Finance: Bank of New York aims at fee businesses in wake of massive loan losses Page 3

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AT DEADLINE

.S. Customs Service o stay in Manhattan

HE U.S. CUSTOMS SERVICE ased 266,300 square feet at helsea's Starrett-Lehigh Building, allaying fears that the agency ould replace its destroyed 6 Vorld Trade Center office with new home in Newark. The gency's enforcement division as targeted next Sept. 11 as its ate to move into **its new space.** sking rents at the 601 W. 26th t. property range from $19 to 36.50 per square foot. Dan ironich and Robert Yaffa of rubb & Ellis New York Inc. erved as the tenant's brokers in e complex deal, which included condemnation of other office pace in the building for Customs' temporary use right after ept. 11.

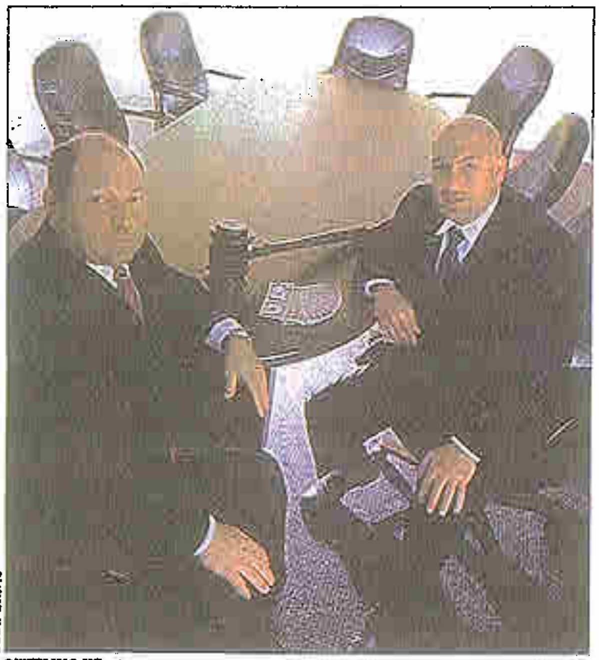
oday's Man execs lan offer for chain

HE TOP EXECUTIVES OF AILING enswear retailer Today's Man ic. have temporarily left the hain to put together an **offer for e company**, Today's Man announced Friday. The company id it had "temporarily laid off" ounder and Chairman David eld, President and Chief Executive Bruce Weitz and vice president of real estate Larry Feld. hief Financial Officer Frank hnson is now acting CEO. In ldition, the retailer's board rmed a committee of three inependent directors to consider oposals. The company is in deult on its debt (*Crain's*, Jan. 13).

ledia technology firm uts itself up for sale

OATED WITH MORE THAN million in debt, Rising Tide udios, a Manhattan-based **media technology company**, put itself the block. Founded by Jason cCabe Calacanis in 1996, the mpany publishes *Venture Reporter* magazine and newsletters, lls research and does event anning. A group of New York-sed angel investors is consider-

See **AT DEADLINE** *on Page 2*



BUCK ENNIS

SETTLING UP: Executive Vice President Harvey Hirschfeld (left) and Chief Executive Dennis Shields of LawCash, which advanced more than $10 million to clients.

LEGAL AFFAIRS

Judgment call

Firms that lend to personal-injury plaintiffs take steps to improve their bad-guy image

BY CRISTINA MERRILL

When Abner Louima placed a call to LawCash in October 2000, he had already won his case against the New York City Police Department. Even so, three years into his police brutality lawsuit, the Haitian immigrant needed extra cash while he awaited the settlement.

He appealed to the Brooklyn-based finance company for $20,000 to go toward living expenses. LawCash obliged, giving Mr. Louima the advance at an interest rate of 16% annually. Nine months later, after receiving his settlement of $8.75 million, Mr. Louima repaid

See **PERSONAL-INJURY** *on Page 47*

Helmsley hotels slipping; end of empire in sight?

Queen of Mean stuck in court as wear and tear starts to show

BY LOUISE KRAMER

The foundation of Leona Helmsley's hotel empire is cracking.

