

Bloomberg Law Reports[®]

Vol. 4, No. 30

Bankruptcy Law

July 26, 2010

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Bankruptcy Law

Jurisdiction & Venue

Ninth Circuit's *Marshall* Decision Denies Anna Nicole Smith's Estate Millions by Placing Limits on Core Jurisdiction for Counterclaims [\(Back to Top\)](#)

Article contributed by: Joseph J. DiPasquale and Joao F. Magalhaes of Trenk, DiPasquale, Webster,

Della Fera & Sodono, P.C.

In *Marshall v. Stern (In re Marshall)*,¹ the Ninth Circuit ruled upon perhaps the final chapter in the highly publicized struggle over the estate of oil tycoon J. Howard Marshall II. Being determined upon remand from the Supreme Court,² the central issue presented was whether a counterclaim brought by J. Howard's widow, Vickie Lynn Marshall (a/k/a the late model/television personality Anna Nicole Smith), against J. Howard's son, Pierce Marshall, was a core proceeding on which the bankruptcy court overseeing her chapter 11 bankruptcy case could enter a final judgment.³ The determination of this issue would have a dispositive effect on two opposing judgments: a bankruptcy court judgment entered in December 2000 in favor of Vickie Lynn⁴ and a state probate court judgment entered in August 2001 in favor of Pierce Marshall.⁵ The Ninth Circuit ultimately held that Vickie Lynn's counterclaim was a non-core proceeding for which the bankruptcy court could only submit proposed findings of fact and conclusions of law, and concomitantly, and that the state probate court judgment was the earliest final judgment, thereby granting the state probate court's judgment preclusive effect throughout Vickie Lynn's bankruptcy case.⁶

Events Leading to Ninth Circuit's Ruling

The timeline of events leading up to the Ninth Circuit's decision is one of contentious, protracted litigation. A few months prior to J. Howard's death in August 1995, Vickie Lynn had filed suit against Pierce Marshall in Texas probate court, alleging, among other things, fraud and undue influence in connection with the estate planning arrangements for J. Howard.⁷ After J. Howard's passing, his heirs commenced a will contest that was later joined by Vickie Lynn.⁸

Around this time, Vickie Lynn commenced her bankruptcy case by filing a voluntary chapter 11 petition in the United States District Court for the Central District of California.⁹ Shortly thereafter, Pierce Marshall instituted an adversary proceeding against Vickie Lynn's bankruptcy estate by filing a non-dischargeability complaint that sought declaratory relief relating to a defamation claim.¹⁰ Pierce Marshall also filed a proof of claim against the bankruptcy estate that sought damages relating to the alleged defamation.¹¹ In response, Vickie Lynn submitted an answer with counterclaims against Pierce Marshall that included, among other things, allegations of fraud, undue influence, tortious interference, and the fraudulent transfer of J. Howard's assets.¹² Trial on the adversary proceeding resulted in the December 2000 bankruptcy court judgment against Pierce Marshall. In awarding Vickie Lynn Marshall over \$470 million, the bankruptcy court found that Pierce Marshall had tortiously interfered with Vickie Lynn's expectancy of an *inter vivos* gift from J. Howard.¹³

Pierce Marshall appealed the bankruptcy court's judgment to the federal district court and continued to litigate in the Texas probate court, where the proceedings continued notwithstanding the bankruptcy court's judgment. Vickie Lynn Marshall, however, filed a non-suit, effectively dismissing her claims against J. Howard's estate and against Pierce Marshall.¹⁴ The probate court warned Vickie Lynn of the dangers in filing a voluntary non-suit of her claims, but she nevertheless proceeded to do so. The Ninth Circuit observed that this was done "in apparent reliance on her belief that the bankruptcy court had the authority to enter a final judgment on the counterclaim against Pierce Marshall"¹⁵ After a five-month trial, the jury returned a verdict, finding, among other things, that J. Howard had not been the victim of fraud and undue influence, and that he had not agreed to give Vickie Lynn one-half of his property.¹⁶ Subsequently, the Texas probate court entered the August 2001 judgment in favor of Pierce Marshall.

In the interim between the bankruptcy court's December 2000 judgment and the Texas probate court's August 2001 judgment, upon Pierce Marshall's appeal of the bankruptcy court's judgment, the federal district court issued a ruling holding that Vickie Lynn's counterclaim against Pierce Marshall was *not* a core matter over which the bankruptcy court could enter a final judgment.¹⁷ Instead, the counterclaim was a non-core matter over which the bankruptcy court could only issue proposed findings of fact and conclusions of law.¹⁸ Critically, however, the federal district court did not give the Texas probate court's judgment preclusive effect and proceeded to also issue a judgment against Pierce Marshall, this time for a total of approximately \$88.6 million.

Pierce Marshall then appealed the district court's judgment to the Ninth Circuit, which held that the probate

exception to federal subject matter jurisdiction precluded consideration of the case.¹⁹ Accordingly, the Ninth Circuit ordered that the district court and the bankruptcy court rulings be vacated.²⁰ At that juncture, the Ninth Circuit did not rule upon whether Vickie Lynn's counterclaim was a core proceeding, nor did it consider the claim and issue preclusion arguments advanced by Pierce Marshall.²¹

The United States Supreme Court subsequently granted certiorari to address the probate exception to federal jurisdiction. The Supreme Court held that although the probate exception to federal jurisdiction precludes federal courts from attempting to dispose of property in the custody of a state probate court, the probate exception did not deprive the bankruptcy court of jurisdiction over Vickie Lynn's counterclaim against Pierce Marshall.²² The court remanded for determination of whether Vickie Lynn's counterclaim was a core proceeding and also for consideration of the potential issues involving claim and issue preclusion.²³

The Decision

Upon remand from the Supreme Court, the Ninth Circuit held that Vickie Lynn's counterclaim was a non-core proceeding "because it is not so closely related to Pierce Marshall's defamation claim that it must be resolved in order to determine the allowance or disallowance of his claim against her bankruptcy estate."²⁴ In determining this issue, the court provided an extensive backdrop of the controlling legal framework, discussing, in part: the Bankruptcy Act of 1898's grant of "summary jurisdiction" to bankruptcy courts;²⁵ the 1978 Bankruptcy Reform Act's reconfiguration of the bankruptcy court as an adjunct of the district court for each judicial district;²⁶ the seminal case of *Northern Pipeline Construction Co. v. Marathon Pipe Line Co.*;²⁷ and the Bankruptcy Amendments and Federal Judgeship Act of 1984,²⁸ which in large part represents the congressional response to *Marathon*.

The court then turned to [28 U.S.C. §§ 1334](#) and [157](#), which collectively establish the present grant of jurisdiction amongst district courts and bankruptcy courts.²⁹ Under the view of *Marathon*, bankruptcy courts lack constitutional authority to adjudicate state law rights since Article III jurisdiction cannot be conferred on non-Article III courts,³⁰ and thus, under § 1334, jurisdiction over bankruptcy cases is vested in district courts, which can refer those cases to bankruptcy courts.³¹ Section 157, in turn, by demarcating between core and non-core proceedings, "prescribe[s] the manner in which the bankruptcy court may exercise its delegated jurisdiction by identifying those situations (1) when the bankruptcy court is authorized to issue a final order disposing of some or all of the matters before it and (2) when the bankruptcy court is empowered only to make a report and recommendation to the district court."³²

Although the Ninth Circuit recognized that Vickie Lynn's counterclaim was compulsory given that it was founded on the same operative facts as Pierce Marshall's non-dischargeability complaint,³³ it held that it was a non-core proceeding because "it is not so closely related to Pierce Marshall's defamation claim that it must be resolved in order to determine the allowance or disallowance of his claim against her bankruptcy estate."³⁴ Significantly, the court found that "Pierce Marshall's defamation claim could be fully adjudicated without fully adjudicating Vickie Lynn Marshall's tortious interference claim."³⁵ The court refuted the notion that all compulsory counterclaims must be deemed core proceedings, instead ruling that a counterclaim constitutes a core proceeding "only if the counterclaim is so closely related to the proof of claim *that the resolution of the counterclaim is necessary to resolve the allowance or disallowance of the claim itself.*"³⁶

Having ruled that Vickie Lynn's counterclaim was a non-core proceeding, the Ninth Circuit naturally found that the Texas probate court's judgment was the earliest final judgment adjudicating the controversy, notwithstanding that it followed the bankruptcy court's judgment since the bankruptcy court lacked authority to enter a final order.³⁷ Thereafter, assuming satisfaction of the prerequisites for application of collateral estoppel – *i.e.*, among other things, that the facts sought to be litigated in the second action were fully and fairly litigated in the first action – it logically followed that the doctrine of collateral estoppel would operate by virtue of the Full Faith and Credit Act to give preclusive effect to the Texas probate court's judgment in the district court.³⁸ Issue preclusion was indeed found to apply for various reasons,³⁹ thereby dictating that the district court should have given the Texas probate court's judgment preclusive effect. Pierce Marshall prevailed.

Analysis

The Ninth Circuit's decision imposed limits on core jurisdiction for counterclaims that do not exist on the face of the controlling statute, namely § 157. Section 157(b)(2)(C) plainly states that core proceedings include "counterclaims by the estate against persons filing claims against the estate."⁴⁰ Nevertheless, the Ninth Circuit believed itself to be bound by the constitutional limits upon bankruptcy court jurisdiction imposed by *Marathon*. In responding to Vickie Lynn's contention that the plain language of § 157(b)(2)(C) subsumes any and all compulsory counterclaims, the court observed that such an expansive reading "sweeps too broadly and would permit the bankruptcy court to consider under § 157(b)(2)(C) counterclaims that are factually and legally unrelated to the claim being asserted against the bankruptcy estate."⁴¹ Under this view, the manner in which the Ninth Circuit dealt with the particular facts before it is entirely defensible given that Vickie Lynn's counterclaim: (1) was premised on different legal theories and required different proof to establish;⁴² (2) "dwarfed Pierce Marshall's claim in terms of recovery sought and evidence required to establish it"; and (3) as noted in the concurring opinion, it "was not related to the bankruptcy, because [Vickie Lynn] had already been discharged and her creditors would get none of the money she sought from Pierce in her counterclaim."

Critics of the Ninth Circuit's ruling will perhaps cite inconsistency with the notion that a counterclaim brought against a creditor-plaintiff in bankruptcy could be compulsory under Federal Rule of Civil Procedure [13\(a\)\(1\)](#), yet not a core proceeding in the adversary proceeding initiated by such creditor-plaintiff. Indeed, the Ninth Circuit even observed that "[Pierce Marshall's] defamation claim, Vickie Lynn Marshall's affirmative defense of truth, and her counterclaim for tortious interference all concern the alleged efforts by Pierce Marshall to obtain control of his father's estate"⁴³ If a counterclaim involves the same core of operative facts as the creditor-plaintiff's claim, and where it "arises out of the transaction or occurrence that is the subject matter of the opposing party's claim,"⁴⁴ does it stand to reason that the nexus between the claim and counterclaim is sufficient to deem the latter a core proceeding? The Ninth Circuit justifiably ruled that the answer to this inquiry is to be determined on a case-by-case basis.

In addition, critics may contend that while the Ninth Circuit's analysis posits that a reading of § 157 must be informed by *Marathon* – so as to limit the potential scope of its broad language – its holding should not act to limit § 157(b)(2)(C) given that § 157 was enacted post-*Marathon* and has not been found to be unconstitutional. Stated otherwise, since *Marathon* was issued prior to the enactment of § 157(b)(2)(C), should its ruling have a limiting effect on the language of a statute that has not been struck down? Notably, in seeking to read § 157 broadly, certain courts have argued that the precise holding of *Marathon* related solely to the constitutionality of former title 28, section 147.⁴⁵

Ultimately, however, any criticisms of the Ninth Circuit's ruling in *Marshall* will likely be pacified by a recognition that the court found itself bound by a decision that concerned far more than former title 28, section 1471. Indeed, *Marathon's* scope was broad as it addressed the underlying structure of bankruptcy court jurisdiction. In explaining its holding that the resolution of a counterclaim must be necessary to resolve the claim itself for it to constitute a core proceeding, the Ninth Circuit reasoned that while "[t]he test for compulsory counterclaims is generous and designed to promote judicial efficiency . . . the standard for delineating what is a core proceeding is much narrower because it is designed to comply with the constitutional limitations on the bankruptcy court's jurisdiction as set forth in *Marathon*."⁴⁶ For better or worse, under the current state of Supreme Court jurisprudence, such reasoning is sufficient.

Joseph J. DiPasquale is a partner and Joao F. Magalhaes is an associate with Trenk, DiPasquale, Webster, Della Fera & Sodono, P.C. located in West Orange, New Jersey.

¹ *Marshall v. Stern (In re Marshall)*, [600 F.3d 1037](#) (9th Cir. 2010).

² *See Marshall v. Marshall*, [547 U.S. 293, 305](#) (2006).

³ *Marshall*, 600 F.3d at 1048–1050.

⁴ *See id.* at 1046.

⁵ *See id.* at 1047.

⁶ *Id.* at 1063–65.

7 *Id.* at 1042.

8 *Id.* at 1043.

9 *Id.*

10 Specifically, the adversary proceeding sought a "declaration that in the event Vickie Lynn Marshall were to be found liable to Pierce Marshall for earlier instances of alleged defamation, her liability to him would not be dischargeable in her bankruptcy proceeding." *Id.* at 1043–44 (citing [11 U.S.C. § 523\(a\)\(6\)](#)).

11 *Id.*

12 *Id.* at 1044–45.

13 *Id.* at 1046.

14 *Id.*

15 *Id.*

16 *Id.* at 1047.

17 *Id.* at 1048.

18 *Id.*

19 *Marshall v. Marshall (In re Marshall)*, [392 F.3d 1118, 1137–38](#) (9th Cir. 2004).

20 *Id.*

21 *Id.* at 1137.

22 *Marshall*, 547 U.S. at 312–14.

23 *Id.* at 314–15.

24 *Marshall*, 600 F.3d at 1059.

25 *Id.* at 1050.

26 *Id.* at 1051.

27 *Id.* (citing [458 U.S. 50](#) (1982)). In *Marathon*, the Supreme Court considered former title 28, section 1471(c) of the Bankruptcy Act of 1978, a jurisdictional provision granting bankruptcy courts jurisdiction over "all civil proceedings arising under title 11 or arising in or related to cases under title 11." Former 28 U.S.C. § 1471(c) (found unconstitutional by *Marathon*). In considering a debtor's claims against a creditor for breaches of contract and warranty, misrepresentation, coercion, and duress – traditional state law claims clearly falling under the broad jurisdictional grant of former § 1471(c) – the Court ruled that bankruptcy courts lacked constitutional authority to adjudicate such state law rights, since Article III jurisdiction could not be conferred on non-Article III courts, and thus former § 1471(c) was held to be overbroad and unconstitutional. *Marathon*, 458 U.S. at 84–87.

28 *Id.* at 1052–53 (citing [Pub. L. No. 98-353](#) (HR 5174), 98 Stat. 333 (1984)).

29 *Marshall*, 600 F.3d at 1053–55.

30 *Marathon*, 458 U.S. at 84–87.

31 [28 U.S.C. § 1334](#).

32 *Marshall*, 600 F.3d at 1054.

33 *Id.* at 1057.

34 *Id.* at 1059.

35 *Id.* at 1060.

36 *Id.* at 1058 (quoting Professors' Amicus Br. at 11) (emphasis added).

37 *Id.* at 1060–61.

38 *Id.* at 1061 (citing [28 U.S.C. § 1738](#)).

39 *See id.* at 1062–64 (finding, among other things, that "several of the legal and factual issues that Vickie Lynn Marshall sought to litigate in the bankruptcy proceeding had already been litigated and finally determined in the Texas probate action.").

40 [28 U.S.C. § 157\(b\)\(2\)\(C\)](#).

41 *Marshall*, 600 F.3d at 1057.

42 *Id.* at 1060 (noting that "[i]n addition to the differences in proof between the two claims, there is little overlap of the legal elements of the claims at issue.").

43 *Id.* at 1057.

44 *See* Fed. R. Civ. P. [13\(a\)\(1\)](#) (defining compulsory counterclaim).

⁴⁵ See *In re Windsor Communications Group, Inc.*, [67 B.R. 692, 696–97](#) (E.D. Pa. 1986) (expressing minority view that actions to recover pre-petition accounts receivable constitute core proceedings under [28 U.S.C. § 157\(b\)\(2\)](#)).

⁴⁶ *Marshall*, 600 F.3d at 1057 (internal citations omitted).

Discharge

Eighth Circuit Affirms Bankruptcy Court's Order Denying One Debtor's Discharge But Granting Other Debtor's Discharge ([Back to Top](#))

[Bank of Bennington v. Thomas \(In re Thomas\), No. 09-6070, 2010 BL 140094 \(8th Cir. June 22, 2010\)](#)

On June 22, 2010, the United States Court of Appeals for the Eighth Circuit affirmed the bankruptcy court's decision denying a debtor his discharge and granting his wife her discharge. Additionally, the Eighth Circuit dismissed a creditor's appeal as moot and dismissed the debtor's wife's appeal for lack of standing.

Promissory Note and Borrowing Base Certificates

Keith Thomas ("Keith") and Patricia Thomas (together, "Debtors"), along with their son, Timothy Thomas ("Timothy"), and his wife, owned various corporations, including Sceptre Storage, LLC, Four T Companies, Inc. ("Four T Companies"), Four T Corp., and Papiotrade ("Papiotrade"). Keith and Timothy controlled all of the entities, with their wives having little involvement in the operation of the numerous businesses. On December 12, 2002, the two couples, in addition to certain of their business entities, executed a promissory note with the Bank of Bennington ("Bank") for \$4 million and obtained a line of credit on a borrowing base, including inventory, state cigarette tax stamps, cash, accounts receivable, and other assets. Papiotrade, a wholesale distributor of tobacco-related products, was required to submit monthly borrowing base certificates to the Bank. These borrowing base certificates were typically prepared by the company's CFO and were subsequently reviewed and approved by both Keith and Tim. In March 2004, Four T Companies executed a promissory note for \$400,000, which was guaranteed by Keith and his wife's business entities, as well as the couple personally.

Notably, the Bank utilized the borrowing base certificates to decide whether or not to permit the companies to continue borrowing. During the later part of 2004, the Bank indicated its concern that the borrowing base was no longer sufficient and, in January 2005, the Bank explained to Keith and Timothy that if their January 2005 certificate did not demonstrate that there were sufficient assets, the Bank would discontinue lending them funds.

Although Timothy attempted to increase sales to make the companies' accounts receivables grow, he was unsuccessful in his efforts, and thus, at the end of January 2005, there were still not sufficient assets. Papiotrade, however, submitted a borrowing base certificate to the Bank providing a listing of assets that were high enough to satisfy the requirements pursuant to the loan. Papiotrade then continued to provide inflated borrowing base certificates during February 2010 and March 2010. Even with such inflated borrowing certificates, however, the companies could not be sustained financially, and Papiotrade and the other companies were ultimately forced to terminate their operations and liquidate. Even after the liquidation was complete, however, the Bank was still owed money.

Chapter 7 Filing

On November 22, 2006, Keith and his wife filed a voluntary petition for chapter 7 bankruptcy protection. In their schedules and statements, however, they failed to disclose certain items, including: (1) a \$397,000 tax refund that they had received during the past year; (2) a loan for \$150,000 from a relative and its subsequent repayment within the last two years; (3) state tax refunds of \$56,000; (4) \$500,000 in settlement payments received within two years of the petition date; and (5) \$90,000 in income from payments received from Papiotrade within two years of the petition date. At Debtors' [11 U.S.C. § 341](#) meeting, the Bank's attorney informed Debtors of the first three items and Debtors amended their schedules and statements to include these

amounts. Debtors, however, still failed to disclose the fourth and fifth items.

Claiming that Keith was involved in providing the fraudulent borrowing base certificates, the Bank filed an adversary proceeding against Debtors, attempting to except from Keith's discharge the debts from the notes and guarantees that had been made in connection with the business entities pursuant to [11 U.S.C. § 523\(a\)\(2\)](#), [\(a\)\(4\)](#), and [\(a\)\(6\)](#). Additionally, the Bank sought to deny Debtors' discharges in accordance with [11 U.S.C. § 727](#).

Bankruptcy Court Denied Keith's Discharge under § 727(a)(4)(A)

First, examining the Bank's argument that neither Keith nor Patricia should be entitled to their discharge pursuant to § 727, the bankruptcy court examined § 727(a)(4)(A), which provides that the "court shall grant the debtor a discharge, unless . . . the debtor knowingly and fraudulently, or in connection with the case . . . made a false oath or account." Considering the facts in the instant case, the bankruptcy court found that Keith had knowingly made false statements under oath on both his petition and schedules and at the § 341 meeting by failing to note the tax refunds, the settlement, and the income from Papiotrade. Furthermore, the court held that Keith had made such false statements with fraudulent intent, which could be inferred from the recklessness of the omissions and since such statements were material to the bankruptcy case given that these assets belonged to the estate.

At the same time, however, the bankruptcy court concluded that there was insufficient evidence substantiating the charges against Patricia. Notably, the Bank had provided little evidence against Patricia at trial and, thus, the bankruptcy court concluded that there was not adequate evidence of her intent and that there was no basis to deny her discharge under § 727(a)(4)(A). Moreover, the bankruptcy court found against the Bank on its § 523(a) claims, declaring that Tim rather than Keith had inflated the sales and accounts receivable balances.

Keith, Patricia, and the Bank then appealed the bankruptcy court's decision.

Eighth Circuit Reviews Bankruptcy Court's Findings

On appeal, Keith claimed that the bankruptcy court had ignored the evidence that he had provided at trial regarding his intent, again reiterating that his omissions had been honest mistakes that he had corrected as soon as he became aware of them and that his original false statements had been mitigated by his later behavior.

Rendering its decision, the Eighth Circuit agreed with the bankruptcy court, pointing out that intent not only can be established by circumstantial evidence but that statements that were made with a reckless indifference to the truth can be characterized as being intentionally false. *Korte v. Internal Revenue Serv. (In re Korte)*, [262 B.R. 464, 474](#) (B.A.P. 8th Cir. 2001). Additionally, the Eighth Circuit noted that it was required to defer to the bankruptcy court's review of the evidence, explaining that the bankruptcy court had referenced Keith's evidence at several points during the pendency of the case and had yet nonetheless been unpersuaded by such evidence, and that Keith had never disputed the fact that he had made several significant omissions. As a result, the Eighth Circuit concluded that the bankruptcy court's findings were not clearly erroneous and that intent could be inferred from the recklessness and the significance of the omissions.

Furthermore, the Eighth Circuit ruled that even though Patricia had joined in the appeal filed by Keith, she had not been harmed by the bankruptcy court's order and therefore had no standing to appeal the order.

Eighth Circuit Finds Remainder of Bank's Appeal Moot

Finally, although the bankruptcy court had overruled the Bank's arguments with respect to its § 523 claims, the Eighth Circuit found the Bank's appeal of this issue to be moot. Specifically, the Bank argued on appeal that it had concerns that if Keith were to file a later bankruptcy case, the Bank would then have to establish its exception from discharge at that time. Ultimately, however, the Eighth Circuit disagreed with the Bank's position,

observing that because Keith was not receiving a discharge pursuant to § 727(a), it was irrelevant whether or not the debt to the Bank had been excepted from discharge. As such, the Eighth Circuit resolved that neither the bank's debt, nor the debts of the other current creditors would be discharged.

