



IWIRC

NEWSLETTER

International Women's Insolvency and Restructuring Confederation

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Catherine Bauer, Editor

A MESSAGE FROM THE CHAIR

Welcome to 2002. A new year. A fresh start. For many of us already a busy start.

I would like to welcome Catherine Bauer, as Newsletter Director, Brenda Bowers, as Program Director, Elizabeth Austin as Vice-Chair, Recruitment, Janie Anderson Castle, as Vice-Chair, International, Francine Gordon, as Information Officer and Trish Redmond as our NCBJ Liaison Officer. We are looking forward to working with each of you and know that your contributions will be meaningful.

I remind all members that there are many ways to increase your involvement with IWIRC, including by joining one of our many committees. Please contact Judy Ross, for more information (rossj@tklaw.com).

IWRIC will shortly announce that we have a new website address. We also hope over the coming year and beyond to improve and update our site. Would anyone interested in helping with these efforts, please also let Judy Ross or Francine Gordon (f.gordon@trumbull-services.com) know.

Two of IWIRC's goals for the coming year are to increase membership and networking among members. In the coming

months, you will see and hear more from us on initiatives to facilitate these goals. With increased membership, the opportunities to refer and be referred work increases. This benefits us all. We hope that you will remain open and alert to opportunities to introduce IWIRC to the professionals with whom you work, both locally and around the globe.

This newsletter remains a terrific opportunity to allow others to know about what members are doing and accomplishing. In addition to its circulation to IWIRC members, copies are often provided at insolvency conferences internationally and will be posted on our website when it is redesigned.

You can make a difference. Please remember IWIRC members, whether you are looking for someone to work with a new project or to participate in program you are planning. If you are speaking at or attending a conference, we can provide you with IWIRC brochures to take along (please contact Debra Kuptz in advance at debkuptz@jayalix.com). If you and others are interested in forming a network in an area where none currently exists, Sara Chenetz (schenetz@rdwlawcorp.com) would be pleased to help you get started. If you know of an opportunity for IWIRC to hold a meeting or reception in connection with another event or conference where women insolvency professionals will be in attendance, please contact Brenda Bowers

(Brenda_Bowers@ohsb.uscourts.gov) if it is in North America, or Dina Glass (dg.ass@msslaw.com.au) if it is outside of North America.

2002 will provide many opportunities for members to work together. I wish everyone health, happiness and success.

IWIRC FALL 2001 NCBJ CONFERENCE

By **Jean Ryan**

(Markowitz, Davis, Ringel & Trusty, P.A.)

A wonderful tropical evening, complete with warm weather and cool breezes, welcomed all IWIRC members to the opening cocktail reception held Tuesday evening, October 16, 2001, at Universal City's Jazz club. Kudos to the planning committee Co-chairs: **Debra Kuptz** (Jay Alix & Associates), **Mariaelena Gayo-Guitian** (Houston & Shahady) and **Patricia Redmond** (Stearns, Weaver, et al.) for providing such an accommodating venue for our gathering. This reception provided a marvelous opportunity for all members to spend real time together (without the time clock running) and provided a wonderful networking opportunity.

Breakfast choices for the following morning matched the best buffets available and provided all our members with a large choice of fare.

The first program of the day, entitled "Shopping for Courts and Cases" was moderated by **Patricia Redmond** (Stearns, Weaver, et al.). **Jeff Davis** (Professor, University of Florida) presented a synopsis of **Lynn Lopocki's** (Professor, Cornell Law School) indictment of the Delaware case filing phenomenon. **Mindy Mora** (Bilzin, Sumberg) discussed the various local rules, particularly those being developed for the

Southern District of Florida, that are to be proposed for the handling of mega cases. The purpose of these new "mega rules" is to give all potential litigants a sense of some certainty to assist with their evaluation of case filing venues. The ultimate goal of these proposed rules is to attract more case filings to the districts willing to develop and implement these rules. The **Honorable Michael Williamson** (Bankruptcy Judge, Middle District of Florida) then addressed the tension involved in the development and maintenance of standard local procedural rules versus maintaining the independence of the federal judiciary. The Judge also presented a description of some actual cases that have come before him regarding requests for change of venue and his insightful handling of same.

