IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION

IN RE:	*	
MERRY-GO-ROUND ENTERPRISES, INC.	*	Case No. 94-5-0161-SD
Debtors.	*	Chapter 7
	*	

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EIGHTH AND FINAL APPLICATION BY
TRUSTEE FOR ALLOWANCE OF COMPENSATION

Deborah Hunt Devan ("Trustee"), Chapter 7 Trustee of Merry-Go-Round Enterprises, Inc. ("MGRE") and its affiliated companies (collectively, the "Debtors")[1], by her undersigned attorneys, files this Eighth and Final Application ("Application") pursuant to 11 U.S.C. §§ 326, 330 and 331, for final allowance of compensation for services rendered as Trustee in the above-captioned case. The Trustee is requesting final allowance of compensation in the amount of $8,833,350.00 on recoveries of $294,395,913.30. In support of the Application, the Trustee states:

I. INTRODUCTION

1. Beginning on January 11, 1994 and on subsequent dates thereafter, the Debtors filed voluntary petitions under Chapter 11 of the Bankruptcy Code. This Court has ordered joint administration of these cases.

2. By Order dated March 1, 1996, all of the Debtors' Chapter 11 cases were converted to cases under Chapter 7 of the Bankruptcy Code.

[1] A complete list of the Debtors is attached hereto as Exhibit 1.

3. On March 2, 1996, Deborah Hunt Devan was appointed Interim Chapter 7 Trustee of the Debtors. The Trustee, having avoided an anticipated contested election at the §341 meeting and having been duly qualified, continues to serve in the capacity of Chapter 7 Trustee.

4. Since her appointment, the Trustee has fully administered and has closed all of the Debtors' cases as "no asset" cases *except* the following: MGR Distribution Corporation, Case No. 94-5-0162 ("MGRD"); MGRR, Inc., Case No. 94-5-0163 ("MGRR"); Merry-Go-Round Enterprises, Inc., Case No. 94-5-0161 ("MGRE") and Rosedale Chess King, Inc., Case No. 95-5-0209 ("Rosedale"). The cases of MGRD, MGRR and MGRE were substantively consolidated under the MGRE case. In the bankruptcy cases of MGRE and Rosedale, final distributions will be made as soon as final fees are allowed. All adversary proceedings have been concluded and closed, and all contested claims matters and objections proceedings have been concluded except one contested matter wherein a creditor, who has never filed a request for allowance of an administrative expense for the Chapter 11 period, filed such a request on August 1, 2005.

5. All allowed Chapter 11 administrative claims and priority claims were paid in full. Allowed general unsecured claims have received a 30% distribution. Assuming that the commission requested herein is allowed, and all Chapter 7 professionals are granted final approval of their requested fees, the allowed claims of general unsecured creditors will receive an additional eight to ten percent distribution, for a total distribution to allowed general unsecured claims of 38 to 40%. This is an extraordinary result in a bankruptcy case where, at the time of conversion, evidence showed that the Debtors had only $2.0 million in available cash, the Chapter 11 administrative claims were estimated by the Debtors to be $26 million, and the majority of the parties in interest were arguing against the appointment of a Chapter 7 Trustee on the assumption that a trustee could not improve the grim outlook for creditors. The presentation

by counsel to the Debtor at the hearing on conversion of the Chapter 11 case to Chapter 7 contained the following:

> **MR. FRANKEL:** More importantly, Your Honor, we think the process of a Chapter 7 trustee is a disaster for this case. …I can already see an issue who gets to elect him, is it Fidelity and Bear Stearns or is it Swidler and Berlin and Ernst and Young, who are the large administrator creditors. . . . That will be an insurance policy for the least amount of recovery for the creditors that are involved. . .
> And we're not just talking about professionals that are involved in terms of administrative creditors. There's vendors out there. There's obviously landlords that we've heard from. And there's many, many employees that are administrative creditors at this point. Those are the people for whom we have a duty to maximize the estate. There are clearly limited assets here. There is not enough cash to pay everybody as we would like to pay everybody. But a Chapter 7 trustee does not solve that problem. (Tr. at pp.141-142)[2]

How wrong was that prediction! A Chapter 7 trustee did solve "that problem" and did pay all Chapter 11 allowed administrative expenses.

II. COMPENSATION PREVIOUSLY REQUESTED AND AWARDED

6. The Trustee has previously submitted seven interim fee applications which requested interim compensation was based upon the Trustee's normal hourly rate. Each interim request was submitted without waiving the right of the Trustee to claim additional compensation at the conclusion of the case. This Court approved each of the first six interim applications, and the amounts sought in each of the applications were paid in full to the Trustee.[3] The seventh

[2] As used herein, the reference "Tr." shall refer to the transcript of the hearing before this Court on March 1, 1996, filed with the Court at Dkt 4584, 3/12/1996.

[3] The Orders granting the Trustee's First and Second Applications for Interim Compensation each allowed the full interim compensation, but imposed a 20% holdback ("the Holdbacks"), and thus authorized the Trustee to pay herself only 80% of the compensation allowed. On February 26, 2004, the Trustee filed an Application for Payment of Holdbacks Imposed By Orders Approving First and Second Applications By Trustee For Interim Compensation. (Dkt. 9452.) That Application was granted on March 26, 2004 (Dkt. 9466), and payment of the Holdbacks was subsequently made.

application, filed on September 13, 2005 is pending before this Court. The amounts sought and approved are set forth below:

TABLE A

Application	Docket Nos.	Period	Hours Expended	Fees	Expenses
First	Application – 6365 Order – 6431	March 1, 1996 – Jan. 31, 1998	2869.7	$710,628.75	$3,144.27
Second	Application – 7168 Order – 7319	Feb. 1, 1998 – July 31, 1999	1751.9	$447,024.00	$6,983.52
Third	Application – 8954 Order – 8975	Aug. 1, 1999 – Sept. 30, 2001	2355.0	$627,955.00	$ 0.00
Fourth	Application – 9243 Order – 9259	Oct. 1, 2001 – Nov. 27, 2002	812.9	$233,510.00	$ 0.00
Fifth	Application – 9388 Order – 9402	Dec. 1, 2002 – Sept. 30, 2003	522.4	$156,690.00	$ 20.24
Sixth	Application – 9558 Order – 9574	Oct. 1, 2003 – Nov. 30, 2004	623.8	$208,611.82	$1,243.86
Seventh	Application – 9762 Order -	Dec. 1, 2004 – Aug. 31, 2005	391.5	$126,573.00	$171.72
Total			**6,457.5**	**$2,522,556.18**	**$11,391.89**

III. LODESTAR INFORMATION

7. Throughout her tenure, the Trustee recorded the time she worked on this case on a day-by-day basis. Such work was services typically associated with the duties of a trustee along with work that was legal advice and legal research provided to counsel also doing legal work for the Debtors' estates.

8. Pursuant to an agreement with the United States Trustee for Region Four, the Trustee has not sought compensation on an interim basis for her legal services to the estate. In awarding final compensation to the Trustee, the Court is advised that some of the work recorded in the time sheets of the Trustee is time for providing legal services to the estate, but no compensation is sought for that separately.

9. Redacted detailed bills set forth on a day-by-day basis the time expended by the Trustee in the performance of services for these estates during each of the First through Seventh

Application Periods. The Trustee submitted these bills with the Interim Applications. They are attached herewith, for ease of reference, as Exhibits 2-8. As can be seen on the invoices for the First through Seventh Application Periods, the Trustee expended a total of 6,457.5 hours in the performance of services for the estates during those Application Periods, and her normal hourly rate during that time ranged from $225.00 to $330.00.

10. When the requested interim fees for the Seventh Application Period, calculated at the Trustee's normal hourly billing rate, are added to the interim fees already awarded to the Trustee based on the First through Sixth Application Periods, total interim compensation at the Trustee's regular hourly billing rate would be $2,522,556.18.

11. For ease of reference, the hourly billing rates which the Trustee charged the estate during her tenure are set forth below:

TABLE B

Trustee's Billing Rates	
Time Period	**Rate Per Hour**
March 1, 1996 – March 31, 1998	$225
April 1, 2998 – July 31, 1999	$240
Aug. 1, 1999 – February 28, 2001	$265
March 1, 2001 – March 31, 2002	$275
April 1, 2002 – December 31, 2004	$300
January 1, 2005 – Aug. 30, 2005	$325
September 1, 2005 -	$330

IV. COMPENSATION REQUESTED IN THIS FINAL APPLICATION

12. The Trustee is, by this Application, requesting final allowance of fees of $8,833,350.00 subject to the statutory cap for Trustee compensation.

13. Pursuant to 11 U.S.C. § 326, this Court may allow reasonable compensation to the Trustee for services performed by the Trustee. Said compensation cannot exceed certain percentages of all monies disbursed or turned over in the case by the Trustee to parties in interest, excluding the Debtor, but including holders of secured and administrative claims. Specifically, the compensation cannot exceed fifteen percent on the first $1,000 or less, six percent on any amount in excess of $1,000 but not in excess of $3,000.

14. As of September 30, 2005, the Trustee has collected $294,395,913.30 for the estate. That amount will be fully and finally disbursed as part of her Final Distribution that will occur as soon as final compensation is determined. The amount requested herein, $8,833,350.00, is the full amount permitted under the formula set forth in 11 U.S.C. § 326.[4]

15. The final compensation requested reflects all of the factors discussed herein and includes a premium for the exceptional result in this case, but is capped by the statutory cap on trustee compensation.

V. CASE HISTORY AND OVERVIEW OF RESULTS OBTAINED

16. Prior to the filing of its bankruptcy petition, MGRE was a leading national specialty retailer of contemporary fashion, operating approximately 1,400 retail stores throughout the United States. It employed over 16,000 employees during peak seasons of operation.

17. MGRE was the parent corporation of approximately 475 wholly-owned subsidiaries, including MGRD, MGRR, Worths Stores Corporation ("Worths"), The Boogies Diners (three diners) a few special purpose corporations, and 465 separate Chess King corporations.

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[4] By the time the Final Distribution is made and assuming *arguendo* that this Application is granted, all of the approximately $294,000,000.00 will have been distributed to creditors.

18. On February 2, 1996, after 26 months of operating under Chapter 11 of the Bankruptcy Code, the Debtors announced that they had run out of cash and lacked sufficient cash to continue operations. The Debtors had suffered losses during the Chapter 11 phase of this case of nearly $400 million. On that same date, the Debtors announced their intent to liquidate, and commenced the liquidation process while still in Chapter 11.

19. On March 1, 1996, upon a motion filed by the United States Trustee and a separate motion filed by a creditor, this Court entered an order converting the cases to Chapter 7.

20. Earlier that same day, March 1, 1996, the Trustee was first contacted by the United States Trustee's office regarding her possible appointment as interim trustee. She was actually appointed interim trustee on March 2, 1996. She had less than 24 hours notice of being appointed to step into this highly contentious situation which required her to operate approximately 420 retail stores and supervise the liquidation of a business which at that time continued to employ over 2,000 employees. The Debtors operated three restaurants which the Trustee had to close in accordance with local health laws.

21. By order dated March 6, 1996, the Court authorized the Trustee to operate the businesses of the Debtors for a six-month period commencing with her appointment.

22. As is described in full below, this has been a truly remarkable case, with exceptional and (at least in this district) unprecedented results. When the Trustee was appointed, it had been projected by the debtors-in-possession that the Chapter 11 administrative claims would receive a fractional distribution. According to the debtors-in-possession, general unsecured claimants had no hope of receiving a distribution at all.

23. The Debtors had achieved the notoriety of becoming the largest failed Chapter 11 reorganization in Maryland. Now, by sharp contrast, at the close of the Chapter 7 case, the

Chapter 11 administrative claimants and priority claimants have all been paid in full and general unsecured claimants have already been paid a 30% distribution. Further, assuming that this request for trustee compensation is granted, the general unsecured creditors will be paid an additional 8% to 10% distribution, for a total distribution of 38% to 40%.

24. At the hearing on conversion of the case, most of the creditors who presented argument to the court argued that there were dangers in converting and bringing a Chapter 7 trustee into the case. The creditors argued that a Chapter 7 trustee who was appointed as interim trustee would face a contested election, which potentially could cause the interim trustee to delay needed decisive action in the case.

25. To quote the Debtor's chief counsel,

> **MR. FRANKEL:** More importantly, Your Honor, we think the process of a Chapter 7 trustee is a disaster for this case … I can already see an issue of who gets to elect him … We do not need two trustees over the next 60 to 90 days in this case. (Tr., at p. 141.)

26. The attorney for the United States Trustee for Region Four, who had requested conversion and the appointment of a trustee, was also concerned that an interim trustee might not act decisively.

> **MS. MOORE:** Your Honor, Mr. Frankel is correct. The potential downside of a Chapter 7 is and always has been the delay inherent with the possibility that significant creditors in this case would request an election. I have been unable to figure a way to get around that problem. … Assuming that they decide to do that, there is a certain amount of delay inherent in the process … I assume there would need to be discovery … Your Honor would have to hold hearings … It's a definite problem, Your Honor. I have no idea as to the time frame it would take. It's a real problem…

> **THE COURT:** Now, assuming there is such a person, in a [Chapter] 7 apparently there's a question of whether they can act effectively until they're a permanent trustee?
>
> **MS. MOORE:** That's correct, Your Honor.
>
> **THE COURT:** Aren't they bound to act as an interim trustee until they're replaced?
>
> **MS. MOORE:** Yes, Your Honor. But I think practically speaking, the fact that there is a pending election out there is going to have some impact and is not going to be a positive impact on the process if such a request for an election is made. (Tr. at pp. 145 - 50.)

27. The above colloquy demonstrates the concern that the Chapter 7 case would be delayed to the detriment of creditors if the creditors demanded an election of the trustee.

28. In fact, one of the first things that the Trustee did was to personally contact representatives of all of the significant parties in interest and invite their confidence in her. While all interim trustees face a potential contested election, the parties in MGRE were intensely distrustful of each other. Further, intense lobbying had been ongoing for the position of trustee and liquidation agent for the trustee prior to the March 1 hearing. The Trustee was a newcomer to the case and had not been involved in the lobbying. She had a delicate political job to complete in order to avoid a contested election and gain the respect and confidence of the parties in interest so that she could get started on a forceful trusteeship. She did just that and the predicted contested election never materialized.

29. Another concern with appointing a "newcomer" trustee was the anticipated lead time required for the trustee to understand the problems and issues and take on the necessary decisive role. Again, the Debtor was concerned that a trustee would not benefit creditors, as evidenced by the transcript:

> **THE COURT:** What's going to happen with this point that the debtor is making in either of these instances with the concept of continuity, of negotiations that are ongoing, of a trustee, whoever they are, and if they switch coming into the situation and having a lead time, a warm up time to understand what's going on? …
>
> **MS. MOORE:** I would agree with Mr. Sherman's statement that, as it took him approximately a month to get up to speed, it would take someone new approximately a month … It's my understanding in other cases where there have been interim trustees and elections pending there have been problems because that person has been subject to serious criticism from all sides during the wait for the election to be concluded and after the election process. (Tr. at pp. 151–52.)

30. It did not take the Trustee a month, or anything close to a month, to take charge of the case and begin to remedy the complaints of the parties–in-interest about the veracity and non-responsiveness of the Debtors at the end of the Chapter 11 case. In fact, before the beginning of the next business day after her appointment, the Trustee obtained orders which preserved over $325,000 in cash for the estate from checks in float from the Chapter 11 case and which prohibited the draw-down of a letter of credit, thus preventing the use of $2.0 million of the estate's cash.

