

# THE AMERICAN LAWYER

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## A MOMENT'S NOTICE

An inside look at how Weil, Gotshal put together the Lehman bankruptcy in record time.

By Ben Hallman

**LAW FIRM LEADERS SURVEY:**  
Doubts About 2009

**THE CHANGE AGENDA**

Going public  
Rebelling clients  
Managing talent  
Unrelenting technology



Weil's  
Harvey Miller



would be taken over by New York-based Philip Morris International Inc. The \$2 billion deal closed on September 11.

Rothmans, which was founded in 1899, controls about a third of the Canadian tobacco market and has about 750 employees, with plants in the Toronto area and Quebec City. Its brands include Benson & Hedges, Craven A, and Mark Ten. It also makes discount brands, a market in which Philip Morris wants to expand.

The buyout followed the resolution of smuggling charges against Rothmans, Benson & Hedges Inc., which was owned 60 percent by Rothmans and 40 percent by Philip Morris. A joint investigation by Canada's federal and provincial governments found that some tobacco products manufactured and exported by Rothmans between 1989 and 1996 were illegally smuggled back into the country without payment of tobacco taxes and duties [Canadian Big Suits, October]. The company pled guilty to a single count of violating a provision of the Excise Act relating to smuggling allegations, and agreed to pay \$550 million over ten years in criminal fines and civil damages. (The investigation also targeted Imperial Tobacco Canada Limited.)

Philip Morris was spun off from parent company Altria Group this spring [Big Deals, June]. Some Rothmans shareholders felt that Philip Morris's \$30-per-share bid for their company was too low. The offer was initially accepted by shareholders holding 67 percent of Rothmans stock, barely exceeding the 66 percent minimum for the deal. The offer was extended on September 17, resulting in the tender of more than 90 percent of shares.

**FOR ACQUIROR PHILIP MORRIS INTERNATIONAL INC. (NEW YORK)**

**WACHTELL LIPTON ROSEN & KATZ:** *Corporate/securities:*

**David Karp, Andrew Nussbaum,** and associates **Karessa Cain, James Cuneo,** and **Ophr Nave.** *Employment:* associate **David Kahan.**

*Restructuring and finance:* associate **Caith Kushner.** (They are in New York.)

**HEENAN BLAIKIE:** *Corporate and securities:* **Jeffery Barnes.** *Competition:* **Subrata Bhattacharjee, Mike Hollinger, Charlie MacCready,** and **Jon Smithen.**

**FOR TARGET ROTHMANS INC. (TORONTO)**

**GOWLING LAFLEUR HENDERSON:** *Corporate finance:* **Dean Blain, Pierre Lissour, Kathleen Ritchie,** and **Léonard Serafini.** *Corporate law/securities:* **Leslie Gord** and associates **Kate Lioubar** and **Alex Lalka.** *Competition law/Investment Canada:* **Bruce Graham, Ian Macdonald, Robert Milnes,** and associate **Nicole Chen.** *Tax:* **Gloria Geddes, Ash Gupta,** and associate **John Sorensen.** *Pensions:* **Daniel Hayhurst.** *Employment:* **Rhonda Jansen.** (All are in Toronto except for Lissour and Serafini, who are in Montreal.) Blain has represented Rothmans for more than 20 years at Gowlings and at one of its predecessor firms, Smith Lyons.

**FOR INDEPENDENT COMMITTEE OF ROTHMANS DIRECTORS**

**DAVIES WARD PHILLIPS VINEBERG:** *Corporate finance and securities:* **Ivana Gotzeva, William Gula,** and **Peter Hong.** (They are in Toronto.) This was Davies's first deal for Rothmans. —L.K.

**AINSWORTH LUMBER RECAPITALIZATION**

The collapse of the U.S. housing sector and the strong Canadian dollar were a bad combination for Vancouver-based

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Ainsworth Lumber Co. Ltd. The family-built company ended up with almost \$1 billion in debt and shrinking cash flows because of falling prices for its primary product, oriented strand board (OSB). On July 29 Ainsworth completed a \$1.2 billion recapitalization in which eight Ainsworth family members lost their controlling interest and most of their equity.

Ainsworth, which went public in 1993, grew into a major player in the North American market for OSB, which is similar to plywood. The company has plants in British Columbia, Alberta, and the United States that employ 1,700 people. The boom in home construction earlier this decade led to record-high demand and prices for OSB. But when the U.S. housing market collapsed, Ainsworth's sales plummeted from \$1.2 billion in 2005 to \$544 million in 2007.

The recapitalization involved the conversion of \$824 million of outstanding senior unsecured notes into equity and \$150 million of new senior unsecured notes. (The noteholders also have the opportunity to purchase up to \$200 million of new senior unsecured notes.)

The conversion means that Ainsworth's noteholders are its new owners, holding 96 percent of the company's stock. The principal noteholders are the private equity funds HBK Master Fund LLP, Tricap Partners II LP, and Barclays Bank PLC. Existing shareholders received the remaining 4 percent of the new shares, leaving Ainsworth family members with only a fraction of their company.

Concurrently with the recapitalization, Ainsworth amended three credit facilities from Goldman Sachs, GE Canada Finance Holding Company, and Deutsche Bank AG. The facilities represented approximately \$175 million in senior secured and unsecured debt.

