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The Boston Globe

Filene's Basement assets, including Running of the Brides, attracting bidders for auction

By Jenn Abelson, Globe Staff
June 4, 2012

Bankrupt Filene's Basement and its parent company, Syms Corp., have attracted a number of bids for their intellectual properties -- including the Running of the Brides gown sale -- according to Hilco Streambank, which is charged with auctioning off the defunct retailers' assets.

The creditors committee and others involved in the bankruptcy process are reviewing the offers and an auction is tentatively scheduled for Thursday in New York. Jack Hazan, of Hilco Streambank, based in Newton, said Filene's Basement and Syms have received "a number of bids" from "different types of firms," but he declined to provide further details.

Running of the Brides, an annual sale during which brides-to-be madly dashed to claim deeply-discounted wedding gowns, is considered one of more attractive assets of Filene's Basement, according to industry analysts. The sale of intellectual property rights would mark the last stages for the unwinding of the historic chain, which traces its roots to 1909.

<http://www.boston.com/businessupdates/2012/06/04/filene-basement-assets-including-running-the-brides-attracting-bidders-for-auction/SzuAFax9L6DCAAtaro4AEK/story.html>

Tereo, Rick

From: Steven Alschuler [salschuler@lakpr.com]
Sent: Wednesday, June 06, 2012 7:41 AM
To: Sharon Horowitz; 'Jason.liberi@skadden.com'; Jeff M. Feinberg; Syms, Marcy; 'Suzanne.lovet@skadden.com'
Subject: Re: Media coverage (6 6 12)

Boston Herald
Trademark snafu hits Filene's Basement, Brides sale

By Donna Goodison
Wednesday, June 6, 2012 -

The Filene's Basement trademark has been pulled from tomorrow's scheduled auction of bankrupt owner Syms Corp.'s intellectual property assets due to a dispute with Macy's Inc. — and the Running of the Brides trademark also may be withheld from the sale.

Macy's has owned the Basement trademark since 1988 through predecessor company Federated Department Stores, according to bankruptcy court documents. It had licensed the name to Syms, which purchased the Basement in 2009, before it filed for bankruptcy last fall and liquidated.

Macy's bankruptcy attorney Charles Tatelbaum confirmed the Basement trademark has been withdrawn from the sale, but declined further comment.

"There are other assets that are likely to be auctioned off, but the Filene's Basement trademark has several issues ... and we haven't resolved (them)," said Jack Hazan, executive vice president of Hilco Streambank.

Syms hired Newton-based Hilco to sell about 40 trademarks, including a "perpetual royalty-free" license for the use of the Basement trademark.

But Macy's contends the license agreement only can be assigned to another company if the Basement's assets are sold and the business remained intact, according to court documents. "Given the gradual liquidation of the debtors' assets, this has obviously not come to pass," the documents state.

"It might be that we hold (the Running of the Brides trademark) back (from the sale) because it's so connected to Filene's Basement," Hazan said.

From: Sharon Horowitz
To: (Jason.liberi@skadden.com) ; (jfeinberg@alvarezandmarsal.com) ; (marcysyms@syms.com) ; (Suzanne.lovet@skadden.com)
Cc: Steven Alschuler
Sent: Tue Jun 05 09:48:19 2012
Subject: Media coverage (6 5 12)



No Running of the Brides Until Macy's Puts a Ring on Bankruptcy Auction

Posted by Sheila Shayon on June 7, 2012 04:04 PM

Running of the Brides, the infamous, annual Filene's Basement sale where brides-to-be madly dash for deeply-discounted wedding gowns, (as seen above from last year's sale at Boston's Hynes Convention Center) may have run its course, as the chain with roots dating back to 1909 continues to be dissolved.

It's been a sad saga since Filene's Basement, the American retailer famed for its high-spirited Running of the Brides franchise — which sees shoppers line up at the crack of dawn, dress up and cheer as they storm the racks of bridal gowns — and sibling retailer Syms, known for its tagline "an educated consumer is our best customer," announced they were facing the ultimate markdown: Chapter 11 bankruptcy.

Fast forward to this week, and the indefinite postponement of a scheduled auction to sell off the intellectual property of Filene's Basement and parent company Syms Corp. until creditors can agree on a plan to close out the bankruptcy case.

Other assets include house brands such as Stanley Blacker, Maine Bay and the Running of the Brides event, and one auction was already previously postponed to buy more time for additional offers to be submitted.

"While there were significant expressions of interest and numerous bids submitted, the debtors and their creditor representatives are in the midst of plan negotiations that may contemplate other alternatives for those brands," commented Jack Hazan of Hilco Streambank, the Newton advisory firm hired to oversee the sale of the intellectual property, to the *Boston Globe*.

Macy's has owned the Filene's Basement trademark since 1988 through predecessor company Federated Department Stores, licensing the name to Syms, which purchased the Basement in 2009, before it filed for bankruptcy and liquidated its assets. Macy's now contends the license agreement can be assigned to another company *only* if the Basement's assets are sold and the business remains intact, according to court documents. "Given the gradual liquidation of the debtors' assets, this has obviously not come to pass," the documents state.

"There are other assets that are likely to be auctioned off, but the Filene's Basement trademark has several issues ... and we haven't resolved (them)," said Hazan to the *Boston Herald*. "It might be that we hold (the Running of the Brides trademark) back (from the sale) because it's so connected to Filene's Basement."

The buyer of the Running of the Brides intellectual property will receive "all of the history and good will that comes along with it," he told the *Wall Street Journal*, and thus would be free to reinstate the ROTB event under their ownership. "We're confident that someone's going to pick this up," Hazan said of the one of the most famous (and more fun than Black Friday) sales events in U.S. retail history. "We've had good interest in this already, in all of the brands actually."

"Either way," concluded *WSJ*, "customers currently on the hunt for their wedding-day ensembles might want to look elsewhere for now, since there almost certainly won't be Running of the Brides sales this dress-shopping season, Hazan said. But keep your fingers crossed and your lawn chairs, matching T-shirts and running shoes ready. By the time your boyfriend actually buys a ring, the Running of the Brides event could have risen from the ashes."

Below, watch the 2010 Running of the Brides event now-shuttered NYC's Union Square:

<http://www.brandchannel.com/home/post/2012/06/07/Filenes-Running-of-the-Brides-Auction-060712.aspx>



Syms Resorts To Mediation To Break Impasse On Ch. 11 Plan

Law360, Wilmington (June 11, 2012, 5:42 PM ET) -- With negotiations on its liquidation plan deadlocked, Syms Corp. has turned to mediation with warring shareholders and creditors to find a path out of bankruptcy, the defunct clothing retailer told a judge on Monday.

The company's last stab at resolving unsecured creditors' objections to the shareholder-backed plan left the parties even further apart, Syms attorney Jay Goffman of Skadden Arps Slate Meagher & Flom LLP said during a telephone hearing in Delaware bankruptcy court.

"I think the key word of the day, your honor, is 'frustration,'" he told U.S. Bankruptcy Judge Kevin J. Carey.

The parties did agree on a mediator for the dispute — U.S. Bankruptcy Judge James M. Peck from the Southern District of New York — and Judge Carey confirmed the selection in an order on Monday afternoon.

On May 25, Syms filed the plan with the support of its equity committee, but the proposal reignited a long-simmering feud in the case between shareholders and unsecured creditors, who disagree on how the company's valuable real estate should be liquidated.

Syms' plan is divided into two proposals: one for Syms, which is solvent due to its real estate holdings, and another for insolvent subsidiary Filene's Basement LLC. The real estate — with an estimated value of between \$135 million and \$185 million — would be sold over time, delaying payment to some creditors, while shareholders would control the company's board and oversee the process.

Most creditors would eventually see a full recovery, according to a disclosure statement, while Filene's landlords, owed \$37 million, would receive 75 percent on their claims.

The plan is backed by both the equity committee, which represents minority shareholders, and majority owner and CEO Marcy Syms. It "affords the creditors committee much of what it seeks, including a highly favorable recovery for Filene's creditors," the company said in court papers.

But the prospect of delayed payment and shareholder control of the real estate sales prompted an objection from the official committee of unsecured creditors, which has threatened to file a competing plan.

According to the creditors committee, Syms' plan seemed especially tilted toward the interests of Marcy Syms, releasing valuable claims against the majority owner and allowing her to "cash out" while creditors await their payday.

A hearing on the disclosure statement for the plan is set for July 9.

Secaucus, N.J.-based Syms bought Filene's out of bankruptcy in 2009 for \$62.4 million. But the expected synergies between the discount clothing retailers didn't pan out, and Syms spent \$39 million to prop up Filene's after the acquisition, attorneys for the companies have said. The current economic upheaval also created intense competition in their niche, leading the companies to file for court protection Nov. 2.

In December, the retailers closed up shop and raised around \$65 million through going-out-of-business sales at their stores.

Syms is represented by Mark S. Chehi, Jay Goffman, Nancy Lieberman, Morris Kramer and Mark McDermott of Skadden Arps Slate Meagher & Flom LLP.

The unsecured creditors are represented by Michael J. Merchant, Paul N. Heath, Zachary I. Shapiro and Marisa Terranova of Richards Layton & Finger PA and Mark T. Power, Janine M. Cerbone and Alison M. Ladd of Hahn & Hessen LLP.

The equity committee is represented by Robert J. Dehney, Curtis S. Miller and Matthew B. Harvey of Morris Nichols Arsht & Tunnell LLP, and Thomas B. Walper, Seth Goldman and Bradley R. Schneider of Munger Tolles & Olson LLP.

The case is In re: Filene's Basement LLC, case number 1:11-bk-13511, in the U.S. Bankruptcy Court for the District of Delaware.

--Editing by Cara Salvatore.

<http://www.law360.com/securities/articles/348921/syms-resorts-to-mediation-to-break-impasse-on-ch-11-plan>



DOWJONES | DBR Small Cap

Syms Creditors Challenge Company Over Chapter 11 Control

DBR Small Cap ,
Peg Brickley,
June 25, 2012,
(c) 2012 Dow Jones & Company, Inc.

Creditors owed more than \$110 million are challenging Syms Corp. for control of its Chapter 11 case, contending that the company is operating as a "front" for Chief Executive Marcy Syms in pushing an unfair bankruptcy plan.

The move came Friday and signals that a mediation aimed at producing an agreement on how to split up Syms's remaining value isn't going well. There are "insurmountable" obstacles to a deal, creditors' attorneys reported.

The discount clothing retailer filed for bankruptcy protection at the start of the holiday season last year, intending to go out of business and distribute its remaining value to creditors and shareholders.

Trouble erupted because, while there is plenty of money to pay Syms creditors, creditors of the Filene's Basement affiliate were in for harder times, according to the company. This is because the remaining value in the company is the real estate owned by Syms, which isn't within easy reach of Filene's creditors, including a bunch of jilted landlords.

Mediation was ordered June 11. Creditors are seeking a July 9 hearing on their bid to propose a Chapter 11 plan that would rival the company's version.

A spokesman for Syms didn't respond Monday to a request for comment on the motion, which came from the official committee of unsecured creditors.

Complaining that too much time and money has been wasted since the company went out of business, creditors want to start selling Syms's real estate and share the proceeds among all creditors, including creditors of Filene's Basement. There will still be a recovery for Syms shareholders under the proposed compete plan, court papers said.

Creditors contended that, under the company's plan, Filene's creditors are in for rough treatment, while shareholders benefit, particularly majority stakeholder Ms. Syms.

Syms's Chapter 11 proposal, according to creditors, would allow Ms. Syms to cash out immediately, selling her stake to other equity shareholders while evading potential lawsuits over the company's demise.

In contrast, creditors would wait four years to be paid under the company's plan, which they said was the product of an alleged "back-door deal" negotiated between Syms and its shareholders, with Ms. Syms controlling the agenda.

Friday's court filing said the court hasn't been informed of details of the alleged side-deal between Ms. Syms and members of the official committee of equity security holders.

The official creditors' committee also said Filene's creditors are being asked to give up too much under Syms's Chapter 11 plan. That includes giving up the right to sue Syms over trademarks worth millions of dollars as well as the right to sue Ms. Syms over insurance assets.

Write to Peg Brickley at peg.brickley@dowjones.com

Bloomberg

By Bill Rochelle - Jun 26, 2012

Syms, Creditors Schedule Fight Over Competing Plans

Discount retailer Syms Corp. and the unsecured creditors' committee sharpened their knives in anticipation of a July 9 hearing where each side will likely blame the other for being unable to agree upon a Chapter 11 plan everyone can support.

In May, Syms, along with subsidiary Filene's Basement LLC, filed a proposed reorganization plan in conjunction with the official shareholders' committee. The creditors said in court papers filed last week that the company-equity plan "will be soundly rejected by creditors."

Syms filed papers at the end of last week so the bankruptcy judge can approve disclosure material explaining the merits of the company-equity plan. If the judge goes along with the schedule, there will be a confirmation hearing on Aug. 29 for approval of the plan.

Opposing the company's plan, the creditors' committee filed papers last week seeking permission to file a competing Chapter 11 plan. The creditors' motion for authority to propose their own plan also is on the July 9 calendar.

In addition, July 9 will be a hearing on Syms's motion for an extension of the company's exclusive right to propose a plan.

This month the bankruptcy judge in Delaware tapped a judge in New York to be a mediator, attempting to bring peace between the warring factions.

Syms's plan calls for eventually paying creditors in full, with stockholders retaining the equity and eventual surplus. Creditors insist on being paid more quickly, with interest.

Creditors fault the company plan for forcing them to wait as many as four years for their money while Marcy Syms, the controlling shareholder, receives a complete release from claims and sells her stock to other stockholders.

Creditors say the 17 parcels of real estate could be sold in 18 months maximum. The creditors' panel said the company has received \$100 million in unsolicited offers for the properties.

The Syms stock last traded yesterday for \$6.57 in over the counter trading. During the bankruptcy, the stock's peak was \$12.65 on Dec. 12, 2011. The stock began declining in late April, with yesterday's trade lower than \$7.76 where it last traded before the Chapter 11 filing on Nov. 2.

Secaucus, New Jersey-based Syms purchased Filene's through a bankruptcy auction in June 2009 in what was Filene's second Chapter 11 reorganization. At the outset of Chapter 11 case in November, there were 25 Syms stores and 21 Filene's locations.

The stores were closed and inventory sold. Leases were terminated, leaving Syms with owned real estate.

Assets were listed in the Chapter 11 petition for \$236 million, including real estate on the books for \$97.7 million. Liabilities were listed at \$94 million, including \$31.1 million owing on a revolving credit with Bank of America NA as agent. In addition, there were \$11.1 million in letters of credit outstanding on the revolver.

