

# BANKRUPTCY PROFESSIONAL

A Publication of New Generation Research, Inc. • Companion Resource to [BankruptcyProfessional.com](http://BankruptcyProfessional.com)

Vol. 1, No. 25  
Dec. 31, 2009

## IN THIS ISSUE

NEWS  
MAKERS.....10

SAVE THE  
DATE.....11

TOP 10 FIRM  
RANKINGS.....12

TOP 10 FEE  
RANKINGS.....13

SPOTLIGHT  
INDEX.....14

New Generation  
Research, Inc.

225 Friend St., Ste. 801  
Boston, MA 02114  
(617) 573-9550

## SPOTLIGHT:

### Year-End Review



Over the past year, *Bankruptcy Professional* has interviewed industry veterans across the full spectrum of bankruptcy services. The experts with whom we spoke offered their candid opinions on—among other topics—the economy, the pros and cons of their chosen professions and their often circuitous paths to career success. Our year-end review looks back at the wisdom and anecdotes shared in 2009's Spotlight interviews. An index itemizing each quoted professional's role and affiliated firm is included on P. 14 for your reference. All quotes are excerpted from highly-detailed interviews, and the date on which each Spotlight was published can be found on the index. **Visit [BankruptcyProfessional.com](http://BankruptcyProfessional.com)'s Spotlight link to read all Spotlight interviews in their original, full-length context.**

### On Career Paths...

**Jan Baker:** I got out of college and wasn't sure what I wanted to do. I ended up working for a year as a volunteer in refugee camps in Tanzania in a program similar to the Peace Corps. I came back to the U.S. still not sure what I wanted to do. I became a social worker. After two years, I decided that I was fighting my destiny: I really wanted to be a lawyer. I went back to law school and almost by a fluke I started practicing in the restructuring field because they needed help in that area. I thought, "this is the most fascinating area of law I've ever seen." That was 1973, and I've never done anything other than restructuring law.

**Mark Claster:** Lawyers sometimes have a hard time transitioning from law into business. I've always found that the restructuring arena is one of those business segments in which having a law background can really be helpful. For me, having both backgrounds helps greatly in advising and problem solving. It offers a different perspective. Lawyers are taught to identify issues and to think critically, and that training is beneficial when advising companies facing a restructuring.

**Joshua Angel:** I came to restructuring law by accident: there was no design to it.

**David Friedman:** I began my training as a litigator and became attracted to bankruptcy because it afforded me the opportunity to appear in court frequently and, more important, because the litigation was always pursued within a construct of achieving a practical business outcome.

**Jeffery Stegenga:** I fell into [corporate restructuring]. A good friend of mine called one day and had a spot in his department he called Corporate Recovery....I remember meeting these bankruptcy attorneys who I had never heard of but they seemed nice enough: Laura Davis Jones, David Kurtz and David Heller (who at one point during the case told the client 'they were too broke to file'.....one of the best lines I've ever heard). Not bad company for my first assignment. That was 16 years ago. And by some miracle, I'm still standing. Lucky then good is the right way to characterize it.

**Alan Dalsass:** Each stage of my career provided a critical building block. First the legal underpinning, then the financial advisor and case management perspectives and finally the claims agent and senior management skills necessary to run a group.

**Sheila Smith:** I'm from the generation in which women were guided to careers in teaching and nursing. I started out as a special education teacher.

**Kathleen Logan:** My first job out of school was working for...Saxon Industries....Two months after I started, Saxon filed for Chapter 11 protection and I was put in charge of the claims reconciliation process. Talk about learning on the job! I eventually went to work for the consulting company who handled Saxon's bankruptcy administration. This was in the mid-1980s...it was a very exciting time to be a part of this burgeoning new industry.

(Cont'd. on p. 2)

## SPOTLIGHT

(Cont'd. from p. 1)



**Richard Tilton:** Not long after graduating from Cornell Law School I was teaching law at Seton Hall Law School, but had the chance to join a small firm in NYC doing bankruptcy litigation. I loved the quick pace and the rapid resolution of disputes and the chance to put my litigation skills to use. The mix of business, finance, accounting and law is fascinating. One of my first cases was a complex commercial fraud case that led to a criminal indictment based on the investigation I did.

**James Carr:** I had an interest in public service and law seemed like the best career choice. I was also involved in student government in grammar school, high school and college, and that guided me to pursue a career as a litigation attorney.

**Steven Seiden:** I got a call a few years ago from a director of a company, Finevest Foods. They were about to file under Chapter 11 and asked me to put together a new board, including recruiting a new CEO. The directors needed to be from specific backgrounds....This initial assignment opened my eyes to how important it is to have an independent blue ribbon board as a company emerges from bankruptcy, just as it is for the board of a newly going-public company.

**William Welnhof:** My interests shifted [from law to investment banking] in the late 1980s when I was working on leveraged buyouts with various investment banks. From my vantage point at that time, it seemed like investment banking was much more dynamic and faster-paced than the practice of law, and that attracted me to make the transition.

## On Changing Times...

**Holly Felder Etlin:** ...[today's restructuring environment is]...a real profession now. Back then, there were certainly people who regarded it as a profession but it was not broadly recognized as one. There were very key players already in the business: Jay Alix, Frank Zolfo and Steve Cooper. There were a number of consulting or accounting firms that had restructuring businesses, but most professionals that work restructurings now are with independent restructuring firms.

**Rivian Bell:** Corporate bankruptcy communications didn't really begin to take off until 1989 or 1990....Everything was manual....Today, we can do it all in 60 seconds or less, which means news travels faster than we can track it....That's why we've seen the growth of information management specialists: Epiq, KCC and BMC Group, to name a few....One thing that hasn't changed is the value of communications in creating a stable environment in the immediate time after a company files. We look at communications as a means to help preserve assets.

*"...the velocity of demands coming at all of the professionals...has the potential to generate tensions; but the manner in which we handle those demands is what allows us to call ourselves professionals."*

**James Kaplan:** There is a greater need for an independent voice. I founded Audit Integrity on the heels of the corporate scandals at Enron, WorldCom, and others, because I saw a great need for alternative method of research that could help predict these kinds of blow-ups before they happen.

## On the Economy...

**David Friedman:** [The tone of bankruptcy proceedings] has become nastier. There is much less liquidity in the system and it is thus much harder to make deals. As a result, many more disputes are being litigated to conclusion.

