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Earning a reputation: Struggling economy puts receiverships in Polsky's corner

Premium content from The Business Journal by Rich Kirchen, Senior Reporter

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For [Michael Polsky](#), the sale of the Showtime Cinema to **The Marcus Corp.** was like a short movie trailer in a law practice that's filled with real-life epic receivership cases.

Showtime Cinema's lead creditor, **Associated Bank**, filed to place the Franklin cineplex in receivership because the theater's owners were delinquent on loan payments. At the bank's request, attorney Polsky was appointed receiver Nov. 7 to recover as much as possible of the \$5.5 million the bank was owed.

That he did through an auction that led to a winning \$6 million bid from Milwaukee-based **Marcus Theatres**, which included the property and the assets of the business. Marcus closed the transaction Dec. 14 and reopened the cinema with substantially all the employees.

"Obviously, to be able to accomplish something like that where the employees keep their jobs and you're able to successfully have a sale with competitive bidding — start and finish in 45 days — is a great result," Polsky said.

Short and sweet isn't the typical course for Polsky's cases. But his results have earned him a reputation as one of the most influential attorneys in the Wisconsin courts for cases involving failing business.

There's plenty of business to be had since the economic recession started in 2007 and the sluggish recovery has provided minimal relief to struggling firms throughout the state.

Polsky, his staff of four attorneys and paralegal [Pat Foster](#) currently handle 42 receivership cases. Since Polsky started focusing on receiverships in 2000, he has been appointed by judges as receiver in 222 cases.

The receiverships of many high-profile manufacturers, contractors and real estate developers in southeast Wisconsin wound up in the able hands of Polsky. Among them: First Place Milwaukee (now known as the Point on the River), **Adaptive Micro Systems**, Jansen Construction, **Milwaukee Forge LLC**, Super Steel LLC, Color Arts Inc., Pinahs Co. and Pressed Steel Tank Co. Inc.

To every case, Polsky brings his ever-expanding knowledge of Wisconsin's alternative to U.S. bankruptcy law known as Chapter 128. He has built a well-oiled receivership machine at downtown Milwaukee law firm Beck, Chaet, Bamberger & Polsky SC.

Attorneys who represent creditors praise Polsky and his team for operating efficiently and balancing the demands of often-competing interests including secured creditors, vendors and employees.

Polsky, a self-described mystery-book geek, also possesses patience and a determined personality that is well-suited to the dull nuances of his cases.

"He brings a practical approach to problem-solving," said [Peter Blain](#), a Milwaukee attorney at **Reinhart, Boerner Van Deuren SC**, who represented Associated Bank in the Showtime Cinema case. "That and an unflappable personality allows him to cut through."

Polsky is willing to litigate if necessary, Blain said. Polsky has had two cases reach the Wisconsin Supreme Court and one to the Seventh Circuit Court of Appeals in Chicago.

The growth of Polsky's receivership practice is evidence of banks in Wisconsin preferring state courts to U.S. Bankruptcy Court as the most effective strategy to recover cash from financially troubled business customers.

Creditor attorneys said federal bankruptcy law has become complicated, time consuming and fee-intensive in recent decades. Wisconsin receiverships, on the other hand, take a fraction of the time and money.

The flip side is that debtors have no hope of reorganizing in receivership cases. Sometimes management teams organize a new ownership group that bids to buy a company.

Banks file lawsuits to place customers in receivership and request Polsky or another local attorney be named receiver. The receiver runs the show from there, assessing a business' finances and the best way to recover as much cash as possible for creditors. Often, the receiver ends up running a business to keep it afloat for sale as a going concern, which fetches more money than a liquidation.

IN DEMAND

Polsky is not the only receiver in Milwaukee, just the one with the largest caseload. Seth Dizard of O'Neil, Cannon, Hollman, DeJong & Laing SC in Milwaukee, who left Polsky's fold in 2007, also has created a specialty in receiverships and has handled more than 60 cases.

Polsky has an ability to unwind the sophisticated financial messes that have developed at distressed businesses since the start of the recession, said [Paul Lucey](#), an attorney at Michael, Best & Friedrich LLP, Milwaukee. Lucey said Polsky is a master of saving on fees and costs so companies can survive receivership.

"Mike Polsky and Chapter 128 — it's kind of like calling tissue 'Kleenex,'" Lucey said of Polsky's practice.

Polsky's fees are paid by the banks if he recovers less than they are owed and through a claim to the courts if the recovery exceeds the debt.

He declines to disclose his total fees collected or their growth. He states they have reached more than \$1 million in one of his most complex cases, Central States Mortgage Co., a Wauwatosa mortgage bank.

Central States closed in March 2009 and the hyper-complicated case is still pending. Central States, in fact, is one case where Polsky acknowledges he will recover only a fraction of the \$106 million debt.

However, he's proud of another long-running case — First Place on the River — a failed high-rise condominium project on the Milwaukee River just south of Milwaukee's 3rd Ward.

After his appointment in January 2008, Polsky hired **Mandel Group Inc.** of Milwaukee to complete the project, now known as The Point on the River, and to operate it and sell units. Secured creditor AnchorBank will get twice what it would have if he sold the project at auction.

Polsky anticipates he will remain busy for the foreseeable future.

"From everything we hear, there's still a number of companies and real estate developments that are going to have difficulty no matter what happens with the economy," he said.

Rich Kirchen is The Business Journal's senior reporter. He covers banking, financial services and politics.