In summary, the panel concluded that while the Delaware courts may now be winning the "competition" for large case filings, it appears that, over time, due to the sheer volume of these filings, the cases being filed in Delaware will not be handled any better or any faster than those filed in other jurisdictions. Further, because the Delaware courts have had to bring in visiting judges to assist with their burgeoning case load, the increase in the number of these visiting judges, coupled with the uncertainty of not knowing to which judge your case may now ultimately be assigned, is effectively removing the perceived "certainties" that were driving the choice of Delaware as the preferred filing venue. The sheer volume of cases being filed in Delaware, and the related and inevitable delay in processing the voluminous paper work, may make Delaware a less desirable venue for future case filings.

The second panel of the morning was entitled "Women in Lead Roles". **Bettina Whyte** (Jay Alix & Associates) lead a panel composed of **Judy Elkin** (Haynes and

Boones), **Robin Keller** (Strook, Strook and Lavan) and **Marty Kopacz** (Pricewaterhouse Coopers) through discussions of situations in which the women had found themselves when participating as the senior person on a team, or when heading up a project. The panel highlighted each woman's individual background and provided insightful and humorous anecdotes as to how to secure a leading role engagement. The panel shared experiences in responding to and dealing with biases and preconceptions regarding women's roles in the restructuring process and personal experiences in significant reorganizations and negotiations. This panel was extremely informative and insightful for all women involved in the insolvency and restructuring arenas.

The **Honorable Karen S. Jennemann** (Bankruptcy Judge, Middle District of Florida) delivered a riveting keynote address entitled: "Property Rights and Power: How Women Gained Independence Through Married Women's Property Acts". At the beginning of her talk, **Judge Jennemann** promised that we would leave her presentation feeling "uplifted". She was true to her word. **Judge Jennemann** treated us to the historical perspective, from the beginning of English common law, to colonial and more recent times in America, regarding how women in the United States gained the economic independence and property and contractual rights we enjoy today. Through this discussion we were introduced to formidable women such as Angelina and Sarah Grimke (who wrote the "Letters on the Equality of the Sexes."), Elizabeth Cady Stanton and Susan B. Anthony, (who worked together for the passage of the New York Married Women's Property Act), Jewel Weldon McClain (the tea room operator who was sued for overdue bills) and Mary Lou Baker (the junior representative from St. Petersburg who was

influential in the passage of Florida's Married Women's Property Act). We were reminded of the contributions these women made to the economic emancipation that ultimately occurred for women in the United States. **Judge Jennemann's** presentation had a resounding impact, and later that night, resurfaced as the basis for some very interesting dinner discussions.

IWIRC's Chair, **Sheryl Seigel** (Fasken Martineau), closed this year's conference by highlighting IWIRC's many achievements in 2001, providing an overview of IWIRC's goals for 2002 and inviting members to become more actively involved in 2002 by joining one of IWIRC's many committees

The Conference Committee, composed of **Debra Kuptz** (Jay Alix & Associates), **Mariaelena Gayo-Guitian** (Houston & Shahady), **Patricia Redmond** (Stearns, Weaver, et al.), **Nancy Davis** (Ness, Motley, et al.), **Mary DeNevi** (Bingham Dana, LLP), **Maureen Luke** (Young, Conway, Stargatt and Taylor), **Elizabeth Rice** (Stearns, Weaver, et al.), **D. Jean Ryan** (Markowitz, Davis, Ringel & Trusty), **Judith Sullivan** (Emmet, Marvin & Martin) and **Sheryl Toby** (Honigman, Miller, Schwartz & Cohn) is to be commended for putting together such an outstanding conference.

**THE ZONE OF INSOLVENCY:
MINIMIZE THE FALLOUT – Words of
Advice to the Principals of Financially
Troubled Businesses**

By Sheila Smith
(Deloitte & Touche)

Reorganizing a struggling business is never a pleasant task. But it can be even worse if you leave yourself open to risks that could lead to involuntary bankruptcy, creditor lawsuits or even personal liability

for your business debts. To give yourself and your business a fighting chance to turn things around, you need to know where you are most vulnerable to attack - and what steps you can take to minimize the potential damage.

The most crucial step in mitigating risk is simply to acknowledge that problems exist. A good rule of thumb: If you think you're in the "zone of insolvency" you probably are. If you can't pay your debts as they arise, or if you've resorted to "creative" accounting practices to stay afloat, it's time to take off the blinders and call in an expert to help you assess, quantify and mitigate your risks.

Minimize Your Personal Risk. If you're a C-level executive who dealt with the company's finances, you could be held responsible, not just for outstanding trust taxes such as payroll taxes, but also for trust tax equivalents such as 401(k) deductions, health insurance deductions and other benefits withholdings. You could also be personally liable for debts to product and service vendors under the concept of fraudulent inducement, or if a check written by the company bounces.

