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## Message from the President

Out with the old and in with the new! It is a new year and with it will come plenty of political, economic and social changes. A new Congress has swung into action with a Republican-controlled House. Closer to home, Connecticut Governor Jodi Rell has stepped down after seven years of leadership and former Stamford mayor Dan Malloy has taken over the reins. These shifts in political power will undoubtedly bring about numerous changes on hot button issues such as President Obama's newly-enacted healthcare law, the war on terror and environmental policies needed to redress and prevent catastrophic oil spills. None of these issues, however, comes close to the number one issue on the minds of Republicans and Democrats alike – the economy.

While the economy seems to be slowly and steadily improving, foreclosure and unemployment rates across the nation remain at the highest that they've been in decades. This has resulted in a continued increase in the number of individuals filing for bankruptcy. Last year more than 1.5 million Americans filed for bankruptcy, 120,000 more than in 2009. Ironically, the number of Chapter 11 business bankruptcies decreased in 2010 by 10% from the prior year. The question then for secured creditors, unsecured creditors and debtors – and the lawyers, accountants, and turnaround professionals who advise them – is how to navigate these uncertain and unpredictable economic times.

The CTTMA is here to help! The CTTMA is excited to offer its members a variety of programs on the hot topics our economic community faces that will assist practitioners in all fields of restructuring. On January 10th, the CTTMA held its first of three "Expert Series" programs designed to educate its members about the latest restructuring pitfalls and equip them with strategies to resolve them. The first program featured the Distressed Commercial Real Estate markets, locally and nationally. Harold Bordwin, co-president, GA-Keen Realty Advisors, Great American Group, LLC, shared with us his experiences in the distressed commercial real estate

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# The Fraud Diamond: Use of Investigative Due Diligence to Identify the "Capability Element of Fraud"

By Frank Rudewicz, J.D., CPP, CAMS, *Partner - Marcum Advisory Services,*[1]

Most of us are aware of the business scandals and failures in recent years and how occupational fraud and abuse were common themes to these failures. In addition, many fraud professionals are familiar with the Fraud Triangle, which discusses the three common elements that are often present in fraud schemes.[2] However, the existence of these three elements alone does not necessarily suggest fraud will occur. Often unrecognized and unnoticed is the fundamental reasoning for the fraudulent activity – the element of the human mind and individual behaviors (i.e. the wrongdoer's "capability" to commit the fraud).

This article will discuss the capability element of fraud, address how an experienced fraud professional can assist a company in assessing this element and explain why such assistance will benefit business owners.

**Creating the Fraud Diamond – the "Capability Element of Fraud"**
As acknowledged by Grace Duffield and Peter Grabosky, in their book *The Psychology of Fraud,*[3] behavioral scientists have yet been able to identify a psychological characteristic that serves as a valid and reliable marker of the propensity of an individual to commit fraudulent activities. Nevertheless, research has shown that individuals with certain characteristics and personality traits will increase the likelihood for fraud to occur.

Explained in their article "The Fraud Diamond: Considering the Four Elements of Fraud," David Wolfe and Dana Hermanson have incorporated a fourth element, capability, into the fraud triangle; thus, transforming the well-known fraud triangle, into the fraud diamond.[4] The article states that an individual's personality traits and capability have a direct impact on the probability of fraud.

As stated by Wolfe and Hermanson: "Opportunity opens the doorway to fraud, and incentive [i.e. pressure] and rationalization can draw a person toward it. But the person must have the capability to recognize the open doorway as an opportunity and to take advantage of it by walking through, not just once, but time and time again.[5]

markets, including issues affecting leases in bankruptcy and shopping center bankruptcy filings.

The second part of the Expert Series will focus on Valuations and Appraisals. Our panel of experts will discuss the trends they are seeing, bankruptcy valuations, the bank's perspective, and different considerations between inventory and equipment appraisals.

Finally, on March 14th, the focus will be on the retail sector and our panel of experts will discuss the potential for another round of retail bankruptcies, the lending communities' appetite for retail borrowers, whether private equity should invest in retail and a host of other issues.

But don't be misled – the CTTMA is not just about programming. While we have a full year's worth of cutting-edge programming (see our 2011 Calendar At A Glance for all of our events), we are also providing you with lots of fun networking opportunities. On January 17th, the CTTMA held a fun night of bowling and networking with our future leaders! And mark your calendar for April 11th for our annual wine tasting at Gouveia Vineyards – the perfect way to network in a relaxed and beautiful location. There are many, many more exciting events, including our joint conference at Mohegan Sun in May and our annual golf outing at The Farms in June. So please visit our website at www.connecticut.turnaround.org for a complete list of upcoming events, membership information and much much more!

I look forward to seeing you at our upcoming events and wish you a healthy and prosperous New Year!

