

# The restructuring life

*Gordian Group's Peter Kaufman and Henry Owsley bring a lot of passion to the distressed game. Now they've put it in a book*

by Ashby Jones

While most of America was busy relaxing on the Fourth of July weekend of 1989, barbecues, fireworks or anything else in the leisure line couldn't hold Peter Kaufman's interest. The then-30-something lawyer-turned-First-Boston-banker was in the midst of representing the head of the unsecured creditors' committee in the bankruptcy of Spendthrift Farm Inc. That Independence Day afternoon, he got a call from Henry Owsley, a former Goldman, Sachs & Co. banker who had co-founded a boutique advisory firm, Gordian Group, the year before. The two had met six months earlier, when Kaufman hired Gordian to help out on a few particularly sticky issues.

"There was really nothing too pressing to talk about," recalls Kaufman. "Actually, I was thrilled to hear from him. I'd been turning some issues [relating to the case] over in my mind, and I really wanted to talk."

It wasn't a short conversation. "I said to myself, 'Wow. Here's another compulsive guy who's thinking about work on a holiday,'" Kaufman says. "I knew right away that this was a guy I wanted to work with over a longer period of time."

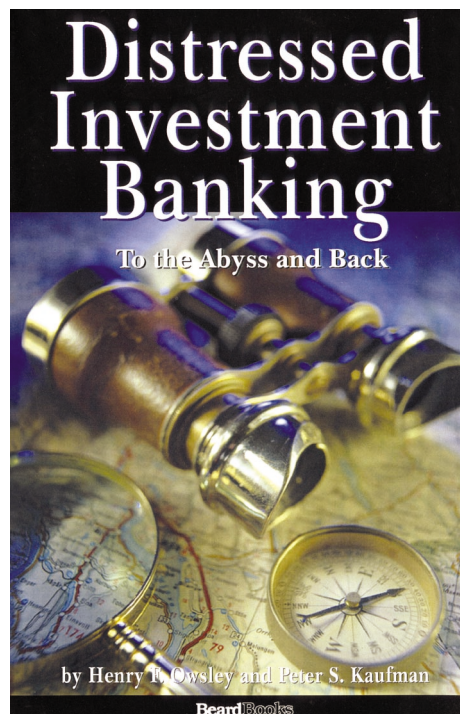
Six months later, Kaufman joined Owsley as Gordian Group's head of restructuring.

Now, 16 years later, they've written a book together, "Distressed Investment Banking: To the Abyss and Back." (Beard Books, \$74.95) "[The publisher] wanted the definitive work on distressed investment banking," Kaufman says. "We think we delivered."

Indeed, in an area that's not widely covered, the pair do cover the restructuring waterfront. They lay out typical motivations of players in restructurings—banks, trade creditors, equity holders and the like, and outline, from a distressed company's perspective, the major steps in a restructuring. They touch on how to prepare for a reorganization; evaluate stakes held by bond and equity holders; deal with fraudulent conveyance actions; size up when to sell the company.

True, it helps to be a bankruptcy junkie to appreciate the book. Owsley says the

project was conceived as a sort of textbook not only for senior executives but for anyone with an interest in the subject, namely legal and financial advisers. Kaufman and Owsley don't provide a glimpse behind the scenes of cases Gordian has worked on, such as ANC Rental Corp., London Fog Industries Inc., Waste Systems International Inc. and LTV Corp. in the past or, more recently, American Restaurant Group Inc.,



High Voltage Engineering Corp. or Solutia Inc., to name a few. Instead, the book will probably best be appreciated by those who can contextualize its theoretical prescriptions and apply them to their own situations, such as senior executives whose companies are running out of cash.

That Kaufman and Owsley decided to collaborate on the book when Beard, a Washington-based publisher approached them two years ago, isn't a surprise. "It's hard to think of Peter without thinking of Henry, and vice versa," says Barry Ridings, the co-head of the restructuring group at Lazard. "Together,

they've really made that firm."