To mitigate liability, you need to keep apprised of the amount you owe your employees and vendors at any time. This requires a thorough review of purchasing practices, "Open to Buy" reports, and blanket purchase orders. You might want to shorten the payroll cycle so that you only owe employees payment for a week at a time rather than, say, a month. Another prudent practice is to buy supplies in smaller quantities to minimize the risk of defaulting on payment for a huge shipment.

Keep Your Friends Close, Your Enemies Closer. It's important in a financial crisis to stay close to your friends - banks, customers, and vendors who are still willing to deal with your company. But it is even

more crucial to maintain relationships with your "enemies" - your creditors - because those who have an open line of communication with you are less likely to resort to legal measures against you. Remember, it only takes three creditors representing a total debt of \$11,625 to force a company into involuntary bankruptcy.

Don't Leave People Hanging. If you decide to shut down part of your business, take care that you don't leave yourself open to breach-of-contract lawsuits from irate customers, suppliers or business partners. A bankruptcy filing, however, can provide the opportunity to assume or reject expensive executory contracts such as real estate leases and union contracts, which can facilitate your ability to turn around the business.

Distance Yourself From Alter Ego. If your company is part of a parent-subsidiary relationship, you need to avoid the appearance of an "alter ego" relationship (i.e., co-branding or mingling of bank accounts) that could increase the likelihood of a piercing of the corporate veil.

If possible, change your practices to provide for independent operation of a failing subsidiary. For example, set up separate bank accounts and make sure that there is no overlapping membership in the boards of directors.

Assessing and mitigating the consequences of reorganization is no simple task. A thorough, professional analysis of your business issues at this critical time can help reduce the damage from a reorganization and set the stage for a successful recovery.

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Sheila Smith, a partner at Deloitte & Touche, leads the Firm's Reorganization Services Group for the New England region.

DIRECTORS AND OFFICERS LIABILITY INSURANCE IN THE BANKRUPTCY CONTEXT

By Sara Lundell Wahl

(Akin, Gump, Strauss, Hauer & Feld,
L.L.P.)

When an individual agrees to assume a position as a director or officer of a corporation, everything is usually rosy. The individual is flattered to have been chosen, the corporation is happy to have found a qualified person with a fresh perspective, and everyone is delighted about the arrangement. The issue of indemnity for potential claims arising out of the new director's or officer's exercise of her official duties is summarily dismissed with a glance at the corporation's bylaws and a brief review of the corporation's directors and officers insurance policy. Unfortunately, this idyllic scenario can be abruptly reversed when the corporation encounters financial distress. When the corporation starts to falter, the new director may wish she had paid more attention to those boring policy provisions.

Corporations generally agree to indemnify directors and officers against any claims arising from actions taken by directors and officers in their official capacity. Furthermore, most corporations carry insurance policies that expressly indemnify directors and officers directly, or indemnify the corporation in the event the corporation is required to expend monies to indemnify members of its management ("D & O Insurance"). Often these D&O Insurance policies also provide for the payment of defense costs that the defendant-director or officer incurs in defending herself against the claim asserted. Knowing that the corporation has such policies in

force, directors and officers go about their work of managing the corporation feeling secure that they are covered.

However, once a corporation files for bankruptcy protection under the United States Bankruptcy Code, directors' and officers' entitlement to any D & O Insurance is not crystal clear. Accordingly, directors and officers, as well as their defense counsel, should be just as knowledgeable about their D & O Insurance policies, and how courts have interpreted such policies, as any potential plaintiff-creditors are. What follows is a brief checklist to use when reviewing a corporation's D&O Insurance policy.

The Named Insured. The first issue to determine is whom the insurance policy names as "insured parties." If the policy names only the individual directors and officers, and not the corporation they serve, the proceeds of the policy are not property of the estate under 11 U.S.C. §541, and the insurance company is free to pay the insureds' claims for legal defense costs.¹ If, on the other hand, the policy names both the debtor-corporation and the directors and officers as co-insureds, both the policy and the proceeds of the policy are property of the estate.² In that situation, the defendant officers and directors will likely have to pay for their own legal defense, as well as any damages, and then file claims for indemnification from the debtor. Such claims would be treated as nonpriority unsecured claims.³

¹ See *Louisiana World Exposition, Inc. v. Federal Insurance Co.*, (in re *Louisiana World Exposition, Inc.*) 832 F.2d 1391, 1399 (5th Cir. – 1987); *Homsy v. Floyd* (in re *Vitch, Inc.*), 51 F.3d 530, 535 (5th Cir. 1995).