While Mrs. Helmsley fights charges of anti-gay discrimination in state Supreme Court, the five Manhattan properties owned by her company, Helmsley Hotels, are losing ground in the marketplace.

Room rates are consistently lower than those of direct competitors. Occupancy levels in 2002 were 14 points lower than the city average, according to a knowledgeable industry executive.

One of the lesser-known properties, the 193-room Helmsley Middletowne at 148 E. 48th St., has quietly been on the market for the past several months. The New York Helmsley at 212 E. 42nd St. is rumored to be up for sale, with inquiries from potential buyers coming as recently as last week, according to real estate sources.

The *2003 Zagat Survey of Top U.S. Hotels* dropped Helmsley properties from its New York City picks. The 2002 survey included

NEW YORK TIMES

LEONA HELMSLEY'S hotel room and occupancy rates are falling.

two, The Helmsley Park Lane at 36 Central Park South and The New York Helmsley. In 1999, the survey included four.

"Their properties aren't considered among the elite brands," says Tim Zagat, co-founder of Zagat Survey. "They got lower ratings than our cutoff. That's why they were dropped."

The only recent ink that the hotel company has generated is from the trial begun earlier this month. A six-member jury is hearing a $40 million sex discrimination case brought against Mrs. Helmsley by Charles Bell, a former manager at the Park Lane, who charges that she fired him because

See **HELMSLEY** *on Page 41*

Coalition pushes big state tax hike

Unions, advocates target income, corporate increases

BY PHILIP LENTZ

A coalition of labor unions, advocacy groups, religious organizations and left-leaning political groups is advocating a $4.5 billion tax increase on corporations and affluent taxpayers to help close the state's $12 billion budget gap.

While Gov. George Pataki last week said in several speeches that he opposed a tax increase, coalition leaders say they believe they can change the governor's mind. "Hard times sometimes make for flexibility," says one labor leader. "The governor might not get his way entirely on this."

Among the major allies in the coalition are the Public Employees Federation, the Working Families Party, Citizen Action, the Green Party and the Civil Service Employees Association.

Some of the state's major unions, including 1199 SEIU and the United Federation of Teachers, have not yet publicly endorsed the coalition's agenda. But they are expected to do so after the governor officially unveils his budget plan on Wednesday.

Given the governor's no-tax pledge, the budget for the fiscal year beginning April 1 is expected to include deep cuts in spending for education, health care and local aid—cuts the tax coalition wants to stop.

The coalition argues that increasing taxes on the wealthy would have less impact on the state economy than cuts in government spending. Also, spending cuts likely will endanger the jobs of public employees, whose unions are among the most prominent supporters of tax hikes.

"If you give the government a

See **COALITION** *on Page 42*

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Hospital CEO quits abruptly

Continuum's Kelly leaves this week; no reason given

BY MARY SISSON

Peter Kelly, a longtime top officer at Beth Israel Medical Center and Continuum Health Partners, abruptly stepped down last week as chief executive and president of Continuum.

His departure is expected at the end of the week. No reason was given.

Mr. Kelly will be replaced by interim President and CEO Gail Donovan, currently chief operating officer and executive vice president of Continuum. The health system is putting together a search committee of trustees, physicians and administrators to search for a new CEO, and hopes to have a permanent replacement in six to nine months.

Chief Financial Officer Brendan Loughlin will be promoted to executive vice president for financial affairs, while chief legal counsel Kathryn Meyer will be promoted to executive vice president for corporate affairs.

CEO since January 2001

Mr. Kelly had been president and CEO of the four-hospital system since January 2001. Continuum, which was formed in 1997 and includes Beth Israel, St. Luke's-Roosevelt Hospital Center, the Long Island College Hospital and the New York Eye and Ear Infirmary, has struggled to achieve the efficiencies and financial results expected from the merger.

Mr. Kelly, 55, has worked for Beth Israel or Continuum since 1976, serving as COO of Continuum under Dr. Robert Newman. Mr. Kelly helped to restore Beth Israel's battered credit rating following a financial crisis at the hospital in 2000, although the hospital's bonds remain below investment grade in part because of financial fallout from the Sept. 11 attack.