Eighth Circuit Affirms Bankruptcy Court's Decision

Accordingly, the Eighth Circuit affirmed the bankruptcy court's decision to deny Keith his discharge and grant Patricia her discharge. At the same time, the Eighth Circuit dismissed as moot the Bank's appeal arguing that the court of appeals should decide that the Bank's debts were dischargeable and also dismissed Patricia's appeal for lack of standing.

Bankruptcy Crimes

Eighth Circuit Affirms District Court's Prison Sentence of 18 Months for Debtor's Bankruptcy Fraud [\(Back to Top\)](#)

[United States v. Mitchell, No. 09-3161, 2010 BL 145234 \(8th Cir. Jun. 28, 2010\)](#)

On June 28, 2010, the United States Court of Appeals for the Eighth Circuit affirmed the district court's 18 month prison sentence for a debtor who had been convicted of bankruptcy fraud in violation of [18 U.S.C. § 152](#). In so holding, the Eighth Circuit found that the debtor had intended to commit bankruptcy fraud by concealing from his creditors all of his assets and his equity in those assets, and that, as such, the district court had reasonably calculated the debtor's intended financial loss for the purposes of sentencing.

Debtor's Bankruptcy Fraud

Marvin Mitchell ("Mitchell" or "Debtor") was an Iowa farmer whose livelihood was destroyed by drought and storms during the 1998 season. In 2000, Stine Seed ("Stine Seed"), one of Mitchell's creditors, filed an action against Mitchell for unpaid goods. That same year, Mitchell transferred certain of his farmland and equipment for no consideration to Third Rock, Inc. ("Third Rock"), which was a newly created corporation. In 2001, Mitchell opened a new bank account ("Account") and acquired Lost Prairie, L.C. ("Lost Prairie"), another corporation through which Mitchell moved certain of his crop proceeds. Thereafter, Stine Seed obtained a judgment against Mitchell for \$322,900.

During the following year, Mitchell filed a petition for chapter 7 bankruptcy protection. Notably, in his bankruptcy schedules, Debtor did not reveal his interest in Third Rock, Lost Prairie, or the Account. As a result, he was subsequently convicted of bankruptcy fraud in violation of § 152(1).

Amount of Intended Loss

At his sentencing hearing, Debtor asserted that the intended loss resulting from his actions was \$36,000, which figure he calculated based on the balance in the concealed Account as of the petition date and the Arkansas real estate, which was purportedly worth \$7,000. Debtor claimed that all of his other assets were encumbered by liens, thus rendering them worthless. Pursuant to the federal sentencing guidelines ("Guidelines"), a loss that is greater than \$30,000 but less than \$70,000 correlates to a recommended range of ten to 16 months of imprisonment.

As opposed to Debtor's calculation of an intended loss of \$36,000, the pre-sentence investigation report ("PSR") estimated an intended loss of almost \$470,000 in equipment and \$578,000 in land transferred to Third Rock for zero consideration. Additionally, the PSR estimated a loss of \$180,000 from the Account, which amount reflected the cash balance as of the petition date. The PSR also estimated losses aggregating \$51,000 from a crop insurance payment that had been made within one year of the petition date, a payment for land sold in Iowa, and the actual value of the Arkansas real estate property. Ultimately concluding that the intended loss was more than \$400,000 but less than \$1 million, the PSR recommended a range of 33 to 41 months of imprisonment for

Debtor in accordance with the Guidelines.

Furthermore, the appointed chapter 7 trustee ("Trustee") provided testimony indicating that Debtor had attempted to conceal his assets, had failed to cooperate, and had falsely claimed that he did not maintain any business records. Utilizing business records that had been seized pursuant to a search warrant, the Trustee located the concealed assets and estimated that Debtor's farmland ("Farmland") had an estimated value of \$950,000 but was subject to an unavoidable lien of \$450,000, thus resulting in \$500,000 worth of equity remaining in Debtor's property.

District Court's Sentence for Debtor

In determining Debtor's sentence, the district court remarked that because Debtor was fully aware of the actual market value of the assets that he had attempted to conceal, the market value of the assets should thus be the appropriate estimate of loss. Focusing on the Trustee's position that there was \$500,000 in equity remaining in the Farmland, the district court resolved that Debtor had intended to conceal \$500,000. Nonetheless, however, straying from the PSR's recommendation, the district court reduced the prison term for Debtor, sentencing Debtor to 18 months of imprisonment.

Debtor then appealed the sentencing order, arguing that the district court had miscalculated the intended financial loss for the purposes of sentencing.

Sentencing Guidelines

Beginning its analysis of the matter on appeal, the Eighth Circuit explained that in accordance with the Guidelines, loss is calculated as the greater of either the actual or intended loss. Since the bankruptcy court had opted not to discharge Debtor's debts, thus resulting in no actual loss, the Eighth Circuit declared that the main issue here involved the amount of loss that Debtor had intended to cause to his creditors. As the Eighth Circuit further added, district courts are only required to reasonably estimate losses as opposed to calculating them specifically. See *United States v. Waldner*, [580 F.3d 699, 705](#) (8th Cir. 2009).

Challenge to District Court's Calculation

The Eighth Circuit next discussed Debtor's argument that the district court had miscalculated Debtor's intended loss for the purposes of sentencing. Specifically, the Eighth Circuit considered Debtor's claim that his liabilities aggregated more than \$1 million, thus leaving him with no equity remaining in the assets that he had attempted to conceal. The Eighth Circuit also examined Debtor's contention that, as of the petition date, a \$560,000 judgment held by Debtor's father and the \$322,900 judgment held by Stine Seed had attached to the Farmland. To this end, the Eighth Circuit analyzed Debtor's allegation that because the total of the two judgments exceeded the Farmland's true value, leaving it without any remaining equity, the amount of intended loss should have been calculated as zero.

District Court's Calculation Was Proper

Ultimately, in examining whether the district court had reasonably estimated the value of the concealed assets, the Eighth Circuit found the Trustee's testimony to be convincing that the Farmland was valued at approximately \$950,000 as of the filing date, was subject to a \$450,000 unavoidable lien, and that \$500,000 in equity would therefore have been available for general unsecured creditors. As a result, the Eighth Circuit decided that Debtor's claim that he had no remaining equity in the concealed assets was unreasonable in light of the facts. Instead, the Eighth Circuit noted that Debtor had attempted to commit bankruptcy fraud in order to shield the assets held by Third Rock, Lost Prairie, and the Account from creditors and that, in doing so, Debtor had also concealed significant amounts of equity. Given the circumstances, the Eighth Circuit concluded that the district court had reasonably relied on the Trustee's assessment in calculating the intended loss at \$500,000.

Eighth Circuit Affirms Sentence for Debtor

In sum, concluding that the district court's factual findings were not clearly erroneous, the Eighth Circuit affirmed the district court's sentence of 18 months of imprisonment for Debtor.

Tax

Tenth Circuit Affirms Judgment Denying Trustee's Motion for Turnover of Pre-Petition Tax Refund ([Back to Top](#))

[*Weinman v. Graves \(In re Graves\)*, No. 08-1462, 2010 BL 147282 \(10th Cir. Jun. 29, 2010\)](#)

On June 29, 2010, the United States Court of Appeals for the Tenth Circuit affirmed the judgment of the United States Bankruptcy Appellate Panel for the Tenth Circuit ("B.A.P.") denying a motion filed by a chapter 7 trustee requesting turnover of the debtors' 2006 tax refund pursuant to [11 U.S.C. § 542](#) as property of the estate. Ultimately agreeing that the debtors' interest in the tax refund, which the debtors had irrevocably applied to their 2007 taxes before filing for bankruptcy was not subject to turnover, the Tenth Circuit modified the B.A.P.'s judgment to provide that only the amount of any subsequent refund of the debtors' 2007 taxes attributable to pre-petition earnings was subject to turnover.

Debtors' Pre-Petition Tax Refund

In July 2007, James and Kathryn Graves ("Graves" or "Debtors") filed their 2006 tax return, which generated a \$3,000 tax refund for them. Instead of electing to receive the refund, the Graves instead decided to leave those surplus funds on deposit with the United States and to apply the overpayment to their future tax liability. In accordance with [26 U.S.C. § 6513\(d\)](#), the Graves' irrevocable election to apply the tax overpayment to the following year's taxes precluded them from filing a claim in 2007 for a credit or for refund of the overpayment.

Two months later, in September 2007, the Graves filed a voluntary petition for chapter 7 bankruptcy protection. Thereafter, the appointed chapter 7 trustee ("Trustee") filed a motion ("Motion") requesting the turnover of Debtors' 2006 tax refund pursuant to § 542(a) on the basis that the refund constituted property of the estate under [11 U.S.C. § 541\(a\)\(1\)](#).

Lower Courts' Rulings

Ultimately, the bankruptcy court denied the Trustee's Motion and the B.A.P. subsequently affirmed the bankruptcy court's decision. In its judgment ("Judgment"), the B.A.P. explained that Debtors could not be required to turn over property that they did not actually have. As the B.A.P. observed, Debtors' pre-payment was a contingent reversionary interest, thereby providing Debtors with a contingent right to a refund if they were to ultimately overpay on their 2007 taxes. The B.A.P. also added that at the time of their bankruptcy filing and continuing through the time at which the Motion was filed, Debtors had no right to possession of their tax overpayment. As such, the B.A.P. declared that the Trustee's right to possession of the refund must be similarly limited. Accordingly, the B.A.P. concluded that the turnover provisions of § 542 were not applicable to Debtors' interest in the tax refund.

The Trustee then appealed the B.A.P.'s decision to the Tenth Circuit.

Property of Bankruptcy Estate

Beginning its analysis of the matter on appeal, the Tenth Circuit explained that pursuant to § 541(a)(1), a bankruptcy estate consists of the entirety of a debtor's legal or equitable interests in property as of the commencement of the case. As the Tenth Circuit indicated, estate property includes interests that cannot immediately be liquidated and transferred by the debtor. See *Nichols v. Birdsell*, [491 F.3d 987, 990](#) (9th Cir. 2007). Additionally, the Tenth Circuit remarked that a trustee succeeds only to the rights that the debtor had in the property at the time of the petition date, takes the property subject to the same restrictions that existed as of the petition date, and thus cannot obtain a greater interest in the property than the interest that the debtor

himself possessed. See *In re Sanders*, [969 F.2d 591, 593](#) (7th Cir. 1992).

Applying these concepts to the instant case, the Tenth Circuit noted that the extent of the Trustee's interest in the tax refund here could not exceed Debtors' interest in the overpayment. Pointing out that § 6513(d) rendered Debtors' election to apply their refund as a pre-payment of their 2007 tax liability irrevocable, the Tenth Circuit reasoned that Debtors thus had no right to receive any cash from the refund until after their 2007 tax liability had been determined and, then, only if they were entitled to a further refund. Consequently, the Tenth Circuit declared that the estate's interest in the pre-payment was limited to Debtors' contingent reversionary interest in the pre-payment that was attributable to pre-petition earnings. See *In re Middendorf*, [381 B.R. 774, 778–80](#) (Bankr. D. Kan. 2008).

Statutory Authority Did Not Support Turnover

Continuing its analysis, the Tenth Circuit examined certain statutory authority to determine whether turnover under the specific circumstances in the instant case was appropriate. To this end, the Tenth Circuit observed that § 542(a) provides that in order for its turnover provisions to be applicable, a debtor must be in possession, custody, or control of the property in question during the pendency of the bankruptcy case. Noting that Debtors were never in possession, custody, or control of their contingent interest in the refund, the Tenth Circuit concluded that the Trustee's request for turnover failed as a matter of law. See *Maggio v. Zeitz*, [333 U.S. 56, 64](#) (1948).

Furthermore, the Tenth Circuit clarified that § 542 could not be invoked to broaden the Trustee's interest in the refund or any other estate property. See *In re Armstrong*, [206 F.3d 465, 472](#) (5th Cir. 2000). In *Armstrong*, the Fifth Circuit held that because the right to a tax refund is created and governed by [26 U.S.C. § 6511](#), § 542(a) cannot be used to broaden the right to file for a refund by extending the trustee's time to do so beyond the limitation period set forth in § 6511. The *Armstrong* court also commented that because the debtor there did not have a continuing interest in the overpayment pursuant to § 541(a)(1), the trustee could not use § 542(a) to create an interest that did not otherwise exist. *Id.* at 472 n.6.

Moreover, the Tenth Circuit pointed out that other courts have interpreted § 542(a) in a similar manner. See *In re Coomer*, [375 B.R. 800](#) (Bankr. N.D. Ohio 2007). For example, in *Coomer*, the bankruptcy court rejected the trustee's contention that § 542(a) provided him with a right to a security deposit, explaining that § 542(a) permits a trustee to obtain possession only of property in which the debtor had a right of possession. *Id.* at 806. Declaring that the debtor in *Coomer* did not have a right to possess the property in question as of the petition date, the *Coomer* court held that the trustee could not acquire such a right by virtue of a § 542(a) turnover action. *Id.* Applying the rationale from *Coomer* to the instant case, the Tenth Circuit held that because Debtors did not have any right to their refund at the time of their bankruptcy filing, the Trustee could not compel turnover of that property, thus rendering the bankruptcy court's denial of the Trustee's Motion appropriate. At the same time, however, the Tenth Circuit clarified that if Debtors were ultimately to become entitled to a refund after their 2007 tax liability had been satisfied, the Trustee could then request turnover of any portion of that refund that was attributable to pre-petition earnings. See *In re Orrill*, [226 B.R. 563](#) (Bankr. E.D. La. 1997).

Policy and Practicality Did Not Support Turnover

Finally, the Tenth Circuit declared that in addition to the statutory grounds for its ruling, policy considerations and considerations of practicality also supported its denial of the Trustee's Motion. Specifically, the Tenth Circuit indicated that if a turnover order had been entered, Debtors would have needed to spend their post-petition earnings to comply with that order, which would be in contravention of the Bankruptcy Code's fresh start policy. The Tenth Circuit also predicted that a turnover order at the current point in the case would have ultimately resulted in a contempt hearing, at which Debtors would have claimed impossibility as a defense and which would have taken up a significant amount of the court's time unnecessarily.

Tenth Circuit Affirms B.A.P.'s Judgment With Modification

In sum, the Tenth Circuit affirmed the B.A.P.'s Judgment denying the Trustee's Motion, but modified the

Judgment to provide that only the portion of the refund that was attributable to pre-petition earnings and that reverted back to Debtors after application to their 2007 tax liability could be subject to turnover.

Use, Sale or Lease of Property

Eighth Circuit B.A.P. Affirms Bankruptcy Court's Denial of Purchasers' Motion to Reopen Debtor's Case to Enforce Prior Sale Order [\(Back to Top\)](#)

[Mid-City Bank v. Skyline Woods Homeowners Assoc. \(In re Skyline Woods Country Club, LLC\), No. 09-6073, 2010 BL 136071 \(8th Cir. June 17, 2010\)](#)

On June 17, 2010, the United States Bankruptcy Appellate Panel for the Eighth Circuit ("B.A.P.") affirmed a bankruptcy court's decision denying the purchasers' motion to reopen a debtor's bankruptcy case for the purpose of enforcing an earlier sale order. Specifically, the B.A.P. held that the state courts had concurrent jurisdiction to interpret the sale order and that the doctrine of *res judicata* precluded a review of the state court's judgment.

Broekemeiers' Purchase of Golf Course from Debtors

On December 15, 2004, Skyline Woods Country Club, LLC ("Debtor") filed a petition for chapter 11 bankruptcy protection. Shortly thereafter, Debtor sold substantially all of its assets, including a section of a golf course, to David and Robin Broekemeier ("Broekemeiers"), who took title to the property in the name of Liberty Building Corp. ("Liberty"). Mid-City Bank ("Mid-City" and, together with Liberty and the Broekemeiers, "Appellants") financed the Broekemeiers' purchases. Thereafter, on February 9, 2005, the bankruptcy court issued an order ("Sale Order") approving the sale free and clear of all liens, claims, and encumbrances, and Debtor's case was subsequently closed on January 31, 2006.

Nebraska State Court Enforces Restrictive Covenants against Appellants

Ultimately, the Broekemeiers decided not to reopen the golf course. As a result, on April 25, 2006, Skyline Woods Homeowners Association, in addition to certain individual homeowners (collectively, "Homeowners"), filed an action against Liberty and the Broekemeiers in state court in Nebraska, attempting to enforce certain restrictive covenants requiring that the property be used only as a golf course. Thereafter, on March 28, 2007, the state court granted the Homeowners' motion for summary judgment, finding that the restrictive covenants requiring that the property be used as a golf course were enforceable against Liberty since the Sale Order did not eliminate restrictive covenants.

The Appellants then appealed the state court's decision, which was later affirmed by the Nebraska Supreme Court.

Bankruptcy Court Denies Appellants' Motion to Reopen Debtor's Case

Shortly after the Nebraska Supreme Court issued its decision, Liberty defaulted on its loan to Mid-City and, as a result, Mid-City recorded a notice of default and election to sell the property. On September 25, 2009, the Appellants filed a motion to reopen Debtor's bankruptcy case in order to file an adversary proceeding to enforce the Sale Order ("Motion to Reopen"). Specifically, the Appellants' complaint requested an injunction enjoining the Homeowners from enforcing any of the Nebraska state court's orders that attempted to modify or otherwise change the Sale Order as void for lack of subject matter jurisdiction.

After notice and a hearing, the bankruptcy court eventually denied the Appellants' Motion to Reopen, deciding that the issue of whether the Sale Order had eliminated the covenants purportedly requiring that the property be used as a golf course had already been adjudicated by the Nebraska Supreme Court, which had concurrent jurisdiction to interpret the Sale Order.

The Appellants next appealed the bankruptcy court's decision to the B.A.P.

Standards Governing Reopening of Bankruptcy Cases

Rendering its decision on appeal, the B.A.P. began its analysis by explaining that pursuant to [11 U.S.C. § 350\(b\)](#), a case can be reopened in the court in which the case was closed in order to administer assets, accord relief to the debtor, or for other cause. In light of this standard, the B.A.P. indicated that although the bankruptcy court's decision to grant or deny a request to reopen a bankruptcy case is afforded broad discretion, a motion to reopen should be granted only when a compelling reason is demonstrated, and the longer the time lapse between the closing of the case and the motion to reopen, the more convincing the reason must be. See *In re Apex Oil Co., Inc.*, [406 F.3d 538, 542-43](#) (8th Cir. 2005); *In re Borer*, [73 B.R. 29](#), 31 (Bankr. N.D. Ohio 1987). Moreover, the B.A.P. noted that the availability of relief in another forum constitutes a legitimate reason for refraining from reopening a closed bankruptcy case. *Id.* at 542.

B.A.P. Rules Nebraska Supreme Court Had Concurrent Jurisdiction to Interpret Sale Order

Considering the bankruptcy court's decision that the Nebraska Supreme Court had concurrent jurisdiction to interpret the Sale Order, the B.A.P. explained that under [28 U.S.C. § 1334](#), the bankruptcy court has original and exclusive jurisdiction over all cases under title 11 and that, pursuant to § 1334(e), the bankruptcy court has exclusive jurisdiction over all of the property of the debtor as of the commencement of the case and all of the property of the estate. With respect to this issue, the Appellants argued that the bankruptcy court had exclusive jurisdiction to interpret and enter the Sale Order because it involved property of the estate.

Ultimately rejecting the Appellants' jurisdictional argument, the B.A.P. agreed that the bankruptcy court had exclusive jurisdiction to issue the Sale Order and that, if the Appellants had timely sought to appeal or modify the Sale Order, the action would also have fallen under the exclusive jurisdiction of the bankruptcy court pursuant to § 1334(e). At the same time, however, the B.A.P. disagreed that the bankruptcy court had exclusive jurisdiction to interpret the Sale Order since the Sale Order was now a final order and since the property that had been sold to the Broekemeiers and Liberty was no longer property of the estate. Furthermore, the B.A.P. determined that the Nebraska Supreme Court had not "modified" the Sale Order, which was what the Appellants contended, but that the state court had actually only determined the scope of the Sale Order as it applied to implied covenants running with the land. Moreover, while recognizing a bankruptcy court's implicit authority and jurisdiction to construe and enforce its own previous orders, the B.A.P. resolved that such jurisdiction is not exclusive, even in connection with the interpretation of orders approving the sale of estate property. See *In re Eveleth Mines, L.L.C.*, [318 B.R. 682, 687](#) (B.A.P. 8th Cir. 2004); *Gulf Offshore Co. v. Mobil Oil Corp.*, [453 U.S. 473, 477](#) (1981). As such, the B.A.P. concluded that the Nebraska state courts had concurrent jurisdiction to construe the Sale Order and, thus, that the bankruptcy court's conclusion was proper that alternate relief was available to the Appellants and that it was within the court's discretion to deny the Appellants' Motion to Reopen.

B.A.P. Holds Res Judicata Precluded Re-Litigation of Nebraska Supreme Court Judgment

As an alternative basis for its ruling, the B.A.P. determined that the bankruptcy court's decision could also be affirmed on the grounds that reopening Debtor's case would have been a waste of judicial resources since the doctrine of *res judicata* precluded review of the Nebraska Supreme Court's judgment. In support of this finding, the B.A.P. noted that the doctrine of *res judicata* prohibits the re-litigation of claims when: (1) a court of competent jurisdiction has issued the previous judgment; (2) the previous judgment was final and on the merits; (3) both actions involve the same parties or those in privity with them; and (4) both actions are based on the same claims or causes of action. See *Rutherford v. Kessel*, [560 F.3d 874, 877](#) (8th Cir. 2009). In addition, the B.A.P. observed that the party against whom the doctrine of *res judicata* is being asserted must also have had a full and fair opportunity to litigate the matter in the proceeding that is to be given preclusive effect, and the preclusive effect of *res judicata* includes not only claims and defenses in the original suits but also issues that could potentially have been resolved. See *Nevada v. United States*, [463 U.S. 110, 129-30](#) (1983).

Declaring that the Nebraska Supreme Court's decision, as well as the trial court's finding, had met all of these requirements, the B.A.P. concluded that the pending litigation between the Broekemeiers and the Homeowners

had resulted in a final judgment on the merits since the trial court had entered summary judgment against the Broekemeiers based on a finding that the Sale Order had not eliminated restrictive covenants and the judgment was then later upheld on appeal. The B.A.P. also pointed to its earlier finding that the Nebraska state courts had concurrent jurisdiction to decide whether the Sale Order had eliminated restrictive covenants. Furthermore, the B.A.P. noted that the state court litigation in the instant case involved the same parties because Mid-City was in privity with Liberty and because "privity denotes mutual or successive relationship to the same right of property" and Mid-City's interest in the lawsuit stemmed from its security interest in Liberty's property such that if Mid-City were to foreclose its interest, it would be a direct successor to Liberty's interest in the property. See *In re Marlar*, [267 F.3d 749](#) (8th Cir. 2001). Finally, the B.A.P. decided that the issue that the Appellants were attempting to litigate in the bankruptcy court regarding whether the Sale Order had eliminated the implied restrictive covenants was the same as the issue that they had previously litigated in the state court action and that the Appellants, either directly or through privity, had been given a full and fair opportunity to litigate those same issues before the Nebraska state courts.

