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Six Years On, Dregs of Brobeck's Bankruptcy Coming to a Close

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SAN FRANCISCO — The bankruptcy of San Francisco's Brobeck, Phleger & Harrison — now six years running — is nearing a close.

One of the final matters associated with the firm's tumble was resolved late last month, when 120 former partners finalized their settlements with the firm's former San Diego landlord, Kilroy Realty Partners, over allegations of unpaid rent.

Former partners involved in the settlement said it was oddly appropriate that one of the final face-offs in resolving the bankruptcy involved the San Diego building they viewed as iconic of the expenditures that precipitated the firm's fall.

Brobeck had signed a long-term lease for space in the swanky new building, but former Brobeck attorneys still dispute whether the partners at the time agreed to be personally liable for some of the lease obligations. What is clear is that Brobeck attorneys never actually occupied the space. After the firm's spending spree got out of control — former partners recalled having too much office space, plus $90 million in debt for office improvements in Austin, Texas; Palo Alto; San Francisco and other cities — the bankrupt estate, former partners and the firm's creditors were all left holding the bag.

In February 2007, four years after Brobeck went bankrupt, Kilroy Realty sued 220 former partners in San Diego Superior Court for $3.8 million in unpaid rent. Over time, 100 partners were either dismissed from the case or reached settlements, leaving 120 former partners as defendants. Joel Zeldin, a partner with San Francisco-based Shartsis Friese who represented 75 of the remaining defendants, the largest group, said he reached an agreement with the landlord in late May through mediation.

Attorneys involved in the case said the large group's ability to settle likely inspired the smaller groups and self-represented defendants to follow suit. The parties would not reveal the settlement specifics, but Zeldin said the lawsuit originally alleged liability ranging from $4,000 to $50,000 per partner. The settlement amounts were set in proportion to each defendant's share of the Brobeck partnership, attorneys said.

"I think it was a good settlement for both sides," said Roderick McLeod, a defendant in the lawsuit who is now a partner at Jones Day in San Francisco. "I voted in favor of settlement on the terms that were finally agreed to because it made sense in light of the overall anticipated expenses — a fully contested trial — and the risks attendant to that." McLeod was one of the former partners represented by Shartsis' Zeldin.

Former Brobeck partners said they were relieved that matters related to Brobeck's bankruptcy were nearing completion.

"I'm very pleased that we've actually succeeded in getting everything that affects the vast majority of the partners settled up," said Ronald Moskovitz, who practiced at Brobeck for 35 years and is now senior counsel at Morgan, Lewis & Bockius in San Francisco. After hearing stories about other firms' bankruptcies, like that of New York-based Finley, Kumble, Wagner, Underberg, Manley, Myerson & Casey, Moskovitz said he expected the proceedings to take as long as 10 years.

But McLeod said he feels the bankruptcy dragged on too long.

"I'm left with a feeling of relief," McLeod said. "But at the same time, I question the continuing costs that bankruptcy proceedings like this have. Why does it take so long?"

The only remaining issues in the firm's Chapter 7 proceedings relate to how fees from Brobeck's unfinished business should be divided. Guiding those questions is Jewel v. Boxer, a 1984 case that helped determine who should get client fees from ongoing matters when a law firm dissolves. 156 Cal.App.3d 171. That case determined that a dissolved partnership gets fees from unfinished matters begun at the defunct firm, if the partnership agreement doesn't say otherwise. Judge Dennis Montali of the U.S. Bankruptcy Court for the Northern District of California is expected to rule on several such matters this summer.