FOR AINSWORTH LUMBER CO. LTD. (VANCOUVER)

**BLAKE, CASSELS & GRAYDON:**

*Corporate and securities:* Kathleen Keilty, Steven McKoen, Bill Sirett, and associates Ryan Goodman and Greg Smith. *Banking:* Neal Wang, David Zacks, and associate Samantha Richer. *Tax:* Robert Kopstein and associate Kirsten Kjellander. *Competition:* Jason Gudofsky. *Forestry:* Caroline Findlay and associate Selina Lee-Andersen. *Real estate:* Greg Umbach and associate Jennifer Williams. *Restructuring and insolvency:* Susan Grundy and Milly Chow. *Litigation:* William Kaplan and associate Sean Boyle. (All are in Vancouver except for Gudofsky, Grundy and Chow, who are in Toronto.)

**SKADDEN, ARPS, SLATE, MEAGHER & FLOM:** *Securities:*

Ryan Dzierniejko and Christopher Morgan. *Corporate finance:* David Beeston. *Banking:* David Armstrong. *Competition:* Joseph Nisa. *Restructuring:* Van Durrer II. *Tax:* Eric Sensenbrenner and Aaron Feinberg.

FOR SPECIAL COMMITTEE OF AINSWORTH'S BOARD

**LAWSON LUNDELL:** *Corporate commercial/M&A/corporate finance and securities:* Michael Lee and John Smith. (They are in Vancouver.) Lawson Lundell was asked directly by the special committee to advise it, on the basis of a variety of factors, including prior special committee experience.

FOR NOTEHOLDER HBK MASTER FUND L.P. (GEORGE TOWN, CAYMAN ISLANDS)

**BENNETT JONES:** *Restructuring:* Rajvinder Sahni and Kevin Zych. *Corporate:* Jeffrey Kerbel. *Tax:* Stephen Bowman. (All are in Toronto.) **KRAMER LEVIN NAFTALIS & FRANKEL:** *Corporate:* Ernest Wechsler and associates Elan Daniels and Robert Wollin. *Banking and finance:* Eric Wise

and associates Alyssa Katz and Theodore Sica. *Restructuring:* David Feldman and associate Joshua Brody. (They are in New York.)

FOR NOTEHOLDER TRICAP PARTNERS II (NEW YORK)

**TORYS:** *Restructuring:* Tony DeMarinis and associate Adam Slavens. *Corporate and securities:* Jay Holsten, Michael Sitala, Omar Wakil, and associates Jennifer Lennon, Jon Reay, and Cornell Wright. *Banking:* Amanda Balasubramanian and associate Nadine Rockman. *Tax:* Corrado Cardarelli and associate Richard Johnson. (All are in Toronto.) Tricap is owned by Brookfield Asset Management.

FOR BROOKFIELD ASSET MANAGEMENT (NEW YORK)

**PAUL, WEISS, RIFKIND, WHARTON & GARRISON:** *Bankruptcy:* Alan Kornberg, counsel Diane Meyers, and associates Margaret Phillips and Rebecca Zubaty. *Corporate:* Raphael Russo and associates Stanislav Grigoryev and Peter Wright. *Tax:* David Mayo and associate Allison Friedman. (They are in New York.)

FOR CERTAIN OTHER NOTEHOLDERS AND BACKSTOP PARTIES

**GOODMANS:** *Restructuring:* Robert Chadwick and Melaney Wagner. *Corporate:* Tim Heeney. *Tax:* Carrie Smit. (All are in Toronto.) These noteholders included several financial funds in North America and Europe that have called on Goodmans for previous cross-border recapitalizations and restructurings.

FOR NOTE TRUSTEE THE BANK OF NEW YORK MELLON (NEW YORK)

**SEWARD & KISSEL:** *Corporate finance:* Andrew Silverstein and associate Issac Yedid. (They are in New York.)

**LANG MICHENER:** *Business restructuring and insolvency:* Peter Reardon and Sheryl Seigel. (They are in Toronto.)

**McGUIRE, CRADDOCK &**

**STROTHER:** *Agency servicing:* Jonathan Thalheimer. (He is in Dallas.) The firm represented The Bank of New York Mellon in its capacity as the new administrative agent and collateral agent under the Goldman Sachs credit facility.

FOR BNY TRUST COMPANY OF CANADA (TORONTO)

**IN-HOUSE:** George Bragg.

FOR LENDER GOLDMAN SACHS (NEW YORK)

**LATHAM & WATKINS:** Andrew Faye. (He is in New York.)

FOR SYNDICATE OF SENIOR SECURED LENDERS UNDER THE GOLDMAN SACHS FACILITY

The syndicate was led by TPG Credit Management.

**FASKEN MARTINEAU**

**DUMOULIN:** *Banking and restructuring:* John Elias, Jon Levin, Don Weaver, and associates Kevin Clinton and KC Miu. *Real estate:* Ian Cassie. (All are in Toronto except for Weaver, Miu, and Cassie, who are in Vancouver.)

**McDERMOTT WILL & EMERY:**

*Corporate:* Vladimir Rossman, John Sullivan, and associate Laura Gardner. (They are in New York.)

FOR LENDER GE CANADA FINANCE HOLDING COMPANY (TORONTO)

**IN-HOUSE:** Doug Taber.

**McCARTHY TETRAULT:**

*Bankruptcy and restructuring:* James Gage and Kevin McElcheran. (They are in Toronto.)

FOR LENDER DEUTSCHE BANK LUXEMBOURG AG (LUXEMBOURG)

**IN-HOUSE:** Frieder Bauer and David Mellgard. —L.K.

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