Accordingly, the B.A.P. concluded that the judgments issued by the Nebraska trial court and the Nebraska Supreme Court were entitled to preclusive effect under the doctrine of *res judicata* and, thus, reopening Debtor's bankruptcy case to re-litigate the issues that had been decided by those judgments would have had no practical value.

B.A.P. Affirms Denial of Motion to Reopen Debtor's Bankruptcy Case

Ultimately, the B.A.P. affirmed the bankruptcy court's order denying the Appellants' Motion to Reopen on the basis that the Nebraska state courts had concurrent jurisdiction to construe the Sale Order and the doctrine of *res judicata* precluded re-litigation of the issue of whether the Sale Order had eliminated the restrictive covenants in question.

Automatic Stay

Bankruptcy Court Conditionally Lifts Automatic Stay to Permit Debtor to Return to State Court to Attempt to Vacate Warrant of Eviction ([Back to Top](#))

[In re Sweet N Sour 7th Ave. Corp., No. 10-12723, 2010 BL 139477 \(Bankr. S.D.N.Y. June 18, 2010\)](#)

On June 18, 2010, the United States Bankruptcy for the Southern District of New York denied a landlord's motion for relief from the automatic stay of [11 U.S.C. § 362](#) to proceed with its pre-petition eviction proceedings against the debtor. At the same time, however, the bankruptcy court conditionally lifted the automatic stay in order to enable the debtor to return to state court to attempt to vacate the pre-petition warrant of eviction.

Landlord's Pre-Petition of Warrant of Eviction

Sweet N Sour 7th Ave. Corp. ("Debtor") operated a Tasti D-Lite frozen yogurt store pursuant to a lease ("Lease") for commercial property in New York City ("Premises"). Fox 716 Realty LLC, as the landlord under the Lease ("Landlord"), held a security deposit of \$27,540 ("Deposit"). Ultimately, however, Debtor defaulted under the terms of the Lease and, as a result, the Landlord commenced a non-payment summary proceeding in state court, ultimately obtaining a warrant of eviction.

On the same day that the warrant of eviction was issued, however, Debtor and the Landlord entered into a stipulation ("Stipulation"), pursuant to which the warrant of eviction was stayed as long as: (1) Debtor made future rental payments in accordance with a schedule included in the Stipulation; and (2) a final judgment of \$50,951.02 was consented to. The Stipulation further provided that, in the event of a default, the Landlord was required to provide Debtor with three days' written notice of the default, at the same time as providing a notice to the marshal to execute the warrant of eviction. If Debtor did not cure the default within three days, the marshal could then execute the warrant of eviction.

Landlord's Motion to Modify Automatic Stay to Proceed with Eviction Proceedings

After Debtor failed to make a payment that was due on May 7, 2010 pursuant to the schedule included in the Stipulation, the Landlord contacted Debtor regarding the default and provided Debtor with the requisite notice to cure. Debtor, however, failed to cure or contest the default and instead filed a petition for chapter 11 bankruptcy protection on May 24, 2010, before the warrant of eviction could be executed.

In response, the Landlord filed a motion requesting relief from the automatic stay in order to enforce the warrant of eviction to continue with the eviction proceedings and also requested that the Deposit be applied to past due rent, arguing that it could exercise the right of recoupment. Specifically, the Landlord claimed that: (1) cause existed for relief from the stay pursuant to § 362(d)(1) because the Lease had terminated when the warrant of eviction was issued; (2) the Lease was not property of Debtor's estate because the leasehold had terminated pre-petition; and (3) cause also existed for relief from the stay pursuant to § 362(d)(1) because Debtor had no equity in the property. Opposing the Landlord's motion, Debtor contended that the Lease had not terminated pre-petition, and that the Premises were essential to Debtor's reorganization and that it was thus entitled to assume the Lease.

Bankruptcy Court Finds Debtor Retained Possessory Interest in Lease

Rendering its decision on the Landlord's motion, the bankruptcy first considered whether the Lease had terminated pre-petition, noting that state law is clear that the issuance of a warrant of eviction functions to terminate the landlord-tenant relationship. See N.Y. Real Prop. Acts. & Proc. L. [§ 749\(3\)](#) (McKinney 2008) ("RPAPL"). To this end, the bankruptcy court resolved that Debtor's leasehold rights in the instant case had been terminated upon the issuance of the warrant of eviction, subject to the right of the state court to vacate the warrant for good cause prior to the warrant being executed. At the same time, however, the bankruptcy court found that the case law also made it evident that if a debtor remains in possession after the warrant has issued, the debtor retains an equitable possession interest in the leasehold that brings on the protections of the automatic stay. See *48th Street Steakhouse, Inc. v Rockefeller Group, Inc. (In re 48th Street Steakhouse, Inc.)*, [835 F.2d 427, 430](#) (2d Cir. 1987). Specifically, the bankruptcy court pointed to *In re Mad Lo Lo LLC*, [No. 09-11911, 2009 BL 115089](#) (Bankr. S.D.N.Y. May 28, 2009), in which the court applied RPAPL § 749(3) and held that although a pre-petition warrant of eviction functioned to terminate the landlord-tenant relationship, the automatic stay was still applicable to the *Mad Lo Lo* debtor's remaining possessory interest in the property.

As a result, applying this reasoning to the instant case, the bankruptcy court concluded that although the issuance of the warrant of eviction had functioned to terminate the landlord-tenant relationship between the Landlord and Debtor, because the parties had agreed to stay the execution of the warrant of eviction by virtue of the Stipulation, Debtor still retained a possessory interest that was protected by the automatic stay. See *In re Éclair Bakery, Ltd.*, [255 B.R. 121, 133](#) (Bankr. S.D.N.Y. 2000). In so deciding, the bankruptcy court held that Debtor had misinterpreted the court's decision in *In re P.J. Clarke's Rest. Corp.*, [265 B.R. 392, 398](#) (Bankr. S.D.N.Y. 2001), as standing for the proposition that, pursuant to [11 U.S.C. § 365\(d\)\(3\)](#), a lease that has terminated before the petition date can be reinstated in accordance with state law procedures. Instead, the bankruptcy court found that the *P.J. Clarke's* decision simply stands for the proposition that a lease can be deemed unexpired for the purposes of performing post-petition obligations pursuant to § 365(d)(3) if the lease was terminated before the petition date, and the decision does not pertain to the question of whether a lease can be considered to be unexpired for all other purposes or that a bankruptcy court can potentially reinstate the terminated leasehold.

Bankruptcy Court Declines Landlord's Request to Lift Stay But Conditionally Lifts Stay to Permit Debtor to Attempt to Vacate Warrant of Eviction

Having decided that the automatic stay was currently in place, the bankruptcy court next discussed the Landlord's request to lift the stay, pointing out that § 362(d)(1) provides that the court shall grant relief from the stay for cause, including the lack of adequate protection of an interest in property of such party in interest. In this regard, the bankruptcy court observed that the failure to pay post-petition rent can constitute a basis for granting relief from the stay, and that the Landlord in the instant case would not be adequately protected if

Debtor were to become behind in making its post-petition rent payments. Additionally, the bankruptcy court remarked that although Debtor's attorney had indicated at the hearing on the motion for relief from the stay that he had given the Landlord the stub rent for May 2010 and the full rent for June 2010, his tender of the rental payments had been declined because the Landlord did not want to prejudice its rights to argue that the Lease had been terminated.

Considering whether cause existed pursuant to § 362(d)(1) for relief from the stay in the instant case, the bankruptcy court pointed out that § 365(d)(3) requires that all post-petition lease obligations under any unexpired lease of non-residential real property be timely performed until the lease is either assumed or rejected, and that these obligations apply equally to a lease that terminated pre-petition. *See P.J. Clarke's*, 265 B.R. at 398. As a result, in light of this statutory requirement, the bankruptcy court concluded that Debtor could not assume the Lease in the instant case unless Debtor remained current on all future post-petition payments to the Landlord. The bankruptcy court thus conditioned the continuation of the automatic stay on Debtor's making its payment to the Landlord of the May 2010 stub rent and the June 2010 rent and determined that the Landlord could accept these payments without prejudice to its rights.

Furthermore, the bankruptcy court declared that if Debtor ultimately did not make its payments on all of its post-petition rent obligations or if Debtor failed to pay its post-petition rental arrears by June 25, 2010, the Landlord could request that the court on three business days' notice grant relief from the stay to enable it to proceed with Debtor's eviction. Similarly, the bankruptcy court ruled that, in order for the stay to remain in effect, Debtor was required to initiate proceedings in the state court to vacate the warrant of eviction within seven days. Finally, the bankruptcy court decided to refrain from lifting the automatic stay pursuant to § 362(d)(2), recognizing that § 362(d)(2) requires that the debtor must lack equity in the property and that the property must not be necessary to an effective reorganization. As the court resolved, in the instant case, the Lease was clearly necessary to effectuate Debtor's reorganization and, thus, granting relief under § 362(d)(2) was not appropriate.

Bankruptcy Court Rules Debtor Could Not Assume Lease, Absent Order Vacating Warrant of Eviction

Continuing its analysis, the bankruptcy court rejected Debtor's argument that the Lease was property of the estate such that it could be assumed under § 365(d)(3) without the state court first vacating the warrant of eviction. Focusing on *In re W.A.S. Food Service Corp.*, [49 B.R. 969, 971-72](#) (Bankr. S.D.N.Y. 1985), in which the court held that the mere possibility of a restoration of the landlord-tenant relationship after the issuance of a pre-petition warrant of eviction did not vest the debtor with a sufficient interest in the leased property so as to allow assumption and assignment of the lease, the bankruptcy court in the instant case decided that the possibility that Debtor could potentially persuade the state court to vacate the warrant of eviction was not sufficient to permit Debtor to assume the Lease.

Bankruptcy Court Concludes Rent Deposit Was Subject to Setoff, Not Recoupment

Finally, addressing the Landlord's request to apply the Deposit to past due rent, the bankruptcy court observed that recoupment is fundamentally a right to decrease the amount of a claim and only comes about when the debts "arise out of a single integrated transaction so that it would be inequitable for the debtor to enjoy the benefits of that transaction without also meeting its obligations." *See Westinghouse Credit Corp. v. D'Urso*, [278 F.3d 138, 147](#) (2d Cir. 2002). As the bankruptcy court commented, unlike recoupment, setoff is a form of cross-action that is based on the existence of two separate, mutual obligations. Regarding this distinction between recoupment and setoff, the bankruptcy court noted that when a single contract involves the business being transacted as discrete, independent units, even claims predicated on a single contract are ineligible for recoupment. *See Westinghouse Credit Corp.*, 278 F.3d at 147.

Examining these concepts in the context of lease security deposits, the bankruptcy court found that cases generally use principles of setoff pursuant to [11 U.S.C. § 553](#) rather than principles of recoupment because such lease security deposits establish mutual obligations: one on the tenant to perform its obligations pursuant to the lease and another on the landlord to return the deposit when the tenant has completed its performance. *See In re Aspen Data Graphics, Inc.*, [109 B.R. 677, 683-84](#) (Bankr. E.D. Pa. 1990). The bankruptcy court further

indicated that the distinction between recoupment and setoff is significant because the automatic stay is applicable to a creditor's setoff attempts but does not apply to a creditor's recoupment efforts. See [11 U.S.C. § 362\(a\)\(7\)](#). Moreover, the bankruptcy court declared that although recoupment has been utilized in cases involving utility security deposits such as, for example, in *New York State Elec. & Gas Corp. v. McMahon (In re McMahon)*, [129 F.3d 93](#) (2d Cir. 1997), which the Landlord cited, such cases are distinguishable from the instant case in that the deposits in those cases were paid pursuant to state utility statutes.

Consequently, the bankruptcy court concluded that the Deposit in the instant case was subject to setoff and not recoupment, such that the automatic stay remained in force, thereby barring the Landlord from exercising any right to setoff in connection with the Deposit in the absence of a motion for relief from the stay.

Bankruptcy Court Conditionally Lifts Automatic Stay

Ultimately, the bankruptcy court denied the Landlord's motion for relief from the stay except to conditionally lift the stay to allow Debtor to begin appropriate proceedings in the state court to vacate the warrant of eviction. Additionally, the bankruptcy court concluded that, in the event that Debtor failed to satisfy such conditions, the Landlord could return to the bankruptcy court on three days' notice to attempt to vacate the stay to enable the Landlord to proceed with Debtor's eviction. Finally, the bankruptcy court denied the Landlord's motion to apply the Deposit on the grounds of recoupment, without prejudice to the Landlord filing a motion for relief from the stay to allow the Landlord to exercise its right of setoff.

Debtors

Chapter 11 Filings ([Back to Top](#))

The Chapter 11 Filings chart provides a listing of the significant chapter 11 filings made by companies during the time period indicated. The chart includes pertinent information about these chapter 11 debtors, including the debtor's name, the bankruptcy court in which the debtor filed its petition, the case number, the filing date, the judge assigned to the bankruptcy case, and the counsel retained by the debtor.

Filed July 15, 2010 through July 21, 2010

Debtor	Bankruptcy Court	Case Number	Filing Date	Judge	Debtor's Counsel
JK N JK Trucking, LLC	District of Arizona	10-bk-22207	07/15/10	James M. Marlar	James Portman Webster, PLLC
Bluwolf, Inc.	Central District of California	10-bk-19721	07/15/10	Robert N. Kwan	Law Office of M. Jonathan Hayes
Amadeus Trust	Central District of California	10-bk-39069	07/15/10	Alan M. Ahart	Pro Se
Little Tokyo Partners, L.P.	Central District of California	10-bk-39113	07/15/10	Richard M. Neiter	Neeta Menon
All Waste Systems, Inc.	Eastern District of California	10-bk-38564	07/15/10	Thomas Holman	David C. Johnston
808 Brannan Street, Inc.	Northern District of California	10-bk-32650	07/15/10	Dennis Montali	Law Offices of Michael H. Lewis
621 Stockton DE, LLC	Northern District of California	10-bk-32661	07/15/10	Thomas E. Carlson	MacConaghy and Barnier
Bay Citi Properties II DE, LLC	Northern District of	10-bk-32662	07/15/10	Thomas E. Carlson	MacConaghy and Barnier

	California				
Civic Properties DE, LLC	Northern District of California	10-bk-32663	07/15/10	Thomas E. Carlson	MacConaghy and Barnier
LRL Citigroup Properties II DE, LLC	Northern District of California	10-bk-32664	07/15/10	Dennis Montali	MacConaghy and Barnier
Salmo Partners LLC	District of Colorado	10-bk-27691	07/15/10	Elizabeth E. Brown	Pro Se
A Touch of Jazz, Inc.	District of Delaware	10-bk-12250	07/15/10	Mary F. Walrath	John F. Thomas, Jr.
Touched by Jazz Music, Inc.	District of Delaware	10-bk-12251	07/15/10	Mary F. Walrath	John F. Thomas, Jr.
MGFB Properties, Inc.	Northern District of Florida	10-bk-31455	07/15/10	William S. Shulman	Adams and Reese, LLP
Home Equity Mortgage Associates, Inc.	Southern District of Florida	10-bk-30115	07/15/10	Robert A. Mark	Jane Letwin
Lincoln Trail Auto Body, Inc.	Southern District of Illinois	10-bk-31823	07/15/10	Kenneth J. Meyers	Mathis Marifian and Richter Ltd.
Kyler Brothers Services, Inc.	Southern District of Indiana	10-bk-10546	07/15/10	James K. Coachys	Hostetler & Kowalik P.C.
Pahrump Rentals, Inc.	District of Nevada	10-bk-23179	07/15/10	Mike K. Nakagawa	Richard E. Hawkins
Caribbean Motel, Inc.	District of New Jersey	10-bk-31728	07/15/10	Judith H. Wizmur	Kasen & Kasen
Mayo Pizza, Inc.	District of New Jersey	10-bk-31737	07/15/10	Raymond T. Lyons, Jr.	Medina Law Firm LLC
Display Group, Inc.	Eastern District of New York	10-bk-75502	07/15/10	Alan S. Trust	Macco & Stern, LLP
Industrial Laser Systems, LLC	Western District of Pennsylvania	10-bk-25054	07/15/10	M. Bruce McCullough	Brandt, Milnes & Rea
B4 Cattle Co., Inc.	Middle District of Tennessee	10-bk-07388	07/15/10	Marian F. Harrison	Law Offices Lefkovitz & Lefkovitz
L.A. & G. Laredo Investment Co., L.L.C.	Southern District of Texas	10-bk-20572	07/15/10	Richard S. Schmidt	Langley & Banack Inc.
Julia's Fine Jewelry, LLC	Eastern District of Virginia	10-bk-15948	07/15/10	Robert G. Mayer	Law Office of Spencer D. Ault
Aquatic Engineering, Inc.	Western District of Wisconsin	10-bk-15353	07/15/10	Thomas S. Utschig	Laman & Swenson Law Offices
Preet Charo Chicken Co. dba Charo Chicken	Central District of California	10-bk-39286	07/16/10	Victoria S. Kaufman	Law Offices of Anthony O. Egbase & Assoc.
Sequoia Day Investment, Inc.	Central District of California	10-bk-39295	07/16/10	Thomas B. Donovan	Law Offices of Anthony O. Egbase & Assoc.
ENPI, Inc.	Central District of California	10-bk-39386	07/16/10	Richard M. Neiter	Law Office of M. Jonathan Hayes
The Highlands of Los Gatos, LLC	Northern District of California	10-bk-57370	07/16/10	Arthur S. Weissbrodt	Law Offices of Charles B. Greene

Appliances Recovery ACTV Computers LLC	District of Connecticut	10-bk-22422	07/16/10	Albert S. Dabrowski	Pro Se
Roselea Manor, Inc.	Middle District of Florida	10-bk-12535	07/16/10	Arthur B. Briskman	Norman Linder Hull PA
The Washington Square Group, LLC	Northern District of Illinois	10-bk-31627	07/16/10	Jacqueline P. Cox	Law Offices of Paul M. Bach
Sater Inc.	Western District of Louisiana	10-bk-12088	07/16/10	Stephen V. Callaway	Robert W. Raley
Correlogic Systems, Inc.	District of Maryland	10-bk-25974	07/16/10	Wendelin I. Lipp	Logan, Yumkas, Vidmar & Sweeney LLC
Bud's Car Wash Mountain Road, LLC	District of Maryland	10-bk-26052	07/16/10	Nancy V. Alquist	McNamee, Hosea, et. al.
AMR, Inc.	District of Maryland	10-bk-26054	07/16/10	Nancy V. Alquist	McNamee, Hosea, et. al.
TLC Americas LLC	District of Massachusetts	10-bk-17716	07/16/10	Joan N. Feeney	Duane Morris LLP
Redfrog Technology, LLC	Western District of Michigan	10-bk-08829	07/16/10	James D. Gregg	James M. Joyce
Woods & Waters, Inc.	Western District of Missouri	10-bk-61714	07/16/10	Arthur B. Federman	David Schroeder Law Offices, PC
330 Neptune Avenue Corp.	Eastern District of New York	10-bk-46716	07/16/10	Jerome Feller	Wilmer Hill Grier
Chelmsford, LLC	Eastern District of New York	10-bk-75578	07/16/10	Alan S. Trust	McBreen & Kopko
Daremy Enterprises, Ltd.	Eastern District of New York	10-bk-75579	07/16/10	Robert E. Grossman	McBreen & Kopko
39-45 N. Jay Street Corp.	Northern District of New York	10-bk-12663	07/16/10	Robert E. Littlefield, Jr.	O'Connell & Aronowitz
Jamestown Stamp Co.	Western District of New York	10-bk-13118	07/16/10	Carl L. Bucki	Robert A. Liebers
Advertising Advantage, LLC	Western District of New York	10-bk-13133	07/16/10	Carl L. Bucki	Robert A. Liebers
TOG Properties, LLC	Eastern District of North Carolina	10-bk-05655	07/16/10	Stephani W. Humrickhouse	Oliver & Friesen, PLLC
G. Force Investments, Inc.	Northern District of Ohio	10-bk-34877	07/16/10	Richard L. Speer	Randy Lee Reeves
The Premier Hotel Group LLC	Southern District of Ohio	10-bk-34585	07/16/10	Lawrence S. Walter	Delena Edwards
J & J Restaurant Associates, Inc.	Eastern District of Pennsylvania	10-bk-15902	07/16/10	Stephen Raslavich	Brian J. Smith & Associates PC
Salt Lake Wound Care and Hyperbaric Center, LLC	District of Utah	10-bk-29603	07/16/10	Joel T. Marker	Nathan W. Drage
Greenspace, Inc.	Western District of	10-bk-18219	07/16/10	Marc Barreca	Sternberg Thomson Okrent & Scher PLLC

	Washington				
Wharton Boyes, LLC	Western District of Washington	10-bk-45775	07/16/10	Paul B. Snyder	Law Office of Richard S. Ross
Adar Construction, Inc.	Western District of Washington	10-bk-45786	07/16/10	Brian D. Lynch	Brian L. Budsberg PLLC
Resort Hospitality, LLC	Western District of Wisconsin	10-bk-15385	07/16/10	Robert D. Martin	Kristin J. Sederholm
Crystal Clear Glass, Inc.	Southern District of Florida	10-bk-30438	07/17/10	Raymond B. Ray	Donna A. Bumgardner
Kolo, Inc.	Southern District of Florida	10-bk-30439	07/17/10	Robert A. Mark	Kevin C. Gleason
Harbor Land Holding Corp.	Northern District of New York	10-bk-12670	07/17/10	Robert E. Littlefield, Jr.	Robert J. Rock
Suds USA, LLC	Western District of Arkansas	10-bk-73710	07/18/10	Ben T. Barry	Stanley V. Bond
Suds, LLC	Western District of Arkansas	10-bk-73711	07/18/10	Ben T. Barry	Stanley V. Bond
Suds of Russellville, LLC	Western District of Arkansas	10-bk-73712	07/18/10	Ben T. Barry	Stanley V. Bond
Suds of Central Oklahoma, LLC	Western District of Arkansas	10-bk-73713	07/18/10	Ben T. Barry	Stanley V. Bond
Albion Property Management LLC	Eastern District of New York	10-bk-46769	07/18/10	Joel B. Rosenthal	Xianfeng Zou
Jennifer Convertibles, Inc. and its affiliated debtors	Southern District of New York	10-bk-13779	07/18/10	Allan L. Gropper	Olshan Grundman Frome Rosenzweig & Wolosky, LLP
BMS Real Estate, LLC	District of Arizona	10-bk-22387	07/19/10	Eileen W. Hollowell	Warnock, Mackinlay & Carman, PLLC
L & G McDowell, LLC	District of Arizona	10-bk-22483	07/19/10	George B. Nielsen, Jr.	Deconcini McDonald Yetwin & Lacy PC
Brooks Avenue Townhomes, LLC	Central District of California	10-bk-18752	07/19/10	Geraldine Mund	Pro Se
Ace Direct, Inc.	Central District of California	10-bk-32471	07/19/10	Catherine E. Bauer	Stephen F. Biegenzahn
Genesis Limited Partnership	District of Connecticut	10-bk-51681	07/19/10	Alan H.W. Shiff	Groob Ressler & Mulqueen
Genesis Holdings, LLC	District of Connecticut	10-bk-51682	07/19/10	Alan H.W. Shiff	Groob Ressler & Mulqueen
New Heights Aviation, LLC	Middle District of Florida	10-bk-17094	07/19/10	K. Rodney May	Law Offices of Kevin P. O'Brien, P.A.
Cinghialino LLC	Southern District of Florida	10-bk-30511	07/19/10	Laurel M. Isicoff	Joel M. Aresty
TTR Matteson, LLC	Northern District of	10-bk-31879	07/19/10	A. Benjamin Goldgar	Crane Heyman Simon Welch & Clar