Kristin B. Mayhew, Esq., CTTMA President

Kristin B. Mayhew is a partner at McElroy, Deutsch, Mulvaney & Carpenter, LLP where her practice consists of the representation of commercial landlords, financial institutions, Chapter 11 Trustees, debtors-in-possession, and creditors committees in both reorganizations and liquidations in federal bankruptcy court.

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Below is a summary of the six traits, associated with the capability element, that Wolfe and Hermanson believe are essential in the personality of the fraudster.

1. **Positioning:** The person's position or function within the organization may provide the ability to create or exploit an opportunity for fraud. A person in a position of authority has more influence over particular situations or the environment.
2. **Intelligence and creativity:** The fraudster is smart enough to understand and exploit internal control weaknesses and to use position, function, or authorized access to the greatest advantage.
3. **Ego:** The individual must have a strong ego and great confidence he will not be detected. The common personality types include someone who is driven to succeed at all costs, self-absorbed, self-confident, and often narcissistic. According to the Diagnostic and Statistical Manual of Mental Disorders,[6] narcissistic personality disorder is a pervasive pattern of grandiosity, a need for admiration and a lack of empathy for others. Individuals with this disorder believe they are superior or unique, and they are likely to have inflated views of their own accomplishments and abilities.
4. **Coercion:** A fraudster can coerce others to commit or conceal fraud. An individual with a persuasive personality can more successfully convince others to go along with the fraud or look the other way.
5. **Deceit:** Successful fraud requires effective and consistent lies. In order to avoid detection, the individual must be able to lie convincingly, and must keep track of the overall story.
6. **Stress:** The individual must be able to control their stress, as committing the fraudulent act and keeping it concealed can be extremely stressful.

**Investigative Due Diligence as a Fraud Prevention Tool:**
Assessing the capability element and the six common traits through the performance of Investigative Due Diligence will assist in the prevention and detection of fraudulent activity within your company. Investigative due diligence has evolved as a vital intelligence discipline that is both distinct from and uniquely complementary to traditional legal and accounting due diligence inquiries.

Investigative due diligence comprises information, intelligence, insight and access. It explores issues and pursues lines of inquiry well beyond the information found in ledger books and contract clauses. Its application focuses on in-depth background investigation, vulnerability assessment, corporate personality and business intelligence gathering. The knowledge that is gained from these inquiries may identify issues and information that provide insight as to the capability element described above.

**Essential elements of investigative due diligence:**
The three classic elements of investigative due diligence are business and media database research; public records searches; and direct contact with government industry, personal and confidential sources. Regardless of whether the investigation is conducted nationally or internationally, access to these sources is essential, and the information and intelligence they provide is invaluable.

**If the right investigator is retained preventative measures can be simple:**
As recent headlines and stories have shown, individuals that have committed fraud can be superb self-promoters whose conduct can range from simple exaggeration to omission, deception and misrepresentation, all the way to outright fraud and criminality. Since their goal is to entice fraudulent activity, the standard operating procedure is to accentuate the positive and downplay the negative.

Thus, the investigator must have excellent sources and know who to talk with, know what to look for, where to look, how to look, and when to stop looking. In addition to his or her competence in public records and online research, the investigator must also be able to:

- conduct in-depth interviews;
- evaluate the credibility of witnesses and statements
- develop leads and make connections; and
- tap into industry and government resources.

Trusted confidential sources can provide important information about managerial expertise, business reputation and personal style, information that may not be otherwise available. These same sources may also provide leads to undisclosed negative information such as a criminal history, a bankruptcy, unpaid business taxes, or undesirable employees, contracts or partners. An analysis of this information may provide necessary insight into those individual traits that comprise the capability element of the Fraud Diamond. Further, an investigator who has experience interviewing suspects, and possesses a probing, inquisitive and perceptive nature is key to the success of the due diligence investigation.

Thus, the more experience and resources your investigator has at his or her disposal, the more effectively and efficiently the investigative due diligence process will be in identifying a suspected fraudster's capability of committing, and potential commission, of occupational fraud.

**Retaining an Investigator Can Benefit Your Bottom Line:**
Many business owners are quick to dismiss the idea that their business could be a victim of occupational fraud. They feel that they are too small or that their employees would never commit fraud, or at least to the extent of those cases portrayed in the media.

Based on a fraud survey in the 2010 Report to the Nation,[7] small organizations — those with fewer than 100 employees — suffered the greatest percentage of the frauds in the 2010 study, accounting for more than 30% of the victim organizations. However, the variation between size categories is relatively small, with 23% of victims having between 100 and 999 employees, 26% having 1,000 to 9,999 employees and 21% having more than 10,000 employees. The median losses per incident ranged from $155,000 for the small businesses, $200,000 for those with 100 to 999 employees, $139,000 for those having 1,000 to 9,999 and $164,000 for companies with over 10,000 employees. These findings indicate that all businesses, large and small, are susceptible to fraud. Although these are meaningful numbers, research has shown that much fraud goes undetected or the period of the fraudulent activity is unknown. This makes it nearly impossible to quantify the actual costs of fraud on businesses, and thus magnifies the importance of conducting appropriate levels of investigation should suspicion of fraud exist.

