are advocating.

So what about lopping off that head? The authors contend that management's role is much less pivotal than is commonly believed. The real issue when working with a troubled business is determining the viability of the business. To do that, the underlying causes must be identified at different stages of the corporate lifecycle. The authors categorize troubled businesses as Undisciplined Racehorses, Overburdened Workhorses, and Aging Mules. Only through a step-by-step diagnosis can the core problems be dealt with. Pursuing a turnaround may not always be a viable alternative and, in fact, in only one-third of the 100 cases the authors worked on did the company achieve a true operational turnaround.

Crafting Solutions for Troubled Businesses should be on the must-read list of anyone involved in dealing with, consulting for, or operating a troubled business. ¤

Picture, *from page 4*

Based on the stalking horse contract, an auction was held in New York City that lasted over 24 hours with steady bidding. The principal bidders were a pool of liquidators and the Ritz family together with Fred Lerner, the owner of Ritz Interactive, a media company.

The Ritz/Lerner bid prevailed with the creditors' committee and the debtors. One of the largest unsecured creditors filed an objection, seeking liquidation instead. Judge Mary Walrath ruled in favor of the Ritz family bid and the sale closed the next day.

Walker credits the outcome to a high level of cooperation and goodwill between the debtors and the creditors' committee. "The committee members were very sophisticated, including landlords such as General Growth and major suppliers like Nikon and Canon. They were able to appreciate that the best way to get value was to maximize the prospect of reorganization. And their counsel was very sophisticated. Jay Indyke and Cathy Hershcopf of Cooley are as good as anybody in representing creditors in retail cases. Without that intangible, given all the very difficult challenges in the case, I don't think the outcome would have been as good as it was."

Today, Ritz Camera is not as big as it used to be, pared to a few hundred stores, and they have to realign their business model to accommodate the digital photography market. It is, however, a success story that happened during one of the toughest environments for retailers in U.S. history.

"I remember being on vacation feeling depressed," says Walker. "The prospects of coming out of Chapter 11 were looking terrible because of the state of the economy, the state of the retail market, and all the other factors. And lo and behold, through the combined efforts of all the professionals, we were able to assist the debtors, preserve the business, save thousands of jobs, and have a going concern that continues to be a very good customer for its creditors. That is due to an exceptional level of professionalism and cooperation between the committee and the debtor where they realized there's nothing gained by fighting each other, and much to be gained by cooperative effort." ¤

Special Report

U.S. Turnaround and Restructuring Firms With European Offices

Firm	Senior Professionals		Representative Clients
AlixPartners London Tel. 44 20 7098 7400 www.alixpartners.com	Michael Baur Eugenio Berenga Jim Bonsall Donald Featherstone Jan Kantowsky	David Lovett Luca Ramella Axel Schulte Albert Stein Stephen Taylor	Appliance Components Companies, Dubai World, Friends Provident, Galiform, General Motors, Global Garden Products, Reader's Digest, Nuova Pansac, LyondellBassel, SAAB, Terex-Fantuzzi Reggiane.
Alvarez & Marsal Europe London Tel. 44 20 7715 5200 www.alvarezandmarsal.com	Antonio M. Alvarez III (Europe) Peter Briggs (Europe) Stefaan Vansteenkiste (Europe) Ann Cairns (London) Paul Kinrade (London) Malcolm McKenzie (London)	Scott Pinfield (London) Walter Bickel (Germany) Nedim Cen (Germany) Douglas Rosefsky (France) Adriano Bianchi (Italy) Gerald Corbae (Spain)	CEO for Lehman Brothers Holdings, CHC Helicopters, and Q-Cells; COO for Kuka; CFO for Orion Cable and Rossignol; CRO for Stabilus and European Directories; Advisory for Kaupthing Bank. Plus wide variety of advisory and due diligence cases (over 35 separate mandates across Europe).
Deloitte London Tel. 44 20 7936 3000 www.deloitte.com	Timothy Mahapatra Gerry Loftus Bill Dawson	Stephen Knight David Stark	Lenders, Private Equity, Corporates, Bondholders, Trustees, Government & Public Sector.
Development Specialists, Inc. London Tel. 44 20 7250 3260 www.dsi.biz	Steven Neal William A. Brandt, Jr.	Joseph L. Luzinski Yale S. Bogen	Banks, Private Equity, Hedge Funds. As Post Confirmation Trustee for Coudert Brothers LLP, DSI continues to wind down operations for this multinational law firm and provides management and litigation support for numerous operations across Europe and Asia.
Ernst & Young London Tel. 44 20 7951 2000 www.ey.com	Roy Bailey Liz Bingham Alan Bloom Tom Burton David Hargrave Alan Hudson Keith McGregor	Maggie Mills Jon Morris David Sage Bob Ward Lee Watson Andrew Wollaston	Banks and Financial Institutions, Bondholders, Corporates, Private Equity, Hedge Funds and Trustees.
FTI Consulting London Tel. 44 20 3077 0500 www.fticonsulting.com	Kevin Hewitt Simon Granger Shaun O'Callaghan	Oliver Gorny Michael Pies	Jarvis plc, Gate Gourmet, Treofan, Torex Retail, Carlsberg Group, European entities of a U.S. automotive supplier, Dutch gaming provider.
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Gnome de Plume

