

EXHIBIT 8
Williams Debt Obligations Circa June 30, 2002 (\$ millions)

Maturity	Long-Term Debt	Short-Term Debt ^a
July 2002–June 2003	\$1,636 ^b	\$711 ^c
July 2003–December 2003	\$434	
2004	\$1,905	
2005	\$255	
2006	\$1,129	
2007	\$1,520	
2008–2010	\$491	
2011–2015	\$2,119	
2016–2022	\$1,608	
2023–2032	\$2,513	
Total	\$11,972	\$711

Source: Williams 10Q Statement, June 30, 2002.

^aWilliams also had access to an unused revolving credit facility of \$700 million. This was a short-term debt facility that Williams had not yet accessed.

^bA total of \$500 million was expected to mature on July 31 and August 1, 2002.

^c\$300 million of this balance matured on July 31, 2002, with the remainder maturing in October.

EXHIBIT 9A Market Conditions: Monthly Issuance of Debt (\$ billions) by Credit Rating, January 1997–July 2002

Source: Securities Data Corporation. Represents the proceeds of public debt offerings. For example, the dark line represents the monthly issuance volume of bonds rates BB.

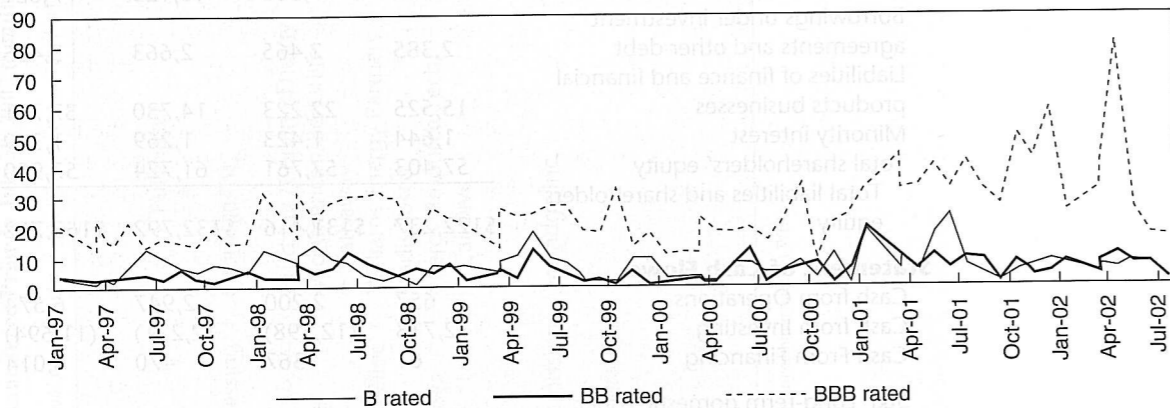
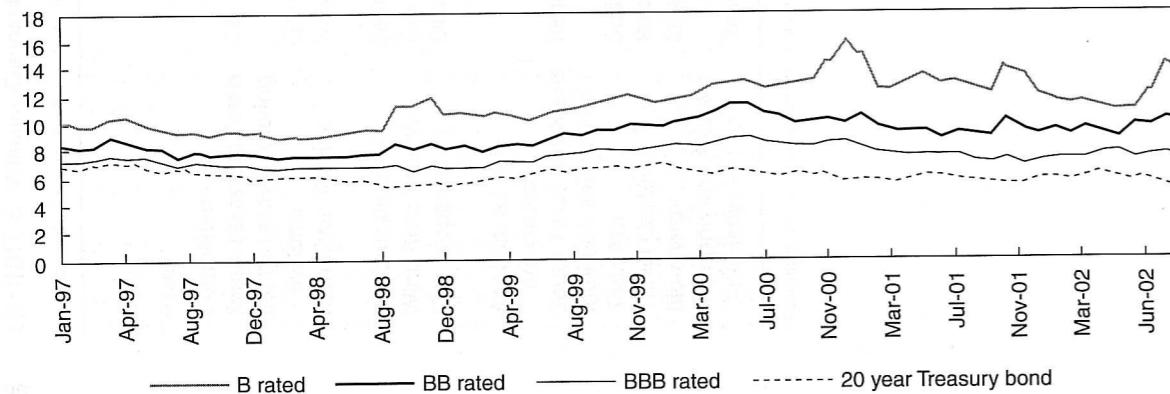


EXHIBIT 9B Interest Rates (in percent) for Long-Maturity Bonds, January 1997–July 2002

Source: Casewriter calculations from Lehman Brothers bond database and Federal Reserve Board.