**Larry Lattig:** I personally approach each and every case with the same objective, which is to maximize the return to the unsecured creditor constituency. I don't think that mission changes with the economy, nor do I believe that other professionals change their client representation objectives based on available recoveries. Certainly those recoveries are getting much harder to come by. However, despite the fact the pie is getting smaller, objectives for the parties in today's economy and cases don't vary significantly from those in a much better economy. I think that the velocity of demands coming at all of the professionals on both sides of a case has the potential to generate tensions; but the manner in which we handle those demands is what allows us to call ourselves professionals.

**Jeffery Stegenga:** ...the current state of our US economy is challenging to say the least. With a lock-down on the liquidity markets, there are simply less options for entities in a pinch. Many companies who likely watched other restructurings with some intellectual interest and compassion now find themselves in one. Times have simply changed. Second, the days of long, protracted "traditional" chapter 11 filings seemed to have gone the way of more out-of-court or pre-negotiated filings. The costs within chapter protection are simply too great and, in many cases, too disruptive.

(Cont'd. on p. 3)

## SPOTLIGHT

(Cont'd. from p. 2)



**Steven Seiden:** I find that this economic climate has brought about an interesting phenomenon: polarized executives. On the one pole, the good executives tend to stick closely to the companies for which they've already performed and brought financial results. There is a great deal of loyalty, and it's harder to extract those candidates: "The devil they know might be better than the devil they don't know." In a better economy, that individual is not as worried about pursuing a new opportunity because they can easily find something else if it doesn't work out. On the other pole, companies are releasing mediocre players. You have to be very careful with all of those resumes flooding your computer. Those are the ones about whom you need to be even more suspicious. Search firms need to be skeptical of potential candidates at all times, but that is especially true in this economy.

**Mark Cluster:** With the lack of available credit you have to be very careful in the approach you take. Where you might have sought a bankruptcy reorganization before, you have to be more careful because financing may not be available to see you through the process. Companies have been forced to liquidation or a quick 363 sale process as a result of the lack of liquidity in the markets. We now see complete extremes: 1) liquidation or a lightning-quick 363 Sale or 2) kick the can down the road for 18 months and wait to solve the inherent problems with that company in better economic times ....Although Carl Marks has historically been more of a debtor-side advisor, this year we've been increasingly active representing creditor groups, senior secured lender groups in particular.

**Holly Felder Etlin:** Having been through five of these major economic cycles, each one is a little different but they all have things in common. They are the same in that they all involve a crisis around credit. In past cycles, it has either been a lack of available credit—like now, or the issue of high interest rates—like in the 80s. The current crisis is different in terms of the fear and uncertainty that management teams and companies feel about predicting the future. This fear is animating everybody's behavior.

**Jan Baker:** The economy has dramatically impacted bankruptcy in this sense: not only has it made it more likely that there will be more companies having to file, it has also made it harder for those that do file to reorganize successfully. The liquidity crunch makes DIP financing and exit financing difficult....It is relatively unusual today to see a company go into Chapter 11, effect a traditional operating turnaround, reorganize its business and come out of Chapter 11. That used to be the predominant model. There's tremendous creditor pressure. The current environment has really hurt the ability of businesses to do what most would consider a traditional Chapter 11 filing ....Restructuring professionals all over the country (both lawyers and financial advisors) are going to be tremendously busy in the coming year. For the country, this downturn has very serious consequences—to shareholder employees....It will be a long, painful process to restore equilibrium.

*"The good news/bad news of today's economic situation is that there really is plenty of work for everyone."*

**James Carr:** As with all major companies, the downturn has affected Kelley Drye. However, since the firm is historically litigation-based, we have stayed relatively strong in 2009. We've been able to utilize compatible legal practices to help other departments that may be slow remain busy. For example, we have 20 attorneys in the bankruptcy department, and we have been very busy serving a number of clients in numerous cases.

**Richard Tilton:** The spate of mega bankruptcies has created investment opportunities for our clients, and expanded their demand for bankruptcy advice. With more than 30 years experience and having done more than 30 distressed company acquisitions involving more than \$2 billion in debt, I give clients practical advice based on direct experience, not merely abstract legal opinion....Not only has demand increased this year, we anticipate that defaults are going to continue to rise and that opportunities for distressed debt investing are going to significantly increase for the next 2-3 years.

**Kathleen Logan:** The landscape has changed many times over my career regarding client solicitation. It has expanded and contracted, and expanded again. The good news/bad news of today's economic situation is that there really is plenty of work for everyone.

### *On Liquidations...*

**William Welnhofner:** Chapter 7 is an Armageddon for any business and should be pursued as a last resort only after all other alternatives have been exhausted. Under a Chapter 7 liquidation, you're left with harvesting the bare bones value of the assets with no going concern value preserved for the creditors. In theory,  
(Cont'd. on p. 4)



## SPOTLIGHT

(Cont'd. from p. 3)



Chapter 7 should be reserved for companies with badly broken business models which cannot be repaired either under the umbrella of a larger organization or with the assistance of fresh capital and turnaround management talent. On the other hand, a 363 sale under Chapter 11 enables the estate to harvest for the creditors the going concern value of the business—which is almost always greater than the liquidation value of the assets—but it's only possible under certain circumstances.

**Larry Lattig:** In today's bankruptcy climate the difference between a liquidation and a reorganization becomes more and more blurred with each filing—with many cases existing as a combination of the two. Liquidating “bad assets” and reorganizing “good assets” into a new company is becoming as common place as it was in the savings and loan crisis of the 80's. I think any bankruptcy professional would prefer a reorganization to a liquidation. We are, in the final analysis, all people doing a job and should all have respect for the livelihood of others. Sometimes there is no choice and, unfortunately, the assets are more valuable than the prospects for the business going forward. In those cases, as in all cases, our mandate remains that we maximize the return to our clients. In committee representation you have the added consideration that reorganizing into a viable business and customer going forward is often as attractive, or more attractive, to an unsecured creditor than a small return from a liquidation.