	Illinois				
The Village Park, LLC	District of Massachusetts	10-bk-17774	07/19/10	Joan N. Feeney	McAuliffe & Associates, P.C.
Texas Propane Energy Co.	District of Montana	10-bk-61746	07/19/10	Ralph B. Kirscher	John P. Paul
Seamless Corp.	District of Nevada	10-bk-23386	07/19/10	Bruce A. Markell	David A. Riggi
Desert Rose Apartments LLC	District of Nevada	10-bk-23418	07/19/10	Mike K. Nakagawa	Goold Patterson Ales & Day
The Rock Christian Community Church	District of Nevada	10-bk-52820	07/19/10	Gregg W. Zive	Belding, Harris & Petroni, Ltd.
ASAP07 LLC	District of New Jersey	10-bk-32067	07/19/10	Judith H. Wizmur	Law Office of Moshe Rothenberg
Innkeepers USA Trust and its affiliated debtors	Southern District of New York	10-bk-13800	07/19/10	Shelley C. Chapman	Kirkland & Ellis, LLP
FKF 3, LLC	Southern District of New York	10-bk-37170	07/19/10	Cecelia G. Morris	Pro Se
Prince Investment Group, LLC	District of Rhode Island	10-bk-12997	07/19/10	Arthur N. Votolato	Law Offices of Barry R. Levine
C & M Construction Management, LLC	Middle District of Tennessee	10-bk-07498	07/19/10	Marian F. Harrison	Robert L. Scruggs
ART Piccadilly Airport, LLC	Eastern District of Texas	10-bk-42374	07/19/10	Brenda T. Rhoades	John P. Lewis, Jr.
ART Piccadilly Chateau, LLC	Eastern District of Texas	10-bk-42376	07/19/10	Brenda T. Rhoades	John P. Lewis, Jr.
ART Piccadilly Shaw, LLC	Eastern District of Texas	10-bk-42377	07/19/10	Brenda T. Rhoades	John P. Lewis, Jr.
CPO International, Inc.	Northern District of Texas	10-bk-34995	07/19/10	Harlin DeWayne Hale	Gant & Hicks, PLLC
Sun West Estates, Ltd.	Western District of Texas	10-bk-31484	07/19/10	Leif M. Clark	E. P. Bud Kirk
The Crossings at Lake Creek 10, LLC	District of Utah	10-bk-29647	07/19/10	Joel T. Marker	Stoker Swinton & Cannon
RTM Enterprises, Inc.	Western District of Washington	10-bk-18268	07/19/10	Samuel J. Steiner	Martin E. Snodgrass
Pacifica Mesa Studios, LLC	Central District of California	10-bk-18827	07/20/10	Geraldine Mund	Ezra Brutzkus & Gubner
9339 Alondra Blvd, LLC	Central District of California	10-bk-39725	07/20/10	Ernest M. Robles	Michael Jay Berger
William Rose & Associates, Inc.	Central District of California	10-bk-39755	07/20/10	Victoria S. Kaufman	Pro Se
Rialto Heights LLC	Central District of California	10-bk-39796	07/20/10	Vincent P. Zurzolo	Michael Leight
Oak Song, LLC	Eastern District of California	10-bk-39123	07/20/10	Christopher M. Klein	Kenrick Young
Blue Willow Inn Restaurant, Inc.	Middle District of Georgia	10-bk-31267	07/20/10	James P. Smith	Martha A. Miller, P.C.
Blue Willow Village, Inc.	Middle District of Georgia	10-bk-31269	07/20/10	James P. Smith	Martha A. Miller, P.C.

Blue Willow Inn Gift Shop, Inc.	Middle District of Georgia	10-bk-31270	07/20/10	James P. Smith	Martha A. Miller, P.C.
K & D Family, Inc.	Northern District of Georgia	10-bk-80855	07/20/10	Not yet assigned	T. Ade Adeboye & Associates, PC
Hotcopri, LLC	Eastern District of Kentucky	10-bk-52315	07/20/10	Tracey N. Wise	John Thomas Hamilton
Malandrin, LLC	Eastern District of Kentucky	10-bk-52316	07/20/10	Tracey N. Wise	John Thomas Hamilton
Stone*Wall Farm Stallions Racing Division I, LLC	Eastern District of Kentucky	10-bk-52317	07/20/10	Tracey N. Wise	John Thomas Hamilton
Stone*Wall Farm Stallions I, LLC	Eastern District of Kentucky	10-bk-52318	07/20/10	Tracey N. Wise	John Thomas Hamilton
Stone*Wall Farm Stallions VII, LLC	Eastern District of Kentucky	10-bk-52319	07/20/10	Tracey N. Wise	John Thomas Hamilton
Standfast Industries, Inc.	Eastern District of Michigan	10-bk-63085	07/20/10	Marci B. McIvor	Michael E. Baum
DT Las Vegas I, L.P.	District of Nevada	10-bk-23470	07/20/10	Bruce A. Markell	Marquis & Aurbach
Seamless Peer 2 Peer, Inc.	District of Nevada	10-bk-23606	07/20/10	Bruce A. Markell	David A. Riggi
ADLJ, LLC t/a Kinder College	District of New Jersey	10-bk-32271	07/20/10	Raymond T. Lyons, Jr.	Arthur C. Linderman
All Precision Needs Ltd.	Eastern District of New York	10-bk-75715	07/20/10	Robert E. Grossman	Sobel Law Offices PC
Caffell Enterprises, Inc.	Western District of North Carolina	10-bk-40602	07/20/10	George R. Hodges	Hamilton Moon Stephens
Pepperwell Oaks Developers, L.L.C.	Western District of Oklahoma	10-bk-14389	07/20/10	Niles L. Jackson	The Gooding Law Firm
J. Mance, Inc. t/a Dexter's on the 5	Eastern District of Pennsylvania	10-bk-15989	07/20/10	Jean K. FitzSimon	Kenneth R. Schusters & Associates, PC
Agropharma Laboratories, Inc.	District of Puerto Rico	10-bk-06484	07/20/10		Lube & Soto Law Offices PSC
ES Energy Solutions, LP	Northern District of Texas	10-bk-35004	07/20/10	Barbara J. Houser	Pronske & Patel, P.C.
McCommas LFG Processing Management, LLC	Northern District of Texas	10-bk-35007	07/20/10	Stacey G. Jernigan	Pronske & Patel, P.C.
M & M Katz, Inc.	Western District of Texas	10-bk-11987	07/20/10	Craig A. Gargotta	Barron & Newburger, P.C.
Jillplex, LLC	Western District of Wisconsin	10-bk-15440	07/20/10	Robert D. Martin	Burris Law Offices
AZMP, LLC	District of Arizona	10-bk-22811	07/21/10	James M. Marlar	Collins, May, Potenza, Baran & Gillespie
Hi-Five Enterprises, LLC	Northern District of California	10-bk-48268	07/21/10	Randall J. Newsome	Arent Fox
One South Lake Street, LLC	Northern District of	10-bk-48270	07/21/10	Not yet assigned	Arent Fox

	California				
Wild Game NG, LLC	Northern District of California	10-bk-48272	07/21/10	Not yet assigned	Arent Fox
Floors, Floors and More Inc.	Middle District of Florida	10-bk-17276	07/21/10	Not yet assigned	David Smith
Full Color Investors, LLC	Southern District of Florida	10-bk-30790	07/21/10	Robert A. Mark	Don Gonzalez
United Pentecostal Church (Apostolic Faith), Inc.	Southern District of Florida	10-bk-30872	07/21/10	Raymond B. Ray	David Marshall Brown
G & E Enterprises of Okeechobee Inc.	Southern District of Florida	10-bk-30895	07/21/10	Paul G. Hyman, Jr.	Brad Culverhouse
Wallace Carter & Sons Logging Co., Inc.	Southern District of Georgia	10-bk-20933	07/21/10	Not yet assigned	Merrill & Stone, LLC
Jawmin L.L.C.	District of Hawaii	10-bk-02223	07/21/10	Robert J. Faris	O'Connor Playdon & Guben
4352 S. Prarie, LLC	Northern District of Illinois	10-bk-32285	07/21/10	Pamela S. Hollis	Porter Law Network
Life Associates, Inc.	Northern District of Illinois	10-bk-32363	07/21/10	Carol A. Doyle	Coman & Anderson, P.C.
Hedback Holdings, LLC	Southern District of Indiana	10-bk-10873	07/21/10	Frank J. Otte	KC Cohen
Amore, Inc.	Southern District of Indiana	10-bk-10886	07/21/10	Basil H. Lorch III	Redman Ludwig PC
ABC Oquossoc Marine, LLC	District of Maine	10-bk-11126	07/21/10	Louis H. Kornreich	Bernstein, Shur, Sawyer & Nelson
Maietta Construction, Inc.	District of Maine	10-bk-21171	07/21/10	Not yet assigned	Bernstein, Shur, Sawyer & Nelson
Shrewsbury Street Development Cos., Inc.	District of Massachusetts	10-bk-43652	07/21/10	Melvin S. Hoffman	Pro Se
Warehouse at Van Buren Street, Inc.	Northern District of New York	10-bk-12719	07/21/10	Robert E. Littlefield, Jr.	Nolan & Heller, LLP
Sol de Ibiza LLC	Southern District of New York	10-bk-13933	07/21/10	Burton R. Lifland	Lawrence F. Morrison
VDRB, LLC	District of Oregon	10-bk-36871	07/21/10	Elizabeth L. Perris	Robert L. Carlton
Clendo Industrial Laboratory Inc.	District of Puerto Rico	10-bk-06539	07/21/10	Not yet assigned	Law Office of Carlos Rodriguez Quesada
Brothers Bedding, LLC	Eastern District of Tennessee	10-bk-33479	07/21/10	Richard Stair, Jr.	Hagood, Tarpay & Cox PLLC
AVA Sales & Leasing, LLC	Eastern District of Texas	10-bk-42400	07/21/10	Brenda T. Rhoades	Eric A. Liepins
LC Urban Center One, Ltd.	Northern District of Texas	10-bk-35039	07/21/10	Harlin DeWayne Hale	The Curtis Law Firm, PC

LC Riverside, LLC	Northern District of Texas	10-bk-35040	07/21/10	Stacey G. Jernigan	The Curtis Law Firm, PC
Parsons Family Ventures, L.P.	Western District of Texas	10-bk-52746	07/21/10	Ronald B. King	Keith M. Baker
B&C Kwik Kar, L.L.C.	Western District of Texas	10-bk-52747	07/21/10	Leif M. Clark	Keith M. Baker
Bon Ton Roulet, Inc.	District of Wyoming	10-bk-20862	07/21/10	Peter J. McNiff	Paul Hunter

Noteworthy Airline Bankruptcy Filings ([Back to Top](#))

The Noteworthy Airline Bankruptcy Filings chart provides a listing of the significant airline or airline-related bankruptcy cases that have recently been filed in the United States. The chart includes pertinent information about these airlines or airline-related cases, including the debtor's name, the bankruptcy court in which the debtor filed its petition, the case number, the filing date, and the judge assigned to the bankruptcy case.

Debtor	Bankruptcy Court	Case Number	Filing Date	Judge
Arrow Air, Inc. and its affiliated debtors	Southern District of Florida	10-bk-28831	June 30, 2010	A. Jay Cristol
Mesa Air Group, Inc. and its affiliated debtors	Southern District of New York	10-bk-10018	Jan. 5, 2010	Martin Glenn
Sunset Aviation, Inc.	District of Delaware	09-bk-10778	Mar. 6, 2009	Christopher S. Sontchi
Regal Jets, LLC	District of Delaware	09-bk-10648	Feb. 25, 2009	Peter J. Walsh
Global Aircraft Solutions, Inc.	District of Arizona	09-bk-01655	Jan. 30, 2009	James M. Marlar
Eclipse Aviation Corp.	District of Delaware	08-bk-13031	Nov. 25, 2008	Mary F. Walrath
Alitalia-Linee Aeree Italiane, S.p.A.	Southern District of New York	08-bk-14321	Oct. 31, 2008	Burton R. Lifland
MN Airlines, LLC	District of Minnesota	08-bk-35197	Oct. 6, 2008	Robert J. Kressel
United West Airlines, Inc.	Southern District of Florida	08-bk-20714	Jul. 31, 2008	Paul G. Hyman, Jr.
TradeWinds Airlines, Inc.	Southern District of New York	08-bk-20394	Jul. 25, 2008	A. Jay Cristol
Eos Airlines, Inc.	Southern District of New York	08-bk-22581	Apr. 28, 2008	Adlai S. Hardin, Jr.
Frontier Airlines Holdings, Inc.	Southern District of New York	08-bk-11298	Apr. 10, 2008	Robert D. Drain
Skybus Airlines, Inc.	District of Delaware	08-bk-10637	Apr. 5, 2008	Christopher S. Sontchi
ATA Airlines, Inc.	Southern District of Indiana	08-bk-03675	Apr. 2, 2008	Basil H. Lorch III
Aloha Airlines, Inc.	District of Hawaii	08-bk-00337	Mar. 20, 2008	Lloyd King
MAXjet Airways, Inc.	District of Delaware	07-bk-11912	Dec. 24, 2007	Peter J. Walsh

Noteworthy Automotive Industry Bankruptcy Filings ([Back to Top](#))

The Noteworthy Automotive Industry Bankruptcy Filings chart provides a listing of the significant automotive

industry bankruptcy cases that have recently been filed in the United States. The chart includes pertinent information about these automotive industry cases, including the debtor's name, the bankruptcy court in which the debtor filed its petition, the case number, the filing date, and the judge assigned to the bankruptcy case.

Debtor	Bankruptcy Court	Case Number	Filing Date	Judge
Lazy Days' R.V. Center, Inc. and its affiliated debtors	District of Delaware	09-bk-13911	Nov. 5, 2009	Kevin Gross
SystemOne Technologies Inc.	Southern District of Florida	09-bk-32815	Oct. 21, 2009	Laurel M. Isicoff
Remediation and Liability Management Co., Inc.	Southern District of New York	09-bk-50029	Oct. 9, 2009	Robert E. Gerber
Environmental Corporate Remediate Corp.	Southern District of New York	09-bk-50030	Oct. 9, 2009	Robert E. Gerber
True Temper Sports, Inc. and its affiliated debtors	District of Delaware	09-bk-13446	Oct. 8, 2009	Peter J. Walsh
Accurride Corp. and its affiliated debtors	District of Delaware	09-bk-13449	Oct. 8, 2009	Brendan Linehan Shannon
PTC Alliance Corp. and its affiliated debtors	District of Delaware	09-bk-13395	Oct. 1, 2009	Christopher S. Sontchi
FormTech Industries, LLC and its affiliated debtors	District of Delaware	09-bk-12964	Aug. 26, 2009	Mary F. Walrath
Auto Cast, Inc.	Western District of Michigan	09-bk-09958	Aug. 24, 2009	James D. Gregg
Cooper-Standard Holdings Inc. and its affiliated debtors	District of Delaware	09-bk-12743	Aug. 3, 2009	Peter J. Walsh
Stant Corp. and its affiliated debtors	District of Delaware	09-bk-12647	July 27, 2009	Brendan Linehan Shannon
American Consolidated Transportation Cos., Inc. and its affiliated debtors	Northern District of Illinois	09-bk-26062	July 18, 2009	Jack Schmetterer
J.L. French Automotive Castings, Inc. and its affiliated debtors	District of Delaware	09-bk-12445	July 13, 2009	Kevin Gross
Lear Corp. and its affiliated debtors	Southern District of New York	09-bk-14326	July 7, 2009	Allan L. Gropper
Proliance International, Inc.	District of Delaware	09-bk-12278	July 2, 2009	Christopher S. Sontchi
Global Safety Textiles Holdings LLC and its affiliated debtors	District of Delaware	09-bk-12234	June 30, 2009	Kevin Gross
Grede Foundries, Inc.	Western District of Wisconsin	09-bk-14337	June 30, 2009	Robert D. Martin
General Motors Corp. and its affiliated debtors	Southern District of New York	09-bk-50026	June 1, 2009	Robert E. Gerber
Visteon Corp.	District of Delaware	09-bk-11786	May 27, 2009	Christopher S. Sontchi
Metaldyne Corp.	Southern District of New York	09-bk-13412	May 27, 2009	Martin Glenn
Hayes Lemmerz International, Inc. and its affiliated debtors	District of Delaware	09-bk-11655	May 11, 2009	Mary F. Walrath

Chrysler LLC and its affiliated debtors	Southern District of New York	09-bk-50002	Apr. 30, 2009	Arthur J. Gonzalez
Noble International Ltd.	Eastern District of Michigan	09-bk-51720	Apr. 15, 2009	Marci B. McIvor
Rexhall Industries, Inc.	Central District of California	09-bk-11737	Feb. 18, 2009	Kathleen Thompson
Foamex International Inc.	District of Delaware	09-bk-10560	Feb. 18, 2009	Kevin J. Carey
Fluid Routing Solutions, Inc.	District of Delaware	09-bk-10385	Feb. 6, 2009	Christopher S. Sontchi
Country Coach LLC	District of Oregon	09-bk-60419	Feb. 6, 2009	Albert E. Radcliffe
Checker Motors Corp.	Western District of Michigan	09-bk-00358	Jan. 16, 2009	James D. Gregg
Micro-Heat, Inc.	Eastern District of Michigan	08-bk-65060	Oct. 13, 2008	Thomas J. Tucker
Cadence Innovation LLC	District of Delaware	08-bk-11973	Aug. 26, 2008	Kevin Gross
Intermet Corp.	District of Delaware	08-bk-11859	Aug. 12, 2008	Kevin Gross
DynAmerica Manufacturing LLC	District of Delaware	08-bk-11515	Jul. 18, 2008	Kevin Gross
Progressive Molded Products Inc.	District of Delaware	08-bk-11253	Jun. 20, 2008	Kevin J. Carey
BHM Technologies Holdings, Inc.	Western District of Michigan	08-bk-04413	May 19, 2008	Scott W. Dales
Lexington Precision Corp.	Southern District of New York	08-bk-11153	Apr. 1, 2008	Martin Glenn
Blue Water Automotive System, Inc.	Eastern District of Michigan	08-bk-43196	Feb. 12, 2008	Marci B. McIvor
Plastech Engineered Products, Inc.	Eastern District of Michigan	08-bk-42417	Feb. 1, 2008	Phillip J. Shefferly
Johnson Rubber Co., Inc.	Northern District of Ohio	07-bk-19391	Dec. 11, 2007	Randolph Baxter
Blackhawk Automotive Plastics, Inc.	Northern District of Ohio	07-bk-42671	Oct. 22, 2007	Kay Woods
Remy Worldwide Holdings, Inc.	District of Delaware	07-bk-11481	Oct. 8, 2007	Kevin J. Carey
Citation Corp.	Northern District of Alabama	07-bk-01153	Mar. 12, 2007	Tamara O. Mitchell
Pine River Plastics, Inc.	Eastern District of Michigan	07-bk-42051	Feb. 1, 2007	Phillip J. Shefferly

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The Noteworthy Retailer Bankruptcy Filings chart provides a listing of the significant retailer bankruptcy cases that have recently been filed in the United States. The chart includes pertinent information about these retailer cases, including the debtor's name, the bankruptcy court in which the debtor filed its petition, the case number, the filing date, and the judge assigned to the bankruptcy case.

Debtor	Bankruptcy Court	Case Number	Filing Date	Judge
Jennifer Convertibles, Inc. and its affiliated debtors	Southern District of New York	10-bk-13779	July 18, 2010	Allan L. Gropper
Gems TV (USA) Ltd.	District of Delaware	10-bk-11158	Apr. 5, 2010	Peter J. Walsh

Movie Gallery, Inc. and its affiliated debtors	Eastern District of Virginia	10-bk-30696	Feb. 2, 2010	Douglas O. Tice, Jr.
Uno Restaurant Holdings Corp. and its affiliated debtors	Southern District of New York	10-bk-10209	Jan. 20, 2010	Martin Glenn
Headlee Management Corp. and its affiliated debtors	Southern District of New York	09-bk-38420	Dec. 8, 2009	Cecelia G. Morris
Samsonite Co. Stores, LLC	District of Delaware	09-bk-13102	Sept. 2, 2009	Peter J. Walsh
Escada (USA) Inc.	Southern District of New York	09-bk-15008	Aug. 14, 2009	Stuart M. Bernstein
AJA New York Restaurant Holdings, LLC and its affiliated debtors	Eastern District of New York	09-bk-46885	Aug. 12, 2009	Dennis E. Milton
Finlay Enterprises, Inc. and its affiliated debtors	Southern District of New York	09-bk-14873	Aug. 5, 2009	James M. Peck
Kainos Partners Holding Co., LLC and its affiliated debtors	District of Delaware	09-bk-12292	July 6, 2009	Brendan Linehan Shannon
Crabtree & Evelyn, Ltd.	Southern District of New York	09-bk-14267	July 1, 2009	Burton R. Lifland
Eddie Bauer Holdings, Inc. and its affiliated debtors	District of Delaware	09-bk-12099	June 17, 2009	Mary F. Walrath
Anchor Blue Retail Group, Inc.	District of Delaware	09-bk-11770	May 27, 2009	Peter J. Walsh
Filene's Basement, Inc.	District of Delaware	09-bk-11525	May 4, 2009	Mary F. Walrath
Z Gallerie	Central District of California	09-bk-18400	Apr. 10, 2009	Vincent P. Zurzolo
Al Baskin Co.	Northern District of Illinois	09-bk-09825	Mar. 23, 2009	Carol A. Doyle
Sportsman's Warehouse, Inc.	District of Delaware	09-bk-10990	Mar. 20, 2009	Christopher S. Sontchi
Drug Fair Group, Inc.	District of Delaware	09-bk-10897	Mar. 18, 2009	Brendan Linehan Shannon
Dial-A-Mattress Operating Corp.	Eastern District of New York	09-bk-41966	Mar. 17, 2009	Dennis E. Milton
Hartmarx Corp.	Northern District of Illinois	09-bk-02046	Jan. 23, 2009	Bruce W. Black
Gottschalks Inc.	District of Delaware	09-bk-10157	Jan. 14, 2009	Kevin J. Carey
Goody's, LLC	District of Delaware	09-bk-10124	Jan. 13, 2009	Christopher S. Sontchi
Circuit City Stores, Inc.	Eastern District of Virginia	08-bk-35653	Nov. 10, 2008	Kevin R. Huennekens
Harold's Stores, Inc.	Western District of Oklahoma	08-bk-15027	Nov. 7, 2008	T.M. Weaver
Value City Holdings, Inc.	Southern District of New York	08-bk-14197	Oct. 26, 2008	James M. Peck
Gold & Honey, Ltd.	Eastern District of New York	08-bk-75240	Sept. 23, 2008	Dorothy Eisenberg
Oskar Huber Fine Furniture Inc.	District of New Jersey	08-bk-28136	Sept. 22, 2008	Judith H. Wizmur
Sports Collectibles Acquisition Corp.	District of Delaware	08-bk-12170	Sept. 21, 2008	Mary Walrath
Marty Shoes Holdings, Inc.	District of Delaware	08-bk-12129	Sept. 12, 2008	Kevin J. Carey

Barbeques Galore, Inc.	Central District of California	08-bk-16036	Aug. 15, 2008	Maureen Tighe
Boscov's, Inc.	District of Delaware	08-bk-11637	Aug. 4, 2008	Kevin Gross
Burnside Avenue Lot Stores, Inc.	Southern District of New York	08-bk-12988	Jul. 31, 2008	James M. Peck
Mervyn's Holdings, LLC	District of Delaware	08-bk-11586	Jul. 29, 2008	Kevin Gross
Yazmin Enterprises, Inc.	District of Puerto Rico	08-bk-04614	Jul. 16, 2008	Enrique S. Lamoutte Inclan
Shoe Pavilion Corp.	Central District of California	08-bk-14941	Jul. 15, 2008	Maureen Tighe
CMT America Corp.	District of Delaware	08-bk-11434	Jul. 13, 2008	Christopher S. Sontchi
Steve & Barry's Manhattan LLC	Southern District of New York	08-bk-12579	Jul. 9, 2008	Allan L. Gropper
Room Source LLC	Eastern District of California	08-bk-28487	Jun. 25, 2008	Michael S. McManus
Whitehall Jewelers Holdings, Inc.	District of Delaware	08-bk-11261	Jun. 23, 2008	Kevin Gross
Goody's Family Clothing, Inc.	District of Delaware	08-bk-11133	Jun. 9, 2008	Christopher S. Sontchi
Dawahare's of Lexington, LLC	Eastern District of Kentucky	08-bk-51381	May 30, 2008	Joseph M. Scott, Jr.
Bag 'n Baggage, Ltd.	Northern District of Texas	08-bk-32096	May 4, 2008	Stacey G. Jernigan
Linens Holding Co.	District of Delaware	08-bk-10832	May 2, 2008	Christopher S. Sontchi
Home Interiors & Gifts, Inc.	Northern District of Texas	08-bk-31961	Apr. 29, 2008	Barbara J. Houser
RedEnvelope, Inc.	Northern District of California	08-bk-30659	Apr. 17, 2008	Dennis Montali
Fred Leighton Holding Inc.	Southern District of New York	08-bk-11363	Apr. 15, 2008	Robert D. Drain
Hoop Holdings, LLC	District of Delaware	08-bk-10544	Mar. 26, 2008	Brendan Linehan Shannon
Lillian Vernon Corp.	District of Delaware	08-bk-10323	Feb. 20, 2008	Brendan Linehan Shannon
Sharper Image Corp.	District of Delaware	08-bk-10322	Feb. 19, 2008	Kevin Gross
Fortunoff Fine Jewelry and Silverware, LLC	Southern District of New York	08-bk-10353	Feb. 4, 2008	James M. Peck

Noteworthy Homebuilder Bankruptcy Filings ([Back to Top](#))

The Noteworthy Homebuilder Bankruptcy Filings chart provides a listing of the significant homebuilder bankruptcy cases that have recently been filed in the United States. The chart includes pertinent information about these homebuilder cases, including the debtor's name, the bankruptcy court in which the debtor filed its petition, the case number, the filing date, and the judge assigned to the bankruptcy case.