Retaining a fraud professional who is experienced and skilled at performing investigative due diligence can help your company identify critical information that will help management make appropriate decisions to avoid or assist in cutting off the ongoing commission of an occupational fraud.

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[2] The three common elements are: (i) Opportunity (conditions that exist in an organization which facilitate the wrongdoer's commission of the fraud – i.e. improper segregation of duties); (ii) Pressure (external forces that push the wrongdoer towards committing the fraud – i.e. maintaining a lavish standard of living; and (iii) Rationalization (the wrongdoer's justification of their fraud – i.e. the attitude that the "company owes" the fraudster).

[3] Grace Duffield & Peter Grabosky, *The Psychology of Fraud,* (Australian Institute of Criminology, 2001).

[4] David Wolfe & Dana Hermanson, The Fraud Diamond: Considering the Four Elements of Fraud, THE CPA JOURNAL ONLINE, Dec. 2004, http://www.nysscpa.org/cpajournal/2004/1204/essentials/p38.htm.

[5] Id.

[6] Published by the American Psychiatric Association.

[7] Published by the Association of Certified Fraud Examiners at http://www.acfe.com.

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# *Delphi:* Another Case Where the Heightened Pleading Standards of *Twombly* and *Iqbal* Are Applied to Preference Actions

By Edward Neiger, *Neiger LLP*

Bankruptcy Courts have begun to apply the Supreme Court's heightened pleading standards enunciated in *Bell Atlantic Corp. v. Twombly,* 550 U.S. 544 (2007) *("Twombly")* and *Ashcroft v. Iqbal,* 129 S.Ct. 1937 (2009) *("Iqbal")* to preference actions. The latest court to do so is the Bankruptcy Court for the Southern District of New York in the bankruptcy case of *In re DPH Holdings Corp. et al ("Delphi");* Case No. 05-44481(RDD).

On October 8, 2005, Delphi Corporation, a global technology manufacturer, filed for bankruptcy under chapter 11 of the Bankruptcy Code. In August of 2007, right before the two year statute of limitations for filing avoidance actions was to expire, the Debtor filed an *ex parte* motion to file several hundred avoidance action complaints under Bankruptcy Code Section 547 under seal, which the Court granted. The Debtor argued that it was necessary to file the complaints under seal to preserve its ability to avoid the transfers if and when necessary without harming the Debtor's current business relationships with the Defendants. The Debtor then filed over 700 avoidance actions unbeknownst to the Defendants. The Debtor also obtained 4 extensions of time to serve the complaints beyond the 120 day deadline for serving complaints provided by Bankruptcy Rule 7004 (which incorporates Rule 4(m) of the Federal Rules of Civil Procedure). The motion to approve filing the complaints under seal and requests for extensions were *ex parte* to the majority of the Defendants.

Bankruptcy Code Section 547 states: "the trustee may avoid any transfer of an interest of the debtor in property –

1. to or for the benefit of a creditor;
2. for or on account of an antecedent debt owed by the debtor before such transfer was made;
3. made while the debtor was insolvent;
4. made–

   (A) on or within 90 days before the date of the filing of the petition; or

   (B) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider; and
5. that enables such creditor to receive more than such creditor would receive if –

   (A the case were a case under chapter 7 of this title;

   (B) the transfer had not been made; and

   (C) such creditor received payment of such debt to the extent provided by the provisions of this title."

Over 2 years after the complaints were filed under seal, the Debtor served the complaints upon the Defendants. Eighty-three of the Defendants filed motions to dismiss the complaints asserting, among other things, that the complaints were defective and were not sufficiently pled under the heightened pleading standards of *Twombly* and *Iqbal,* which set forth what claims for relief must include under Rule 8 of the Federal Rules of Civil Procedure (which is applied to bankruptcy adversary proceedings under Bankruptcy Rule 7008).

Rule 8 states that a complaint must contain, among other things, "a short and plain statement of the claim showing that a pleader is entitled to relief." Prior to *Twombly* and *Iqbal,* courts held this to mean that a complaint should not be dismissed for failure to state a claim unless it appeared "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Conley v. Gibson,* 355 U.S. 41, 45-46 (1957).

In *Twombly,* an antitrust case, the United States Supreme Court stated that while factual allegations need not be detailed to survive a motion to dismiss for failure to state a claim under Rule 8, they require more than "labels and conclusions, and a formulaic recitation of the elements of a cause of action." The Supreme Court further stated that allegations contained in the complaint must be sufficient to raise a right to relief beyond mere speculation, and must state enough factual matter to make a claim "plausible." In *Iqbal,* the Supreme Court held that the heightened pleading standards set forth in Twombly apply to all civil suits in federal courts, not just antitrust cases.