## On Corporate Boards...

**Steven Seiden:** To begin with, [a post-emergence company is] not much different from a company going public for the first time. First and foremost, the new directors, aside from the CEO, should be unquestionably independent and unfettered by any conflicts including any loyalties, however subtle, to management. Boardroom savvy is also important. That's the ability to understand and be a valuable contributor in a group dynamic setting. It's about being constructively critical when demanded but never destructively critical. There

*“We are, in the final analysis, all people doing a job and should all have respect for the livelihood of others. Sometimes there is no choice and, unfortunately, the assets are more valuable than the prospects for the business going forward.”*

are potential directors who have never been on a board but who instinctively have the requisite skills and know how to comport themselves.

**Jan Baker:** Corporate boards come in for a lot of abuse today. People say, “The Enron board or Lehman board didn't do their job.” Directors get a lot of adverse criticism. If I were to generalize, I'd say the great, great majority of boards that I advise have taken their duties seriously and absolutely try to do the right thing for the shareholders and employees. They try to keep up with what is happening with the company. It's a hard job: boards typically only meet four or five times a year. The boards I've

seen have tended to work incredibly hard, be incredibly responsible—they absolutely wanted to do the right thing for everybody. Sometimes, despite your best intentions, things can go wrong: maybe management was hiding something from the board; maybe you approve business decisions that seem prudent and the right thing to do at the time, but a year later the bottom falls out of your particular industry. Frankly, I have a lot of respect for the directors I have advised.

## On the Future...

**Jonathan Carson:** Expansion is definitely in our future....We are well-positioned to handle new cases, regardless of size or complexity.

**Sheila Smith:** We are now starting to get calls from banks and financial institutions....Many of the banks have in-house professionals to deal with troubled credits in work-out groups ....During the strong economic times though many of these professionals were re-deployed to downsize these groups so now they may not want to or be able to return to work-outs....I anticipate that banks are going to be one of our biggest customers. I also see a lot of activity from Asia....The impact of Asia is going to be much bigger than ever before. Another trend for 2010 is that industry expertise is going to matter a lot and become increasingly important. I'm talking to banks right now, and one of the topics is forestry products—building materials, furniture, pulp, paper, etc. I'm looking at “trees and corn” as high activity niches in 2010.

**Michael Carlinsky:** Quinn Emanuel has the largest structured finance litigation practice in the U.S. The cases we are seeing now relate to and arise out of the com-

(Cont'd. on p. 5)

## SPOTLIGHT

(Cont'd. from p. 4)



plex financial products and derivatives markets. We are representing swap parties in suits against counterparties; monoline insurers against banks and originators and underwriters; hedge funds against banking institutions; loan originators against servicers. The number of cases our firm is handling in this space is truly remarkable...In my view, this is the tip of the iceberg. I expect that as other parts of the market deteriorate, for example commercial mortgages and CMBS market, we will see more litigation of this type.

**Edward Altman:** With the current recession likely to continue through the entirety of 2009 (or beyond), it is quite likely that the high-yield default rate will continue to rise in 2009, and possibly into 2010...Firms appear to be scrambling to avoid bankruptcy like never before. In addition, since DIP loans and equity infusions are constrained due to the credit crisis, the usual benefits of bankruptcy have been lessened, and the prospect of liquidation in bankruptcy has heightened. Creditors, on the other hand, are less likely to resist a DE tender because the likely recovery after a DE is greater than in bankruptcy reorganization and certainly greater than in bankruptcy liquidation.

**Mark Claster:** In the short to mid-term, things will probably remain as they are today. For the situation to change, credit has to come back in the marketplace in a responsible way. Clearly, there was too much liquidity in the marketplace and now there is not enough liquidity. When some normalcy returns and credit begins to flow more freely, then the more traditional banking and reorganization activities will come back.

**James Carr:** This is going to be a slow holiday season. Retailers are going to suffer. There are going to be more retail bankruptcies in 2010. Discretionary income is going to continue decreasing. Moreover, retail is over-developed. Shopping centers are going to have a difficult time competing for new leases.

**Alan Dalsass:** We've been hearing a lot about whether the recovery is going to be

*"...corporations will continue to misrepresent their financial condition as long as executives are incented to generate short-term performance."*

V-shaped or W-shaped. I'm in the W camp—or maybe the double-W camp. I think there are a lot more bad assets still left to flush out and it's going to take some time before it all gets worked out. But I'm a Bankruptcy guy, I'm supposed to say that, right? Still, commercial property really scares me. Unemployment is still high. Not to mention under-employment—all those folks that are being forced to work part-time or take furloughs. If people aren't working, they're not spending. If they're not spending, companies aren't earning. If companies aren't earning, well, you get the picture. What happens to all those stores that no one is buying from? Also, if you look at the recent, positive numbers that companies are coming out with, they're often achieving those numbers through cost-cutting and belt-tightening. That's good for a quarter, maybe two, but it isn't sustainable. And all of this is before you get to the question of all the high-yield debt that is coming due in the next couple of years. Who is going to step up and refinance all of that?

**James Kaplan:** The trustworthiness of a company's balance sheet and income statement will always be something corporate stakeholders will need to focus on. Collective memory tends to be short, and while more scrutiny is placed on financial regulation after massive blow-ups, corporations will continue to misrepresent their financial condition as long as executives are incented to generate short-term performance.

### *On Government Intercession...*

**Richard Tilton:** It was always clear to me that the government was the lender of last resort [with GM and Chrysler]. Creditors failed to understand what would happen once the government had made secured loans to these companies, and because the secured loans were so huge the government took control of the reorganization process. Some of my clients are still annoyed at the preferential treatment given to union claims and suppliers, while others are more stoical, recognizing that politics trumps creditor priority. Fortunately, these automotive cases were so unique that they should not set much precedent.

**Amy Caton:** No comment, other than to say [government involvement] adds a level of complexity to negotiations by unsecured creditors that I haven't seen before.

**Alan Dalsass:** ...[D]rastic times call for drastic measures and we certainly saw some drastic measures. It's worth having a healthy debate over whether—and to what degree—the measures taken were necessary. I understand and generally agree with the free market perspective that—and I'm grossly oversimplifying here—businesses should rise and fall on their own strength or weaknesses, but when

(Cont'd. on p. 6)

## SPOTLIGHT

(Cont'd. from p. 5)



you are talking about something as big as GM or Chrysler and all the jobs and lives a total collapse would implicate, it would have been irresponsible to do nothing. Having said that, there's an inherent danger when government and business mix. Government is political by definition. When you mix it with business you run a real danger of tainting business decisions with political considerations.

