Dow Jones
Daily Bankruptcy Review

Wednesday, April 21, 2010

Brookfield Says It Won't Revise $2.6B Offer For General Growth

By Kris Hudson

Canadian property investor Brookfield Asset Management Inc. has informed **General Growth Properties Inc.** that it won't modify its offer to provide $2.6 billion of capital to the bankrupt mall owner in light of a competing proposal from Simon Property Group Inc.

In a letter sent Monday to top General Growth executives, Brookfield Chief Executive J. Bruce Flatt took issue with several aspects of Simon's proposal to take an ownership stake in General Growth, noting that such an arrangement "will inevitably create uncertainty as to whether GGP will remain an independent company." He dismissed Simon's proposal as "a material ongoing impediment to the prosperity of the company."

Last month, Brookfield offered to supply $2.6 billion to help General Growth emerge from Chapter 11 bankruptcy protection in exchange for a 26% ownership stake and 60 million warrants to buy General Growth shares at $15 per share. In addition, investors Pershing Square Capital Management LP and Fairholme Asset Management pledged to provide another $3.9 billion in exchange for equity stakes of 11% and 28%, respectively, and another 60 million warrants that they would split. General Growth would use the capital, and other money it might raise, to pay its $7 billion of unsecured debt.

Simon, which has pursued General Growth for months, countered last week by offering the same $2.6 billion as Brookfield in exchange for a partial ownership stake - but without requiring the warrants. Simon would match the $6.5 billion total of the Brookfield-Pershing-Fairholme offer by getting $1 billion from hedge fund Paulson & Co., additional money from other, unnamed investors and pledging to cover any remaining gap on its own.

Brookfield and Fairholme pan the Simon offer as an attempt to eliminate a rival bid and gain time for making a run at acquiring General Growth in whole.

see General Growth on page 15

Inside

Ahead In Bankruptcy

22-Apr
Manhattan: Extended Stay bid rules hearing

22-Apr
San Diego: South Bay Expressway final cash collateral hearing

23-Apr
Wilmington: Pacific Ethanol disclosure statement hearing

23-Apr
Manhattan: LyondellBasell plan confirmation hearing

26-Apr
Manhattan: Lehman-Barclays evidentiary hearing

26-Apr
Wilmington: Flying J Shell settlement

26-Apr
Wilmington: Spansion exclusivity hearing

26-Apr
Reno: Station Casinos GV Ranch hearing

Company Index

Viewpoint

One of a series of opinion columns by bankruptcy professionals

The Benefits Of Killing Zombies

By Michael Goodman

Much has been written and said about the approach to workouts being employed by lenders in the current credit environment. Historically, workout officers utilized a standard toolkit to deal with distressed credits, with almost all tools having the underlying purpose of forcing an exit as quickly as possible.

Today, however, it is much more common for fatigued lenders to delay the day of reckoning with previously unheard-of forbearance periods of six months, 12 months or even longer in some cases. Their rationale is that there are few good exit options for these borrowers today, with sale valuations at a low point and refinancing alternatives few and far between.

Further feeding lenders' sudden willingness to defer the resolution of problem credits is the fact that many of these loans have not been marked or reserved properly in order to appease (or delude) regulators and Wall Street. The actual realization of losses would reduce the lending institution's profits and diminish already thin levels of capital cushion.

The difficult question isn't why this new approach to workouts is occurring but what the implications of such an approach are for borrowers and the economy as a whole.

Many executives are relieved to see their lenders provide them with additional time. However, time doesn't necessarily cure problems, especially in light of the frightful leverage profiles of many borrowers today. No realistic amount of increased profitability will allow borrowers to grow into balance sheets riddled with air balls, aggressive advances on now-worthless real estate and equipment and cashflow loans that have grown from three times Ebitda to double-digit levels.

Operating with such a debt load under the watchful eye of fatigued lenders is clearly not healthy for a business. No new capital providers will invest at any level of the capital structure unless it is in conjunction with a permanent solution to a company's balance sheet problems. Businesses may survive but will certainly not thrive without necessary flexibility and capital to grow, invest and innovate.

With the economy slowly turning around, many companies are starting to find a recovering order book. Yet with an intractable capital structure, how does a company finance the working capital needed to fuel such growth? How does a business react to opportunities in a changing marketplace if it is unable to fund new hires, research and development, new product launches or capacity increases?

The answer to these questions is unfortunate as many once-promising businesses will find themselves in a state of permanent stagnation. Many companies that once enjoyed an industry-leading platform for growth will find that they are zombies, fruitlessly chipping away at a mountain of debt while the reins of innovation are taken up by healthier competitors or not at all. The sad reality is that time will not only fail to cure problems but will actually perpetuate them.

While the negative implications of such scenarios for individual businesses are evident, the consequences for the overall economy are equally dire. Unemployment levels hovering around 10% have proved to be anchors around the necks of the economy and politicians alike. Companies will only deploy precious capital into new hires when they have liquidity and stability. As we have discussed, zombie companies, by definition, have neither of these so the deferral of balance sheet fixes for businesses will translate into the continued impairment of job growth.

