

The

# BANKRUPTCY INSIDER

AN ABSOLUTE PRIORITY FOR BANKRUPTCY PROFESSIONALS

Week of Monday, March 26, 2007

## Bankruptcy Database

The Deal's online resource for information on filings, advisers, bankruptcy M&A, DIP fundings, exit loans and more. It's part of your subscription to *Bankruptcy Insider* and [bankruptcyinsider.com](http://bankruptcyinsider.com).

Volume 3, Issue 38

### 2 Deal Doctors

Big hiring spree at Eckert Seamans, Kerr and Princi off to Paul Hastings, Hoover off to Alvarez, a look at DIP traffic

### 3 Letter from Delaware

Shenanigans at Enron also come after the bankruptcy filing, massive TV theft helps finance cocaine habit for bankrupt company executive, trustee's workout in exercise equipment company case

### 4, 5, 6 Hearings

A trustee for TransContinental, Radnor can hire liquidator, Delta rewards workers, judge OK's Asarco pact with union

### 7 DIP Financings

Ideal's \$75,000 DIP, Allied avoids default on DIP

### 8 M&A Auctions

Azabu nears wind-down, sale price for Parkway on the rise, Right-Way seeks to shed assets

### 9 New Filings

Diamond maker loses luster in court

### 10 Warnings and Second-lien debt

### 11 Dire Stats

Top unsecured creditor law firms, lawyers

*Bankruptcy Insider* is published weekly by The Deal LLC. To subscribe, please call 888-257-6082 or visit the Web site at [bankruptcyinsider.com](http://bankruptcyinsider.com).

## Creditors as open books

Will more disclosure chill participation on committees?

The Manhattan judge overseeing **Northwest Airlines Corp.**'s Chapter 11 case recently ruled that investors that serve on an informal creditors' committee are bound by bankruptcy law to reveal details about their holdings in the carrier, spurring speculation that the ruling could hurt trading of bankruptcy claims or scare off potential candidates for such ad hoc panels.

That the informal Northwest creditors' committee eventually capitulated and produced the details is now besides the point, because lawyers, creditors and others are more focused on the March 9 ruling of Judge Allan Gropper of the U.S. Bankruptcy Court of the Southern District of New York in Manhattan and the precedent it may establish.

"It has a lot of people worried," says Thomas Califano, **DLA Piper's** co-head of bankruptcies and restructurings. "It might hurt the willingness of some people to invest in these transactions because their participation in the committee will come at a price, and that price will be disclosure."

So-called screening walls have existed for well over a decade now and are designed to keep members of a creditors' committee from using inside knowledge gathered during a bankruptcy case as part of their stock- or debt-trading strategy. They usually require a committee member to ensure that the people doing com-

mittee-related work aren't the same people making company trades—and aren't passing confidential information to them, either.

Screening walls have become routine in large bankruptcies, but they operate virtually according to the honor system.

What's more, some judges think the use of screening walls has gone too far. Gropper's colleague on the Manhattan bankruptcy bench, Judge Cornelius Blackshear, had approved a limited screening wall in the 1999 case of **Iridium LLC** but got incensed when **Spiegel Inc.** creditors cited it in their own request for one.

"This court rues the day it opened the Pandora's Box in Iridium," Blackshear wrote. (The creditors eventually dropped the request.)

Question is, has Gropper kept it open?

"Participation in ad hoc committees will certainly be chilled," says Deirdre Martini, former bankruptcy trustee in New York and senior restructuring adviser at **CIT Group Inc.** "Judge Gropper was adhering to a strict interpretation of the requirements of Rule 2019."

What Gropper's ruling really seems to do is establish the fact that the federal Bankruptcy Code actually imposes a record-keeping requirement on committee members, which is different from the honor system approach of screening walls.

For example, Section 11 USC 107 of

continued on page 10

## CALENDAR HEARINGS

## NJ Affordable appraiser admits to role in scheme

An appraiser for bankrupt **NJ Affordable Homes Corp.** admitted to his role in a massive Ponzi scheme that defrauded thousands of investors out of millions of dollars with false property appraisals.

Michael Meehan pleaded guilty to conspiracy to commit wire fraud during a hearing in a New Jersey District Court on March 13, records show.

