

# THE RECORDER

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## In one practice, economy's frowns go upside-down



### Scott McNutt

The insolvency lawyer's firm has hired four new lawyers since April.

### By Petra Pasternak

RECORDER STAFF WRITER

The mood at the McNutt insolvency firm's holiday party last week — unlike in years past — was festive. Among the 200 bankruptcy, insolvency and finance professionals gathered at the firm's 188 Embarcadero Center offices, about half were lawyers, and there was buzz about the start of what looks to be an upswing in work.

"People felt there was more business and there was more on the way," Scott McNutt said the next morning.

McNutt & Litteneker had shrunk from 10 lawyers in 2005 to just its two name partners by early this year, but has hired four new lawyers since April. They now comprise six full-timers. The firm also recently re-formed, with name partner Rebecca Litteneker taking an of counsel role. The reconstituted firm announced a name change, to what is now The McNutt Law Group, on Dec. 3.

Coming off a four- or five-year dry spell, small bankruptcy boutiques like McNutt's are watching the ripple effect of the subprime mortgage meltdown and the ensuing credit crunch. They say the ailing run the gamut from hospitals to retail and high-tech businesses.

McNutt said the firm is getting three times more calls than last year about Chapter 11 from distressed midsized companies — those

with between \$5 million and \$15 million in annual revenue. Recently, the firm also was tapped to represent the creditors' committee in the SonicBlue bankruptcy and in a case regarding Selix, a troubled tuxedo rental company that owes \$9 million to creditors and is going through liquidation.

The McNutt firm also represents four hedge funds in asset acquisitions in Delaware bankruptcy court.

"The difficulties in the subprime mortgage industry are a preview of what's going to happen in the world of corporate insolvency," McNutt said.

Murray & Murray, a bankruptcy firm in Cupertino, has added three lawyers in the past four months, for a total of six lawyers. Name partner John Murray says his practice has expanded as a direct result of the subprime mess.

"We're going to be filing a significant Chapter 11 case for a subprime lender in the next couple of weeks," he said. Small and medium-sized high-tech companies at various stages of funding are also showing signs of strain, he added. "These companies have to look to their investors for additional funding and in this type of climate ... [investors] are increasingly reluctant to invest in companies that have a history of financial difficulties."

Nine-lawyer Binder & Malter in Santa Clara represents individuals as well as businesses. Michael Malter said both sides have picked up, particularly calls from distressed home owners, real estate agents, mortgage companies and real estate developers. "We've just been totally slammed relating to the subprime crisis, probably because we're farther south [from San Francisco]," he said. "It appears that the most devastated areas are Gilroy, Salinas and Monterey."

He anticipates that the wave will hit construction companies next.

San Francisco solo Michael St. James, who represents debtors and creditors, said he's turned away more work in the past two months than over the previous 10. "I've got three different Chapter 11 cases I [will] file in the next 30 days barring some unusual development," such as settlement, he said.

The bankruptcy practice, notoriously cyclical, had seen some small boutiques shutter as a result of the recent economic boom, including Palo Alto's Brooks & Raub, which closed earlier this year after a 16-year run.

Now even big firms are fielding more calls.

Cooley Godward Kronish partner Robert Eisenbach, a member of the bankruptcy and restructuring group, said that his New York partners are busier now than they were six months ago, with bankruptcy filings in courts in Delaware and the Southern District of New York. Among the firm's clients is the official committee of unsecured creditors for Levitz Furniture, which filed in November.

"We're not at the level we were in 2001 and 2002," Eisenbach said, "but neither are we seeing what had been a quieter time."

McNutt says his firm will be better prepared to weather the next downturn. Michael Sweet joined as a partner in April. Sweet, who previously was with Winston & Strawn, focuses on general civil litigation, including complex commercial litigation, restructuring and insolvency.

"The idea is that the next time there is a dip, the litigation practice can exist outside the bankruptcy cycle in order to keep interesting things in the firm," Sweet said.

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