Banking on Prayers

by Christopher Beard

On Friday, June 4, Viktor Orban, Hungary's new Prime Minister, said the country could miss its deficit-reduction targets, and he hoped to avoid ending up in a financial crisis similar to that in Greece. Markets tumbled. On Sunday, he said his administration would cut the bureaucracy and take other measures to stay within the IMF's budget restrictions. It seems there's no imminent problem; just a rookie leader in need of seasoning.

The global markets are extremely nervous, and for good reason. The repercussions from the financial crisis continue to reverberate. The markets believe sovereign risks are important drivers posing real threats. Iceland. Dubai. Greece. Portugal. Spain. UK. US. Japan.

Of the roughly 195 countries in the world, Hungary is the 83rd largest by population. Figure there are 100 countries where the management of the whole financial system, including government finances, central banks, and financial institutions, matter globally. Many are overleveraged and face massive debts and large government deficits.

Add to that mix a handful of American state governments. If independent, twelve U.S. states would be among the top hundred countries in the world, and their finances are no less strained.

The situation is fluid and deteriorating. Politicians are now very active in running the financial systems. Governments can no longer borrow money easily to cover deficits, and required cuts have major political consequences. Many leaders are governing with low approval ratings, and voters are unhappy. The Greeks rioted. Chancellor Angela Merkel's German coalition government is on the verge of collapse over the bailout of Greece. Spain's austerity plan passed the legislature 169 to 168 when the Catalan nationalists abstained rather than vote against the bill because they didn't want a Greek-style crisis. We're only a few general strikes away from big trouble.

Further, governments have fewer tools available and less flexibility than a year or two ago. Generally, bailouts are now politically impossible, and more stimulus spending is no longer an option.

And many individual banks are overleveraged as well. Many are struggling today, notwithstanding virtually free money. And rates will rise.

But worse, nobody knows the extent of the bank problems. It's a secret which European banks hold the massive amounts of Club Med debt. Try to figure out loan portfolio values on U.S. bank balance sheets. In much of the rest of the world, values are a wild guess.

The risks are diverse and unknowable, and there are very few lifelines. The western governments don't have the political ability or the resources to underwrite an international bailout even if they could accurately assess a problem. Lehman's London subsidiary, a major player in European markets, filed bankruptcy upon learning there would be no U.S. bailout. There was no cash; New York swept the accounts. The professionals, in particular Steven Pearson of PwC, prevented a catastrophe by getting a hedge fund they had worked with in the past to commit to $100 million DIP in one day. What are the chances of another such rescue today?

The probabilities of a major failure are too scary to contemplate. For the integrated global economy to work, all of the material components need to function properly. We need to be very lucky.

Why doesn't the recent stock market reflect these risks? There's no appetite for discipline and austerity. It's banking on prayers. ¤

Christopher Beard is the publisher of Turnarounds & Workouts

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- *Special Report: Canadian Bankruptcy Law Firms*
- *Special Report: Outstanding Investment Bankers – 2010*
- *Research Report: Who's Who in Almatis B.V.*

Credit Bid, *from page 4*

community.

"The ability of secured creditors to credit bid if the collateral securing their debt was sold in a bankruptcy proceeding is often viewed as a fundamental creditor protection, but the decision by the Court of Appeals for the Third Circuit found that secured creditors may not have a right in the context of a plan of reorganization that involves a sale of collateral," says Fredric Sosnick, a partner and practice group leader of the Bankruptcy & Reorganization Group at Shearman & Sterling LLP in New York.

Ashley C. Keller, an associate with Chicago law firm Bartlit Beck Herman Palenchar & Scott LLP, expects, as a result of the added uncertainty created by the ruling, to see lenders increase interest rates on loans they make. "I don't want to suggest they will raise interest rates significantly," he says. "But on the margin, they are going to charge a little more for loans."

Eric W. Anderson, a partner in the Atlanta office of Parker Hudson Rainer & Dobbs, believes one result of the ruling will be to transfer the battle over a proposed sale plan from the auction to the confirmation hearing, at which time the fairness of sale is determined. "A case will turn then on whether or not the plan that is proposed does, in fact, provide the indubitable equivalent for the secured creditor," he says.

Then there's the opinion that Judge Thomas L. Ambro, a veteran bankruptcy lawyer, issued in his dissent. Ambro noted Raslavich's conclusion that the stalking-horse bid was an insider transaction, so Philadelphia Newspapers' plan was not necessarily designed to raise the most money possible for creditors – in his words, "a high-stakes game of chicken." ¤

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