



## Recent Bankruptcy Representations

### **In re Spansion, Inc.**

In *In re Spansion, Inc.*, acting for an ad hoc group of equity holders, we blocked confirmation of Spansion's chapter 11 plan. The bankruptcy court embraced our argument that the chapter 11 plan, which offered no distribution to shareholders but provided an overly generous employee equity incentive plan, had not been proposed in good faith.

### **In re Lehman Brothers Holdings, Inc. et al.**

We are special counsel to the Official Committee of Unsecured Creditors of Lehman Brothers Holdings, Inc. and its affiliated debtors in their Chapter 11 cases commenced in the United States Bankruptcy Court for the Southern District of New York. Among other things, Quinn Emanuel leads the Creditors' Committee's investigation of the circumstances leading to the debtors' unexpected bankruptcy filing, and assists in the review and prosecution of estate causes of action, to the extent the Creditors' Committee's lead counsel is conflicted from those activities. Our responsibilities include a review of billions of dollars of transactions with clearing banks, counterparties, and other financial institutions involved with Lehman Brothers in the months leading up to the largest bankruptcy in U.S. history.

### **In re G-I Holdings, Inc.**

We acted as special litigation counsel for the debtor, G-I Holdings, Inc. and won a contested confirmation hearing in November 2009, which paved the way for a successful reorganization. G-I (formerly GAF Corporation), parent of the largest residential roofing company in the country, filed chapter 11 in 2001 when it was flooded with hundreds of thousands of asbestos personal injury lawsuits. G-I reached a settlement with the asbestos creditors under a plan of reorganization which established a \$775 million trust and a Section 524(g) injunction. The IRS, which asserted over \$300 million in priority tax claims, objected to the plan on numerous grounds, including that the plan protected nondebtor affiliates from tax liability and that it violated the absolute priority rule by allowing old equity holder Samuel J. Heyman to emerge with ownership of the reorganized debtor. We successfully tried the two-week confirmation hearing, after which Chief District Judge Brown and Bankruptcy Judge Gambardella jointly issued a 102-page opinion overruling all of the IRS objections.

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Prior results do not guarantee a similar outcome.

## **Solutia, Inc.**

We were retained by Solutia virtually on the eve of its exit from its four-year Chapter 11 proceeding when the banks that had agreed to provide the necessary \$2 billion of exit financing (Citibank, Goldman Sachs and Deutsche Bank) refused to fund the loans claiming that the credit market downturn constituted a "materially adverse condition" (MAC) that enabled them to terminate the agreement. The issue we were brought in to litigate was whether Solutia or the banks bore the risk of the credit market downturn. The trial commenced after a month of expedited discovery in which we produced millions of documents, took and defended almost 30 depositions and prepared for trial. After three days of trial, and on the eve of closing arguments, the banks, which had previously refused to entertain settlement negotiations, indicated that they were eager to settle. Under the terms of the settlement, the banks were required to provide the \$2 billion in exit financing needed to fund the plan. The case is believed to be the first of its kind and is of great significance to the bankruptcy bar, financial institutions and companies in Chapter 11.

## **SemGroup, L.P.**

We act as counsel to the Official Committee of Unsecured Creditors appointed in the Chapter 11 cases of SemGroup, L.P. and its affiliated debtors. SemGroup filed bankruptcy precipitously in July 2008, amid revelations of billions of dollars in commodities trading losses and allegations that one or more insiders had improperly utilized corporate resources and failed to adequately disclose trading strategies. As Committee counsel, we have been working to protect and preserve assets of the debtors' Chapter 11 estates, to explore all potential stand-alone restructuring options and asset disposition strategies, and to identify value available for distribution to unsecured creditors. Working collaboratively with the recently appointed examiner, we are prepared to pursue litigation against various parties arising from and related to the allegations of corporate wrongdoing. Resolution of these claims, whether through litigation or negotiation, would be a critical component of any Chapter 11 plan.

## **LeNature's**

We represent a consortium of hedge funds and other investors who were initial and secondary market lenders to bankrupt beverage manufacturer Le Nature's Inc., in litigation against Wachovia Capital Markets, BDO Seidman, and certain Le Nature's executives. The action alleges fraud in connection with losses incurred by the lenders, stemming from conduct in the syndication of the loans and thereafter. In addition to asserting claims against the defendants in New York, we represent the secondary lenders in a North Carolina action commenced by Wachovia, in which Wachovia asserts that the acquisition of bank debt in the secondary markets was champertous. Separately, we represent a group of approximately 75 pension funds, investment funds, and other investors that purchased bonds issues by Le Nature's at par value. The defendants in that case include Wachovia, Ernst & Young, and BDO Seidman.