31. The parties conducting the liquidation sale of the Debtors' inventory ("GOB Sale"), Schottenstein Bernstein Capital Group and Nassi Group ("Schottenstein"), complained at the hearing that monies that they were entitled to had been held up by the Debtors. Schottenstein also claimed that the GOB Sale was in disarray because promised stores were not available, utilities were cancelled in stores needed for the sale, and personnel promised by the Debtors for the sale were not available. Counsel for Schottenstein summarized it thus:

> **MR. WEISMAN:** And I feel that there are legitimate serious problems … Our money and our conducting the sale is the primary basis of money coming into this estate for creditors and to pay the other obligations, the landlords and whoever else has to be paid. If we were to walk away and you've got merchandise spread around 500 stores and we wind up fighting on some basis to get our

> money back, it is going to deteriorate even further and there's going to be less available for anybody in this case. (Tr. at pp. 160-61.)

32. Under the Trustee's management, such complaints were not heard again. In fact, Schottenstein was very satisfied with the conduct of the rest of the GOB Sale, and MGRE employees that worked on the sale received substantial financial bonuses.

33. Most of the fears of the parties-in-interest concerning the appointment of a Chapter 7 trustee, centered upon future economic recoveries by the estate. The landlords were particularly concerned about that because they were very significant creditors. Mr. Leanse spoke at the hearing on behalf of his clients, as did Mr. Pollack.

> **MR. LEANSE:** … and I suggest to the Court, unfortunately the confusion that will occur if we move to a Chapter 7 will probably be economically devastating.
>
> **THE COURT:** Tell me why the [Chapter] 11 is the lesser of evils on this? …
>
> **MR. LEANSE:** Your Honor, I think it's a matter of timing with respect to a comparison to a [Chapter] 7 … Unfortunately, this debtor started this case just over two years ago. My recollection is there was approximately $100 million in cash, 1,400 retail locations. What we have today is projections that show us with a debtor that has $2 million in cash[5], no retail locations, … And I believe that we need to focus on what we are going to do to put this case unfortunately out of its misery … My clients will support the appointment of Mr. Sherman as a Chapter 11 trustee because it is the most expeditious way to salvage whatever value remains in this estate. (Tr. at pp. 164-66.)

34. This Court did the right thing in appointing a Chapter 7 trustee in this case. That was the best way to salvage the remaining value. The recovery from Ernst & Young LLP ("E&Y") would not have been considered by the Chapter 11 professionals because they were too close to the case to see it.

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[5] He was close. There was about $2.5 million in available cash.

35. The bleak picture of the case at that time was finally painted by Mr. Pollack.

> **MR. POLLACK:** As we set forth in our response and our various objections, it is most unlikely that there will be anything available for unsecured creditors. I think we will need more than a minor miracle to see that. (Tr. at pp. 171-172)

36. The landlords, and all of the parties-in-interest, got more than a minor miracle. From fears of a trustee immobilized by an election and spending her days "studying" the problem, and merchandise spread around 420 stores and a fight over who gets the money, and only $2 million in cash and no stores, has come almost $294,395,913.30 in cash recoveries. This result is directly attributable to the hard work, creativity and relentlessness of the Trustee.

37. The Trustee should be compensated for this major miracle through a final fee for her work. That is the maximum fee that this Court is permitted by statute to award to a trustee in a case commenced in 1994. Had the case been commenced after October 16, 2005, her compensation would have to be a commission on monies collected for such worthy work, and the maximum commission would certainly be awarded.

38. The Trustee has substantially completed her task. She operated the business, closed and vacated all of the retail locations of the Debtors, liquidated all of the real estate, liquidated the tangible personal property of the Debtors, liquidated intangible personal property of the Debtors, filed 800 avoidance actions, objected to thousands of claims, and put hundreds of millions of dollars into the hands of creditors who had expected nothing. She did this by perseverance, creative thinking, solid strategic decision making, aggressively and diligently pursuing recoveries, and opposing claims that were not proved. She, quite literally, looked under every stone to find the last dollar for the creditors.

39. The recoveries obtained by the Trustee, which total $294,395,913.30, are summarized below. Because amounts have been rounded for purposes of ease of reference in the table, the Recovery Amount in Table C is slightly more than actual cash recoveries.

TABLE C

Description of Recovery	Recovery Amount
Corp.Headqtrs/Distrib Ctr/ Whse-Fashion Way	$19,324,000.00
Townhouse (Bel Air, Maryland)	$84,000.00
NJ Condominium	$58,000.00
	$19,466,000.00
Available Balance -MGRE Main accounts	$1,811,000.00
Available Balance- MGRR, Inc Bank Account	$45,000.00
Available Balance-MGRE Payroll Accounts	$2,174,000.00
	$4,030,000.00
Recovery of Store/ Cash Drawer/ Petty Cash	$690,000.00
Recovery of Retail Store Bank Deposits.	$2,119,000.00
Recovery of Disputed BankCard Balances	$4,078,000.00
Store Theft Criminal Restitution	$55,000.00
	$6,942,000.00
Inventory/ Settlement-Schottenstein/Nassi	$18,761,000.00
	$18,761,000.00
Recovery of Deposits held by Secured Lenders and Lessors, etc as collateral	$9,926,000.00
Recovery of Escrow/Deposits held by Utilities	$59,000.00
Recovery of Escrows held for Sales Taxes	$428,000.00
Recovery of Reitman Escrow	$54,000.00
Recovery of Unclaimed Funds	$22,000.00
Recovery-Professional Escrow	$2,000,000.00
Recovery-Checks in Transit	$336,000.00
	$12,825,000.00

Description of Recovery	Recovery Amount
Insurance Refunds	$1,018,000.00
Tax Refunds	$5,237,000.00
	$6,255,000.00
401k Settlement	$79,000.00
Misc. Settlements/ Refunds / Recoveries	$421,000.00
Settlement of Surety Bond Claims	$707,000.00
Preference Settlements	$9,775,000.00
Crystal Settlement	$951,000.00
Ernst & Young Settlement	$185,000,000.00
Swidler Settlement	$38,000.00
Phoenix American Insurance Settlement	$279,000.00
Berkshire Insurance Settlement	$54,000.00
	$197,304,000.00
Interest	$23,582,000.00
	$23,582,000.00
Sale proceeds-Patents, Trade Names	$198,000.00
Sale Proceeds-Autos and Truck	$564,000.00
Sale proceeds-Furniture, Fixtures and Office Equipment	$1,953,000.00
Sale proceeds-Heavy Warehouse Equipment	$187,000.00
Sale Proceeds-Inventory - non GOB	$420,000.00
Sale Proceeds-Leaseholds	$1,500,000.00
Sale Proceeds-General Supplies Auction	$404,000.00
Sale Proceeds-Caves Valley Membership	$45,000.00
	$5,271,000.00
Subtotal of Above (Amounts are Rounded)	**$294,436,000.00**

40. The Trustee's results with respect to claims objections are summarized in Table D below. Almost 9,000 claims were filed in this case, including motions for administrative claims. The majority of the claims filed asserted more than one type of claim. For example, most claims included a general unsecured claim and an administrative claim. The Trustee created and

implemented effective procedures for the review and audit of the proofs of claim, and filed objections wherever appropriate. Both personally, and through her counsel, she vigorously, but fairly and effectively, prosecuted the objections. Her results? She obtained orders sustaining her objections and disallowing $565 million dollars in claims. This translates into a reduction of Chapter 11 claims by 80%, secured claims by 46%, priority claims by 94%, and general unsecured claims by 61% -- truly exceptional results.

41. She used computer-based systems to record information concerning the proofs of claim and the status of their allowance. Even though she utilized the services of a state of the art bankruptcy-trustee software provider, the software was not sophisticated enough to easily handle all of the different types of claims asserted in the case. The Trustee worked with the software provider to develop custom-tailored programs to meet the extraordinary needs of MGRE.

42. The specific dollar results of the proof of claim allowance process are summarized in Table D below.

TABLE D

Class	Filed Claim Amount	Allowed Amount	Disallowed Amount
Chapter 11 Administrative Claims	$140,134,032.27	$28,409,049.57	$112,117,845.79
Secured Claims	$24,327,834.46	$13,908,629.30	$10,419,205.16
Priority Claims	$43,696,031.35	$2,757,961.94	$40,938,355.72
General Unsecured Claims	$664,927,276.07	$263,673,059.05	$401,783,367.93
Total	$873,085,174.15	$308,748,699.86	$565,258,774.60

VI. DETAILED DESCRIPTION OF TRUSTEE'S RECOVERIES

43. Detailed descriptions of the Trustee's recoveries for these estates are set forth below. The dollar amounts recovered are summarized in Table D above and a narrative description follows below.

A. RECOVERY OF ASSETS: THE ERNST & YOUNG LITIGATION

44. The single largest recovery of assets was accomplished through the malpractice action that the Trustee initiated against E&Y, accountants to the Chapter 11 Debtor. The case was unprecedented – neither the Trustee nor, apparently, the press which followed the case, was aware of another such suit against a Chapter 11 professional. In fact, only a few attorneys and firms would consider looking at the facts and taking the case. Ultimately, it was hugely successful – reaping $185 million for the estate.

45. The Trustee's diligence, perseverance and courage to forge ahead with the unpopular and unprecedented cause of action paid extraordinary dividends for the estate. From the time she was appointed, the Trustee was committed to identifying those responsible for the failure of the Chapter 11 Debtors. Indeed, both counsel to the United States Trustee for Region Four and counsel to a group of landlords urged upon her the necessity of an investigation into the causes of the corporate failure.

46. She personally conducted an investigation into the causes for the Debtor's demise. From the beginning, her belief was that the work of E&Y had not been up to the standards of a qualified turnaround professional. Some of the other professionals assisting her strongly recommended that she retain investigative professionals to conduct the investigation. She met with several professionals and obtained estimates of the cost of having such professionals conduct the investigation.

47. She rejected the proposals she received because the cost of the investigation alone would have been anywhere from one quarter to one million dollars.

48. The United States Trustee for Region Four also urged her to conduct the investigation personally. Having never done such an investigation on the scale of that necessary for MGRE, she was reluctant, but decided not to choose the safe and easy path of hiring professionals. She decided to conduct the investigation herself, while, at the same time, she was working on the allowance of the Chapter 11 administrative expense claims of $140,000,000.00.

49. After nine months of personally pouring through documents, court records and pleadings, personally analyzing financial statements and personally interviewing the Chapter 11 professionals, the Trustee concluded that such gathered evidence that she had found proved that E&Y had committed professional turnaround malpractice in connection with its representation of the Debtors in the Chapter 11 proceeding. She also concluded that the evidence showed a lack of skill of the E&Y personnel working on the case, which in turn caused the reorganization to fail, thus making the claims of thousands of claimants totally worthless.

50. The settlement of the suit proved that her judgment was correct. The Trustee was successful because she had the perception, the acuity, and the perspicacity to look at the same facts many other talented and skilled professionals had looked at, and to draw a very different conclusion.

51. After consideration of the results of her investigation, and weighing the possible costs against the possible recovery, the Trustee decided that it was appropriate for the estate to initiate a lawsuit against E&Y to recover damages for the losses caused to the Debtors by the professional malpractice.

52. Her request to several top notch attorneys and firms to consider handling the suit on a contingency fee basis did nothing to confirm her judgment. No firm, including her own firm, was willing to handle the action on a contingency fee basis, except one.

53. The Trustee retained the services of Snyder, Weiner, Weltcheck, Vogelstein & Brown ("the Snyder Weiner firm") to pursue the cause of action against E&Y because she had faith in them and they agreed to handle the case on terms. She negotiated a retainer agreement that reduced the monetary risk to the estate by structuring payment on a contingency basis, with counsel funding out-of-pocket costs such as expert witness fees (which were projected to be very high). When she retained the Snyder Weiner firm, it was the only firm willing to represent the estate under this structure. This structure allowed the estate to avoid totally the monetary risk of the litigation.

54. The Trustee understood her case so well before she retained counsel that the application to retain counsel contained amazingly accurate estimates of the expenses and potential recoveries. In the suit, the Trustee had the acuity to see what no one else saw – malpractice.

55. On December 1, 1997, the Trustee filed suit against E&Y, alleging fraud, fraudulent concealment and turnaround negligence/malpractice. It alleged, among other matters that the team at E&Y assigned to consult with MGRE was inexperienced and incompetent and that E&Y had engaged in bait-and-switch tactics when it made its bid for the engagement. The suit sought judgment against E&Y in the amount of $1 billion plus punitive damages in the amount of $3 billion, and was the subject of national headlines.

56. E&Y filed an Answer denying the allegations of the Complaint, and filed a counterclaim against the Trustee seeking $954,704.00 that, E&Y alleged, was the remaining

amount the Debtors owed E&Y for services rendered in connection with the Chapter 11 proceedings.

57. This filing of the suit was unpopular, especially among segments of the communities of accounting, turnaround, and bankruptcy professionals. The Trustee's decisions jeopardized her personal, legal, and business relationships among those communities and her peers. As a successful private practice attorney, she had relied on referrals from those communities for her livelihood.

58. The Trustee played a significant role in, and assumed responsibility for, the overall direction of the E&Y litigation. She worked closely with her counsel in preparation of pleadings and legal memoranda, document production, depositions and motions. The litigation was rigorous, strenuous and arduous and time consuming. The Trustee personally expended almost 600 hours on the E&Y litigation.

59. The Trustee demanded of counsel that their efforts be focused on bringing the case to trial within 18 months to two years after its commencement. This meant that both the Trustee and counsel would not only have to devote substantially their full time to the case, but would also have to work an arduous schedule. Evening and weekend work was expected and demanded.

60. At the time the lawsuit was commenced, published statements in the press were skeptical as to the likelihood of success of the case, and expressed the views that you could not sue a consultant for giving you their opinion and that the theory of the case was unprecedented and unlikely to be successful. While the Trustee always viewed the action as a professional malpractice action (an area of law which is well established), other observers with experience in the area predicted that it would be extremely difficult, if not impossible, for the Trustee to

establish a requisite standard of care for a consulting/restructuring accountant acting in a consulting capacity. If the Trustee could not establish such a standard, she could recover no damages and lose the lawsuit.

61. The litigation was hotly contested. Commencing with the contest over which forum would hear the case, continuing through motions to dismiss and motions for summary judgment, and ending with motions seeking to postpone the trial, it was necessary for extensive legal papers to be prepared virtually on a weekly basis. It came to be expected that both the Trustee and the trial team would work evenings and weekends to insure that the litigation was kept on a fast track.

62. The Trustee also assumed a significant role in choosing, coordinating, and working with the experts in this case, including the damages experts, who played a pivotal role, since the issue of damages was integral to the case. Through it all, the Trustee worked side by side with her counsel, assuming responsibility for making strategic decisions and for reviewing and understanding all evidence and expert opinions in order to make critical decisions consistent with the facts.

63. Meanwhile, as the case progressed, the Trustee, and her decision to hold E&Y accountable for the malpractice, were the subject of widespread criticism. The resolve of the Trustee to bring the suit, emanating from self-confidence in her investigation and conclusions, was a necessary factor in bringing the case to trial. The Trustee would not conduct any settlement discussions until the very eve of trial when her strategic position was at its strongest.

64. Trial was to begin on April 26, 1999 in the Circuit Court for Baltimore City. On the eve of trial, knowing that her tough prosecution of the case had forced E&Y to bring in new

trial counsel who had not had sufficient time to prepare, the Trustee was relentless and demanding in settlement discussions.

65. The Trustee personally negotiated the settlement, with her trial counsel at her side. From the commencement of negotiations, an offer of close to $100 million was made by E&Y. As a fiduciary, the Trustee knew that she could be subject to harsh criticism, and more, if she refused such a large offer, especially when E&Y indicated that no additional amount would be offered, and then lost the case at trial. It took great courage and strong legal conviction to hold out for more. Despite statements that $100 million was a final offer, several more and larger offers were also made and refused by the Trustee. Because she had involved herself so much in trial preparation, she was strong in her convictions that she would prevail at trial and that she could prove significant damages. Nevertheless, she took substantial, personal risk in continuing to demand a larger settlement.

