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Court Hands Bankruptcy Trustees A Win in Battle With Prosecutors

By Jacqueline Palank

In a bitter war for dominance between bankruptcy trustees and federal prosecutors, chalk up a victory for the trustees.

A federal appeals court on Wednesday ruled that the federal government went too far when seizing assets to repay Scott Rothstein's Ponzi scheme victims, eyeing bank accounts that were actually the property of Mr. Rothstein's legitimate business, his now-bankrupt law firm.

To side with the bankruptcy trustee and decide that the government wasn't entitled to forfeiture of the accounts, the 11th U.S. Circuit Court of Appeals turned to none other than forfeiture case law. A key ruling says that when criminal proceeds are mingled with legitimately obtained funds and can't easily be separated, then those funds aren't forfeitable.

"If ever there was a case where commingled proceeds 'could not be divided without difficulty'...this is that case," U.S. Circuit Judge Gerald Bard Tjoflat wrote for a three-judge panel.

The 11th Circuit's ruling follows a bitter turf war that has colored much of the three-plus years that Rothstein Rosenfeldt Adler PA has been under bankruptcy protection. The trustee overseeing the law firm's liquidation has frequently clashed with federal prosecutors over which assets are part of the bankruptcy estate and available to creditors and which were Mr. Rothstein's individual assets that are available for government seizure and distribution to defrauded investors.

Such turf wars are common when the worlds of bankruptcy and crime collide, and they have cropped up over the assets of some of the biggest admitted Ponzi-scheme operators in recent years, including Bernard Madoff and Marc Dreier. The line that's drawn between assets subject to forfeiture and those subject to bankruptcy proceedings is murky at best, and there's no overarching law awarding superiority to one system.

The Rothstein ruling is not only a clear victory for the bankruptcy trustee but also sends a strong message to the government, experts say.

"In complex fraud cases that involve a bankruptcy, the government will have to give more thought to its position on exactly what it can be forfeiting and what it can't be forfeiting," said trial lawyer Lawrence G. McMichael, a partner in Dilworth Paxson LLP.

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Court Clears AMR to Buy Back Bonds Tied to Airplanes

By Joseph Checkler

A bankruptcy judge on Thursday said American Airlines' parent can buy back more than $1.2 billion in debt from its noteholders, another incremental step toward the company's merger with US Airways Group Inc.

Judge Sean H. Lane of U.S. Bankruptcy Court in Manhattan approved the measure by AMR Corp., which wants to buy back three sets of notes secured by its aircraft, issued before the company entered Chapter 11 in late 2011. The company had been putting off repaying the notes for months because of litigation over them but now has decided not to wait for the outcome of such litigation. Interest expenses related to the notes are about $6 million per month, a price AMR decided it doesn't want to pay. Some of the details of the buyback were allowed to be filed confidentially with the court.

AMR has been fighting in appeals court with U.S. Bancorp, the trustee for the notes, which had argued that AMR must make a lump-sum payment to satisfy the notes. AMR said that because that litigation could take too much time, it wants to launch a tender offer for the notes that would pay holders the full value of the notes plus more as an incentive to sell them. If holders of more than half of any of the notes agree to tender their notes, those sellers will receive even more.

Last week, Judge Lane said creditors can vote on AMR's merger with US Airways. As the creditors vote ahead of a hearing later this summer on Judge Lane's final decision on the plan, AMR continues to get itself ready to combine with US Airways.

The merger, long desired by US Airways and endorsed more willingly by AMR starting last spring, would create an airline with an expected market value of around $11 billion. It would pay AMR's bondholders back in full and even give the company's existing equity holders 3.5% of the combined airline, and possibly more.

In all, the plan gives 72% of the combined airline to AMR shareholders, unsecured creditors, labor unions and some employees. The rest would go to US Airways' shareholders. The combined company will be called American Airlines Group Inc.

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Corzine, Others Take Aim at MF Global 'Loan' to Customers

By Patrick Fitzgerald

Lawyers for former MF Global Chief Executive Jon Corzine and his top lieutenants are opposing a deal between the bankruptcy trustee winding down the company's brokerage business and J.P. Morgan Chase & Co. that would funnel $300 million to the firm's customers.

Mr. Corzine's lawyers, along with attorneys representing former No. 2 Bradley I. Abelow, ex-finance chief Henri J. Steenkamp and other top brass, aren't objecting to the settlement between the bank and James W. Giddens, the trustee representing customers.

But they are upset that the deal is structured so that two-thirds of the funds will first go to the general estate of MF Global Inc., which intends to then loan $200 million to the commodity customers.

"The purpose of this fiction is an effort to preserve for the Customer Representatives the argument that the General Estate is subrogated to the rights of the Customer Class in the precise amount of the 'loan,'" said the lawyers for the ex-MF Global executives in a Wednesday filing in U.S. District Court in New York. What's more, the former executives claim, the trustee didn't tell the court about the loan.

By funneling the money to the customers as a loan, the estate would be able to pursue the executives for the loan amount. A spokesman for Mr. Giddens said the trustee was trying to return funds to the former customers that should have been segregated by MF Global in the first place.

"At the time of the bankruptcy, some customer funds were not in segregated accounts, where they were supposed to be," said Kent Jarrell, Mr. Giddens's spokesman. "Using funds from the other sources is the appropriate way to get assets back to customers more quickly but should not relieve management of liability for failing to maintain the segregated accounts as required by law."

