

# Valuation Services for Bankruptcy, Reorganizations and Restructuring

When challenging business situations arise, companies, investors and debt holders contact Marshall & Stevens to provide the valuation they require. Whether it is a valuation of business units or assets for buy/sell consideration (divestiture) or for an opening day balance sheet post-bankruptcy, a debt for equity swap, warrants and other financial instrument valuation for debtor in possession (“DIP”) financing, property tax dispute, down round financing, etc., our professionals have the in-house experience working with businesses in a wide array of industries.

## TRANSACTION OPINIONS

### Fairness Opinions

Board Members, Management, Investors, and Debt Holders should look to an independent source for Fairness Opinions as part of any restructuring. Down round financings, debt for equity swaps, etc. leave shareholders wondering if they are being unfairly diluted or replaced at something other than fair market value. Getting a Fairness Opinion from the same party that earns a commission for structuring the recapitalization is a conflict of interest.

### Solvency Opinions

Board Members, Management, Investors, and Debt Holders should look to an independent source for Solvency Opinions as part of any restructuring. Having the same party that earns a commission for structuring the recapitalization should not be providing an opinion as to whether or not the business can service the new financing and meet its obligations, it is a conflict of interest.

### Valuations of Business Units and Assets Slated for Divestiture

We provide an independent opinion of value of business units and assets, both tangible and intangible, slated for divestiture to raise cash.

### Collateral Asset Valuations

Our professionals provide a variety of independent opinions of value suitable for a variety of situations. Collateral lenders typically request Orderly and Forced Liquidation Values of assets, both tangible and intangible, for financing purposes and for comparison to Reorganization Value.

## TAX REPORTING

### **Forgiveness of Debt Studies (IRC Section 108)**

Provide an independent opinion of value of the business enterprise and the extent of its solvency relative to the subsequent debt outstanding to determine what portion of the debt forgiven (if any) is taxable.

### **Net Operating Loss Carryforward and Built-In Gain Studies (IRC Section 382)**

Provide an independent opinion of the market value of the business enterprise to determine net operating loss carry forward limitations and the impact of built-in gains (or losses).

### **Reorganization Value / Corporate Recapitalization Studies (IRC Section 368)**

Provide an independent opinion of the market value of the business enterprise(s) for reorganization/recapitalization.

## FINANCIAL REPORTING

### **Fresh Start Accounting Valuation: ASC 852 - Reorganizations**

Financial reporting requirements associated with an emergence from Chapter 11 of the Bankruptcy Code include the restatement of the company's balance sheet, similar to the purchase price allocation analysis provided under FASB ASC 805 – *Business Combinations*.

Clients engage our Financial, Equipment, and Real Estate valuation professionals to provide the required valuation of the subject tangible assets as well as a Fairness Opinion or Solvency Opinion on the transaction. Assets valued may include:

- Machinery, Equipment, Vehicles, Furniture, Fixtures, and Integrated Facilities
- Trademarks and Tradenames
- Customer Lists
- Intellectual Property
- Internally Developed Software
- Real Estate

### **Financial Instrument Valuations**

- Debt and Equity Securities: FASB ASC 320
- Equity Compensation: FASB ASC 718 (IRC Section 409A)
- Derivatives & Hedging: FASB ASC 815
- Investment Companies FASB ASC 946 - Investments held by private equity funds, venture capital funds, hedge funds, and business development companies.

### Diverse Restructuring Experience

- **Fleming Packaging Corporation** for Estate of Fleming Packaging Corporation v. The Goldfarb Corporation, United States Bankruptcy Court for the Central District of Illinois
- **Michael Reese Hospital** for Greater Southeast Community Hospital Corp. I v. HCA, Inc. United States Bankruptcy Court for the District of Columbia
- Valuation of **CityCenter Las Vegas** for Dewey & LeBoeuf, prior to planned bankruptcy. Construction of CityCenter had stopped in 2009 as the bank and one equity partner stopped funding the construction over concern for value of the enterprise at completion. Our valuation work kept the entity from going into bankruptcy and convinced the funding sources to continue funding. The 16.797-million sq. ft. mixed-use (hotel, gaming, condo, retail) property on 76 acres was the largest privately-funded construction project in the history of the United States at a cost of over \$8 Billion.
- Valuation of a **portfolio of gas fire plants** for construction financing, quarterly reporting and then takeover by debt holders.
- Valuations in support of fresh start accounting for **MacLeod USA**
- Valuations in support of fresh start accounting for **Hawaiian Telcom**
- Valuation of **fixed assets at approximately 1,100 bank locations** (approx. 100 institutions) across the US, Puerto Rico and Canada, for sale by the FDIC as part of their bank takeovers in 2009 and 2010.
- Valuation of **real estate** for sale by the FDIC as part of their **bank takeovers** in 2009 and 2010.
- Confidential valuation of **real estate development project** for bankruptcy/repossession dispute. Marshall & Stevens served as an expert witness for the property owner in his successful bid to regain ownership after foreclosure.
- Valuation of a **portfolio of restaurants and niche grocery stores** for negotiation with the lender. The business owner sold a location in order to pay down debt.
- Listing and valuation of **restaurant furniture, fixtures and equipment** at multiple locations for a bank workout group for locations being closed.
- Valuation of **equity of national restaurant chain** for bank workout group.
- Valuation and solvency analysis for a bank workout group looking to negotiate a discount on the outstanding loan with a **pet medicine development, manufacturing and sales company**.

- Valuation of **Frederick's of Hollywood** tradename for sale during bankruptcy.
- Fairness opinions for down-round equity raise from three executives of a **privately-held software firm**. Selling equity at lower price than was the share price used in most recent acquisitions (equity swaps the past two years) and therefore reducing the share value for all shareholders (lower price and dilution).
- Fairness Opinion on a transaction where debt holders were taking control of the **technology business** from equity holders.
- Fairness opinions related to the distressed sale of **four point of sale hardware and software businesses** in order to keep the company afloat.
- Value of **eight tranches of equity in a film production company** to determine allocation of proceeds from planned IPO. The IPO did not happen because there were not proceeds for everyone in the deal.
- Valuation of **tangible and intangible assets of a technology company** for purchase from bankruptcy to provide to the court that the transaction was being consummated at fair market value.
- Dispute resolution valuation related to a **medical equipment company** in bankruptcy in support of unsecured creditor committee, which resulted in a favorable resolution for the client.
- Listing and valuation of **manufacturing equipment** for a bank workout group. Our work validated the bank's concern that the client had been selling the collateral out from under them.



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