66. The negotiations resulted in a record setting cash settlement of $185 million fully paid by October 5, 1999. E&Y also agreed to waive any claim for the balance due for accounting services rendered during the Chapter 11 proceeding ($954,704.00), making the settlement value almost $1 million more.

67. The Trustee fashioned a perfect vehicle that completely insulated the estate and its creditors from the risk of this litigation, concurrently shouldering for herself the professional risk of failure and ignominy. When a trustee is so successful under the above circumstances, the trustee should be rewarded for her creativity, perspicacity, resolve and assumption of risk of failure. Not only was this estate enriched by this case and "the settlement," but it changed an entire industry.

68. In an article in *Business Week,* highlighting the settlement in E&Y, it was noted that corporate clients now insist on consulting contracts that name exactly who will be working on the consulting team in order to protect themselves from the bait-and-switch that the Trustee alleged happened to MGRE in the E&Y arrangement. Success for the creditors in this case also blazed a trail for other businesses and caused the consultant industry to rethink its actions in making bids for work and in performing the work.[6]

69. Turnaround professionals are now aware that they are liable for over-promising and failing to adhere to professional standards and practices adopted by professional organizations such as the Turnaround Management Association.

70. Turnaround specialists no longer work for the large accounting firms. This has strengthened the independence of such professionals by severing the ties with the corporate auditors.

B. RECOVERY OF ASSETS: OTHER ASSETS

71. During her tenure, the Trustee also worked diligently to successfully recover many other assets for the estate. The task she faced, and the responsibility she assumed, were enormous. It would be impossible in the context of this paper to describe every effort she made, every plan she structured, or every instance in which she persevered in negotiations to get the last dollar for the creditors. Set forth below, however, is a description of twenty-five categories of recoveries she made for the estate – in some, she obtained results far beyond what was expected. Each, however, demonstrate the tireless perseverance and creativity that she brought to her task. Described below are some of these exceptional results.

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[6] Unfortunately, the consultants fought back and in an amendment to the Bankruptcy Code, enacted by Congress in 2005, suits against bankruptcy consultants are to be brought in the Bankruptcy court without a jury.

i. Inventory Recoveries -- $18.7 Million Recovered.

72. The Trustee has recovered approximately $18.7 million from inventory liquidation through the Schottenstein sale. The total inventory recovery by the estates in Chapter 7 and Chapter 11 from the GOB Sale with Schottenstein/Nassi Group was approximately $21,450,000.00. Of that, about $18.7 was received by the Trustee from her work in continuing the GOB Sale and in a subsequent settlement with Schottenstein.

73. At the time of the Trustee's appointment, the Debtors were engaged in a going-out-of-business sale ("GOB Sale") utilizing the services of Schottenstein. Schottenstein had filed a motion seeking the appointment of a trustee in this case alleging, *inter alia*, that the Debtors had repeatedly failed to provide information and records to Schottenstein and to comply with the agreement and court order concerning the GOB Sale. Specifically, Schottenstein alleged that, contrary to the contract between the Debtors and Schottenstein concerning the sale of the inventory of the Debtors (the "GOB Agreement"), the Debtors had collected and retained proceeds of sale and were refusing to turn over the proceeds that Schottenstein alleged to be approximately $5 million. The Debtors alleged that Schottenstein had failed to pay them amounts required pursuant to the GOB Agreement, and that accordingly, they were justified in withholding sale proceeds. They complained that they could not deal with the officers of the Debtor.

> **MR WEISMAN:** But my client … has put $5 million fresh cash into this debtor's estate at this point in time and has not received compliance with the terms of the agreement in terms of the order … And we have not had anybody responsible at the debtor level who has been able to deal with the issues that we have had. … We are having difficulty in dealing with the officers of the company. (Tr. at pp. 155-156)

74. In order to avoid complete chaos, the Trustee had to resolve the disputes concerning the GOB sale. The success of the entire sale was in peril because there was a failure of trust between the MGRE personnel and the Schottenstein personnel. At that time the principal non-real estate asset of the estate was the inventory and the receipts from the sale of the inventory were expected to be the largest recovery.

75. Schottenstein and the Debtors were embroiled in disputes about the meaning and application of many provisions of the GOB Agreement and the payment of funds by Schottenstein to the Debtors. Additionally, the GOB Agreement required that a physical count of inventory occur early in the GOB Sale. Schottenstein was in control of the shipment of inventory under the GOB Agreement, so that it could maintain proper inventory levels at the stores. While the count did occur, Schottenstein did not stop the shipment of inventory during the count, a practice that was contrary to normal industry practice. The Debtors believed that the resulting count would be less than it would have been had the shipment of goods been halted during the physical count and they disputed the accuracy of the final inventory.

76. The estate needed immediate cash from the sale to continue in business while the sale was being concluded and the other business of MGRE wrapped up. Under the terms of the GOB sale agreement, the Debtor had to pay all of the rent due on a current basis to landlords whose stores were needed for the GOB Sale. Unless advances were received on a current basis from Schottenstein, the Debtors did not have enough cash flow to do that and pay their other current obligations. The GOB Sale agreement also required MGRE to employ all of the sales personnel that Schottenstein needed for the GOB sale, including advancing their wages and salaries. Allegations that the Debtor had not performed as required by the GOB Sale agreement had prompted threats that the funds needed would not be advanced. The Trustee had to avoid

defaulting on the payment of employee payroll if she was to have any chance to complete an orderly liquidation.

77. Fidelity was owed the balance of its debtors-in-possession financing loan of about $6 million and the Debtors had agreed, and been ordered, to repay that. The estate did not have the funds to do that unless it completed the GOB Sale in a prompt and efficient manner. Delay in the sale also meant that more store rent would be due to Landlords, decreasing the net recovery from the GOB inventory. Pressure was intense and quick, but wise, action was needed to defuse the situation.

78. Schottenstein was also threatening legal action because the Debtors were unable to fulfill certain conditions stated in the GOB agreement with respect to the volume of inventory that the Debtors had promised to make available for sale by Schottenstein. The GOB agreement was conditioned on there being $60 million of merchandise at "Retail Value" and $8 million of "On Order Inventory at Retail Value", all as defined in the GOB agreement. Not the entire inventory had been received from vendors at that time, and the Trustee had to oversee the delivery of goods from freight companies, the processing of inventory in the distribution center, and the shipment of inventory to the stores as directed by Schottenstein. Disputes broke out concerning almost every facet of the GOB Sale. Keeping the peace necessitated long hours, an understanding of business realities, good judgment and the competence to handle large, complicated matters. It also required the constant and continuous availability of the Trustee.

79. The Trustee executed a March 5, 1996 agreement between the Trustee and Schottenstein to temporarily ease the tensions and allow the GOB Sale to proceed.. After the signing of the March 5, 1996 agreement, the Trustee worked with Schottenstein concerning a myriad of issues having to do with the sale of fixtures, the closing of stores, the honoring of store

credits, as well as various credit card company chargebacks. By April 9, 1996, the Trustee had concluded another agreement with Schottenstein to deal with the problems that had arisen since the first agreement. The April 9, 1996 agreement involved an all-night negotiating session to solve the problems caused by an Appeals Court decision which held that the Trustee was not entitled to use stores which Schottenstein was then using and had the contractual right to use until April 22, 1996. Subsequent to the negotiation and signing of the April 9, 1996 agreement, the Trustee continued negotiations with Schottenstein concerning what would be the "final payment" between Schottenstein and the Trustee. The Trustee worked closely with C. W. Amos, the accountants for the Trustee, in determining what the responsibilities of each party were in the final reconciliation between Schottenstein and the Trustee. That matter was complicated by the recurring issue of who bears what responsibility for chargebacks from MasterCard, Discover and American Express.

80. In dealing with the Schottenstein issue, the Trustee has also had to deal with various personnel issues relating to the GOB Agreement with Schottenstein. During the GOB Sale, the employees employed as district managers, managers and sales people remained employees of the estate, but their salaries, bonuses, etc. were to be reimbursed to the estate by Schottenstein. Disputes arose under the GOB Agreement concerning reimbursement to the Trustee for these expenses because the GOB Agreement did not specifically provide for reimbursement of the salaries, bonuses, etc. of such employees. Failure to obtain reimbursement would diminish the net recovery to the estate from the inventory.

81. In addition, the Trustee settled with Schottenstein on various other reimbursement matters that arose between Schottenstein and the Trustee because the GOB Agreement was incomplete, including responsibility for long distance telephone calls made from the stores,

Federal Express charges for delivery of payroll, etc., the appropriate forum for any claim by Schottenstein for pre-February 8, 1996 chargebacks and settlement of the amount of money owed for "unpolled stores" and missing deposits. The Trustee also negotiated a settlement with Schottenstein regarding the issue of what responsibility it bore financially for home office personnel as opposed to store personnel who assisted in the going out of business sale and on the issue of the responsibility for stolen store deposits.

82. One of the major items of dispute was the methodology for the pricing of the "GOB" goods under the terms of the GOB Agreement and the discount computation on sales both from the stores and the Joppa, Maryland warehouse and headquarters.

83. The Trustee managed the situation, defused the disputes, negotiated with Schottenstein, and completed the GOB Sale. The negotiations were not easy. Skill and creativity were rewarded when an additional recovery of $1.0 million was achieved after weeks of negotiations with Schottenstein.

84. The net result of the sale was that the Debtors received $20,435,000.00 from GOB Sale proceeds; about $17.7 million of it being received during the Chapter 7 portion. The Trustee, with the help of accounting personnel, had documented various alleged breaches of the agreement by Schottenstein, and, through a later settlement, was able to recover an additional $1.0 million for the inventory. Thus, the entire economic value recovered by the Debtors for the inventory was $21.4 million with $18.7 million being recovered by the Trustee.

ii. Sale of Corporate Headquarters/Distribution Center/Warehouse Facility in Joppa, Maryland - $19.3 Million Recovered.

85. In August, 1996, the Trustee successfully sold the Debtors' corporate headquarters, warehouse and distribution center located at 3300 Fashion Way, in Joppa,

Maryland ("Fashion Way"). Fashion Way was sold to the May Company, recovering $19,324,000.

86. The Trustee's negotiation garnered for the estate several million dollars more than the Debtor's counsel had advised the Debtor to accept. After several months of marketing and negotiation with prospective buyers, the Trustee was able to recover over $3 million more than the $16 million, which was the best price the Debtors had been able to obtain at the time of the Trustee's appointment. The Trustee also successfully obtained a settlement with the mortgage lienholder to waive more than one million dollars of the debt on the building. From the proceeds of sale, the Trustee repaid the negotiated mortgage debt and all outstanding real estate taxes.

87. The sale of Fashion Way was fraught with difficulties. The premises consisted of 200,000 square feet of office space and an 800,000 square foot warehouse and automated distribution center, neither of which was amenable to separate use. The office space was primarily suitable for use as a headquarters for a large corporation, and there was no demand for such a facility in the geographical area. Although warehouse space was in demand, over 60% of MGRE's 800,000 square foot facility configured as a distribution center – which presented enormous marketing problems. The distribution center held thousands of feet of conveyors and other equipment permanently attached to the facility in a multi-storied configuration. The cost and difficulty of dismantling the intricate conveyor for use as a warehouse was even more problematic because the conveyors and other equipment were integrated into the building's electrical and fire systems.

88. The unusual and very user-specific configuration of the distribution equipment, which extended throughout the height and width of the distribution center, rendered the space far more difficult to market than would an empty warehouse. The distribution equipment was of

limited use to another user as configured. The equipment was specially designed for the Debtors, and no other retail operation in the Untied States used a system of this size or design.

89. Faced with the need to sell this behemoth, saddled with the permanently affixed conveyors that no one wanted, the Trustee evaluated how to recover value for the estate. One option was to remove the distribution equipment, but that would come at enormous cost – not just the cost of removal, but the cost of holding and maintaining the building for the many months that it would take to dismantle the distribution system. Another option would be to sell Fashion Way "as is."

90. The Trustee investigated whether the distribution equipment could be removed and sold in "down and stacked" condition. For this, she obtained appraisals of the equipment from equipment industry professionals. She also obtained from them estimates of the cost and time that would be required to take down and stack the distribution equipment. The Trustee also solicited bids from companies who had the capability to remove the equipment, requesting both cost and time estimates. The experts and removal companies concurred that it would take nine to twelve months to dismantle the system. Once dismantled, it would sell as scrap metal. Based on the time estimates she obtained, the Trustee herself prepared estimates of the indirect costs – such as the cost of insurance, security, utilities, taxes, mortgage interest and other incidentals – that would be incurred during a nine to twelve month removal period.

91. After a careful analysis and evaluation of this information, the Trustee decided that Fashion Way was best sold with the distribution equipment installed. None of the potential purchasers of Fashion Way wanted the distribution equipment, and all offers required a broom clean facility (with all distribution center equipment removed). Even though the Chapter 11 Debtors had been negotiating the sale as with all distribution equipment removed was not a

reasonable way to sell Fashion Way, according to the Trustee's analysis. It took a great deal of courage to reject all offers to purchase Fashion Way. She did that and then she notified the potential buyers that her sale terms were with the distribution equipment in place, subject to the Trustee's right to remove selected items of distribution equipment for separate sale. In other words, she insisted that the buyer, not the bankruptcy estate, assume the cost and burden of distribution equipment removal.

92. The Trustee negotiated with several prospective purchasers. The negotiations were typical of those usually encountered in the sale of a $20 million building. Added to the usual difficulties of the negotiations were (i) the threat of the mortgage lender to object to the sale; and (ii) the difficulty in negotiating a stalking horse sales contract. Within three months of the conversion to Chapter 7, she completed negotiations and closed on the sale three months later receiving a price of $19.4 million -- more than $3 million more than the offers which the Debtor had been entertaining prior to the Trustee's appointment. She also recovered additional amounts from the separate sale of removable parts of the distribution center equipment. Those additional recoveries more than covered the costs for appraisals and opinions from experts.

93. The sale required that the corporate headquarters portion and the warehouse portion of Fashion Way be in a broom clean condition at the time of closing. As will be shown in the later portions of the Application, broom cleaning portions of Fashion Way was a monumental task to complete while auctions and the GOB Sale were ongoing.

iii. Retail Store Deposit Accounts ($2.1 Million) and Cash Register Drawers ($690,000.00) -- $2.8 Million Recovered.

94. At the time of conversion, the testimony at the Court hearing on March 1 was that the Debtor had "almost" $2.0 million in "embedded" cash – in cash register drawers and retail

store deposits. The Trustee recovered $2.8 million from the drawers and the deposits – $700,000 more in "embedded" cash than the Debtors thought they had.

95. Recovery of over $2.1 million from store deposits was not the simple task of asking the banks to turn over deposits to the estate. One of the first problems was locating the banks that had the deposits.

96. A major factor contributing to the necessity of filing Chapter 11 was the limited success in integrating the 465 store Chess King acquisition into the Debtors' management information system ("MIS"). The acquisition occurred less than a year before filing, and MIS had limited success integrating all of the data. The Chess King retail store information was not available in necessary detail for the purpose of locating store deposits. The long duration of the Chapter 11, coupled with several waves of layoffs, hampered the ability of MIS to update information.

97. Clearly, the retail stores had local deposit accounts. Some stores had more than one account. But, as the debtors-in-possession closed stores, less than a vigorous effort was made to recover balances in the store deposit accounts.