The case is In re Filene's Basement LLC, 11-13511, U.S. Bankruptcy Court, District of Delaware (Wilmington).



Syms Adds Rights Offering to Exit Plan, Wins Support

Published July 02, 2012

Syms Corp. (SYMSQ) said it struck a deal that will bring peace to its Chapter 11 case and propel the defunct discount retailer toward a bankruptcy exit, with a \$25 million equity rights offering fronting the bill.

After months of protests--most recently from unsecured creditors--Syms disclosed in Friday court papers that it had reached a "global resolution" of the issues plaguing the case and devised "a fully consensual plan of reorganization."

Under the revamped proposal, which will update the company's previous plan to reorganize around its real-estate holdings, all allowed claims against Syms will be paid in full, "pursuant to certain agreed upon time frames." Allowed trade and other vendor claims against subsidiary Filene's Basement LLC--whose retail operations, like Syms's, were shuttered in the wake of the November bankruptcy filing--will also be paid in full. Holders of allowed unguaranteed lease-rejection claims against Filene's will see a 75% recovery.

Those recoveries could be funded, in part, by a two-step transaction that's the new heart of the creditor-repayment plan. First, Syms will redeem shares owned or controlled by Marcy Syms, the company's majority shareholder, chief executive and daughter of founder Sy Syms, at a price of \$2.49 per share. Then, Syms will launch a rights offering, through which it expects to raise \$25 million in cash by offering new common stock at the same share price.

The resulting money "will be used to fund Chapter 11 exit costs, working capital for the reorganized company, and to the extent of any excess, toward partial payment for the redemption of shares owned or controlled by Ms. Syms and the payment of Syms creditors in accordance with the plan," Syms said in court papers.

Existing holders of Syms common stock who are also accredited investors, excluding Ms. Syms, will be allowed to participate in the rights offering. And three equity holders who sit on the official equity committee in the case have agreed to backstop the rights offering. The trio--DS Advisors LLC, Esopus Creek Value Series Fund LP-Series "A" and Marcato Capital Management LLC--aren't receiving a fee in return for their promise to buy any shares that go unsold and also aren't entitled to a discount on the price of the shares they buy, according to court papers.

Syms is urging a judge to approve the equity commitment agreement that solidifies the backstop deal, saying it's a crucial part of the company's path to a bankruptcy exit.

"It is critical to Syms' efforts to consensually resolve these Chapter 11 cases to enter into this equity commitment agreement and hence, to obtain this court's approval to do so," Syms said in papers filed with the U.S. Bankruptcy Court in Wilmington, Del. "Any uncertainty as to Syms' ability to do so will jeopardize the debtors' efforts to reorganize."

The proposed rights offering and global resolution in the case are the result of formal mediation that kicked off June 26 among the company, the official committees in the case and Ms. Syms.

As recently as June 22, unsecured creditors owed more than \$110 million were calling for control of the bankruptcy case to be wrested from Syms, arguing that the company was operating as a "front" for Ms. Syms in pushing an unfair bankruptcy plan. The creditors wanted to start selling Syms's real-estate holdings and distribute the proceeds among all creditors, including those holding claims against Filene's Basement. The valuable real-estate holdings have been a polarizing issue ever since the case began; the assets kept Syms solvent even as the off-price retailer and its Filene's Basement subsidiary liquidated their stores in bankruptcy last year.

An attorney for Syms wasn't immediately available for comment Monday.

<http://www.foxbusiness.com/news/2012/07/02/syms-adds-rights-offering-to-exit-plan-wins-support/>

Bloomberg

Syms, Kodak, NewPage, Hawker, Pemco, RG Steel: Bankruptcy

By Bill Rochelle - Jul 03, 2012

July 3 (Bloomberg) -- Syms Corp. and subsidiary Filene's Basement LLC reached a settlement last week with official committees representing creditors and shareholders. The agreement will lead to filing a modified reorganization plan that will be "fully consensual," the discount retailers said in a court filing. The revised plan will pay claims against Syms in full within "agreed upon time frames," the filing states. The new plan, which has yet to be written, will be filed "in coming days," with the aim of exiting Chapter 11 "as quickly as possible."

The court filing shows that trade and supplier claims against Filene's will also be paid in full. Claims arising from terminated leases not guaranteed by Syms will receive 75 percent payment, also within specified time frames.

The settlement provides that Marcy Syms will sell her stock back to the company for \$2.49 a share. The plan will be financed in part with a rights offering available to existing shareholders to buy about 10 million shares of new stock for \$2.49 a share. Proceeds will be used in part to purchase existing stock from Marcy Syms.

Members of the shareholders' committee are committed to purchase any stock not bought by other shareholders. The shareholders backstopping the rights offering won't receive backstop fees other than payment of counsel fees.

Sales of real estate will also be used to repurchase existing stock from Marcy Syms.

The bankruptcy court called for a hearing on July 9 for approval of the agreement underlying the newly-negotiated plan. The agreement was reached in mediation conducted by U.S. Bankruptcy Judge James M. Peck from New York.

The creditors' committee had said that the reorganization plan filed by the liquidated retailers in May would be "soundly rejected by creditors." The creditors' didn't like the possible four-year delay in paying claims that would have resulted from the original plan. Short of the settlement, the creditors would have been asking the bankruptcy judge at the July 9 hearing for authority to file a competing plan.

Syms rose 9 cents yesterday to \$6.70 a share in over-the-counter trading. During the bankruptcy, the stock's peak was \$12.65 on Dec. 12, 2011. The shares began declining in late April, with yesterday's price lower than \$7.76 where it last traded before the Chapter 11 filing on Nov. 2.

Secaucus, New Jersey-based Syms purchased Filene's through a bankruptcy auction in June 2009 in Filene's second Chapter 11 reorganization. At the outset of Chapter 11 case in November, there were 25 Syms stores and 21 Filene's locations.

The stores were closed and inventory sold. Leases were terminated, leaving Syms with owned real estate.

Assets were listed in the Chapter 11 petition for \$236 million, including real estate on the books for \$97.7 million. Liabilities were listed at \$94 million, including \$31.1 million owing on a revolving credit with Bank of America NA as agent. In addition, there were \$11.1 million in letters of credit outstanding on the revolver.

The case is In re Filene's Basement LLC, 11-13511, U.S. Bankruptcy Court, District of Delaware (Wilmington).

<http://sfgate.bloomberg.com/SFChronicle/Story?docId=1376-M6JY3Q07SXXKX01-56339S0U3NRM68JUNS5QUEN531>



Judge Stalls Hearing on Syms Chapter 11 Plan Outline

Rachel Feintzeig
July 06, 2012

With more drama over Syms Corp.'s plan process erupting, Judge Kevin J. Carey put off a Monday disclosure statement hearing but urged the parties to make good on the resolution that had seemed to emerge last week in the case.

After months of fighting, the defunct discount retailer announced on June 29 that it had reached a global deal centered on a \$25 million rights offering. Days later, the unsecured creditors insisted there were still kinks to work out and sought to put the brakes on the plan process, prompting another duel between the players.

"I am determined that the handshake deal that the parties reached recently not escape them through what I'll call squabbling over how we get to the finish line," Judge Carey said during a telephone hearing Friday.

He directed the parties to keep working toward a consensual proposal and check in with him on Monday morning during a telephone conference he was scheduling in lieu of a formal disclosure-statement hearing. He noted that the parties' progress could prompt him to schedule the disclosure-statement hearing---in which the company's plain-language plan outline, as of yet not fully drafted, would be up for consideration---as early as Tuesday. He also could push back the hearing, a prerequisite for the company to begin distributing its debt-repayment plan for a creditor vote, even further, as requested by the creditors.

Mark Power, a Hahn & Hessen LLP attorney representing the unsecured creditors, said prepping for a Monday disclosure-statement hearing was simply an "untenable situation." He called the revamped plan that the parties were trying to hash out a "complicated" proposal "that requires a lot of moving pieces."

"Everyone's working hard. That's not the issue," Mr. Power said. "I think it's just a matter of trying to put some rationality to the current timeframe."

But other parties in the case warned that every tick of the clock signals more money bleeding out of the company's coffers.

"This case cannot afford the continuing cash burn that goes on week after week here," said Jay Goffman, a Skadden, Arps, Slate, Meagher & Flom LLP attorney representing Syms. "We just have to bring this to a conclusion."

Thomas Walper, an attorney representing the official equity committee in the case, estimated that the "burn rate" in the proceedings is about \$750,000 a week.

"And there's no revenue being generated of any material value," he said of the company, which liquidated its stores after filing for Chapter 11. He added that every dollar spent on costs like attorneys' fees is coming directly from the equity holders' recovery and argued that the unsecured creditors, set to be repaid in full, lack the equity holders' motivation to swiftly bring the case to a close.

"It's simply unfair to drag this out and not allow the plan to be presented at the first possible date," said Mr. Walper, of Munger, Tolles & Olson LLP.

Syms and its subsidiary and fellow bargain shopping chain Filene's Basement LLC sought bankruptcy protection in November and soon got to work shutting down their locations. Syms still has valuable real-estate holdings that it has aimed to leverage through a reorganization plan, but the plan process has been riddled with controversy from the start, as unsecured creditors and equity holders of both Syms and Filene's have vied for pieces of what's left of the two businesses.

The Boston Globe

'Filene's: Boston's Great Specialty Store' chronicles history of iconic retail chain

July 08, 2012

THE WORD ON THE STREET

More than 200,000 shoppers crowded into Filene's on Washington Street when it opened in 1912. William Filene's first store in Boston dated to 1851, but it was this eight-story behemoth in Downtown Crossing that made his reputation as a retailing revolutionary.

Long one of the city's leading tourist attractions, the store clothed and entertained generations of families. Shoppers studied the elaborate window displays and made their way inside to meet celebrities such as Christian Dior, Kitty Carlisle, and Zsa Zsa Gabor. Children climbed onto Santa's lap at Christmastime and, in 1954, climbed to the rooftop zoo to talk to the animals. Filene's followed its customers to the suburbs, opening branch stores in many communities before the business started to shrink. It was a sad day for many Bostonians when the flagship store closed in 2006.

Now fans of Filene's can take a stroll down memory lane with **"Filene's: Boston's Great Specialty Store"** (Arcadia) by Michael J. Lisicky, a department store historian who has written books about Wanamaker's, Gimbels, and Hutzler's. Lisicky tells the Filene's story largely through archival photographs. A resident of Baltimore, he became enamored with Filene's while attending the New England Conservatory of Music in Boston in the 1980s.

Lisicky is returning to his old stomping grounds to give an illustrated lecture at the Old South Meeting House on July 24 and a talk at the Boston Public Library on Aug. 23. Both events start at 6 p.m.

The Record

THE TRUSTED LOCAL SOURCE

Syms reorganization plan gets court approval

FRIDAY JULY 13, 2012, 4:49 PM

By JOAN VERDON

A plan that will reorganize the bankrupt Syms Corp from an off-price retailer into a real estate company, and that will allow the company's real estate holdings to eventually be converted to cash, was approved Friday in U.S. Bankruptcy Court in Wilmington, Del. The plan now will be submitted to creditors for a vote.

As part of the plan, disclosed in documents filed Thursday, Marcy Syms, the majority shareholder in the company founded by her father, will sell her stake in the company, which was based in [Secaucus](#) until filing for bankruptcy in November. Syms will receive \$19.5 million for her shares of the company, according to disclosure documents.

Syms also disclosed to shareholders that stock in the reorganized company would be worth \$1.50 to \$2 a share initially, but that the value could rise if property Syms owns in lower Manhattan is developed and not sold immediately.

The company's stock, which has been trading over-the-counter since the bankruptcy filing, fell from \$7.75 at the end of Wednesday to \$4.05 at the end of Thursday, a drop of 48 percent. On Friday, the stock rebounded a bit, closing up 11 percent, at \$4.50.

According to court documents, 16 of the 17 properties owned by Syms, including the former [Secaucus](#) headquarters and the vacant store on Route 17 in [Paramus](#), will be sold within 30 months. The company's most valuable real estate, a building in lower Manhattan near the World Trade Center, will be developed and held for four to five years to maximize its value.

[http://www.northjersey.com/news/162399746_Syms_reorganization_plan_gets_court_approval.h
tml](http://www.northjersey.com/news/162399746_Syms_reorganization_plan_gets_court_approval.html)



Syms, Filene's Win Approval to Send Creditors Exit Plan

By Michael Bathon on July 13, 2012

Bankrupt Syms Corp. (SYMSQ) ([SYMSQ](#)), the discount clothing chain, and its Filene's Basement LLC unit won court approval to send a reorganization plan to creditors for a vote.

U.S. Bankruptcy Judge Kevin Carey at a hearing today in Wilmington, Delaware, approved the company's disclosure statement, an outline of the retailers' reorganization plan to exit bankruptcy, according to court documents.

After shutting down operations and selling off its remaining inventory, Syms, the committee of unsecured creditors and the equity committee debated and negotiated how best to develop a plan to exit court protection. After mediation, the company and shareholders reached an agreement on a plan, which is now also supported by the unsecured creditors, according to court documents.

The company will reorganize around Syms real estate assets, valued at about \$147 million, which they would then manage, lease and sell over the coming years, according to court documents. Syms filed an amended reorganization plan this week adding new elements including an equity rights offering and a share buyback from majority stockowner Marcy Syms, according to the disclosure statement.

The company will seek court approval of the plan at an Aug. 29 hearing.

Marcy Syms, who owns about 54.4 percent of the company's equity, has agreed to sell her stake for \$2.49 a share for a total of about \$19.6 million, which will be paid over time, court papers show.

Rights Offer

The company will hold an equity rights offer for existing shareholders to raise about \$25 million, according to the disclosure statement. Investors that don't participate would be diluted by about 13 percent. The offering will be backstopped by DS Advisors LLC, Esopus Creek Value Series Fund LP-Series A and Marcato Capital Management LLC.

After paying exit costs, 60 percent of the proceeds of the offering and real estate sales will go to pay creditors and 40 percent to pay off Marcy Syms until she receives \$10.7 million. The remainder she is owed would be paid once all creditors claims have been satisfied.

The value of the reorganized Syms shares will be “difficult to predict,” the company said in the disclosure statement. Based on the real estate value and the influx of shares, they may be worth \$1.50 to \$2, assuming creditor claims are between \$100 million and \$110 million.

Share Value

The share value could “vary significantly” due to the undulating real estate prices which “could be significantly greater than the \$147 million” estimate ascribed to it. In the near future, Syms will sell off 13 properties and another three in the midterm after getting leases. It will then sell its prized asset, the “Trinity” property located in lower Manhattan.

Over a four- to five-year period, the company says it could get as much as \$120 million more for Trinity if it is developed as a mixed-use building, adding as much as \$7.22 a share. Syms also cautioned that the market may deteriorate as well.

