



# Dayton Superior Corporation



**ON JUNE 5, 2009, DAYTON SUPERIOR CORPORATION RECEIVED A FINAL ORDER FROM THE U.S. BANKRUPTCY COURT, CONFIRMING APPROVAL OF A \$165 MILLION SUPER-PRIORITY DEBTOR-IN-POSSESSION FACILITY PROVIDED BY GE COMMERCIAL CAPITAL (“GECC”) AFTER A SIGNIFICANT PRIMING DIP FIGHT FROM THE NEW EQUITY POST-REORGANIZATION. MACQUARIE WAS RETAINED BY GECC AS ADVISOR TO THE 1ST LIEN LENDER GROUP IN THE IN-COURT DEBT FOR EQUITY EXCHANGE OFFERING**

## DEAL OVERVIEW

- Dayton Superior Corporation filed Chapter 11 on April 20, 2009
- Incumbent senior lender GECC agreed to arrange a \$165 million debtor-in-possession facility for the debtor
- The Company also received an alternate DIP financing proposal from Oaktree Capital Management, a key holder of subordinated notes
  - Oaktree’s DIP proposal was based upon non-consensual use of cash collateral and liens pari passu to revolving credit liens and junior to term loan liens
- Upon receiving interim approval from the Court, GECC’s proposal received several objections from various parties, including Oaktree
- While the Oaktree proposal involved a “priming fight” and for this reason was unattractive in the court’s eye, the competitive nature of the pricing, fees and structure suggested in the proposal forced GECC to dramatically alter its initial DIP proposal
- GECC was forced to lower pricing and fees, overcoming several legal issues resulting from reinstatement / roll-up issues during the process
- On July 24, the Company filed a Joint Plan of Reorganization
- On October 27, Dayton Superior emerged from Chapter 11

## KEY CONSIDERATIONS

- Highlights the flexibility an incumbent senior lender must have to navigate around objections from multiple parties during a “priming fight”
- The ability of Oaktree to delay the issuance of a final order on the grounds of uncompetitive pricing and fees illustrates the ability of a debt holder/future owner of the Company to force incumbent lenders to provide a DIP that contains market terms
- Illustrative of the unforeseen circumstances that can surround the provision of DIP financing within the bankruptcy process, including those involving reinstatement/roll-up issues
  - Senior revolving credit lender GECC was able to leave behind/avoid “rolling up” term loan lenders into a super-priority DIP facility
- The near-immediate interim approval highlighted the Court’s tendency to favor a proposal which did not involve a “priming fight”
  - Oaktree’s DIP proposal involved non-consensual liens pari passu to revolving credit liens (very controversial)
  - GECC’s proposal did not contemplate a “priming fight” because GECC consented to the priming of its liens on the revolving credit side, essentially securing the DIP facility with its pre-existing collateral package