At the July 22, 2010 Delphi omnibus hearing, the Court analyzed whether the preference actions were sufficiently pled under *Twombly* and *Iqbal* (the Court entertained the notion that *Twombly* and *Iqbal* may not apply to the preference actions because they were filed prior to *Twombly* and *Iqbal,* but concluded that the heightened pleading standards applied).

Applying *Twombly* and *Iqbal* to the complaints, the Court held that the complaints were not sufficiently pled under Rule 8 for three reasons: (1) the complaints did not identify which of approximately 40 debtors were the transferors; (2) the complaints did not allege the particular antecedent debts on account of which the transfers were made; and (3) some of the complaints listed multiple defendants in the same action, but did not assert which defendants were initial transferees and which were subsequent transferees (Bankruptcy Code Section 550 provides limitations on avoiding transfers received by subsequent transferees).

Notwithstanding, the Court did not dismiss the complaints outright, but afforded the Debtor 45 days to file motions to amend the complaints and instructed the Debtor to file a separate motion for each complaint with a copy of the amended complaint attached to each motion. In September 2010, the Debtor filed motions for leave to file amended complaints, with hearings scheduled for December 16, 2010.

*Delphi* follows recent bankruptcy courts applying Twombly and Iqbal to preference actions, including the following:

***In re Caremerica, Inc.,*** **409 B.R. 737 (Bankr. E.D. N.C. 2009).**

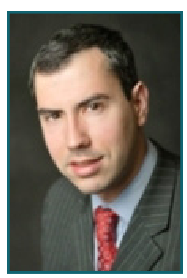
In *In re Caremerica, Inc.,* the Plaintiff sued the Defendants under Bankruptcy Code Sections 547 and 548 seeking to recover preferential and fraudulent transfers. The Defendants filed motions to dismiss alleging that the complaints were not sufficiently pled under Rule 8. The Court, applying the heightened pleading standards of *Twombly* and *Iqbal,* granted the Defendants' motions to dismiss. The Court reasoned: (1) the complaint failed to meet the "plausibility" standard because it did not indicate which debtor entity initiated the transfers in question; (2) the complaint's allegation that the preferential transfers were made for or on account of an antecedent debt was conclusory; and (3) the complaint failed to factually demonstrate that the Debtor was insolvent.

***In re Troll Communications, LLC,*** **385 B.R. 110 (Bankr. D. Del. 2008).**

In *In re Troll Communications, LLC,* the Plaintiff sued the Defendant under Bankruptcy Code Sections 547 and 548 seeking to avoid and recover preferential and fraudulent transfers. The Defendant filed a motion to dismiss asserting that the Plaintiff did not sufficiently plead "insolvency" because certain facts that the Debtor pled relating to insolvency were inconsistent with facts contained elsewhere in the complaint. The Court held that notwithstanding the apparent inconsistencies in the complaint, the Plaintiff sufficiently pled the allegation of insolvency because the allegation was supported by specific factual statements and not mere conclusory allegations. The Court noted that a plaintiff is only required to plead sufficient facts, not prove them, to survive a motion to dismiss.

**Commentary**

*Delphi* and the other recent cases exemplify that preference actions have become subject to the heightened pleading requirements set forth in *Twombly* and *Iqbal.* Form complaints with bare recitations of elements that may have survived motions to dismiss under Rule 8 prior to *Twombly* and *Iqbal,* may now be subject to dismissal. Notwithstanding, courts have been pragmatic and liberal in allowing plaintiffs leave to amend complaints. Practitioners prosecuting avoidance actions should seek to provide as much factual support for each cause of action. Practitioners defending avoidance actions should scrutinize complaints to see if they could be dismissed on the basis that they are not sufficiently pled under Rule 8, *Twombly* and *Iqbal.*



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# A Little Prevention Can Save A Ton of Cure

By Jim Nelson, *Manager of Business Development, Guardsmark LLC*

A small Investment in security can save a company millions in lost assets while reducing a manager's potential professional liability.

Some years ago I was bought in to turn around a building supply distribution company in Chicago. The greatest loss was the theft going on by dispirited employees. Here are some of the things I found.

The night shift was pedaling about 10% of the "sold" product out the front door. Truck drivers were using the company credit card to fuel and wash their personal cars at the local car wash. The two teamster locals (drivers & warehouse) were running the business due to the absentee owner and his disinterested and intimidated general manager. Truck Drivers frequently took long lunches and mid-day naps. Most days drivers returned with many undelivered orders. "Traffic congestion" they said. About 10% of the warehouse employees were using and selling drugs on the premises. About 15% were found to have open warrants after doing criminal background checks.

Salesmen were padding their daily mileage to increase their income. Call reports were vague and duplicative. The purchasing manager was ordering extra inventory that was not properly recorded. Inventory records were wildly inaccurate. Inventory counts, when done, were incomplete and poorly documented.