### **Sentinel Group Management, Inc.**

We have been retained as counsel to the Official Committee of Unsecured Creditors appointed in the Chapter 11 case of Sentinel Group Management, Inc. pending in Chicago, Illinois. Sentinel managed over a billion dollars in investments of short-term cash for various clients, including futures commission merchants, hedge funds, financial institutions, pension funds and individuals. The Chapter 11 cases were commenced among allegations that certain members of Sentinel's management engaged in fraudulent and undisclosed co-mingling and leveraging of client funds and misrepresented the nature of risky and illiquid securities purchased on their clients' behalf. As Committee counsel, we have been working with the Chapter 11 trustee to negotiate a consensual Chapter 11 plan and have been tasked with evaluating and possibly pursuing complex litigation against various parties relating to the allegations of misconduct.

### **American Home Mortgage Corp., et al.**

We have been retained as special litigation and conflicts counsel to American Home Mortgage Corp. and its affiliated debtors and debtors in possession in one of the largest Chapter 11 cases filed in 2007. American Home Mortgage previously was the 10th largest residential mortgage lender in the United States, at one point holding a leveraged portfolio of mortgage loans and mortgage-backed securities totaling approximately \$15.6 billion, originating approximately \$58.9 billion in the aggregate principal amount of loans, and operating more than 550 loan origination offices in 47 states and the District of Columbia. We are principally responsible for evaluating and litigating the bankruptcy estates' claims and causes of action against American Home Mortgage's various warehouse lenders and repurchase agreement counterparties.

### **Parmalat**

We represent Dr. Enrico Bondi, Extraordinary Commissioner of Parmalat S.P.A., in three separate \$10 billion lawsuits arising out of the largest bankruptcy in European history; the defendants in the lawsuits are Deloitte & Touche, Grant Thornton, Bank of America. The cases are based on claims that the defendants aided and abetted Parmalat's insiders in the commission of massive fraud and auditor malfeasance through bogus and roundtrip transactions of receivables to related party entities and hidden special purpose vehicles.

### **Refco**

We were retained by the Refco Litigation Trust and the Refco Private Actions Trust, litigation vehicles established pursuant to Refco's Chapter 11 plan to pursue claims belonging to the estates of Refco Inc. and its subsidiaries and private causes of action held by customers of the defunct broker-dealer. We are lead litigation counsel in actions seeking damages in excess of \$2 billion for fraud, breach of fiduciary duty,

aiding and abetting, and professional malpractice brought by these Trusts against Refco's officers and professional advisors including, among others, Grant Thornton LLP, Mayer Brown LLP, Ernst & Young LLP, PricewaterhouseCoopers LLP, KPMG, Credit Suisse, Bank of America, and Deutsche Bank Securities Inc. The actions are currently pending in the Southern District of New York, where they are coordinated with the Refco MDL.

**Performance Transportation Systems, Inc., et al.**

We have been retained by the Ad Hoc Committee of Second Lien Lenders in the Chapter 11 cases of Performance Transportation Systems, Inc. and its affiliated debtors and debtors in possession pending in the United States Bankruptcy Court for the Western District of New York. The representation involves both inter-creditor litigation and contested matters concerning various issues in the cases, including objections to the Debtors' proposed sale process for substantially all their assets.

**Calpine Corp., et al.**

We were retained by the Ad Hoc Committee of Calgen Third Lien Noteholders in the Chapter 11 cases of Calpine Corporation pending in the United States Bankruptcy Court for the Southern District of New York to review, evaluate, and, if necessary, litigate various inter-creditor and plan confirmation issues.

**The Official Committee of Unsecured Creditors of TW, Inc. f/k/a Cablevision Electronics Investments v. Cablevision Systems Corporation**

We represent Cablevision in an action filed by the Committee for Unsecured Creditors of CEI (aka, "The Wiz", the former regional electronics chain). In 1998, Cablevision formed CEI as a wholly-owned subsidiary to purchase the assets of the Wiz out of bankruptcy. Despite obtaining funding to the tune of over \$500 million from 1998 to 2003, CEI struggled, generated operating losses, and eventually filed for bankruptcy in March 2003. We went before Judge Walrath for a scheduled 2-day trial on insolvency. The Committee claimed, and their expert opined, that since CEI had no guarantee that Cablevision would continue to fund it, CEI should be valued as a failing concern from 1998 onward. The Committee took this position -- ignoring the actual parental support from Cablevision -- so that they could value CEI at essentially liquidation values, and thereby show the company to be insolvent throughout its existence.

After the Committee rested, we moved for a directed verdict, arguing that applicable law required the committee and its expert to consider the actual funding by Cablevision, and that CEI should be valued as a going concern since its collapse was never imminent from 1998-2002. The Court granted the motion, finding the committee had failed to prove CEI was insolvent from 1998-2002. The decision requires dismissal of most of their claims (which are premised on insolvency) and

their hopes of any substantial recovery (they had sought to recover hundreds of millions of dollars).

