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## Death of an Insurance Salesman's Dream?

The end of an Insurance Salesman's Dream came quickly on October 29<sup>th</sup> for Brooke Corporation and Brooke Capital Corporation.

On that date both corporations appeared in court for Chapter 11 bankruptcy protection saying their financial situation was "too deteriorated for there to be a realistic chance for reorganization".

You can download a copy of the 204 pages that make up the bankruptcy filing at [www.fyigeorgiaviews.com](http://www.fyigeorgiaviews.com) if you wish but please allow me to save a tree by listing the highlights I gleaned from quite a few minutes of in-depth reading:

Both corporations estimated that funds will be available for distribution to unsecured creditors and estimated their number of creditors at somewhere between 1,000 to 5,000. 142 pages of the 204 combined filing were devoted to an alphabetical listing of creditors.

I might have overlooked it in the page after page of creditors but I did not see a single insurance carrier listed as a creditor. And that is strange to me since Brooke supposedly had all of the company contracts in the name of the corporation. Commissions on policies sold by the franchisees were supposed to be sent to Brooke Franchisor for distribution after deducting expenses.

Most of the over-priced leases and utilities were in the name of Brooke.

I think it was their way of making sure the leases, utilities, advertising, monthly franchisee fee as much as 15% of the net commission and loan payments were made in a timely fashion.

Unfortunately, according to reports from the Special Master appointed by the court last month, that didn't happen as promised. Unpaid landlords have evicted many of the franchisees, utilities have been turned off for non-payment and most, if not all, franchisees did not get their September commissions.

Apparently some of the franchisees decided to keep premiums paid by their customers rather than depositing the funds in the Brooke Receipts Trust Account. He said so in a special communication to the franchisees on September 26:

## Special Master Warns Brooke Franchisees

*Threatens to turn them over to State Insurance Departments*

September 26, 2008

Brooke Franchise Agents

Re: Non-compliance of Premiums processed for payment in the online account

Dear Franchisee:

The Processing Center has reported to me as the Court Appointed Special Master, that many franchisees are not properly depositing premiums in the Brooke Receipts Trust Account. In the past 15 days Online Uncollected accounts have risen by over \$440,000. Premiums paid to you by customers are held in trust for the benefit of insurance companies so your customer's policies can be placed or continue in force. Keeping customer premium payments is 1) a criminal offense, 2) causes your customer to lose coverage and, 3) is a violation of your franchise agreement.

We have been working this week to identify monies and provide transparency in all Brooke Trust Accounts. To do that it is essential that we have your cooperation and that customer premium payments are submitted immediately. This is critical in our current negotiations with the institutional lenders and in our efforts to pay settlement as soon as possible.

I am prepared to begin turning these situations over to your specific State Regulatory body and canceling policies for customers that the franchise agents have not deposited insurance company premiums in the local Receipt Trust Account. This is a serious matter and needs your attention as a Franchise Agent immediately. Those Franchise Agents that fall into this category will receive notification of online balances via fax today and Monday. To address this situation immediately please call Denis Strobel at (913) 266-4581.

For those Franchise Agents who have been following the correct procedures we thank you for keeping the process transparent and following the correct process through these difficult times. My efforts this week have been focused on working with the institutional lenders to provide monies for settlement and completing the review of all Brooke financial accounts. When we reach agreement and details are finalized, my staff and I will provide a complete update. This will include the expected timing of the settlement funds to the Franchise agents.

Sincerely,

Albert Riederer,

Court Appointed Special Master

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## **Death of an Insurance Salesman's Dream?**

Continued

### **Anyway ... back to the bankruptcy filing ...**

Most of our carriers pay commissions for the entire policy period up front and deduct unearned commissions from new business at a later date. If Brooke stops selling policies, wouldn't the unearned commissions be an unpaid debt and the carriers be listed as a creditor?

The plan is to liquidate the unsalvageable parts and sell the salvageable parts. On the day before the bankruptcy filing a couple of Kansas businessmen offered to buy the assets for an as yet undisclosed price.

Both bankruptcy filings for Brooke Corporation and Brooke Capital Corporation estimate their assets at somewhere between \$100 million to \$500 million but they list their estimated liabilities at more than \$1 billion.

Brooke and its 30+ affiliates were part of a rapidly expanding network of independent insurance agencies founded by Robert Orr in 1986. Orr outlined his Master Plan in his book "Death of an Insurance Salesman?" I have a copy in my library. It's actually quite well written and thought-provoking. But somewhere along the way the wheels fell of the wagon.

Brooke financed the acquisition of agencies, managed their repackaging and financed their sale to new owners. Brooke also repackaged and resold the loans used to finance the acquisitions as securities to Wall Street investors and to groups of mostly small Midwestern banks.

At one time, there were about 900 franchisee and company-owned agencies across the USA. Now there are less than 250.

It was an Illinois bank that forced Orr to sell all of his 44.26% of the stock after defaulting on loan payments. Orr is now completely outside looking in at the empire he built over the last 22 years. He has been quoted in several articles that he now has to depend on his wife's assets to maintain his lifestyle.

I feel for the folks who sold their agencies to Brooke on a payment plan. They apparently make up the list of creditors holding the 20 largest unsecured claims. The smallest amount is about \$200,000. The largest is a whopping \$6,700,000!

It's interesting to note that the decision to file Chapter 11 was done in a special meeting of the Board of Directors on October 10<sup>th</sup>, more than 2 weeks before the actual filing. They did a great job of not revealing their plans to anyone, especially to the hundreds of franchisees who anxiously awaited word on their collective futures.

The Special Master's style of diplomacy reminds me of the person who says "nice doggy, nice doggy" to a growling hound while looking around for a stick.

Albert Riederer, the Special Master appointed last month, was also appointed as trustee in Brooke's Chapter 11 bankruptcy filing. Most of Brooke's top management and directors have long since resigned, leaving the companies with no overall management knowledge or experience.

Riederer has offered a release from the franchise agreement for any franchisees who request it. The release gives them the right to negotiate contracts with carriers. Unfortunately it appears the franchisees are still on the hook for any financial obligations to Brooke or to their lender that their loan was sold. Policies sold using the Brooke Master Code still belong to Brooke and the franchisees are not supposed to directly solicit them to sign an Agent of Record.

So what's going to happen to former Brooke franchisees?

Some will be disgusted with the pitfalls of ownership and will return to the ranks of employment with the spectre of lawsuits from the lenders hanging over their heads.

Some will open a smaller agency and try to steal the business from Brooke, rationalizing that it's really their business. Two wrongs do not make a right.

Some will ask for employment from their former competitors, promising to bring their book of business with them. Unfortunately, it's not their business to bring.

If they asked my advice I'd tell them to contact Smart Choice at [www.smartchoiceagents.com](http://www.smartchoiceagents.com). Smart Choice is focused only on you and your success.

So what's going to happen to the agencies that decide to stay with Brooke? Will they go along with the plans of the new owners?

The way I see it they have little choice if they wish to keep servicing the book of business that belongs to Brooke.

Of course, I suspect the carriers actually do not have to agree to appoint the new owners. That's the way it is in Georgia.

In Georgia, a non-renewal is sent to all policyholders if a carrier terminates the agency-company relationship and the notice includes wording that tells the policyholder they can continue the policy if they wish.

The carrier would be forced to covert the policy to a Direct Status similar to those sold by carriers that sell direct to the consumer. The carrier is under no obligation to pay renewal commissions to anyone but themselves in this situation.

But none of Brooke's carriers would do that ... would they? Time will tell ...

In nature, fire burns away the debris and allows for new growth.

I predict the same for what's left of Brooke.



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