“Expectations for future shareholder value depend largely on the Trinity Property, as the other properties owned by Syms likely will be necessary to pay creditor claims,” the company said in the disclosure statement.

Syms has no secured claims and its unsecured creditors, owed about \$53.9 million, would be paid in full. Syms and the shareholders committee say that Filene’s is insolvent, which the unsecured creditors disputed.

Creditor Recovery

To resolve the issue, Syms will allow Filene’s creditors to receive a recovery from Syms assets. Filene’s trade creditors would be paid in full over time, while Filene’s creditors with lease rejection claims will get a recovery of 75 percent. Filene’s creditors have the option to receive a payout of zero to two percent to retain its right to sue Syms.

The company listed assets ([SYMS](#)) of \$236 million, including \$97.7 million in real estate inventories, and liabilities of \$94 million, according to court papers.

Syms, based in Secaucus, New Jersey, was founded by Sy Syms in 1958. The company bought Filene’s Basement in a bankruptcy auction for about \$64.4 million in June 2009. They had 25 Syms stores and 21 Filene’s Basement locations.

Filene’s, famous for the “Running of the Brides” wedding gown sale, was founded by Edward Filene in 1909, when he opened up his Boston basement to clear out merchandise from his family’s department store, eventually leading other retailers to bring their unsold goods to him, according to the store’s website.

Syms rose more than 11 percent to \$4.50 today in over-the-counter trading.

The lead case is In re Filene's Basement LLC, 11-13511, U.S Bankruptcy Court, District of Delaware (Wilmington).

<http://www.businessweek.com/news/2012-07-13/syms-filene-s-win-approval-to-send-creditors-exit-plan>



Syms, Ambac, Jefferson County, Peregrine: Bankruptcy

By Bill Rochelle - Jul 16, 2012 8:14 AM ET

Dissident [Syms Corp. \(SYMSQ\)](#) creditors are dissatisfied with the plan negotiated by the official creditors' committee and intend to block approval of the reorganization plan in [bankruptcy court](#) at the Aug. 29 confirmation hearing.

Through mediation in June, liquidated retailers Syms and subsidiary Filene's Basement LLC reached settlement with the two official committees representing shareholders and creditors.

The revised Chapter 11 plan, filed last week, "turned the [Bankruptcy Code](#) on its head by proposing to pay equity before unsecured creditors," Joe Sarachek, Managing Director of Special Situations at CRT Capital Group LLC said in an interview.

The plan allows existing shareholders to retain their stock while unsecured creditors of parent Syms are paid in full without interest over time on their \$54 million in claims. The plan calls for Marcy Syms, who owns about 54.7 percent of the existing stock, to sell her holding to the company for \$2.49 a share, or a total of \$19.5 million.

Combined with other unsecured creditors with similar attitudes, Sarachek said there are enough dissent votes to block plan approval. Bankruptcy law requires that two-thirds in dollar amount of claims in each class must vote in favor of the plan. For details on Syms' newly revised plan, [click here](#) for the July 13 Bloomberg bankruptcy report.

Bankruptcy law contains so-called cramdown provisions where the bankruptcy judge may approve a plan even if a class votes "no." Using cramdown, however, requires that shareholders receive nothing. Were cramdown utilized, the settlement wouldn't work because shareholders would receive nothing.

At a hearing on July 13 in [U.S. Bankruptcy Court in Delaware](#), the judge approved disclosure material explaining the newly revised plan. Creditors now can vote in anticipation of the Aug. 29 confirmation hearing to approve the plan, court records show. For a Bloomberg story on the confirmation hearing, [click here](#).

Sarachek said the plan is a "really poor result" that came about because "the creditors' committee just got worn down." He said it was "hubris" for the plan to make a "three year interest free loan" for the benefit of existing shareholders.

The plan provides that interest will only begin to accrue on unsecured creditors' claims if they haven't been paid full by October 2015.

"There is a real risk that this plan will be voted down," Adam Moskowitz, managing partner from ASM Capital LP said in an interview. ASM owns unsecured claims it intends to vote against the plan, Moskowitz said.

The revised disclosure statement, filed last week, told shareholders that they can expect the stock they retain in the reorganized company to be worth \$1.50 to \$2 a share assuming the real estate in lower Manhattan is worth \$147 million. If the property is developed and sold four or five years later, the value could rise as much as \$120 million, increasing the value of equity by \$7.22 a share, the disclosure statement shows.

A call to lawyers for the creditors' committee after business hours wasn't returned.

The Syms stock lost 48 percent of its value on July 12 when the new disclosure statement was filed. The stock closed that day at \$4.05 in over the counter trading. The stock recovered some lost ground by rising 11.1 percent on July 13, closing at \$4.50. During bankruptcy, the stock's peak was \$12.65 on Dec. 12, 2011. The shares last traded at \$7.76 just before the Chapter 11 filing on Nov. 2.

Secaucus, New Jersey-based Syms purchased Filene's through a bankruptcy auction in June 2009 in Filene's second Chapter 11 reorganization. At the outset of Chapter 11 case in November, there were 25 Syms stores and 21 Filene's locations.

The stores were closed and inventory sold. Leases were terminated, leaving Syms with owned real estate.

Assets were listed in the Chapter 11 petition for \$236 million, including real estate on the books for \$97.7 million. Liabilities were listed at \$94 million, including \$31.1 million owing on a revolving credit with Bank of America NA as agent. In addition, there were \$11.1 million in letters of credit outstanding on the revolver.

The case is In re Filene's Basement LLC, 11-13511, U.S. Bankruptcy Court, District of Delaware (Wilmington).

<http://www.bloomberg.com/news/2012-07-16/syms-ambac-jefferson-county-peregrine-bankruptcy.html>

Bloomberg

(BUS) Court Approves Syms Corp and Filene's Basement Disclosure Statement for Second Amended Joint Chapter 11 Plan; Sets Hearing on

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BN 07/16 12:06 *SYMS MAJORITY HOLDER TO GET \$10.7M FROM RIGHTS OFFER :SYMSQ
US BN 07/16 12:05 *SYMS RIGHTS OFFERING FUNDS TO SPLIT 60/40 CREDITORS,
MAJOR HLDR BN 07/16 12:04 *SYMS OFFER EXISTING HOLDERS RIGHT TO BUY SHRS
PRICE EQUAL \$2.49 BN 07/16 12:04 *SYMS TO OFFER EXISTING HOLDERS RIGHT TO
BUY OVER 10M NEW SHRS BN 07/16 12:03 *SYMS MAJORITY HOLDER MARCY SYMS TO
SELL SHARES TO NEW ENTITY BN 07/16 12:03 *SYMS MAJORITY HOLDER MARCY SYMS TO
SELL SHARES AT \$2.49 BN 07/16 12:03 *SYMS, FILENE'S PLAN FOR CO. THAT WILL
DISPOSE SYMS REAL ESTATE BN 07/16 12:02 *FILENE'S LANDLORDS, LEASE REJECTION
CLAIMS RECOVERY 75%
BN 07/16 12:02 *FILENE'S TRADE CREDITORS TO BE PAID IN FULL :SYMSQ
US
BN 07/16 12:01 *SYM'S, FILENE'S PLAN FOR FILENE'S CREDITORS RECOVERY FROM
SYM'S BN 07/16 12:00 *COURT SETS SYMS, FILENE CONFIRMATION HEARING AUG. 29
:SYMSQ US BN 07/16 12:00 *COURT OKS SYMS CORP-FILENE'S BASEMENT DISCLOSURE
STATEMENT FOR

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Court Approves Syms Corp and Filene's Basement Disclosure Statement for Second Amended Joint Chapter 11 Plan; Sets Hearing on 2012-07-16 12:00:01.85 GMT

Court Approves Syms Corp and Filene's Basement Disclosure Statement for Second Amended Joint Chapter 11 Plan; Sets Hearing on Confirmation of Plan for August 29, 2012

Business Wire

SECAUCUS, N.J. -- July 16, 2012

The U.S. Bankruptcy Court for the District of Delaware has approved the Disclosure Statement for the Second Amended Joint Chapter 11 Plan for Syms Corp (SYMSQ) and its wholly owned subsidiary Filene's Basement, LLC. The court also set a solicitation schedule and a date of August 29, 2012 for the confirmation hearing.

The Plan has the support of the Debtors, the Official Committee of Unsecured Creditors, and the Official Committee of Equity Security Holders, which represents minority shareholders. The Disclosure Statement was approved by the Court on July 13, 2012.

If the Plan is approved, Syms creditors will be paid in full. The Plan will allow Filene's Basement creditors to receive a recovery from Syms' assets.

Filene's trade creditors will be paid in full, while landlords with lease rejection claims will receive a recovery of 75%.

The Plan creates a newly constituted company with a new capital structure, which will dispose of Syms real estate assets over time in a way that maximizes their value for the benefit of creditors and shareholders. The current majority shareholder (Marcy Syms and entities with which she is affiliated) will sell her shares in their entirety to the newly constituted Syms on the Plan's Effective Date at a price of \$2.49 per share. Since early in the bankruptcy proceedings, the Equity Committee has expressed its desire for this transfer of control.

Under the Plan, Syms will offer to sell to existing shareholders, other than the majority shareholder, who qualify as accredited investors under the plan, the right to purchase a total of more than 10 million new shares at a price equal to \$2.49 per share, or approximately \$25 million in the aggregate.

Proceeds from this rights offering, along with proceeds from any real estate dispositions, will be used for payment of exit and other costs, with any remaining proceeds to be split between creditors and the majority shareholder, with creditors receiving 60% and the majority shareholder receiving 40%, until the majority shareholder is paid \$10,725,761.

The balance of Syms' payment obligation to the majority shareholder, in the amount of \$7,065,907, will be paid after reorganized Syms has satisfied all its obligations to creditors under the Plan.

A key component of this transaction is that while, on the Effective Date, the majority shareholder will relinquish her shares in their entirety and relinquish control of the company, and Syms will have raised funds from third parties sufficient to pay for those shares, she will be paid for those shares over time, without interest, assuming that assets are disposed of, funds are available, and all obligations to creditors have been satisfied.

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obtain Court approval with respect to motions in the chapter 11 cases prosecuted by it from time to time; risks associated with third parties seeking and obtaining Court approval to propose and confirm one or more plans of reorganization; satisfaction of the conditions and other terms of the ECA; and the ability of Syms to fund and effectuate its Plan as filed with the Court and to do so in a timely manner. Additional factors that could affect future results are identified in Syms' Annual Report on Form 10-K for fiscal year 2011 filed with the United States Securities and Exchange Commission and the subsequent Quarterly Report on Form 10-Q, including the risk factors contained therein. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results or outcomes may vary materially from those described herein as anticipated, believed, estimated, expected, intended or planned. Syms disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events and/or otherwise. Similarly, these and other factors, including the terms of any reorganization plan ultimately confirmed, can affect the value of the Company's various prepetition liabilities and/or its common stock. Subsequent written and oral forward-looking statements attributable to Syms or persons acting on its behalf are expressly qualified in their entirety by the cautionary statements in this paragraph.



Court Approves Syms Corp and Filene's Basement Disclosure Statement for Second Amended Joint Chapter 11 Plan; Sets Hearing on Confirmation of Plan for August 29, 2012

July 16, 2012

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<http://finance.yahoo.com/news/court-approves-syms-corp-filene-120000753.html>



Court Approves Syms Corp and Filene's Basement Disclosure Statement for Second Amended Joint Chapter 11 Plan; Sets Hearing on Confirmation of Plan for August 29, 2012

BusinessWire SECAUCUS, N.J.

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<http://www.canada.com/business/Court+Approves+Syms+Corp+Filene+Basement+Disclosure+Statement+Second+Amended/6939587/story.html>

The Street

Press Releases

Court Approves Syms Corp And Filene's Basement Disclosure Statement For Second Amended Joint Chapter 11 Plan; Sets Hearing On Confirmation Of Plan For August 29, 2012

By [Business Wire](#) 07/16/12 - 08:00 AM EDT

The U.S. Bankruptcy Court for the District of Delaware has approved the Disclosure Statement for the Second Amended Joint Chapter 11 Plan for Syms Corp (SYMSQ) and its wholly owned subsidiary Filene's Basement, LLC. The court also set a solicitation schedule and a date of August 29, 2012 for the confirmation hearing.

The Plan has the support of the Debtors, the Official Committee of Unsecured Creditors, and the Official Committee of Equity [Security](#) Holders, which represents minority shareholders. The Disclosure Statement was approved by the Court on July 13, 2012.

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<http://www.thestreet.com/story/11618438/1/court-approves-syms-corp-and-filene8217s-basement-disclosure-statement-for-second-amended-joint-chapter-11-plan-sets-hearing-on-confirmation-of-plan-for-august-29-2012.html>



Court Approves Syms Corp and Filene's Basement Disclosure Statement for Second Amended Joint Chapter 11 Plan; Sets Hearing on Confirmation of Plan for August 29, 2012

07/16/2012 | 08:10am US/Eastern

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<http://www.4-traders.com/news/Court-Approves-Syms-Corp-and-Filene-s-Basement-Disclosure-Statement-for-Second-Amended-Joint-Chapter--14414839/>

July 16, 2012

Court Approves Syms Corp and Filene's Basement Disclosure Statement for Second Amended Joint Chapter 11 Plan; Sets Hearing on Confirmation of Plan for August 29, 2012

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The balance of Syms' payment obligation to the majority shareholder, in the amount of \$7,065,907, will be paid after reorganized Syms has satisfied all its obligations to creditors under the Plan.

A key component of this transaction is that while, on the Effective Date, the majority shareholder will relinquish her shares in their entirety and relinquish control of the company, and Syms will have raised funds from third parties sufficient to pay for those shares, she will be paid for those shares over time, without interest, assuming that assets are disposed of, funds are available, and all obligations to creditors have been satisfied.

On the Effective Date, reorganized Syms' board of directors will be comprised of three designees of the Equity Committee, one designee of the Creditors' Committee, and one independent director agreeable to both the Equity Committee and the Creditors' Committee.

The Debtor's assets currently include cash from the store closing sales; parcels of real estate owned by Syms; long-term ground leases; intellectual property owned by Filene's; and various estate claims and causes of action.

More information on the bankruptcy, as well as the Plan and Disclosure Statement, can be found at www.kccllc.net.

