

HOUSTON BUSINESS JOURNAL

Strictly Houston. Strictly Business.

Vol. 34 No. 27 Week of November 14–20, 2003

houston.bizjournals.com

96 Pages, 2 Sections \$2.00

Lawsuit features all-star cast

PROMINENT PLAINTIFFS

HIGH-PROFILE FIGURES

- Fayez Sarofim, who ranked as the 132nd richest American by *Forbes* magazine in 1999.
- Linbeck Corp., the holding company of Linbeck Construction Co., which built the Bass Performance Hall in Fort Worth and the Space Center in Houston
- Publicly traded conglomerate Maxxam Inc., owner of Sam Houston Race Park with other business interests in aluminum, timber products and real estate.

LOCAL INVESTORS

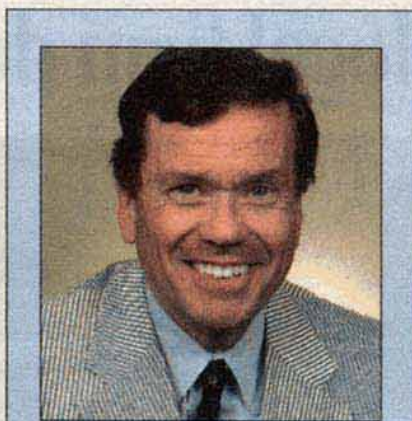
- James McCartney
- Duncan Palmer
- Andrew Linbeck

HOUSTON-BASED COMPANIES

- Alkek and Williams Oil Ltd.
- FSI No. 2 Corp.
- San Juan Investments

OTHERS

- Menlo Park, Calif.-based Arena Partners; Norwalk, Conn.-based Jaffe Holden Acoustics Inc.; and Salt Lake City-based Peterson Ventures I LLC.



Richard Mithoff of Mithoff & Jacks LLP, attorney for the plaintiffs

Failed entertainment venture pits New York financial firm against Houston power players

BY JENNA COLLEY
HOUSTON BUSINESS JOURNAL

A group of high-profile Houston business leaders are locked in a legal dispute with a major New York-based investment firm over a failed venture to develop entertainment venues.

Founders of a now-defunct Houston company known as NextStage Development LP filed suit on Nov. 4 against Warburg Pincus Equity Partners LP, claiming the East Coast financial institution backed out of a \$52.6 million deal to build mid-sized amphitheatres across the United States.

NextStage was formed in 1998 by a group of local power players ranging from individual investors such as mega-rich Fayez Sarofim to publicly held conglomerates such as Maxxam Inc.

SEE NEXTSTAGE, PAGE 64

NEXTSTAGE: Founders of failed company sue investment firm

FROM PAGE 1

NextStage completed only one project, a theater hall in Grand Prairie, before filing for bankruptcy in 2002.

In their lawsuit, the prominent plaintiffs allege that Warburg Pincus failed to make a promised capital commitment of \$52.6 million, which forced the fledgling NextStage into bankruptcy.

The NextStage principals are represented by Houston attorney Richard Mithoff of Mithoff & Jacks LLP.

A legal celebrity in his own right, Mithoff currently represents J.P. Morgan Chase in Enron Corp.-related litigation and attracted national attention in 1977 by winning a landmark breast implant case.

Mithoff says the high-profile nature of the clients drew him to the NextStage case.

"I was struck by the injustice of it and by the fact that they (the plaintiffs) were not just attempting to make money, but to provide venues for performing artists, which is a worthwhile project," says Mithoff. "This is a case in which some well-known Houstonians with good intentions were seriously mistreated by Warburg."

Warburg Pincus declined to comment on the suit through spokeswoman Julie Johnson Staples, a managing director at the investment firm.

ENTERTAINING NICHE

NextStage was conceived in 1998 to construct a network of mid-sized venues for the performing arts, which investors saw as an underserved niche in the entertainment industry.

According to the suit, principals of the limited partnership brought in Warburg Pincus, which allegedly committed to purchase \$52.6 million in stock to get the enterprise rolling.

The company's first venture was a 194,000-square-foot, 6,350-seat hall in

The only remnant of NextStage's ambitious goal to develop a national network of mid-size entertainment arenas is still in operation in Grand Prairie.

Grand Prairie on a 25.5 acre site outside of Dallas.

NextStage was granted a 50 percent tax abatement for five years worth \$374,000 from the Grand Prairie City Council.

In addition, the city approved \$17.9 million in bonds to purchase the amphitheater from NextStage in 2001, with plans to lease the facility back to the company for a 21-year term.

But in August of 2002, six months after the facility opened, word hit the City of Grand Prairie that the Houston company had filed for Chapter 11 bankruptcy.

The following month, Los Angeles-based companies Anschutz Entertainment Group Inc. and House of Blues submitted winning bids in U.S. Bankruptcy Court to take over the operations of the amphitheater for \$200,000.

While the Grand Prairie deals were taking place, the lawsuit alleges that

NextStage investors were being eased out by Warburg Pincus, which was acting as majority shareholder despite the firm's failure to follow through on its financial commitment.

According to the suit, investors also weren't informed of plans by Warburg Pincus to put NextStage into bankruptcy for the purpose of recouping the investment firm's losses.

Attorney Mithoff claims that the Chapter 11 proceeding was designed to protect Warburg Pincus, and his clients were left holding the bag on their private investment of about \$17 million in cash.

Mithoff expects the case to go to trial late next year.

While the legal drama continues to unfold in Houston, the only remnant of NextStage's ambitious enterprise keeps on rocking in Grand Prairie.

The facility has remained operational since being acquired out of bankruptcy, booking performances by the likes of comedian Chris Rock and the Trans-Siberian Orchestra. ■

jcolley@bizjournals.com • 713-960-5932