Mr. Giddens, along with lawyers representing the commodity customers and J.P. Morgan, MF Global's lender and clearing bank, reached a deal in March calling for the bank to return $100 million in cash and give up its claims to another $417 million in MF Global funds. Some $300 million of this amount—the cash plus about $200 million in returned collateral—is earmarked customers.

MF Global's customers and investors are suing the firm's former executives, alleging that their actions and mismanagement helped bring down the company in the fall of 2011. The other former MF Global executives opposing the structure of the deal are David Dunne, Laurie Ferber, Vinay Mahajan, Edith O'Brien and Christine Serwinski.

Mr. Giddens, who has already made full distributions to MF Global's securities customers, hopes to pay back commodities customers, who are still facing a $300 million hole, in full as well.

But for that to happen, Mr. Giddens will need success in the pending class-action lawsuit. He has teamed with a group of customers and investors suing Mr. Corzine and others for breaching their fiduciary duty to MF Global's brokerage customers. Earlier this year, a federal judge stayed the litigation and the opposing sides are now in mediation.

PricewaterhouseCoopers, which is also a target of the class-action litigation, and lawyers representing MF Global bondholders are also opposing the structure of the deal.

In particular, a group of bondholder plaintiffs whose number include big institutional investors like U.S and Canadian pension funds, said that approval of the $200 million as an "advance" from the estate could "hinder and delay" ongoing talks over a global settlement.

A hearing on the settlement is scheduled for July 3 in U.S. Bankruptcy Court in New York.

Mr. Giddens is winding down MF Global's broker-dealer business for the benefit of customers under the authority of the Securities Investor Protection Act, which governs the liquidation of failed brokerage firms. The liquidation is separate from MF Global Holdings Ltd.'s Chapter 11 proceeding. Louis Freeh, the former director of the Federal Bureau of Investigation who stepped down as trustee of the holding company last week, also sued Mr. Corzine, Mr. Abelow and Mr. Steenkamp for their roles in MF Global's collapse.

Led by Mr. Corzine, a former New Jersey governor and Goldman Sachs Group Inc. chairman, MF Global went down in October 2011 when customers panicked over the New York firm's large bets on European debt. The firm's failure exposed a $1.6 billion shortfall in U.S. customer accounts.

The former executives, including Mr. Corzine, have denied any wrongdoing in connection with that shortfall. While investors have filed a number of civil suits against the firm's top brass no one has been charged with criminal wrongdoing.

Write to Patrick Fitzgerald at patrick.fitzgerald@dowjones.com.

Judge Accuses Bond Insurer of Wasting Stockton's Time

By Katy Stech

A bankruptcy judge scolded municipal bond insurer Assured Guaranty Municipal Corp. for pursuing wasteful and expensive litigation that will rack up the legal tab for financially struggling Stockton, Calif., telling them to "check their testosterone at the door" as the city's bankruptcy case moves forward.

In a 49-page court order filed to the U.S. Bankruptcy Court in Sacramento on Thursday, Judge Christopher Klein said that Assured Guaranty officials challenged the fine print in one of his earlier rulings to try to get the upper hand in the 300,000-resident city's bankruptcy case by "forcing the city to incur massive legal expenses that should not be necessary."

"Decisionmakers for the [Stockton's bondholders and their related parties] need to check their testosterone at the door, stop assuming that they are spending their opponent's money when they direct their counsel to pursue wasteful legal tasks and make their litigation business decisions on the premise that they will be responsible for every dollar of legal effort that they order," Judge Klein said.

Judge Klein stood by his earlier ruling, saying that officials who represented bondholder groups "attended only two meetings with the neutral evaluator and, having taken the position that there was nothing to talk about, departed."

In response to Wednesday's opinion, Assured Guaranty released a statement that said it is "committed to working towards a consensual resolution that treats all of Stockton's stakeholders in a fair and equitable manner."

Assured Guaranty, an affiliate of Assured Guaranty Ltd., had asked Judge Klein to revise the wording in his decision earlier this year that found Stockton's bankruptcy case to be valid. Specifically, Assured Guaranty protested Judge Klein's finding that the bond insurer "voted with [its] feet" and acted as a "stone wall" during the negotiations with the city as it tried to avoid bankruptcy.

Stockton officials successfully fought off Wall Street creditors for the power to restructure its debt in Chapter 9 bankruptcy. Bondholder groups had argued for the case to be dismissed after complaining that the city was leaving its debt to the California Public Employees' Retirement System—which holds city workers' retirement money—untouched.

CalPERS handles pension benefits for the state's 1.6 million public employees and retirees and is scheduled to collect hundreds of millions of dollars from Stockton over the next decade.

Municipal experts and other struggling California cities are closely watching Stockton's case to see whether a city's debt to Calpers is ultimately immune from cuts imposed by a bankruptcy judge.

Stockton, which sits 80 miles inland from San Francisco, sought Chapter 9 protection last June 28, making it the largest U.S. city to file for bankruptcy. At the time, Stockton's leaders said the city, which employs roughly 1,300 workers, risked being short of cash to make its payroll three weeks later.

Since the filing, bondholder groups have said that the Stockton is pressing them for greater cuts than other groups. While Stockton's bond payments account for roughly 7% of the city's budget, city leaders have asked for concessions valued at more than 40%, their attorneys said during the trial, arguing that the city can't use federal bankruptcy protection to target some creditors but not others.

