

Franchise owners take on 'Erma's'

They want court to appoint officer to lead bankruptcy

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By Tracy Turner

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A rebellion of sorts is under way among Max & Erma's franchise owners upset with the new owner who, after 16 months at the restaurant chain's helm, has filed to reorganize it in bankruptcy.

Those 11 unhappy franchise owners representing 28 restaurants have banded together to try to get the U.S. Bankruptcy Court judge to appoint a chief reorganization officer to lead the company through Chapter 11.

"We have no confidence in the current management," said Charles Lagarce, president of the Columbus-based chain's franchise-advisory board. "We've just seen a tremendous amount of loss of intellectual value into the company, and we're doing our best to protect our investment.

"We believe in our brand. It's just a question of (the company) being under very poor management in the past year. We're trying to protect our assets, our employees and our customers. That's what we care about."

Max & Erma's, which was started in German Village in 1958, filed for reorganization this week in Pittsburgh. Its 100-plus restaurants remain open. The chain was bought last year by G&R Acquisitions of Pittsburgh, which is led by Gary Reinert Sr. and took the company private.

According to the bankruptcy filing, Max & Erma's owes an estimated 200 to 999 creditors a total of as much as \$10 million, including \$1.1 million to the Ohio Department of Taxation. The company has between \$1 million and \$10 million in assets.

G&R, which also owns Columbus-based Damon's International Inc., bought Max & Erma's for \$10 million in April 2008.

Damon's also filed for Chapter 11 bankruptcy reorganization this week. The company has about 50 Damon's Grill locations, and its court filing estimated its assets at \$1 million to \$10 million and its debt at \$1 million to \$10 million.

Damon's franchise owners support the efforts of the Max & Erma's group, said Ray Benoist, president of the advisory group of Damon's franchises.

"All the franchise owners are very unhappy, and we may end up supporting the Max & Erma's franchise in any way we can," he said. "We support their thinking and are in total agreement with them."

Max & Erma's has 79 company-owned restaurants and 28 that are owned by franchisees. Most are in Ohio, Pennsylvania and Michigan, including 18 in central Ohio, according to its Web site.

Calls to G&R were not returned.

Although Max & Erma's franchisees might want a larger say in how the company will be managed, they have a fairly high burden of proof in arguing that its current management team is unable to do the job adequately, a local bankruptcy attorney said.

The bankruptcy court typically appoints a trustee to replace a company's management team if there is cause, including fraud, dishonesty, incompetence, or gross mismanagement before the case was filed, said Larry J. McClatchey, a bankruptcy attorney with Kegler, Brown, Hill & Ritter.

"The burden is fairly high because nearly all companies that become insolvent have had some sort of management problems," he said. "So it's got to be something more than just bad judgment or making poor choices."

Also, the court typically gives a company time to "right the ship," McClatchey said.

In the meantime, Lagarce said the franchise owners hope to reach an agreement with the current management team.

Max & Erma's continues to do "business as usual," he said.

"We're still serving our guests, and we've received a lot of support from our customers," Lagarce said. "This is a brand that is loved by this community, and people want it to stick around."

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