Certain information in this press release includes forward-looking statements (as such term is defined in the Private Securities Litigation Reform Act of 1995) and information relating to Syms Corp. and its subsidiaries ("Syms") that are based on the beliefs of Syms' management, as well as assumptions made by and information currently available to Syms' management. When used in this press release, the words "anticipate", "believe", "estimate", "expect", "intend", "plan" and similar expressions as they relate to Syms and its management, identify forward-looking statements. Such statements reflect the current views of Syms with respect to future events, the outcome of which is subject to certain risks, including among others general economic and market conditions, possible disruptions in Syms' information or communication systems, higher than anticipated costs, higher interest rates, unanticipated difficulties which may arise with respect to Syms and other factors which may be outside Syms' control. Such forward-looking statements are also subject to certain bankruptcy-related risks, including without limitation the ability of Syms to obtain creditor acceptances and Bankruptcy Court confirmation of the Plan; possible objections to confirmation of the Plan; Syms' ability to obtain Court approval with respect to motions in the chapter 11 cases prosecuted by it from time to time; risks associated with third parties seeking and obtaining Court approval to propose and confirm one or more plans of reorganization; satisfaction of the conditions and other terms of the ECA; and the ability of Syms to fund and effectuate its Plan as filed with the Court and to do so in a timely manner. Additional factors that could affect future results are identified in Syms' Annual Report on Form 10-K for fiscal year 2011 filed with the United States Securities and Exchange Commission and the subsequent Quarterly Report on Form 10-Q, including the risk factors contained therein. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results or outcomes may vary materially from those described herein as anticipated, believed, estimated, expected, intended or planned. Syms disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events and/or otherwise. Similarly, these and other factors, including the terms of any reorganization plan ultimately confirmed, can affect the value of the Company's various prepetition liabilities and/or its common stock. Subsequent written and oral forward-looking statements attributable to Syms or persons acting on its behalf are expressly qualified in their entirety by the cautionary statements in this paragraph.

<http://newsblaze.com/story/2012071605083200003.bw/topstory.html>



Court Approves Syms Corp and Filene's Basement Disclosure Statement for Second Amended Joint Chapter 11 Plan; Sets Hearing on Confirmation of Plan for August 29, 2012

Monday, July 16, 2012 8:00 AM

The U.S. Bankruptcy Court for the District of Delaware has approved the Disclosure Statement for the Second Amended Joint [Chapter 11](#) Plan for Syms Corp (SYMSQ) and its wholly owned subsidiary Filene's Basement, LLC. The court also set a solicitation schedule and a date of August 29, 2012 for the confirmation hearing.

The Plan has the support of the Debtors, the Official Committee of Unsecured Creditors, and the Official Committee of Equity [Security](#) Holders, which represents minority shareholders. The Disclosure Statement was approved by the Court on July 13, 2012.

If the Plan is approved, Syms creditors will be paid in full. The Plan will allow Filene's Basement creditors to receive a recovery from Syms' assets. Filene's trade creditors will be paid in full, while landlords with [lease](#) rejection claims will receive a recovery of 75%.

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<http://www.istockanalyst.com/business/news/5944333/court-approves-syms-corp-and-filene-s-basement-disclosure-statement-for-second-amended-joint-chapter-11-plan-sets-hearing-on-confirmation-of-plan-for-august-29-2012>



Court Approves Syms Corp and Filene's Basement Provide Update on Chapter 11 Plan

July 16, 2012

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<http://boston.citybizlist.com/article/court-approves-syms-corp-and-filene%E2%80%99s-basement-provide-update-chapter-11-plan>



Court Approves Syms Corp and Filene's Basement Disclosure Statement for Second Amended Joint Chapter 11 Plan; Sets Hearing on Confirmation of Plan for August 29, 2012

WIRE)--The U.S. Bankruptcy Court for the District of Delaware has approved the Disclosure Statement for the Second Amended Joint Chapter 11 Plan for Syms Corp (SYMSQ) and its wholly owned subsidiary Filene's Basement, LLC. The court also set a... [Full Article at Business Wire](#)

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THOMSON REUTERS

BRIEF-Court approves Syms Corp and Filene's basement disclosure statement for second amended joint chapter 11 plan

July 16

* Court approves Syms Corp and Filene's basement disclosure statement for second amended joint chapter 11 plan; sets hearing on confirmation of plan for August 29, 2012

* Court set a solicitation schedule and a date of August 29, 2012 for the confirmation hearing

<http://www.cnbc.com/id/48194385>



Syms Brings Creditors, Equity Together On Ch. 11 Plan

Law360, Wilmington (July 13, 2012, 3:11 PM ET) -- Bankrupt [Syms Corp.](#) won court approval Friday to send its reorganization plan to creditors for a vote after sealing a deal between shareholders and creditors on how to liquidate the defunct clothing retailer's valuable real estate.

At a hearing in Wilmington, Del., U.S. Bankruptcy Judge Kevin J. Carey approved the disclosure statement explaining the plan, which reorganizes Syms as a real estate holding company and promises to pay back most of the approximately \$110 million owed to creditors.

Two committees representing minority shareholders and unsecured creditors had been at war for months over how to sell and divvy up the spoils from the real estate, which the debtors estimate is worth around \$147 million in today's market.

"I am privileged to report that peace has broken out in the valley," Jay Goffman, an attorney for Syms, told the judge.

The resolution enshrined in the plan was reached through mediation with U.S. Bankruptcy Judge James Peck last month, but the deal wasn't finalized until this week.

The plan hinges on a \$25 million rights offering that will allow minority shareholders to take control of the reorganized company from CEO Marcy Syms, who agreed to cash out her 54 percent stake for \$2.49 per share, or around \$19.5 million, according to the disclosure statement. The offering is backstopped by minority investors, including Esopus Creek Value Series Fund LP, DS Advisors LLC and Marcato Capital Management LLC.

Marcy Syms agreed to defer over \$7 million of her payout until after creditors are paid off, according to the disclosure statement.

The new owners will oversee sales of 17 Syms properties, with all but one expected to be sold in the next 30 months to pay back creditors. However, the crown jewel of the company's holdings, located in lower Manhattan near the World Trade Center site, will be developed and sold in four to five years, with shareholders betting the project will provide them with an ample return, Syms attorney Mark McDermott said at the hearing.

The future sale of the so-called Trinity property could net shareholders as much as \$120 million, or \$7.22 per share, according to the disclosure statement.

The enmity between the two committees in the case stemmed largely from the fact that Syms is solvent due to its real estate holdings and shareholders didn't want that value to flow to unsecured creditors of insolvent subsidiary Filene's Basement LLC.

Under the plan, all Syms creditors will be paid in full, as will Filene's trade creditors, but the subsidiary's landlords will only see a 75 percent recovery on \$37 million in claims, the disclosure statement said.

Judge Carey will consider confirming the plan at a hearing on Aug. 29.

Secaucus, N.J.-based Syms bought Filene's out of bankruptcy in 2009 for \$62.4 million. But the expected synergies between the discount clothing retailers didn't pan out, and Syms spent \$39 million to prop up Filene's after the acquisition, attorneys for the companies have said. The recent recession also created intense competition in their niche, leading the companies to file for court protection Nov. 2.

In December, the retailers closed up shop and raised \$53 million through going-out-of-business sales at their stores.

Syms is represented by Mark S. Chehi, Jay Goffman, Nancy Lieberman, Morris Kramer and Mark McDermott of **Skadden Arps Slate Meagher & Flom LLP**.

The unsecured creditors are represented by Michael J. Merchant, Paul N. Heath, Zachary I. Shapiro and Marisa Terranova of **Richards Layton & Finger PA** and Mark T. Power, Janine M. Cerbone and Alison M. Ladd of **Hahn & Hessen LLP**.

The equity committee is represented by Robert J. Dehney, Curtis S. Miller and Matthew B. Harvey of **Morris Nichols Arsht & Tunnell LLP**, and Thomas B. Walper, Seth Goldman and Bradley R. Schneider of **Munger Tolles & Olson LLP**.

Marcy Syms is represented by Michael R. Lastowski of **Duane Morris LLP**.

The case is In re: Filene's Basement LLC, case number 1:11-bk-13511, in the U.S. Bankruptcy Court for the District of Delaware.

--Editing by John Quinn.

<http://www.law360.com/articles/359915/syms-brings-creditors-equity-together-on-ch-11-plan->

DOW JONES

Judge Clears Creditors to Vote On Syms Bankruptcy-Exit Plan

Rachel Feintzeig
July 13, 2012

Syms Corp. Friday received a judge's blessing to distribute its revamped Chapter 11 plan, born of months of negotiations, to creditors for a vote.

Judge Kevin J. Carey of the U.S. Bankruptcy Court in Wilmington, Del., said he would sign off on the defunct discount retailer's disclosure statement, a plain-language outline that details the company's plan to reorganize around its valuable real-estate assets, raise \$25 million through a rights offering and repay most of its debts in full, thanks to a deal with creditors and equity holders of both Syms and subsidiary Filene's Basement LLC.

Jay Goffman, an attorney representing Syms, kicked off Friday's hearing by telling a judge that "peace" had finally come to the proceedings, which just days ago seemed to be entering their ninth month marked by contention and back-and-forth brawls.

"Today is the best day we've had yet in this case," said Mr. Goffman, who's with Skadden, Arps, Slate, Meagher & Flom LLP.

Late last month, the company reached a "handshake deal" with the committees representing its unsecured creditors and shareholders following mediation. Though progress seemed to have deteriorated in subsequent days---the creditors had sought to put the brakes on the plan process and declared there were still issues to be worked through---the company finally filed a fresh plan Thursday and a tweaked version Friday morning.

The proposal would pay all Syms creditors and Filene's trade creditors and employees in full, with money flowing from the sale of Syms's 17 parcels of commercial real estate. Holders of lease rejection claims against Filene's will see 75% of their allowed claims over time, unless they opt for a different route that offers a sharply lower recovery---zero to 2%---but would let the creditors preserve their claims against Syms.

The rights offering stems from a deal Syms negotiated with Marcy Syms, its majority stockholder and daughter of founder Sy Syms. Ms. Syms is set to sell her 7.8 million shares, some of which she owns through various trusts, to the reorganized Syms. The transaction will provide her with about \$17.5 million in a combination of proceeds from the rights offering and proceeds from the real-estate sales, according to a Syms attorney.

Ms. Syms will not be allowed to take part in the rights offering, where new shares will be offered at a price of \$2.49 each. Three members of the equity committee in the case have committed to backstop the rights offering, buying up any shares that go unsold. They are not getting a discount or collecting any additional fees, save attorneys costs.

The reorganized Syms will focus on selling its real estate assets, valued by the company's advisors at \$147 million, "in a non-distressed, commercially reasonable manner," according to court papers.

Attorneys on Friday added the sales will be staggered, with some taking place within a year and others, such as a downtown Manhattan property that could require significant development but also yield significant value, operating under a longer timeline, perhaps as long as five years.

Syms 's valuable real estate assets have been a polarizing issue since the company first filed for bankruptcy protection last November, one that promised much higher recoveries than typically seen of liquidating retailers but also sparked a battle between those owed money by Syms---buoyed into solvency by the real-estate assets---and those owed money by Filene's, which was a separate, more financially challenged entity.

"That's really been the rub here in this case," said Mark McDermott, another Skadden attorney for Syms . Judge Carey said he recognized the "arduous path" the parties traversed to get to the consensual plan with the equity and creditor groups. He also cited the "constant burn" of cash the case has been leaving in its wake when pushing for a few remaining objectors to quickly settle their qualms with the company over the disclosure statement.

Syms ultimately was able to resolve the objections, including one from ASM Capital LP, which argued that the plan violated the order that the Bankruptcy Code dictates proceeds must be doled out to creditors.

"The fact that these three constituencies were able to agree upon terms of a plan does not make it fair," ASM said in court papers.

ASM and other dissenters ultimately backed down from their objections after Syms agreed to tweak certain language in the materials its sending to voting creditors.

Syms 's plan confirmation hearing is set for Aug. 29.

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press release

July 16, 2012, 8:00 a.m. EDT

Court Approves Syms Corp and Filene's Basement Disclosure Statement for Second Amended Joint Chapter 11 Plan; Sets Hearing on Confirmation of Plan for August 29, 2012



SECAUCUS, N.J., Jul 16, 2012 (BUSINESS WIRE) -- The U.S. Bankruptcy Court for the District of Delaware has approved the Disclosure Statement for the Second Amended Joint Chapter 11 Plan for Syms Corp (SYMSQ) and its wholly owned subsidiary Filene's Basement, LLC. The court also set a solicitation schedule and a date of August 29, 2012 for the confirmation hearing.

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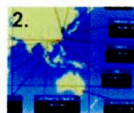
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SOURCE: Syms Corp

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Financial Glossary

Words used in this article:

- [capital structure](#)
- [rights offering](#)
- [reorganization plan](#)
- [wholly owned subsidiary](#)
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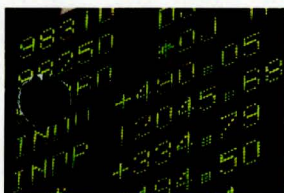
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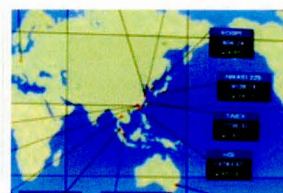
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A tribute to the 'upstairs' of Filene's Department Store

Jul 17, 2012 @ 08:02 AM

Generations of Bostonians came to Filene's for fashion, theater, and holiday traditions. A gift from Filene's "upstairs" was truly something special. In a new book, an oboist from Baltimore who learned his craft in Boston writes about one of the city's great retail establishments.

[A Boston institution that was nothing like the Basement](#)



Courtesy of Michael Lisicky

A May 1958 fashion show at Filene's Department Store in Boston hosted by actress Gloria Swanson, who was promoting her new "Forever Young" fashion line.



<http://www.patriotledger.com/features/x1062475373/A-tribute-to-the-upstairs-of-Filenes-Department-Store>



US: Court approves Syms, Filene's amended bankruptcy plan

Author: [Katie Smith](#) | 17 July 2012

The US Bankruptcy Court for the District of Delaware has approved [Syms](#) Corp and its subsidiary Filene's Basement disclosure statement, describing its plan to exit bankruptcy.

The disclosure statement, which describes the company's plan was approved by the court on 13 July.

The debtors, the Official Committee of Unsecured Creditors, and the Official Committee of Equity Security Holders, which represents minority shareholders, support the plan.

The debtor will now seek support for the plan among creditors. A certain percentage of creditors need to vote to approve the plan.

The court will then consider any objections that have been filed in this period and hold a confirmation hearing to decide whether it has approved the plan will take place on 29 August.

The plan is expected to allow Filene's Basement creditors to receive a recovery from the sale of Syms' assets. If it is approved, Syms creditors will be paid in full.

The plan creates a newly constituted company with a new capital structure, which will dispose of Syms real estate assets over time.

Under the plan, shareholders, except the majority shareholder, will have the choice to buy more than 10m new shares at \$2.49 per share.

