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Legal fight between owners leads to Brown's Chicken chain bankruptcy

Chain overcame bad publicity from 1993 murders but could not ride out bitter legal dispute



Brown's Chicken & Pasta filed for Chapter 11 bankruptcy Tuesday. Its 39 area outlets, including this one at 5601 W. Lawrence Ave. in Chicago, remain open. (Tribune photo by Chris Walker / December 30, 2009)

By Mike Hughlett Tribune reporter
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The 1993 slaying of seven workers at a Brown's Chicken outlet in Palatine damaged business at the Chicago-area chicken chain for years, and to this day has a lingering effect on sales.

Yet, Brown's kept plugging away. And it steadfastly avoided a trip to bankruptcy court — until this week, an apparent victim not of the infamous murders but of a bitter and costly legal dispute between its two owners.

Elmhurst-based Brown's Chicken & Pasta Tuesday filed for Chapter 11 bankruptcy, which allows it to reorganize financially while temporarily shielded from its creditors' claims. Brown's 39 area outlets, all but three of which are owned by franchisees, remain open for business.

The company's woes appear to stem largely from a falling out between Frank Portillo Jr., who owns 65 percent of Brown's, and Thomas Kennefick, who owns 35 percent. Kennefick had been Brown's vice president since 1973.

Over time, the two developed different views on how the company should be run, said Rick Golding, a bankruptcy attorney for Brown's. They eventually parted ways, with Kennefick saying he was terminated in 2007. Kennefick then sued, with his attorney, Rob Lang, characterizing his client's beef against Portillo as one of "shareholder oppression."

In October, Brown's was ordered by a DuPage County court to pay \$882,000 to Kennefick, with \$294,000 of that due on Dec. 28, **Lang** said. The payment is for the value of Kennefick's stock in Brown's.

Brown's listed assets of \$100,001 to \$500,000 in its bankruptcy filing, and liabilities of more than \$1 million.

"They couldn't pay the judgment," Golding said. "It would have made the company insolvent."

But **Lang** believes Brown's could pay it.

"I think it's just out of spite," he said of the bankruptcy. "It's a business divorce, which can be worse than a personal divorce."

In a Chapter 11 bankruptcy, required payments of legal judgments are temporarily frozen. Brown's will likely try to negotiate a more palatable settlement with Kennefick. But if it can't, Kennefick could try to push out current management and take controlling ownership of Brown's. **Lang** said Kennefick has the right to pursue collection of the money directly from Portillo now that Brown's had filed for bankruptcy.

Portillo and Kennefick appear to have once been close. In a 1998 Tribune article, Kennefick described Portillo as a longtime friend and lauded him for his commitment to relatives of the shooting victims.

The relationship seems to have dissolved as Portillo's daughter Toni got more involved in the business in recent years. In his suit, Kennefick said Frank Portillo "unilaterally and improperly ceded management control of Brown's Chicken" to Toni Portillo, who is now the firm's president.

Kennefick said Frank Portillo did so despite the fact that Toni Portillo is a convicted felon, court records say. Toni Portillo in November 2001 pleaded guilty to wire fraud charges involving a former employer. Said Frank Portillo, "There's no law against hiring a convicted felon."

Brown's dates back to a single store in Bridgeview owned by John R. Brown. Portillo frequented it while in high school in the 1940s, and over the years became friends with Brown. They eventually became business partners, and by 1963 had seven outlets. Portillo Restaurant Group, which operates in the Chicago area and is run by Frank Portillo's brother, Dick, is not affiliated.

Brown's grew steadily over the decades. By the late 1980s, Portillo said, it had about 100 stores in the Chicago area and was expanding in other states.

Then, as Portillo put it, came "the Palatine tragedy." That franchised store's two owners and five of their employees were shot to death. Nine years would pass before two suspects, Juan Luna and James Degorski, were indicted and, ultimately, convicted.

In the meantime, a stigma enveloped Brown's.

"Our customers were scared. It got to the point where we were dropping 35 percent to 40 percent in sales in the Chicago market," Portillo said. The firm came close to bankruptcy.

Brown's eventually rebounded, adding pasta and sandwiches to its offerings. But "we never truly recovered," Portillo said.

Coverage of Degorski's trial and sentencing in September again cooled sales, Portillo said. "That stopped the trend up."

Tribune reporter Margaret Ramirez contributed to this report.

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