

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 JANUARY 24, 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

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

- a. The *Laikin* litigation (approximately \$25 million).
- b. The *National Lampoon* litigation (approximately \$9 million).
- c. The *FCS Advisors* litigation (approximately \$2 million).
- d. The *Osler* and *Geist Sports* litigation (approximately \$1.2 million).
- e. Loan and state-law fraudulent transfer litigation: 38 complaints against persons who received money from the Debtor or related entities as loans or avoidable transfers, for a total of \$14.1 million, in the following categories:
 - i. Wave one (filed 11/2011): 5 complaints seeking a total of \$834,000.00;
 - ii. Wave two (filed 12/23/11): 10 complaints seeking a total of \$1.3 million;
 - iii. Wave three (filed 1/20/12): 23 complaints seeking a total of \$11.5 million;
- f. Preference complaints (filed 1/19/12): 4 complaints seeking a total of \$108,000.
- g. The Trustee also has filed the *McKibben* and *Obsidian / Diamond* litigation against insiders of the Debtor and entities they controlled. The Trustee seeks to recover all

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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losses in the *McKibben* case, and approximately \$40 million in the *Obsidian / Diamond* case. The Trustee has reached a proposed settlement with both Obsidian and Diamond, under which all of the assets of those companies will be transferred to the Trustee. Motions to approve those settlements have been submitted and are pending before the Court. An objection was filed regarding the Diamond settlement, but the Obsidian settlement was unopposed.

Forthcoming Litigation

a) Additional lawsuits: Over the next two weeks, the Trustee will be filing additional lawsuits for the benefit of the estate, including:

- a. At least two more waves of loan and state-law fraudulent transfer complaints against dozens of persons who owe money to the estate;
- b. Up to seven additional preference complaints against non-investors seeking a total recovery of an additional \$255,000;
- c. Additional complaints against former officers, directors or insiders of the Debtor, or related entities;
- d. Section 544/548 claims against non-investors who received fraudulent transfers from the Debtor; and
- e. Several high-value lawsuits seeking tens of millions of dollars of damages for the benefit of the estate.

b) Preference claims and section 544/548 claims against investors: The Trustee will be pursuing certain payments made by the Debtor to investment certificate investors as preferential payments under section 547 or fraudulent transfers under sections 544 and 548 of the Bankruptcy Code. The preference payments at issue total \$932,865.94, and the fraudulent transfer payments at issue total more than \$2.6 million. In connection with any such claims, the Trustee is committed to taking into consideration the possible financial impact of the Fair Finance bankruptcy on the investor and reviewing any individual cases of financial hardship in connect with any such claims.

Recent Recoveries and Activities

a) Since the last status conference, the Trustee has received \$238,185.00 from Duvera Billing Services, LLC on account of the Debtor's receivables portfolio.

b) The Trustee has received the \$260,000 Shelby County Bank following the Court's approval of the *Motion to Compromise* filed by the Trustee to compromise claims against Shelby County Bank. In connection with that settlement, the Trustee also has received an assignment of a home equity loan that was made in favor of Shelby County Bank from Timothy Durham as well as an assignment of a mortgage on Durham's personal residence in Indiana that had secured that loan.

c) The Trustee has received \$14,000 from Gemini Funding Company, representing the first several installments of settlement payments in accordance with the proposed settlement agreement of the Trustee's claims against Gemini Funding and related entities and persons.

d) The Trustee has filed Motions to Compromise with the Indiana Republican State Committee, Gemini Funding Company, Inc., and Aiming Higher f/k/a Mitch for Majority.

e) The Trustee has filed an Application for Compensation and Reimbursement of Expenses by the Cleveland Auction Company.

f) The Trustee has continued negotiations with Blank Rome regarding claims to the proceeds of sale of Mr. Laikin's Los Angeles real property.

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

h) The *Laikin* case has been referred to mediation, and the Trustee has filed his response to Laikin's *Motion for Summary Judgment*. There is currently approximately \$1.6 million being held in escrow from the sale of California property owned by Laikin to be applied to any liability Laikin may have.

Trustee's Focus In the Upcoming Weeks

a) The Trustee's counsel will focus efforts on finalizing and filing the Trustee's remaining claims pursuant to an orderly litigation strategy for pursuing those claims. The Trustee anticipates coordinating

the timing of the filing of similar claims, so that discovery and briefing schedules might be consolidated in the interest of efficiency.

b) Issuing additional requests for documents and examinations pursuant to Rule 2004 to investigate additional potential claims, not in connection with pending litigation, and reviewing those productions.

c) Continuing the investigation of the claims asserted by Blank Rome and Liberty International to the proceeds of the sale of Daniel Laikin's Los Angeles property.

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

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

f) 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.

g) 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: January 23, 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 January 23, 2012, on the attached service list.

/s/ Brian A. Bash

Brian A. Bash

EXHIBIT A - 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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Manual Notice List

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