Proceeds from this rights offering, as well as money from any real estate dispositions, will be used to pay for the company's bankruptcy exit and other costs.

Any remaining proceeds will be split between creditors and the majority shareholder, with creditors receiving 60% and the majority shareholder receiving 40%, until the majority shareholder is paid US\$10,725,761.

Majority shareholder Marcy Syms will sell her shares to the newly constituted Syms for \$2.49 per share.

Last November, it was announced that the Filene's Basement and Running of the Brides names were to be sold at auction as part of the liquidation of discount clothing retailers Syms Corp and Filene's Basement.

http://www.just-style.com/news/court-approves-syms-filenes-amended-bankruptcy-plan_id114953.aspx

Court approves Syms, Filene's amended bankruptcy plan

July 17, 2012 By [just-style](#)

The US Bankruptcy Court for the District of Delaware has approved a disclosure statement from Syms Corp and its subsidiary Filene's Basement, describing its plan to exit bankruptcy.

The disclosure statement, which describes the company's plan was approved by the court on July 13.

The debtors, the Official Committee of Unsecured Creditors, and the Official Committee of Equity Security Holders, which represents minority shareholders, support the plan.

The debtor will now seek support for the plan among creditors. A certain percentage of creditors need to vote to approve the plan.

The court will then consider any objections that have been filed in this period and hold a confirmation hearing to decide whether it has approved the plan will take place on August 29.

The plan is expected to allow Filene's Basement creditors to receive a recovery from the sale of Syms' assets. If it is approved, Syms creditors will be paid in full.

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Last November, it was announced that the Filene's Basement and Running of the Brides names were to be sold at auction as part of the [liquidation of discount clothing retailers Syms Corp and Filene's Basement](#).

For more fashion and apparel industry news, go to [just-style.com](#)

<http://www.mrketplace.com/37900/court-approves-syms-filenes-amended-bankruptcy-plan/>



Syms Asks Court Permission to Auction Florida Property

By Michael Bathon on July 19, 2012

Syms Corp. (SYMSQ) (SYMSQ), the bankrupt discount clothing chain, and its Filene's Basement LLC are seeking court permission to sell a Miami property at auction with an opening offer of \$4.5 million.

Syms will ask a judge to approve bidding procedures for the proposed auction at a hearing set for July 31, according to documents filed July 17 in U.S. Bankruptcy Court in Wilmington, Delaware. The company plans to hold the auction on Aug. 14, followed by a hearing to approve the sale on Aug. 16, according to court papers. All bids would be due by Aug. 13.

"The sale represents its best opportunity under the circumstances to maximize the value of the property," lawyers for Syms said in court papers. The sale is "crucial" to Syms's effort to confirm a restructuring plan by mid-September, according to the filing.

Syms selected Florida-based Independent Living Systems LLC as the so-called stalking horse, or lead bidder, with a \$4.5 million bid after marketing the property since February, according to court papers. Independent's offer would set the floor for other potential buyers to beat.

Syms, based in Secaucus, New Jersey, last week won court approval of its disclosure statement, an outline of the reorganization plan, allowing the company to send the proposal to creditors for a vote. The company seeks to reorganize around Syms's real estate assets, valued at about \$147 million. Syms is scheduled to seek court approval of the plan on Aug. 29.

The lead case is In re Filene's Basement LLC, 11-13511, U.S. Bankruptcy Court, District of Delaware (Wilmington).

<http://www.businessweek.com/news/2012-07-19/syms-asks-court-permission-to-hold-auction-for-florida-property>

Syms Gets OK to Sell Miami Property for \$4.4 Million

By Michael Bathon on August 16, 2012

Syms Corp. ([SYMSQ](#)), the bankrupt discount clothing chain, and its Filene's Basement LLC unit won court approval to sell a Miami property for \$4.35 million.

U.S. Bankruptcy Judge Kevin J. Carey at a hearing today in Wilmington, Delaware, gave the company permission to sell the assets to Florida-based Independent Living Systems LLC, the initial bidder for the property.

The sale was at "fair market value and was the highest and best offer," Jason M. Liberi, a lawyer for Syms, told Carey. The sale is "essential" to the retailer's reorganization effort, he added.

No other offers surfaced to compete with Independent Living, Liberi said in court. Independent Living will get 3.6 acres (1.5 hectares) in Miami with more than 5,000 square feet (465 square meters) of building space. The sale is expected to close during the week of Aug. 27.

The company shut down operations and sold its remaining inventory after seeking bankruptcy protection Nov. 2. Syms and Filene's crafted a restructuring plan to reorganize around Syms' real estate assets, valued at about \$147 million, which they would then manage, lease and sell over the coming years, according to court documents.

The company listed assets ([SYMS](#)) of \$236 million, including \$97.7 million in real estate inventories, and liabilities of \$94 million, according to court papers.

Sy Syms

Syms, based in Secaucus, New Jersey, was founded by Sy Syms in 1958. The company bought Filene's Basement in a bankruptcy auction for about \$64.4 million in June 2009. They had 25 Syms stores and 21 Filene's Basement locations.

Filene's, famous for the "Running of the Brides" wedding gown sale, was founded by Edward Filene in 1909, when he opened up his Boston basement to clear out merchandise from his family's department store, eventually leading other retailers to bring their unsold goods to him, according to the store's website.



Macy's Moves To Block Syms' Sale Of Filene's IP

New York (August 15, 2012, 5:50 PM ET) -- **Macy's Inc.** objected Wednesday to bankrupt clothing retailer **Syms Corp.**'s plan to sell intellectual property assets that include a licensing agreement with Macy's, which holds the trademarks of Syms subsidiary **Filene's Basement LLC**.

In an objection filed in Delaware bankruptcy court, Macy's said it had not consented to Syms' assumption of the licensing agreement — signed by Macy's predecessor Federated Department Stores Inc. in 1988 — and the sale of it as part of the reorganization plan.

"It is readily apparent that the purpose of the plan is to monetize the intellectual property assets of Filene's Basement, including the license agreement," Macy's said. "Yet such nebulous aspirations are of little comfort to Macy's and, most importantly, do not provide 'adequate assurance' under the bankruptcy code."

Macy's said it had filed a reservation of rights in April, asserting that Syms could assume and assign the licensing agreement only with the consent of Macy's.

Syms won court approval to send its reorganization plan to creditors for a vote in July after sealing a deal between shareholders and creditors on how to liquidate the defunct clothing retailer's valuable real estate. The plan will reorganize Syms as a real estate holding company and promises to pay back most of the approximately \$110 million owed to creditors.

The plan hinges on a \$25 million rights offering that will allow minority shareholders to take control of the reorganized company from CEO Marcy Syms, who agreed to cash out her 54 percent stake for \$2.49 per share, or around \$19.5 million, according to the disclosure statement. The offering is backstopped by minority investors, including Esopus Creek Value

Series Fund LP, DS Advisors LLC, and Marcato Capital Management LLC.

Under the plan, all Syms creditors will be paid in full, as will Filene's trade creditors, but the subsidiary's landlords will only see a 75 percent recovery on \$37 million in claims, the disclosure statement said.

Secaucus, N.J.-based Syms bought Filene's out of bankruptcy in 2009 for \$62.4 million. But the expected synergies between the discount clothing retailers didn't pan out, and Syms spent \$39 million to prop up Filene's after the acquisition, attorneys for the companies have said. The recent recession also created intense competition in their niche, leading the companies to file for court protection Nov. 2.

In December, the retailers closed up shop and raised \$53 million through going-out-of-business sales at their stores.

Macy's is represented by Charles M. Tatelbaum and Steven E. Seward of [Hinshaw & Culbertson LLP](#) and James F. Harker and Scott T. Earle of [Cohen Seglias Pallas Greenhall & Furman PC](#).

Syms is represented by Mark S. Chehi, Jay Goffman, Nancy Lieberman, Morris Kramer and Mark McDermott of [Skadden Arps Slate Meagher & Flom LLP](#).

The case is In re: Filene's Basement LLC, case number 1:11-bk-13511, in the U.S. Bankruptcy Court for the District of Delaware.

--Additional reporting by Lance Duroni. Editing by Cara Salvatore.

<http://www.law360.com/commercialcontracts/articles/370162/macy-s-moves-to-block-syms-sale-of-filene-s-ip>

Syms' Ch. 11 Plan Harms Creditor Setoff Rights, IRS Says

New York (August 20, 2012, 5:50 PM ET) -- A Delaware bankruptcy judge should reject the Chapter 11 reorganization plan of discount clothing retailer Syms Corp. and its subsidiaries because the plan would bar creditors from asserting post-confirmation setoff rights, the Internal Revenue Service said Friday.

Under the proposed plan, creditors will waive their setoff rights if they don't assert a setoff claim on or before the confirmation date, the IRS said in its objection. But that stipulation doesn't protect creditors from setoff claims that may come to light in the post-confirmation stage and runs contrary to thousands of years of standard procedures among debtors and creditors, according to the objection.

"This court should hesitate to purport to strip the right of an alleged obligor of a bankruptcy debtor of a common-law defense that has existed since the Roman Empire merely because the alleged obligor has not objected to a bankruptcy plan," the IRS said.

While the IRS said it did not plan to set off any debts owed in the bankruptcy, it said the court should be wary of confirming a plan that unusually waives setoff, contrary to standard bankruptcy procedure. The agency also said the proposed plan is a disadvantage to creditors who may wish to assert a right to set off in the future.

"We respectfully submit that regardless of whether the rights of the government are preserved, the court should not, in any case that comes before it, confirm a plan that contains a provision purporting to strip off rights of setoff held by any party in interest," the IRS said. "Simply put, the court should not endorse illegal plan provisions that might later be held binding simply because they go unnoticed by other creditors."

The IRS also suggested that the U.S. has stronger setoff rights than those provided by

common law and cited the Judgment Setoff Act to show that the government can assert setoff rights at the last minute of the bankruptcy if it learns of a new obligation.

The IRS also said the objection should serve as an assertion of its wish to preserve its setoff rights as the plan moves forward.

"To the extent affirmative action is required by the IRS to preserve its setoff rights, this objection to confirmation should be viewed as satisfying any such requirement, thereby preserving any setoff rights that currently are unknown to the United States," the IRS said.

Bankrupt Syms Corp. won court approval in July to send its reorganization plan to creditors for a vote after sealing a deal between shareholders and creditors on how to liquidate the defunct clothing retailer's valuable real estate.

The plan hinges on a \$25 million rights offering that will allow minority shareholders to take control of the reorganized company from CEO Marcy Syms, who agreed to cash out her 54 percent stake for \$2.49 per share, or around \$19.5 million, according to the disclosure statement. The offering is backstopped by minority investors, including Esopus Creek Value Series Fund LP, DS Advisors LLC and Marcato Capital Management LLC.

The new owners will oversee sales of 17 Syms properties, with all but one expected to be sold in the next 30 months to pay back creditors. However, the crown jewel of the company's holdings, located in lower Manhattan near the World Trade Center site, will be developed and sold in four to five years, with shareholders betting the project will provide them with an ample return, Syms attorney Mark McDermott Skadden Arps Slate Meagher & Flom LLP said at the hearing.

The future sale of the so-called Trinity property could net shareholders as much as \$120 million, or \$7.22 per share, according to the disclosure statement.

Under the plan, all Syms creditors will be paid in full, as will subsidiary Filene's Basement LLC's trade creditors, but the subsidiary's landlords will only see a 75 percent recovery on \$37 million in claims, the disclosure statement said.

Judge Kevin J. Carey will consider confirming the plan at a hearing Aug. 29.

Secaucus, N.J.-based Syms bought Filene's out of bankruptcy in 2009 for \$62.4 million. But the expected synergies between the discount clothing retailers didn't pan out, and Syms spent \$39 million to prop up Filene's after the acquisition, attorneys for the companies have said. The recent recession also created intense competition in their niche, leading the companies to file for court protection Nov. 2.

Syms is represented by Mark S. Chehi, Jay Goffman, Nancy Lieberman, Morris Kramer and Mark McDermott of Skadden Arps Slate Meagher & Flom LLP.

The case is In re: Filene's Basement LLC, case number 1:11-bk-13511, in the U.S. Bankruptcy Court for the District of Delaware.

--Additional reporting by Lance Duroni. Editing by Lindsay Naylor.

<http://www.law360.com/bankruptcy/articles/371374/syms-ch-11-plan-harms-creditor-setoff-rights-irs-says>



Syms, Mark Shale, Dewey, ATP Oil, Kodak, AMR: Bankruptcy

By Bill Rochelle - Aug 22, 2012 8:40 AM ET

Dissident unsecured creditors of [Syms Corp. \(SYMSQ\)](#) laid out a theory yesterday of why the bankruptcy court can't approve the Chapter 11 reorganization plan coming up for approval at an Aug. 29 confirmation hearing in [U.S. Bankruptcy Court](#) in Delaware.

Through mediation in June, liquidated retailers Syms and subsidiary Filene's Basement LLC reached settlement with the two official committees representing shareholders and creditors. The plan allows existing shareholders to retain their stock while unsecured creditors of Syms are paid in full over time without interest on their \$54 million in claims. The plan calls for Marcy Syms, who owns about 54.7 percent of the existing stock, to sell her holding to the company for \$2.49 a share, or a total of \$19.5 million.

The dissident creditors fault the plan for not paying interest on their claims from the date of bankruptcy in November until their claims are paid in full years from now. If the dissidents prevail, shareholders' recoveries would diminish and Marcy Syms might not be permitted to receive payment for her stock so soon.

There are two prongs to the dissidents' argument.

Around the time the [bankruptcy court](#) was approving disclosure materials, the creditors claimed they would have enough votes to defeat the plan by the class of Syms unsecured creditors. If that occurs, they previously contended rules regarding so-called cramdown don't permit shareholders to retain a dime until their claims are paid in full with interest.

In papers filed yesterday, the creditors made no predictions about the vote that will be tallied and reported Aug. 28.

In yesterday's filing, the shareholders contend the plan is fatally defective even if the class votes "yes" because it still violates the so-called best-interests test that's included in bankruptcy law to protect dissident creditors in classes where the required majorities vote in favor of a plan. The best-interests test requires the company to show that dissident creditors will receive more in Chapter 11 than through a Chapter 7 liquidation.

The dissidents contend they come out better in Chapter 7 because Syms has consistently said the parent company is solvent and able to pay claims in full. The dissidents argue that the company's own admissions mean the best interests test can't be satisfied.

Syms can counter the argument at the Aug. 29 confirmation hearing by attempting to persuade the judge that conversion to Chapter 7 would entail higher costs and lower asset realizations, making Syms insolvent and paying creditors less than through the plan.