² 51 F.3d at 534.

³ See *Christian Life Center Litigation Defense Committee v. Silva*, (in re *Christian Life Center*) 821 F.2d 1370, 1374 (9th Cir. 1987).

Exclusions. The second issue to determine is what the policy excludes. All D & O Insurance policies exclude coverage for fraud, dishonesty and deliberate criminality.⁴ However, some D & O Insurance policies only exclude coverage if insured persons are ajudged guilty of criminal acts. Therefore, if the policy provides for defense costs, the insurance carrier must indemnify the director or officer for such defense costs up to the point at which the director or officer receives a judgment against her.

Other common exclusions are exclusions for violations of securities laws and the “insured v. insured” exclusion. The “insured v. insured” exclusion prohibits a corporation from suing its own directors and officers if both parties are named insureds under the policy. The rationale behind the exclusion is to prevent collusive lawsuits. The courts are divided on the issue of whether a bankruptcy trustee fits within the “insured v. insured” exclusion.⁵

Insolvency counselors should become familiar with the D & O policies of their debtor-clients and of the debtor-opponents of their creditor-clients. In many cases, such knowledge will be invaluable in determining whether to pursue litigation against directors and officers, and the nature and extent of the resources which should be spent in defending such a suit.

Sara Lundell Wahl is an associate in the Financial Restructuring section of Akin, Gump, Strauss, Hauer & Feld, L.L.P.

⁴ Michael Sean Quinn and Andrea D. Levin, *Directors' and Officers' Liability Insurance: Probably Directions in Texas Law*, 20 REVIEW OF LITIGATION 381, 433 (2001).

⁵ See *Buckeye County Mark, Inc. v. Baudenistel*, 251 B.R. 835, 840-41 (Bankr. S.D. Ohio 2000) and *Reliance Ins. Co. of Ill. v. Weis*, 148 B.R. 575 (E.D. Mo. 1992).

VIGILANCE AND PREPARATION AID IN RECLAMATION OF GOODS

By Alan D. Lasko

(Alan D. Lasko & Associates, P.C.)

There is nothing like asking for cash on the barrelhead when a company is selling goods. It's simple, satisfactory and safe. Unfortunately, it's no longer practical in today's world to ask customers to pay cash up front for their purchases. Today many companies regularly supply goods to customers on credit. With this practice obviously comes certain inevitable risks.

Foremost to consider is the risk of financial loss should a customer become insolvent before it pays for goods purchased. Since a customer's financial troubles can quickly become those of its suppliers as well, it is important to know what rights exist when attempting to reclaim goods. It is also important to know what steps can be taken when one suspects a potential insolvency.

Know The Options. When a customer to whom an order has been shipped is found to be insolvent or declares bankruptcy, there are several options available:

First, one can stop delivery of an order and sell the merchandise to someone else after notice is given to the initially intended buyer. Second, certain “steps can be taken” to reclaim the goods that have already been delivered under the Uniform Commercial Code or the Bankruptcy Code. Third, a lawsuit can be instituted seeking monetary damages.

Fast Action Can Eliminate Losses. If the goods are in transit when the insolvency is discovered, the seller has the right to request the carrier to return the goods or to deliver them to another buyer. Acting quickly to stop delivery allows a seller to get full value

for the merchandise in a timely fashion and is the simplest way to avoid loss.

Of course, this alternative is not completely without cost or risk. The seller is responsible to pay the carrier for any costs or damages resulting from the stoppage of goods in transit. The seller and the carrier can also be held responsible for damages suffered by the customer resulting from an unjustifiable stop order. One action that can begin to protect the seller is to provide formal notice to the carrier, as well as to the buyer, of the seller's intention to stop delivery.

Once Goods Are Delivered The Available Time To Act Is Limited. The Uniform Commercial Codes gives the seller the right to reclaim goods if (i) they were sold in the normal course of business, and (ii) if the buyer is insolvent at the time of delivery. Insolvency can be determined by either a "balance sheet test", where the Fair Value of liabilities exceed the Fair Value of assets, or by the buyer's inability to pay debts as they come due. Most states allow ten days from the date of delivery to provide notice of the seller's intent to reclaim its goods, provided the goods in question are still in the hands of the buyer. However, under certain circumstances, such as if the buyer has misrepresented his solvency, the time limit can be extended to 90 days. It is important for the seller of goods to quickly determine and document the buyer's status and then note whether or not there has been any misrepresentation. While the Uniform Commercial Code does not indicate the manner in which this notice should be given, caution dictates that it should be in writing.

