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## **TFS&M Partners Recover \$6.5M Cash Settlement for Chapter 7 Bankruptcy Trustee**

Miami - September 10, 2008:

The Bankruptcy trustee overseeing the chapter 7 case of Laminate Kingdom, LLC dba Floors Today, represented by firm partners Gary M. Freedman and Robert B. Miller, settled a multi-million dollar lawsuit against the company's largest suppliers of laminate flooring (who also held a 25% ownership interest in the company). In a separate action, the trustee asserted counterclaims against the suppliers' CEO and Chairman, who served as a member of the company's board of managers. Allegations in the various lawsuits were that the suppliers orchestrated their receipt of substantial preferential payments during the one year period preceding the commencement of an involuntary bankruptcy proceeding against the company, by manipulating and/or eliminating credit terms provided to the company during the one year preference period. Additional allegations were that the suppliers failed to provide preferred pricing and favorable credit terms to the company, despite agreements with the company's founders at the time that the company was formed.

The Bankruptcy trustee filed an adversary proceeding in the U.S. Bankruptcy Court for the Southern District of Florida, Miami Division; Trustee against Kronotex USA Holdings, Inc., Kronotex USA, LLC, Kronoswiss (Kronospan) AG (the "Kronotex Entities"). The Kronotex family of companies are headquartered in Germany, but maintain a production plant in South Carolina. In his complaint against the Kronotex Entities, the trustee sought the recovery of preferential transfers in excess of \$5,000,000, and damages in excess of \$20,000,000 for breach of fiduciary duty. He also sought damages for constructive fraud and violations of the Florida Deceptive and Unfair Trade Practices Act, and sought to recharacterize their debt to equity or subordinate it to the claims of other creditors.

In a separate action, Thomas Grafenauer, the CEO and Chairman of the Kronotex Entities, sought declaratory relief against the trustee and Carolina Casualty Insurance Company (the debtor's directors' and officers' liability insurance carrier), regarding his entitlement to a defense under the policy, and his right to indemnification. In response, the trustee asserted counterclaims against him for failure to fulfill his fiduciary duties to the company, failure to address the reckless manner in which the company's executives ran the company's business, and failure to address numerous conflicts of interest engendered by his serving as a board member and as CEO/Chairman of the suppliers, while engineering the payment to the suppliers of substantial preferential payments and refusing to provide the preferred pricing and favorable credit terms that had been agreed upon.

In response, the Kronotex Entities and Grafenauer asserted defenses to each of the trustee's claims, and filed a separate lawsuit against the company's founders, Robert J. Hodges, Robert A. Hodges and Richard J. Hodges (the "Hodges") in the United States District Court for the Southern District of Florida.

The claims asserted in each of these actions were settled in the Bankruptcy Court. Under the terms of the settlement, the trustee received cash payments totaling \$6,500,000 from the Kronotex Entities, Grafenauer and Carolina Casualty. The Kronotex Entities withdrew claims filed against the estate totaling in excess of \$7,500,000, and the Hodges withdrew claims they had filed against the estate totaling in excess of \$7,200,000.