In his Wednesday order, though, Judge Klein pointed out that labor union agreements that cut worker and retiree benefits outside of the bankruptcy case is related.

"Although the objectors complain bitterly that the city was not proposing directly to impair the rights of CalPERS, they do not address the obvious: material reductions in compensation to employees correlatively will tend to reduce the city's future pension obligations," he said. "In other words, renegotiated collective bargaining agreements providing for reduced compensation indirectly reduce the city's CalPERS obligations."

Before the trial, Assured Guaranty, the insurer of $161 million of the city's debt, and others scrutinized Stockton's finances, suggesting that it sell buildings such as its City Hall, the Bob Hope Theatre and the Stockton Events Center while raising taxes on utilities, tourists and those who make emergency 911 phone calls, according to earlier court papers.

Write to Katy Stech at katy.stech@dowjones.com.

ATP Oil & Gas Abandons Gomez Oil Drilling Field

By Peg Brickley

ATP Oil & Gas Corp. is walking away from an oil-drilling platform in the Gulf of Mexico, leaving it unmanned and a threat to public safety at the start of hurricane season, attorneys told a bankruptcy judge Thursday.

The Houston company's Gomez Field deepwater drilling operation is not part of the package that lenders, led by an affiliate of Credit Suisse AG, are trying to buy in a deal that would leave little or no cash in the Chapter 11 coffers. At a hearing in the U.S. Bankruptcy Court in Houston Thursday, ATP won permission to abandon Gomez and to cut a deal with lenders that means the company can cover essential expenses, at least for a few more weeks.

ATP filed for Chapter 11 bankruptcy protection last year, blaming the after-effects of the drilling moratorium that followed the 2010 Deepwater Horizon disaster in the Gulf of Mexico. What lenders want to buy out of the bankruptcy are the money-making oil operations, particularly ATP's Clipper and Telemark hub projects. The rest, including Gomez and its aged drilling rig, will be left behind in an increasingly troubled Chapter 11 case.

ATP's unsecured creditors have protested the sale to lenders, and the company has been wrestling with banks all week, trying to avert a sudden shut-off of cash. The company went to court Thursday, winning permission to abandon the Gomez project, while striking a temporary truce with lenders that will reopen the flow of cash, which was shut off in advance of Thursday's hearing.

Judge Marvin Isgur signed off on a temporary emergency order that allows ATP to cover payroll and essential expenses while talks continue about the shape of the proposed lender takeover. Unsecured creditors want lenders to cover the cost of winding down ATP's unwanted business operations and wrapping up the Chapter 11 proceeding.

Lenders say they have agreed to allot $44 million to environmental safety and shutdown costs, in a deal with regulators, part of their drive to get court approval on the sale.

Thursday's hearing in the U.S. Bankruptcy Court in Houston focused mainly on the Gomez operation, which ATP says is too costly to keep going.

The U.S. Department of Interior asked that ATP not be permitted to shake off its responsibilities to clean up after the unprofitable Gomez drilling platform. An affiliate of Andarko Petroleum Corp. joined in, protesting that ATP's lenders should not be allowed to strip out assets worth hundreds of millions of dollars in bankruptcy and leave the Gomez project in dangerous shape.

"We don't believe the debtor can abandon its property in violation of laws designed to protect public health and safety," said Weil Gotshal & Manges LLP's Lydia Protopapas, attorney for Andarko.

"What do you want me to do?" Judge Isgur asked. "They don't have money. The DIP lender says, 'Fine, close them down. We don't care.'"

"DIP" is shorthand for the $650 million-plus bankruptcy loan that lenders have offered to cancel as part of the sale.

The government wrangled an agreement from ATP that the costs of a safe shutdown of the Gomez drilling operation—estimated by regulators at about $153 million—will rank as a top-priority expense in ATP's bankruptcy case. That doesn't mean the Gomez bills will be paid, as the Chapter 11 case is running dangerously low on cash. Other operators in the Gulf of Mexico are likely to wind up cleaning up after ATP, Judge Isgur said.

In testimony Thursday, Andarko executive Gary Mitchell said leaving the Gomez floating drilling rig—the 37-year-old ATP Innovator—unmanned could mean "a constant threat of hydrocarbons going into the Gulf of Mexico," as well as drifting equipment crashing into neighboring operations and tangled lines.

"It would be a horrible spaghetti mess, as you can imagine," Mr. Mitchell said.

Judge Isgur overruled Andarko's objection, citing case law that he said bars him from pushing aside the secured lender's liens and ordering the banks to free up cash to protect the public health and safety.

Regulators, he said, have the option of going after companies that were formerly associated with the Gomez operation to cover the cleanup costs instead of trying to chase ATP for money it may not have.

Write to Peg Brickley at peg.brickley@dowjones.com.

S&P Cuts Detroit's Rating Into Highly Speculative Territory

By Debbie Cai

Standard & Poor's Ratings Services has downgraded Detroit's bonds by four notches after the ailing city's emergency financial manager said he might adjust payments to bondholders.

S&P cut the rating for the city's general obligation bonds to triple-C-minus, which is in highly speculative territory, from B. The outlook is negative.