Debtor	Bankruptcy Court	Case Number	Filing Date	Judge
Orleans Homebuilders, Inc. and its affiliated debtors	District of Delaware	10-bk-10684	Mar. 1, 2010	Peter J. Walsh
East West Resort Development V, L.P., L.L.L.P. and its affiliated debtors	District of Delaware	10-bk-10452	Feb. 16, 2010	Brendan Linehan Shannon

Atrium Corp. and its affiliated debtors	District of Delaware	10-bk-10150	Jan. 20, 2010	Brendan Linehan Shannon
Miles Properties, Inc. and its affiliated debtors	Northern District of Georgia	10-bk-60797	Jan. 8, 2010	Margaret H. Murphy
International Aluminum Corp. and its affiliated debtors	District of Delaware	10-bk-10003	Jan. 4, 2010	Mary F. Walrath
Fairfield Residential LLC and its affiliated debtors	District of Delaware	09-bk-14378	Dec. 13, 2009	Brendan Linehan Shannon
OHB Holdings LLC and its affiliated debtors	District of Delaware	09-bk-14312	Dec. 4, 2009	Peter J. Walsh
Champion Enterprises, Inc. and its affiliated debtors	District of Delaware	09-bk-14019	Nov. 15, 2009	Kevin Gross
Gemcraft Homes, Inc. and its affiliated debtors	District of Maryland	09-bk-31696	Nov. 9, 2009	Nancy V. Alquist
Panolam Holdings Co. and its affiliated debtors	District of Delaware	09-bk-13889	Nov. 4, 2009	Mary F. Walrath
California Coastal Communities, Inc.	Central District of California	09-bk-21712	Oct. 27, 2009	Theodor Albert
NTK Holdings, Inc. and its affiliated debtors	District of Delaware	09-bk-13611	Oct. 21, 2009	Kevin J. Carey
Whittaker Builders, Inc. and its affiliated debtors	Eastern District of Missouri	09-bk-50336	Oct. 15, 2009	Charles E. Rendlen III
Millwork Specialties, Inc.	Eastern District of North Carolina	09-bk-07010	Aug. 19, 2009	Randy D. Doub
Enterprise Builders, Inc.	Central District of California	09-bk-27865	Aug. 5, 2009	Richard M. Neiter
Arclin US Holdings, Inc. and its affiliated debtors	District of Delaware	09-bk-12628	July 27, 2009	Kevin J. Carey
Building Materials Holding Corp. and its affiliated debtors	District of Delaware	09-bk-12074	June 16, 2009	Kevin J. Carey
Crescent Resources, LLC and its affiliated debtors	Western District of Texas	09-bk-11507	June 10, 2009	Craig A. Gargotta
Opus South Corp.	District of Delaware	09-bk-11390	April 22, 2009	Mary F. Walrath
Meruelo Maddux Properties, Inc.	Central District of California	09-bk-13356	Mar. 27, 2009	Kathleen Thompson
Anderson Homes, Inc.	Eastern District of North Carolina	09-bk-02062	Mar. 16, 2009	A. Thomas Small
Fleetwood Holdings Inc.	Central District of California	09-bk-14255	Mar. 10, 2009	Sheri Bluebond
Manasseh Building Group, Inc.	Central District of California	09-bk-12507	Mar. 9, 2009	Geraldine Mund
WL Homes LLC	District of Delaware	09-bk-10571	Feb. 19, 2009	Brendan Linehan Shannon
Fulton Homes Corp.	District of Arizona	09-bk-01298	Jan. 27, 2009	George B. Nielsen, Jr.
Royce International Investment Co.	Central District of California	09-bk-11224	Jan. 26, 2009	Sheri Bluebond
Mercedes Homes of Texas Holding Corp.	Southern District of Florida	09-bk-11191	Jan. 26, 2009	Paul G. Hyman, Jr.
Wall Homes Texas LLC	Northern District of Texas	09-bk-30363	Jan. 17, 2009	Harlin DeWayne Hale
Palmdale Hills Property, LLC	Central District of California	08-bk-17206	Nov. 6, 2008	Erithe A. Smith
Jancor Cos., Inc.	District of Delaware	08-bk-10159	Oct. 30, 2008	Mary F. Walrath

Land Resource, LLC	Middle District of Florida	08-bk-10159	Oct. 30, 2008	Arthur B. Briskman
Namwest, LLC	District of Delaware	08-bk-13935	Oct. 9, 2008	Charles G. Case
Patriot Homes, Inc.	Northern District of Indiana	08-bk-33347	Sept. 29, 2008	Harry C. Dees, Jr.
Renaissance Custom Homes, LLC	District of Oregon	08-bk-35023	Sept. 25, 2008	Trish M. Brown
Lincoln Logs Ltd.	Northern District of New York	08-bk-13079	Sept. 19, 2008	Robert E. Littlefield, Jr.
Eagle Crest Homes, LLC	Eastern District of Virginia	08-bk-10195	Aug. 21, 2008	Robert G. Mayer
Taro Properties Arizona I, LLC	District of Arizona	08-bk-10427	Aug. 13, 2008	Charles G. Case II
Seacoast Communities, Inc.	District of South Carolina	08-bk-04735	Aug. 6, 2008	John E. Waites
WCI Communities Inc.	District of Delaware	08-bk-11643	Aug. 4, 2008	Kevin J. Carey
Lafferty Homes Inc.	Northern District of California	08-bk-43808	Jul. 21, 2008	Edward D. Jellen
LandSource Communities Development LLC	District of Delaware	08-bk-11111	Jul. 21, 2008	Kevin J. Carey
Crosswinds at Rocky River, LLC	Western District of North Carolina	08-bk-31357	Jun. 30, 2008	George R. Hodges
Caruso Homes, Inc.	District of Maryland	08-bk-18254	Jun. 23, 2008	James F. Schnieder
M.W. Johnson Construction, Inc.	District of Minnesota	08-bk-32874	Jun. 13, 2008	Robert J. Kressel
Matrix Development Corp.	District of Oregon	08-bk-32798	Jun. 10, 2008	Trish M. Brown
GT Architecture Contractors Corp.	District of Georgia	08-bk-69440	May 20, 2008	Margaret Murphy
Kimball Hill, Inc.	Northern District of Illinois	08-bk-10095	Apr. 23, 2008	Susan Pierson Sonderby
Randall Martin Home Higley Park, LLC	District of Arizona	08-bk-03097	Mar. 25, 2008	Sarah Sharer Curley
Masters Developments Properties, LLC	District of Arizona	08-bk-03050	Mar. 24, 2008	Sarah Sharer Curley
R&B Construction, Inc.	Northern District of Georgia	08-bk-62023	Feb. 4, 2008	C. Ray Mullins
TOUSA, Inc.	Southern District of Florida	08-bk-10928	Jan. 29, 2008	John K. Olson
Maryland Development Co. LLC	District of Maryland	08-bk-10938	Jan. 22, 2008	Paul Mannes

Noteworthy Publishing and Media Bankruptcy Filings ([Back to Top](#))

The Noteworthy Publishing and Media Bankruptcy Filings chart provides a listing of the significant publishing and media bankruptcy cases that have recently been filed in the United States. The chart includes pertinent information about these publishing and media cases, including the debtor's name, the bankruptcy court in which the debtor filed its petition, the case number, the filing date, and the judge assigned to the bankruptcy case.

Debtor	Bankruptcy Court	Case Number	Filing Date	Judge
Truvo USA LLC and its	Southern District of	10-bk-13513	July 1, 2010	Arthur J. Gonzalez

affiliated debtors	New York			
Brown Publishing Co. and its affiliated debtors	Eastern District of New York	10-bk-73295	Apr. 30, 2010	Alan S. Trust
Regent Communications, Inc. and its affiliated debtors	District of Delaware	10-bk-10632	Mar. 1, 2010	Kevin Gross
Bedford Communications, Inc.	Southern District of New York	10-bk-10902	Feb. 22, 2010	Stuart M. Bernstein
Penton Business Media Holdings, Inc. and its affiliated debtors	Southern District of New York	10-bk-10689	Feb. 10, 2010	Arthur J. Gonzalez
Affiliated Media, Inc.	District of Delaware	10-bk-10202	Jan. 22, 2010	Kevin J. Carey
Morris Publishing Group, LLC and its affiliated debtors	Southern District of Georgia	10-bk-10134	Jan. 19, 2010	John S. Dalis
Black Crowe Media Group, LLC and its affiliated debtors	Middle District of Florida	10-bk-00172	Jan. 12, 2010	Paul M. Glenn
Hights Cross Communications, Inc. and its affiliated debtors	District of Delaware	10-bk-10062	Jan. 11, 2010	Brendan Linehan Shannon
Heartland Publications, LLC and its affiliated debtors	District of Delaware	09-bk-14459	Dec. 21, 2009	Kevin Gross
Citadel Broadcasting Corp. and its affiliated debtors	Southern District of New York	09-bk-17442	Dec. 20, 2009	Burton R. Lifland
Questex Media Group, Inc. and its affiliated debtors	District of Delaware	09-bk-13423	Oct. 5, 2009	Mary F. Walrath
Triple Crown Media, Inc. and its affiliated debtors	District of Delaware	09-bk-13181	Sept. 14, 2009	Brendan Linehan Shannon
Freedom Communications Holdings, Inc. and its affiliated debtors	District of Delaware	09-bk-13046	Sept. 1, 2009	Brendan Linehan Shannon
The Reader's Digest Association, Inc. and its affiliated debtors	Southern District of New York	09-bk-23529	Aug. 24, 2009	Robert D. Drain
CommerceConnect Media Holdings, Inc. and its affiliated debtors	District of Delaware	09-bk-12765	Aug. 3, 2009	Brendan Linehan Shannon
Ambassador Media Group LLC	Southern District of New York	09-bk-14603	July 24, 2009	Stuart M. Bernstein
NV Broadcasting, LLC and its affiliated debtors	District of Delaware	09-bk-12473	July 13, 2009	Kevin Gross
Butler Services International, Inc. and its affiliated debtors	District of Delaware	09-bk-11914	June 1, 2009	Kevin J. Carey
R.H. Donnelley Corp. and its affiliated debtors	District of Delaware	09-bk-11833	May 28, 2009	Kevin Gross
ION Media Networks, Inc. and its affiliated debtors	Southern District of New York	09-bk-13125	May 19, 2009	James M. Peck
Norwood Promotional Products Holdings, Inc. and its affiliated debtors	District of Delaware	09-bk-11547	May 5, 2009	Peter J. Walsh
Source Interlink Cos., Inc. and its affiliated debtors	District of Delaware	09-bk-11424	Apr. 27, 2009	Kevin Gross
AbitibiBowater Inc. and its	District of Delaware	09-bk-11296	Apr. 16, 2009	Kevin J. Carey

affiliated debtors				
Sun-Times Media Group Inc. and its affiliated debtors	District of Delaware	09-bk-11092	Mar. 31, 2009	Christopher S. Sontchi
Idearc Inc. and its affiliated debtors	Northern District of Texas	09-bk-31828	Mar. 31, 2009	Barbara J. Houser
Charter Communications, Inc. and its affiliated debtors	Southern District of New York	09-bk-11435	Mar. 27, 2009	James M. Peck
Philadelphia Newspapers, LLC and its affiliated debtors	Eastern District of Pennsylvania	09-bk-11204	Feb. 22, 2009	Stephen Raslavich
Journal Register Co. and its affiliated debtors	Southern District of New York	09-bk-10769	Feb. 21, 2009	Allan L. Gropper
Young Broadcasting Inc. and its affiliated debtors	Southern District of New York	09-bk-10645	Feb. 13, 2009	Arthur J. Gonzalez
Recycled Paper Greetings, Inc. and its affiliated debtors	District of Delaware	09-bk-10002	Jan. 2, 2009	Kevin Gross
Tribune Co., and its affiliated debtors	District of Delaware	08-bk-13141	Dec. 8, 2008	Kevin J. Carey
Interep National Radio Sales, Inc. and its affiliated debtors	Southern District of New York	08-bk-11079	Mar. 30, 2008	Robert D. Drain
Ziff Davis Media Inc. and its affiliated debtors	Southern District of New York	08-bk-10768	Mar. 5, 2008	Burton R. Lifland
Quebecor World (USA) Inc.	Southern District of New York	08-bk-10152	Jan. 21, 2008	James M. Peck

Distressed Debt

Credit Ratings Downgraded [\(Back to Top\)](#)

The Credit Ratings Downgraded chart provides a listing of companies that have had their credit ratings significantly downgraded during the time period indicated. The chart includes pertinent information about these companies, including the company's name, the date on which the credit rating downgrade occurred, the rating type involved, the agency, the current and last credit ratings for the company, and the company's industry type.

Company	Date	Rating Type	Agency	Current	Last	Industry Type
General Maritime Corp.	7/15/2010	Senior Unsecured Debt	Moody's	Caa1	B3 * -	Transport-Marine
Energy Future Competitive Holdings Co.	7/16/2010	LT Local Issuer Credit	S&P	CC	B-	Electric-Integrated
Energy Future Competitive Holdings Co.	7/16/2010	LT Foreign Issuer Credit	S&P	CC	B-	Electric-Integrated
Energy Future Holdings Corp.	7/16/2010	LT Local Issuer Credit	S&P	CC	B-	Electric-Integrated
Energy Future Holdings Corp.	7/16/2010	LT Local Issuer Credit	S&P	CC	B-	Electric-Integrated
Energy Future	7/16/2010	LT Foreign Issuer	S&P	CC	B-	Electric-Integrated

Intermediate Holding Co. LLC		Credit				
Energy Future Intermediate Holding Co. LLC	7/16/2010	LT Local Issuer Credit	S&P	CC	B-	Electric-Integrated
BMS Holdings Inc.	7/18/2010	LT Local Issuer Credit	S&P	CCC-	CCC+ *-	Special Purpose Entity
BMS Holdings Inc.	7/18/2010	LT Foreign Issuer Credit	S&P	CCC-	CCC+ *-	Special Purpose Entity
American Safety Razor Co.	7/19/2010	LT Corp Family Rating	Moody's	Caa3	Caa1	Cosmetics & Toiletries
Radio One Inc.	7/20/2010	LT Foreign Issuer Credit	S&P	CCC+ *	CCC+ *+	Radio
Radio One Inc.	7/20/2010	LT Local Issuer Credit	S&P	CCC+ *	CCC+ *+	Radio

Global Corporate Bond Defaults [\(Back to Top\)](#)

The Global Corporate Bond Defaults chart provides a listing of significant global corporate bond defaults that have occurred during the time period indicated. The chart includes pertinent information about these bond defaults, including the date of default, the issuer, the reason for default, the coupon rate, the date of maturity, the amount outstanding, the form of currency, and the industry type involved.

Effective Default Redemption Period of July 15, 2010 through July 21, 2010

Default Date	Issuer	Default Reason	Coupon Rate	Maturity	Amt. Otstdg. (M)	Currency	Industry Type
7/15/10	Trico Marine Services Inc.	Coupon payment only	3.000%	1/15/2027	150,000.00	USD	N/A
7/15/10	Trico Marine Services Inc.	Coupon payment only	3.000%	1/15/2027	150,000.00	USD	N/A

Cross-Border Insolvency

2009 – 2010 Chapter 15 Proceedings [\(Back to Top\)](#)

The 2009 – 2010 Chapter 15 Proceedings chart provides a listing of the significant chapter 15 cross-border insolvency proceedings that have been filed during 2009 and 2010. The chart includes pertinent information about these chapter 15 proceedings, including the company's name, whether the proceeding was contested or uncontested, the place of the original proceeding, and the status of the proceeding.

Proceeding	Contested or Uncontested	Place of Original Proceeding	Status
<i>In re Cozumel Caribe, S.A. de C.V.</i> , No. 10-13913 (Bankr. S.D.N.Y. July 20, 2010)	Voluntary	Mexico	Pending
<i>In re Minster Insurance Co. Ltd. and its affiliated</i>	Voluntary	United Kingdom	Pending

debtor, No. 10-13899 (Bankr. S.D.N.Y. July 19, 2010)			
In re Controladora Comercial Mexicana, S.A.B. de C.V., No. 10-13750 (Bankr. S.D.N.Y. July 16, 2010)	Voluntary	Mexico	Pending
In re Fairfield Sentry Ltd. and its affiliated debtors, No. 10-13164 (Bankr. S.D.N.Y. June 14, 2010)	Voluntary	British Virgin Islands	Pending
In re A.B.C. Learning Centres Ltd., No. 10-11711 (Bankr. D. Del. May 26, 2010)	Voluntary	Australia	Pending
In re SNP Boat Service SA, No. 10-18891 (Bankr. S.D. Fla. Apr. 6, 2010)	Voluntary	France	Recognized as a foreign main proceeding
In re Grant Forest Products Inc. and its affiliated debtors, No. 10-11132 (Bankr. D. Del. Mar. 31, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
In re Cover-All Holding Corp. and its affiliated debtors, No. 10-20835 (Bankr. E.D. Pa. March 25, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
In re Schreiber & Keilwerth Musikinstrumente, No. 10-31134 (Bankr. N.D. Ind. Mar. 19, 2010)	Voluntary	Germany	Recognized as a foreign main proceeding
In re Bedminster International Ltd., No. 10-12476 (Bankr. D. Mass. Mar. 10, 2010)	Voluntary	Ireland	Pending
In re White Birch Paper Co., No. 10-31234 (Bankr. E.D. Va. Feb. 24, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
In re F.F. Soucy LP, No. 10-31235 (Bankr. E.D. Va. Feb. 24, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
In re F.F. Soucy, Inc. & Partners, LP, No. 10-31236 (Bankr. E.D. Va. Feb. 24, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
In re Papier Masson Ltee, No. 10-31237 (Bankr. E.D. Va. Feb. 24, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
In re Stadacona LP, No. 10-31238 (Bankr. E.D. Va. Feb. 24, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
In re Stadacona General Partner Inc., No. 10-31240 (Bankr. E.D. Va.	Voluntary	Canada	Recognized as a foreign main proceeding

Feb. 24, 2010			
<i>In re Occupational & Medical Innovations Ltd.</i> , No. 10-60181 (Bankr. E.D. Tex. Feb. 23, 2010)	Voluntary	Australia	Recognized as a foreign main proceeding
<i>In re Mega Brands Inc.</i> , No. 10-10485 (Bankr. D. Del. Feb. 18, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re 4402596 Canada Inc.</i> , No. 10-10486 (Bankr. D. Del. Feb. 18, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re 4402804 Canada Inc.</i> , No. 10-10487 (Bankr. D. Del. Feb. 18, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re MB Finance LLC</i> , No. 10-10488 (Bankr. D. Del. Feb. 18, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re MB US Inc.</i> , No. 10-10489 (Bankr. D. Del. Feb. 18, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re MB2 LP</i> , No. 10-10490 (Bankr. D. Del. Feb. 18, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re Mega Bloks Financial Services, Inc.</i> , No. 10-10491 (Bankr. D. Del. Feb. 18, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re Mega Brands America, Inc.</i> , No. 10-10492 (Bankr. D. Del. Feb. 18, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re Rose Moon, Inc.</i> , No. 10-10493 (Bankr. D. Del. Feb. 18, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re Warren Industries, Inc.</i> , No. 10-10494 (Bankr. D. Del. Feb. 18, 2010)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re JSC Alliance Bank</i> , No. 10-10761 (Bankr. S.D.N.Y. Feb. 16, 2010)	Voluntary	Republic of Kazakhstan	Recognized as a foreign main proceeding
<i>In re JSC BTA Bank</i> , No. 10-10638 (Bankr. S.D.N.Y. Feb. 4, 2010)	Voluntary	Republic of Kazakhstan	Recognized as a foreign main proceeding
<i>In re Kyoshin Name Plate Kogyo Co., Ltd.</i> , No. 10-00168 (Bankr. D. Haw. Jan. 21, 2010)	Voluntary	Japan	Recognized as a foreign main proceeding
<i>In re Japan Airlines Corp.</i> , No. 10-10198 (Bankr. S.D.N.Y. Jan. 19, 2010)	Voluntary	Japan	Recognized as a foreign main proceeding
<i>In re Japan Airlines International Co., Ltd.</i> , No. 10-10199 (Bankr. S.D.N.Y.	Voluntary	Japan	Recognized as a foreign main proceeding