### *On Memorable Moments...*

**Michael Carlinsky:** The truth is that when I go to court, which is quite often, I am always fired up. For me, "fired up" means that I am very passionate about my position, and I express that passion in the way I deliver my remarks to the court—whether it be the judge, jury or arbitration panel. I believe that my passion helps me in convincing the fact finder that I believe in what I am saying.

**Rivian Bell:** We had just finished a senior management meeting disclosing the filing. What I didn't know was that an hour earlier, the 6.8 magnitude Northridge earthquake had struck....In a genuine state of shock, I went into a session with 200 buyers. I was introduced to them and said the first thing that came into my head: "Filing for Chapter 11 is not a crisis. It is a business decision. A crisis is the 6.8 earthquake that just happened in LA. I don't know if I have a home waiting for me. This is going to be a tough day, but if I can get through it, so can you. So let's get started."...This case taught us that backup is essential—one must anticipate and plan for the unexpected.

**Mark Claster:** Generally speaking, there have been a few [cases] where you think you're coming up with great ideas for the client and they dismiss you. It's frustrating. The disappointment...is when clients aren't pleased. On the positive side, I remember one situation in which I was working with a borrower who had personally guaranteed his bank loans. He was in his early 70s at the time; and the personal guarantee, if called, would have wiped him out. At the end of the day, we were able to get him off the guarantees by selling his company. He had a lot of remorse: the company was his baby. It sold to a competitor—which made him even more unhappy—but we saved him from a terrible situation. After not hearing from him for two years, he called to thank me. He

*"I...said... 'Filing for Chapter 11 is not a crisis. It is a business decision. A crisis is the 6.8 earthquake that just happened in LA'....This case taught us that backup is essential—one must anticipate and plan for the unexpected."*

said, "My life is great. I don't know what I was thinking back then."

**Amy Caton:** The Adelphia case [sticks with me the most]. The litigation over inter-company claims and valuation in a post-Owens Corning world...was really interesting. Our clients were involuntarily thrown into the litigation....The litigation became so intense that the bankruptcy case essentially came to a standstill. The major creditor groups, including ours, were ordered to attend mediation meetings twice a week for months, and eventually we

and the other teams of lawyers found ourselves going up to Poughkeepsie for these meetings. It was pretty surreal. Our clients were eventually paid around 140 cents on the dollar, but it was a tough fight to get there.

**Kathleen Logan:** A case that is particularly memorable is Herman's Sporting Goods Stores, Inc. ...I remember one particular creditor who arrived with a baseball bat threatening to use it if he didn't get a refund....Then there was the case in which a creditor sent a proof of claim form attached to a baggy filled with asbestos as their documentation!

### *On Gender...*

**Marcia Goldstein:** "Last year, *The Wall Street Journal* ranked Goldstein as one of the "50 Women to Watch," and, separately, she was named one of just two "Women of the Year in Restructuring." In light of these honors...we asked Goldstein if she felt gender was relevant to her practice of law. Goldstein explains that...when she first joined Weil Gotshal, there were 'very few women, but [she] was not the first.' After more than three decades of experience as arguably one of the most sought-after restructuring lawyers worldwide, Goldstein tells us that 'gender has become not relevant.'

**Sheila Smith:** I applaud Marcia's [Goldstein] success. She and Weil Gotshal have had some of the mega cases and that's a huge advantage: As you become more mature and have a litany of cases behind you, absolutely gender matters less; however, when you are young and starting out, gender is often perceived to be more relevant, without a doubt.

(Cont'd. on p. 7)



## SPOTLIGHT

(Cont'd. from p. 6)



### ***On Securing New Business...***

**Rivian Bell:** We are brought into cases by counsel, financial advisors, or turnaround managers. We keep up to date on distressed prospects and may reach out to counsel or one of these advisors in advance, but it's more common for us to be approached by them. Occasionally, a director of the company or a senior officer will bring us into a case, as happened with Centis. And BearingPoint and General Growth were regular corporate relations accounts before they required Chapter 11 support.

**James Carr:** I learned quickly how to make the client feel that his or her matter is my only case. All clients want the comfort that their concerns are being addressed properly and are my top priority. While clients generally respect my schedule, I am available 24/7. I've had conference calls over weekends, late at night and on vacations. Clients want responsiveness, creativity and a complete understanding of their business.

**Larry Lattig:** I believe Mesirow Financial Consulting was selected by the Official Committee of Unsecured Creditors in the Chrysler bankruptcy because of the firm's abilities as a whole as well as the caliber of team that we were able to put together for this case....We have represented the creditors in a lot of automobile cases and I would like to think that our successes in those cases led to many of the same creditors voting for us in the Chrysler case. It is definitely a business we know about and an area of expertise for us that will ultimately save the committee time by getting the correct information in a fast paced, tumultuous industry changing case.

**Heidi Sorvino:** Everyone gets business in different ways. I've been in Court and had people come up after and say, "I want to hire you."....I've had referrals from clients and other attorneys—that's the best! I'm very involved and do a lot of networking.

**J. Andrew Damico:** ...[W]e're already front and center for many of our prospects. We are a twelve-year-old company with a great reputation and are involved in the bankruptcy community and its conversations, conferences, and events. We build on that trust and recognition with corporations and advisors—many of whom we worked with during the increased bankruptcy filings in 2001..

*"Where the debt of companies...trades at substantial discounts from par, and where we have relationships with the stakeholders of these companies, we try to offer constructive assistance."*

**Kathleen Logan:** Marketing in this industry can be both challenging and difficult. Since disclosure issues are sensitive prior to filing, normal marketing channels are not readily available. In general, we believe that we are in a service industry and, to that end, try to provide information and support above and beyond what is required in order to assist all parties involved in the process. We also attend conferences and sponsor events (both charitable and business) to keep our name visible to newcomers in the industry. Most importantly, I stand on my reputation of professionalism and experience.

**William Welnhof:** Baird maintains relationships with the entire spectrum of credit providers, including commercial banks, finance companies, hedge funds and other hybrid funds that invest in debt securities. In addition, we have a dedicated financial sponsors group that maintains close relationships with more than 300 private equity firms. Often, we are invited to advise their portfolio companies where insolvency is a concern. We also carefully monitor bond and loan pricing. Where the debt of companies within our target size and vertical market focus trades at substantial discounts from par, and where we have relationships with the stakeholders of these companies, we try to offer constructive assistance. Lastly, in an environment like the current one, there will inevitably be a certain number of so-called "fallen angels" who are longstanding investment banking clients of the firm.