In addition, because the company was perceived as in trouble, and was "letting the employees down", people who were otherwise honest began pilfering their share. They figured that the management must not care since "the other guys have been doing it" without getting in trouble.

Here's how the company was turned around.

- The night shift was eliminated so that trusted employees could be used to manage and monitor all activity.
- Detectives were hired and the gas thieves were caught and dismissed. The sleeping route drivers were terminated.
- Detectives were hired to pose as customers. We identified and eliminated dishonest employees and removed the temptation to "sell" product under the table.
- Senior management was put into the warehouse to manage an exhaustive inventory count for the first time in years. As a result, over $500,000 in unknown inventory was added to the books. Inventory records were made accurate & dependable. Order picking time was reduced by 60%.
- New sales people replaced the mileage mavens and the fictional call reports became history.
- Cameras were added to loading and shipping areas and back doors. Side doors were locked and internally alarmed. New fences and gates were installed to control access.
- A guard was added at night to protect trucks and facilities from theft and vandalism. Lighting was also improved and a reliable security system was installed.

What was the result? The company was returned to positive cash flow within 4 months and became profitable again in 6. The inventory turns increased from 3 to 9 and the AR turnover was also increased dramatically. These changes were not complex; they just required an attention to security. Having proper security over shipping docks, receiving docks, trucks, and people saved a $40 million company. The turnaround was built upon committed management, background checks, security guards, cameras, new gates, and private investigators.

Attention was then turned to adding product lines. Prices were cut to increase turns and return on investment. A dispirited sales force was retrained. The results flowed. Meanwhile, security was retained to protect the remaining employees from harassment and to escort the terminated ones off the premises.

For every troubled company, there is a temptation by employees to do the wrong thing. Everyone is watching what management is doing and takes their cue. If management is seen as dishonest by the employees, rampant theft can take over. People rationalize their level of dishonestly.

When one is brought into a troubled company as a trustee, or a forensic accountant, or as a temporary manager, it is imperative to get control over the security of all the assets of the corporation 24/7. Security is important for the safety of the remaining employees. In a financial crisis, an assault or shooting due to an unstable and revengeful employee is a possibility.

As a leader, your reputation may be at stake. Opposing attorneys love to muddy the water by claiming that the other guy always stole, lied, embezzled, or cheated about the assets. Without establishing swift, accurate, and complete control over all assets, a turnaround situation can become a costly argument over "who shot John". The net result is everyone loses their investment, their jobs, their commissions, and their reputation. Good security addresses this and protects you.

That's why at the end of the day, when it comes to security, spending a handful of dollars on prevention is worth a ton of cure.

*Jim Nelson is a CTTMA member and Manager of Business Development for Guardsmark LLC. He has 20 years prior experience running materials manufacturing and distribution enterprises. Guardsmark provides manned security, risk assessments, and investigative services of all kinds. Guardsmark has 150 offices across the US and employs 19,000 people. Jim's cell is (860) 867 7010 and his email is ajn1066@gmail.com.*

# Revenue Generation Reminders For Your NOT FOR PROFIT Entity - Part One of a Two-Part Article

By Carlton E. Helming CPA/CFF/CITP, CIRA, CTP, CFE, CVA and Michelle Bacha, *Helming & Company, P.C.*

Many components of successful revenue generation begin before you send out a single donation request letter. Having reliable information available to you enables you to use your already limited time and resources to their fullest potential. Interesting to note is the many similarities between fund raising for not for profit entities and commercial businesses focusing on revenue generation. Much of what is written can be adopted by either activity.

**Fundraising Software**

Having comprehensive fundraising software can be a very useful fundraising tool. If your organization uses Excel or software with few options, then consider investing in a more serviceable version that can help you to identify prospective major gift donors, to create reports on how successful your fundraising campaigns have been, and to simplify your organization's mailings.

**Accurate Financial Information**

There is little use in generating revenue without first ensuring that your organization is able to maximize the impact that those funds will have on its mission. Operational inefficiencies and too-high costs can undermine your organization's good intentions and prevent you from helping as many people as you might actually be able to help. By examining your organization's financial records, you may find ways to save money. In doing so, you ensure that your organization is able to maximize the impact and success of its mission.

- **How broad is your funding base?** If your organization is highly dependent on two or three major donations or grants, then losing one could put its ability to operate in jeopardy.
- **What are your expenses?** Know how much it costs to run your organization and any current or planned programs so you know how much revenue you need to raise. Identify costs that seem too high and require further examination.
- **How does the cost of providing your service vary?** Certain staff members or branches may be consistently providing your services in a more or less efficient way than others are. Identify and share the practices that work best and most efficiently for your organization.