The ratings firm in March raised its outlook on the bonds to stable from negative when Kevyn Orr was named with the task of fixing the city's financial problems. However, in his report last month, Mr. Orr said Detroit needed significant and fundamental debt relief to shore up the city's finances and avoid bankruptcy. Such relief could include extending the time period for debt repayment, reducing interest rates or cutting the amount of the principal debt owed.

Mr. Orr is expected on Friday to unveil his restructuring plan for the city to about 150 representatives of municipal unions, pensions, bondholders and insurers.

While the city hasn't stated its intent to file for Chapter 9 bankruptcy, it appears to remain one of the emergency manager's potential outcomes, and the filing is under his control, S&P said. Mr. Orr has pegged the odds of bankruptcy at 50-50.

The triple-C-minus rating reflects S&P's view of entities that have announced an intention to undertake a debt restructuring.

The city has more than $15 billion in long-term liabilities, about $1 billion more than earlier estimates. The city "has effectively exhausted its ability to borrow," Mr. Orr wrote in the report.

Write to Debbie Cai at debbie.cai@dowjones.com.

Suncorp Sells $909M Distressed Assets to Goldman Sachs

By Ross Kelly

Australia's Suncorp Group Ltd. sold a portion of loans from its so-called bad bank to Goldman Sachs Group Inc. for about 960 million Australian dollars ($909 million), releasing the company from a portfolio of underperforming assets that had been weighing on its earnings outlook.

The U.S. investment bank bought A$1.6 billion of loans for an average 60 cents in the dollar, Suncorp said in a statement Thursday. It said it expected loans worth a further A$700 million from its bad bank, which includes some distressed debt, to be repaid this month and next or else sold individually. The remaining A$500 million would be transferred into its main bank, the company added.

Suncorp said the elimination of its entire bad bank portfolio would force the company, which has banking and general insurance operations, to incur a net loss of between A$470 million and A$490 million in the second half of its fiscal year ending June—a profit warning that was widely expected by analysts.

"This is a significant turning point and the non-core portfolio will no longer divert attention from the real progress being made across our business," Suncorp's Chief Executive Officer Patrick Snowball said in the statement. A Sydney-based spokeswoman for Goldman Sachs declined to comment directly on the deal.

Investors willing to invest in distressed debt can reap big rewards if the performance of the underlying assets attached to the loans, such as shopping malls or apartment blocks, improves. Such investments, however, still carry a large degree of risk and typically have to be offered, as in this case, at a discount to attract buyers, often large financial institutions with strong balance sheets.

Goldman Sachs was widely tipped by analysts as a potential buyer of Suncorp's assets after one of its funds last year led a group of investors that bought Suncorp debt linked to a troubled Sydney shopping mall. Goldman Sachs was also among buyers last year of a A$1.7 billion book of distressed real-estate loans sold by Lloyds Banking Group PLC's Australian subsidiary.

Brisbane-based Suncorp set up the non-core bank in 2009 to house A$17.5 billion of mainly commercial real-estate loans that could no longer be funded in the wake of the global credit crunch. Last month, the company predicted the portfolio of non-performing loans would fall below A$2.7 billion by June, making it easier to sell.

In the last financial year, Suncorp posted net profit of A$724 million, with earnings weighed down by a A$263 million loss at the bad bank.

"This is strong execution on substantially resolving a very long-standing and painful issue," said Andrew Adams, an analyst at Credit Suisse based in Sydney. Still, Mr. Adams described the sale as "an expensive exit whichever way you look at it."

-David Rogers in Sydney contributed to this article.

Write to Ross Kelly at ross.kelly@wsj.com.

Regulators Scrutinize Banks Over Business Loan Quality

By Shaydni Raice and Michael R. Crittenden

U.S. regulators are grilling banks over lending standards and warning them about mounting risks in business loans.

Lending to companies has been a bright spot for banks searching for revenue amid slow economic growth and historically low interest rates. But regulators worry that banks have sweetened loan terms too much, which could put them in jeopardy if corporate borrowers can't repay.

Bank examiners are pulling out more loans for inspection, questioning loan officers more thoroughly about credit standards and studying other underwriting functions more closely than they have in years, according to bankers, consultants and regulators.

In private meetings with bankers in recent months, regulators from the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corp. and the Federal Reserve Board all have focused heavily on commercial lending, the people said.

Looser lending standards are part of a wave of risk-taking that is sweeping through the capital markets, from stock investors loading up on margin debt and piling into high-yield and investment-grade corporate bonds, to private-equity firms ramping up leveraged buyouts.

Some congressmen and the Obama administration have said in recent years that banks need to lend more to help jump-start the economy, but that such loans should be made responsibly. Regulators say that loosening standards could put the economy at risk if another recession were to hit.

During the financial crisis, banks pulled back sharply on commercial and industrial loans. But the total value of such loans swelled to $1.53 trillion by the end of the first quarter, back to 2008 levels, according to the FDIC. The first-quarter loans outstanding were up 28% from the same period in 2011, when they hit one of the lowest levels since the crisis.

"While some loosening of underwriting standards is generally appropriate given the strong tightening and pullback that occurred in the aftermath of the financial crisis, we do not want to see the lax practices re-emerge that led to the crisis," said Stephanie Collins, a spokeswoman for the OCC.

Looser standards make it easier for corporate borrowers to negotiate bargains. Bill Shea, the chief financial officer for 1-800-Flowers.com Inc., arranged a $200 million revolving credit line with six banks, including J.P. Morgan Chase & Co., which led the deal in April. The banks fought for the leading role, Mr. Shea said, giving him unusual power to negotiate rate, fees, covenants and the structure of the deal, he said.