### ***On Compensation...***

**Joshua Angel:** Compensation standard is one of the most significant changes [in the practice of law] I've seen in the past 50 years.

**James Carr:** I'm proud of the fact that Kelley Drye has taken a lead role in exploring and accepting alternative fee arrangements. I've been very successful in attracting new business because I've always been flexible with billing arrangements—fixed fees, contingency fees or other arrangements. I'm competing with lawyers all over the country. We make sure we are cost-effective and deliver value to our clients. We are always open to discussing alternative fee arrangements.

(Cont'd. on p. 8)

## SPOTLIGHT

(Cont'd. from p. 7)



**Joseph Steinfeld:** "...Steinfeld opines that contingency fee structure is often the only reasonable way to handle large collection matters. According to Steinfeld, A-S-K Financial's cost benefit for the estate is even greater: 'the preference analysis fee is included in our contingency fee so there is never a need to hire outside financial advisors for any preference analysis. Our analysis program produces reports containing details and functions that test the ordinary course of business and new value defenses more thoroughly than programs used by the top accounting and financial advisor firms. Without question comparable reports alone would cost at least \$200,000.' A-S-K Financial routinely places a fee cap on its contingency fees so that the estate is guaranteed to receive a stated percentage (usually at least 75%) of every dollar collected."

**Heidi Sorvino:** Smith, Gambrell & Russell is a mid-size firm, so I'm a bargain at \$675/hour. We adjust our rates annually, and billable rates are based on office location not on a national level. I've not seen any adjustments in billing procedures or rates, although it will be hard for firms to raise their rates right now.

### *On Schedules...*

**Joshua Angel:** [In my non-work hours]...I still play singles tennis and ski like a madman. I enjoy gardening. I love my wife, my children, my grandchildren. I love to read. I don't get enough time to read everything that I want to. Lately, I've been re-reading books. The second time around, I get more fun out of them....I don't play golf—it's an old man's game.

**Amy Caton:** The morning after we were chosen as committee counsel [for GM], we had an all-hands meeting with representatives from the bankruptcy, corporate, litigation, tax and real estate departments to decide how to divide up the work. We already had teams set up from the Chrysler bankruptcy, so we had a leg up understanding what issues would be most critical and knowing who would be best to work on them. And we have people within the bankruptcy department who we count on to act as the "lynchpins" to make sure that nothing falls through the cracks.

**Kathleen Logan:** My typical workday is 24/7! Because of the nature of the business, we try to be available to our clients at all times. At the beginning of each case, a working group sheet is circulated that contains contact information (both personal and business) for the entire team. Of course I always like to meet a client at the beginning of the case, but since technology has rendered travel in this industry as an unnecessary financial burden, I don't always have the opportunity.

*"Some cases simply have a bad set of operating facts or a model that doesn't work ....Frankly, they may be better off dead than alive."*

**Alan Dalsass:** I generally split my day among three basic categories: client work, business development and operations. About eight hours for each. No. There are always competing interests but I try to make sure that I see my kids every day. I usually can't make it home before they go to bed, so we get up early and have breakfast together.

**Sheila Smith:** ...In my view it is imperative to work side-by-side with clients to assess the work ethic, management style and to listen to communications with clients, creditors and key constituents. If you're standing at the door and people trod you over at 4:50, you have a problem....So 99.9 percent of the time, I work on site.

### *On the Highs & Lows...*

**Richard Tilton:** The best part of the job is working with clients who treat me as part of their investment team and rely on my advice to make informed decisions about where to invest in complex capital structures. The worst part is being on call 24-7....

**Jeffery Stegenga:** Each case has its own challenges, which is why people like me continue to do what we do. Some cases simply have a bad set of operating facts or a model that doesn't work. The melting ice cubes. Frankly, they may be better off dead than alive. Others are exceptional businesses with a tough capital structure or misplaced leadership. And let's not forget the professionals. We're all charming in our own way. Sometimes just not to each other.

**Michael Carlinsky:** First, is the thrill and challenge of a litigation. In many ways, it is like a chess match where you are trying to put your adversary in check-mate; the strategic thinking and then the execution of your plan is really exciting. Second, I love the camaraderie of working with other great lawyers in my firm. And third, I love the competition....the thrill of winning is the very best. What I like least about my job is the frustration you feel when you have what you believe is a great argument and it is either misunderstood or rejected.

(Cont'd. on p. 9)



## SPOTLIGHT

(Cont'd. from p. 8)



**Sheila Smith:** The worst part is the money: we always have to fight for the money. People say, "If I had money, I wouldn't have to hire a work-out consultant. How am I supposed to pay you?" Getting paid and getting banks and creditors to forego pay... that's a struggle.

**Jan Baker:** What all lawyers like the least: the business of recording your time and preparing and sending bills. The more senior you get, the more you need to look at the time entries of other people as well that are in bills that you send to clients. It's unavoidable and part of the practice of the law, so you get used to it. The most gratifying?...being lucky enough to still be excited about the challenges and issues....We contribute something that we can be proud of. At the end of the day, that's what it's all about.

### *On Maintaining Perspective...*

**Heidi Sorvino:** I love being a bankruptcy lawyer and believe it is important to truly enjoy what you do on a daily basis. Work hard and be sure to make friends in your industry.

**Michael Carlinsky:** One of the great lessons I have learned over the last 20 years that I have been practicing is to throttle my energy level. In court, I always want to operate at the highest energy level and deliver the most passionate and persuasive argument. But outside of court, I have learned that you often times have to throttle back your energy and force of personality in order to get things resolved or accomplished. I have learned to consider other peoples' points of view; to try to not sweat

over nonsense; to avoid the petty arguments that many lawyers dwell upon and, most importantly, to always try to avoid making things personal with your adversary.

*"The bottom line is that I did it all and had all the accolades. I don't miss it. I don't have post-partum depression. I came to grips with my age when Bruce died. Time is not forever...you have to move on. I transferred...with no regrets, and I'd do it again in a nanosecond."*

**Holly Felder Etlin:**

Frankly, I miss all the management teams that I've worked with. They all, generally, find themselves rising to the task and we build great friendships and relationships in the process. The degree of relationships and genuine fondness we develop is profound. I've had people tell me, "It was incredible to work with you, but please don't be offended if we say we never want to see you again!"