A request to reclaim goods from an insolvent customer, if made during the time set down in the Uniform Commercial Code, sometimes results in the prompt return of merchandise. If the buyer refuses to release

the goods, an order can be sought in State Court to have the buyer return the goods.

Bankruptcy Complicates Reclamation. When a buyer files for bankruptcy within 10 days after the delivery of goods, a seller must begin an adversarial proceeding in Bankruptcy Court to assert his right of reclamation. For this reason, the Bankruptcy Code establishes certain limitations that are not found in the Uniform Commercial Code.

Once a buyer has sought the relief through bankruptcy, he must be able to provide documentation that the sale took place during the normal course of business. In addition, the insolvency test no longer allows the seller to consider a buyer's ability to pay debts as they come due. Now only the "balance sheet test" applies.

Finally, although the Uniform Commercial Code does not state how notice to reclaim goods should be given, the Bankruptcy Code requires written notice within 10 days of the delivery of goods. The Code also provides, "if such 10-day period expires after the commencement of the case, before 20 days after receipt of such goods by the debtor; ...the court may deny reclamation to a settler with such a right of reclamation that has made such a demand only if the court - (A) grants the claim of such a seller priority as a claim of a kind specified in section 503(b) of this title; or (B) secures such claim by a lien."⁶

The Bankruptcy Code asserts the seller's right to reclaim goods and places that right above any claims to the merchandise made by general unsecured creditors or by a Trustee in Bankruptcy Court. Unfortunately, the law is not clear-cut when it compares the rights of a seller doing business on credit to the rights of secured creditors.

⁶ 11 U.S.C. §546(c)(2) (2001).

One should note a minority of lower courts has held that a reclamation seller's rights come before those creditors with a perfected security interest and that a seller is entitled to an administrative claim for the full value of his goods. However, the majority of Courts have held that a seller seeking to reclaim goods has no more rights during a bankruptcy proceeding than it would under the Uniform Commercial Code. The Uniform Commercial Code states that the rights of a buyer attempting to reclaim goods are subject to the rights of a secured creditor.

This means that it will be more likely found that a reclamation seller's rights in a bankruptcy are better than other unsecured creditors. Nonetheless, the best a seller can hope for in a bankruptcy is an administrative claim in the surplus proceeds of the reclamation goods after the secured creditors have been paid.

Proper Preparation Helps Avoid Losses. Quick action to reclaim goods after a bankruptcy can help to minimize losses. However, since both the Uniform Commercial Code and the Bankruptcy Code allow sellers little time to stake a claim on their unpaid goods, suppliers must be vigilant to protect their interests before a bankruptcy occurs.

Any business that sells goods on an unsecured basis takes a risk. When the sale is large and there is doubt regarding the buyer's solvency, that risk becomes incrementally greater. The best course of action a seller can do is to be diligent in researching the company with whom it is doing business. Looking up a customer in the Dun & Bradstreet ratings and reviewing past payment habits are some of the ways to determine whether or not a potential buyer is a good risk. If one is engaged in a substantial sale and if there are any doubts at all concerning the buyer, the best defense

against potential loss is to prepare the documents to reflect a purchase money security interest in the goods. If a perfected purchase money security interest has been obtained, this will gain priority over any existing secured creditor when it comes to reclaiming the goods or receiving full value in an administrative settlement.

The obtaining of a purchase money security interest improves one's position in the priority classes of bankruptcy to equal a secured creditor in the eyes of the Court. This increases one's chances to reclaim all or most of the value of the merchandise that was sold. Without it, one is relegated to the position of unsecured creditor. While it is possible that this position may come before other unsecured creditors in relation to the goods, the chances of receiving little or nothing can be great.

The use of the reclamation provision of the Uniform Commercial Code and the Bankruptcy Code provides a company with some ability to recover the value of goods shipped to an interested customer. The interplay between these provisions needs to be considered along with quick action by a company in order to maximize the possibility of recovery of the sale.

