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Bankruptcy Examiner Appointed for Tribune

Judge Kevin Carey who is presiding over the bankruptcy case of Tribune Co. has appointed an independent examiner who will review the 2007 leveraged buyout of the media company and the potential claims arising from it. The appointed person concerned is Kenneth Klee, a California bankruptcy lawyer and a UCLA law professor.

In 2007, Tribune Co. was bought over by real estate investor Sam Zell largely contributing to the crippling debts loaded onto the company to the tune of \$13 billion. This caused the company to file for bankruptcy protection in December 2008. As a result of the buyout, a group of bondholders represented by the Wilmington Trust Co. sued the financiers of the buyout, JPMorgan Chase and other banks in March claiming that they knew full well the resulting debt from the buyout would leave Tribune Co. insolvent. The bondholders claim that the buyout was basically to cash out Tribune's shareholders and therefore was fraudulent. In their lawsuit, they applied for the banks secured claims to be disallowed or put after the bondholders' unsecured claims in order of priority. Under normal circumstances, secured claims are settled first. It is this buyout and resulting lawsuits that Klee has to primarily focus on.

But despite the court's appointment of Klee, there is the problematic issue of use of confidential documents. Attorneys from both sides have yet to agree on whether certain information given to Klee by both parties should be used and if so, then how. As it stands, almost every document in this bankruptcy case has been deemed confidential.

Besides the actual buyout, Klee also has to evaluate whether the bondholders have flouted bankruptcy court rules in filing their lawsuit and in the process improperly disclosing confidential information.

In his work order, Klee noted that his findings would likely have a bearing on the court's decisions on the final settlement of the bankruptcy but that it was not his responsibility to comment on it.

Wilmington Trust Co. suggested to the court that documents given to Klee by parties be shared with all other parties but this was turned down by Judge Carey. The judge also ruled that Klee is also not obligated to invite the financial advisers of one party to be in attendance when he speaks to the financial advisers of the other competing party. Furthermore, if the rival financial advisers

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were to be present, the financial advisers of one party would be reluctant to disclose certain information.

The court has given Klee up to July 12 to submit his report.