

Humboldt Creamery goes bankrupt, seeks a fresh start

(The Times-Standard, CA)

John Driscoll and Thadeus Greenson

Humboldt Creamery has filed for bankruptcy protection just two months after former CEO Rich Ghilarducci scandalized the company by revealing its finances weren't as sweet as they seemed.

The bankruptcy will make it possible for the creamery to keep operating, but it could also tear it from the hands of its member farmers. The company's \$50 million to \$100 million debt, combined with the inaccurate financials, prompted the Tuesday morning Chapter 11 filing in U.S. Bankruptcy Court in Santa Rosa.

Humboldt Creamery is looking to get loans to allow it to run through the busy summer months producing ice cream -- while looking to sell or reorganize the business. The company's members say they are working on a plan to buy the company, but they may not be the only prospective buyers.

The creamery is also asking the court for permission to pay farmers a chunk of money to keep them afloat, even though its debt to them was generated prior to the bankruptcy filing. If the creamery can't pay, its attorneys argue, it would have to cease operations immediately and begin liquidating assets.

Interim CEO Len Mayer said that the creamery association's board met and approved the decision to file for bankruptcy Friday after the company was unable to reach a deal with its bank, CoBank. The bank needed additional security, Mayer said.

"They needed that protection to put more money in the business," Mayer said.

The best outcome is for Humboldt Creamery to emerge from bankruptcy still owned in part by its approximately 50 farming members, who currently own 75 percent, Mayer said.

Longtime board member Dennis Leonardi said the creamery's members are optimistic they can do just that.

"The optimism comes in trying to put together a company that can buy us back out of bankruptcy," Leonardi said. "That's putting together financing as a cooperative and basically putting together a company that works -- the company that we thought we had."

The remaining 25 percent of the company is held by Dairy Farmers of America.

Should it not be possible for the creamery's current members to buy it back, Mayer said the hope is that a reputable dairy company is able to take the reins of the company.

In an emergency filing Tuesday, the company said it needs \$3 million in financing to carry it through summer, when ice cream production doubles to 250,000 to 270,000 gallons a week. Some \$1.75 million is needed immediately, its attorneys argued, to pay farmers for milk produced in the past 20 days.

Without that quick payment, farms could go under, the creamery wrote, and the business could not be sold as a going concern, which would devastate customers, suppliers, truckers and others.

In a declaration supporting the financing, Leonard said that he's owed \$238,000 -- \$70,000 of which is for milk delivered this month. Without payment for the milk, the creamery's farmers face default to lenders, bankruptcy and liquidation, he said, especially since costs tend to rise at this time of year.

"We are small family farmers that have been tending the land and dairying for generations. We don't have massive reserves to weather this massive economic storm and there is no bailout or stimulus money, just sweat equity lost," Leonard said in the filing.

Humboldt Creamery's top four creditors are owed \$3.6 million, claims which will have to be handled as part of the bankruptcy process. Ghilarducci, the creamery's fifth largest creditor, is owed \$370,000 -- an amount which is understandably disputed.

A Humboldt Creamery report alleging that Ghilarducci manipulated financial data has been forwarded to the federal Securities and Exchange Commission, the U.S. Justice Department and the FBI, Mayer said previously, adding that the agencies are now looking into the matter.

Rumiano Cheese, headquartered out of Willows, is the second largest creditor and is owed nearly \$1.2 million. Owner Baird Rumiano said he doubts he'll recover much from the bankruptcy process. Rumiano said he'll keep buying milk from the creamery, but he won't let it rack up any more debt. Rumiano said he was astounded by the sudden change of fortune for the company.

"One year they're giving out bonuses," he said, "the next year they're going bankrupt."

Generally, claims before bankruptcy are treated by the court as separate from those arising after the filing. Ongoing payments are made, but so-called pre-petition claims are paid at the end of the process.

University of California law professor Jesse Fried said he was skeptical of the company's efforts to pay its farmers right away for deliveries made prior to the bankruptcy filing. The court should work out an arrangement to accommodate the farmers' interests without putting other creditors' money at risk, Fried said. According to the law, those farmers may have to suffer like every other creditor, he said.

"As a matter of the bankruptcy code, the answer is 'too bad,'" Fried said.

Ferndale Chamber of Commerce President Karen Pingitore said the possibility of the creamery's collapse is almost too horrible to imagine, as it would leave the creamery's dairy families without their livelihood and would have economic reverberations felt in every corner of town.

But, Pingitore said she's optimistic that the creamery will survive bankruptcy.

"You just keep your fingers crossed that they're going to come out of it healthier and stronger than when they went in," she said. "Everyone's keeping their fingers crossed."