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Alan D. Lasko is with Alan D. Lasko & Associates, P.C., Certified Public Accountants in Chicago

NETWORK NEWS

NEW ENGLAND NETWORK

Contributed by Lynn F. Riley

On September 20, 2001, IWIRC New England hosted a networking reception at the historic Parker House, in downtown Boston. **Chief Judge William C. Hillman**, of the U. S. Bankruptcy Court for the District of Massachusetts, was the guest speaker. Judge Hillman was joined by his colleague on the bench, **Judge Carol C. Kenner**, who initiated a dialogue with the Chief Judge about his perceptions and views on lawyers who appear before him, and included ways to insure and maintain one's honesty and credibility with the Court. Also in attendance were **Judge Joan N. Feeney** and **Judge Joel T. Rosenthal**, of the Massachusetts Bankruptcy Court, as well as over fifty IWIRC members and friends.

On Friday, December 7, 2001, forty IWIRC members and friends gathered for a holiday season luncheon at Trattoria Il Panino at Faneuil Hall Marketplace in Boston. It was a festive occasion, with delicious food and great conversation among a diverse group of insolvency professionals including women in banking, insurance, accounting, turnaround management and bankruptcy law. Those attending made generous contributions of new and used women's winter clothing, and seven large shopping bags of quality clothing were donated to Rosie's Place, a women's shelter in Boston.

At the luncheon, IWIRC member **M. Ellen Carpenter, Esq.**, of Roach & Carpenter P.C. was honored for becoming a Fellow of the American College of Bankruptcy, with the induction ceremony to be held in March 2002, at the U.S. Supreme Court in Washington D.C. Selection standards for the College include the highest level of character, integrity, professional

expertise and leadership, and it was observed that Ellen's selection is fitting in light of her exemplary professional and civic contributions to the bankruptcy bar and greater Boston legal community.

Future events planned for the New England Network include a Dinner Discussion to be hosted by the Network's Vice-Chair, **Colleen Murphy, Esq.**, at Goodwin Procter LLP in Boston on February 13, 2002. The topic will be Women Insolvency Professionals and Leadership Development. The discussion will focus on how we can encourage and support women within our professional community to take on and succeed in leadership roles. On June 13, 2002, IWIRC New England will host its Second Annual Spring Event aboard the Lexington, an authentic sidewheeler, which will depart from Boston Harbor for an evening cruise, to include entertainment by the Muddy Shoes Quartet, cocktails and barbecue.

NORTHEAST OHIO NETWORK

Contributed by Jean Robertson

On Wednesday, November 14, 2001 the NE Ohio Network had its first membership drive "reception" since having its charter approved by the IWIRC Board. It was held at the offices of Hahn Loeser & Parks LLP, and we had a great turnout. Approximately twenty-five women (and one gentleman: Allan Friedman from Bowne of Cleveland) gathered to hear about IWIRC, the Northeast Ohio Network, and all that IWIRC does and can do for them. The attendees were extremely diverse: consumer and corporate bankruptcy attorneys, the AG's office, two turnaround consultants, an accountant/CPA, a crisis PR manager, IWIRC international member Francine Gordon from Trumbull

Services (bankruptcy claims management), a bankruptcy court law clerk from the absolute busiest court in the nation (other than DE) - Youngstown OH, and others. It was tremendous. Everyone left behind a membership form and a card, and they all left with enthusiasm and a strong desire to get together again soon.

We have an email listserve up and running already and we are preparing for our next big event: a reception on December 13, 2001 at the Cleveland Bar Association, being held in conjunction with the two-day 2001 William J. O'Neill Bankruptcy Institute. We expect over 100 people at the next event.

OHIO NETWORK

Contributed by Susan Rhiel and Sue Cliffel, Co-Chairs

On December 11, 2001, we held our annual IWIRC Ohio Network Holiday Luncheon at Baker & Hostetler. On that day, a conference room at Baker & Hostetler filled up with almost two dozen IWIRC members, presents, gift wrap, name tags, toys, clothes, stocking stuffers, and gift cards. On that day, everyone who attended left feeling a sense of goodwill and gratitude for their own families, friends, and blessings. That is the reason that the Holiday Luncheon is always one of our favorite events.

We must say thank you to Sherri Lazear who hosted the event and provided us with everything that we needed. We had great food, fellowship, and plenty of room to gather and wrap holiday presents for our two adopted families. We also must say thank you to those firms who adopted our families and to everyone who donated presents and gift certificates to our cause. Finally, we must thank Marcy Miller for taking charge and organizing the gift lists. The event was

a true success, and Susan Rhiel and Victoria Powers loaded their cars full to deliver all of the neatly wrapped presents to the adopted families.