Another major issue confronting the U.S. economy is the budget deficit, which is at peak levels on an absolute basis and also as a percentage of gross domestic product. While several structural factors must be addressed to resolve the deficit, perhaps the most effective medicine is simply higher GDP growth. Such growth is driven by innovation and productivity which manifest from efficient deployment of capital into the business sector. Yet, such growth will never be achieved if companies have capital structures tenuously built for short-term survival rather than long-term success and if stakeholders are more concerned with deferring problems than building businesses.

Finally, U.S. economic growth will continue to languish until banks are more willing to lend to existing and new credits. However, this will fail to occur to any great extent until banks are comfortable with the values of their portfolios of loans. Such comfort is unattainable with borrowers continuing to live on the precipice of failure, in which one more unexpected negative turn in the business will cause the fragile capital structure to come crashing down and the value of all stakeholder claims with it. While many banks have sufficient capital ratios on paper that demonstrate financial health, the reality is that underlying these ratios is uncertainty that will keep them from fueling the economy with more capital until permanent solutions are provided to their vast collection of problem credits.

continued on next page

Viewpoint

One of a series of opinion columns by bankruptcy professionals

continued from page 14

In contrast to this slow death march for individual companies and the overall economy, a properly managed day of reckoning is not so bad. Companies must force their stakeholders to see reality and take their lumps so that businesses can revitalize with capital structures that facilitate growth and success rather than hinder it.

The good news is that there are many tools available in the U.S. to help make possible the healthy restructuring of businesses, from an army of legal, operating and transactional professionals, to sophisticated and efficient bankruptcy courts, to a capital marketplace that can be a potential source of funding even in these troubled times. The short-term pain for some inherent in utilizing these tools is well worth the long-term benefit that inures to all of us.

Opinions expressed are those of the author, not of Dow Jones & Company, Inc.

Michael Goodman is a founding partner and managing director of SSG Capital Advisors, LLC, a leading middle market special situations investment banking firm. Goodman, a member of the Turnaround Management Association's Philadelphia chapter, can be reached at mgoodman@ssgca.com or at 610-940-5806.

General Growth continued from page 1

Simon on Tuesday issued a statement countering Brookfield's latest criticisms. "Simon's offer is firm, fully financed and economically superior because it would not include expensive and highly dilutive warrants," the statement reads. "In addition, Simon strongly believes its passive, minority stake with numerous procedural and governance safeguards does not pose any concern for the stakeholders of General Growth."

Simon went on to blast Brookfield's letter as a "transparent and self-serving effort to prevent competition for the best GGP recapitalization."

General Growth hadn't provided comment by midafternoon Tuesday.

Brookfield's Flatt said his company is unwilling to revise its proposal by reducing the amount of warrants it would receive. The cost of the 120 million warrants for Brookfield, Fairholme and Pershing - which any company that later acquired General Growth would have to buy back - is estimated in the hundreds of millions of dollars.

"We wish to strongly reiterate the position that we stated in our proposal letter of Feb. 20 and have consistently maintained regarding our need for protection and compensation," Flatt wrote. "We will not participate further in any process involving a transaction with GGP unless the approval order is entered and the warrants are issued on the terms and in the timeframe contemplated" in earlier agreements with General Growth.

Fairholme and Pershing also have said they will not revise their offers. Bloomberg News earlier reported some contents of the Brookfield letter.

General Growth is to select the offer it favors for "stalking horse" status, making that bid the one that others must beat, in time for an April 29 hearing in front of U.S. Bankruptcy Judge Allan Gropper. It remains in discussions with both the Simon and Brookfield camps, people familiar with the matter say.

General Growth, based in Chicago, is the second largest U.S. mall owner with 204 malls. Simon, based in Indianapolis, is the largest with 321 retail properties. General Growth sought bankruptcy protection a year ago after failing to refinance portions of its $27 billion debt load as they came due.

However, General Growth's outlook has improved markedly in the past year as its management and advisers restructured nearly all of the company's $20 billion of mortgages, extending their due dates by several years. The improving capital markets and attention from Simon and Brookfield have buoyed the company, pushing its stock from below $1 last year to more than $15 this spring.

In his letter, Flatt, the Brookfield CEO, outlined other flaws in the Simon proposal and advantages of his offer. He posits that Simon owning a portion of General Growth would raise antitrust concerns with federal regulators. Regarding Simon's pledge to stay out of General Growth's management affairs if its offer is accepted, he wrote: "We do not believe that any formulaic 'limitations' proposed by Simon will materially alter the burden that GGP will face in hiring and retaining employees and management, negotiating leases [with retailers], pursuing acquisition or development opportunities or accessing the capital that it needs to finance and grow its business."

Flatt also listed several commitments Brookfield has made to General Growth, including helping General Growth to manage several office buildings that it owns and its residential-development business. Brookfield also could help General Growth expand internationally, he wrote.