News, cases, companies, fi

- boris.steffen@gavinsol...
  - My Account
  - My Feeds and Alerts
  - Newsletter Signup
  - Log Out

Trump Resorts Plagued By Past Ch. 11 Mistakes, Experts Say

Share us on: By **Matt Chiappardi**

Law360, Wilmington (September 15, 2014, 7:01 PM ET) -- While there is little doubt Atlantic City's bearish gaming market played a major role in Trump Entertainment Resorts Inc.'s fourth spin into Chapter 11 last week, there are experts who say the casino operator was also hobbled by crucial missteps it made during its last trip through bankruptcy.

When the company emerged from its last Chapter 11 in 2010, it was still holding roughly $300 million in debt that was costing it nearly $40 million per year to service, according to the bankruptcy declaration from CEO Robert Griffin. Trump Entertainment did have the opportunity to go with an alternate Chapter 11 plan, backed by creditor and billionaire investor Carl Icahn, that was touted at the time as allowing the debtor to emerge debt-free.

Instead, Trump Entertainment supported a plan backed by an ad hoc committee holding most of $1.2 billion in second-lien notes and founder and former chairman Donald J. Trump — who has since resigned from the board and only holds a small, non-controlling stake in exchange for the use of his name and likeness — that won out in a confirmation battle between the two exit strategies.

Some have questioned whether the casino operator might be in a stronger position to weather the gambling storm on the Jersey Shore, and restructuring financial consultant Edward T. Gavin, founding partner of Gavin Solmonese LLC, says even if that leverage had been eliminated, Trump Entertainment hadn't done the granular work needed to ensure the company would be financially healthy going forward.

"They stopped halfway through," Gavin told Law360. "They didn't do anything to fundamentally change the cost basis of operations. They just did a balance sheet restructuring."

Gavin says that while Trump Entertainment was going through bankruptcy in 2009 and 2010, it was already evident that the days of Atlantic City as the dominant gambling destination on the East Coast were numbered.

Any sophisticated casino operator should have foreseen that the rise in gaming locations in neighboring states would have cut into the number of people traveling to the Jersey Shore to gamble, and Trump Entertainment didn't do enough to address its running costs in that climate, he said.

The debtor could have renegotiated supply agreements or staff contracts but essentially didn't retool and is now in a situation where it **might close its flagship property**, the Taj Mahal, if it doesn't get more concessions from its unions, Gavin said.

Veteran bankruptcy attorney Charles A. Stanziale Jr. of McCarter & English LLP, one of the lawyers who represented the debtors in the prior bankruptcy, rejects the notion that getting into the nitty gritty of dealings with vendors would have made a difference. But he does say that one of Trump Entertainment's largest problems coming out bankruptcy was deciding to continue on in the casino business.

Chapter 11 can give businesses a rare opportunity to shift course with something of a clean slate, but Trump Entertainment dealt itself right back into the gaming space with what Stanziale called a "perfect storm" of increased competition, both within and outside of Atlantic City, looming on the horizon.

"As well-intentioned as people were, there was that competition outside of Atlantic City that was building and building," he told Law360. "Now you know, but in 2009, there wasn't a lot of thinking outside of the box. There was talk about the box, but there wasn't a lot of action to get out of the box."

Of course, there was also the plan on the table from Icahn, who had acquired the company's first-lien debt, which aimed to deleverage the debtor entirely.

At the time., U.S. Bankruptcy Judge Judith H. Wizmur ruled that both strategies were confirmable, but ultimately favored the debtor-backed plan, which shed $1.4 billion in debt, and wrote in her opinion that it gave "creditors the opportunity to participate in the upside potential of the debtors."

Duane Morris LLP partner Gilbert L. Brooks was one of the attorneys for Icahn during that bankruptcy, and he told Law360 that, at the time, the Icahn plan would have allowed the Trump casinos to come out of Chapter 11 with a stronger company behind them.

"We felt the first-lien plan was the better plan because of the fact that it would have allowed the facilities to emerge from bankruptcy without debt and put them in a stronger position," Brooks told Law360.

He also said the debtor's plan sparked some worries from New Jersey gaming regulators and pointed to a 2010 report from the state's Division of Gaming Enforcement to the Casino Control Commission that voiced concern over Trump Entertainment's financial forecasts.

While gaming enforcement did not oppose the commission's approval of Trump Entertainment's plan, it said the restructuring appeared to "minimally satisfy" the financial stability standards, and that the then-anticipated opening of table games in Pennsylvania casinos might make it even harder for the company to hit its fiscal goals, the report stated.

Trump Entertainment's CEO did address some of those concerns in his recent bankruptcy declaration filed with the company's petition, mentioning the high debt burden as one of the factors that drove it to Chapter 11.

He also said that in 2011, the company got "significant concessions" from its unions that brought $4 million in annual wage reductions, and pointed to other factors blamed for the Chapter 11, including double-digit tax increases that "imposed an unsustainable cost structure" and the lingering economic effects of a spate of unusually chaotic weather in New Jersey, including the devastating Superstorm Sandy.

Other experts question the significance of possible missteps in previous bankruptcy proceedings — some calling it Monday-morning quarterbacking — and say the grim situation in Atlantic City would have felled Trump Entertainment no matter what.

Matthew G. Roseman, head of the bankruptcy department at Cullen and Dykman LLP, said that many were taken by surprise at how sharply and how quickly the market in Atlantic City dipped.

That was the primary reason for Trump Entertainment's **bankruptcy filing**, and renegotiating labor and supply contracts would have actually been a difficult jar to open during the prior Chapter 11, he said.

"The reality is, you're locked into what your cash flows and profit-and-loss statements are," Roseman said. "You can always look back with 20/20 hindsight, but we don't know what's going to happen in the future."

Christopher A. Ward, co-chair of Polsinelli LLP's bankruptcy and financial restructuring practice, agreed that the looming factor was the general malaise in Atlantic City gambling.

But he acknowledged that there were likely things Trump Entertainment could have done in any of its prior bankruptcies — the company's predecessors also went through Chapter 11 in 2004 and 1991 — that might have given it a fighting chance on the boardwalk.

"For any company to go through so many bankruptcies, clearly they're putting a big band-aid on the problem," he said.

--Editing by Sarah Golin and Philip Shea.

Related Articles

- Trump Entertainment Could Wind Down If Taj Mahal Closes
- Trump Resorts' Ch. 11 Shows Atlantic City Must Step Up Game
- Trump Entertainment Resorts To File For Ch. 11: Report
- Donald Trump Sues To Remove Name From Ailing NJ Casinos
- Trump Entertainment Resorts Files For Ch. 11

View comments

0 Comments

Terms of Service

Boris Steffen Your name will appear next to your comment. Your email address will not be visible to the public.

Enter Comment (1,500 characters max)

Submit

- Printable Version
- Rights/Reprints
- Editorial Contacts

Related

Sections

- Bankruptcy
- Hospitality
- Media & Entertainment
- New Jersey

Law Firms

- Cullen and Dykman
- Duane Morris
- Gavin Solmonese
- McCarter & English
- Polsinelli

Companies

- Trump Entertainment Resorts Inc.