MICHIGAN NETWORK **Contributed by Sheryl Toby**

On October 4, 2001 the Michigan Network hosted a luncheon with Jacqueline Dout, President of JJB Enterprises, Inc. and former Executive Vice President and CFO of Champion Enterprises, Inc., as the guest speaker. Ms. Dout was involved in the design and implementation of business and financial strategies for several multi-billion dollar corporations such as Koppers Company, Inc., IMCERA Group, Inc. and Champion Enterprises, Inc. and was named by Crain's Detroit Business to the top list of Women Board Candidates and Most Influential Women.

The next Michigan Network event will be on February 5, 2002 and is sure to be exceptional. The Michigan Network will be hosting a panel of judges to discuss "Courtroom Tips" with an hors d'oeuvres reception to follow. The panel will include Honorable Nancy G. Edmunds from the U.S. District Court, Eastern District of Michigan, Honorable Steven W. Rhodes from the U.S. Bankruptcy Court, Eastern District of Michigan, Honorable James D. Gregg, Chief Judge of the U.S. Bankruptcy Court, Western District of Michigan and Honorable Barry L. Howard, former Chief Judge of the Oakland County Circuit Court, State of Michigan.

CANADIAN NETWORK

Contributed by Catherine Hristrow

On Tuesday November 13, 2001, the Canadian Chapter of IWIRC held its fall meeting with approximately 50 people in attendance. Jeff Ansell was the featured speaker on the topic "Working Effectively with the Media."

Jeff Ansell is a media, crisis, speech and communications counselor who helps corporate clients develop strategies to manage conflict and communicate comfortably and effectively, whether internally or in high pressure external media situations such as television or newspaper interviews. In his consulting practice and speaking engagements, he addresses strategies for Chapter 11 filings, restructurings, layoffs/plant closures, and mergers and acquisitions. Having spent 18 years as a television and newspaper journalist, and being currently employed as an associate of the Public Disputes Program at Harvard Law School, Jeff was particularly well-suited for the task of highlighting common pitfalls and minefields for professionals in their dealings with the media.

Jeff's session was interactive, entertaining and enlightening. Sandra Sykora (Deloitte & Touche) and Diane Hessel (A. Farber Associates) were chosen by Jeff to participate in mock interviews. Using actual answers to "write" his hypothetical news piece, Jeff, with brutal frankness and humor, focused our attention on how we can better respond to questions from the media. Both Sandra and Diane performed admirably and we are grateful for their good-natured participation.

After the formal presentation dinner was served. Networking was evident both prior to and after the presentation. Our colleagues at Ernst and Young LLP generously

volunteered to host the next session early in the New Year.

Sheryl Seigel updated the Canadian Network with International Network news and requested involvement not only as IWIRC members but to become involved in various committees.

MEMBER NEWS

Recruiting Committee Kicks Off Regional Membership Outreach

The Recruiting Committee is launching an initiative to raise IWIRC's visibility and (hopefully) its membership. It is a simple plan, and all IWIRC members are encouraged to participate.

Basically, committee members have agreed to introduce IWIRC to the restructuring practice leaders of major institutions (accounting firms, banks and asset based lenders, turnaround consultants, law firms, etc.) in their geographic areas and to ask those individuals to pass on the IWIRC brochure to their female colleagues. The initial introduction can be by letter, phone call, personal meeting ... whatever is most convenient. (A draft letter is available by email to dcourage@jayalix.com with subject line "IWIRC Intro Letter.")

You can get copies of the IWIRC brochure by contacting Suzanne or Shari at 703-449-1316 or downloadable information and a membership application off the website at www.inetresults.com/iwirc.

The Recruiting Committee is looking for good ideas and additional members. Watch for details on an upcoming membership drive.

Membership Builder: *Keep an IWIRC brochure and member application form in*

your briefcase ... take a few to display whenever you go to association meetings or conferences ... include the IWIRC website when you communicate by email to potential new members. Help launch our network!

IWIRC recognizes and congratulates each of the following members on her achievements:

1. **Nancy V. Alquist** of Ballard Spahr Andrews & Ingersoll LLP in Baltimore was elevated to the position of President-Elect of the Bankruptcy Bar Association for the District of Maryland.