98. Because of both the number of accounts and limited success of the MIS integration of the Debtors' store deposit accounts as of the date of conversion, the task of reconciling and recovering monies from these accounts was complicated. On the petition date, the Debtors operated approximately 1,400 retail stores. Most stores had their own separate deposit account with a bank in or near the mall in which the store was located. By the time of the conversion to Chapter 7 and the Trustee's appointment, the Debtors had closed approximately 950 of these stores, and 420 stores remained open.

99. However, the Debtors did not complete reconciliations of the monthly deposit accounts for the stores closed during the Chapter 11 phase of the case; nor did they, in most cases, close the bank accounts. The Trustee faced the task of locating the banks holding deposits and obtaining the funds on deposit – both for the stores that had been closed by the Debtor and the stores that were being closed by the Trustee. The banks holding deposits were located in 44 states and the District of Columbia. In many cases, bank statements could not be located and, while the Debtors' accounting records showed balances, the accounting did not show the bank name or location.

100. In order to recover the monies in accounts once they were located, the Trustee faced the problem that during the Chapter 11, General Electric Credit Corporation ("GECC") had notified bank depositories of its security interest in those bank accounts. Although the Debtors were no longer indebted to GECC at the time of conversion, collection of the balances in the accounts was hampered because many banks refused to release the funds due to GECC's previous notification.

101. The Trustee implemented procedures to prove to store depository banks that GECC no longer claimed the funds. She obtained proof from GECC that its lien was released and demanded payment of the reconciled balances from the banks. Still, many banks ignored the Trustee's notification and refused to turn over the deposits.

102. Ultimately, the Trustee obtained release of all of the deposits; however, many of the banks that had been recalcitrant in releasing the deposits now claimed that substantial fees had accrued while the accounts remained open but dormant. The Trustee pursued recovery of all deposit balances and obtained all deposits without the payment of fees and without suing. After

collection of the balances that the banks stated were due, all bank account statements were reconciled. That reconciliation generated further recoveries from the banks.

103. Store cash registers were another thorny problem. Each of the approximately 420 open stores had register cash that had to be collected. Because store morale was low, theft of the cash was problematic. Creative solutions implemented by the Trustee tied the final payment of store closing bonuses to complete reconciliations and recovery of register cash by store personnel. The Trustee's direction insured that register cash was removed by trusted store employees, accounted for and deposited before the stores were closed.

104. The Trustee also recovered register cash from the stores that the Debtors closed during the Chapter 11. During the Chapter 11 phase of the case, when stores closed, the store employees boxed the store's equipment and fixtures in large boxes and shipped the boxes to the Joppa warehouse.

105. When the Trustee first entered the Joppa warehouse, she observed that most of the aisles in the warehouse were clogged with large moving boxes from stores, which contained store equipment, fixtures and cash registers. Substantial amounts of cash were still contained in the drawers of the cash registers in the boxes. The Trustee selected trustworthy employees to open the boxes and account for register cash.

iv. Recoveries from Bankcard Service Companies: (Escrows, Chargebacks, Refunds, and other Adjustments) -- $4.0 Million Recovered.

106. This trusteeship was intelligently crafted and resolutely implemented in order to both collect funds and reduce claims. To that end, the Trustee developed and managed a recovery effort which ultimately recovered approximately $4.0 million from bankcard service companies. The recoveries were from: surplus escrows that were established to protect the bank

card service companies from exposure to chargebacks; refunds of disputed items; recovery of items that had been charged back in error; and credit charges.

107. As large retailers, the Debtors had bank card accounts with several card service companies including Novus Services, American Express, Diner's Club, Discover and MasterCard/Visa/NABANCO ("Bank Card Company" or "Companies"). Substantial assets were tied up in the various reserves, escrows and chargebacks held by each company. For each Bank Card Company, the Trustee created, supervised and directed a structured review of their statements of escrow balances, chargebacks and charge card proceeds and compared them with the Debtors' records. Major discrepancies existed, which were unfavorable to the Debtors.

108. Pursuant to the Debtors' agreements with the Bank Card Companies, the Debtors' had substantial escrows with each company. The escrows could be "charged back" by the Bank Card Companies when credit card customers disputed charges to their accounts. The industry experience is that "chargebacks" increase significantly for liquidating retailers. Once an item was "charged back", either escrowed cash or current proceeds were debited. It was then up to the Debtors to prove that the credit card customer was not entitled to a credit or chargeback.

109. At the time of the Trustee's appointment, MGRE records concerning charges had not been maintained completely, and there was a substantial backlog of store charge records that needed to be put into order. Faced with this situation, the Trustee hired students as independent contractors to put into order all of the store charge receipts, so they could be utilized to dispute chargebacks. Once the records were put into order, the task of proving entitlement to monies began.

110. The Trustee had observed the work of certain employees who had performed in an exemplary manner under difficult circumstances. She delegated to them the task of auditing

and documenting the refunds due from the escrows and the unpaid charge card proceeds from the Bank Card Companies, and then managed their work. The Bank Card Companies were not cooperative with this process. Indeed, in one instance, a Bank Card Company set off substantial funds belonging to the Debtors and refused to return the funds after the action was caught.

111. Nor were the Bank Card Companies forthcoming in providing requested information to the Trustee. Constant, close and continuous efforts were needed to finally recover all of the funds due to the estate. Once the Trustee understood the facts and the Debtors' records were up-to-date, the Trustee, together with her counsel, had several tough negotiating sessions with representatives of the various bank card service companies. The effort did result in an agreement to refund the monies due to the estate. The Trustee's work and organization saved the estate from hundreds of thousands of dollars in claimed chargebacks, which the estate would not have been able to preserve against recoupment from claims of the Bank Card Companies.

112. Overall, the estate recovered $4.078 million dollars from the bank card service companies.

v. Sale of Leasehold Estates -- $1.5 Million Recovered.

113. Due to a number of different factors, including the limited marketability of the leaseholds, and the appellate decision that the Debtors had not preserved their rights to assume and assign most of the leaseholds, recovery of value from the leasehold estates was problematic.

114. The Debtors believed that their leasehold estates were substantial assets and just prior to conversion had estimated recoveries from all leasehold estates of from $5 million to $7 million. However, despite a vigorous defense by the Trustee's counsel, an appeals court decided in late March, 1996, that in January, 1996, non-assumed leaseholds had been rejected as a matter of law. Thus, the Debtors had failed to preserve the right to assume and assign a substantial

portion of their leasehold estates. The Trustee, as a result of this decision, was unable to assume and assign 80% of the leaseholds which the Debtors had predicted would generate up to $7.0 million.

115. Faced with the unprecedented court ruling which stripped the estate of 80% of a potential $7 million asset, the Trustee crafted a strategy to preserve the remaining leasehold values. With assistance of Keen Real Estate, Inc., the Trustee signaled to the landlords of the remaining leaseholds that the estate was not "folding its tents" on this. Appeals of the court decision were noted at the same time that auctions of the remaining leaseholds were placed on a fast track. This created uncertainty in the minds of the landlords about the future of the MGRE leases in their malls that could be assumed and assigned. Such uncertainty led to competitive bidding for leaseholds in a "soft" leasehold market. Not only was the recovery in dollars even greater than the Debtor's estimates (20% of $7 million = $1.4 million versus $1.5 million recovered), but hundreds of thousands of dollars in lease rejection damage claims were avoided.

vi. Recoveries from Taxing Authorities -- $5.2 Million Recovered.

116. The Trustee has recovered approximately $5.2 million from taxing authorities, including refunds of income and sales and use taxes that had been overpaid to federal, state, and local taxing authorities. The recoveries were obtained from over 60 separate taxing authorities.

117. In order to recover the funds, and as part of the general statutory duties of the trustee, the Trustee filed over 1,200 separate tax returns -- including state and local income tax returns, payroll tax returns, sales and use tax returns and personal property tax returns. On virtually her first day as trustee, a huge pile of tax returns was presented to her and she was told that most of the returns were either overdue (due at the end of February) or were due immediately in March.

118. The Trustee had to be a very quick study to review the returns, and ask for and review appropriate back-up information so that she could certify and sign the returns. She was not only the liquidating trustee but she functioned as the chief executive officer of a public corporation. Hard decisions had to be made about filing the returns.

Federal payroll taxes had to be paid to the government. Under federal law, the taxes were required to be paid by an electronic funds transfer. If the tax due was paid by check, as opposed to by an electronic funds transfer, substantial penalties could be charged by the Internal Revenue Service ("IRS").

119. Yet, the Trustee had to secure the cash of MGRE and transfer the cash to depository banks approved by the United States Trustee's Office. Wire transfers of estate funds are not usual for Chapter 7 Trustees, and special procedures had to be implemented to permit wires only on the authority of the Trustee.

120. Because this took a week or more to complete, the Trustee made the decision to send a check to the IRS for payroll tax deposits that were due immediately. She did this in order to avoid late payment penalties and to provide comfort to the employees that the Trustee was properly transferring their withheld taxes. After notifying the IRS of the reason for not wiring the funds, she sent a check. Several months later, the IRS asserted a substantial penalty against the Trustee and the estate for failure to use a wire transfer. Unbelievably, the penalty was not waived by the IRS without substantial effort.

121. At the time of conversion of the case, certain of the Debtors were pursuing recovery of an approximately $600,000 income tax refund from the State of Maryland. The Debtors claimed a refund based upon a legal theory which was being vigorously disputed by the State of Maryland. The matter had been unresolved since 1994.

122. MGRR was a Delaware holding company subsidiary which was created for the purpose of owning trademarks for MGRE branded clothing. "Blues Jeans" was one of the more well-known brands. By creating the Delaware subsidiary and transferring to it all of the trademarks, MGRE sheltered income in profitable years from Maryland state income taxes. Maryland taxing authorities were challenging this tax strategy in court.

123. The Trustee successfully recovered the full refund through use of a successful strategy recommended to her, in part by her tax accountants, and in part from the result of her own personal research. The strategy? She stopped all efforts to collect the refund and waited until the time periods for state action had expired. Once they expired, the refund had to be given without a defense o the merits.

124. Another successful strategy resulted in the recovery of approximately $200,000 from the bankruptcy estate of a former landlord for the estate's proportionate share of the real estate tax refund received by the landlord. That landlord had entered into a lease with MGRE which had required MGRE to pay real estate taxes to the landlord. While keeping abreast generally of trends and cases in bankruptcy courts, the Trustee read about a large refund of taxes being sought by a MGRE landlord that was in Chapter 11. The Trustee's follow-up on this article enabled the estate to recover $200,000 from that bankruptcy case.

125. The recovery in the E&Y case resulted in the estate owing federal income taxes. Even though the Debtors has over a $300 million operating loss carryforward, the carryforward was not permitted by IRS rules to shelter the entire recovery. It seemed absurd that the Debtors would have to pay several million dollars in federal income taxes when they owed $873 million to their creditors and only $295 million had been recovered to pay those claims!

126. Realizing the tax burden on the estate imposed by the federal "alternative minimum tax" ("AMT"), the Trustee considered whether she could obtain tax relief for the estate by lobbying for a change in the AMT law as it applied to bankruptcy estates. The Trustee understood that the legislative purpose of the AMT was to require wealthy individuals and wealthy corporations to pay taxes even if tax deductions sheltered all of their income. Recognizing that it made no sense for a bankruptcy estate to pay such tax, the Trustee and her attorneys commenced a review of this potential avenue of recovery. Satisfied of her strategy, she secured the services of a lobbyist to lobby for legislative change.

127. Other companies in bankruptcy also lobbied for change in the law, but the Trustee believes that she was the first one to do so. As a result of the lobbying, the AMT law was amended, and for certain tax years (including the years when MGRE received the E&Y income), the tax was not applicable to bankruptcy estates. The estate received a tax refund of $2.5 million dollars from the filing of an amended return after the AMT law changed.

vii. Sale of Vehicles -- $564,000 Recovered.

128. Who would have thought that the used cars of MGRE employees would be worth almost $600,000? The Trustee did. The Trustee sold 86 vehicles for a recovery of $564,000.00.

129. Unfortunately, the 86 vehicles were not parked in the yard at corporate headquarters but were scattered far and wide. In order to sell them, the Trustee first had to locate them. She found them throughout 44 of the 50 states and the District of Columbia.

130. The majority of the vehicles were personal cars that had been utilized by the Debtors' field personnel. Some field personnel cooperated and voluntarily turned the cars over. Many merely left the cars parked in mall locations, at service garages or other public locations. Still others refused to turn the vehicles over until the Trustee employed legal process.

131. By acting firmly and warning employees that criminal charges would be brought unless they cooperated in returning vehicles, all but two vehicles were recovered.

132. The vehicles were sold at public auction. Although a large, local, one-time auction was at first recommended, the Trustee's cost-benefit analysis concluded that the costs of returning vehicles for a local auction were prohibitive. The auctions were accordingly arranged with local auctioneers in the various states to auction the vehicles found in their state.

133. Despite the legal and practical difficulties, 86 vehicles were recovered and successfully sold. If one compares the prices received by the estate for the vehicles with the wholesale prices then obtaining for these vehicles, the estate's recovery was higher than wholesale prices.

viii. Sale of Other Personalty - (Trade Names, FF&E, Heavy Equipment, non-GOB Inventory, Supplies) - $3.2 Million Recovered.

134. The Trustee recovered nearly $3.2 million from the sale of other personalty through a series of auctions strategically structured to obtain the highest recovery for the estate.

135. In all, the Trustee conducted fifteen auction sales, including the auction of a townhouse and a condominium. Some of the sales were open outcry auctions, lasting several days. Some of the sales were sealed bid auctions, in which solicitation of bids lasted from several weeks to one and one-half months.

136. Included in the auction sale of corporate headquarters, furniture, fixtures and equipment ("Office FF&E") was office partitions. In order to effectively utilize the floor space at the Debtors' corporate headquarters, the majority of the offices had been created with moveable office partitions. While the office partitions could be removed and sold, there was a glut on the market of office partitions at the time of MGRE's demise. Through the utilization of

a carefully thought out and intelligently planned auction, the Trustee recovered almost twice the then market price for office partitions.

137. Utilizing inexpensive summertime labor, all office partitions were dismantled and packaged in strategic lots. The lots were offered for auction and the recovery for each ready-to-go lot was more than other auctions where the partitions were sold "as-is." The strategy and planning that went into this auction paid off significantly in the increased value received for office partitions.

138. Among the headaches experienced in disposing of Office FF&E was dealing with MGRE's cafeteria. MGRE had a spacious, impressive, state-of-the-art cafeteria with a complete professional kitchen. Unfortunately, the entire operation had been summarily closed several days before the Trustee's appointment.

139. Like Pompeii, everything in the kitchen and cafeteria had been left as it was at the moment of closure. Rotting and spoiling food posed a serious health threat that the Trustee had to remedy immediately.

140. While dealing with spoiling and rotten food and health threats are problems that the Trustee has faced in other cases, it was a demand above and beyond normal demands when operating 420 stores at the same time!

141. By thinking ahead to the potentially valuable auction of the cafeteria and kitchen equipment, the Trustee was able to use the services of the auctioneer's personnel to clean the cafeteria without additional costs to the estate. Through prompt action, some of the food was salvaged and donated to several charitable organizations.

142. Not only did the Trustee need to strategically sell Office FF&E but she also had to sell store furniture, fixtures and equipment from the approximately 420 stores which she closed, and from the majority of the stores that had been closed during the Chapter 11 phase of this case.

143. Flooding the market with the Office FF&E from over a thousand stores was a genuine concern. As stores had been closed by the Debtor during the Chapter 11 phase of this case, each store's fixtures, furniture, equipment, including flotsam and jetsam ("Store Goods"), had been shipped to the Joppa warehouse. None of the Store Goods had been sold at any of the retail locations. Instead, everything that was not tied down in a store had been placed in a box and shipped home. Light bulbs, hangars, security buttons, cash registers, large clothing racks, surplus paper goods and paper bags - it was all there.