**Kathleen Logan:** From a personal point of view, the challenge with these [asbestos-related] cases is to experience the humanity behind the names and addresses in the database. I have spoken with many creditors on the telephone that are extremely ill, and yet I have to put my personal feelings aside and maintain my professionalism as an agent of the court.

**Joshua Angel:** I'm wondering why I didn't do it [transition from founding partner at Angel & Frankel to counsel at Herrick, Feinstein] ten years earlier. The wonderful thing is that I basically opened a law office six months out of law school. I was the first person to do that, with my now-deceased classmate Dick Jankell. However, I always had problems to deal with..."How can I pay the rent? How can I pay the bank?" I took it home with me and lived it 24/7. Today, I only have one thing to do: my cases. I love my cases. I'm now paid for doing the thing I enjoy most—along with tennis and skiing! The bottom line is that I did it all and had all the accolades. I don't miss it. I don't have post-partum depression. I came to grips with my age when Bruce died. Time is not forever...you have to move on. I transferred from Angel & Frankel with no regrets, and I'd do it again in a nanosecond.

(Spotlight Index on p. 14)





# BANKRUPTCY PROFESSIONAL

## NEWS MAKERS

*Bankruptcy Professionals &  
Firms making industry news!*

**Arthur S. Olick to Retire:** Anderson Kill & Olick, P.C. announces that **Arthur S. Olick** is retiring from the firm effective January 1, 2010, after a distinguished legal career spanning more than half a century. A former federal prosecutor who joined the firm that came to bear his name in 1974, Mr. Olick was for more than two decades one of the nation's foremost bankruptcy attorneys, a pioneer first in the formation of asbestos bankruptcy trusts and then in the orderly dissolution of major law firms. Mr. Olick has also been a major factor in the reorganizations and dissolutions of numerous professional partnerships and law firms such as **Finley Kumble; Laventhal & Horwath; Lord Day & Lord; Barrett Smith; Gaston & Snow; Bower & Gardner; Shea & Gould; Mudge Rose Guthrie Alexander & Ferdon** and **Dreyer & Traub**. In his work with distressed law firms, Mr. Olick was known as a conciliatory presence who could bring all parties to the table to work out an orderly dissolution or restructuring. Anderson Kill & Olick's current bankruptcy practice is growing under the leadership of **Todd E. Duffy**, who joined the firm this June. Prior to joining Anderson Kill & Olick, Mr. Olick was an Asst. U.S. Attorney and Chief of the Civil Division. Mr. Olick has served as a lecturer at Yale University and the University of Georgia, and was on the staff of the U.S. Army Civil Affairs and Military Government School, Fort Gordon, Georgia.



\*\*\* Visit [BankruptcyProfessional.com](http://BankruptcyProfessional.com) for *more* News Makers! \*\*\*  
E-mail us to acknowledge an employee and/or a significant firm realignment:  
[CustomerSupport@BankruptcyProfessional.com](mailto:CustomerSupport@BankruptcyProfessional.com)



**NHB Named One of the Nation's Outstanding Turnaround Firms:** NachmanHaysBrownstein (NHB) has been recognized as one of the few "Outstanding Turnaround Firms" in the country by *Turnarounds & Workouts*. The NHB team was honored in 2009 with a record 15th consecutive appearance on the list.

**Thompson Hine Names New Partners:** Thompson Hine LLP has elected seven lawyers to the firm's partnership effective January 1, 2010, two of which are in the Business Restructuring, Creditors' Rights & Bankruptcy practice group. **Jeremy M. Campana** is a member of the Business Restructuring, Creditors' Rights & Bankruptcy practice group, and **Andrew L. Turscak, Jr.** is a member of the Business Restructuring, Creditors' Rights & Bankruptcy practice group.

**Barnes & Thornburg Adds Attorney:** Barnes & Thornburg LLP has added experienced bankruptcy attorney **John W. Mills, III**, to the firm's Atlanta office as the firm continues to aggressively build its presence in the Atlanta market through lateral attorney recruitment. Mills, formerly a partner at **Kilpatrick Stockton LLP**, joins the firm's Finance, Insolvency and Restructuring (FIR) Department as

a partner. He concentrates his practice on bankruptcy, debtor/creditor rights, bankruptcy acquisitions and insolvency related litigation. Mills is the first bankruptcy practitioner to join the firm's Atlanta office.

**McKool Smith Expanding National Bankruptcy Practice:** McKool Smith announced the continued expansion of the firm's Houston office with the addition of bankruptcy litigator **Basil A. Umari**. Mr. Umari joins McKool Smith's bankruptcy practice in Houston as a principal after previously practicing with **Andrews Kurth**. The firm's bankruptcy practice was established in October 2009 and is led by **Hugh Ray**. "McKool Smith is committed to having one of the top bankruptcy practices in the world, and the addition of Basil is another step towards that goal," says **Mike McKool**, co-founder of McKool Smith.