The idea for Gordian Group came to New Orleans-native Owsley in 1986 after he had founded Goldman Sachs' technology investment banking practice. While Goldman Sachs generally flourished, its clients didn't always fare as well. This is the less glamorous side of finance, helping rescue companies after the bankers have departed. "It wasn't until I got into distressed work that I really started to see the impact that creative investment banking could have on struggling companies," he says. "Honestly, it was sort of inspiring."

Owsley quickly took to the challenge of distressed cases, with big rosters of players squabbling over limited pots of money. While working on a case involving a foundering petroleum company, Owsley realized that smaller boutiques were the places to be when it came to restructuring work. "It all started to add up," he recalls. "I needed to set up my own shop."

In 1988 he did, with Patricia Caldwell, who at the time was running Citibank's corporate finance and analysis department. (Caldwell remains a Gordian managing director, although Kaufman and Owsley run the firm.) Owsley called the firm Gordian as a nod to the ancient Greek myth of the intricate knot found in the city of Gordium in what's now Turkey. The knot baffled all those who tried to loosen it, until Alexander the Great appeared and sliced it open with his sword. "That's what we do," says Kaufman. "We slice right through problems."

The early days at Gordian weren't easy. "There was a long stretch in which we didn't take a weekend off," says Kaufman. "We really had to scrape for everything we got. When we landed anything, even an assignment with monthly fees in the low five figures, we'd bust out the beer."

In the early '90s, the company grew by positioning itself as a lower cost alternative to some of the larger restructuring advisers. But as Gordian matured, two things occurred: Its fees grew and the firm refined

## THE DEAL

### BANKRUPTCY

its niche, homing in on what it is today, a high-end restructuring adviser to distressed midmarket companies and their boards. Nor did it limit itself to restructurings—Gordian worked as financial adviser for Ben & Jerry's Homemade Inc. in the ice-cream maker's sale to Unilever NA for \$360 million.

Owsley and Kaufman also attracted some notoriety for creative thinking on transactions. In late 2001, for example, MBIA Inc. hired Gordian to help minimize its exposure in the bankruptcy of car rental company Alamo/National. MBIA had insured about \$3.6 billion of the company's bonds—although MBIA's exposure was far less than that. "Gordian reframed the way we were looking at the situation," says Derrin Culp, a portfolio manager with MBIA at the time.

Culp says Kaufman pushed MBIA to look beyond just minimizing its exposure to whether the company could improve its position during the reorganization. "At Peter's urging, we kept open our line of credit, which helped keep ANC afloat and gave us better pricing going forward," he says.

MBIA also didn't have to deal with the assets that backed the debt it had insured. "The last thing we needed was a fleet of cars to try and sell," says Culp.

For all their *sympatico*, Kaufman and Owsley appear very much an odd couple. Kaufman is almost two years older than the 50-year-old Owsley, but looks a bit younger. The trim Kaufman is given to wearing open-collared shirts around the firm's mid-Manhattan headquarters, and one recent day paired one of them with striking sky-blue pants. His outside interests—muscle cars, motorcycles, lacrosse and golf—haven't changed much since he was a teenager in the Westchester County, N.Y., suburbs.

Owsley, with his thinning hair and tailored suits, assumes the air of a senior law partner. Where Kaufman favors a 2002 Ford Mustang with a license plate reading "REORG," Owsley drives a restored vintage Aston Martin and is a wine enthusiast. And



while he's not the fitness buff Kaufman is, he did recently take up karate.

What both men share is a passion for restructuring. Kaufman's office echoes with pings and beeps—every few seconds, some computer, cell phone or other device sounds off. "Peter is absolutely, totally, 100% intense," says Lazard's Ridings. "But it's a controlled intensity. He's able to walk into a room filled with frantic people and stay totally calm. That's a great skill to have in this industry."