In particular, assess the performance of the organization's programs in terms of cost in relation to the impact that each of them has on the organization's mission. Ask yourself: Could a greater number of people be helped if those funds were spent in a different way? Cutting that exciting new program that would allow you to help ten clients might be best if those funds instead could be used to help fifty clients in a different way.

**Measurable Goals**

Meet with key members from all areas of your organization to decide on a few central goals on which to focus for the year. When making decisions, assess your options on how the programs and initiatives will or won't help you to further those goals. You may have the ability to launch a new program during the year, but if it won't directly support your goals then it's likely best to wait. If you're reaching into too many initiatives, then your resources and staff will be stretched too thinly to accomplish any of them well or in completion. By focusing on only a few key objectives and directing all of your resources toward them, you greatly increase your chances of accomplishing what you set out to do.

For each goal that your organization decides to pursue, establish three or four measurements with which to assess your progress throughout the year. Some nonprofits have found success by using the Balanced Scorecard technique to clearly define their goals and how success is to be measured.

**Relationship Building**

It costs more to find a new donor to replace one whom you lost than it does to retain a current donor. Relationship-building activities make your supporters feel appreciated and involved in your organization, which increases the chances that they'll continue to donate to your organization and that they'll increase the size of their donations. Don't just contact supporters when you're asking for money; they may feel used or, worse, wonder where their funds are being spent if they're not kept up-to-date on your organization's achievements between solicitations.

Build a relationship with everyone who contributes to your organization, though you shouldn't spend the same amount of time on each person. For your casual supporters, it's often enough to send out newsletters and to mail thank-you cards within 48 hours of receiving a donation.

More personalized fundraising letters, quick notes, and event invitations are appropriate for your more major donors. There are many ways to reach out to your organization's loyal supporters expeditiously: By keeping track of their birthdays, anniversaries, and interests you can find many little reasons to send a card or to write a quick email. If you're hosting an event soon, then invite your biggest supporters and consider taking photographs of them at the event so you can send them a copy later.

**Publicity and Awareness**

The more aware of your organization and the good things that it accomplishes that people are, the more likely they are to donate.

- The organization's current donors will enjoy seeing the positive things that the organization is accomplishing with their donations, and seeing your organization active in the community and in the media will keep the organization in their thoughts.
- The increased public awareness of your organization and its cause will enable you to reach many new potential supporters without paying for letters or phone calls to each of them.
- Potential corporate sponsors will find your organization more attractive because their contribution will be more visible and better-known by the public.
- Pieces of media about your organization will seem more believable to outsiders than descriptions of accomplishments that you generate yourself.

Because improved public awareness can improve your organization's standing with many different donor bases, raising public awareness for your organization and its cause should be something that your organization actively pursues. Being visible and identifiable in your community and soliciting media attention can help you with this. Even if your nonprofit is small and locally-based, you're still likely to get press in local publications if you send them press releases and notify them of events to put on their events calendars.

**Market Research**

Is your organization primarily supported by one demographic or market segment? Consider gender, age group, life stage (ex. married with children), background, and any other grouping that you can think of. This will help you to find your most sympathetic prospective supporters when targeting new donors. Also, consider the audiences that you aren't reaching: Is there the possibility of expanding into any new markets?

To help your organization better retain donors, try to find out as much as you can about why your supporters chose your organization, what aspects of it interest them in particular, and why former donors have chosen to cease supporting your organization. Call groups of each to ask if they'd be willing to answer a few questions:

- Why did you decide to support our organization?
- Are/were there any programs or aspects of our organization that are/were particularly appealing to you?
- What are/were the aspects of our organization with which you are/were dissatisfied?

*Carlton E. Helming CPA/CFF/CITP, CIRA, CTP, CFE, CVA is founding partner of Helming & Company, PC located in Wallingford, CT. Michelle Bacha is an intern at the Firm.*

*Helming & Company, P.C. is one of Connecticut's premier firms of business advisors and certified public accountants. The Firm specializes in business analysis and profit improvement, business valuations, litigation support and "first class" professional accounting and tax services. Clients include commercial for profit as well as intentional not for profit entities.*

# Predictions for 2011

By Diane Swonk, *Chief Economist and Senior Managing Director, Mesirow Financial*

I've just finished presenting my economic outlook for 2011, at Mesirow Financial's Annual Outlook event. Here's a synopsis of what I and my colleagues are predicting for business in the year ahead:

On the economy, I expect consumer spending to pick up but to lag behind business investment, which will continue to expand, particularly spending on technology equipment. That won't help much with job creation, so the unemployment rate will likely remain high, though GDP approaching 4% by year's end will begin to help there.

One long-term issue we will have to face is the budget deficit. Short-term, the President's recent deal with Republican leaders to extend tax cuts and unemployment benefits will increase the flow of red ink. The longer-term issue, the elephant in the room, is entitlements like Social Security and Medicare because they account for the biggest chunk of government spending.