The complaint against Meehan alleged that he conspired with NJ Affordable officials to vastly inflate the value of the debtor's properties, although in several instances he never actually visited the properties himself.

Those inflated appraisals were then given to the investors, who took out mortgages on more than 340 of NJ Affordable's homes, and were promised at least 15% returns on their investments.

"The scheme enabled [buyers] to purchase the [properties] from NJAH at fraudulently inflated prices in name only and thereby allow NJAH ... to reap illicit profits from such transactions," the complaint alleged.

Charles Forman at **Forman Holt & Eliades LLC**, the bankruptcy court-appointed Chapter 7 trustee to NJ Affordable, estimated that less than half of the 1,200 people that pumped more than \$123 million into NJ Affordable have thus far seen any type of recovery.

The criminal complaint against Meehan alleges that between March 2003 and September 2005 he would appraise the value of certain properties to match the prices of already-written sales contracts given to him by an NJ Affordable employee, identified in court filings only as JM.

The contracts JM gave Meehan were for prices that grossly exceeded the actual value of the property, and Meehan would appraise the property to match the price, the complaint alleges.

Meehan faces a maximum prison sentence of five years for his role in the scheme, according to court records.

NJ Affordable filed for Chapter 7 in the U.S. Bankruptcy Court for the District of New Jersey in Newark on Nov. 22, 2005. ■

—John Blakeley

## Radnor can hire liquidator

A Delaware judge sidestepped a trustee's objection by permitting **Radnor Holdings Corp.** to hire a liquidator four months after the form-cup maker sold its assets.

Judge Peter Walsh of the U.S. Bankruptcy Court in the District of Delaware in Wilmington overruled the U.S. trustee's objection by allowing Radnor to hire **Carroll Services LLC** as liquidator on March 13, to handle its wind-down, records show.

U.S. Trustee Kelly Beaudin Stapleton, Region 3, argued that a Chapter 11 trustee should be tapped or Radnor should be converted to Chapter 7 liquidation since all its assets were already sold, documents show.

"With all the debtor's officers and independent directors having resigned, there is a management vacuum, which prevents the debtors from carrying out the fiduciary responsibilities of a trustee," Stapleton's objection argued. "The debtors instead propose to appoint an entity [Carroll Services] that is a stranger to the case to act as a quasi-trustee and as a professional to assist itself in performing the quasi-trustee's duties."

The Radnor, Pa., company sold its assets in November for roughly \$223 million to an affiliate of prepetition lender Tennenbaum Capital Partners LLC.

Chief restructuring officer Stan Springel of turnaround firm **Alvarez & Marsal LLC** resigned soon after the deal was made, along with Radnor's board and the rest of the company's employees, Stapleton said in court papers.

The resulting management void calls for a trustee, she argued.

"The usual presumption in favor of allowing a debtor's management to remain in the case vanishes completely when management does not or cannot perform its fiduciary duty," according to the objection.

The UST argued against the retention of **Carroll Services** by pushing for conversion of the Chapter 11 petition to a Chapter 7 and the appointment of a liquidating trustee to handle the wind-down.

Privately held Radnor filed separately along with 19 affiliates for Chapter 11 on Aug. 21, 2006, and the cases were then consolidated. ■

—Terry Brennan

## Tower Auto buys more time

**Tower Automotive Inc.** reached an agreement with **Deutsche Bank Trust Co. Americas** to extend the life of 10 second-lien letters of credit worth about \$97.2 million.

The letters of credit are set to expire on June 7 and the extension would stretch the date to the earlier of Oct. 9 or the confirmation date of a reorganization plan.

In exchange for the extension, Deutsche Bank has requested that Tower pay its legal fees related to the transaction and a \$243,219 extension fee, filings show.

The extension would ensure that Tower's second-lien lenders will not draw on the letters of credit.

If Tower's lenders choose to do so, replacement letters of credit would have to be issued under the company's debtor-in-possession loan.

Tower said in documents that it wouldn't have enough cash available under its DIP to afford issuing replacement letters of credit as well as other letters of credit it might need during its bankruptcy.

Tower filed for Chapter 11 on Feb. 2, 2005. ■

—Ben Fidler