"It put us in a very good position to negotiate a very attractive deal," he said.

Mr. Shea said the fees the Carle Place, N.Y., florist and gift company paid to J.P. Morgan for leading the deal were the lowest he has seen since before the crisis. A spokeswoman for J.P. Morgan declined to comment.

Regulators in March warned banks about dangers in the booming market for so-called leveraged loans used to finance buyouts. The Fed and the OCC said lenders' controls have deteriorated, and they questioned whether some banks are doing enough to gauge risk.

Large banks in April told the Fed they had relaxed a variety of lending standards in the first quarter. Half the country's largest banks surveyed by the Fed said they eased loan "covenants," or financial stipulations borrowers must abide by, for large and medium-size companies, up from 30% in January, according to data from the Fed's loan officer survey.

Some banks also are extending the duration of loans made at or near all-time-low interest rates for the most-creditworthy borrowers. The number of new fixed-rate loans with more than a 10-year duration jumped 7% in April to a two-year high, according to Automated Financial Systems Inc., a banking software company that collects data from the 30 largest U.S. banks.

Regulators are concerned that banks are locking in low interest rates just as many experts predict rates will rise, which could weigh on future profits and weaken the banking system.

Another worry: Some banks are making loans to companies without proper protections in place, say regulators. For example, banks usually stipulate that borrowers must have steady cash flow or other financial attributes. If those terms fall by the wayside, banks could risk making loans to companies that won't be able to pay them back.

"There's a consistent theme of 'do not lower your underwriting standards in order to attract volume,'" said Scott Polakoff, a former acting director of the Office of Thrift Supervision who now advises banks on their dealings with regulators at consulting firm FinPro Inc., where he is a managing director. He added that regulators' emphasis on lending standards has become a big focus for his bank clients in the past six months.

Frank Sorrentino III, chief executive of ConnectOne Bank, an Englewood Cliffs, N.J., lender with $1 billion in assets, said he had a call with FDIC officials about two months ago, and lending standards were a large topic. He said regulators

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Buba Official Doesn't See European Insolvency Law Soon

By Christopher Lawton

A common European law for dealing with the insolvency of banks won't come about in the next decade, Deutsche Bundesbank Vice President Sabine Lautenschlaeger said Thursday.

"To believe that insolvency law in the next 10 years will move to the European level, meaning the same law in all 27 member states—that won't work," Ms. Lautenschlaeger said, speaking on a panel at an economic conference in Mannheim.

Ms. Lautenschlaeger said there could be "abstract" elements of such a law at the European level, but insolvency law is inherently national. To harmonize such laws would be challenging, because it would mean changing national tax laws, for example, she said.

European authorities want to build a banking union to break the links between banks and sovereign states, which are often used to bail out troubled financial institutions. A single bank supervisor, which is slated to begin operations under the European Central Bank by mid-2014, is considered to be the first step toward a full European banking union that would include a resolution mechanism to wind down or restructure insolvent banks.

Establishing a resolution mechanism alongside the supervisory mechanism has become a source of dispute in Europe, however. Germany, in particular, believes that setting up an authority to wind down banks would require a change in European treaties, often a long and arduous process.

Write to Christopher Lawton at christopher.lawton@wsj.com.

AMR

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The deal also needs regulatory approval, and the companies hope to close the merger by the third quarter. US Airways Chief Executive Doug Parker will lead the combined airline, with AMR Chief Executive Tom Horton staying on as non-executive chairman until next spring.

AMR filed for bankruptcy in November 2011 to cut costs related to both its operations and its three main labor unions. After a trial with the unions over whether it could reject their collective bargaining agreements, the company reached settlements with the workers with deep concessions. Eventually though, AMR decided to merge with US Airways, a deal that offers better work terms for those employees.

Write to Joseph Checkler at joseph.checkler@dowjones.com.

Loans

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asked what he is doing to ensure he isn't endangering the bank by making risky loans. Mr. Sorrentino said he told them the bank is trying to offset the lower revenue from low-interest-rate commercial loans by cutting expenses.

Some banks said the improving economy should help borrowers repay their loans, reducing the risk of default.

Nicholas R. Toms, chief executive of Decision Point Systems Inc., an Irvine, Calif.-based provider of mobile and wireless technology to businesses, said his company signed a $10 million line of credit from Silicon Valley Bank in March with few covenants, a lower interest rate and a longer term than its existing line of credit from the same bank.

"Over the last few years, companies have been performing better, which means they can, and should, get better terms and pricing," said a spokeswoman for Silicon Valley Bank.

Write to Shayndi Rice at shayndi.rice@dowjones.com.

S&P: Global Corporate Default Tally At 41 So Far This Year

By Debbie Cai

Three corporate issuers defaulted recently, lifting this year's global tally to 41, Standard & Poor's said Thursday.

S&P last week cut the credit rating on UniTek Global Services Inc. to D from triple-C after the outsourced infrastructure provider failed to make a scheduled interest payment on its senior secured term loan due 2018.

On Tuesday, S&P lowered its rating on Exide Technologies to D from triple-C-plus after the battery maker filed a voluntary Chapter 11 bankruptcy petition for reorganization.

Also this month, S&P downgraded a confidentially rated issuer to selective default.

