

## Final Stages for Hostess, Reader's Digest Reorganization, Detroit's Emergency

Today's column updates readers on major events that transpired in the high-profile bankruptcy cases of Hostess, American Airlines, Reader's Digest and Girls Gone Wild. The column discusses recent sales of Hostess' iconic brands including the infamous Twinkies. The column also describes the merger of bankrupt American Airlines with U.S. Airway and the plan of reorganization filed by Reader's Digest. In addition, the column describes Girls Gone Wild's tumultuous entry into the bankruptcy world. Finally, the column discusses Detroit's efforts to alleviate their financial woes with the help of a renowned bankruptcy practitioner.

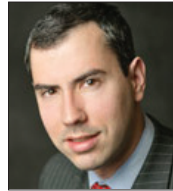
### Hostess Brands

Hostess Brands Inc., the well-known Twinkies and Wonder Bread maker, commenced its second bankruptcy on Jan. 11, 2012, to address its burdensome debt and pension costs.

Following a failed attempt to reach an agreement with its bakers union at mediation, Hostess began to wind down its business operations in late 2012. About 250 employees remain with the company that once employed 18,500.

As part of the wind-down process, Hostess recently obtained bankruptcy court approval to sell its primary businesses for \$800 million under §363 of the Bankruptcy

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Code. Section 363 allows a bankrupt debtor to sell its assets free and clear of any liens, claims and encumbrances, with such liens, claims and encumbrances attaching to the proceeds of the sale.

The sales were approved over the objections of the Bakery Confectionery Tobacco Workers and Grain Millers International Union which argued certain proposed purchasers improperly disclaimed obligations to employ union workers. The bankruptcy court sided with Hostess which argued that the objection points were irrelevant as the employees in question were let go in the wind-down.

The highlight of the wind-down was the sale of the Twinkies brand to Apollo Global Management LLC and C. Dean Metropoulos & Co. for \$410 million.

The bankruptcy court also approved Flowers Foods Inc.'s \$360 million bid for the majority of the company's bread business including the Butternut, Nature's Pride and Wonder Bread brands, along with 20 bakeries, 38 depots and other assets.

*Hostess Brands* (Bankr. S.D.N.Y. Case No. 12-22052)

### Airline Merger

American Airlines, together with parent company AMR Corporation, sought

bankruptcy protection on Nov. 29, 2011, under Chapter 11 of the Bankruptcy Code. As discussed in prior Bankruptcy Update columns, the bankruptcy was precipitated by American Airlines' ballooning organized labor costs and an imbalanced competitive field.

American Airlines recently won bankruptcy court approval of its \$11 billion merger with U.S. Airways Group Inc. to form the world's largest airline.

The merger was supported by a wide range of parties in interest. The official committee of unsecured creditors, appointed by the U.S. Trustee to represent the interests of general unsecured creditors under §1103 of the Bankruptcy Code, argued to the bankruptcy court that the merger would provide a significant return to company creditors. Unions representing pilots, flight attendants and ground employees also supported the proposed merger.

Upon consummation of the merger, shareholders of US Airways will receive 28 percent of the equity in the new enterprise, which will be called American Airlines Group Inc. Stakeholders of American Airlines are slated to receive the other 72 percent of the new company.

The U.S. Trustee, an appointee of the Department of Justice charged with protecting the integrity of the bankruptcy system, objected to the merger arguing that severance packages and other proposed payments to employees violate Section 503(c) of the Bankruptcy Code. Section 503(c) sets limitations on severance and incentive payments to a

debtor's officers and employees. American Airlines countered that compliance with Section 503(c) is not required as payment will be made by the new entity rather than the debtors.

The bankruptcy court approved the merger but did not approve a \$19.9 million severance package for AMR CEO, Tom Horton.

In other airline restructuring news, Southern Air Holdings Inc. recently confirmed its plan of reorganization. Pursuant to the confirmed plan, Southern Air's secured lenders will exchange \$258 million in claims for 82.5 percent of the stock in the reorganized company and provide "exit loans" in the amount of \$17.5 million. Exit loans are financing arrangements that enable a debtor to fund its operations as it emerges from bankruptcy. Affiliates of current owner Oak Hill Capital Partners will receive 17.5 percent of the new stock and warrants in exchange for \$20 million which will fund the carrier's lease obligations. The plan also creates a \$2.5 million litigation trust for the benefit of unsecured creditors.