In case the bankruptcy judge buys into the idea that unsecured creditors are due interest, Syms reserved the right to modify the plan to provide interest in whatever amount the bankruptcy judge requires.

Objecting creditors include ASM Capital LP, CRT Special Investments LLC, Scoggin Worldwide Fund Ltd. and Spectrum Master Fund Ltd.

The plan provides that interest will only begin to accrue on unsecured creditors' claims if they haven't been paid full by October 2015. For other details of Syms's plan, [click here](#) for the July 13 Bloomberg bankruptcy report.

The disclosure statement told shareholders they could expect the stock they retain in the reorganized company to be worth \$1.50 to \$2 a share, assuming the real estate in lower Manhattan is valued at \$147 million. If the property is developed and sold four or five years later, the value may rise as much as \$120 million, increasing the value of equity by \$7.22 a share, the disclosure statement shows.

The Syms stock lost 48 percent of its value on July 12 when the revised disclosure statement was filed, closing that day at \$4.05 in over-the-counter trading. The stock has declined since then, closing yesterday at \$2.90. During bankruptcy, the stock's closing peak was \$12.65 on Dec. 12.

Syms, based in Secaucus, New Jersey, purchased Filene's through a bankruptcy auction in June 2009 in Filene's second Chapter 11 reorganization. At the outset of Chapter 11 case in November, there were 25 Syms stores and 21 Filene's locations.

The stores were closed and inventory sold. Leases were terminated, leaving Syms with owned real estate.

Assets were listed in the Chapter 11 petition for \$236 million, including real estate on the books for \$97.7 million. Liabilities were listed at \$94 million, including \$31.1 million owing on a revolving credit with [Bank of America NA](#) as agent. In addition, there were \$11.1 million in letters of credit outstanding on the revolver.

The case is In re Filene's Basement LLC, 11-13511, U.S. Bankruptcy Court, District of Delaware (Wilmington).

<http://www.bloomberg.com/news/2012-08-22/syms-mark-shale-dewey-atp-oil-kodak-amr-bankruptcy.html>



Creditors Say Syms Ch. 11 Plan Snuffs Their Interest Rights

New York (August 22, 2012, 3:41 PM ET) -- A group of unsecured Syms Corp. creditors urged a Delaware bankruptcy court Tuesday to reject the retailer's reorganization plan, arguing that it does not conform to Chapter 11 standards and wrongfully denies them interest on their claims.

Because Syms is fully solvent, it should not pay out equity shareholders before creditors nor should it deny interest on some creditor claims which includes claims by buyout company ASM Capital LP and hedge fund Scoggin Worldwide Fund Ltd., according to the ad hoc committee of Class 4 creditors.

Under the plan, minority shareholders can take control of the reorganized company from CEO Marcy Syms, who agreed to cash out her 54 percent stake for \$2.49 per share, or around \$19.5 million. Unsecured creditors would receive compensation for their claims gradually and with no interest, according to the plan.

But Joseph Sarachek, managing director of objecting party CRT Special Investments LLC, said that the plan ran against standard bankruptcy procedure in which creditors are paid before equity shareholders.

"It's outrageous that equity would be paid before general unsecured creditors in a case where the debtor is solvent," Sarachek told Law360. "Let the professionals find a solution that comports with the Bankruptcy Code. This plan tosses the absolute priority scheme of the Bankruptcy Code on its head."

The plan also fails to stipulate that the committee will be paid on the effective date of the reorganization, adding unnecessary risk to the claims, according to the objectors.

"In fact, the plan includes no temporal requirement for the payment of the Syms Class 4 claims," the objectors said.

ASM Capital raised objections to the plan's purported exclusion of interest payments in July, after Syms purportedly failed to guarantee interest on unsecured creditors' claims, an alleged violation of bankruptcy law.

Despite the challenges to the disclosure statement, Syms failed to accommodate ASM Capital's concerns about interest payments, the objectors said Tuesday.

"Notwithstanding the Bankruptcy Code's clear requirements as to interest, the debtors' acknowledgment that the Syms estate is solvent, and ASM's objection to the disclosure statement which raised the issue of interest, the debtors still have not amended the plan," the objection said. "Accordingly, the debtors knowingly proposed and solicited approval of a plan that it knew was patently unconfirmable, and therefore the plan was not proposed in good faith."

The **Internal Revenue Service** also claims the Syms plan runs contrary to bankruptcy law. On Friday, it claimed that the plan's denial of setoff rights to certain creditors made the plan unconfirmable.

The plan hinges on the \$25 million rights offering that will allow minority shareholders to take control of the reorganized company from Marcy Syms. The offering is backstopped by minority investors, including DS Advisors LLC, Esopus Creek Value Series Fund LP and Marcato Capital Management LLC.

The new owners will oversee sales of 17 Syms properties, with all but one expected to be sold in the next 30 months to pay back creditors. However, the crown jewel of the company's holdings, located in lower Manhattan near the World Trade Center site, will be developed and sold in four to five years, with shareholders betting the project will provide them with an ample return, Syms' attorney Mark McDermott of **Skadden Arps Slate Meagher & Flom LLP** said at the hearing.

The offering is backstopped by minority investors, including Esopus Creek Value Series Fund LP, DS Advisors LLC and Marcato Capital Management LLC.

The future sale of the so-called Trinity property could net shareholders as much as \$120 million, or \$7.22 per share, according to the disclosure statement.

Under the plan, all Syms creditors will be paid in full, as will subsidiary Filene's Basement LLC's trade creditors, but the subsidiary's landlords will only see a 75 percent recovery on \$37 million in claims.

U.S. Bankruptcy Judge Kevin J. Carey will consider confirming the plan at a hearing Aug. 29.

Secaucus, N.J.-based Syms bought Filene's out of bankruptcy in 2009 for \$62.4 million. But the expected synergies between the discount clothing retailers didn't pan out, and Syms spent \$39 million to prop up Filene's after the acquisition, attorneys for the companies have said. The recent recession also created intense competition in their niche, leading the companies to file for court protection Nov. 2.

Representatives for Syms were not immediately available for comment on Wednesday.

The objecting creditors are represented by Jeffrey Waxman and Courtney Hamilton of Morris James LLP.

Syms is represented by Mark S. Chehi, Jay Goffman, Nancy Lieberman, Morris Kramer and Mark McDermott of Skadden Arps Slate Meagher & Flom LLP.

The case is In re: Filene's Basement LLC, case number 1:11-bk-13511, in the U.S. Bankruptcy Court for the District of Delaware.

--Editing by Andrew Park.

<http://www.law360.com/articles/371963/creditors-say-syms-ch-11-plan-snuffs-their-interest-rights>

US Trustee Protests Syms' Ch. 11 Plan Over CEO Protections

Wilmington (August 24, 2012, 9:42 PM ET) -- The U.S. trustee objected Friday to Syms Corp.'s proposed Chapter 11 reorganization, arguing the discount clothing retailer's plan cannot be confirmed in Delaware bankruptcy court as it provides legal cover for nonfiduciary parties, namely CEO Marcy Syms and her professionals.

The proposed plan would reorganize Syms and subsidiary Filene's Basement LLC as a real estate holding company, but the trustee claims it "is not confirmable because it contains an exculpation provision that is contrary to applicable law in this district."

Such provisions provide post-petition protection and should only be awarded to parties that have served the estate during the Chapter 11 proceeding, according to the trustee.

Syms' plan hinges on a \$25 million rights offering that will allow minority shareholders to take control of the reorganized company from majority shareholder Marcy Syms, who agreed to cash out her 54 percent stake for \$2.49 per share, or around \$19.5 million, according to the disclosure statement.

Marcy Syms' participation, however, does not make her an estate fiduciary eligible for exculpation, the trustee argued.

"The majority shareholder may have agreed to incur obligations in connection with the plan, but any such obligations would be contractual — not fiduciary — and presumably would have been bargained for," the trustee said.

The plan already includes both debtor and third-party releases for Marcy Syms, the trustee noted, which would likely provide her suitable legal cover.

"Given the layers of protection that these releases give the majority shareholder, the exculpation clause may also be partly duplicative and unnecessary," the objection said.

Exculpation provisions have come under increased scrutiny in Delaware of late, with the bankruptcy court siding with the trustee in at least three recent cases.

Since July, the court has sustained trustee objections to exculpations included in Chapter 11 plans put forth by [Delta Petroleum Corp.](#), [Bicent Holdings LLC](#) and [Evergreen Solar Inc.](#) Each objection was sustained by a different judge, and each plan was eventually confirmed once the exculpations were reduced.

The Syms plan promises to pay back most of the roughly \$110 million owed to creditors, according to the disclosure statement. All Syms creditors will be paid in full, as will Filene's trade creditors, but the subsidiary's landlords will only see a 75 percent recovery on \$37 million in claims.

Objections to the plan's confirmation on other grounds have been filed by the U.S. [Internal Revenue Service](#), Michigan's treasury department and the ad hoc committee of Class 4 creditors, among others.

The confirmation hearing is scheduled for Aug. 29 before U.S. Bankruptcy Judge Kevin J. Carey.

Secaucus, N.J.-based Syms bought Filene's out of bankruptcy in 2009 for \$62.4 million, but the expected synergies between the discount clothing retailers didn't pan out and Syms spent \$39 million to prop up Filene's after the acquisition, attorneys for the companies have said. The recent recession also created intense competition in their niche, leading the companies to file for court protection Nov. 2.

The debtors are represented by Mark S. Chehi, Jay Goffman, Nancy Lieberman, Morris Kramer and Mark McDermott of [Skadden Arps Slate Meagher & Flom LLP](#).

Marcy Syms is represented by Michael R. Lastowski of [Duane Morris LLP](#).

The case is In re: [Filene's Basement LLC](#), case number 1:11-bk-13511, in the U.S. Bankruptcy Court for the District of Delaware.

<http://www.law360.com/bankruptcy/articles/373043/trustee-protests-syms-ch-11-plan-over-protections-for-ceo>

Syms Revises Ch. 11 Plan, Rebuffs Creditor Objections

Wilmington (August 27, 2012, 6:44 PM ET) -- Defunct clothing retailer Syms Corp. tweaked its reorganization plan on Monday and asked a Delaware bankruptcy judge to approve it despite objections from creditors and the U.S. Trustee, claiming nothing in the plan runs afoul of the Bankruptcy Code.

Last week, the U.S. Trustee objected to the plan over an exculpation provision protecting CEO and controlling shareholder Marcy Syms, while creditors led by buyout company ASM Capital LP cried foul because the plan did not pay post-petition interest on their claims.

The plan would reorganize Syms as a real estate holding company, promising to pay back both creditors and shareholders over time through the sale of the company's valuable properties. It hinges on a \$25 million rights offering that will allow minority shareholders to take control of the reorganized company from Marcy Syms, who agreed to cash out her 54 percent stake for some \$19.5 million.

In the brief filed Monday, Syms said it had altered the plan to pay post-petition interest at the federal judgment rate of 7 percent to remedy the objection from ASM and its allies. But the creditors also contended that allowing Marcy Syms to cash out a portion of her stake up front ran against standard bankruptcy procedure in which creditors are paid before equity.

Syms countered that this argument misconstrued the absolute priority rule, which only requires that junior stakeholders can't receive distributions unless the plan provides a full recovery to more senior creditors. The plan, over time, will indeed pay back creditors in full, the company said.

"There is no temporal aspect to this statute ... there is no requirement that stakeholders of a lower priority must await any and all distributions until every other stakeholder of a higher priority is paid in full," the debtors said.

Moreover, Marcy Syms' decision to relinquish control of the company to minority shareholders was a critical settlement that paved the way for a consensual plan, while she also agreed to defer payment on 40 percent of her stake until after creditors are paid off, according to the brief.

Syms also rejected the U.S. Trustee's argument that Marcy Syms is not an estate fiduciary eligible for exculpation.

"With due respect, the majority shareholder is, in fact, an estate fiduciary who is entitled to exculpation under the plan," the brief said. "Controlling shareholders, like directors, owe fiduciary duties to corporations and minority shareholders."

The exculpation is also proper because it was part of the deal by which Marcy Syms agreed to transfer control and defer payment, which represent a "substantial contribution" to the plan, the debtors said.

U.S. Bankruptcy Judge Kevin J. Carey will consider approving the reorganization plan at a Wednesday hearing.

If the plan is approved, the new owners — including DS Advisors LLC, Esopus Creek Value Series Fund LP and Marcato Capital Management LLC — will oversee sales of 17 Syms properties. Currently valued around \$147 million, all but one property is expected to be sold in the next 30 months to pay back creditors.

However, the future sale of the company's crown jewel — the so-called Trinity property in lower Manhattan in New York — could net shareholders as much as \$120 million, or \$7.22 per share, after further development over three to five years, according to the disclosure statement.

Under the plan, all Syms creditors will be paid in full, as will subsidiary Filene's Basement LLC's trade creditors, but the subsidiary's landlords will only see a 75 percent recovery on \$37 million in claims.

Secaucus, N.J.-based Syms bought Filene's out of bankruptcy in 2009 for \$62.4 million. But the expected synergies between the discount clothing retailers didn't pan out, and Syms spent \$39 million to prop up Filene's after the acquisition, attorneys for the companies have

said. The recent recession also created intense competition in their niche, leading the companies to file for court protection Nov. 2.

Syms is represented by Mark S. Chehi, Jay Goffman, Nancy Lieberman, Morris Kramer and Mark McDermott of Skadden Arps Slate Meagher & Flom LLP.

The case is In re: Filene's Basement LLC, case number 1:11-bk-13511, in the U.S. Bankruptcy Court for the District of Delaware.

--Additional reporting by Brian Mahoney. Editing by Eydie Cubarrubia.

<http://www.law360.com/bankruptcy/articles/373405/syms-revises-ch-11-plan-rebuffs-creditor-objections->



Court Approves Syms Corp and Filene's Basement Disclosure Statement for Second Amended Joint Chapter 11 Plan; Sets Hearing on Confirmation of Plan for August 29, 2012

SECAUCUS, N.J., Jul 16, 2012 (BUSINESS WIRE) -- The U.S. Bankruptcy Court for the District of Delaware has approved the Disclosure Statement for the Second Amended Joint Chapter 11 Plan for Syms Corp (SYMSQ) and its wholly owned subsidiary Filene's Basement, LLC. The court also set a solicitation schedule and a date of August 29, 2012 for the confirmation hearing.

The Plan has the support of the Debtors, the Official Committee of Unsecured Creditors, and the Official Committee of Equity Security Holders, which represents minority shareholders. The Disclosure Statement was approved by the Court on July 13, 2012.

If the Plan is approved, Syms creditors will be paid in full. The Plan will allow Filene's Basement creditors to receive a recovery from Syms' assets. Filene's trade creditors will be paid in full, while landlords with lease rejection claims will receive a recovery of 75%.