I don't see inflation being a problem in 2011. My colleague in fixed income, Steve Luetger agrees and predicts a flattening of the yield curve, though the treasury market is clearly pricing in some inflation down the road by possibly 2012 or 2013.

Susan Schmidt in U.S. Equity recommends quality companies which will have opportunities to deploy the excess cash on their balance sheets, boosting strategic acquisition activity. Judicious picks in the small cap area could reward investors handsomely.

Quality is the keyword for Richard Stein in the Chicago real estate market too - and patience!

When it comes to international real estate, our Joshua Daitch is confident that demographics will support solid growth in housing for the lower end of the market.

Staying international in focus, Gary Klopfenstein in charge of forex and commodities, predicts that China could finally abandon the yuan's peg to the U.S. dollar in 2011; I agree. He also expects emerging market growth to continue to bolster demand for commodities, but as usual in this sector, watch out for volatility.

That sort of growth should support good gains for investments in certain international markets, according to our international equity expert, Leila Heckman. She reminded us that the US stock market accounts for less than half of the world's equities, so staying domestic is not an option.

Domestic regulatory issues could continue to be an issue for bad actors in the expert network area, but our hedge fund guy, Thomas Macina says insider trading inquiries are not a hedge-fund specific worry. He says the risk-averse should avoid paying too much for puts, or tailrisk-oriented hedge funds.

Back to quality with private equity, venture capital and the like: Mesirow Financial's Thomas Galuhn said fund flows are increasing and that there should be plenty of opportunities next year for careful investors.

Our fearless leader, Jim Tyree, calls us on our predictions at the end of the year, so watch this space. For himself, he boldly suggested healthcare investments in 2011!

More numbers to crunch ahead of the U.S. trade figures due out early Friday morning; I'll post my analysis here, shortly afterwards.

*Diane Swonk is a Chief Economist and Senior Managing Director at Mesirow Financial, 350 North Clark Street, Chicago, IL 60654 USA, www.mesirowfinancial.com.*

*For further information on specific matters in this summary, please contact Diane Swonk, consulting@mesirowfinancial.com., (303) 997 5840.*

# 2011 at a GLANCE

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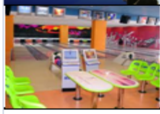
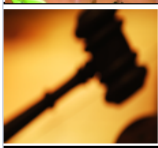
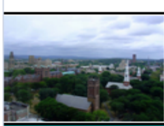
|---|---|---|---|---|
|  | January 10 - Expert Series | Join us for the first in a new program we are calling "The Expert Series." The feature of this evenings event will be a review and discussion of the Distressed Real Estate markets, locally and nationally and the opportunities and pitfalls that lie ahead. | Graduate Club, New Haven | 5:30 pm - Reception and Dinner |
|  | January 17 - Future Leaders | This event is designed to help Young Professionals and Future Leaders mix and mingle amongst their peers and contemporaries in a fun and casual setting. | Milford Bowling Lanes | 6pm |
|  | February 7 - Expert Series | Join us for the second installment in the "Expert Series." This program will focus the discussion on Valuations and Appraisals. Learn from our experts the trends they are seeing in the market place locally and nationally and help decide if the trends are up or down. This event will also feature a student recruitment campaign to help further engage the graduate students in Connecticut. | Graduate Club, New Haven | 5:30 pm - Reception and Dinner |
|  | March 14 - Expert Series | Join us for the third installment of the "Expert Series." This program will feature the view of the Retail Sector. It is said that retail is a bellwether for overall economy so this could be quite foretelling of things to come. | Graduate Club, New Haven | 5:30 pm - Reception and Dinner |
|  | April 11 - Wine Tasting | Join us for a quiet and relaxing evening of fine wine, good conversation and making new friends. This will be a New and Renewed Member event to encourage who are not members yet to join. It's a beautiful location that always draws a wonderful crowd. A simply must go to event. Spouses, significant others and friends are all welcome. | Gouveia Vineyards, Wallingford | 5:30 pm - Wine Tasting and Reception |
|  | May - Women's Golf Clinic | Take a preseason lesson or get a much needed tune up. Either way this event was a big success for our Women's Networking Group last year with rave reviews. | TPC River Highlands | TBD |
|  | May 12-13 - Mohegan Sun | Plan on attending this Industry Regional Event with our sister chapter in New England and our friends at the New York Institute of Credit. There will be three featured panels, the infamous "Views from the Bench" with our area Judges, golf and spa events, and networking opportunities throughout. | Mohegan Sun Casino, Uncasville | 2 Day Event |
|  | June 28 - Golf Outing | A wonderful event that raises thousands of dollars for The Cancer Support Community of Southern Connecticut. The day includes lunch on the terrace, 18 challenging holes followed by a reception, dinner, auction and prizes. Join over 100 of your fellow golfers at a great and charitable event. | The Farms, Wallingford | Noon Shotgun |
| | August 23 - Cocktails Waterside | It doesn't get any better than cocktails waterside at this relaxing, late summer networking event. Nothing more need be said! | Milford Yacht Club, Milford | 5:30 pm - Reception |
|  | August 31 - September 1 - Saratoga Springs | Plan on attending this end of summer Industry Regional Event with our sister chapters in New England and Upstate NY. There will be featured panels, golf, spa and racetrack events and networking opportunities throughout. | Saratoga Springs, NY | 2 Day Event |
|  | September 12 - Lenders Forum | Join us as we get inside the minds of our local bankers. They will be presenting to us what their likes and dislikes are and their insightful views of the credit markets at this fast paced informative programs lays the basis for the deals getting done and those that aren't. Exhibit tables and corporate give-always will entice even the wariest attendee. | Graduate Club, New Haven | 5:30 pm - Reception and Dinner |
|  | October 17 - Future Leaders | Our recent Survey Monkey said many of you were interested in a Breakfast Meeting! Well here is your chance. We haven't done a breakfast in quite some time so we thought we would start out with just networking and see who shows! We are encouraging our Young Professionals and Future Leaders to help round out the group. | Graduate Club, New Haven | 8:00 AM |
|  | November - Expert Series | Join us for the fourth installment in the "Expert Series." This program will feature the view of the changing Hedge Fund World and how it will affect our industry. This is always a spirited and engaging discussion. | TBD | TBD |
| Yale SCHOOL OF MANAGEMENT | November - Conference | Plan on attending this co-sponsored event lead by the students of the Yale School of Management, the CT chapter of the Association for Corporate Growth and CT TMA | Stamford Hilton | All Day Event |
|  | December 19 - Holiday Reception | And finally, our end of year tradition, the annual Holiday Reception at the Graduate Club. Good tidings, good cheer, and maybe a toast here and there. Come one, come all. We will be jointly hosting this with the Connecticut Bar Association to help broaden your professional network. | Graduate Club, New Haven | 5:30 pm - Cocktail Reception |