Of the total number of defaults so far this year, 26 are based in the U.S., eight are based in Europe, and seven are based in emerging markets.

S&P said 17 of the defaults are due to missed interest, principal, or cash payments, while 10 are due to bankruptcy filings and seven are the result of distressed exchanges.

Last year, missed payments were the top reason for default, followed by bankruptcy filings.

Write to Debbie Cai at debbie.cai@dowjones.com.

Peak Rock Pushes Toward Debut Fund's $700M Hard Cap

By Michael Wursthorn

Peak Rock Capital's fundraising has picked up momentum as it pushes toward a $700 million hard cap for its debut vehicle, Peak Rock Capital Fund LP, said investors with knowledge of the matter.

The investors said the firm's efforts gained traction with limited partners that continue to favor funds with distressed or opportunistic strategies. So far, the fundraising has passed the vehicle's $400 million target, those investors said, with one of them adding that commitments for the fund so far total around $600 million.

Anthony DiSimone, chief executive and managing director of Peak Rock, didn't return messages seeking comment.

Despite being a new fund, the firm appears to have passed the litmus test for experience thanks to the pedigree of its executives and new deals completed under the Peak Rock banner.

Mr. DiSimone previously was the chief executive of Aurora Resurgence, an investor in debt and equity securities in midmarket businesses typically facing operational or financial challenges. Before that, he was at H.I.G. Capital, a brand name in the midmarket special-situation field, under the firm's debt platform, Bayside Capital.

Similarly, Managing Directors Peter Leibman and Steve Martinez previously were both at Aurora Resurgence. Another Peak Rock managing director, Tiffany Kosch, previously was with H.I.G.

Peak Rock plans to focus on businesses with annual revenue of $50 million to $500 million and earnings before interest taxes depreciation and amortization greater than $15 million prior to "recent challenges," Peak Rock said in its registered investment adviser filing with the Securities and Exchange Commission. The fund's portfolio is expected to consist of eight to 12 investments sometimes consisting of between $40 million to $70 million of equity.

Besides equity investments, Peak Rock plans to use the fund to invest in senior secured loans.

The Austin, Texas, firm has begun deploying the fund after closing on a deal last month to buy Miami-based tissue paper maker Atlas Paper Mills LLC.

Investors in Peak Rock, which so far include Texas County & District Retirement System, among others, are being charged a 2% management fee and a 20% carry, according to the firm's registered investment adviser filing.

Peak Rock's opportunistic strategy is hot among investors right now, as highlighted by the rapid midmarket fundraises conducted by firms such as KPS Capital Partners, Marlin Equity Partners and H.I.G. Capital.

Each of them held first and final fund closes in quick order this year, keeping the fundraisings competitive and the level of demand high among limited partners.

Marlin, for example, just about wrapped up fundraising for its fourth fund at $1. 6 billion last month, people with knowledge of the matter told Dow Jones previously. Meanwhile, KPS had enough interest to close on $3.5 billion in April. H.I.G. hit its $1 billion mark in February.

Write to Michael Wursthorn at michael.wursthorn@dowjones.com.

Trustees

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It may also inspire greater resistance to broad forfeiture attempts by the government.

"I suspect that the decision will cause more pushback against sweeping forfeitures when assets have been commingled than we have perhaps seen in the past," Karen Gebbia, a Golden Gate University law professor, said in an email.

A Department of Justice representative didn't respond to a request for comment.

The 11th Circuit has jurisdiction for cases that originate in the federal courts of Alabama, Florida and Georgia. While the ruling isn't binding outside of federal courts in those states, experts say other courts will certainly consider it when they're presented with similar issues—though they may not reach the same conclusion.

"I think that other circuits will follow in time. Even though an 11th Circuit decision isn't binding[outside the circuit], it's persuasive. Unless there's a good reason not to, courts tend to follow appellate decisions like this," Mr. McMichael said.

The opinion didn't address other aspects of forfeiture and bankruptcy laws that may lead to conflict, like the automatic stay that instantly shields a debtor from collection efforts upon the filing of a bankruptcy petition. Mr. Rothstein, for instance, wasn't charged with a crime and ordered to forfeit assets until after the law firm was already under court protection. He eventually pleaded guilty and is now serving a 50-year prison sentence.

As a result, there are plenty of battles left to fight, which means appeals courts throughout the country may be weighing in.

"This is one of only dozens of issues that arise when the bankruptcy system and the forfeiture system collide," Mr. McMichael said of the Rothstein case. "Courts are going to have to sort them out the way the 11th Circuit did here."

In the Rothstein case, the trustee may now add the funds in the disputed bank accounts to the pot of cash he's built to eventually pay the creditors who have waited more than three years for payment.

The ruling also offered the government an alternative way to recover the criminal proceeds contained in the bank accounts at issue: It can seek forfeiture of Mr. Rothstein's ownership stake in the law firm and then, "standing in Rothstein's shoes," appear in the law firm's bankruptcy and claim the now-imprisoned man's share of the firm's assets.

However, experts say that such a road map may actually lead to nowhere.

"What it was really saying is you can stand in the very back of the line in the bankruptcy case because we're suggesting it's the shareholder interest...which is only going to be paid after all creditors are going to be paid in full," said Kathy Bazoian Phelps, Diamond McCarthy LLP partner and author of "The Ponzi Book."

