

Crain's Chicago Business

Brown's Chicken files for Chapter 11, brought down by lawsuit

By: Lorene Yue Dec. 30, 2009

(Crain's) — Brown's Chicken & Pasta Inc. of Elmhurst has filed for Chapter 11 bankruptcy protection following a legal dispute between its two owners.

The suburban fried chicken chain sought protection from its creditors on Tuesday after majority owner Frank Portillo Jr. lost a lawsuit filed by minority owner Thomas Kennefick of Villa Park. Mr. Portillo — brother of Dick Portillo of Portillo's Restaurant Group fame — owns 65% of Brown's Chicken while Mr. Kennefick owns 35%, according to a court document.

A DuPage County Circuit Court judge recently ruled that Brown's Chicken had to pay Mr. Kennefick \$882,000 for his share in the business. Mr. Kennefick wanted to cash out his holdings following a power struggle, said **Robert Lang**, an attorney at **Holland Knight** who is representing Mr. Kennefick.

"Frank and Tom were partners for 27 years and Frank brought in his daughter, Toni, to replace Tom," said Mr. **Lang**.

Mr. Kennefick sued Brown's Chicken in April 2007 after he valued his investment at \$1.1 million and the restaurant chain countered with \$200,000. He also claimed that Mr. Portillo misappropriated company funds by spending Brown's Chicken money on landscaping for Mr. Portillo's Hinsdale home. That part of the suit is not resolved.

The judgment is to be paid in three annual installments with the first payment of \$294,000 due on Dec. 28.

Brown's Chicken could not make the payment, said Richard Golding, bankruptcy attorney for Brown's Chicken. A Brown's Chicken representative was not available for comment.

Brown's Chicken plans to reorganize its debts and sell its three company-owned stores in Mt. Prospect, Elk Grove Village and in Chicago at Lawrence and Central avenues, Mr. Golding said.

The remaining 36 stores, which are owned and operated by franchisees, are "operating and will continue to operate and are largely unaffected by this filing," Mr. Golding said.

The bankruptcy filing detailed liabilities of between \$1 million and \$10 million and assets of between \$100,000 and \$500,000.

Mr. **Lang** said his client will now ask the court to rule that Mr. Portillo is responsible for paying the \$882,000 judgment. He said Mr. Kennefick is also seeking at least \$300,000 in actual damages and nearly \$1 million in punitive damages as it relates to the allegations of misconduct.

Mr. Portillo, who helped build the first Brown's Chicken at 80th Street and Harlem Avenue in Bridgeview, started the chain with poultry farmer John Brown in the 1950s.

Brown's Chicken peaked in the 1980s with 175 locations, but the company's image suffered greatly following the January 1993 murder of two franchise owners and five employees at a Brown's Chicken in Palatine. Business dropped at least 40%, forcing dozens of locations to close. Two men have been sentenced for the crime, which has become known as the Brown's Chicken Massacre.

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