The Plan creates a newly constituted company with a new capital structure, which will dispose of Syms real estate assets over time in a way that maximizes their value for the benefit of creditors and shareholders. The current majority shareholder (Marcy Syms and entities with which she is affiliated) will sell her shares in their entirety to the newly constituted Syms on the Plan's Effective Date at a price of \$2.49 per share. Since early in the bankruptcy proceedings, the Equity Committee has expressed its desire for this transfer of control.

Under the Plan, Syms will offer to sell to existing shareholders, other than the majority shareholder, who qualify as accredited investors under the plan, the right to purchase a total of more than 10 million new shares at a price equal to \$2.49 per share, or approximately \$25 million in the aggregate.

Proceeds from this rights offering, along with proceeds from any real estate dispositions, will be used for payment of exit and other costs, with any remaining proceeds to be split between creditors and the majority shareholder, with creditors receiving 60% and the majority shareholder receiving 40%, until the majority shareholder is paid \$10,725,761.

The balance of Syms' payment obligation to the majority shareholder, in the amount of \$7,065,907, will be paid after reorganized Syms has satisfied all its obligations to creditors under the Plan.

A key component of this transaction is that while, on the Effective Date, the majority shareholder will relinquish her shares in their entirety and relinquish control of the company, and Syms will have raised funds from third parties sufficient to pay for those shares, she will be paid for those shares over time, without interest, assuming that assets are disposed of, funds are available, and all obligations to creditors have been satisfied.

On the Effective Date, reorganized Syms' board of directors will be comprised of three designees of the Equity Committee, one designee of the Creditors' Committee, and one independent director agreeable to both the Equity Committee and the Creditors' Committee.

The Debtor's assets currently include cash from the store closing sales; parcels of real estate owned by Syms; long-term ground leases; intellectual property owned by Filene's; and various estate claims and causes of action.

More information on the bankruptcy, as well as the Plan and Disclosure Statement, can be found at www.kccllc.net.

Certain information in this press release includes forward-looking statements (as such term is defined in the Private Securities Litigation Reform Act of 1995) and information relating to Syms Corp. and its subsidiaries ("Syms") that are based on the beliefs of Syms' management, as well as assumptions made by and information currently available to Syms' management. When used in this press release, the words "anticipate", "believe", "estimate", "expect", "intend", "plan" and similar expressions as they relate to Syms and its management, identify forward-looking statements. Such statements reflect the current views of Syms with respect to future events, the outcome of which is subject to certain risks, including among others general economic and market conditions, possible disruptions in Syms' information or communication systems, higher than anticipated costs, higher interest rates, unanticipated difficulties which may arise with respect to Syms and other factors which may be outside Syms' control. Such forward-looking statements are also subject to certain bankruptcy-related risks, including without limitation the ability of Syms to obtain creditor acceptances and Bankruptcy Court confirmation of the Plan; possible objections to confirmation of the Plan; Syms' ability to obtain Court approval with respect to motions in the chapter 11 cases prosecuted by it from time to time; risks associated with third parties seeking and obtaining Court approval to propose and confirm one or more plans of reorganization; satisfaction of the conditions and other terms of the ECA; and the ability of Syms to fund and effectuate its Plan as filed with the Court and to do so in a timely manner. Additional factors that could affect future results are identified in Syms' Annual Report on Form 10-K for fiscal year 2011 filed with the United States Securities and Exchange Commission and the subsequent Quarterly Report on Form 10-Q, including the risk factors contained therein. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results or outcomes may vary materially from those described herein as anticipated, believed, estimated, expected, intended or planned. Syms disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events and/or otherwise. Similarly, these and other factors, including the terms of any reorganization plan ultimately confirmed, can affect the value of the Company's various prepetition liabilities and/or its common stock. Subsequent written and oral forward-looking statements attributable to Syms or persons acting on its behalf are expressly qualified in their entirety by the cautionary statements in this paragraph.

<http://www.marketwatch.com/story/court-approves-syms-corp-and-filenes-basement-disclosure-statement-for-second-amended-joint-chapter-11-plan-sets-hearing-on-confirmation-of-plan-for-august-29-2012-2012-07-16>

Bloomberg

Syms, Filene's Confirm Liquidating Chapter 11 Plan

By Bill Rochelle - Aug 31, 2012 8:30 AM ET

Liquidating retailers [Syms Corp. \(SYMSQ\)](#) and subsidiary Filene's Basement LLC won the signature of the bankruptcy judge yesterday on a confirmation order approving the companies' Chapter 11 plan. Creditors of Syms are being paid in full. Filene's aren't.

Because Syms creditors with \$54 million in claims are to be fully paid over several years, shareholders were permitted to retain their stock. Creditors will be paid post-bankruptcy interest on their claims at the federal judgment rate, which is a fraction of 1 percent.

Technically, the Syms plan isn't a liquidation. The company will remain in existence, shareholders retain stock and the business can take advantage of accumulated tax losses to offset income generated as remaining real estate is sold.

Through mediation in June, Syms and subsidiary Filene's Basement LLC reached a settlement with the two official committees representing shareholders and creditors.

Marcy Syms, who owns more than 54 percent of the existing stock, will sell her shares to the company for \$2.49 each, or a total of \$19.5 million. For details on the plan, [click here](#) for the July 13 Bloomberg bankruptcy report.

Syms closed unchanged yesterday at \$3.55 a share in over-the-counter trading. During bankruptcy, the closing peak was \$12.65 on Dec. 12. The low was \$2.70 on Aug. 17.

For Bloomberg coverage of the confirmation hearing, [click here](#).

Syms, based in Secaucus, [New Jersey](#), acquired Filene's through a bankruptcy auction in June 2009 in Filene's second Chapter 11 reorganization. At the outset of the bankruptcy case in November, there were 25 Syms stores and 21 Filene's locations.

The stores were closed and inventory sold. Leases were terminated, leaving Syms with owned real estate to sell after emerging from bankruptcy.

Assets were listed in the Chapter 11 petition for \$236 million, including real estate on the books for \$97.7 million.

Liabilities were listed at \$94 million, including \$31.1 million owing on a revolving credit with [Bank of America NA](#) as agent. In addition, there were \$11.1 million in letters of credit outstanding on the revolver.

The case is In re Filene's Basement LLC, 11-13511, U.S. Bankruptcy Court, District of Delaware (Wilmington).

<http://www.bloomberg.com/news/2012-08-31/kodak-tribune-jefferson-county-amr-atp-bankruptcy.html>

DOW JONES | DBR Small Cap

Syms Wins Court Confirmation of Chapter 11 Exit Plan

DBR Small Cap ,
Peg Brickley,
August 30, 2012.

[Syms](#) Corp. Thursday won confirmation of a Chapter 11 plan that will see the former retailer renew its life as a real-estate owner.

Judge Kevin Carey said he would approve the bankruptcy-exit plan over the protests of an ad hoc committee of unsecured creditors. Led by claims trader ASM Capital LP, the informal grouping of unsecured creditors said they were entitled to a higher rate of interest than [Syms](#) was offering them on their claims.

"The plan has been overwhelmingly accepted by unsecured creditors," Judge Carey noted at a hearing, explaining his decision to overrule the objection. It stemmed from [Syms](#)'s status as a solvent corporation, one capable of covering all of its bills.

Along with its Filene's Basement subsidiary, [Syms](#) decided to bow out of the bargain fashion business last year and filed for Chapter 11 protection to ease its exit from the industry.

As originally planned, [Syms](#) shareholders will hold onto their stake in the reorganized company, counting on the eventual sale of 17 properties for their payoff.

Rather than throwing all its real estate on the bankruptcy auction block at distressed prices, [Syms](#) fashioned a plan that allows it to wait for the right time and the right price before selling. The company's advisers estimate the real estate is worth \$147 million.

Getting to that result took months, as Filene's landlords and other creditors battled what they said was a strategy that would leave them short-changed.

"This has been a difficult case. No doubt about that," said [Syms](#) attorney Jay Goffman, who's with [Skadden, Arps, Slate, Meagher & Flom LLP](#).

Speaking at a hearing Thursday in the U.S. Bankruptcy Court in Wilmington, Del., Mr. Goffman said [Syms](#)'s plan boasted broad support.

After months of fighting, [Syms](#) worked out a settlement with Filene's creditors that resulted in an adjusted plan with widespread backing.

Majority stockholder Marcy [Syms](#), daughter of founder Sy Syms, is selling the 7.8 million shares she controls and will get about \$17.5 million out of the company, over time.

She agreed to cede control of [Syms](#) and wait as long as four years for her money, said Ms. Syms's attorney, Michael Lastowski of [Duane Morris LLP](#).

The company's departing chief executive will be shut out of a \$25 million rights offering where new shares will be offered at a price of \$2.49 each. The offering will raise money to help finance [Syms](#)'s bankruptcy exit.

[Syms](#)'s creditors will be paid off first under the plan, in part as a reward to shareholders who made concessions to pensioners and unions in the interests of reaching a global compromise.

Trade suppliers to Filene's will be paid in full, as will employees, while landlords are being offered a 75% recovery if they agree not to sue for broken lease damages.

<http://bankruptcynews.dowjones.com/article?an=DJFDBS0020120830e88um9vyx&from=N&pid=11>



Syms Corp. Cleared To Reorganize As Real Estate Co.

Wilmington (August 30, 2012, 5:02 PM ET) -- [Syms Corp.](#) won court approval Thursday for its reorganization plan, clearing the defunct clothing retailer to emerge from bankruptcy as a real estate holding company and sell off a host of properties to pay back both creditors and shareholders over time.

During a telephone hearing from his courtroom in Delaware, U.S. Bankruptcy Judge Kevin J. Carey said he would sign off on the plan after overruling an objection from dissident creditors who argued for a higher interest rate on \$53 million of unsecured claims.

The plan hinges on a \$25 million rights offering that will allow minority shareholders — including DS Advisors LLC, Esopus Creek Value Series Fund LP and Marcato Capital Management LLC — to take control of the reorganized company and dispose of the real estate as they see fit. The rights offering is part of a mediated settlement whereby CEO Marcy Syms agreed to cash out her 54 percent stake for around \$19.5 million.

At the confirmation hearing, which began Wednesday, Syms attorney Jay Goffman of [Skadden Arps Slate Meagher & Flom](#) said the plan benefits creditors by allowing the real estate — valued around \$147 million — to be sold in a “nondistressed, commercially reasonable manner.”

“This has been a difficult case, no doubt about that,” he said. “In the end, we were able to pull everyone together and build a consensus.”

However, a group of unsecured creditors led by buyout firm ASM Capital LP took umbrage at the hearing with the federal judgment rate of interest the debtors’ offered on unsecured claims. Jeffrey Waxman of [Morris James LLP](#), an attorney for the objecting creditors, argued that because his clients will not be paid immediately, they should receive interest at the prime rate plus a “risk premium,” citing the volatility of the real estate market and other potential threats to payment.

According to Waxman, the meager 0.3 percent interest rate renders Syms’ plan in violation of the “best interests of creditors test” — the requirement that a Chapter 11 plan must offer creditors more than they would receive under a Chapter 7 liquidation.

After considering the objection overnight, Judge Carey declined to require a higher interest rate, noting Thursday that the plan was overwhelmingly accepted by the broader class of Syms unsecured creditors.

“The payment of interest to Syms’ unsecured creditors at the federal judgment rate is sufficient to satisfy the best interests of creditors test,” he said.

Judge Carey also overruled an objection Wednesday from the U.S. trustee, who complained that majority

shareholder Marcy Syms was not an estate fiduciary and therefore not entitled to exculpation under the plan.

"I haven't faced the issue before," the judge said. "But if in fact the area is a gray one, I'd rather err on the side of roping the majority shareholder into a fiduciary responsibility than relieving her of it"

Under the plan, the new owners will oversee sales of 17 Syms properties, with most expected to be sold in the next year to pay back about \$105 million owed to creditors. However, shareholders are betting the future sale of the company's crown jewel — the so-called Trinity property in lower Manhattan — will net them as much as \$120 million, or \$7.22 per share, after further development over three to five years, according to the disclosure statement.

All Syms creditors will eventually be paid in full, according to the plan, as will subsidiary [Filene's Basement LLC's](#) trade creditors. But the subsidiary's landlords will see only a 75 percent recovery on \$37 million in claims.

Secaucus, N.J.-based Syms bought Filene's out of bankruptcy in 2009 for \$62.4 million. But the expected synergies between the discount clothing retailers didn't pan out amid a sagging economy that created intense competition in their niche, leading the companies to file for court protection Nov. 2 and shutter all of their 46 stores.

Syms is represented by Mark S. Chehi, Jay Goffman, Nancy Lieberman, Morris Kramer and Mark McDermott of Skadden Arps Slate Meagher & Flom LLP.

The objecting creditors are represented by Jeffrey Waxman and Courtney Hamilton of Morris James LLP.

The case is In re: Filene's Basement LLC, case number [1:11-bk-13511](#), in the U.S. Bankruptcy Court for the District of Delaware.

--Editing by Lindsay Naylor.

<http://www.law360.com/articles/373984/syms-corp-cleared-to-reorganize-as-real-estate-co->

Court Confirms Syms Corp and Filene's Basement Joint Chapter 11 Plan

SECAUCUS, N.J.

BusinessWire

August 30, 2012

The U.S. Bankruptcy Court for the District of Delaware has confirmed the Modified Second Amended Joint Chapter 11 Plan of Reorganization of Syms Corp. (SYMSQ) and its Subsidiaries.

Under the Plan, Syms creditors holding allowed claims are entitled to payment in full. The Plan also provides for Filene's Basement creditors to receive recoveries from Syms' assets. Filene's trade creditors are entitled to payment in full on their allowed claims and Filene's landlords with allowed lease rejection claims are entitled to a recovery of 75% on their claims.

Upon the Effective Date of the Plan, Syms will be reorganized and Reorganized Syms will dispose of Syms' real estate assets over time to maximize their value for the benefit of creditors and shareholders. Pursuant to the terms of the Plan confirmed by the Bankruptcy Court, the current majority shareholder (Marcy Syms and entities with which she is affiliated) will sell all of her shares to Reorganized Syms on the Plan's Effective Date and relinquish control of the company.

On the Effective Date, Reorganized Syms' initial new board of directors will be comprised of three directors appointed by the Equity Committee, one director appointed by the Creditors' Committee, and one independent director mutually chosen by the Equity Committee and the Creditors' Committee.

More information on the bankruptcy, as well as the Plan and Disclosure Statement, can be found at www.kccllc.net.