Liquidations like the law firm's, which has been pending since late 2009, don't generally raise enough money to pay back creditors, let alone the bottom-ranking shareholders.

"It's arguably a frivolous suggestion," she added.

Write to Jacqueline Palank at jacqueline.palank@dowjones.com.

Assets On The Block

The following tables include selected companies that have recently sought bankruptcy court permission to auction their assets or have won final approval of an asset sale. Under the Bankruptcy Code, companies trying to sell assets while operating in Chapter 11 protection must submit to an auction even when there is a buyer available for the property. The auction assures creditors that the best offer is obtained to provide the greatest recovery for debts.

Company/Assets	Bidder/Amount	Info	Dates
GOING, GOING...			
CPI Corp. All assets	Lifetouch Portrait Studios Inc. $3.3 million	Bids due: June 21	Auction: June 24 Sale hearing: June 26
Highway Technologies Inc. Montana assets	Mountain West Holding Co. $2.75 million	Bids due: June 20	Auction: June 24 Sale hearing: June 27
Highway Technologies Inc. Minnesota assets	SSJS Inc. $2.5 million	Bids due: June 20	Auction: June 24 Sale hearing: June 27
Oreck Corp. All assets	Oreck family $21.9 million	Bids due: July 1	Auction: July 8 Sale hearing: July 9
Scooter Store Holdings Inc. All assets	None None	Bids due: July 17	Auction: July 23 Sale hearing: July 25
GMX Resources Inc. All assets	Noteholders $338 million	Bids due: Aug. 21	Auction: Aug. 28 Sale hearing: Sept. 4
...GONE			
Coda Holdings Inc. All assets	Aeris Capital, Fortress, Miles Rubin $25 million		Sale approved: June 11
Birdsall Services Group Inc. All assets	Partner Assessment Corp. $5.6 million		Sale approved: June 6
Ormet Corp. All assets	Wayzata Investment Partners LLC $221 million		Sale approved: June 3
Big M Inc. All assets	YM Inc. Up to $22.5 million		Sale approved: May 23
Hampton Capital Equipment, machinery	Gordon Brothers, Counsel RB Capital $5.075 million		Sale approved: May 17
Powerwave Technologies Inc. Equipment, facilities	Counsel RB Capital, Branford Group, Maynards $6.6 million		Sale approved: May 17
America West Resources Inc. All assets	Rhino Resource Partners LP $1.25 million		Sale approved: May 14
Rodeo Creek Gold Inc. Nevada gold mine, processing	Waterton Global Resource Management Inc. $15 million plus royalties		Sale approved: May 3
Flat Out Crazy LLC Stir Crazy chain	HillStreet Fund IV LP $2.1 million		Sale approved: April 29
Flat Out Crazy LLC Flat Top Grill chain	HillStreet Fund IV LP $5.8 million		Sale approved: April 29
Lyon Workspace Products LLC All assets	Echelon Capital $22.2 million		Sale approved: April 17
Sno Mountain All assets	Montage Mountain Resorts $5.125 million		Sale approved: April 16
Rhythm & Hues Studios Inc. All assets	Prana Studios Inc. affiliate $1.2 million cash and assumed liabilities		Sale approved: March 29

Source: Court documents, press releases and regulatory filings

Active Bonds

ACTIVE BANKRUPT BOND PRICE INDICATIONS

Issuer	Coupon	Maturity	Most Recent Price	Previous Trade Price	Previous Trade Date	Change
AMR CORP	10.29	3/8/21	115.42	117.5	6/12/13	-2.08
AMR CORP	9.75	8/15/21	118.25	118	6/12/13	0.25
AMR CORP	7.875	7/13/39	27.95	27.67	6/12/13	0.28
AMR CORP	9	9/15/16	115.42	115.918	6/12/13	-0.498
AMR CORP	10.2	3/15/20	115.5	118	6/12/13	-2.5
AMR CORP	6.25	10/15/14	116.5	114.625	6/12/13	1.875
EXIDE TECHNOLOGIES	0	9/18/13	12.055	11.1	6/12/13	0.955
EXIDE TECHNOLOGIES	8.625	2/1/18	60.5	57	6/12/13	3.5
GMX RESOURCES INC	9	3/2/18	15.5	19.625	6/5/13	-4.125
KV PHARMACEUTICAL CO	2.5	5/16/33	58	59.75	6/12/13	-1.75
MF GLOBAL HOLDINGS LTD	3.375	8/1/18	46.9375	49.875	6/11/13	-2.9375
MF GLOBAL HOLDINGS LTD	1.875	2/1/16	46.75	51.5	6/7/13	-4.75
NORTEL NETWORKS CORP	2.125	4/15/14	97	97	6/12/13	0
NORTEL NETWORKS LTD	5.34438	7/15/11	103.375	103.5	6/12/13	-0.125
OVERSEAS SHIPHOLDING GROUP INC	8.125	3/30/18	80.125	80.5	6/12/13	-0.375
PATRIOT COAL CORP	3.25	5/31/13	10.199	11.75	6/11/13	-1.551
PATRIOT COAL CORP	8.25	4/30/18	45.666	44.5	6/11/13	1.166
RESIDENTIAL CAPITAL LLC	9.625	5/15/15	109	109	6/12/13	0
ROTECH HEALTHCARE INC	10.75	10/15/15	101	100.25	6/10/13	0.75

