

# Orchid Paper Trustee Says CEO Drove Company Into Ch. 11

By [Rick Archer](#)

Law360 (May 4, 2021, 7:24 PM EDT) -- The liquidating trustee of the bankrupt Orchid Paper Products Co. filed a suit in Delaware bankruptcy court Tuesday accusing the company's leadership of recklessly sending the business into Chapter 11 with an "overly-ambitious and ill-conceived" expansion plan.

Buchwald Capital Advisors alleged in its complaint that ex-Orchid CEO Jeffrey S. Schoen and other officers and directors breached their fiduciary duties, ran up tens of millions in debt and sent Orchid into insolvency with a poorly managed attempt to simultaneously expand the company's manufacturing facilities on both the East and West Coast.

"Despite their ambition, the officer defendants failed at every turn to comprehend the complexities of undertaking a bi-coastal expansion, and failed to plan sufficiently or hire experienced individuals to assist them in this endeavor," the trustee said. "Meanwhile, the debtor's financial records were so fraught with problems that they were largely unreliable."

The suit seeks compensatory damages for the company's losses and clawbacks of the defendants' pay, reserving the right to ask for punitive damages.

South Carolina-based Orchid, which makes toilet paper, paper towels and paper napkins, filed for Chapter 11 in [April 2019](#) with roughly \$271 million in debt, blaming cost overruns, problems with a new \$165 million South Carolina production facility and the rising cost of raw materials.

Orchid's assets were sold at auction in July 2019 to Cascades Holding US Inc. for [\\$207 million](#), and in [February 2020](#) a liquidating trust managed by Buchwald was established to pay off the company's creditors.

The trustee said that Schoen, who served as CEO of Orchid from 2013 until the end of the bankruptcy, and three individuals who served as chief financial officer between 2002 and the Chapter 11 filing embarked on an "overly-ambitious and ill-conceived" plan to expand

the company into the national premium paper market with new manufacturing plants on both coasts.

Buchwald blamed the problems with the South Carolina plant on Schoen's decision to reject industry-standard paper-making equipment in favor of a model new to the market made by a company that had never built a paper mill in the U.S. As a result of this and a failure to provide proper supervision, the project was finished 10 months late and \$30 million over budget, and the machinery proved less reliable and more expensive to maintain than expected, it said.

The liquidating trustee also said Schoen and the others chose the plant site without regard to the lack of a local trained workforce, resulting in a plant full of employees without even basic knowledge of paper making, and also overlooked that the company's preferred raw materials were not locally available.

Buchwald called the West Coast expansion, in which the company bought a California paper plant for \$36.7 million, similarly ill-conceived and unlikely to recoup the investment.

It also said that the company bought all of its raw materials through a single broker and never attempted to negotiate on price.

"Based upon the information they were receiving from the broker, the officer defendants had no way of knowing if the debtor was being charged a market rate for the materials, nor had they ever bothered to look or inquire," it said.

Buchwald also named five members of the board of directors, saying they knew little of either the paper industry or the risks of the expansion and overlooked "inaccurate financial records and unrealistic budgets and projections."

"The director defendants rubber stamped the officer defendants' plans and strategies while pocketing generous stipends and stock grants," the trustee said.

In a telephone interview Tuesday, Brett Amron, an attorney for the trustee, said the case was just getting started.

"We know we have a long road ahead, but the trustee really believes these claims," he said.

Schoen could not be immediately reached for comment late Tuesday.

Buchwald Capital Advisors is represented by Marc J. Phillips of [Montgomery McCracken Walker & Rhoads LLP](#) and Brett M. Amron, Dana R. Quick and Peter J. Klock II of [Bast Amron LLP](#).

Counsel information for Schoen and the other defendants was not immediately available Tuesday.

The adversary case is Buchwald Capital [Advisors LLC](#) v. Jeffrey S. Schoen et. al., case number 21-50431, in the [U.S. Bankruptcy Court for the District of Delaware](#).

--Editing by Jill Coffey.