**PLEASE CONSULT THE CHAPTER WEBSITE AT WWW.CONNECTICUT.TURNAROUND.ORG AS DATES AND LOCATIONS ARE SUBJECT TO CHANGE.**

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## A NOTE FROM THE EDITOR

By Joshua W. Cohen, Partner
*Day Pitney LLP*
*www.daypitney.com.*

When we think of the CTTMA, we think of opportunities to grow professionally and to expand our professional networks. The focus tends to center around the educational programs and networking opportunities offered by the CTTMA. As noted in the Message from the President that appears at the front of this Newsletter, "The CTTMA is excited to offer its members a variety of programs on the hot topics our economic community faces that will assist practitioners in all fields of restructuring" as well as "lots of fun networking opportunities." I encourage you to participate in and to support each and every one of those programs and events. However, educational programs and networking are not the only vehicles the CTTMA offers for learning and business development.

The CTTMA Newsletter provides another opportunity for members to stay up to date on the issues, precedents and strategies that are emerging in the bankruptcy, restructuring and turnaround fields. By providing the CTTMA membership with articles on cutting edge and timely topics, the CTTMA provides its members with a resource for expanding knowledge on important topics. In turn, the CTTMA's membership can utilize that information to better represent the interests of clients and to pursue new client engagements. In that regard, I encourage the members of the CTTMA to provide topics of interest that the CTTMA can include in upcoming Newsletters.

The CTTMA Newsletter is not just a passive educational resource. Rather, it is a vehicle through which authors can demonstrate their expertise and can share their valuable experiences with the CTTMA membership. Given the diverse interests represented by the members of the CTTMA, the publication of articles in the CTTMA Newsletter presents a valuable opportunity for you to market your skills and expertise. The CTTMA accepts and considers all article submissions and encourages you to prepare an article when you encounter an interesting issue, precedent or tactic that should be shared with the CTTMA membership. With greater participation by members of the CTTMA in creating content for the CTTMA Newsletter, we have the opportunity to share topics of interest with the CTTMA membership more frequently. Such participation will earn dividends for both the authors and the readers.

I hope you have found this CTTMA Newsletter both informative and topical, and I eagerly await your submissions of articles and ideas for upcoming CTTMA Newsletters. Thank you in advance for your participation in and support of this valuable and rewarding undertaking.

Sincerely,

Joshua W. Cohen, Editor

*Joshua Cohen is a partner at Day Pitney and a bankruptcy and restructuring attorney. He has a national practice handling bankruptcy, creditors' rights, lender liability, commercial contract, fraud and business tort cases, receiverships, workouts and distressed business and asset transactions. He is certified as a specialist in business bankruptcy by the American Board of Certification and has extensive experience handling complex Chapter 11 cases.*

*For more information regarding this newsletter, contact Josh Cohen, jwcohen@daypitney.com, (203) 752 5008.*

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