Source: MarketAxess, marketaxess.com

Composite high yield bond price indications are compiled from various market sources, some of which may make a market in or have financial interest in the issues for which prices are provided. PRICES ARE INDICATIVE ONLY. The information contained herein does not represent a solicitation to sell or buy the underlying issues. Dow Jones shall not be held liable for any reason for any errors or omissions, delays or inaccuracies in the indications or any decision made in reliance upon the indications. Dow Jones shall not be liable to any person for any loss of business revenues or lost profits or for any indirect, special, consequential or exemplary damages whatsoever, whether in contract, tort or otherwise, arising in connection with the indications, even if Dow Jones has been advised of the possibility of such damages. Dow Jones makes no warranty whatsoever, express or implied, including specifically any warranty of merchantability or fitness for a particular purpose with respect to the indications and specifically disclaims any such warranty.

The Tape

NEWS FROM AROUND THE COUNTRY

Orr Reaches Out to Detroit's Key Creditors

Detroit's emergency manager has reached out to several major creditors to gauge support for his restructuring plan that he will unveil Friday to about 150 representatives of bondholders, pension funds and other debt holders, a source familiar with the talks said, the *Detroit News* reported. Kevyn Orr has had preliminary discussions with Royal Bank of Canada, Bank of America, J.P. Morgan Chase & Co. and several hedge funds, but no deals have been reached prior to his presentation of a 200-page report Friday. That meeting with creditors comes as Mr. Orr outlines his proposal to stave off a Chapter 9 bankruptcy filing. Mr. Orr faces a difficult task reaching agreements with so many creditors who have competing interests. Steven Rattner, the Obama administration's auto czar who steered General Motors and Chrysler's bailouts, suspects Detroit will be forced to file for bankruptcy. "I believed from the first moment I paid any attention to the auto situation that the two (auto makers) would have to go through some form of bankruptcy because of the number of stakeholders—particularly debt holders—and the difficulty of achieving the level of participation necessary to accomplish the restructuring without some kind of bankruptcy," Mr. Rattner said. "I suspect the same may be true with Detroit."

McCourt Still a Player After Dodgers Sale

If the National Football League wants to play at Dodger Stadium, Frank McCourt could be the sole landlord. In any case, the value of the Dodgers sale could exceed $3 billion. Those details were included in previously unreleased provisions of the sale agreement between Mr. McCourt and the Dodgers' new owners, Guggenheim Baseball Management, the *Los Angeles Times* reported. The Los Angeles Superior Court last week denied Guggenheim's request to keep those provisions secret; the *Times* obtained a financial summary of the deal Wednesday. The key provision makes clear that Mr. McCourt retains a crucial role in determining whether the NFL returns to Los Angeles. Mr. McCourt could win either way: by luring the NFL to the Dodger Stadium site, or by pocketing $150 million if he cannot. When Mr. McCourt sold the Dodgers last year, the sale price was announced as $2.15 billion, for the team, the stadium and half-ownership of the parking lots surrounding the stadium. The deal also calls for Guggenheim to invest as much as $650 million in a real estate development fund run by Mr. McCourt and for him to receive an annual management fee, starting at $5.5 million.

Gilbert Nears Full Ownership of Greektown

Quicken Loans Inc. founder and chairman Dan Gilbert is inching closer to total ownership of Detroit's Greektown Casino-Hotel, the *Detroit News* reported. Mr. Gilbert's Athens Acquisitions LLC, a subsidiary of his gambling operation, Rock Gaming LLC, recently bought out two more shareholders to assume 97.2% control of Detroit's smallest gaming hall. The company gained majority control of Greektown in April. The latest move was approved this week by the Michigan Gaming Control Board, and the transactions will close this week. New York-based Brigade Capital Management LLC and Standard General LP sold to Athens Acquisitions for $90-a-share. The remaining Greektown shares must be sold to Mr. Gilbert's company, now that it owns more than 90%, according to the terms an April agreement between Greektown's board and Athens Acquisitions. Those remaining shares, which will give the company 100% control, will be purchased "as soon as reasonably possible," said Rock Gaming spokeswoman Jennifer Kulczycki. There's no timetable for any changes Mr. Gilbert might make to Greektown, which he outlined in an April presentation to the state gaming board. But Ms. Kulczycki noted that the group is in "business discovery mode."

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Editorial
Nicholas Elliott, Managing Editor
nick.elliott@dowjones.com
212.416.2029

Marie Beaudette,
Assistant Managing Editor
marie.beaudette@dowjones.com

Patrick Fitzgerald,
Assistant News Editor
patrick.fitzgerald@dowjones.com

Melanie Cohen, Copy Editor
melanie.cohen@dowjones.com

Peg Brickley, Reporter
peg.brickley@dowjones.com

Joseph Checkler, Reporter
joseph.checkler@dowjones.com

Rachel Feintzeig, Reporter
rachel.feintzeig@dowjones.com

Stephanie Gleason, Reporter
stephanie.gleason@dowjones.com

Mara Lemos Stein, Reporter
mara.lemos-stein@dowjones.com

Jacqueline Palank, Reporter
jacqueline.palank@dowjones.com

Katy Stech, Reporter
katherine.stech@dowjones.com

Customer Service
800.DOW.JONES, service@dowjones.com

Advertising
Joseph Koskuba, Sales Manager
joseph.koskuba@dowjones.com
212.416.3879

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