

Plan for Jercich holdings will go before U.S. judge

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Following a preliminary investigation by the Bankruptcy Court, attorneys for George Jercich and the attorney general have filed a motion outlining a plan they feel will resurrect Jercich's real estate businesses, and set them back on their feet.

The motion must be approved by Bankruptcy Court Judge Seymour Abrahams before it takes effect. Abrahams will consider the motion during a Thursday hearing at the Federal Courthouse in San Jose.

At the same hearing, Abrahams also will consider a motion filed by San Jose attorney Marilyn Morgan requesting that a trustee be appointed to take over Jercich's businesses.

Jercich is a Watsonville real estate broker who filed Chapter 11 reorganization for himself and three of his businesses earlier this year after a state audit found \$1.3 million missing from investors' trust accounts. Court appointed examiner James Baron took control of business bank accounts last month.

"My objective is to get my companies back, and the only way I can do that is to help fix the problems," said Jercich. "There's going to be a hell of a lot of work to get this corrected."

Jercich's motion requests that all loan servicing be contracted to an outside company, that a fee be charged to all Jercich's investors, and that new chief executive officers be named to head the companies under reorganization. Baron is currently acting as chief executive officer for

Some investors unhappy with reorganization plan

Though many of George Jercich's investors have adopted a "wait-and-see" attitude, not everybody is happy with the reorganization plan submitted to the Bankruptcy Court by Jercich's attorneys and the attorney general.

Some investors object to paying fees that were not in their original contracts and an attorney for one group has filed a motion asking the court to replace court-appointed examiner James Baron with a trustee who would take control of Jercich's businesses.

Bankruptcy Court Judge Seymour Abrahams will consider these arguments at Thursday hearing at the Federal Courthouse in San Jose.

One group of investors has already paid Carmel Financial Services, one of Jercich's companies, a \$3,000 fee to

finalize the payoff of a \$200,000 loan, even though the fee requirement has not yet been approved by the court. The \$3,000 is being held in trust until the court rules on the fee requirement.

"They wouldn't release the trust deed until we paid a certain amount into their bankruptcy fund," said investor Pat Arthur. "We were happy to get our money back, but we weren't too happy with their methods."

The fee was paid under protest, according to Michael Dean of CFN Financial Services, the company that refinanced the loan.

"The beneficiaries decided that it was in their best interest to take 98.5 percent of their principal and accrued interest," said Dean, "rather than risk

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Jercich's companies.

The motion would also divest Jercich of all power to control his companies, but would allow Baron or any new CEO to hire him as a consultant. According to Jercich, he is now serving as a consultant without pay.

According to S. Gary Varga, Jercich's attorney, if public confidence can be maintained, there is a good chance that Jercich's companies can be successfully revived. Varga complained that negative

reports in the press have been a factor in destroying investor confidence in Jercich's business.

"We didn't hand away our business to give it away," said Varga. "We handed it away to maintain investor confidence. We want to protect our creditors, and if yellow journalism succeeds in making investors not want to go along with us, then

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Jercich

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in my estimation there is no hope, and the business will be liquidated. Having some confidence in the system will allow us to rehabilitate the company and correct the problems."

The motion proposes that all servicing on loans in Jercich's portfolio be transferred to Tri-Pacific Lending Corporation, a San Jose-based company, and that a 1.5-percent annual service fee be levied on the principal balance of all loans in Jercich's portfolio. The fee would be charged to the lenders.

According to the plan, two-thirds of the service fee will be kept by Tri-Pacific and one-third will go to Jercich's companies to cover operating expenses. In addition to the service fee, Tri-Pacific will receive all fees for late loan payments and half of prepayment penalties.

There is presently no charge for loan servicing included in Jercich's loan agreements. If investors wish to arrange for loan servicing elsewhere, they will have 30 days after the motion is approved to remove their loans from the Jercich portfolio. If the motion is approved, a 1-percent fee will be charged to investors who decide to remove their loans.

The proposal also requests that Pacific Loan Management Corp., a "sister company" to Tri-Pacific, be named trustee on all deeds of trust in Jercich's portfolio.

Examiner Baron is an employee of Pacific Loan Management, and is a shareholder and officer of Cal-Star Corp., the company that owns both Tri-Pacific and Pacific Loan Management.

"We do not see this (relationship) as a conflict of interest," said Baron. "There

Investors

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the delay and legal complexities of having the loan go into default."

Other investors object to being charged a fee to transfer their accounts to another company.

"For a partnership to come along and simply say 'We want to handle our own affairs,' and then have to pay a 1-percent fee, to me is entirely inappropriate," said attorney Richard Manning.

"Some of these (limited partnerships) are as large as \$850,000," he said. "That would be an \$8,500 fee for little or no work."

Baron and Jercich's attorney, S. Gary Varga, defended the service fee, pointing out that such fees are common in the industry.

"You can't service a loan for free," said Baron. "We advise any company to charge at least 1 percent a year to cover costs."

However, if the court rejects the

reorganization plan and appoints a trustee instead, "the whole thing may very well become moot," according to Manning.

San Jose attorney Marilyn Morgan has submitted a motion to the Bankruptcy Court requesting that a trustee be appointed to run Jercich's businesses. According to Morgan, a trustee would have more power than an examiner and would be more effective.

Varga warns that the appointment of a trustee would probably result in the liquidation of the companies.

"Trustees are appointed to liquidate, examiners are appointed to examine and report," said Varga. "The appointment of trustee would probably result in great loss to a lot of people, perhaps to Mr. Jercich, but certainly to the investors."

Morgan declined to speculate on whether a trustee would liquidate the business.

"That would be the trustee's decision," she said.

are not many companies who will do this kind of work. I prevailed upon (Tri-Pacific) to take on the work as a favor to me. At 1 percent (service fee) they will not get rich on this account. This is a very low-margin business."

Though the loan portfolio has been estimated to total \$20 million, Baron says that figure is high.

"I don't know what the total will be," said Baron. "But it will probably be closer to half of \$20 million."

According to Varga, other bids for the loan servicing contract will be considered.

"If anyone else can come up with a better proposal," said Varga, "let them come forward and let them be compared."