Jan. 19, 2010)			
JAL Capital Co., Ltd., No. 10-10200 (Bankr. S.D.N.Y. Jan. 19, 2010)	Voluntary	Japan	Recognized as a foreign main proceeding
In re Thomson S.A., No. 09-17355 (Bankr. S.D.N.Y. Dec. 16, 2009)	Voluntary	France	Case Closed
In re The International Banking Corp. B.S.C., No. 09-17318 (Bankr. S.D.N.Y. Dec. 14, 2009)	Voluntary	Kingdom of Bahrain	Recognized as a foreign main proceeding
In re Gandhi Innovations Hold Co., No. 09-54886 (Bankr. W.D. Tex. Dec. 14, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
In re Gandhi Special Holdings, LLC, No. 09-54887 (Bankr. W.D. Tex. Dec. 14, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
In re Fazendas Reunidas Bio Gorda, SA, No. 09-37116 (Bankr. S.D. Fla. Dec. 8, 2009)	Voluntary	Brazil	Recognized as a foreign main proceeding
In re British American Insurance Co. Ltd., No. 09-35888 (Bankr. S.D. Fla. Nov. 23, 2009)	Voluntary	Commonwealth of the Bahamas	Recognized as a foreign main proceeding
In re A. Mordo & Son Ltd., No. 09-bk-22026 (Bankr. W.D. Wash. Nov. 16, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
In re Aero Inventory (UK) Ltd., No. 09-41758 (Bankr. D. Del. Nov. 12, 2009)	Voluntary	United Kingdom	Recognized as a foreign main proceeding
In re Saad Investments Finance Co. (No. 5) Ltd., No. 09-13985 (Bankr. D. Del. Nov. 11, 2009)	Voluntary	Cayman Islands	Recognized as a foreign main proceeding
In re Big Sky Farms Inc., No. 09-03293 (Bankr. N.D. Iowa Nov. 10, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
In re Metcalfe & Mansfield Alternative Investments II Corp., No. 09-16709 (Bankr. S.D.N.Y. Nov. 10, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
In re Metcalfe & Mansfield Alternative Investments III Corp., No. 09-16710 (Bankr. S.D.N.Y. Nov. 10, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
In re Metcalfe & Mansfield Alternative Investments V Corp., No. 09-16712 (Bankr. S.D.N.Y. Nov. 10, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding

2009			
<i>In re Metcalfe & Mansfield Alternative Investments XI Corp.</i> , No. 09-16713 (Bankr. S.D.N.Y. Nov. 10, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re Metcalfe & Mansfield Alternative Investments XIII Corp.</i> , No. 09-16714 (Bankr. S.D.N.Y. Nov. 10, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re 6932819 Canada Inc.</i> , No. 09-16715 (Bankr. S.D.N.Y. Nov. 10, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re 446372 Canada Inc.</i> , No. 09-16716 (Bankr. S.D.N.Y. Nov. 10, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re British American Insurance Co. Ltd.</i> , No. 09-31881 (Bankr. S.D. Fla. Oct. 9, 2009)	Voluntary	Commonwealth of the Bahamas	Recognized as a foreign main proceeding
<i>In re CJSC Automated Services</i> , No. 09-16064 (Bankr. S.D.N.Y. Oct. 9, 2009)	Voluntary	Russian Federation	Recognized as a foreign main proceeding
<i>In re Sail City Apparel Ltd.</i> , No. 09-36607 (Bankr. D.N.J. Oct. 6, 2009)	Voluntary	New Zealand	Recognized as a foreign main proceeding
<i>In re Canwest Global Communications Corp.</i> , No. 09-15994 (Bankr. S.D.N.Y. Oct. 6, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re Canwest Television GP Inc.</i> , No. 09-15996 (Bankr. S.D.N.Y. Oct. 6, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re Canwest Global Broadcasting Inc./Radiodiffusion Canwest Global Inc.</i> , No. 09-15997 (Bankr. S.D.N.Y. Oct. 6, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re Canwest Media Inc.</i> , No. 09-15998 (Bankr. S.D.N.Y. Oct. 6, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re 4501063 Canada Inc.</i> , No. 09-15999 (Bankr. S.D.N.Y. Oct. 6, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re The Tall Girl Shop Ltd.</i> , No. 09-15906 (Bankr. S.D.N.Y. Sept. 30, 2009)	Voluntary	Ontario	Recognized as a foreign main proceeding
<i>In re Awal Bank BSC</i> , No.	Voluntary	Kingdom of Bahrain	Recognized as a foreign

09-15923 (Bankr. S.D.N.Y. Sept. 30, 2009)			main proceeding
<i>In re Daewoo Logistics Corp.</i> , No. 09-15558 (Bankr. S.D.N.Y. Sept. 15, 2009)	Voluntary	Republic of Korea	Recognized as a foreign main proceeding
<i>In re IM Stopping Power GmbH</i> , No. 09-21491 (Bankr. C.D. Cal. Sept. 1, 2009)	Voluntary	Germany	Recognized as a foreign main proceeding
<i>In re SkyPower Corp.</i> , No. 09-12914 (Bankr. D. Del. Aug. 19, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re Lehman Re Ltd.</i> , No. 09-14884 (Bankr. S.D.N.Y. Aug. 6, 2009)	Voluntary	Bermuda	Recognized as a foreign main proceeding
<i>In re The Meadows Indemnity Co. Ltd.</i> , No. 09-08706 (Bankr. M.D. Tenn. July 31, 2009)	Voluntary	United Kingdom	Recognized as a foreign main proceeding
<i>In re SemCanada Crude Co.</i> , No. 09-12637 (Bankr. D. Del. July 27, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re SemCAMS ULC</i> , No. 09-12638 (Bankr. D. Del. July 27, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re CEG Energy Options, Inc.</i> , No. 09-12639 (Bankr. D. Del. July 27, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re A.E. Sharp Ltd.</i> , No. 09-12641 (Bankr. D. Del. July 27, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re SemCanada Energy Co.</i> , No. 09-12642 (Bankr. D. Del. July 27, 2009)	Voluntary	Canada	Recognized as a foreign main proceeding
<i>In re Stan's Flooring (1983), Ltd.</i> , No. 09-14516 (Bankr. M.D. Fla. July 6, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Digital Fairway Corp.</i> , No. 09-34085 (Bankr. N.D. Tex. June 30, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Fraser Papers Inc.</i> , No. 09-12123 (Bankr. D. Del. June 18, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Fraser Papers Holdings Inc.</i> , No. 09-12124 (Bankr. D. Del. June 18, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Fraser Timber Ltd.</i> , No. 09-12125 (Bankr. D. Del. June 18, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Fraser Papers Ltd.</i> , No. 09-12126 (Bankr. D.	Uncontested	Canada	Recognized as a foreign main proceeding

Del. June 18, 2009			
In re Fraser N.H. LLC, No. 09-12127 (Bankr. D. Del. June 18, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
In re FPS Canada Inc., No. 09-12128 (Bankr. D. Del. June 18, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
In re Qimonda AG, No. 09-14766 (Bankr. E.D. Va. June 15, 2009)	Uncontested	Germany	Recognized as a foreign main proceeding
In re Britannia Bulk Holdings Inc., No. 09-13724 (Bankr. S.D.N.Y. June 11, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
In re Nortel Networks UK Ltd., No. 09-11972 (Bankr. D. Del. June 8, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
In re Nanbu, Inc., No. 09-01274 (Bankr. D. Haw. June 8, 2009)	Uncontested	Japan	Recognized as a foreign main proceeding
In re Mecachrome International Inc., No. 09-24076 (Bankr. C. D. Cal. June 5, 2009)	Uncontested	Canada	Case Dismissed
In re Straumur-Burdaras Investment Bank hf, No. 09-13592 (Bankr. S.D.N.Y. June 2, 2009)	Uncontested	Iceland	Recognized as a foreign main proceeding
In re W.C. Wood Corp., Ltd., No. 09-11893 (Bankr. D. Del. May 29, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
In re W.C. Wood Holdings, Inc., No. 09-11895 (Bankr. D. Del. May 29, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
In re W.C. Wood Corp., Inc., No. 09-11896 (Bankr. D. Del. May 29, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
In re Stomp Pork Farm (USA) Inc., No. 09-01515 (Bankr. N.D. Iowa May 29, 2009)	Uncontested	Canada	Case Closed
In re Gandi Innovations Holdings, LLC, No. 09-51782 (Bankr. W.D. Tex. May 14, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
In re Gandi Innovations, LLC, No. 09-51783 (Bankr. W.D. Tex. May 14, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
In re Gandi Innovations Ltd., No. 09-51784 (Bankr. W.D. Tex. May 14, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding

<i>In re Madoff Securities International Ltd.</i> , No. 09-12998 (Bankr. S.D.N.Y. May 8, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
<i>In re Spansion Japan Ltd.</i> , No. 09-11480 (Bankr. D. Del. Apr. 30, 2009)	Uncontested	Japan	Recognized as a foreign main proceeding
<i>In re Lehman Brothers Bankhaus AG (in Insolvenz)</i> , No. 09-12704 (Bankr. S.D.N.Y. Apr. 29, 2009)	Uncontested	Germany	Recognized as a foreign main proceeding
<i>In re Oilexco North Sea Ltd.</i> , No. 09-12641 (Bankr. S.D.N.Y. Apr. 28, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
<i>In re CLICO (Bahamas) Ltd.</i> , No. 09-17829 (Bankr. S. D. Fla. Apr. 28, 2009)	Uncontested	Commonwealth of Bahamas	Recognized as a foreign main proceeding
<i>In re Abitibi-Consolidated Inc.</i> , No. 09-11348 (Bankr. D. Del. Apr. 17, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Abitibi-Consolidated Co. of Canada</i> , No. 09-11349 (Bankr. D. Del. Apr. 17, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Evergreen Gaming Corp. and its affiliated debtors</i> , No. 09-13567 (Bankr. W.D. Wash. Apr. 15, 2009)	Uncontested	Canada	Case Closed
<i>In re Madoff Securities International Ltd.</i> , No. 09-16751 (Bankr. S.D. Fla. Apr. 14, 2009)	Uncontested	United Kingdom	Case Closed
<i>In re Sunaone Pty. Ltd.</i> , No. 09-04842 (Bankr. S.D. Cal. Apr. 14, 2009)	Uncontested	Australia	Recognized as a foreign main proceeding
<i>In re GMC Worldwide Pty. Ltd.</i> , No. 09-04679 (Bankr. S.D. Cal. Apr. 9, 2009)	Uncontested	Australia	Recognized as a foreign main proceeding
<i>In re GMCAT Pty. Ltd.</i> , No. 09-04680 (Bankr. S.D. Cal. Apr. 9, 2009)	Uncontested	Australia	Recognized as a foreign main proceeding
<i>In re Kumkang Valve Co., Ltd.</i> , No. 09-32474 (Bankr. S.D. Tex. Apr. 8, 2009)	Uncontested	South Korea	Recognized as a foreign main proceeding
<i>In re Chemokine Therapeutics Corp.</i> , No. 09-11189 (Bankr. D. Del. Apr. 3, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Castle Holdco 4,</i>	Uncontested	United Kingdom	Recognized as a foreign

<i>Ltd.</i> , No. 09-11761 (Bankr. S.D.N.Y. Apr. 2, 2009)			main proceeding
<i>In re Countrywide Estate Agents</i> , No. 09-11763 (Bankr. S.D.N.Y. Apr. 2, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
<i>In re Slater Hogg Mortgages Ltd.</i> , No. 09-11766 (Bankr. S.D.N.Y. Apr. 2, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
<i>In re Countrywide plc</i> , No. 09-11769 (Bankr. S.D.N.Y. Apr. 2, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
<i>In re Countrywide Property Lawyers Ltd.</i> , No. 09-11770 (Bankr. S.D.N.Y. Apr. 2, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
<i>In re Balanus Ltd.</i> , No. 09-11762 (Bankr. S.D.N.Y. Apr. 2, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
<i>In re Securemove Property Services 2005 Ltd.</i> , No. 09-11764 (Bankr. S.D.N.Y. Apr. 2, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
<i>In re Countrywide Estate Agents FS Ltd.</i> , No. 09-11765 (Bankr. S.D.N.Y. Apr. 2, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
<i>In re Countrywide Estate Agents (South) Ltd.</i> , No. 09-11767 (Bankr. S.D.N.Y. Apr. 2, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
<i>In re Countrywide Franchising Ltd.</i> , No. 09-11768 (Bankr. S.D.N.Y. Apr. 2, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
<i>In re Countrywide Surveyors Ltd.</i> , No. 09-11771 (Bankr. S.D.N.Y. Apr. 2, 2009)	Uncontested	United Kingdom	Recognized as a foreign main proceeding
<i>In re Varig Logistica S.A.</i> , No. 09-15717 (Bankr. D. Fla. Mar. 31, 2009)	Uncontested	Brazil	Recognized as a foreign main proceeding
<i>In re SageCrest Ltd.</i> , No. 09-50546 (Bankr. D. Conn. Mar. 27, 2009)	Uncontested	Bermuda	Case Dismissed
<i>In re TallyGenicom AG</i> , No. 09-12253 (Bankr. D. Mass. Mar. 19, 2009)	Uncontested	Germany	Case Closed
<i>In re Grand Prix Associates Inc.</i> , No. 09-16545 (Bankr. D.N.J. Mar. 18, 2009)	Uncontested	British Virgin Islands	Case Closed
<i>In re Bundora Associates Inc.</i> , No. 09-16549	Uncontested	British Virgin Islands	Case Closed

(Bankr. D.N.J. Mar. 18, 2009)			
<i>In re Bundora Investments Ltd.</i> , No. 09-16551 (Bankr. D.N.J. Mar. 18, 2009)	Uncontested	British Virgin Islands	Case Closed
<i>In re Bundora Investments N.V.</i> , No. 09-16554 (Bankr. D.N.J. Mar. 18, 2009)	Uncontested	British Virgin Islands	Case Closed
<i>In re Ruby Investments Sp. z.o.o.</i> , No. 09-16556 (Bankr. D.N.J. Mar. 18, 2009)	Uncontested	British Virgin Islands	Case Closed
<i>In re Bundora Corp.</i> , No. 09-16558 (Bankr. D.N.J. Mar. 18, 2009)	Uncontested	British Virgin Islands	Case Closed
<i>In re Lockhart Overseas Investments Corp.</i> , No. 09-16560 (Bankr. D.N.J. Mar. 18, 2009)	Uncontested	British Virgin Islands	Case Closed
<i>In re Lockhart Ltd.</i> , No. 09-16561 (Bankr. D.N.J. Mar. 18, 2009)	Uncontested	British Virgin Islands	Case Closed
<i>In re Naven Investments Sp. z.o.o.</i> , No. 09-16562 (Bankr. D. N.J. Mar. 18, 2009)	Uncontested	British Virgin Islands	Recognized as a foreign main proceeding
<i>In re Lockhart Corp. I</i> , No. 09-16563 (Bankr. D.N.J. Mar. 18, 2009)	Uncontested	British Virgin Islands	Case Closed
<i>In re Shelby Overseas Invest & Trade Ltd.</i> , No. 09-16564 (Bankr. D.N.J. Mar. 18, 2009)	Uncontested	British Virgin Islands	Case Closed
<i>In re Innua Canada Ltd.</i> , No. 09-16362 (Bankr. D.N.J. Mar. 16, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Normandy Group S.A.</i> , No. 09-16363 (Bankr. D.N.J. Mar. 16, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Biltrite Rubber (1984) Inc.</i> , No. 09-31423 (Bankr. N.D. Ohio Mar. 12, 2009)	Uncontested	Canada	Case Closed
<i>In re Biltrite Rubber, Inc.</i> , No. 09-31425 (Bankr. N.D. Ohio Mar. 12, 2009)	Uncontested	Canada	Case Closed
<i>In re Samsun Logix Corp.</i> , No. 09-11109 (Bankr. S.D.N.Y. Mar. 11, 2009)	Uncontested	Republic of Korea	Recognized as a foreign main proceeding
<i>In re Redcorp Ventures Ltd.</i> , No. 09-12019 (Bankr. W.D. Wash. Mar. 5, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding

<i>In re Independencia S.A.</i> , No. 09-10903 (Bankr. S.D.N.Y. Feb. 27, 2009)	Uncontested	Brazil	Recognized as a foreign main proceeding
<i>In re Lehman Brothers Finance AG</i> , No. 09-10583 (Bankr. S.D.N.Y. Feb. 10, 2009)	Uncontested	Switzerland	Case Dismissed
<i>In re Railpower Hybrid Technologies Corp.</i> , No. 09-10198 (Bankr. W.D. Pa. Feb. 5, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Gold & Honey, Ltd.</i> , No. 09-70463 (Bankr. E.D.N.Y. Jan. 28, 2009)	Uncontested	Israel	Case Closed
<i>In re Gold & Honey (1995) LP</i> , No. 09-70464 (Bankr. E.D.N.Y. Jan. 28, 2009)	Uncontested	Israel	Case Closed
<i>In re Atlas Shipping A/S</i> , No. 09-10314 (Bankr. S.D.N.Y. Jan. 23, 2009)	Uncontested	Denmark	Recognized as a foreign main proceeding
<i>In re Atlas Bulk Shipping AS</i> , No. 09-10315 (Bankr. S.D.N.Y. Jan. 23, 2009)	Uncontested	Denmark	Recognized as a foreign main proceeding
<i>In re Nortel Networks Corp.</i> , No. 09-10164 (Bankr. D. Del. Jan. 14, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Nortel Networks Ltd.</i> , No. 09-10166 (Bankr. D. Del. Jan. 14, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Nortel Networks Technology Corp.</i> , No. 09-10167 (Bankr. D. Del. Jan. 14, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Nortel Networks Global Corp.</i> , No. 09-10168 (Bankr. D. Del. Jan. 14, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re Nortel Networks International Corp.</i> , No. 09-10169 (Bankr. D. Del. Jan. 14, 2009)	Uncontested	Canada	Recognized as a foreign main proceeding
<i>In re CPI Plastics Group</i> , No. 09-20175 (Bankr. E.D. Wis. Jan. 8, 2009)	Uncontested	Canada	Case Closed
<i>In re Crila Investments Inc.</i> , No. 09-20177 (Bankr. E.D. Wisc. Jan. 8, 2009)	Uncontested	Canada	Case Closed
<i>In re Crila Plastics Industries Inc.</i> , No. 09-20179 (Bankr. E.D. Wis. Jan. 8, 2009)	Uncontested	Canada	Case Closed
<i>In re CPI Plastics Group</i>	Uncontested	Canada	Case Closed

Inc., No. 09-20180 (Bankr. E.D. Wis. Jan. 8, 2009)			
In re CPI Plastics Plastics Group (Canada) Ltd., No. 09-20181 (Bankr. E.D. Wisc. Jan. 8, 2009)	Uncontested	Canada	Case Closed
In re Armada (Singapore) Pte. Ltd., No. 09-10105 (Bankr. S.D.N.Y. Jan. 7, 2009)	Uncontested	Republic of Singapore	Recognized as a foreign main proceeding

Bankruptcy News

U.S. Daily Bankruptcy News Wrap-Up [\(Back to Top\)](#)

By Bill Rochelle

July 19 (Bloomberg) —

White Energy Inc., the owner of three ethanol plants, confirmed the reorganization when the bankruptcy judge in Delaware signed an order on July 15 allowing secured creditors to take almost all the new stock. The plan was mostly negotiated before the chapter 11 filing in May 2009. In addition to the stock, secured creditors receive a new \$150 million secured term loan. Unsecured creditors, owed more than \$19 million according to the disclosure statement, will split up \$350,000. Even though secured creditors have deficiency claims of some \$50 million, they won't receive distributions as unsecured creditors. White Energy filed the plan in December shortly after the bankruptcy judge ended the company's exclusive right to propose a reorganization. White Energy's owner, Columbus Nova Ethanol Holdings LLC, filed a competing plan that it later withdrew. White Energy is one of the 10-largest ethanol producers in the U.S., with plants having a combined capacity of 240 million gallons a year. Two plants are in Texas with the third in Kansas. Dallas-based White spent \$323 million building the plants in Texas. The principal debt is \$294 million owing to secured lenders, the company said when entering chapter 11.

[The case is In re White Energy Holding Co., 09-11601](#), U.S. Bankruptcy Court, District of Delaware (Wilmington).

Lenders May Credit Bid for Brown Publishing Today

Secured creditors of Brown Publishing Co. can bid their secured debt rather than cash at the auction today, the bankruptcy judge ruled at the end of a July 15 hearing. Brown is the publisher of the largest-circulation local newspaper on eastern Long Island. The creditors' committee filed a motion on July 12 petitioning the judge to prevent the lenders from making a so-called credit bid. The motion failed. The judge in substance reaffirmed her previously approved auction rules where credit bidding was permitted. The motion on credit bidding was part of a two-pronged attack by creditors on the lenders. The committee filed suit on July 14 contending that \$72 million in liens given in September 2007 were fraudulent transfers that can be voided in bankruptcy. The lenders are Prudential Insurance Co. of America, Allied Irish Bank PLC, Brown Brothers Harriman & Co. and Wells Fargo Bank NA. The hearing for approval of the sale is set for July 22. The banks previously said they intend to credit bid if necessary. A group including Roy Brown, the president and chief executive, is scheduled to make the opening bid of \$15.9. Dolan Media Co., publisher of the Long Island Business News, filed papers earlier in the case saying it's a potential bidder. Brown publishes Dan's Papers, the weekly newspaper with the largest circulation on eastern Long Island, New York. It also publishes the Montauk Pioneer. Based in Cincinnati, closely held Brown listed assets of \$94 million against debt totaling \$104.6 million. First-lien lenders are owed \$70.2 million on a revolving credit and term loan. Second-lien lenders are owed \$24.3 million. Brown has 15 daily, 32 weekly, 11 business and 41 free publications. There are also 51 websites. Seventy-eight of the publications are in Ohio. The business publications are in seven states.

[The case is *In re Brown Publishing Co.*, 10-73295](#), U.S. Bankruptcy Court, Eastern District New York (Central Islip).

Strauss Auto Reorganization Plan Going to Creditors for Vote

Auto parts retailer Strauss Discount Auto scheduled a confirmation hearing for Sept. 1 when it hopes the bankruptcy judge will approve the chapter 11 plan. The judge signed off on the explanatory disclosure statement last week, allowing creditors to vote. In its present form, the plan gives creditors all the new stock plus a second-lien note for \$8.5 million. Strauss Auto didn't try to confirm a prior version of the plan even though the bankruptcy judge had approved a disclosure statement. The plan on which the creditors are now voting is simpler than the predecessor. Unsecured creditors in two classes with approximately \$18.7 million in claims are predicted to have a 45 percent recovery by receiving all the new stock plus the \$8.5 million note, assuming complete victory in a lawsuit against the company's former Japanese owner, Autobacs Seven Co. The suit aims to knock out the former owner's entire \$44 million claim. If the suit fails, the disclosure statement says the recovery by unsecured creditors will be less than 14 percent plus the new stock. Creditors believe the former owner's claim should be disallowed or subordinated. The plan needs \$10 million in financing. The disclosure statement says there isn't a loan commitment yet. The current bankruptcy reorganization is Strauss Auto's third. The stores are in New York, New Jersey, and Pennsylvania. The new petition in February 2009 listed assets of \$75 million against debt totaling \$72 million. Debt initially was listed as including \$44 million owing to the parent under loan agreements, \$9.6 million owing to suppliers, and \$12 million in debt owing to landlords and other unsecured creditors. There were 86 stores and no secured debt when the new chapter 11 case began. Twenty stores were closed.