### **National Century Financial Enterprises**

We represent ING Bank in a \$500 million fraud action against JPMorgan Chase, Bank One, Deloitte, PriceWaterhouseCoopers, and others arising out of a massive fraud at NCFE and NCFE's subsequent bankruptcy. We also represent ING Bank as a member of the steering committee of the Litigation Trust. We have assisted ING Bank in recovering in excess of \$100 million to date.

### **Enron/CLN**

We represent about two dozen hedge funds, including international funds, grouped under four management entities -- Elliott, Davidson-Kempner, Appaloosa, and Angelo Gordon -- as plaintiff-holders of Yosemite and Enron Credit-Linked (ECLN) Notes in the Yosemite v. Citibank action in the Enron MDL. The noteholders asserted fraudulent transfer claims against Citibank and collectively sought in excess of \$1.4 billion on those claims. With Citibank's motion for summary judgment pending, Citibank and Enron agreed to a joint settlement and our clients will receive in excess of \$2.1 billion in payments from the Enron bankruptcy estate.

### **Yukos Oil Company**

We represent Yukos Finance B.V. and Yukos International (UK) B.V. in the Chapter 15 case commenced by the receiver for Yukos Oil Company in the United States Bankruptcy Court for the Southern District of New York. The case involves issues of first impression concerning the scope of relief available to petitioners and third parties under this recently enacted Bankruptcy Code chapter.

### **Peregrine Systems Software**

We represent the lead defendant in a case filed by the Peregrine Litigations Trust, an entity formed in the Peregrine Systems bankruptcy proceedings that is seeking in excess of \$2 billion from Peregrine's directors, officers, and others. (A dozen insiders have already either pleaded guilty or been indicted in connection with Peregrine's accounting restatement.) We obtained dismissal with prejudice on the pleadings in favor of our client, and the matter is now pending on appeal.

### **In re Buffets, Inc. et al.**

In the Chapter 11 case of Buffets, Inc., we represented the Chapter 11 debtor in possession as special counsel in connection with litigation that resulted in the successful restructuring of master lease obligations involving more than 120 restaurant locations for one of the country's largest steak restaurant chains.

## **Interliant**

We obtained a complete resolution of all claims in bankruptcy court on behalf of a publicly-traded company's management, who had been sued for \$300 million based on claims that they received and made fraudulent conveyances and preferential payments and looted a defunct public company. Defendants paid no monies in settlement.

## **GT Telecom**

We represented former directors of a publicly-traded Canadian telecom company in an action by an indenture trustee on behalf of noteholders holding \$800 million of notes alleging fraud and breach of fiduciary duty in connection with the company's insolvency and liquidation. We won the case on our motion to dismiss.

## **Crown Vantage Liquidating Trust**

We represented three outside directors of an insolvent subsidiary spun off from a leading international paper company in an action brought by the liquidating Trustee against the directors, officers and company advisors. The Trustee alleged fraudulent transfer and deepening insolvency theories, and claimed close to \$1 billion in damages. The matter was dismissed, and the dismissal was affirmed by the U.S. Court of Appeals for the Ninth Circuit.

## **Homestore.com**

We represented AOL Time Warner as a defendant in a \$1 billion securities matter related to the bankrupt internet company. Our client was alleged to have participated in roundtrip or barter transactions that the debtor had misrepresented in its financial statements. The matter was dismissed as to our client, and the dismissal was affirmed by the U.S. Court of Appeals for the Ninth Circuit in 2006.

## **ARM Financial**

We represented preferred stockholders and pursued Section 11 claims against the directors, officers, and the lead underwriter on a preferred stock offering after ARM Financial filed for bankruptcy. We recovered seven-figure settlements from the directors and officers and from the lead underwriter.

## **Kmart**

We represented Kmart as a debtor in a variety of bankruptcy litigations and adversary proceedings including preference, lease and contract assumption, and fraudulent transfer cases, among others. We obtained a dismissal with prejudice, on the eve of trial, of a multi-million dollar lease dispute brought against Kmart and won a bench trial upholding its multi-million dollar contract with its co-branded credit card partner.

## **Superior National**

We represented Chapter 11 debtor Superior National Insurance Group, Inc., and subsequently the SNTL Litigation Trust, in its pursuit of claims against HealthNet, which had sold Superior National four underreserved insurance companies in the transaction that led to its bankruptcy, and other defendants. We recovered over \$150 million in settlements approved by the Creditors' Committee and the bankruptcy court, despite a \$50 million damage cap in Superior's SPA with defendants.