# SAVE THE DATE...

## UPCOMING BANKRUPTCY-RELATED CONFERENCES & EVENTS



<u>Date</u>	<u>Organization</u>	<u>Event</u>	<u>Location</u>
01/13/10	International Factoring Association	Bankruptcy and DIP Financing	Miami, FL
01/18/10	American Bankruptcy Institute	2010 Northeast Consumer Winter Forum	Boston, MA
01/20/10	Argyle Executive Forum	2010 Leadership in the Distressed Markets Forum	New York, NY
01/20/10	New York Institute of Credit	Joint Bankruptcy & Reorganization Program with AIRA	New York, NY
01/21/10	American Bankruptcy Institute	Rocky Mountain Bankruptcy Conference	Denver, CO
01/27/10	Turnaround Management Association	2010 Distressed Investing Conference	Las Vegas, NV
02/10/10	DBA International	13 Annual DBA International Conference	Las Vegas, NV
02/11/10	American Bankruptcy Institute	Caribbean Insolvency Symposium	Boca Raton, FL
02/23/10	International Association of Restructuring, Insolvency & Bankruptcy Professionals	2010 Dubai Conference	Dubai, UAE
02/24/10	American Bankruptcy Institute	VALCON2010	Las Vegas, NV
03/04/10	Stetson University College of Law & American Bankruptcy Institute	Judge Alexander L. Paskay Seminar on Bankruptcy Law and Practice	Tampa, FL
03/05/10	American Bankruptcy Institute	18th Annual Bankruptcy Battleground West Conference	Los Angeles, CA
03/10/09	Dow Jones	Daily Bankruptcy Review Restructuring & Turnaround Summit 2010	Bridgewater, NY
03/25/10	iiBIG Distressed	2010 Distressed and Turnaround Forum	Santa Monica, CA
04/07/10	National Association of Bankruptcy Trustees	Savannah Meeting	Savannah, GA
04/17/10	The National Association of Bankruptcy Trustees	Spring Seminar	Orlando, FL
04/20/10	Turnaround Management Association	Spring Conference	New York, NY
04/29/10	American Bankruptcy Institute	28th Annual Spring Meeting	National Harbor, MD
05/13/10	New York Institute of Credit	4th Credit & Bankruptcy Symposium with Turnaround Management Association/CT and Turnaround Management Association/Northeast Annual Conference	Mohegan Sun, CT
05/16/10	CFA Institute	Annual Conference	Boston, MA
05/18/10	CFA Institute	Leveraged Credit, Workouts, and Distressed Debt	Charlottesville, VA
06/07/10	International Insolvency Institute	10th Anniversary Conference	Rome, Italy
06/09/10	Turnaround Management Association	8th Annual Mid-Atlantic Regional Symposium	Atlantic City, NJ
06/09/10	Association of Insolvency and Restructuring Advisors	26th Annual Bankruptcy & Restructuring Conference	San Diego, CA
06/20/10	National Conference of Bankruptcy Clerks	Annual Conference	Pittsburgh, PA
07/12/10	National Auctioneers Association	61st International Auctioneers Conference and Show	Greensboro, NC
08/15/10	Canadian Bar Association	Canadian Legal Conference and Expo	Niagara Falls, ON





## RETENTION ANALYSIS: TOP 10 FIRM RANKINGS

The lists below indicate the Top 10 ranked Firms by role in active publicly-traded company bankruptcies (of \$100 million or more in pre-petition assets). The companies on this list may have confirmed a plan, but that plan has not yet become effective; and the companies remain in Chapter 11 protection. Data is drawn directly from retention motions filed with The U.S. Bankruptcy Courts.

### Top 10 Firm Rankings

Source: U.S. Bankruptcy Court Retention Motions

#### Accountant & Auditor

<u>Firm</u>	<u>Cases</u>
Ernst & Young LLP	28
KPMG LLP	12
PricewaterhouseCoopers LLP	11
Deloitte & Touche LLP	8
J.H. Cohn LLP	6
BDO Seidman, LLP	4
Grant Thornton LLP	4
Kapila & Company	3
Warren H. Smith & Associates, P.C.	3
Clifton Gunderson LLP	2
Huron Consulting Group	2

#### Claims Agent

<u>Firm</u>	<u>Cases</u>
Kurtzman Carson Consultants LLC	38
EPIQ Bankruptcy Solutions	36
Garden City Group	16
BMC Group, Inc.	5
Donlin Recano & Co., Inc.	4
Financial Balloting Group, Inc.	4
Logan & Company, Inc.	4
Rust Consulting, Inc.	2
Trumbull Group LLC	1

#### Counsel

<u>Firm</u>	<u>Cases</u>
Richards, Layton & Finger, P.A.	18
Weil, Gotshal & Manges LLP	16
Pachulski Stang Ziehl & Jones LLP	14
Young Conaway Stargatt & Taylor, LLP	13
Kirkland & Ellis LLP	11
Akin Gump Strauss Hauer & Feld LLP	10
Kramer Levin Naftalis & Frankel LLP	9
Otterbourg, Steindler, Houston & Rosen	7
Reed Smith LLP	7
Greenberg Traurig, LLP	6

#### Financial Advisor

<u>Firm</u>	<u>Cases</u>
FTI Consulting, Inc	25
Houlihan Lokey	12
Jefferies & Co.	12
Alvarez & Marsal, LLC	10
Lazard Freres & Co., LLC	9
AlixPartners LLP	8
BDO Seidman, LLP	8
Mesirow Financial Consulting, LLC	8
Deloitte & Touche LLP	7
Rothschild, Inc.	6

#### Investment Banker

<u>Firm</u>	<u>Cases</u>
Lazard Freres & Co., LLC	19
Houlihan Lokey	9
Rothschild, Inc.	5
Miller Buckfire & Co., LLC	4
Moelis & Company	4
Greenhill & Co.	3
Jefferies & Co.	3
Peter J. Solomon Company	3
Chanin Capital Partners	2
Evercore Partners	2
Financo, Inc.	2
Morgan Joseph & Company	2
Perella Weinberg Partners LP	2

#### Tax Advisor

<u>Firm</u>	<u>Cases</u>
Ernst & Young LLP	22
Deloitte & Touche LLP	17
PricewaterhouseCoopers LLP	12
KPMG LLP	11
Grant Thornton LLP	6



## RETENTION ANALYSIS: TOP 10 FEE RANKINGS

The lists below indicate the Top 10 Highest Fees and reflect bankruptcy firms ranked by fees charged for publicly-traded company bankruptcies (of \$100 million or more in pre-petition assets) that filed for bankruptcy on or after January 1, 2007 or whose proceedings were still active on or after that date. This data is drawn directly from the final fee applications filed with the U.S. Bankruptcy Courts once each debtor has emerged from bankruptcy.