144. At the time of the Trustee's appointment, the warehouse was jammed with boxes which had never been opened and which contained the flotsam and jetsam. Just the physical mass of all those boxes, cramming every corridor and aisle and piled high on every warehouse stack, was daunting. It all had to be inventoried and sold.

145. Another headache was determining ownership of the Store Goods. Some of the Store Goods was equipment that was leased. Examples include: cash registers, telephone systems and music systems. All of the Store Goods boxes had to be unboxed, examined and inventoried, and equipment serial numbers compared to leasing documents to determine which items were leased and which items belonged to the Debtor.

146. Leased items would be returned to the lessors. Counsel to those lessors were diligently demanding their client's leased equipment and pressuring the Trustee to release it immediately. Because items such as cash registers were sometimes leased and sometimes owned by MGRE, care had to be taken to separate the items. Making it harder, the serial numbers of

many items did not appear in any of the leasing documents or in store records. As soon as the items were separated, they were returned to the lessors, but not until after negotiating with the lessors a fair fee for the costs of shipping and return.

147. This resulted in a reduction in filed unsecured claims by lessors. It also resulted in a reduction in claims secured by the Debtor's cash. This happened because the secured claims were paid by collateral other than cash. During the Chapter 11, MGRE had entered into new leases. The performance by MGRE under the leases was secured by letters of credit that were themselves secured by MGRE deposit accounts. Preserving those deposit accounts was a goal of the trusteeship. By careful return and liquidation of other collateral, cash was preserved.

148. The unexpected decision in the landlord lease rejection appeal caused an unexpected and urgent need to immediately vacate almost 350 store locations affected by the ruling. The Trustee was hard pressed to realize value from the store fixtures, furniture and equipment (the "Store FF&E") in those 350 stores. Instead of having an appropriate time to inventory and remove the Store FF&E, the Trustee had to remove and vacate all of the locations within a fourteen day period.

149. The Trustee fashioned a strategy to identify and maximize value in that short time period by using representative on-site appraisals. The purpose of the representative on-site appraisals was to determine which assets to sell in place, which assets to return to home office for sale, and which assets to abandon because the cost of sale and/or the cost of returning to home office exceeded their value to the estate.

150. Through the information garnered from the representative on-site appraisals, the Trustee oversaw a process whereby the remaining employees liquidated the Store FF& E that were subject to the court order of immediate vacation. Uniform price ranges were established by

the Trustee from the on-site appraisals. The field employees then solicited offers from other retailers in the same mall during the sale period, which lasted about 10 days. During this period, the field employees inventoried the store equipment and separated leased equipment. This allowed the Trustee to organize the retrieval of leased equipment directly from the retail locations, and saved shipping costs and reduced the claims of lessors. Although under an extremely tight period to complete this sale, the Trustee realized approximately $400,000 from the sale of the Store FF&E.

151. With respect to the Office FF&E that were already at Joppa, an open outcry auction of those assets lasted for several days. This auction consisted largely of small items such as computers, adding machines, small office supplies, pictures and other items of art. MGRE also owned items that were valuable as memorabilia. One example was an Indian motorcycle. The Trustee oversaw a well thought-out plan of public advertisement for sale of the memorabilia.

152. Commercials ran on local radio stations that focused public attention on the MGRE memorabilia. Memorabilia included the motorcycle, an extensive collection of framed prints, posters and other artwork. By a strategic organization of these auction lots, bidder attention remained high throughout the auction and prices were very favorable.

153. Because the Debtors had so much office equipment and office supplies, a one-time sale would have created a glut on the market. To combat this problem, assets were organized into appropriate packages and offered for sale at various times and in packages to minimize the impact of oversupply.

154. The Trustee's strategic auction plan generated enormous crowds and extremely high bids. Indeed, for much of the computer equipment, the auction sale generated prices equal to prices charged by retailers for used computer equipment.

155. The warehouse was placed in good order, the assets were inventoried, and at the end of July, the Trustee conducted another full day auction of office assets, including general supplies, and warehouse and distribution assets.

156. The corporate headquarters office cubicles contained a wealth of office supplies of all types. By intelligently constructing the auction strategy, bidders had to purchase packaged items and could not cherry-pick the most desirable items. This strategy had another important benefit: the buyers paid for and took away with them in their bid packages, the office supplies that the Trustee had to discard and remove if they did not sell.

157. Virtually every hallway in the 200,000 foot corporate headquarters building was stacked with auction lots ready for sale. Bidder enthusiasm was infectious, auctioneers kept the crowd lively, and the day was financially successful for the estate.

158. In order to vacate Fashion Way and have it broom clean for the sale to The May Company on August 19, 1996, a final two-day auction occurred on August 16 and 17. As with the prior auctions, substantial effort and strategic planning of the auction and the advertising resulted in high values received.

159. The final auction included heavy warehouse equipment, as well as supplies. Rows of lift trucks of many types filled the warehouse and created the potential to flood the local market. Advertising placed in media out of the local area paid off, because bidders came from all over. Particular care was paid to strategize the lots for the auction. As with all of the auctions, the Trustee's management and strategic thinking was a necessary ingredient in the successful conduct of these auctions.

160. Thus, within just a little over six months after her appointment, the Trustee had organized and successfully concluded fifteen auctions of the property of the Debtors, and had moved out of the Debtor's one million square foot facilities, leaving them literally broom clean.

161. Just after her appointment, the Trustee permitted a liquidation company ("Bulk Purchaser") to review the contents of Fashion Way for making a bid for all of the assets. After completing its review, the Bulk Purchaser made an offer to purchase all of the tangible personal property of MGRE (other than GOB inventory) ("Personalty") for a flat payment of approximately \$3.0 million ("Bulk Sale"). One of the terms of the Bulk Sale required the Trustee to provide the Bulk Purchaser with the use of Fashion Way for nine months for resale of the Personalty.

162. Accepting a bulk sale proposal is an attractive option for a Chapter 7 trustee because it guarantees a specific recovery that the Court approves in advance. Less work is required of the trustee and there can be no criticism of the amount recovered. Had the Trustee chosen to take the proposal, she would have had to satisfy herself that the offer was in the best interests of the estate.

163. She considered structuring a "stalking horse" sale and soliciting other bids in competition to the Bulk Sale. However, there were real costs to any sale of Personalty in bulk that required the Trustee to maintain and provide Fashion Way for the duration of the sale. She knew from the analysis that she had just completed of the GOB Sale that the costs of providing to a bulk seller the Fashion Way premises for the sale could quickly spiral and result in a sale that was not as beneficial as had been predicted. The costs of maintaining and providing Fashion Way for nine months included: utilities, security, real estate taxes, mortgage payments, cleaning and maintenance costs and the price risk associated with delaying sale of Fashion Way. The

decision was difficult and it was important. The estate was administratively insolvent, the employee creditors were very anxious about getting paid and security was difficult. The Trustee made the hard decision to sell the Personalty the "old" way: at open outcry auctions. Whether the decision was ultimately the right one will never be fully known. Perhaps there would have been another and higher bulk sale offer. What is known is that the decision was made, Fashion Way was vacated quickly to a cash purchaser for $19.4 million, and the Personalty was sold for almost $3.2 million as shown below.

TABLE E

Personalty Sold	Sale Proceeds
Sale Proceeds-Patents, Trade Names	$ 198,000.00
Sale Proceeds-Furniture, Fixtures and Office Equipment (FF&E)	$1,953,000.00
Sale Proceeds-Heavy Warehouse Equipment	$ 187,000.00
Sale Proceeds-Inventory - non GOB	$ 420,000.00
Sale Proceeds-General Supplies Auction	$ 404,000.00
	$3,162,000.00

164. In completing each sale of the Office FF&E, the Trustee had to deal with different, sometimes difficult issues. For example, the mortgage lender to the Debtors claimed a Uniform Commercial Code security interest in some items of equipment being sold at public auction. Because the lender had no assurance that it would be paid its mortgage debt from the sale of Fashion Way, it objected to the sale. Negotiations concluded in a settlement which allowed the sales to proceed as planned.

165. The sale on store premises of the Store FF&E also raised legal issues with landlords concerning whether fixtures were truly "trade fixtures" or whether they belonged to the

landlords. Additionally, many landlords tried to block the sale during regular mall hours. Certain landlords locked the Trustee out of the stores and denied entry.

166. With respect to the computers and computer software, the Trustee had to obtain licenses so that the computers could be offered for sale with their software in tact, thus increasing the value. With respect to the sale of office partitions, issues were raised with respect to whether they were collateral for the mortgage debt and hence not properly salable without the consent of the mortgage lender. Such consent was difficult to obtain.

167. Finally, there were over 50 filed UCC financing statements that had to be reviewed to determine whether consent was needed before the sale of various items of equipment. In addition, legal determinations were needed on whether leased equipment was the subject of a true lease or a conditional sale lease. To the extent the leases were determined to be true leases, the equipment was returned to the lessors. The balance of the equipment was auctioned. With respect to the sale of store fixtures in the Boogies Diners, separate negotiations had to be undertaken with landlords in order to be able to sell those assets on the premises.

ix. Recoveries From Other Insurance Assets -- $1.0 Million Recovered.

168. The Trustee recovered almost $1.0 million from assets relating to insurance policies, not including the recoveries involving Liberty Mutual and Washington International Insurance.

169. The Trustee investigated and examined all known insurance policies of the Debtors to identify refunds that were due. For refunds that were due, the Trustee made demand for the appropriate refund.

170. The Debtors also maintained numerous policies insuring the lives of various MGRE employees, many of which had an available surrender value. The Trustee notified all

insureds of their right to pay the cash surrender value to the estate and have the policy assigned to them. When an insured was not interested in purchasing the policy from the estate, the Trustee caused the policies to be returned to the issuers for a refund of the cash surrender values. These recoveries included approximately $170,000 from St. Paul Fire and Marine Insurance Company for damages to the company outlet in New York City, as well as refunds on prepaid insurance.

x. Recovery of Monies held as Collateral for Outstanding Letters of Credit --$9.926 Million Recovered.

171. During the Chapter 11 case, as the credit rating of the Debtor declined, it was forced to post cash collateral to General Electric Credit Corporation ("GECC") for the issuance of both trade and stand-by letters of credit. The trade letters of credit still outstanding at the time of conversion totaled approximately $3.0 million. They were outstanding to inventory vendors for large domestic purchase orders and for most international purchase orders. Stand-by letters of credit were outstanding to Liberty Mutual Insurance Company, El Camino Leasing, Inc. and to secure of the 'golden parachute" agreement with former president Richard Crystal.

(a) Recoveries of Monies Securing Trade Letters of Credit

172. At the time of the Trustee's appointment, the Debtors had posted cash collateral with Citibank as security for the claims of certain vendors. The Debtors had purchased inventory and issued trade letters of credit to these vendors, either because it was the custom to do so for foreign imports or because domestic vendors were not able to obtain factoring for the MGRE purchase orders. Because the GOB Sale paid the estate only $.3485 for every $1.00 in lowest retail sales price, purchasing inventory after the negotiation of the GOB Sale was improvident. Thus, all new purchases were at a loss. Nevertheless, the terms of the GOB Agreement required

MGRE to purchase at least another $8 million in on-order inventory and supply it to Schottenstein for the GOB Sale.

173. Prior to signing the GOB Agreement, the Debtors had ordered merchandise and had posted letters of credit collateralized by cash. When the new merchandise was shipped, the vendor was entitled to draw on the letter of credit and receive full payment for the inventory. Thus, it was imperative that all possible orders be cancelled before shipment, if it was possible to do so under the purchase contract. On the other hand, the GOB Sale required at least another $8.0 million in inventory. The Trustee immediately reviewed all open orders to determine whether orders could be cancelled. If it was possible, they were cancelled. As soon as an order was cancelled, the estate was able to obtain a release of the letter of credit, thus freeing up the cash collateral. While Schottenstein was not happy about such loss of inventory for the GOB Sale, the Trustee believed that the issue could be resolved in a settlement with Schottenstein. She was correct in that belief and her actions increased the recovery.

174. For orders that could not be cancelled, the Trustee reviewed all shipments of goods to verify that they conformed to the required quantity and quality for the goods and that chargebacks were appropriately processed. The inventory that was received was sold either in the GOB Sale or by auction.

(b) Recovery of Liberty Mutual Collateral and Settlement of Claim.

175. At the time of the Trustee's appointment, Liberty Mutual claimed in excess of $5 million from the Debtors, arising out of thirty-five separate insurance contracts ("Insurance Contracts") for the years 1993 through 1996. The Insurance Contracts provided workers' compensation, comprehensive general liability and automobile liability insurance to the Debtors.

Due to the size of the Debtors, the comprehensive general liability insurance was partially self-insured, with Liberty Mutual servicing all liabilities. Some of the Insurance Contracts also contained retrospective premium agreements which required the Debtors to pay additional premiums based upon the actuarial experience of the policy. Further, the loss retention amounts were significant for all policies.

176. To secure payment of retrospective premiums and/or loss retention reimbursement, the Insurance Contracts were secured by several letters of credit in the aggregate amount of $3.5 million. The Debtors had escrowed cash equal to 110% of that amount as security for the letters of credit. Just prior to conversion, Liberty Mutual had drawn against one letter of credit and had forfeited $830,000 in cash from the letter of credit.

177. In addition to the $5 million claimed by Liberty Mutual in its proof of claim, proofs of claim were filed by other creditors for $22 million in pre-petition claims ("Pre-Petition Insurance Claims") and $8 million in post-petition claims ("Post-Petition Insurance Claims") (collectively, "Insurance Claims"). The Pre-Petition and the Post-Petition Insurance Claims consisted mainly of general liability and workers' compensation claims, although there was one significant automobile crash claim. Liberty Mutual had a duty to investigate, handle, adjust, defend and pay the Insurance Claims, subject to loss retention and retrospective premium provisions of the Insurance Contracts.

178. Using her negotiating skills and with the assistance of her counsel, the Trustee reached a settlement pursuant to which Liberty Mutual reduced its secured claim from $5 million to a claim of no less than $1.4 million and no more than $1.6 million. The Trustee also successfully negotiated for the $830,000 forfeited by Liberty Mutual to be credited against this claim, despite Liberty Mutual's legal position that the Debtors were not entitled to the credit. As

a result of the settlement, $2.7 million of the Debtors' cash was released and the claim was reduced from $5 million to no more than $1.6 million.

179. The settlement also required Liberty to assume complete liability for the Insurance Claims, with no right to any future retrospective premiums or loss retention by the Debtors. The Trustee successfully objected to those $30 million in claims on the basis that the claimants had to look to insurance first. She then consented to relief from the automatic stay so that the claimants could proceed in state court to liquidate their claims. Liberty Mutual then investigated, handled, adjusted, defended and finally paid or settled the Insurance Claims, as provided in the settlement with the Trustee.

180. The value of the settlement to the estate was a reduction in filed claims of some $33.4 million, $11.4 million of which were administrative or secured claims, as well as the release of $2.7 million in cash collateral.

(c) Recovery of Monies from Collateral for Lessors.

181. At the time of the Trustee's appointment, the Debtors had escrowed cash as collateral security for a letter of credit issued to El Camino Leasing, Inc, a personal property leasing company. The letter of credit was issued to secure the Debtors' performance of certain lease obligations.