"They're still not totally out of the woods," notes Bruce Gordon, an analyst at Moody's Investors Service, which has a Ba3 rating on the bonds.

In addition, Mark McDougle, executive vice president and COO of LICH, will replace Mr. Kelly as interim president and CEO of that facility, a position that Mr. Kelly has held since June 2001. ■

Personal-injury lending

Continued from Page 1

the company.

Mr. Louima is one of a growing number of people who have tapped into the specialized industry that lends to plaintiffs in personal injury lawsuits. Dozens of such small, privately owned companies have sprung up in New York over the last decade.

The money, typically available within 48 hours, is secured by a lien against the proceeds of a case. The support can be very costly, with annual interest rates as high as 180%.

A few companies, including LawCash, are attempting to change the industry's image by adopting lower interest rates and seeking community endorsements. LawCash, which was founded more than two years ago by a pair of former health care industry financiers, is also considering acquiring a bank to serve attorneys involved in litigation.

"We're trying to institutionalize this young industry," says Harvey Hirschfeld, executive vice president of LawCash, which has advanced more than $10 million to over 1,300 people in the past two years. "We're trying to do good for people, and we need to make sure we're priced right to stay in business."

Some lawyers and advocates remain skeptical. LawCash charges annual interest rates that range between 16% and 48%, depending on how far along a case is in litigation. In some cases, its interest rates are comparable to those charged by credit cards (the current average annual percentage rate is 14.71%), but in others they are much higher.

Be prepared

Charles A. Becker Jr., a personal injury attorney in Ridgewood, N.J., says that when he does recommend financing from LawCash or any other company, he advises clients to "be prepared that they may get killed" by high fees.

Others say such litigation financing fills a gap in the market. Banks do not underwrite such advances, and lawyers are prohibited by ethics codes from making personal loans to clients. People who bring personal-injury lawsuits may be in dire financial straits, in some cases without a job and in danger of being evicted from their homes.

LawCash advances them up to 10% of what the company considers the likely value of a settlement. If a client loses a case, he or she owes LawCash nothing, as is typical in the industry.

LawCash, which has a line of credit from Chevy Chase, Md.-based CapitalSource Finance, a commercial lender to the health care and real estate industries, says it uses strict underwriting screening rules that ensure only about 4% of the cases it advances money on are lost in court.

It targets cases in the midresolution stage, when it is reasonably certain that a settlement will occur within about two years.

The company, which is bidding to grow both here and nationally, has launched an aggressive marketing campaign that includes polishing its image. It has also established a consumer advocacy board to inform the public and the legal community about its services. It recently persuaded an advocacy group for low-income New Yorkers, the Association of Community Organizations for Reform Now, to consider endorsing LawCash's services to ACORN's 22,000 New York client families.

Bertha Lewis, ACORN's executive director, says she first thought LawCash's executives were "bad guys in sheep's clothing."

But she says she "realized that people don't know the industry is changing."

Plaintiff Support Services, a Buffalo-based company that operates in the New York City market, is also trying to raise the industry's image. It offers annual rates of up to 48% annually, according to President Joe DiNardo.

The ambitious financiers have big plans for their companies. In March, LawCash plans to offer strapped borrowers debit cards instead of cash, to help clients avoid check-cashing fees.

Eventually, it wants to become a one-stop shop for personal injury lawyers. It is looking to acquire a small New York bank by the end of 2003 to offer attorneys products such as escrow services and bank accounts.

High rates necessary?

Plaintiff Support Services recently launched a separate business offering banking support to small and midsize law firms, and has already made $8 million worth of loans.

One competitor doubts whether companies that don't charge extremely high interest rates can survive.

The business is risky, says Max Volsky, president of New Amsterdam Capital Partners, founded in 1999 in New York. Lawyers sometimes drop the cases, and some of the claims are fraudulent, he points out.

"Charging 15% (a month) is more than fair," says Mr. Volsky, whose company's interest rates are in that range. ■

COMPANY INDEX

Following are companies and organizations receiving significant mention in this issue