[The new case is *In re Autobacs Strauss Inc.*, 09-10358](#), U.S. Bankruptcy Court, District of Delaware (Wilmington).

Zayat Stables Confirms Plan, Everyone Paid in Full

Zayat Stables LLC won the signature of the bankruptcy judge on a July 15 order confirming the reorganization plan effectuating a settlement with the secured lender Fifth Third Bank. Confirmation was a near foregone conclusion after the bankruptcy judge approved the settlement with the bank in late June. There were no objections to confirmation. The settlement ended lawsuits where Zayat claimed Fifth Third engaged in "predatory lending" practices. The bank, in turn, was seeking authorization to foreclose the business. The settlement and revised plan provide for paying the bank's loan in full by the end of 2014. The current principal balance of \$28.2 million will be paid down by a minimum of between \$3.23 million and \$4 million a year. There will be a balloon payment at the end of 2014. Interest in the future will be three percentage points higher than the London interbank borrowed rate. The bank will also share in part of the proceeds from the sale of horses, with payments applied against the annual minimums. Unsecured creditors are to be paid in full over two years without interest. Ahmed Zayat retains ownership. The bank had been suing Zayat on a personal guarantee. The stables, based in Hackensack, New Jersey, filed under chapter 11 in February in Newark. The stables have more than 200 horses representing collateral for bank. Revenue in 2009 was \$21 million.

[The case is *In re Zayat Stables LLC*, 10-13130](#), U.S. Bankruptcy Court, District of New Jersey (Newark).

Former Crunch Fitness Confirms Liquidating Chapter 11 Plan

Crunch Fitness, at one time a chain of 19 high-end fitness clubs, will be paying unsecured creditors \$150,000 under the liquidating chapter 11 plan that the bankruptcy judge in New York approved in a July 15 confirmation order. There were no objections to confirmation. Crunch, now formally named AGT Acquisition Wind-Down LLC, filed for reorganization in May 2009 and was authorized in September to sell the business to an affiliate of Angelo Gordon & Co. in exchange for secured debt. Angelo Gordon, a New York-based hedge fund manager, bought Crunch in 2006 from Bally Total Fitness Holding Corp. and purchased the first-lien debt in late 2008. It retained the chain by swapping \$40 million in secured debt for ownership, leaving a deficiency claim of more than \$21.6 million. The official creditors' committee supported the plan, which was made possible by a \$150,000 carve-out allowed by the lender. The lender is also paying costs of the chapter 11 case, including professional fees. In return, the lender has a release from possible lawsuits. Although the disclosure statement didn't tell

unsecured creditors how much they could expect to receive from the plan, it did estimate the deficiency claim of the secured lender would have a 1 percent recovery. The Crunch petition listed assets of \$104 million and \$102 million in total liabilities. Debt included \$56.7 million on a first-lien loan mostly owned by Angelo Gordon affiliates. There was a second-lien credit for another \$22.7 million. The clubs, with 70,000 members, were located at filing in New York, Chicago, Los Angeles, and Rock Creek, Maryland.

[The case is *In re AGT Acquisition Wind-Down LLC*, 09-12889](#), U.S. Bankruptcy Court, Southern District of New York (Manhattan).

Los Angeles Tokyo Grand Hotel Files Ch. 11 to Stop Foreclosure

The owner of the Kyoto Grand Hotel in downtown Los Angeles filed for chapter 11 relief on July 15, facing mortgage foreclosure the next day. The 21-story hotel, built in 1977, has 434 rooms. It adjoins the three-story Weller Court outdoor mall which is also in chapter 11. The property has two mortgages totaling \$44 million. There was a default since January. Financial problems were caused by a "precipitous drop in revenue starting in the last quarter of 2008," a court filing says.

[The case is *In re Little Tokyo Partners LP*, 10-39113](#), U.S. Bankruptcy Court, Central District California (Los Angeles).

EnPro's Garlock Has Final Financing Approval

Garlock Sealing Technologies LLC, a subsidiary of EnPro Industries Inc., nailed down final approval from the bankruptcy judge on July 15 for \$10 million in financing. Garlock, a Palmyra, New York-based gasket maker, filed under chapter 11 in early June to deal with the last 100,000 asbestos claims. Non-bankrupt affiliates are defendants on 30,000 claims. The company intends to pay all creditors in full, including asbestos claimants, so EnPro and all subsidiaries will have releases. There is \$194 million of insurance remaining. EnPro had assets of \$1.33 billion and total liabilities of \$923.5 million on the March 31 balance sheet. EnPro's \$99 million in net income included \$5.6 million of income from continuing operations for the first quarter. EnPro makes engineered products, including diesel and natural-gas engines. It has 44 plants in the U.S. plus operations in 10 other countries.

[The case is *In re Garlock Sealing Technologies LLC*, 10-31607](#), U.S. Bankruptcy Court, Western District North Carolina (Charlotte).

July 20 (Bloomberg) —

Innkeepers USA Trust, a real estate investment trust acquired in July 2007 by Apollo Investment Corp. in a \$1.35 billion transaction, filed a chapter 11 petition yesterday in New York with a reorganization plan where a subsidiary of Lehman Brothers Holdings Inc., one of the secured lenders, would end up with all the new stock in exchange for \$238 million in debt. Other secured lenders, owed \$825 million, aren't on board with the plan as yet. Innkeepers has 72 extended-stay and limited-service hotels with 10,000 rooms in 20 states. The petition listed assets of \$1.5 billion against debt totaling \$1.52 billion. The company's \$1.42 billion debt for borrowed money includes \$1.29 billion in secured debt. The secured obligations include \$238 million in floating-rate debt owing to Lehman subsidiary Lehman ALI Inc. with mortgages on 20 properties. Other lenders have \$825 million in fixed-rate debt secured by mortgages on 45 properties. In addition there is a \$118 million floating-rate mezzanine loan also owing to Lehman. Finally, there is debt on seven properties with mortgages ranging from \$27 million to \$48 million each. The agreement with Lehman calls for exchanging the \$238 million obligation for all the new equity. Lehman's \$118 million in mezzanine debt won't receive anything under the plan. Likewise, Apollo's ownership interest is to be wiped out. The plan calls for the holders of the \$825 million in mortgages to receive new mortgages for \$550 million. The plan would allow the lenders to exercise an election under Section 1111(b) of the U.S. Bankruptcy Code to retain mortgages on the property in the original amount, although the terms of the mortgages would result in their having a present value of \$550 million. Other secured lenders can elect between taking \$150 million in new mortgages or retaining mortgages in the original principal amount, although with a present value of \$150 million. General unsecured creditors could split \$500,000 cash. Palm

Beach, Florida-based Innkeepers missed a payment on the fixed-rate debt in April. To avoid losing licenses with Marriott International Inc. for 44 hotels, Innkeepers has a \$50.75 million loan for improvements on the Marriott properties. There is to be a separate \$17 million loan from Lehman for improvements on the Lehman collateral. Section 1111(b) in bankruptcy law deals with so-called cramdown on secured creditors. Rather than take what the debtor would cram down in a plan, the section allows a secured lender not to lose the ability to profit from an increase in the value of the collateral after the company emerges from bankruptcy. The section is little used and not well understood. The reorganization plan is to be filed within 45 days, a court paper says. Lehman, itself in chapter 11, must receive approval from its bankruptcy judge to go ahead with the agreements. The Lehman case and the Innkeepers case are pending before different bankruptcy judges in Manhattan.

[The case is *In re Innkeepers USA Trust*, 10-13800](#), U.S. Bankruptcy Court, Southern District New York (Manhattan).

Houlihan Fees Dinged 5% for Aventine Non-Disclosure

Although Houlihan Lokey Howard & Zukin Capital Inc. didn't make timely disclosure about its connections with noteholders who were providing contested financing, the bankruptcy judge only cut the firm's fees by 5 percent in the completed reorganization of ethanol producer Aventine Renewable Energy Holdings Inc. The U.S. Trustee in May asked the bankruptcy judge to cut the \$5 million fee request in half. Los Angeles-based Houlihan at a hearing last week established to the satisfaction of the bankruptcy judge in Delaware that tardy disclosure about the lenders was "inadvertent and not willful." U.S. Bankruptcy Judge Kevin Gross said in his 12-page opinion on July 16 that a \$250,000 reduction in fees was nonetheless appropriate "to balance the protection of the integrity of the bankruptcy process with the substantial benefits" the Houlihan firm provided in Aventine's reorganization. Aventine implemented its reorganization plan in March. Holders of \$315.5 million in unsecured notes received 80 percent of the new stock which they shared with unsecured creditors owed \$15 million. The chapter 11 petition filed in April 2009 by Pekin, Illinois-based Aventine listed \$799 million in assets against debt totaling \$491 million. It had two plants in operation and two in construction. The operating plants had an annual capacity of 207 million gallons of ethanol. The two plants being built were designed to produce 220 million gallons.

[The case is *In re Aventine Renewable Energy Holdings Inc.*, 09-11214](#), U.S. Bankruptcy Court, District of Delaware (Wilmington).

Tousa Committee Files Liquidating Chapter 11 Plan

The unsecured creditors' committee for liquidating homebuilder Tousa Inc. filed a chapter 11 plan and explanatory disclosure statement on July 16. The plan assumes appellate courts uphold a judgment the committee won in October where the bankruptcy judge ruled that a bailout and refinancing in mid-2007 of a joint venture in Transeastern Properties Inc. resulted in fraudulent transfers. The bankruptcy judge required the banks to post \$700 million in bonds to hold up enforcement of the judgment pending appeal. The appeal is scheduled for argument on Oct. 22 in U.S. District Court in Florida. The plan and disclosure statement are complicated in view of intercreditor agreements and payments secured lenders received that they must disgorge under the judgment. In lieu of disgorgement, the plan provides that payments previously received by first- and second-lien term-loan lenders will be deemed to have been made and redistributed in accordance with the waterfall provisions in the intercreditor agreement. Consequently, the \$46 million on the \$316 million first-lien revolving credit will be paid in full under the plan. The \$208 million owing on the first-lien term loan will see a recovery between 2.8 percent and 100 percent, according to the explanatory disclosure statement. The \$319 million in second-lien claims are to see nothing to 45.2 percent. The holders of \$574 million in senior notes are in line for a dividend between 52 percent and 82.3 percent, the disclosure statement says. Holders of \$510 million on subordinated notes, \$20 million in pay-in-kind subordinated notes, and existing stock will receive nothing under the plan. Tousa had almost \$486 million cash at the end of May. The variation in recoveries depends in part on whether other lawsuits by the committee are successful. Tousa filed for bankruptcy reorganization in January 2008. The Hollywood, Florida-based company listed assets of \$2.1 billion against debt totaling \$2 billion. At the outset of the reorganization it was 67 percent-owned by Technical Olympic SA.

[The case is *In re Tousa Inc.*, 08-10928](#), U.S. Bankruptcy Court, Southern District of Florida (Fort Lauderdale).

Jennifer Has Plan for Haining Mengnu to Own Stores

Jennifer Convertibles Inc., the furniture retailer that filed for reorganization on July 18, has agreement on a plan where the principal supplier Haining Mengnu Group Co. from China will end up owning 95 percent of the stock. Existing ownership will be extinguished. The other 5 percent of the new equity will go to other creditors, a court filing said. Jennifer blamed the filing on the "poor housing market and an overall weak U.S. economy." Comparable-store sales declined 19.6 percent for the quarter ended in May, compared with the same period in 2009. Revenue for fiscal 2009 was \$94.2 million, a 22 percent decline from \$120.1 million revenue the year before. Woodbury, New York-based Jennifer listed assets of \$26 million and debt totaling \$46.4 million. It had a \$13.2 million operating loss for six months ended Feb. 27 on revenue of \$48.3 million. The net loss in the period was \$13.3 million. The company has 130 Jennifer locations and seven Ashley HomeStores Ltd. stores operated under license. Ashley is a full-line furniture retailer. Jennifer closed seven stores in fiscal 2009 and said earlier this year it expected to close seven to 10 stores in fiscal 2010. Haining was listed as the largest unsecured creditor with a claim of \$16.7 million.

[The case is In re Jennifer Convertibles Inc., 10-13779](#), U.S. Bankruptcy Court, Southern District New York (Manhattan).

Vick Trustee Sues Family for Pre-Bankruptcy Transfers

The trustee for the creditors of Michael D. Vick sued the professional football quarterback's relatives this month to recover what the complaint describes as "gifts and other transfers" received before Vick's chapter 11 filing in July 2008. Those sued include Vick's mother, sister, the mother of his first child, and a woman described in the complaint as Vick's fiancée and mother of his second and third children. The amount of the transfers wasn't specified. Vick served a prison sentence for holding dog fights. He confirmed a chapter 11 plan in September. The plan created a trust to liquidate remaining assets and bring suits for the benefit of creditors. The plan was modified before confirmation to satisfy the judge's criticism of a prior version allowing Vick to retain too much property. The revised plan required Vick give up all but one of his four homes. He retained one automobile and a pension plan. He turned over other homes, boats, cars, horses, real property and investments. He is giving up part of his future income over six years to help repay unsecured creditors with claims estimated to exceed \$19 million.

[The case is In re Michael D. Vick, 08-50775](#), U.S. Bankruptcy Court, Eastern District of Virginia (Newport News).

Lake Las Vegas Development Consummates Chapter 11 Plan

The master developer of the Lake Las Vegas Resort 17 miles from the Las Vegas Strip implemented the reorganization plan on July 15 that the bankruptcy judge approved in a July 1 confirmation order. The plan resulted from a settlement between unsecured creditors and secured lenders owed \$626 million. The development is a 3,600-acre master-planned community with a 320-acre manmade lake next to the Lake Mead National Recreational Area. It has three golf course, two hotels, a casino, retail stores and more than 1,600 completed residential units. The chapter 11 filing was in July 2008.

[The case is In re Lake at Las Vegas Joint Venture LLC, 08-17814](#), U.S. Bankruptcy Court, District of Nevada (Las Vegas).

July 21 (Bloomberg) —

Bank holding company Washington Mutual Inc. failed at a hearing yesterday to move ahead with a chapter 11 plan to implement a controversial settlement with the Federal Deposit Insurance Corp. and JPMorgan Chase & Co. The bankruptcy judge declined to approve the disclosure statement explaining the plan, and granted a motion by shareholders to appoint an examiner to investigate the merits of the settlement. The examiner, to be named by the U.S. Trustee, must file a preliminary work plan by Aug. 6 followed by a preliminary report by Sept. 7. Shareholders wanted 120 days for the investigation. The judge pushed back the disclosure statement hearing to Sept. 7. The plan and the settlement together would enable WaMu to distribute more than \$7 billion to creditors. Shareholders and bank bondholders are opposed to the settlement. They see WaMu and the FDIC as

giving up too cheaply. They would prefer having lawsuits continue with JPMorgan and the FDIC. The WaMu holding company filed under chapter 11 in September 2008, one day after the bank subsidiary was taken over. The bank was the sixth-largest depository and credit-card issuer in the U.S. and the largest bank failure in the country's history. The holding company filed formal lists of assets and debt showing property with a total value of \$4.485 billion against liabilities of \$7.832 billion.

[The holding company chapter 11 case is In re Washington Mutual Inc., 08-12229](#), U.S. Bankruptcy Court, District of Delaware (Wilmington).

Innkeepers USA Trust Given Cash Use Over Lenders' Objection

Innkeepers USA Trust, a real estate investment trust owned by Apollo Investment Corp., was given interim authority to use cash yesterday, one day after a chapter 11 filing in New York. Innkeepers, which Apollo acquired in July 2007 in a \$1.35 billion transaction, has a plan in which a subsidiary of Lehman Brothers Holdings Inc., one of the secured lenders, would receive the new stock in exchange for \$238 million in mortgage debt. The plan is opposed by lenders with \$825 million in mortgage debt that would be cut to \$550 million. Innkeepers has 72 extended-stay and limited-service hotels with 10,000 rooms in 20 states. Its petition listed assets of \$1.5 billion and debt of \$1.52 billion. Secured debt includes \$238 million in floating-rate debt with mortgages on 20 properties owing to Lehman subsidiary Lehman ALI Inc. Other lenders have \$825 million in fixed-rate debt secured by mortgages on 45 properties. It also has a \$118 million floating-rate mezzanine loan owed to Lehman. There is another \$206 million in mortgage debt on seven properties that would be reduced by the plan to \$150 million. According to court records, Lehman may sell some of its forthcoming stock holding to Apollo. Lehman won't receive anything under the plan for its \$118 million in mezzanine debt. General unsecured creditors are slated to get \$500,000 in cash. Midland Loan Services Inc. is the servicer for the \$825 million in mortgage debt. The debt was sold in two issues of commercial mortgage-backed securities known as LB-UBS 2007-C6 and LB-UBS 2007-C7. Palm Beach, Florida-based Innkeepers didn't make payments due on the fixed-rate debt in April. The reorganization plan should be filed within 45 days, according to a court filing. Lehman, also in chapter 11, will apply to the bankruptcy judge for approval of its end of the transactions. The Lehman and Innkeepers cases are pending before different bankruptcy judges in Manhattan.

[The case is In re Innkeepers USA Trust, 10-13800](#), U.S. Bankruptcy Court, Southern District New York (Manhattan).

Class Plaintiffs Seek \$100 Million in Lehman Insurance

Plaintiffs in a class-action lawsuit against Lehman Brothers Holdings Inc. want the bankruptcy judge to modify the automatic stay so they can continue a suit aimed at collecting damages from a \$100 million insurance policy that Lehman had for the years 1999 to 2002. The suit, Fogarazzo v. Lehman Brothers, alleges that Lehman and other investment banks shaded research reports to garner investment banking business. The defendants in an enforcement action by the Securities and Exchange Commission agreed to pay \$1.4 billion. Lehman's share was \$80 million, the plaintiffs said. Later, the suit against Lehman was certified as a class action. The hearing on the motion for permission to sue the insurance company is scheduled for Aug. 18. Lehman filed a revised chapter 11 plan in April. The Lehman holding company filed under chapter 11 in New York on Sept. 15, 2008, and sold office buildings and its North American investment banking business to London-based Barclays Plc one week later. The Lehman brokerage operations went into liquidation on Sept. 19, 2008, in the same court. The brokerage is in the control of a trustee appointed under the Securities Investor Protection Act.

[The Lehman holding company chapter 11 case is In re Lehman Brothers Holdings Inc., 08-13555](#), U.S. Bankruptcy Court, Southern District New York (Manhattan). [The liquidation proceeding under the Securities Investor Protection Act for the brokerage operation is Securities Investors Protection Corp. v. Lehman Brothers Inc., 08-01420](#), U.S. Bankruptcy Court, Southern District New York (Manhattan).

Point Blank Committee Is 'Reckless,' Body Armor Company Says

Point Blank Solutions Inc., a manufacturer of soft body armor for the military and law enforcement, said that a motion by the creditors' committee for the appointment of a chapter 11 trustee or examiner is based on "reckless accusations with no factual basis whatsoever." The company also sees the committee as being

motivated by "personal animosity against" the chief executive and a "desire to control these chapter 11 cases at any cost." Point Blank contends that the motion for a trustee is based partly on misdeeds by executives who left the company four years ago. A hearing on the request to appoint a trustee is scheduled for Aug. 3. Today, a bankruptcy judge is scheduled to consider a separate motion by the committee to conduct examinations under oath and require production of documents by lenders, insiders and customers. A lender is opposing another motion by the committee to extend the deadline for filing a complaint challenging the validity of the pre-bankruptcy loan. The committee argued in its court filing that the reorganization case is being run for the benefit of Steele Partners LLC, a New York-based private equity fund. Steele, according to the committee, controls the board and is also the secured lender in the chapter 11 case. Point Blank has a plant and head office in Pompano Beach, Florida, and a second plant in Jacksboro, Tennessee. Revenue in 2009 was more than \$153 million. The petition listed assets of \$64 million and debt of \$68.5 million. The debt included a \$10.5 million secured loan to be paid off by financing for the chapter 11 case. Point Blank said it also owes \$28.2 million to trade suppliers. Three former officers were indicted on charges of securities fraud.

[The case is *In re Point Blank Solutions Inc.*, 10-11255](#), U.S. Bankruptcy Court, District of Delaware.

Two U.K. Insurers File Chapter 15 to Help Arrangement

Minster Insurance Co. and affiliate Malvern Insurance Co. filed chapter 15 petitions on July 19 in Manhattan so the U.S. court can assist in carrying out the scheme of arrangement approved by a U.K. court in March. Both companies ceased writing new business in 2000 and since then have been paying off claims on remaining policies and collecting from reinsurers. The coverage periods for all policies have lapsed. In July 2009 the companies filed for arrangements in the High Court of Justice under the Companies Act of 2006. Court papers say that the filings in the U.S. are intended to help implement the U.K. schemes. Domestic insurance companies are prohibited from filing under any form of bankruptcy in the U.S. Foreign insurance companies may file. The chapter 15 case isn't a full-blown bankruptcy. It mainly helps implement and enforce the U.K. frameworks.

[The case is *In re Minster Insurance Co. Ltd.*, 10-13899](#), U.S. Bankruptcy Court, Southern District New York (Manhattan).

Los Gatos, California, Development Files Chapter 11

Highlands of Los Gatos LLC, the owner of a 66-acre development near Los Gatos, California, filed a chapter 11 petition on July 16 in San Jose. The petition says the property is worth \$32 million. The secured debt, \$23 million, is owed to East-West Bank. According to the company's website, the project is to be developed into 19 residential lots.

[The case is *In re Highlands of Los Gatos LLC*, 10-57370](#), U.S. Bankruptcy Court, Northern District California (San Jose).

Extended Stay Plan Confirmed, Centerbridge Group Buying Hotels

Extended Stay Inc., the operator of more than 680 long-term lodging properties in 44 states, won approval to emerge from reorganization when the bankruptcy judge agreed at a confirmation hearing yesterday to approve the chapter 11 plan. Centerbridge Partners LP, Paulson & Co. and Blackstone Group LP will buy the business for \$3.925 billion cash. Almost all objections were resolved, according to a court filing. Extended Stay's chapter 11 petition in June 2009 listed assets of \$7.1 billion and debt of \$7.6 billion, including \$4.1 billion in mortgage loans and \$3.3 billion in 10 different mezzanine loans. Based in Spartanburg, South Carolina, Extended Stay says it's the largest operator of mid-priced extended stay hotels in the U.S.

[The case is *In re Extended Stay Inc.*, 09-13764](#), U.S. Bankruptcy Court, Southern District New York (Manhattan).

Equipment Acquisition Resources Confirms Chapter 11 Plan

Equipment Acquisition Resources Inc., under management by William Brandt as chief restructuring office, confirmed a chapter 11 plan last week. Creditors weren't told how much to expect. Brandt was hired in October when the officers and directors resigned. Two secured bank lenders were owed almost \$16 million.