182. El Camino asserted claims against the bankruptcy estate in the amount of almost $1.3 million, representing the damage claim for rejection of a lease of cash registers leased in September 1995. If all cash registers were returned in good condition, the claim was limited to delinquent lease payments and future lease payments less the fair value of the returned registers. As part of auction preparations, leased registers were separated from those that the Debtors owned and El Camino received all of its leased property, except for one or two items. Through

careful management of the return of leased registers, the Trustee reduced El Camino's secured claim. El Camino was ultimately paid $630,000 in delinquent rent and some damages but $25,000 was returned to the estate's unsecured creditors.

xi. Preference Litigation -- $9.7 Million Recovered.

183. On February 28, 1998, the Trustee, through counsel, filed approximately 600 preference actions, all of which have now been resolved. Before doing so, the Trustee carefully reviewed existing case law on the preference definition of solvency. She also consulted with two experts in order to determine whether the Debtors were insolvent, as defined by the preference laws, prior to the commencement of the Chapter 11.

184. The Trustee also performed a careful review of the payments made and the payment strategies adopted by the Debtors prior to filing Chapter 11. Accordingly, the Trustee was able to determine whether the Debtors' pre-petition payments to creditors were outside the normal course of business.

185. Based on the facts reviewed and opinions received from her professionals, the Trustee concluded that the estate should bring actions against certain creditors to recover preferential payments made to them.

186. The Trustee filed approximately 800 lawsuits alleging receipt of preferential payments after the Trustee reviewed the work of her accountants and attorneys as to whether there were grounds for bringing such action. Recoveries were obtained totaling $9,775,000.00.

187. As a general matter, before the settlement of a preference action, the Trustee reviewed with her counsel the strengths and weaknesses of the case, as well as settlement discussions with the defendant's counsel. The Trustee, acting for the estate, applied her business

and legal judgment to the proposals put forth by the preference defendants, thus obtaining the best result and the highest recovery for the estate and the creditors.

xii. Litigation–Former Corporate President Richard Crystal -- $951,000 Recovered.

188. Upon appointment, the Trustee commenced litigation against the former chief executive of the Debtors, seeking to prevent the draw down of a $2.7 million letter of credit which was collateralized by cash deposited in the Debtors' bank account. In the litigation, the Court issued an injunction, whereby the letter of credit for the benefit of the former chief executive of the Debtors was paid from the proceeds being held for the eventual conclusion or settlement of the litigation.

189. The suit was difficult for the estate to win because the theory of recovery was based on unsettled law. The courts in the Fourth Circuit had not definitively established the standard of care of a corporate chief executive serving as a debtors-in-possession. Through counsel, legal memoranda were prepared and filed. After hearing oral argument, the Court entered a ruling favorable, in part, to the Trustee and, in part, to the former chief executive.

190. The Trustee settled the litigation and the estate received $950,000 in the settlement. The successful settlement of this litigation occurred because as soon as the Trustee was appointed, she acted decisively and with extraordinary legal insight to commence litigation on behalf of the estate and prosecute the litigation to successful settlement.

xiii. Settlement of Surety Bond Claims- $700,000 Recovered

191. The Trustee recovered approximately $700,000 of the Debtors' cash which was being held as collateral for a Customs bond. The United States Customs Service is entitled to assess penalties against an importer like MGRE for perceived infractions of import laws and

duties. For the purpose of assuring payment, each importer has to post a surety bond with the Customs Service. In the case of the Debtors', that surety bond was collateralized by cash.

192. After a penalty is assessed and not remedied, the Customs Service can pay the penalty by drawing on the bond, which in turn depletes the cash collateral. Customs had defaulted the Debtors' during the Chapter 11 because they had not remedied almost $700,000 of alleged infractions. Upon review of the alleged infractions, it appeared that most of them could be remedied by the Debtors' supplying requested information to the Customs Service.

193. The Trustee contacted the responsible persons at the Customs Service and promised that she would be sure that they received all of the information that they needed to clear up the alleged infractions. She reached an interim settlement which allowed the funds to be restored and held pending resolution of the default. The Trustee obtained as part of the interim agreement that funds would bear interest of approximately 4.3%, pending resolution of the claim.

194. The customs violations and infractions consisted of approximately 300 custom entry claims, each of which could have resulted in duties being due. The Trustee reduced these claims by negotiations with: the Department of Commerce; each of the brokers handling the processing of importation goods for the Debtors; entry specialists at each of the ports at which the unliquidated entries had arisen; and the Assistant Chief Counsel's Office for Customs. Through these efforts, she was able to reduce the number of unliquidated entries from approximately 300 to 7. Eventually, all of the entries were reconciled, and 100% of the estate's funds ($707,000.00) were returned to the estate.

xiv. Recoveries from Utility Companies (Refunds, Deposits and Overcharges) -- $59,000 Recovered.

195. Recoveries from utility companies, while not large, were more beneficial to the estate than the amounts recovered appear. In order to obtain refunds, the utility accounts were

reconciled. The reconciliation reduced substantially the administrative claims of the utilities, thus saving thousands of dollars of claims that would have been paid in full. The Debtors had not addressed the issue of utility administrative claims and recovery of deposits as they closed stores during the Chapter 11. The Trustee did. She recovered money from the utility companies, but, more importantly, saved hundreds of thousands of dollars in administrative claims through proper closing and reconciliation of the accounts.

196. Most of the Debtors' stores had separate gas accounts, telephone accounts, electric accounts and water accounts. In some stores, accounts were sub-metered from the landlord at the mall, but in most stores, the Debtor had a direct connection to the utility provider. When a store closed, in order for service to be discontinued, the utility provider required MGRE to request that service be discontinued. If a request was not made, the utility provider continued to charge for services. Telephone utilities, for example, charged a monthly fee even if the service was not being used. Electric utilities also continued to provide service, and this became expensive when the air conditioning continued to operate as it did in many stores.

197. At the time of the Trustee's appointment, the Debtors were in the process of closing their stores pursuant to a GOB Sale engineered by the Debtors and previously approved by this Court. The Debtors had commenced the GOB Sale prior to the Trustee's appointment, and had closed about 900 stores prior to her appointment. The debtors-in possession had not implemented a procedure for utility provider notification. Failure to notify utilities to discontinue service resulted in the exponential expansion of administrative claims of utility providers and frittered away the deposits held by many of them.

198. The Trustee created and implemented procedures for notification of the cancellation of service, the obtaining of deposit refunds and the audit of administrative claims.

199. In all, over 2,500 gas and electric, telephone and water accounts were closed and audited by the Trustee – saving hundreds of thousands of dollars in utility charges. The estate would have been liable for these charges had the Trustee not promptly notified the utilities of the store closings and audited the bills subsequently rendered.

200. Attention to detail with respect to both the store deposit and the utilities is a hallmark of this trusteeship. Undoubtedly, the recovery from E&Y of $185 million was the "jewel in the crown," but the $111 million, saved in Chapter 11 administrative claims disallowed through creativity in closing the business, was also a major contribution to the recovery by the general unsecured creditors.

xv. Recovery of Surplus 401(k) Balance.

201. The Debtors had approximately $13 million in the 401(k) plan ("Plan") at the time of the Trustee's appointment. The board of directors of the Debtors had voted to terminate the Plan in February 1996, but that resolution was not effectuated. No distributions had been made to employees.

202. While not a trustee of the 401(k) plan, the Trustee, for the benefit of all employees, wrapped up the Plan expeditiously and distributed the funds. The Trustee mailed employees over 1,000 notices of their right to make elections concerning their funds in the Plan. After elections were made, the investments of the Plan were liquidated and almost 1,300 checks were mailed to former employees in distribution of the Plan. Morale of the remaining employees was maintained at a high level throughout the liquidation and accomplishing the distribution of 401(k) assets was a major part of that.

203. The Plan assets are not assets of the bankruptcy estate. The benefit to society and to employees from distributing quickly and properly their pension assets is important. Because

of the societal importance of proper handling and distribution of retirement plan funds, the Trustee made that a priority. There was a collateral benefit to the estate: Plan termination also eliminates future liability of the Debtors, and the bankruptcy estate, as the employer in the Plan.

204. After completing the distributions, the Trustee recovered almost $79,000 in addition to doing a proper job of preserving the retirement assets of the employees.

xvi. Recoveries From Thefts (Store Theft Recoveries) -- $55,000.00 Recovered.

205. Prosecuting store thefts during the Chapter 11 phase resulted in restitution judgments. The Trustee recovered $55,000 in criminal restitution payments during the Chapter 7 because of communications with the courts and requests to have payments sent to the estate. These recoveries, while small, were easy to obtain through attention to detail and follow up. Several individuals who made restitution sent letters to the Trustee, thanking the Trustee for following up and giving them the opportunity to give back what they had taken. This response was gratifying.

xvii. Recoveries from Vendors (Receivables, Deposits, and Overpayments) -- $255,000 Recovered.

206. At the time of the Trustee's appointment, the Debtors' general ledgers reflected various amounts due to the Debtors from inventory vendors, such as receivables, refunds, deposits, overpayments and other prepaid assets. The receivables were generally balances due to the Debtors from overpayment of inventory invoices. Such overpayment occurred, for example, when it was found that a shipment had been short of the invoiced amount of goods. Generally, this was adjusted for in the next payment. However, when all purchasing of inventory stopped, a net receivable was due to the Debtors. The Trustee pursued the receivables herself and when she collected as much as she could without commencing collection actions, she retained the services

of Dun and Bradstreet's collection service. The Debtors' general ledgers recorded total receivables of $1.0 million, many of the amounts being small. Recovery of 25% of the receivables is a respectable percentage given the fact that many of the amounts were small and did not justify legal action for recovery.

xviii. Recoveries From Memberships, Subscriptions and Tickets.

207. The Trustee sold MGRE-owned Orioles tickets and the corporate country club membership at Caves Valley Country Club (the "Club"). Ingenuity and perseverance paid off with both sales.

208. Neither the country club nor the baseball team was interested in cooperating in the liquidation of the memberships. During the Chapter 11, both memberships had been renewed and paid for.

209. The Club claimed that it could not repurchase the membership because it was insolvent. It reconsidered its position when the Trustee stated that she would auction the membership and notify the bidders that the Club was insolvent.

210. A similar auction "threat" also motivated the repurchase of the Orioles tickets.

xix. Recovery of Unclaimed Property of Debtor -- $22,000 Recovered.

211. The Trustee filed claims with appropriate authorities in every state where MGRE did business, seeking to recover unclaimed property belonging to any of the Debtors. A total of $22,480 was recovered in that effort which required little more than mailing letters to addresses obtained from the internet.

VII. CLAIMS OBJECTIONS

212. Approximately 9,000 claims and administrative motions were asserted in this case, totaling $873,085,174.15. Like most cases, the claims were divided into secured claims

($24,327,834.46 in claimed amount) and general unsecured claims ($664,927,276.07 in claimed amount), unsecured priority claims ($43,696,031.35 in claimed amount) and Chapter 11 administrative claims ($140,134,032.27 in claimed amount). However, unlike most cases, the protracted time period the Debtors spent in attempting to rehabilitate under Chapter 11 resulted in a great many Chapter 11 claims.

213. The Trustee's approach to managing the case was to reduce tangible assets to cash first, then pursue litigation and at the same time, distribute dividends to classes of creditors as soon as possible. Through two formal interim distributions and periodic settlements and concurrent distributions, all creditors have been paid in full with the exception of general unsecured creditors having allowed claims of $263,673,059.05 who have received a 30% dividend so far.

214. The claims allowance process has taken a great deal of time and is one of the main reasons that the estate is still open after 9 years. However, creditors, including general unsecured creditors, did receive distributions as funds became available so the period of administration has not resulted in a delay in paying dividends. The estate currently has approximately $37 million left to distribute to the remaining administrative creditors, like the Trustee, and to general unsecured creditors. The time taken for claims allowance has been of great benefit to the unsecured creditors. The disallowance of $162 million of claims having priority over general unsecured creditors has resulted in a much larger dividend to the general unsecured creditors. General unsecured claims themselves were reduced by $400 million and this resulted in the allowed claims receiving a larger dividend. The claims disallowance process is discussed in more detail below.

A. Chapter 11 Professional Fee Applications- $6.0 million in claims saved.

215. The Debtor operated in Chapter 11 for 26 months, failed to reorganize and amassed over $20 million in fees for professional services. Some of these professionals filed multi-million dollar fee applications for accounting services, legal services, real estate services and other professional services. Prior to the success of the E&Y litigation, it was unlikely that the Chapter 11 professionals would receive all of their fees applied for. Although a $2 million escrow had been established with Court approval for the payment of such fees, the amount in escrow was not sufficient to pay the balances applied for. Review of the fee applications, as part of the claims filed in the case, was both required by statute and necessary to the interests of justice and fairness. As a member of the Bar who has represented debtors in Chapter 11 proceedings, the Trustee had understandable sympathy for the professionals who performed professional services and whose fees were subject to scrutiny. The Trustee was also sensitive to creditors and employees and expressed dissatisfaction with allowing large fees for a failed case.

216. Review of and objection to the fee applications was not a desirable duty in the Baltimore legal and professional community where the Trustee has practiced law for thirty years. She undertook the responsibility as a professional.

217. The Trustee personally reviewed every one of these applications. Her goal was to recommend that the professionals requesting fees in each application be compensated for their completed work contributions, without burdening the estate for rendered services with no value or minimal value. This comprehensive review and the objections to fee applications resulted in a negotiated reduction of almost $6.0 million in fees that would otherwise have been Chapter 11 administrative obligations of the estate. Two contested matters were actually tried and decided in favor of the allowance of no compensation at all, saving the estate about $1.3 million. One

matter was appealed by the claimant to the Fourth Circuit Court of Appeals, in each case the court of appeal affirming the court below. The rest of the fee objections were settled, with the assistance and concurrence of the Office of the United States Trustee, and the settlements were approved by the Court without the necessity of contentious hearings.

B. Chapter 11 Administrative Claims – Employees.

218. Over 3,700 of the claims asserted were asserted as Chapter 11 administrative claims. Because the case, from the outset, was believed to be administratively insolvent, the Trustee initially reviewed only the administrative claims.

219. After reviewing the Chapter 11 administrative claims, it was clear that many of the claims filed as administrative claims were not entitled to administrative status or were not allowable at all or in part. For example, with respect to claims filed during 1994 and 1995 by various landlords, utilities and taxing authorities, the Trustee's review revealed that many of those claims had been paid by the Debtors during the Chapter 11.

220. The Trustee made the decision to make every possible effort to resolve claim disputes through negotiation and settlements, rather than through formal objections. While over forty omnibus claims objection motions were ultimately filed, most were not filed until the Trustee had sent letters notifying claimants of the disagreement concerning the claim and attempting to resolve the claim voluntarily or asking them to voluntarily withdraw claims. Voluntary withdrawal saved on professional fees that would be incurred if the claims were objected to instead of voluntarily withdrawn.

221. Another claim objection issue arose from the fact that, upon conversion from Chapter 11 to Chapter 7, many creditors filed duplicate, amending or superseding proofs of claim. Almost none of the claims identified the claim number of the previously filed claim or,

even that it was amending, or a duplicate of, a previously filed claim. The creditors did not have claim numbers for their claims and a docket of claims was not available for use by claimants.

222. During the Chapter 11, two claims agents were retained by the Debtors and charged with "docketing" and reviewing proofs of claim. Because of the size of the case, a claims agent was needed to alleviate the enormous burden on the Court Clerk's Office that would be caused by the very large number of claims being filed and docketed. The Debtors hired a second claims agent that was hired to work exclusively for the Debtors and to audit claims. Even though there were two claims agents, claimants did not have access to a public docket and were unsure of the number of their claim or if their claim was even filed. Accordingly, when they were notified of the conversion, many duplicate claims were filed. While in some instances it was comparatively simple to determine that the claims were duplicate, in many, many instances it was difficult to make such a determination. The difficulty was caused by many factors, including the facts that some claimants had both general unsecured and administrative claims, the names of various landlords changed, and the there occurred extensive claims trading which resulted in more than one entity claiming the same debt. The Trustee organized and managed the process of reviewing claims and matching them to other claims to eliminate the many duplicates

223. The process of allowing the claims of former employees was likewise a large, complicated task. During the course of the Chapter 11 proceedings, different retention, incentive and severance plans were implemented by the Debtors which, together with other pre-petition plans, obligated the Debtors to make substantial payments to former employees. The Trustee personally reviewed all of the retention, incentive and severance programs offered by the Debtors to the various classes of employees. She also personally reviewed the individual

contracts entered into by the Debtors with about 30 employees providing separate compensation packages to them.