*AMR* (Bankr. S.D.N.Y. Case No. 11-15463)

### Reader's Digest

Reader's Digest Association Inc. filed its second Chapter 11 bankruptcy case in less than four years on Feb. 17, 2013. The company reported declines in its North American book and home entertainment businesses, as well as certain portions of its European business and cited a need to deleverage its balance sheet as the primary motivation for the bankruptcy filing.

Reader's Digest listed approximately \$1.1 billion in assets and \$1.2 billion in liabilities. The company has approximately 500 full-time and part-time employees and additional temporary and contract employees.

The company obtained bankruptcy court approval of a \$105 million credit facility provided by a group of secured noteholders and arranged by Wells Fargo Bank.

On March 21, 2013, Reader's Digest filed a plan of reorganization which proposes to convert approximately \$475 million in debt into equity. Such debt is comprised of \$231 million in secure senior noteholder claims and \$244.9 million in general unsecured claims. A hearing to consider the disclosure statement accompanying

the plan of reorganization is scheduled for April 25, 2013. A disclosure statement is a document designed to inform stakeholders of the proposed treatment of their claims or interests under the plan as well as the contingencies and risks involved in the consummation of the plan.

*Reader's Digest* (Bankr. S.D.N.Y. Case No. 13-22233)

### Girls Gone Wild

GGW Brands LLC, better known around the world as the Girls Gone Wild franchise, sought bankruptcy protection under Chapter 11 on Feb. 25, 2013. The bankruptcy filing was precipitated by mounting judgments of approximately \$16 million from suits by Wynn Las Vegas LLC and a woman alleging her likeness was used in the famed soft core porn videos without permission.

GGW Brands listed under \$50,000 in assets and in excess of \$16 million in liabilities in its Chapter 11 petition. Among the liabilities is a disputed \$10.3 million debt to Wynn Las Vegas, resulting from a court finding that GGW Brands principal, Joe Francis, defamed Wynn Resorts Ltd. CEO Steve Wynn by stating that Wynn threatened to murder Francis and bury his body in the desert.

Shortly following the filing, Wynn Las Vegas moved in the bankruptcy court for the appointment of a Chapter 11 trustee, who is a bankruptcy estate fiduciary charged with managing a debtor's business in place of the debtor's pre-bankruptcy management and is usually appointed where prior management engaged in fraudulent or otherwise improper activities. Wynn Las Vegas argued that a Chapter 11 trustee is necessary because Francis was effectively looting the company and using the bankruptcy process to evade his personal creditors. Wynn Las Vegas alleged that while Francis formally stepped down as manager of the company, he continues to divert GGW Brands assets for his personal use by having the company pay his mortgage, credit card bills and hundreds of thousands of dollars in personal legal fees. A hearing on the motion to appoint a Chapter 11 trustee is scheduled for April 10, 2013.

*GCW* (Bankr. C.D. Cal. Case No. 13-15130)

### City Of Detroit

Michigan Governor Rick Snyder recently

turned to accomplished bankruptcy partner professional Jones Day bankruptcy partner Kevyn Orr as the emergency financial manager for Detroit in the most recent effort to rescue the flailing city from its financial woes. Orr is perhaps best known for his restructuring work in Chrysler's 2009 bankruptcy proceeding, where he represented the debtor.

Snyder declared Detroit to be in a fiscal emergency after an independent financial review team reported that the city was in a critical financial situation.

Detroit projected \$1.56 billion in revenue from 2011 to 2012, but ultimately made only \$1.1 billion. The city also borrowed more than \$600 million to cover its short-term bills between 2005 and 2011.

The city also cannot satisfy its long-term liabilities, which exceed \$8.6 billion, not including pension liabilities and other post-employment benefits. When pension and other post-employment benefit liabilities are taken into account, long-term obligations exceed \$14 billion.

Under an enhanced state law, Orr will be empowered to sell city assets, break municipal labor contracts and renegotiate repayment and other terms with the city's creditors. It is not yet clear whether Orr will consider a Chapter 9 bankruptcy filing by Detroit. Chapter 9 of the Bankruptcy Code provides for voluntary bankruptcy proceedings by municipalities. While it shares many similarities with Chapter 11 proceedings, there are also some important distinctions. The primary difference between a Chapter 11 proceeding and a case under Chapter 9 involves the limitation on bankruptcy court powers to affect the governance of the municipality.