

APPEARANCES (Continued:)

For the Ad Hoc Committee
of Seg 1 Customers:

Mr. Jeffrey Goodman;
Mr. Mark Prager;
Mr. William McKenna;

For Citadel Equity Fund
Limited:

Mr. Jeff Marwil;

For Penson GHCO and Penson
Financial Future:

Mr. Tim Casey;

For Rob Evans, Receiver of
Lake Shore Asset
Management:

Mr. Robert Fishman;

Court Reporter:

Amy Doolin, CSR, RPR
U.S. Courthouse
219 South Dearborn
Room 661
Chicago, IL 60604.

1 MR. LAZAR: Your Honor, as I
2 indicated, the point of the note to which he's
3 referring was that if Your Honor wanted to try the
4 adversary and the confirmation hearing together,
5 determine an adversary is necessary, and the timing
6 was going to work, we were prepared to go forward.
7 But if not, we will reserve on those issues.

8 THE COURT: Right. Well, I'm not
9 going to be able to do them both at the same time.

10 MR. LAZAR: And I hear you loud and
11 clear on that, Judge. We are prepared to go forward
12 on the 1129 issues. We are optimistic that
13 notwithstanding the rhetoric here that when people
14 start looking at the numbers -- and we are prepared
15 to meet with the Seg 1s.

16 We have been meeting with them
17 regularly and we're going to continue meeting with
18 them. We'll meet with them and try walking through
19 this again so they understand why the trustee
20 believes so strongly that this settlement is in their
21 best interest.

22 To the extent we have people that have
23 not signed up, we will reserve their piece of the 40
24 million, and you're not going to have to try property
25 of the estate in July. We're going to try 1129, and

1 I am going to really, really try to get that done in
2 a couple of hours, not a couple of days.

3 MR. GENELLY: Your Honor, one
4 statement. I've been quiet here. I am part of the
5 Seg 1 group. You've heard a lot of commentary about
6 Seg 1. Kotke & Associates is a Seg 1 creditor in
7 regards to this and it is a plan proponent.

8 The reason that it is a plan proponent
9 is exactly the thing that we fear our fellow Seg 1s
10 may do in this case, which is to continue this on and
11 on in regards to the timing, to the extent that the
12 administrative costs of the estate, which are
13 currently eating up millions of dollars every
14 month --

15 THE COURT: I've noticed.

16 MR. GENELLY: -- is going to continue.
17 And that is something we as a creditor don't want to
18 see happen.

19 THE COURT: Right.

20 MR. GENELLY: When the time comes for
21 confirmation, we'll have more to say in terms of
22 being a plan proponent. But at this point in regards
23 to where we are in front of the court, we would like
24 to see this move along as quickly as possible.

25 You heard the comment, well, what

1 Your Honor want to handle a prehearing discovery
2 schedule?

3 THE COURT: What do you have in mind
4 to suggest?

5 MR. McKENNA: Well, perhaps some sort
6 of just scheduling order similar to what we would use
7 in an adversary.

8 THE COURT: Okay. Anybody have any
9 conceptual problem with that?

10 MR. LAZAR: Your Honor, my only
11 conceptual problem is it's not clear what folks think
12 they are going to litigate or not litigate at the
13 confirmation hearing. I have got a pretty good idea
14 what I think we're going to do, which is just 1129
15 and not --

16 THE COURT: That's the principal
17 focus.

18 MR. LAZAR: -- the property of the
19 estate.

20 THE COURT: Yes. I'm not going to
21 litigate whether something is or is not part of the
22 property of the estate.

23 MR. LAZAR: So I'm kind of at a loss
24 as to what discovery we are talking about. But I
25 think what makes sense, Your Honor, is we've got a

1 lot of folks here who have a lot of experience.

2 There is no reason we can't sit down and work out a
3 schedule and submit something to Your Honor.

4 THE COURT: All right. I will have
5 the courtroom deputy give you one of my form
6 prehearing orders for contested matters, which is
7 very similar to ones I use in adversary proceedings.
8 I usually require advance submission of all exhibits
9 usually two weeks before the hearing commences, with
10 a witness list of all possible witnesses, and a very
11 brief summary of each witness's anticipated
12 testimony.

13 And then seven days before the trial
14 begins, the second round is due; namely, any
15 objections to the opponent's witnesses or exhibits
16 need to be filed and served, together with any
17 prehearing brief and memorandum of authorities and
18 proposed findings of fact and conclusions of law. I
19 can tighten those time frames up if that is --

20 MR. LAZAR: The only thing that
21 troubles me a little bit is we've had talk of
22 experts. I mean, again, I don't see what expert
23 testimony we are going to have. But if we're talking
24 experts, that's going to be tight. We will work
25 something out, obviously, Your Honor.