224. One of the legal issues that arose in reviewing the claims was the proper allocation of claims of former employees as either Chapter 11 administrative claims or Chapter 7 administrative claims. It was not an easy issue! The Trustee studied the legal precedents (which were not of assistance on many issues), studied the facts and the compensation benefits offered by the Debtors. She then formulated instructions to her accountants for calculating allowable claim amounts based on both the law and the facts. The result of that effort was about one thousand pages of claim analysis. Working again with her accountants, she put together a package that was mailed to each former employee that had filed a claim making an offer to them for allowance of their claim in a stated amount. She was able to settle with all employees except one based upon the offers made.

225. There were other legal issues to be resolved with respect to payment of the employees. Those issues arose in connection with interpretation of the various qualified ERISA benefit plans and various non-qualified retirement plans providing for benefits to employees. These included a qualified 401(k) Plan, a VEBA Medical Expense Plan (explained below) and a "Mirror Plan" which allowed employees to make contributions pre-tax to a non-qualified retirement plan that supplemented the qualified 401(k) plan.

226. A VEBA Medical Expense Plan is a program that allows tax-deductible contributions to be made for medical expenses. It is a type of self-insured health insurance plan and the Debtors had one. Unfortunately, more claims for medical expense reimbursement had been filed than the plan had assets to pay. Employees also filed proofs of claim seeking

reimbursement of payments that they had made to the VEBA MEP, alleging that health coverage had not been provided.

227. The Mirror Plan was not really a plan at all. Employees elected to defer a part of their wages and have them deposited into a trust account by MGRE. The trust funds were then invested and the employee, at retirement, would get a benefit from the trust. However, under tax regulations, the trust assets were not protected from the claims of the Debtors' creditors and the amount in the trust was fully available to those creditors. The employee participants claimed that they had not been fully informed of the fact that the funds were not protected from MGRE creditors and sought recovery of the funds.

228. The Trustee personally reviewed the law and made a settlement proposal to the affected creditors. After meetings and further negotiations with the attorneys for some employees, the settlement was accepted by all employees except one.

229. The high volume of transferred claims presented a challenge to the audit process. Many times, the transferee of a transferred claim filed a claim after conversion of the case to Chapter 7, even though the claim had previously been filed by the original holder. The Trustee was not able to obtain, if it existed, any database that documented claims transfer information. Also, although the original holder of the claim had transferred the claim, the Clerk of the Court had given notice, and an order had been entered approving the transfer, the Debtors did not appear to have a data file documenting the transfers. In many instances, original holders filed duplicate claims after conversion, which contained no reference to the prior claim or to the assignment. Because some of the original claim holders continued to do business with MGRE during the Chapter 11, their claims were carefully examined to determine if they were duplicates or for new goods or services.

230. Many claims were filed which asserted administrative priority, without specifying whether the priority claimed was Chapter 11 or Chapter 7. This was particularly frequent with respect to claims filed by utility companies and taxing authorities. In most instances, the proofs of claim combined claims for Chapter 11 administrative status, Chapter 7 administrative status and general unsecured status. At the commencement of the case, because it was administratively insolvent, it was necessary to sort the Chapter 7 administrative claims, which would be paid in full, the Chapter 11 administrative claims, which would receive a percentage distribution, and the general unsecured claims, which might not receive any distribution at all. All of these issues made the claims review process complex.

C. Chapter 11 Claims Purchased by Fidelity Entities

231. Early in the Chapter 11 proceeding, Fidelity Capital and Income Fund, Fidelity Capital & Insurance Fund, Belmont Fund, LP, Belmont Capital Partners II, LP, and Fidelity Copernicus Fund, LP (collectively, "Fidelity") purchased claims held by many pre-petition creditors. Prior to, or at the time of the purchase and assignment, the Debtors had agreed with Fidelity on the allowed amount of the claim being purchased.

232. One of the largest claims purchased by Fidelity is the claim of the Melville Corporation ("Melville"), which arose out of Melville's sale to the Debtors of the stock of Rosedale Chess King, Inc, the parent entity of 465 subsidiaries, each of which leased space in a mall for the operation of a "Chess King" store. In payment for the purchase of the stock of Rosedale Chess King, Inc., MGRE issued a promissory note to Melville for $29,413,302 (the "Melville Note"). Although the amount owing under the Melville Note was easily determined, the other obligation owing to Melville was not agreed upon.

233. In addition to the Melville Note, the asset purchase agreement between the Debtors and Melville contained an indemnity wherein the Debtors agreed to indemnify Melville Realty Company, Inc. ("Melville Realty") for certain Chess King related obligations. Melville Realty had guaranteed performance of all of the leases for the 465 Rosedale Chess King subsidiaries ("Melville Indemnity"). The Melville Note was a liquidated debt; the Melville Indemnity was not. Indeed, the debtors-in-possession, in proposing a plan of reorganization, struggled unsuccessfully with the immense and unliquidated liability posed by the Melville Indemnity.

234. The Trustee successfully implemented a legal strategy that limited the amount allowed for this immense claim. When a Chess King lease had been breached during both the Chapter 7 and Chapter 11 phases of the case, landlords asserted claims against Melville Realty. After negotiations, Melville Realty settled the claims and paid the landlords, but MGRE was not a party to, nor was advised of, the negotiations or the settlements. The claim asserted by Melville Realty for indemnification was in the amount of $20 million. The Trustee objected to the claim on several theories, especially the lack of notice of, or participation in, the settlements. Ultimately, the Trustee held personal negotiations with representatives of Fidelity and settled the claim for $15 million, as a general unsecured claim. The savings in actual disbursement will be about $6.0 million.

D. Taxing Authorities Claims.

235. MGRE did business in 46 states and the District of Columbia. In each state, MGRE was subject to: (i) state sales and use taxes; and (ii) taxes levied by counties, school taxing districts, cities and other municipalities on personal property located in the jurisdiction. There were thousands of claims filed by taxing authorities for sales and use taxes, personal

property taxes, business license taxes, school district taxes and assorted other taxes – claims which either had to be examined and allowed or objected to based on the appropriate status of the claim.

236. The first decision about tax claims, after they were sorted and identified, was deciding whether to audit a particular claim for taxes. If a claim was very large, the claim was audited. Deciding on a process for selecting the other claims to be audited was difficult. However, sales and use tax claims were all audited because none of the claims were small, and because most of the taxing authorities either claimed that the claims were secured or that they had recourse to recover the amounts due from former officers. Former officers had done everything they could to pay the sales taxes to the proper taxing authorities, but conversion occurred in the middle of a calendar quarter, and sales tax remittances were usually made at the end of the quarter. Hence, it was important to protect the officers and MGRE's indemnity of those officers from improper tax claims.

237. Among the thornier problems involving tax claims were ongoing audits of use tax liabilities. Massachusetts, Connecticut, and Texas, to name a few, were auditing the books of MGRE at the time of conversion and asserting large claims for additional use taxes. The total amount of additional priority taxes sought was $1.1 million. The bases for the assessment of additional taxes were: use taxes for items installed during store refurbishment that was ongoing during the Chapter 11; use taxes for fixtures in Chess King stores; and reclassification of fixtures as personal property and then assessing use tax.

238. MGRE had always filed all use tax returns and paid all taxes that were due. Nevertheless, audits were being conducted by certain jurisdictions with the goal of finding more tax revenue for the jurisdiction.

239. One example illustrates the problem: A new store is opened in Boston. MGRE bought in Maryland flooring, lighting, wallpaper, paint, trade fixtures (such as cabinets), and merchandise racks for the new store. MGRE paid sales tax in Maryland on the purchase. The goods were installed in the store in Boston. Massachusetts law on use taxes requires that MGRE pay use tax in Massachusetts on the same items where sales tax was already paid in Maryland. The tax rate is higher in Massachusetts than in Maryland. Massachusetts gets to collect the difference. The jurisdictions retained private auditors in Maryland who were spending weeks looking at receipts in the MGRE records to identify additional items to tax.

240. The audit reports were identifying minutia for additional tax due, such as cans of paint used, rolls of wallpaper, and security tags on merchandise. The audits had not been concluded at the time of conversion, but enough time had been spent pouring over MGRE records, that claims were filed based on the audits claiming $1.1 million in additional priority taxes.

241. The best way to defend against the claims was to request that the auditors complete their audits before the claim was allowed. This was done and the Trustee assured the states that all of the records had been preserved. Facing concluding the task, the jurisdictions settled their claims. If the Trustee had not carefully preserved the MGRE records in accessible locations, it would not have been possible to insist that the audits be completed.

E. Utility Company Claims.

242. Various utility companies, including providers of gas and electric service, telephone service and trash removal service at every store asserted 1,500 claims for utility service. Some filed proofs of claim, while others sent invoices for Chapter 7 service. Determining the correct amount and priority of the bills, motions and claims was difficult,

because very few of the utility companies separated the charges according to the legal priorities recognized by the Bankruptcy Code and the Bankruptcy Rules. Accordingly, each bill, motion and claim was carefully examined to determine the appropriate legal priority. Each of the approximately 1,500 such claims were examined, classified and paid or allowed, in accordance with the Bankruptcy Code.

F. Landlord Claims.

243. Claims from landlords of the Debtors totaled approximately $172,600,179.24, representing the largest single type of claim and a significant proportion of the total dollar amount of claims against the estate. Some of the claims were for "use and occupancy" arising from the Debtor's actual occupancy of the premises during the Chapter 11 phase of the case, while other claims related to the Trustee's actual occupancy of the premises during the Chapter 7 phase of the case (for purposes of the GOB Sales or while liquidating the leaseholds). Most of the claims, however, were for breach of the lease (in the case of an assumed lease) or for rejection damages (in the case of a pre-petition lease which was never assumed by the debtors-in-possession).

244. The landlords' Chapter 7 administrative claims against the bankruptcy estates were in excess of $7 million. These claims were split between claims for February, 1996 rent of about $1.8 million dollars, based upon court orders in the Chapter 11 and approximately $5.1 million dollars for post-March 2, 1996 rent for the going out of business sale. The Trustee dealt with approximately 72 separate landlords involving claims for over 225 store leases.

245. The claim resolution process was in two phases. In phase one, the Trustee calculated what she believed was due to each landlord and had counsel send offers to all counsel for landlords seeking a prompt settlement of claims for post-March 2, 1996 rent Some counsel

accepted the initial offer, were paid and gave releases of all other Chapter 7 claims, including Chapter 7 February rent claims, if any.

246. In phase two, the Trustee worked with her counsel to resolve claims through negotiations. The landlords, as a whole, raised many legal issues including the issues listed below. Through negotiations, almost all Chapter 7 claims were resolved. The total amount paid by the Trustee in settlement of all claims in the Chapter 7 for both February rent and post-March 2, 1996 rent claims was about $3.6 million, thus effectuating a saving to the Chapter 7 estate of about $3.4 million or 48.6%. These settlements were approved by Orders of the Court.

247. Numerous telephone conferences were held with the landlords, the Trustee and her counsel to resolve through negotiations the legal and factual issues outstanding between them. The Trustee creatively identified legal issues that she asked her counsel to pursue to reduce the allowed amounts of the landlord claims. For each legal issue, the dollar amounts had to be computed and the Trustee arranged to retain the services of a former leasing employee of MGRE to assist in the calculations. Among the legal and factual issues that were successfully negotiated were the following:

(a) Was a particular lease rejected as a result of the Lease Appeal Order?

(b) After rejection, was the landlord entitled to contract rate rent or was the proper measure "use and occupancy rent"?

(c) Was rent prorated based on the actual days of occupancy or was a full month's rent due if, during any portion of the month, the space was occupied?

(d) What date would be used for determining the last day occupancy? Was it the last day of a GOB Sale in that store? Was it when the keys to the

stores were returned (and what happened if they were never returned)? Was it when the leasing agent certified return of possession? Was it when all store fixtures were removed or abandoned?

(e) What was the proper measure of rent? Did it include percentage rent based on GOB Sales? Did rent include the prior year CAM taxes and/or other charges that became payable during the Chapter 7?

(f) What months was the Chapter 7 Trustee liable for? Was February rent due from the Chapter 7 estate as a Chapter 7 administrative expense based on the GOB Order or could the Trustee get relief from that order now? How did the appeal of the Returned Check Order affect this?

(g) Was the Chapter 7 estate liable for attorney's fees incurred by counsel to the landlord who was working on lease-specific issues where the lease was assumed and assigned?

(h) What rent was due for the two-week period during April when the Fixture Order gave the Trustee access to personal property still left in a vacated store?

(i) Could the Trustee setoff the amount of February rent payments ("February Rent") made by the debtors-in-possession on stores deemed rejected as of January 31?

(j) If the measure of rent was "use and occupancy" who had the burden of proving it?

(k) What was owed to Simon Group LP, if anything, because of the alleged Simon Stipulation?

(l) Could a landlord charge the Chapter 7 estate for clean up and the removal of abandoned store property?

(m) Did the Trustee have a claim against those landlords who disposed of the Trustee's store fixtures before April 8 when the Court entered the Fixture Order?

(n) With respect to leases where certain Chess King corporations were the lessees, was MGRE liable for anything other than use and occupancy if it used the store for the GOB Sale? Who was liable for the rent after occupancy but before rejection of those leases?

248. During a seven-week period, the Trustee and her counsel were able to settle most of the above Chapter 7 administrative rent and returned check issues with the numerous landlords.

249. Confusing the above legal issues was the uncertainty regarding the ultimate outcome of the Trustee's Motion filed on April 11, 1996 ("Simon Motion") which requested that this Court determine whether or not the Trustee had entered into an enforceable stipulation ("Alleged Simon Stipulation") with Simon Group, LP. The Alleged Stipulation provided, *inter alia*, for a payment of $700,000 to the Trustee and a waiver by Simon Group LP of all claims that Simon Group LP held of any nature against the estate. If enforced, Simon Group LP had no claims of any type against the estate. The Trustee personally suggested to her counsel the settlement that ultimately ended the dispute and resolved the claim of Simon.

250. A significant amount of time was spent on these matters in a short time frame in order to achieve such settlements. The necessary time was spent in an organized and efficient manner.

251. After the E&Y settlement was obtained, there were sufficient funds in the estate to make a distribution to general unsecured creditors, which also included substantial claims from landlords, especially for lease rejection damages.

252. Before beginning the process of general landlord claim allowance, the Trustee reviewed every claim to determine: (i) the identity of store (by store number) which claim was included in the proof of claim; (ii) the period of time included in the claim; (iii) the date of rejection, assumption and closing of the store; (iv) whether the store was affected by the order disallowing further assumption of leases; and (v) which landlord had the right to recover (malls had been sold). Once the basic information had been ascertained and related to the claim, the process of audit of the amount claimed began. Due to the difficulty of sorting and categorizing the landlords' claims, it took almost a year to complete this work.

253. The Trustee objected to the use and occupancy portions of the claims that were inconsistent with the Debtor's records, and to the claims for breach. The Trustee reviewed and analyzed information concerning the extent of actual damages to the landlords caused by the rejection of the leases. Table F contains a summary of the results obtained in the Landlord claims review and settlement process.