Certain information in this press release includes forward-looking statements (as such term is defined in the Private Securities Litigation Reform Act of 1995) and information relating to Syms Corp. and its subsidiaries ("Syms") that are based on the beliefs of Syms' management, as well as assumptions made by and information currently available to Syms' management. When used in this press release, the words "anticipate", "believe", "estimate", "expect", "intend", "plan" and similar expressions as they relate to Syms and its management, identify forward-looking statements. Such statements reflect the current views of Syms with respect to future events, the outcome of which is subject to certain risks, including among others general economic and market conditions, possible disruptions in Syms' information or communication systems, higher than anticipated costs, higher interest rates, unanticipated difficulties which may arise with respect to Syms and other factors which may be outside Syms' control. Such forward-looking statements are also subject to certain bankruptcy-related risks, including without limitation the ability of Syms to effectuate the Plan confirmed by the Bankruptcy Court; Syms' ability to obtain Court approval with respect to motions in the chapter 11 cases prosecuted by it from time to time; satisfaction of the conditions and other terms of the Plan and related agreements; and the ability of Syms to fund and effectuate its Plan as confirmed by the Bankruptcy Court in a timely manner. Additional factors that could affect future results are identified in the Disclosure Statement filed with the Bankruptcy Court, Syms' Annual Report on Form 10-K for fiscal year 2011 filed with the United States Securities and Exchange Commission and the subsequent Quarterly Report on Form 10-Q, including the risk factors contained therein. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results or outcomes may vary materially from those described herein as anticipated, believed, estimated, expected, intended or planned. Syms disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events and/or otherwise. Similarly, these and other factors, including the terms of the confirmed Plan and the outcomes and proceeds of disposition of the real estate assets of Syms, can affect the value of the Company's various prepetition liabilities and/or its common stock. Subsequent written and oral forward-looking statements attributable to Syms or persons acting on its behalf are expressly qualified in their entirety by the cautionary statements in this paragraph.

<http://www.vancouversun.com/mobile/business/businesswire/Court+Confirms+Syms+Corp+Filene+Basement+Joint+Chapter+Plan/7169792/story.html>

Court Confirms Syms Corp and Filene's Basement Joint Chapter 11 Plan

Published: August 30, 2012

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Under the Plan, Syms creditors holding allowed claims are entitled to payment in full. The Plan also provides for Filene's Basement creditors to receive recoveries from Syms' assets. Filene's trade creditors are entitled to payment in full on their allowed claims and Filene's landlords with allowed lease rejection claims are entitled to a recovery of 75% on their claims.

Upon the Effective Date of the Plan, Syms will be reorganized and Reorganized Syms will dispose of Syms' real estate assets over time to maximize their value for the benefit of creditors and shareholders. Pursuant to the terms of the Plan confirmed by the Bankruptcy Court, the current majority shareholder (Marcy Syms and entities with which she is affiliated) will sell all of her shares to Reorganized Syms on the Plan's Effective Date and relinquish control of the company.

On the Effective Date, Reorganized Syms' initial new board of directors will be comprised of three directors appointed by the Equity Committee, one director appointed by the Creditors' Committee, and one independent director mutually chosen by the Equity Committee and the Creditors' Committee.

More information on the bankruptcy, as well as the Plan and Disclosure Statement, can be found at www.kcclic.net.

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<http://www.heraldonline.com/2012/08/30/4226189/court-confirms-syms-corp-and-filenes.html>



Court Confirms Syms Corp and Filene's Basement Joint Chapter 11 Plan

SECAUCUS, N.J.--(BUSINESS WIRE)—

August 30, 2012

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On the Effective Date, Reorganized Syms' initial new board of directors will be comprised of three directors appointed by the Equity Committee, one director appointed by the Creditors' Committee, and one independent director mutually chosen by the Equity Committee and the Creditors' Committee.

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<http://finance.yahoo.com/news/court-confirms-syms-corp-filene-223300034.html>

The Street

Court Confirms Syms Corp And Filene's Basement Joint Chapter 11 Plan

By Business Wire 08/30/12 - 06:33 PM EDT

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<http://www.thestreet.com/story/11681527/1/court-confirms-syms-corp-and-filene8217s-basement-joint-chapter-11-plan.html>



Aug. 30, 2012, 6:33 p.m. EDT

Court Confirms Syms Corp and Filene's Basement Joint Chapter 11 Plan

SECAUCUS, N.J., Aug 30, 2012 (BUSINESS WIRE) -- The U.S. Bankruptcy Court for the District of Delaware has confirmed the Modified Second Amended Joint Chapter 11 Plan of Reorganization of Syms Corp. (SYMSQ) and Its Subsidiaries.

Under the Plan, Syms creditors holding allowed claims are entitled to payment in full. The Plan also provides for Filene's Basement creditors to receive recoveries from Syms' assets. Filene's trade creditors are entitled to payment in full on their allowed claims and Filene's landlords with allowed lease rejection claims are entitled to a recovery of 75% on their claims.

Upon the Effective Date of the Plan, Syms will be reorganized and Reorganized Syms will dispose of Syms' real estate assets over time to maximize their value for the benefit of creditors and shareholders. Pursuant to the terms of the Plan confirmed by the Bankruptcy Court, the current majority shareholder (Marcy Syms and entities with which she is affiliated) will sell all of her shares to Reorganized Syms on the Plan's Effective Date and relinquish control of the company.

On the Effective Date, Reorganized Syms' initial new board of directors will be comprised of three directors appointed by the Equity Committee, one director appointed by the Creditors' Committee, and one independent director mutually chosen by the Equity Committee and the Creditors' Committee.

More information on the bankruptcy, as well as the Plan and Disclosure Statement, can be found at www.kccllc.net.

Certain information in this press release includes forward-looking statements (as such term is defined in the Private Securities Litigation Reform Act of 1995) and information relating to Syms Corp. and its subsidiaries ("Syms") that are based on the beliefs of Syms' management, as well as assumptions made by and information currently available to Syms' management. When used in this press release, the words "anticipate", "believe", "estimate", "expect", "intend", "plan" and similar expressions as they relate to Syms and its management, identify forward-looking statements. Such statements reflect the current views of Syms with respect to future events, the outcome of which is subject to certain risks, including among others general economic and market conditions, possible disruptions in Syms' information or communication systems, higher than anticipated costs, higher interest rates, unanticipated difficulties which may arise with respect to Syms and other factors which may be outside Syms' control. Such forward-looking statements are also subject to certain bankruptcy-related risks, including without limitation the

ability of Syms to effectuate the Plan confirmed by the Bankruptcy Court; Syms' ability to obtain Court approval with respect to motions in the chapter 11 cases prosecuted by it from time to time; satisfaction of the conditions and other terms of the Plan and related agreements; and the ability of Syms to fund and effectuate its Plan as confirmed by the Bankruptcy Court in a timely manner. Additional factors that could affect future results are identified in the Disclosure Statement filed with the Bankruptcy Court, Syms' Annual Report on Form 10-K for fiscal year 2011 filed with the United States Securities and Exchange Commission and the subsequent Quarterly Report on Form 10-Q, including the risk factors contained therein. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results or outcomes may vary materially from those described herein as anticipated, believed, estimated, expected, intended or planned. Syms disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events and/or otherwise. Similarly, these and other factors, including the terms of the confirmed Plan and the outcomes and proceeds of disposition of the real estate assets of Syms, can affect the value of the Company's various prepetition liabilities and/or its common stock. Subsequent written and oral forward-looking statements attributable to Syms or persons acting on its behalf are expressly qualified in their entirety by the cautionary statements in this paragraph.

SOURCE: Syms Corp.

<http://www.marketwatch.com/story/court-confirms-syms-corp-and-filenes-basement-joint-chapter-11-plan-2012-08-30>



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others general economic and market conditions, possible disruptions in Syms' information or communication systems, higher than anticipated costs, higher interest rates, unanticipated difficulties which may arise with respect to Syms and other factors which may be outside Syms' control. Such forward-looking statements are also subject to certain bankruptcy-related risks, including without limitation the ability of Syms to effectuate the Plan confirmed by the Bankruptcy Court; Syms' ability to obtain Court approval with respect to motions in the chapter 11 cases prosecuted by it from time to time; satisfaction of the conditions and other terms of the Plan and related agreements; and the ability of Syms to fund and effectuate its Plan as confirmed by the Bankruptcy Court in a timely manner. Additional factors that could affect future results are identified in the Disclosure Statement filed with the Bankruptcy Court, Syms' Annual Report on Form 10-K for fiscal year 2011 filed with the United States Securities and Exchange Commission and the subsequent Quarterly Report on Form 10-Q, including the risk factors contained therein. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results or outcomes may vary materially from those described herein as anticipated, believed, estimated, expected, intended or planned. Syms disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events and/or otherwise. Similarly, these and other factors, including the terms of the confirmed Plan and the outcomes and proceeds of disposition of the real estate assets of Syms, can affect the value of the Company's various prepetition liabilities and/or its common stock. Subsequent written and oral forward-looking statements attributable to Syms or persons acting on its behalf are expressly qualified in their entirety by the cautionary statements in this paragraph.

<http://www.businesswire.com/news/home/20120830006445/en/Court-Confirms-Syms-Corp-Filene%E2%80%99s-Basement-Joint>

The Record

THE TRUSTED LOCAL SOURCE

Syms plans to hold on to Route 17 property for a bit longer

SATURDAY, SEPTEMBER 1, 2012
BY JOAN VERDON
STAFF WRITER

* The Route 17 site will be sold at a later date to maximize profit.

The former Syms store on Route 17 in [Paramus](#) is one of three properties that the reorganized Syms Corp. plans to hold onto — at least for awhile — as part of its plan to pay off creditors through its real estate assets.

The [Paramus](#) store was identified in court documents as one of three "medium-term" properties that will be leased and then sold after a longer period of time, in order to maximize their value. U.S. Bankruptcy Judge Kevin Carey in Wilmington, Del., on Thursday approved the Syms plan to reorganize as a real estate holding company, and to sell its assets to pay off creditors.

Syms plans to sell 13 "near-term" properties immediately, including a store and warehouse in [Secaucus](#) at 1 Syms Way. The company's Trinity Place store in lower Manhattan was classified in the reorganization plan in court documents as the one "long-term" asset that will be developed and held for an extended period of time. Trinity Place is considered Syms' most valuable property because it is in a prime location and could be developed for mixed use.

Syms, based in [Secaucus](#), filed for bankruptcy in November 2011. The off-price clothing retailer, founded in 1958 by Sy Syms, was hit by the recession, and hurt by a decision in 2009 to buy another off-price chain, Filene's Basement, which was in bankruptcy. For several years prior to the bankruptcy, investors had been pressuring the Syms board to cash in the value of its real estate, saying it was more valuable as a real estate company than as a retailer.

The [Paramus](#) store originally was listed in the reorganization plan as one of the properties Syms planned to dispose of immediately, but is listed as a "medium-term" holding, along with stores in Westbury, N.Y., and Elmsford, N.Y., under the modified plan approved by the court this week.

A Syms spokesman did not respond to a request for information about the Paramus store Friday.

The Paramus store presents a leasing challenge because of the layout of the building — two levels, with a center staircase, rather than an escalator or elevator — and its location on Route 17. The building is set back off the highway, with the entrance facing away from Route 17. The retail vacancy rate in North Jersey is 8.2 percent as of April 2012.

Chuck Lanyard, president of The Goldstein Group, a retail real estate brokerage firm specializing in Paramus, said Friday he hasn't heard of any leasing deals in the works for the Syms store. Despite the difficulties with the site, Lanyard said, there probably will be interest in the location "because there still is really good demand for Paramus properties."

http://www.northjersey.com/news/168243106_Syms_plans_to_hold_on_to_Route_17_property_for_a_bit_longer.html

Bloomberg

Syms wins approval of bankruptcy plan With equity payout

FRIDAY AUGUST 31, 2012, 9:55 AM

Syms Corp., the Secaucus-based bankrupt discount clothing chain, and its Filene's Basement LLC unit won court approval of a reorganization plan that pays creditors over time while providing a recovery to shareholders.

U.S. Bankruptcy Judge Kevin Carey in Wilmington, Delaware, approved Syms's plan to leave bankruptcy as a real-estate holding company and sell assets now valued at about \$147 million. Carey delayed his ruling yesterday after a group of Syms unsecured creditors, who are being fully repaid, challenged the interest rate on their claims.

The judge decided the creditors, owed about \$53.9 million, should be paid interest at the federal judgment rate, which is now at 0.19 percent, according to the Northern District of Texas federal court website. The creditors sought the prime rate, or 3.25 percent, plus a risk premium, their lawyer said.

Syms was founded by Sy Syms in 1958. It bought Filene's Basement, founded in Boston in 1909, in a bankruptcy auction for about \$64.4 million in June 2009. The company had 25 Syms stores and 21 Filene's Basement locations.

After shutting operations and selling remaining inventory, Syms and its shareholders committee reached an agreement in mediation on an exit plan supported by the unsecured creditors committee, according to court papers.

The value of the reorganized Syms shares will be "difficult to predict," the company said in court papers. They may be worth \$1.50 to \$2, assuming creditor claims are between \$100 million and \$110 million, Syms said.

Syms plans to sell 13 properties initially, and three more after getting them leased. It will then sell the "Trinity" property in Lower Manhattan. Syms said it may get as much as \$120 million more for Trinity if it is developed as a mixed-use building, adding as much as \$7.22 a share.

"Expectations for future shareholder value depend largely on the Trinity Property, as the other properties owned by Syms likely will be necessary to pay creditor claims," the company said in a court filing.

Syms was unchanged at \$3.55 at 11:31 in New York in over-the-counter trading. The shares reached \$12.80 in December and fell as low as \$2.60 earlier this month.

Filene's trade creditors will be paid in full over time, while the unit's creditors with lease rejection claims will get a recovery of 75 percent. Filene's creditors can opt to receive a payout of zero to 2 percent to retain rights to sue Syms.

Marcy Syms, who owns about 54 percent of the Syms's equity, agreed to sell her stake for \$2.49 a share, for a total of about \$19.6 million.

The company will hold an equity-rights offer for existing shareholders to raise about \$25 million, according to an outline of the plan. Investors that don't participate will be diluted by about 13 percent. The offering will be backed by DS Advisors LLC, Esopus Creek Value Series Fund LP-Series A and Marcato Capital Management LLC.

After exit costs are paid, 60 percent of the proceeds of the offering and real estate sales will go to pay creditors and 40 percent to pay off Marcy Syms until she receives \$10.7 million. She would get the remainder she is owed after all creditor claims are satisfied.

The lead case is In re Filene's Basement LLC, 11-13511, U.S. Bankruptcy Court, District of Delaware (Wilmington).

http://www.northjersey.com/news/168140576_Syms_wins_approval_of_bankruptcy_plan_With_equity_payout.html?page=all