

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re:) Case No. 10-50494
)
FAIR FINANCE COMPANY) Chapter 7
)
Debtor.) Judge Marilyn Shea-Stonum
)

STATUS REPORT FOR APRIL 3, 2012 STATUS CONFERENCE

Brian A. Bash, Trustee herein, submits the following summary of the status of the Trustee’s administration of the estate:¹

Pending Litigation

To date, the Trustee has filed the following lawsuits and is pursuing claims in those lawsuits for the benefit of the estate:

- a) The *Textron / Fortress* litigation (more than \$1 billion).
- b) The *Don Fair* litigation (approximately \$150 million).
- c) The *Laikin* litigation (approximately \$25 million).
- d) The *National Lampoon* litigation (approximately \$9 million).
- e) The *FCS Advisors* litigation (approximately \$2 million).
- f) The *Osler and Geist Sports* litigation (approximately \$1.2 million).
- g) The *BGBC and Somerset* litigation (approximately \$900,000).
- h) Litigation against certain insiders, including Timothy Durham, James and Susan Cochran, John Head, Rick Snow and Terry Whitesell (approximately \$83 million).
- i) Litigation against Fair Holdings, Inc. and DC Investments LLC (approximately \$141 million).

While these defendants have assigned all of their assets to the Trustee for the benefit of the estate, the

¹ The Trustee and his professionals have addressed and resolved many of the administrative issues in this matter. This list is not exhaustive, but focuses on the issues most significant to asset recovery.



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Trustee is seeking a judgment against these defendants in order to preserve potential claims against subsequent transferees.

j) Loan and state-law fraudulent transfer litigation: 101 complaints against persons who received money from the Debtor or related persons or entities as loans or avoidable transfers, for a total of over \$58 million, commenced in orderly manner as follows:

- a. Wave one (filed 11/2011): 5 complaints seeking a total of \$834,000;
- b. Wave two (filed 12/23/11): 10 complaints seeking a total of \$1.3 million;
- c. Wave three (filed 1/20/12): 23 complaints seeking a total of \$11.5 million;
- d. Wave four (filed 1/27/12): 3 complaints seeking a total of \$760,000;
- e. Wave five (filed 2/3/12 and 2/7/12): 41 complaints seeking a total of \$22.4 million; and
- f. Wave six (filed 2/10/12): 4 complaints seeking \$520,000.
- g. Wave seven (filed between 2/23/12 and 3/16/12): 15 complaints seeking in excess of \$21 million.

k) Preference complaints against investors (filed 2/23/12): 12 complaints for a total of more than \$330,000. All but five of these complaints have been settled or otherwise resolved.

l) Preference complaints against non-investors: 7 complaints against persons receiving preferential payments from the Debtor, for total of more than \$184,000. The majority of these cases have been settled.

- a. Wave one (filed 1/19/12): 4 complaints seeking a total of \$108,000; and
- b. Wave two (filed 1/27/12): 2 complaints seeking a total of \$76,000.
- c. Wave three (filed 2/23/12): 1 complaint seeking \$87,000.

m) The Trustee has filed the *McKibben* action against insiders of the Debtor and entities they controlled, which seeks to recover all investor losses.

Forthcoming Litigation

- a) The vast majority of the lawsuits the Trustee expects to file have been filed.

b) The Trustee expects that some of the defendants in the loan and fraudulent transfer litigation may not have the financial ability to pay the amounts sought by the Trustee. If the Trustee's claims are successful, the Trustee will consider pursuing subsequent transferee claims against transferees of those defendants.

c) The Trustee continues to evaluate additional potential claims that may be pursued for the benefit of the estate, including loan and fraudulent transfer claims for which the statute of limitations will not be expiring in the near future.

Recent Recoveries and Activities

a) Since the last status conference, the Trustee has received approximately \$434,000, including \$242,228.50 from Duvera Billing Services, LLC on account of the Debtor's receivables portfolio. The remainder is primarily payments on preference and fraudulent transfer settlements or demand letters, and the Trustee has filed or will be filing motions to compromise in connection with those settlements.

b) The Trustee has sent subpoenas to numerous parties seeking information related to debts and avoidable transfers pursuant to Chapter 5 of the Bankruptcy Code.

c) The Trustee has filed an application to amend the order authorizing the appointment and retention of Baker Hostetler, LLP, to include a contingency arrangement.

Trustee's Focus in the Upcoming Weeks

a) The Trustee's counsel will focus efforts on initial discovery in the recently filed litigation and resolving procedural issues to facilitate the prompt and efficient resolution of the cases.

b) Continuing to litigate those claims that have been filed by the Trustee to date.

c) Negotiating the potential sale of United Trailers, Obsidian's only operating subsidiary, on whose assets the Trustee holds a second lien.

d) Marketing and selling real property owned by the Debtor in Akron.

e) Investigating and responding to offers to purchase commercial real estate in Indianapolis, including an eminent domain proceeding relating to a portion of the property where a commercial medical building is located.

f) Continuing to pursue discussions regarding potential settlement of (i) National Union's motion regarding advancement of proceeds under Fair's D&O insurance policy; and (ii) claims in the *McKibben* adversary proceeding.

Date: April 2, 2012

Respectfully submitted,

/s/ Brian A. Bash

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CERTIFICATE OF SERVICE

A copy of the foregoing has been served via ECF or regular, U.S. Mail, on April 2, 2012,
on the attached service list.

/s/ Brian A. Bash

Brian A. Bash

SERVICE LIST

Electronic Mail Notice List

The following is the list of **parties** who are currently on the list to receive e-mail notice/service for this case.

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