

Porter Hayden To Emerge From Chapter 11

Friday, July 07, 2006 --- The federal bankruptcy court and the U.S. District Court in Maryland have both approved Porter Hayden Company's Chapter 11 plan, giving the Baltimore-based company the green light to emerge from bankruptcy more than four years after it was driven into Chapter 11 by asbestos-related personal injury claims.

U.S. Bankruptcy Judge E. Stephen Derby and District Court Judge Andre Davis signed off on the restructuring plan after a joint hearing. Such a hearing is a rare occurrence, according to Peter Nussbaum, who represents Porter Hayden in the bankruptcy proceedings. Nussbaum called the hearing "enjoyable."

The dual jurisdiction in this case stems from Section 524 (g) of the Bankruptcy Code, which lays out special guidelines for dealing with asbestos-related bankruptcy cases. Even in cases where dual jurisdiction applies, judges often hear evidence separately.

"The Chapter 11 case and the plan of reorganization enjoyed the unanimous support of asbestos claimants and has resulted in what will be enhanced recoveries for victims of asbestosis poisoning and a comprehensive method of efficiently and equitably processing payment for existing and future claimants," said Nussbaum, who touted the settlement as a success.

The reorganization plan centers on a trust, the purpose of which is to deal with Porter Hayden's massive asbestos liabilities. Currently, about 58,000 plaintiffs have asserted asbestos-related personal injury claims against the company. Pursuant to Porter Hayden's plan, the trust will own all of the common stock in the reorganized company and be bolstered by payments from Porter Hayden's insurers.

"They are reorganized and they've emerged from Chapter 11," Nussbaum said of Porter Hayden. But the company doesn't manufacture or sell products or services—its function now, as it has been for years, is to address the thousands of claims already lodged against the company, and those that will be lodged in the future.

The reorganization plan also includes a so-called "channeling injunction" which protects Porter Hayden and the insurance companies that contribute to the trust from future asbestos claims.

While some companies put a specific amount into a trust for asbestos claimants, that is not the case in Porter Hayden's bankruptcy. Porter Hayden is currently embroiled in litigation with at least two of its insurers as part of its

attempts to compel payment. Nussbaum said that hundreds of millions of dollars could potentially be available for the trust.

For many years, Porter Hayden installed insulation containing asbestos in industrial sites throughout the Mid-Atlantic U.S. In 1976, Porter-Hayden was hit with its first asbestos-related personal injury suit, brought by a plaintiff who claimed to have been injured by exposure to asbestos released from the products the company supplied and installed. Since then, thousands of plaintiffs have sued the company, and the company has been locked in legal disputes with liability insurance carriers.

Porter Hayden is represented by the firm Whiteford, Taylor & Preston LLP.

Porter Hayden's creditors are represented by firms including Neuberger, Quinn, Gielen, Rubin & Gibber PA; Campbell & Levine LLC; Young Conaway Stargatt & Taylor LLP and Dickstein Shapiro LLP.

The bankruptcy case is In re: Porter Hayden Company, case number 02-54152, in the U.S. Bankruptcy Court for the District of Maryland.

--By Ben James, ben.james@portfoliomediamedia.com