2. **M. Ellen Carpenter** of Roach & Carpenter, P.C. in Boston has been selected to become a Fellow of the American College of Bankruptcy. The induction ceremony for the Class of 2002 will be held in March at the United States Supreme Court in Washington D.C.

3. **Martha E.M. Kopacz**, of Pricewaterhouse Coopers in Boston was inducted as a Fellow of the American College of Bankruptcy earlier this year as part of the Class of 2001.

4. **Marjorie Kaufman** of Resolution Capital Corporation in Needham, Massachusetts, recently commenced her term as President of the Northeast Chapter of the Turnaround Management Association.

5. **Sheila T. Smith** of Deloitte & Touche, Boston, recently organized and sat on a panel for Turnaround Management Association entitled 'Women in Recovery'. This informative panel discussion, which drew the largest attendance ever for a TMA breakfast panel with 175 registrants, was

moderated by Judge Carol J. Kenner of the Bankruptcy Court for the District of Massachusetts.

6. **Martha A. Fetner** of JPMorgan, Hong Kong, was the lead banker in the landmark Haitai Food Products LBO in Korea with a loan of \$314 billion. FinanceAsia labeled this deal the "Best Syndicated Loan and Best Private Equity Deal."

7. **Sheryl Seigel** of the Toronto office of Fasken Martineau organized and chaired a program in November 2001, sponsored by the Law Society of Upper Canada entitled Key Issues in the Restructuring of Insolvent Businesses, whose speakers included many highly regarded Canadian restructuring specialists.

In addition, **Gail Reese** of Wyatt, Tarrant & Combs, Nashville, shares the following:

My bankruptcy lawyer singing group "B. Gail & the Bankruptcy Boys," a group of singing bankruptcy lawyers based in Nashville, TN, presented its annual show at the Nashville Bar Association Bankruptcy Committee's annual holiday party on December 13. Attendees included members of the bankruptcy bar, the bankruptcy judges and their staff, and the clerk of court and his staff. The parody show featured "Recession's Back" (based on the 1965 girl group the Angels' rendition of "My Boyfriend's Back") and The Twelve days of Bankruptcy (based on the traditional Twelve Days of Christmas), among other numbers. At the judges' request, the program

was repeated at the bankruptcy judges' annual pancake breakfast for Middle TN members of the 6th Circuit Court of Appeals and their staff members on December 19.

Note to Gail: The editors beg for an encore at the next IWIRC Conference!

QUERY

I recently read an article in an American publication that stated that lawyers for creditors of British insurance company, Independent Insurance Group, were planning to sue the British Agency - Financial Services Authority - for negligence. One line of the article piqued my curiosity because it stated that, although British law protects the Financial Services Authority from damages claims, European Council Directive 77/92/EEC provided the creditors with a way to get around the British statute. I had not known that European law was so powerful as to trump the law of a sovereign nation. Obviously, my International Trade Law class in law school was somewhat lacking.

If any of you are inclined to educate me about the supremacy of European law, or would be interested in co-authoring an article about international choice of law, please email me at swahl@akingump.com.

If you have news about yourself or another IWIRC member to share, or queries you would like to send to the membership, please take a moment to send them to Catherine Bauer at Catherine.Bauer@usdoj.gov or Sara Wahl at swahl@akingump.com.

Also, remember to visit IWIRC's bulletin board at

www.inetresults.com/iwirc for links of interest, and board or network information.

Calendar of Events of Interest:

March 3-6, 2002: Norton Bankruptcy Litigation I Institute, Park City, Utah.

March 8, 2002: ABI's Bankruptcy Battleground West, Los Angeles, California.

April 11-14, 2002: Norton Bankruptcy Litigation II Institute, Las Vegas, Nevada.

April 18-21, 2002: ABI's Annual Spring Meeting, Washington, D.C.

June 6-9, 2002: ABI's Central States Bankruptcy Workshop, Traverse City, Michigan.

June 27-30, 2002: Norton Western Bankruptcy Law Institute, Jackson Hole, Wyoming.

July 11-14, 2002: ABI's Northeast Bankruptcy Conference, Cape Cod, Massachusetts.

August 7-10, 2002: ABI's Southeast Bankruptcy Conference, Kiawah Island, South Carolina.

September 11-14, 2002: ABI's Southwest Bankruptcy Conference, Las Vegas, Nevada.

October 1-2, 2002: IWIRC Fall Conference, Chicago, Illinois.

October 2-5, 2002: National Conference of Bankruptcy Judges, Chicago, Illinois.