Not everyone is comfortable with that persona. Kaufman can come off as brusque, says MBIA's Culp. "People who don't know Peter might have a hard time reading his intensity, trying to figure out whether they should be offended by his manner and some of the things he says."

But Owsley is no wallflower either. As the Oct. 17 birth of bankruptcy reform approaches, giving Wall Street firms more ability to compete for restructuring assignments, Owsley is undaunted. "I can't imagine that very many of the big guys are going to be able to give good advice," he says. "We've been toiling in the fields of restruc-

turing for almost 20 years. These other guys are going to be viewed as tourists. You can't do the type of job we do if you're just dabbling in restructuring."

That cockiness threads through the book, with the authors imparting several kernels of wisdom. "We regard major buyback programs at distressed prices as a potential flag of pending insolvency," they write. And later, they offer: "Bondholders often become the most important players in getting a restructuring deal done, [but] they are not necessarily the first constituency with whom a company in financial distress needs to deal."

One theme of the book is the need for board members and senior executives to come to grips with dire problems—and call in advisers if need be—as early as possible.

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"It's an absolutely vital point," says Owsley. "In a lot of ways, we're like oncologists. The earlier you detect a problem, the bigger the range

of options we have in dealing with it."

And when hiring advisers, the authors repeatedly warn debtors, don't bring on those that have extensive bondholder ties. "[B]oards, management teams and old equity require advisors who will zealously pursue value for non-bondholder constituencies," they write. "Investment banks that have bondholders as regular trading partners or that solicit bondholder financial advisory business are very vulnerable to pressure from bondholders, which do not want the advisers to take aggressive or creative positions that might reduce the value received by the bondholders."

Of course, why wouldn't Owsley and Kaufman say that? As a boutique, Gordian doesn't have bondholder ties. And investment banks would surely argue that just because one side of the firm works for bondholders doesn't mean the restructuring team will coddle them on an engagement.

But at the root of Kaufman and Owsley's indictment of bondholder-centric advisers is their belief that shareholders in workouts too often suffer unfairly at the hand of un-

secured creditors, bondholders and trade creditors who typically are fewer in number and can organize more easily than equity interests. “We really believe in an equitable sharing of the pain,” says Owsley. “I suppose there is a bit of an emotional sympathy for shareholders.”

It’s a chord the authors often strike in the book. “The old equity class can still have economic value, even if it is ‘out of the money’ today,” they write. “This reality springs from the concept of ‘option value.’ Such an option can indeed be worth a lot depending upon how far out of the money it is, the length of time before option expiration (i.e., the consummation of the restructuring) and the degree of volatility in the underlying business.”

This philosophy is part of the reason Steven Day hired Gordian a few years ago when he was CEO of Pinnacle Towers Inc., a real estate business whose main asset was cellular telephone towers. When the company was forced to file for bankruptcy in 2002, Day felt strongly that its equity holders shouldn’t walk away empty-handed. “It was just a matter of fairness, I thought,” recalls Day. “And Peter strongly agreed with me.”

For months, Day and Kaufman battled the various constituencies, determined to return some value to old equity holders.

“Our Chapter 11 would have gone so much more smoothly had we not taken this path,” says Day. “It was a grind.”

But in the end, Day and Kaufman won out.



Shareholders got warrants to buy stock in the reorganized Pinnacle. Junior bondholders recovered 6 cents on the dollar. “It was an absolute miracle given the resistance we

hind. “We may each be married to women,” Kaufman says, “but we’re really married to each other.” ■

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met at the outset of the case,” says Day. “Peter kept me on that path. He was dogged and determined and totally driven to get the shareholders something. He did.”

These days, Owsley owns a house in the Hamptons and Kaufman has one in Maine. But their modus operandi hasn’t changed. Every night, after leaving the office, they talk to each other by phone from their New York apartments. They chat most weekends as well, even when they’re “relaxing.”

Both have wives and children. But devotion to work and to each other isn’t far behind.