### Top 10 Fee Rankings

Source: U.S. Bankruptcy Court Retention Motions

#### Accountant & Auditor

<u>Firm</u>	<u>Cases</u>	<u>Fee Amount</u>
PricewaterhouseCoopers LLP	8	\$203,125,694
Ernst & Young LLP	14	\$78,073,668
Deloitte & Touche LLP	12	\$36,146,260
Ernst & Young Global Auto. Center	1	\$34,114,418
BDO Seidman, LLP	8	\$15,841,229
Jefferson Wells International	2	\$12,353,277
KPMG LLP	10	\$9,521,606
HGH Associates, LLC	1	\$3,121,713
Chicago Partners, LLC	1	\$2,361,154
Huron Consulting Group	2	\$2,112,484

#### Counsel

<u>Firm</u>	<u>Cases</u>	<u>Fee Amount</u>
Kirkland & Ellis LLP	17	\$278,752,290
Willkie Farr & Gallagher LLP	4	\$110,695,562
Sidley Austin LLP	3	\$105,678,185
Akin Gump Strauss Hauer & Feld LLP	12	\$102,549,422
Jones Day	4	\$68,733,081
Kasowitz, Benson, Torres & Friedman	3	\$56,122,115
Davis Polk & Wardwell	2	\$53,368,546
Gibson, Dunn & Crutcher LLP	2	\$39,143,256
Cadwalader, Wickersham & Taft LLP	2	\$36,263,824
Sonnenschein Nath & Rosenthal LLP	4	\$32,524,089

#### Financial Advisor

<u>Firm</u>	<u>Cases</u>	<u>Fee Amount</u>
PricewaterhouseCoopers LLP	3	\$170,652,559
Miller Buckfire & Co., LLC	8	\$80,770,808
Houlihan Lokey	14	\$63,841,880
Zolfo Cooper	5	\$63,490,886
FTI Consulting, Inc	21	\$60,690,388
Lazard Freres & Co., LLC	8	\$51,164,260
Jefferies & Co.	10	\$33,988,198
AlixPartners LLP	5	\$32,851,290
Seabury Group	2	\$26,140,601
Rothschild, Inc.	5	\$25,166,008

#### Investment Banker

<u>Firm</u>	<u>Cases</u>	<u>Fee Amount</u>
Miller Buckfire & Co., LLC	6	\$73,219,590
Lazard Freres & Co., LLC	5	\$43,235,633
Rothschild, Inc.	5	\$29,384,557
Houlihan Lokey	7	\$22,950,035
PricewaterhouseCoopers LLP	1	\$13,735,711
Perella Weinberg Partners LP	2	\$11,138,710
Greenhill & Co.	2	\$6,425,000
Jefferies & Co.	1	\$5,265,461
Chanin Capital Partners	1	\$3,521,210
Stephens Inc.	1	\$3,350,000

#### Tax Advisor

<u>Firm</u>	<u>Cases</u>	<u>Fee Amount</u>
Ernst & Young Global Auto. Center	2	\$43,582,616
KPMG LLP	8	\$35,867,516
Ernst & Young LLP	13	\$32,853,483
Deloitte & Touche LLP	14	\$31,345,855
Grant Thornton LLP	2	\$4,129,266
Genetelli Consulting Group	1	\$2,772,135
PricewaterhouseCoopers LLP	5	\$2,688,124
Weiser LLP	1	\$2,461,462
Jefferson Wells International	1	\$1,835,419
Assessment Technologies Ltd	2	\$1,399,745

## 2009 SPOTLIGHT INTERVIEW INDEX

<u>Publication Date</u>	<u>Spotlight Interview</u>	<u>Spotlight Title</u>	<u>Spotlight Firm</u>
01/29/09	Jonathan Carson	President	Kurtzman Carson Consultants LLC
02/12/09	William Welnhofner	Managing Director & Head of Financial Rest. Group	Robert W. Baird
02/26/09	Marcia Goldstein	Practice Head, Business Finance	Weil Gotshal & Manges LLP
03/12/09	Ed Altman	Prof. of Fin. & Chair. of Academic Adv. TMA Council	NYU Stern Business School
03/26/09	Heidi J. Sorvino	Head of NY Bank. & Cred. Rights Practice	Smith, Gambrell & Russell LLP
04/09/09	David Friedman	Partner	Kasowitz, Benson, Torres & Friedman LLP
04/23/09	Kathleen Logan	President & CEO	Logan & Company, Inc.
05/07/09	Holly Felder Etlin	Managing Director	AlixPartners, LLC
05/21/09	Joseph Steinfeld	Co-Managing Partner & Litigation Practice Chair	ASK Financial L.L.P.
06/04/09	Larry Lattig	EVP & Senior Managing Director	Mesirow Financial Consulting, LLC
06/18/09	Amy Caton	Partner	Kramer Levin Naftalis & Frankel LLP
07/02/09	Jeffery Stegenga	Managing Director & Chair of North Am. Com. Restructuring	Alvarez & Marsal, LLC
07/16/09	Rivian Bell	Senior Counselor	Abernathy MacGregor Group, The
07/30/09	D.J. Baker	Partner & Global Co-Chair of Insolvency Practice	Latham & Watkins LLP
08/13/09	J. Andrew Damico	President & CEO	IntraLinks, Inc.
08/27/09	Michael Carlinsky	Partner	Quinn Emanuel Urquhart Oliver & Hedges, LLP
09/10/09	Steve Seiden	President	Seiden Krieger Associates, Inc.
09/24/09	Alan Dalsass	Director	Grant Thornton LLP
10/08/09	Joshua Angel	Senior Counsel	Herrick, Feinstein LLP
10/22/09	James Kaplan	Chairman & Founder	Audit Integrity, Inc
11/05/09	James Carr	Partner & Chair. of Bank. & Rest. Practice Group	Kelley Drye & Warren LLP
11/19/09	Mark Claster	Partner	Carl Marks Advisory Group, LLC
12/03/09	Richard Tilton	Senior Bankruptcy & Reorganization Counsel	Cohen Legal Group, LLC
12/17/09	Sheila Smith	Principal	Deloitte & Touche LLP

***Bankruptcy Professional*** is published by New Generation Research, Inc.

225 Friend St., Ste. 801, Boston, MA 02114, 800 468-3810

**Publisher:** George Putnam, III **Senior Editor:** Brandy Chetsas **Data Editor:** Kerry Mastroianni

***Bankruptcy Professional*** subscribers also receive a subscription to [BankruptcyProfessional.com](http://BankruptcyProfessional.com).

Other New Generation Research publications include ***Bankruptcy Week/BankruptcyData.com***, ***The Distressed Company Alert***, ***The Bankruptcy Yearbook and Almanac*** and ***The Turnaround Letter***. The information presented in this issue has been obtained from sources believed to be reliable, but accuracy cannot be guaranteed. Opinions and information presented in our Spotlight interviews are those of the interview subjects and not of ***Bankruptcy Professional***. Do not rely on ***Bankruptcy Professional*** without independent verification. Certain firm names may have been abbreviated due to spacing constraints.