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Law Firms

Howrey Back in Chapter 7; Diamond Again Trustee

Howrey LLP returned to Chapter 7, where the once large law firm started out in U.S. Bankruptcy Court for the Northern District of California nearly five years ago in an involuntary bankruptcy filing (*In re Howrey LLP*, Bankr. N.D. Calif., No. 11-31376, *notice to creditors re order converting*, 12/8/15).

Allan Diamond, Diamond McCarthy LLP, Houston, Dec. 2 was appointed trustee, a position he's held in the Chapter 11 since appointed in 2011 (23 BBLR 1247, 10/13/11).

Diamond and the official committee of unsecured creditors Oct. 20 jointly filed to convert the Chapter 11 reorganization case back to a Chapter 7 liquidation (27 BBLR 1409, 10/22/15).

"Simply stated, despite their best efforts it is now apparent to both the Trustee and the Committee that there is no viable pathway to a consensual plan in this chapter 11 case absent perhaps years of further litigation having an uncertain outcome with respect to the Unfinished Business Litigation," the filing stated.

U.S. Bankruptcy Judge Dennis Montali approved Nov. 16 converting the case effective Dec. 1.

Counsel for Diamond could not immediately be reached for comment.

Failed Negotiations. The conversion filing said failed efforts to obtain a "severe voluntary reduction" in landlord claims along with continued Chapter 11 expenses and the "absence of a reasonable likelihood of a successful plan within the next year" led to the decision to seek Chapter 7.

Three creditors April 11, 2011, filed an involuntary Chapter 7 bankruptcy petition for the shuttered firm,

citing \$36,609 in bills (23 BBLR 471, 4/14/11). It was converted to a Chapter 11 two months later (23 BBLR 746, 6/16/11).

Failure to Cooperate. Howrey "followed the failed playbook used by all of the law firm bankruptcies before Dewey, not having learned any lessons from the cases that preceded it," said Albert Togut, whose Togut Segal & Segal LLP in New York advised law firm Dewey & LeBoeuf before its collapse in 2012 and through its subsequent Chapter 11 proceeding.

"Once creditors force a bankruptcy with an involuntary filing, partners go into defensive mode and acrimony breaks out. The mere fact that a trustee had to be appointed proves that instead of working toward a common solution, the partners were in disarray and when that happens, their interests were adverse to the estate. Partners and the trustee were adversaries," Togut said in a Dec. 4 e-mail to Bloomberg BNA.

The Dewey approach "was radically different," said Togut. "Partners' primary concern, once their firm fails, is to break free of the failure and get on with their lives, with clear heads and a release from further liability. The best release available is under a confirmed Chapter 11 plan."

Instead, Togut said, the approach in Howrey "was litigation-based. That's always a bad idea with angry lawyers whose firm has failed. And, there will be more litigation facing the Howrey estate."

Washington, D.C.-based Howrey once had 17 offices including San Francisco and Silicon Valley specializing in intellectual property, antitrust, and complex commercial litigation and arbitration.

By JOYCE E. CUTLER

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