[The case is In re Equipment Acquisition Resources Inc., 09-39937](#), U.S. Bankruptcy Court, Northern District Illinois (Chicago).

July 22 (Bloomberg) —

Lehman's Cash Increases to \$18.92 Billion in June

Lehman Brothers Holdings Inc. had \$18.92 billion cash at the end of June, the holding company for the liquidating broker said in a monthly operating report filed late yesterday. Cash rose by about \$525 million during the month. Cash receipts in the month were \$1.9 billion. Lehman Brothers Special Financing Inc. led the Lehman companies with \$7.4 billion cash. In second place was Lehman Commercial Paper Inc. with \$3.3 billion, followed by the holding company with \$2.1 billion. Professional fees since the case began now total \$873 million, including \$42.7 million in June. Alvarez & Marsal LLC, the financial advisers, billed \$15.6 million in June, bringing the total since September 2008 to \$311.6 million. The fees for Weil Gotshal & Manges LLP, chief bankruptcy counsel, now total \$200.6 million, including \$9.8 million in June. Attorneys for the official creditors' committee from Milbank Tweed Hadley & McCloy LLP have been paid \$56.5 million, including \$3.6 million in June. The Lehman holding company filed under chapter 11 in New York on Sept. 15, 2008, and sold office buildings and the North American investment banking business to London-based Barclays Plc one week later. The Lehman brokerage operations went into liquidation on Sept. 19, 2008, in the same court. The brokerage is in the control of a trustee appointed under the Securities Investor Protection Act.

[The Lehman holding company chapter 11 case is In re Lehman Brothers Holdings Inc., 08-13555](#), U.S. Bankruptcy Court, Southern District New York (Manhattan). [The liquidation proceeding under the Securities Investor Protection Act for the brokerage operation is Securities Investors Protection Corp. v. Lehman Brothers Inc., 08-01420](#), U.S. Bankruptcy Court, Southern District New York (Manhattan).

Lexington Precision Confirms Plan in 27-Month Case

The Lexington Precision Corp. reorganization plan was approved at a hearing yesterday when the bankruptcy judge in New York signed a confirmation order. To confirm the plan, the manufacturer of rubber components for autos and medical devices needed to use the so-called cramdown process because unsecured creditors of the operating company Lexington Rubber Group voted "no." The plan has the class being paid in full over ten quarterly installments, with interest. Prior to the confirmation hearing, the creditors' committee negotiated an improvement in the interest rate to be paid to the class that voted against the plan. With the sweetened plan, the committee didn't object to confirmation and cramdown. The plan is partially funded by selling \$22 million in stock at \$10 a share to Commercial Finance Services 407 LLC. It reduces debt by more than \$50 million while giving holders of senior subordinated notes an estimated 51 percent recovery. Subordinated noteholders, owed \$34.18 million in principal, may elect between taking 51 percent in cash or swap for stock at roughly \$20 of debt for each new share. General unsecured creditors of Lexington Precision are estimated to have an 85.4 percent recovery, according to the disclosure statement. They are to have 8 percent in cash on implementation of the plan, with the remainder paid 8.6 percent in cash at each of the ensuing nine quarters. The disclosure statement says that the present value of the payments is 80 percent. Alternatively, unsecured creditors can elect to receive 51 percent paid in cash. Asbestos claims are to be paid in full with insurance proceeds. If insurance is insufficient, the remainder will be paid over time like general unsecured creditors. Secured debt under the company's plan is to be paid in full through revised credit agreements. Lexington filed for chapter 11 reorganization in April 2008 when negotiations failed with an ad hoc committee of holders of the senior subordinated notes. The detailed lists of assets and debt show property with a value of \$42 million against liabilities totaling \$41.3 million, including \$36.4 million in secured claims. Revenue in 2008 was \$88.5 million. Manhattan-based Lexington has three plants and more than 650 workers.

[The case is In re Lexington Precision Corp., 08-11153](#), U.S. Bankruptcy Court, Southern District New York (Manhattan).

Chemtura Reorganization Plan Will Go to Creditors for Vote

The bankruptcy judge told chemical maker Chemtura Corp. at a hearing yesterday that he will approve a disclosure statement explaining the chapter 11 plan after changes are made. The judge also denied a motion where the official equity committee sought permission to file a competing plan of its own. The hearing for approval of a so-called plan-support agreement was put off until Aug. 4. The shareholders are objecting to the agreement where the creditors' committee and an ad hoc group of bondholders bind themselves to support the reorganization plan originally filed in June. Chemtura's plan, supported by the creditors' committee and the ad hoc bondholder group, is designed to pay creditors in full while holding the possibility of preserving some value for existing shareholders. The plan would reduce debt for borrowed money from \$1.3 billion to approximately \$750 million. The chapter 11 petition in March 2009 by Middlebury, Connecticut-based Chemtura listed assets of \$3.06 billion against debt totaling \$2.6 billion, including \$1.02 billion owing on three issues of notes and debentures. Sales in 2008 of \$3.5 billion declined to \$2.5 billion in 2009. The subsidiaries outside of the U.S. didn't file.

[The case is *In re Chemtura Corp.*, 09-11233](#), U.S. Bankruptcy Court, Southern District of New York (Manhattan).

Tronox Reports \$600,000 Net Loss in June, Sales \$61.3 Million

Tronox Inc., the world's third-largest producer of the white pigment titanium dioxide, reported a \$600,000 net loss in June on net sales of \$61.3 million. Interest expense was \$2.8 million while reorganization items were \$9.1 million. At yesterday's hearing, Tronox said it's officially rejecting an agreement governing the spinoff from Kerr-McGee Corp. Tronox had said that Kerr-McGee and its parent Anadarko Petroleum Corp. were trying to "throw a wrench" into the reorganization by attempting to force an assumption of the agreement. The agreement is a bone of contention in the lawsuit where Tronox is hoping to recover environmental remediation costs it was given when spun off from Kerr-McGee in March 2006. Tronox contends the agreement was an element of a larger fraudulent transfer. Tronox filed a reorganization plan earlier this month where unsecured creditors with an estimated \$471 million in claims will realize a recovery between 80 percent and 100 percent by receiving most or all of the new common stock. The hearing for approval of the explanatory disclosure statement is set for Aug. 10. The chapter 11 petition by Tronox in January 2009 listed assets of \$1.56 billion against debt totaling \$1.22 billion. Debt includes \$213 million on a secured term loan and revolving credit, \$350 million in 9.5 percent senior notes, and a \$40.7 million accounts receivable securitization facility. Tronox's products are used in paints, coatings, plastics, paper and consumer products. The operations outside of the U.S. didn't file.

[The case is *In re Tronox Inc.*, 09-10156](#), U.S. Bankruptcy Court, Southern District of New York (Manhattan).

Madoff Trustee Adds 43 Defendants to Fairfield Suit

The trustee for Bernard L. Madoff Investment Securities Inc. added 43 new defendants to a \$3.5 billion lawsuit he began in May 2009 against three hedge funds managed by Fairfield Greenwich Group. The new defendants include the group's co-founder Walter Noel. The funds themselves discharged Fairfield Greenwich as manager and are in liquidation in the High Court of Justice in the British Virgin Islands. The liquidators for the funds filed chapter 15 petitions in New York in June. The Madoff trustee said in court filing last week that he won't oppose the chapter 15 petitions because the liquidators agreed the automatic stay won't "impede" his actions against the funds. The trustee's original suit sought to recover \$3.54 billion, including \$3.2 billion withdrawn within six years and \$1.2 billion taken out in 90 days before bankruptcy. Bernard Madoff is serving a 150-year prison sentence following a guilty plea. The Madoff firm began liquidating in December 2008 with the appointment of a trustee under the Securities Investor Protection Act. Bernard Madoff himself went into an involuntary chapter 7 liquidation in April 2009. His bankruptcy case was consolidated with the firm's liquidation.

[The Fairfield chapter 15 case is *In re Fairfield Sentry Ltd.*, 10-13164](#), U.S. Bankruptcy Court, Southern District New York (Manhattan). [The Madoff liquidation case is *Securities Investor Protection Corp. v. Bernard L. Madoff Investment Securities Inc.*, 08-01789](#), U.S. Bankruptcy Court, Southern District of New York (Manhattan). [The criminal case is *U.S. v. Madoff*, 09-cr-00213](#), U.S. District Court, Southern District of New York (Manhattan).

National Envelope-Cenveo Bidding Compromise Possible

The creditors' committee for National Envelope Corp. proposed a compromise it hopes will enable to Cenveo Corp. to receive financial information and participate in an auction. National Envelope, which calls itself the

largest closely held envelope manufacturing company in the U.S., has a hearing today to set up auction procedures where Gores Group LLC is already under contract to pay \$134.5 million. Cenveo has been objecting, saying the sale process so far has been "designed to exclude Cenveo and bidders like it." The committee, in July 20 papers, said it understands National Envelope's concern that Cenveo, a major competitor, may not have financial resources to complete an acquisition. To resolve the uncertainty, the committee proposes that Cenveo procure a letter from its lenders saying that use of the credit facilities and cash won't violate loan covenants. Cenveo has been saying that it would bid more than Gores. National Envelope filed under chapter 11 on June 10. It wants bids initially by Aug. 16, followed by an auction on Aug. 20 and an Aug. 23 hearing for approval of the sale. National Envelope's loan agreement, with General Electric Capital Corp. as agent, required having a sale agreement by July 2 and approval of sale procedures by July 16. NEC, based in Uniondale, New York, has 14 manufacturing plants in 11 states, plus three warehouses. Net sales in 2009 were \$676 million, resulting in a \$44.2 million net loss. The petition says assets and debt are both less than \$500 million. Liabilities include \$74.3 million on a secured term loan, \$70.6 million on a secured revolving credit, and \$89 million owing on unsecured debts to trade suppliers.

[The case is *In re NEC Holdings Corp.*, 10-11890](#), U.S. Bankruptcy Court, District of Delaware (Wilmington).

Cabi Downtown Committee Settles, Supports Reorganization Plan

The creditors' committee for Cabi Downtown LLC settled its disputes and agreed to support a modified chapter 11 plan resulting from a settlement between the lender and the owner of the 49-story Everglades on the Bay condominium in Miami. The plan allows Bank of America NA, the construction lender, to take title to the project while the developer remains as manager. The Charlotte, North Carolina-based bank is owed \$207 million. The confirmation hearing for approval of the plan will take place in October. General unsecured creditors were to share \$750,000 cash, although only if they voted in favor of the plan. If the class voted "no," they were to receive \$500,000. The committee objected and hammered out a revised plan, Michael S. Budwick, counsel for the creditors' committee, said in an interview. Budwick is from Meland Russin & Budwick PA. The plan now provides for unsecured creditors to receive \$750,000, for a 25 percent recovery on \$3 million in claims. The plan was also revised so that large, disputed claims wouldn't dilute the recovery by unsecured creditors. Budwick said the settlement was an "extraordinary result. Typically unsecured creditors in these circumstances receive nothing." Prior to settlement, Cabi had a plan where Bank of America was being offered a five-year secured note with 2.5 percent interest paid in cash. The interest rate would have been the London interbank offered rate plus 2.5 percent, with the difference paid in more debt. Believing the prior plan was unconfirmable, the bank had filed a motion to dismiss the chapter 11 case. Cabi filed for chapter 11 reorganization in August 2009, just after the bank began foreclosure. The company is owed by GICSA, which says it is the largest and most profitable real estate developer in Mexico.

[The case is *In re Cabi Downtown LLC*, 09-27168](#), U.S. Bankruptcy Court, Southern District Florida (Miami).

Albuquerque Movie Studio Files to Reorganize in California

Pacifica Mesa Studios LLC, the owner of a movie studio in Albuquerque, New Mexico, filed a chapter 11 petition on July 20 in Woodland Hills, California, listing assets of \$47.3 million against debt totaling \$104.5 million. The studio, known as Albuquerque Studios or ABQ Studios, has an \$80 million first mortgage and a \$23 million second mortgage. Pacifica says in court papers that the property is worth \$54 million. The lender on the first mortgage is Longview Ultra I. The second-lien lender is Workers Realty Trust II LP. The company is owned by Dana Arnold and Hal Katersky, according to a court filing along with the petition.

[The case is *In re Pacifica Mesa Studios LLC*, 10-18827](#), U.S. Bankruptcy Court, Central District California (Woodland Hills).

General Growth Summerlin Disputes in Court Today

General Growth Properties Inc. has a hearing today where the bankruptcy judge will decide whether he or an arbitration panel will decide what former investors in Hughes Corp. should receive in the chapter 11 plan. General Growth's property-owning subsidiaries already have confirmed chapter 11 plans paying their creditors in full. The four top-tier companies filed a plan this month also promising full payment while preserving some of the stock

for existing shareholders. The plan is financed with an \$8.55 billion debt and equity commitment from a group led by Brookfield Asset Management Inc. Teacher Retirement System of Texas has a separate commitment to buy \$500 million of new stock at \$10.25 a share. General Growth hopes to emerge from reorganization in October, remaining the second-largest mall owner in the U.S. with 180 properties in 43 states. General Growth began the largest real-estate reorganization in history by filing under chapter 11 in April 2009. The books of Chicago-based General Growth had assets of \$29.6 billion and total liabilities of \$27.3 billion as of Dec. 31, 2008.

[The case is In re General Growth Properties Inc., 09-11977](#), U.S. Bankruptcy Court, Southern District of New York (Manhattan).

Texas Rangers Hearing on Auction Date Continues Today

The hearing consumed another day yesterday on whether the auction for the Texas Rangers baseball team should go ahead on schedule. The hearing continues today. The Rangers filed under chapter 11 on May 24 with a contract selling the team to a group including current team President Nolan Ryan and sports lawyer Chuck Greenberg. The price was raised to \$306.7 million cash. The lenders would recover \$256 million, according to the team's disclosure statement based on the original contract for \$304 million. The Rangers moved from Washington to Texas in 1972. The team defaulted on payments owing to the lenders in March 2009. Michael "Buzz" Rochelle, a brother of Bloomberg reporter Bill Rochelle, is a lawyer for an agent for the lenders. The partnership that owns the team is Texas Rangers Baseball Partners.

[The case is In re Texas Rangers Baseball Partners, 10-43400](#), U.S. Bankruptcy Court, Northern District of Texas (Fort Worth).

Point Blank Reports \$1.09 Million Operating Loss in June

Point Blank Solutions Inc., a manufacturer of soft body armor for the military and law enforcement, reported a \$1.11 million net loss in June on net sales of \$6.46 million. The operating loss in the month was \$1.09 million. Reorganization items were \$545,000. Point Blank has a plant and head office in Pompano Beach, Florida, and a second plant in Jacksboro, Tennessee. Revenue in 2009 was more than \$153 million. The petition listed assets of \$64 million against debt totaling \$68.5 million. Debt included a \$10.5 million secured loan to be paid off by financing for the chapter 11 case. Point Blank said it also owes \$28.2 million to trade suppliers. Three former officers were indicted on charges of securities fraud.

[The case is In re Point Blank Solutions Inc., 10-11255](#), U.S. Bankruptcy Court, District of Delaware.

South Bay Express Loses \$3.05 Million in June

South Bay Expressway LP, the owner of a nine-mile toll road near San Diego, generated \$1.99 million revenue in June, resulting in a \$3.05 million net loss in view of \$3.88 million in depreciation, amortization, legal costs, and \$1 million in so-called adequate protection for secured lenders. The expressway opened in November 2007. It owes \$340 million on a first-lien construction and term loan plus another \$170 million first-lien obligation on a loan provided by the U.S. Transportation Department. Ownership of the toll road is controlled by affiliates of Sydney-based Macquarie Group Ltd.

[The case is In re South Bay Expressway LP, 10-04516](#), U.S. Bankruptcy Court, Southern District California (San Diego).

International Daily Bankruptcy News Wrap-Up [\(Back to Top\)](#)

By Heather Smith

July 19 (Bloomberg) —

The Central Bank of Nigeria will only liquidate the commercial banks it bailed out last year if their shareholders fail to find new sources of funds, Governor Lamido Sanusi said. The final decision on recapitalizing the lenders lies with their shareholders, he said at a meeting July 15 with shareholders and directors of the companies in the capital, Abuja, according to a statement on the bank's website. Injecting fresh capital through "strategic partnership remains the best option," according to the statement. Sanusi also "allayed the fears of stakeholders, making it very clear that the CBN would not sell the banks. "The central bank sacked the chief executive officers of eight of the country's 24 lenders last year and injected 620 billion naira (\$4.1 billion) to stave off a financial collapse. The banks that benefited were Afribank Plc, Oceanic Bank Plc, Intercontinental Bank Plc, Union Bank Plc, Finbank Plc, Bank PHB Plc, Spring Bank Plc and Equitorial Trust Bank Ltd. Standard Bank Group Ltd., FirstRand Ltd., and Old Mutual Plc, three of South Africa's largest financial institutions, and First Bank Plc, the west African country's largest lender by market value, have expressed interest in buying some of the institutions.

Iceland Loan Ruling Likely to Derail Bank Recovery, Fitch Says

Iceland's efforts to restore financial stability and scale back capital controls are at risk after a ruling last month made banks liable for foreign currency losses on some retail and corporate loans, Fitch Ratings said. The June 16 decision by Iceland's Supreme Court, which banned loans indexed to foreign exchange rates, may cost lenders as much as \$4.3 billion, equivalent to one third of Iceland's 2009 economic production, Finance Minister Steingrimur Sigfusson said earlier this month. "It is likely to have negative implications for the stability of the financial system, the public finances and the timing of any economic recovery," Fitch Senior Director Paul Rawkins said in a July 16 e-mailed reply to questions. The ruling threatens to derail Iceland's efforts to rebuild relations with international investors almost two years after the island's financial system collapsed. Iceland, the fifth-richest nation per capita as recently as 2007, faces litigation from creditors in the island's banks, who sought to limit their losses last year by becoming shareholders, according to Arni Tomasson, the head of Glitnir Bank hf's winding up committee. Fitch rates Iceland's government debt one level below investment grade at BB+ with a negative outlook.

Transmile Wins Restraining Order; to Convene Creditors Meeting

Malaysia's High Court granted a restraining order to halt all proceedings against the air-freight operator Transmile Group Bhd. and its subsidiary Transmile Air Services Sdn. for 90 days, according to an exchange filing in Kuala Lumpur July 16. The company was ordered by the court to convene a creditors' meeting in this period, Transmile's statement said.

SNS Reaal Asked to Send Madoff Feeder Funds' Claim to Investors

SNS Reaal NV, the second-largest Dutch life insurer, was asked to send on a claim for as much as \$55 million to private investors that participated in feeder funds to Bernard Madoff's fraudulent investment business. "It concerns a claim on the investors, not on SNS," said Hendrik Jan Eijpe, a spokesman for SNS in Utrecht, Netherlands, July 16. The administrators of Fairfield Sentry Ltd. and Fairfield Sigma Ltd. sent the writ to SNS because they don't have the names of the individual investors, Eijpe said. Fairfield Sentry, the biggest feeder fund in Madoff's investment business, has asked a New York bankruptcy court for protection from creditors. Affiliates Fairfield Sigma and Fairfield Lambda Ltd. also filed. The funds' administrators want to "claw back" the proceeds Dutch private investors had from selling their shares in them "in time," according to Eijpe, who said the request goes back to as far as 2004. "No money can be claimed from SNS as SNS didn't invest in the funds," he said.

July 21 (Bloomberg) —

Minster Insurance Co. sought bankruptcy protection from creditors in the U.S. The company, based in London, listed both debt and assets of more than \$100 million in chapter 15 documents filed July 19 in U.S. Bankruptcy Court in Manhattan. chapter 15 protects foreign companies from U.S. lawsuits and creditor claims while reorganizing abroad. Minster and its Malvern Insurance Co. affiliate, which also sought protection, are insurance and reinsurance companies that no longer write new business. Both companies are based in London and their assets are primarily located in England, court papers show. "The ultimate goal of each of the companies is to satisfy the claims" of creditors and "conclude the business of the companies sooner" than would be the case

outside of bankruptcy, James Lee Saitch, foreign representative of Minster and Malvern, said in court papers. Minster is asking the U.S. Bankruptcy Court to recognize the proceeding currently pending before the High Court of Justice of England and Wales as a "foreign main proceeding," according to court papers. The proceeding in the English Court commenced in 2009, according to court papers.

Wind Hellas Senior Noteholders Reach Standstill Agreement

Wind Hellas Telecommunications SA reached a standstill agreement with senior secured note holders, gaining time for the Greek mobile phone operator's second debt restructuring in seven months. Holders of 80.6 percent of its \$1.2 billion euros (\$1.58 billion) of floating-rate notes due 2012 agreed not to press claims against the company, joining bank creditors who already gave their assent, according to a statement. At the end of June, Wind Hellas said it deferred a 17.5 million-euro payment on a revolving credit line and that it would miss a 23 million-euro interest payment on the notes. Wind Hellas Chief Executive Officer Nassos Zarkalis noted creditors' support "for the steps we are taking to successfully address the capital structure of the group on a long-term basis. "The phone operator's business is being hurt by falling consumer spending as Greece brings in austerity measures to ease its budget crisis. Wind Hellas is owned by Egyptian billionaire Naguib Sawiris through holding companies including Weather Finance III Sarl, after he bought the company from administrators a year ago. The floating-rate notes were quoted at 33.5 cents on the euro, up from as little as 29 cents on June 30, according to HSBC Holdings Plc prices on Bloomberg.

Abu Dhabi Seeks \$32 Million From Saad in London Trial

Abu Dhabi Commercial Bank PJSC told a U.K. judge that a unit of Saad Group owes it about \$32 million for defaulting on a foreign-currency swap agreement. Saad Trading Contracting and Financial Services Co. defaulted when its credit rating was downgraded in June 2009, the bank's lawyer, Peter Cranfield, said at a trial July 19 at the High Court in London. Saad Trading, based in al-Khobar, Saudi Arabia, has argued that the default applied only to other deals between the parties and that Abu Dhabi didn't serve a termination notice about the swap agreement on time. The 2008 deal, created for Saad Trading to hedge against future currency fluctuations, called for one party to pay the other based on differences in exchange rates for four currency swaps closing in March and April 2010. "Saad Trading's defense to the bank's claim is without merit and designed only to delay judgment day against it," Cranfield, with the firm 3 Verulam Buildings in London, said in court papers. The swaps totaled \$271 million being traded for 182 million pounds, court papers show. Abu Dhabi said it scrapped the deals after Saad Group's credit rating was cut by Moody's Investors Service and Standard & Poor's in June 2009, over concerns that the group may not pay back debt. Saad Group's press office in London declined to comment. Saudi banks tightened lending after Saad Group, owned by billionaire Maan al-Sanea, and another Saudi company, Ahmad Hamad Al-Gosaibi & Brothers Co., defaulted on loans last year, triggering court battles around the globe.

Kenya Railways Corp. Is Close to Bankruptcy, Daily Nation Says

Kenya Railways Corp., the state-owned transport company, is unable to pay its debts and may have entered deals to lease land in violation of procurement rules, the Daily Nation said yesterday, citing an auditor-general's report. Kenya Railways is "technically insolvent" and needs to find more funds to pay creditors, the country's Auditor General Anthony Gatumbu said, according to the Nairobi-based newspaper. Kenya Railways Managing Director Nduva Muli didn't answer his mobile phone when Bloomberg News called for comment yesterday.

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