TABLE F

Class	Claim Amount	Allowed Amount	Disallowed Amount
Chapter 7 Administrative Claims	$11,851,345.46	$813,928.19	$11,080,968.69
	100.00%	6.87%	93.50%
Chapter 11 Administrative Claims	65,237,657.81	11,347,013.30	53,890,644.72
General Unsecured Claims	142,019,933.76	51,630,576.49	90,537,693.35
	100.00%	36.35%	63.75%
Total	$219,108,940.03	$63,791,518.59	$155,509,309.16
	100.00%	29.11%	70.97%

G. Senior Executive Employee Claims.

254. The claims filed by certain former senior executive relating to the Debtors' unfunded, unqualified deferred compensation plan called for sophisticated review and analysis. Not only did the senior executive plans have to be reviewed and understood prior to allowance of the claims, but the senior executive plans were intertwined with life insurance benefits provided. Analysis of the relationship of the life insurance to the senior executive compensation plans led to another interrelationship between funding of the debtors-in-possession through life insurance loans and payment of post-petition on those loans by reducing insurance cash values. In order to unravel all of these matters, the Trustee had to delve into areas of expertise far beyond those normally expected of a trustee.

H. Bear Stearns Claims.

255. Bear Stearns purchased secured, partially secured, and unsecured claims during the Chapter 11 phase of the case. When the Trustee filed preference actions against pre-petition trade vendors, the claims held by Bear Stearns had not yet been allowed and the Trustee objected to allowance until the preference suits were completed. The Bear Stearns claims involved in the preference suits were hence allowed on a conditional basis until the preferences were completed. Allowance of the claims on a conditional basis assisted the Trustee in settling many preference claims with the original holder of the claim. The original claimants settled the preference claims because if the preference was not paid, and the Bear Stearns claim was disallowed, Bear Stearns had the right to require the original claimant to re-purchase the claim from Bear Stearns.

I. Swidler and Berlin Claim.

256. The Trustee and the United States Trustee objected to the final fee application of Swidler and Berlin ("Swidler"), seeking the denial of Swidler's request for final allowance of

$4.4 million in total compensation and payment of unpaid compensation in the amount of $1,150,083.45. In their Objections, both the United States Trustee and the Trustee also sought the return of $3,300,582.50 in professional compensation which had already been paid. The basis for denial of compensation included an allegation that Swidler had failed to properly complete and file a disclosure of its connections with Ernst & Young. Swidler denied this allegation.

257. Early attempts to settle were not fruitful and the matter proceeded through discovery. At the conclusion of discovery, and just prior to commencement of the hearing on allowance, a settlement was reached. In the settlement, Swidler acknowledged its mistake in not disclosing the connection and agreed to disallowance of $1.1 million in compensation requested.

VIII. PERFORMANCE OF OTHER TRUSTEE DUTIES

258. In addition to pursuing the recovery of assets and verifying and objecting to claims, the Trustee was responsible for operating the Debtors' business during the early months of the Chapter 7, and for a wide variety of oversight and administrative tasks. They are described below.

A. Record Retention.

259. The record retention task, like everything else about the Debtors, was large and complicated. As a public company, the Debtors had a record retention policy that it followed while in business. The Trustee duly stored all records that came into her possession in accordance with the retention policies of the Debtors' pre-petition. That was the easy part of the task. The more difficult part of the task was identifying the records of operations that would be needed by the Trustee to: (i) finish collecting assets; (ii) prosecute recovery action, including preferences; (iii) complete an investigation of what led to the failure of the Debtors; (iv)

complete the claims review and objection process, including substantial claims by both vendors and landlords; and (v) administer the estate and file tax returns.

260. MGRE used several mainframe computers and many personal computers ("PCs") to record and store business and financial data. The mainframe computers were leased, and it was prohibitively expensive to continue the lease and to preserve the records stored on that system. At the same time, the Trustee had to preserve the information. The "information platform" used by a mainframe computer did not lend itself to easy transfer of data to a PC based system. The solution to this problem involved transferring some data to PC based systems and locating a mainframe user in the local area that had surplus capacity. She located a user with surplus capacity and arranged to have the necessity data transferred to the other computer prior to returning the leased mainframe computers. In doing so, she preserved crucial data that was absolutely needed in the prosecution of the E&Y litigation. When she had to store the data, return the leased main frames and vacate Fashion Way where the PCs were located, she had not finally identified E&Y as a potential defendant. Had the data not been stored, she could not have developed a damage model used in the E&Y litigation which proved the damages caused by E&Y.

B. Operation of the Business.

261. Pursuant to the March 6, 2005 Order of this Court, the Trustee operated the business until all of the stores were closed. During that time period, the Company employed almost 4,000 employees, including home office and store employees. Shipments of inventory were received by the Company and delivered to the stores where the GOB Sales were being conducted.

262. The Trustee filed all federal, state and local sales and payroll related taxes, along with other taxes incident to the operation of the business.

263. The Trustee also compensated employees, reviewed personnel records, planned employment and layoff schedules and dealt with many day-to-day business and employment issues.

C. Cash Management (operating the business and liquidating).

264. At the time of the Trustee's appointment, most of the cash was securing claims by secured creditors. The Trustee, therefore, had "available funds" of only approximately $2 million with which to operate a sophisticated business that still had approximately 420 stores open for business and thousands of employees. Through careful cash management and aggressive positions, the Trustee garnered enough cash to allow the business to operate and liquidate assets in the most efficient and beneficial manner.

265. The Trustee also acted swiftly to stop payment on checks in float on the conversion of this case from Chapter 11 to Chapter 7. Conversion was ordered by this Court late on Friday, March 1, 1996. The Trustee was formally appointed the next morning, Saturday, March 2, 1996. After a meeting with the chief financial officer of the Debtors, the Trustee filed a Motion on late Saturday requesting court authority to direct the Debtors' bank to return all checks which had not been cleared.

266. The Trustee applied to the court over the weekend and received authority from the court to return those checks. She obtained and served the Order before the banks opened for business on Monday morning. Although all Chapter 11 administrative claimants have now been paid in full, returning checks then provided necessary liquidity early in the case.

267. At the time of the Trustee's appointment, the Debtors maintained three separate bank accounts for the escrow of payroll and payroll taxes. Most payrolls were paid through direct deposit to employee bank accounts, utilizing the three accounts. At the time of conversion, the Debtors were paying current payroll to employees and were also paying "penalty" payments under the Workers Adjustment and Retraining Notification Act ("WARN"). WARN payments were being paid to all employees at the Home Office because the decision to layoff the employees had not been given at least 60 days before the layoffs occurred. The payroll authority had already been given to the banks to make the WARN payments to employees immediately after the Trustee's appointment.

268. The Trustee had to immediately decide whether to authorize the payment to employees for amounts allegedly due to them pursuant to the WARN Act. Because payroll had been processed on the Friday of the conversion, and was payable the following Wednesday, the Trustee needed to make her decision on the WARN Act issues immediately. She also needed to quickly understand the various orders which the Bankruptcy Court had entered providing for payment of employees participating in the GOB Sale and in the liquidation of the business. She knew that if she decided to stop payroll, she could precipitate more business chaos.

269. The Trustee made her decisions timely, limited the payment of WARN payments after giving due explanations to employees, and obtained several orders authorizing her decisions on employee payroll, WARN Act payments and incentive compensation. There was no business interruption as a result of her decision, although there was a great deal of unpleasantness with quite a few employees. Her decisions preserved cash at that time and ultimately all WARN Act payments were made after other recoveries by the Trustee provided the cash necessary fo the payments.

D. Accounting for Property Received.

270. After the Trustee was appointed, she proceeded to complete the final report and account of the debtors-in-possession pursuant to Bankruptcy Rule 1019, and filed the report with this court. Although the Bankruptcy Code requires that the report be completed by the debtors-in-possession, the practicalities of this situation dictated that the Trustee complete and file that report. Further, the Trustee was concerned that if she did not take charge of all of the accounting functions of the Debtors immediately and prepare the report herself, assets could have been written off, and consequently, information could have been lost or become unavailable to the Trustee.

271. Throughout the case, the Trustee has completed and filed all of the 180-day reports as required by the Office of the United States Trustee. Each report was approximately 1,000 pages and contained a complete report on the status of liquidation of assets and disbursements from the estate. Monthly interim reports have also been filed in this case – such reports commencing with March, 1996 and continuing. Each monthly report gives details on all receipts and all disbursements by the Trustee.

272. As a result of the E&Y settlement, the Trustee had to increase her Trustee bond. The bonding company that had previously issued the Trustee's bond was unwilling and/or unable to provide the Trustee with a bond in an increased amount. In fact, after some searching, the Trustee went to New York and found the only bonding company willing to issue such a bond.

273. Interim reports have been filed with the Court, the United States Trustee and with governmental units charged with the determination and collection of any tax arising out of the operation of the business for each month – such reports commencing with March, 1996 and continuing through November, 1997.

E. Tracking Claims Trading Transactions.

274. Because of the high volume of claims trading transactions, the Trustee needed to make a substantial effort to unravel the transactions in order to identify and pay the true holders of the claims and eliminate the duplicate (and sometimes triplicate) claims filed for a single debt. The resultant reduction in the improper claims benefited the unsecured claim holders, because there will be more monies to distribute to them. Several situations complicated this process, such as: the sale and assignment of both filed claims and scheduled claims during the Chapter 11 proceeding; the sale of a claim by the original claimholder to two different assignees; and the transfers of transferred claims two or three times. In other situations, the original claimholder filed a claim for the debt after they assigned the debt, or filed a claim for the difference between the amount of the debt and the amount for which the claimant sold the debt.

F. Tasks Ancillary to the Collection of Assets and Allowance of Claims.

275. In carrying out her duties, the Trustee completed innumerable ancillary tasks, including the following: completing and mailing over 1,600 Form 1099s as required by law; completing 2,000 mailings concerning 401(k)s, including the processing of distribution requests in order to preserve the qualification of the 401(k) plan; mailing of over 1,300 401(k) distribution checks, including address verification and follow-up of unclaimed funds; completing and mailing 10,000 Form W-2s, as required by law; processing 400 deposits; entering over 1,600 separate entries on a computer based case management system; responding to former employee verification requests relating to unemployment, workers' compensation and the like (over 10,000 requests were handled including telephone calls and completion of paperwork); completing the review of 419 freight accounts and processing of check requests, as required; completing the review of 799 gas or electric accounts and processing of check requests, as required; responding

to 22 parking violations for company cars; completing and mailing almost 450 personal property tax returns; completing and mailing almost 400 state and local license and/or franchise tax returns; completing the review of 1,626 telephone accounts, including credits for deposits, disputes over fraudulent long distance calls and disputes over turn-off requests; completing the review of 215 trash accounts; completing the review of 73 other vendor accounts; completing the review of 416 water and sewer accounts; and numerous daily sacks of mail.

276. In addition to the above items, none of which relate to filed proofs of claim but relate to the operation of the chapter 7 business and the winding up of operations, over 8,200 proofs of claim were entered into a computerized claims database. Thereafter, the claim amounts were compared with the accounts payable databases of MGRE, and spreadsheets were developed to separate claims into those that would be allowed as filed and those that were objectionable.

IX. DISTRIBUTIONS

A. Distribution to All Holders of Allowed Chapter 11 Administrative Claims.

277. On December 29, 1999, the Trustee made a first and final distribution to all holders of allowed Chapter 11 administrative claims (the "Chapter 11 Distribution"). Because the Trustee had recovered sufficient assets to pay chapter 11 administrative claims in full, she paid them. Because this scenario is rare, the Trustee was unable to locate any precedent on or any guidance in actually doing so.

278. The Trustee considered both the legal and pragmatic issues involved in the Chapter 11 distribution and how those issues would be addressed in the context of a procedures motion for the distribution. Since fundamental rights of creditors were at stake, it was vital to ensure that service upon and notice to all of the creditors was completed in a manner that would allow all creditors the opportunity to review what the Trustee's database showed was due to

them. Because this was an interim distribution, the estate would not have the benefit of Section 726(a)(1) of the Bankruptcy Code, limiting tardy claims, and a mechanism was needed to protect the estate from tardily filed claims. In addition to updating and maintaining an accurate database, the Trustee sought and obtained authority to mail notices, serve notice by publication and establish a website. The Trustee addressed other legal and practical issues, such as remittance of income taxes to all jurisdictions where former employees now live, overseeing the preparation of tax returns and W-2 forms and the distribution checks themselves, maintaining an accurate accounting of all monies distributed and substantive consolidation of the bankruptcy cases.

279. The Chapter 11 Distribution involved the claims of former employees; therefore, the Trustee had to establish tax accounts in all of the states in which former employees live, as well as prepare and distribute W-2 forms with respect to the Distribution. Almost 2,900 checks were mailed to Chapter 11 administrative claim holders.

280. This concern resulted in a procedures motion and order which gave access to all parties-in-interest on a website, and other procedural protections for the estate. While many bankruptcy cases routinely use websites to provide access to parties-in-interest to proposed distributions, the MGRE case, under the Trustee's leadership, was the first case to do so and helped to lead the way for future cases.

281. Once the Chapter 11 Distribution was made, the Trustee established procedures for dealing with returned checks and formulated a course of action for locating Chapter 11 claimants whose distribution checks were returned.

B. Interim Distribution to Holders of Allowed Unsecured Priority Claims and General Unsecured Claim.

282. In March 2003, the Trustee made an interim distribution (the "Interim Distribution") to priority claimants and general unsecured claims. The distribution consisted of a 100% payment to all allowed priority creditors and a 30% payment to all allowed general unsecured creditors. The general unsecured creditors will receive another final dividend.

283. Just as with the Chapter 11 Distribution, the Trustee had to take a number of steps to ensure that such a large distribution would be done properly. The Trustee reviewed all of the unsecured priority claims and general unsecured claims, interposed objections to said claims that were objectionable, and updated her computerized management system ("BMS") to ensure that the correct amounts, addresses and claimants were listed.

284. The Trustee met with her counsel and discussed legal and pragmatic issues regarding the Interim Distribution, and how those issues could be addressed in the context of a procedures motion for the Distribution. Since, once again, fundamental rights of creditors were at stake, it was vital to make sure that service upon the creditors was completed in a manner calculated to afford all creditors the opportunity to be heard. In addition to updating and maintaining an accurate database, the Trustee sought and obtained authority to mail notices, serve notice by publication and establish a website. The Trustee addressed other legal and practical issues, such as remittance of income taxes to all jurisdictions where former employees now live, overseeing the preparation of tax returns and W-2 forms and the distribution checks themselves, and maintaining an accurate accounting of all monies distributed.

285. The Interim Distribution consisted of 328 checks sent to claimants holding priority unsecured claims and 1,558 checks sent to claimants holding general unsecured claims. This distribution involved the claims of former employees and, therefore, the Trustee had to

establish tax accounts in all of the states in which former employees live, and prepare and distribute W-2 forms with respect to the distribution.

286. Once the Interim Distribution was made, the Trustee established procedures for dealing with returned checks and formulated a course of action for locating claimants whose distribution checks were returned.

C. Final Distribution Planned for 2005.

287. The Trustee intends to make a final distribution by the end of 2005. She projects that general unsecured claimants will receive an additional dividend of eight to ten percent (for a total dividend of 38-40%), assuming that this Application is granted.

WHEREFORE, Deborah Hunt Devan prays this Court to enter an Order: (i) awarding total final, trustee compensation to the Trustee of the amount of $8,833,350.00 for commissions;; (ii) authorizing the Trustee to pay herself the total amount of commission awarded, less any amounts paid as interim compensation; and (iii) for such other and further relief as the cause may require.

Respectfully submitted,

/s/ Deborah H. Devan

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Chapter 7 Trustee