The Loewen Group, Inc. (Abridged)

In March 1999, John Lacey and the management team at the Loewen Group, Inc., had to decide what course of action to take in light of the company's imminent financial difficulties. On January 22, 1999, Lacey, a renowned turnaround specialist, was appointed chairman of Loewen, the second largest death care company in North America. Headquartered in Burnaby, British Columbia, Loewen owned over 1,100 funeral homes and more than 400 cemeteries in the U.S. and Canada; it also owned 32 funeral homes in the United Kingdom. The company had come a long way since its modest beginnings in Canada, where Ray Loewen, the founder (and, until recently, chairman and CEO), started out helping his father run the family funeral business in the late 1950s. During the last two decades, Loewen Group had grown explosively, mainly by acquiring small independent funeral homes and cemeteries in densely populated urban markets; in recent years the company had also acquired several large established funeral chains. Over the last five years alone, consolidated revenues had grown by nearly 30 percent a year, on average, from \$303 million to over \$1.1 billion.

Despite its impressive growth, the company faced a major financial crisis. It lost \$599 million for 1998, compared to earning \$43 million the previous year. Loewen's ongoing acquisitions program had been aggressively financed with debt. At year-end 1998, total debt stood at more than \$2.3 billion—more than seven times the amount outstanding five years earlier. Loewen's common stock, which was simultaneously traded on the New York, Toronto, and Montreal stock exchanges, had ended the year at around \$8 in New York, down from roughly \$40 at the end of 1996.

Confronted with the company's mounting difficulties, in October 1998 the Board of Directors replaced Ray Loewen as CEO; soon thereafter, with the appointment of John Lacey, he was also replaced as chairman. The company also took some steps to raise profitability and cash flows. It consolidated various administrative functions at corporate headquarters and cut management overhead. It reviewed its pricing policies. Finally, it hired investment bankers to explore various financing options, including asset sales, strategic partnerships, and outside capital investments in the company. However, the company's situation continued to worsen, and in mid-February 1999 Standard & Poor's downgraded Loewen's public bonds from B+ to B-, its fourth downgrade in less than a year. Loewen's stock price dropped 38% that day. In addition, Loewen would almost surely violate certain covenants in its bank debt as a result of the company's 1998 financial performance, making it necessary to restructure the debt. Overall, in the twelve months prior to February 1999, Loewen's stock price fell by about 92%, to \$1.93, and its bond prices fell by 30%.

This is an abridged version of an earlier case, The Loewen Group, Inc., HBS No. 201-062, which Professor Stuart Gilson prepared with the assistance of Research Associate Jose Camacho as the basis for class discussion rather than to illustrate either effective or ineffective handling of an administrative situation. Material in this case and in the original comes from published sources (public company documents and the general business press) and draws on research by David Gallo, Ian Reynolds, and Collin Roche (all HBS Class of 2000), as reported in their paper, "The Loewen Group: An Autopsy of a Chapter 11 Death Care Company."

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Loewen had not yet missed any payments on its debt, and had approximately \$30 million of cash on hand. However, this would not be sufficient to meet several large interest and principal payments that were due over the coming months. A payment default would only make negotiations with creditors more difficult, and increase the likelihood of bankruptcy. This possibility would no doubt weigh heavily on the managers' minds as they turned to the important task of restructuring the company's debts.

The Death Care Business

The primary activities of death care firms include the provision of funeral, burial, and cremation services, and related products like cemetery plots, caskets, urns, and gravesite markers. Funeral services and cemetery plots can be sold either on an "at-need" basis (i.e., at the time of death), or on a "prearranged" or "pre-need" basis. In the latter case, payment for a funeral service or cemetery plot is made in advance, and the proceeds are either held in trust or invested in an insurance policy (that names the death care firm as beneficiary).

In 1999 the death care industry was highly fragmented, with approximately 22,000 funeral homes and 9,600 commercial cemeteries in the U.S. Most of these were small family-owned concerns that served their local communities, where reputation and personal relationships were critically important in generating future business. The largest firms in the industry were, like Loewen, publicly traded, and had achieved this scale by acquiring hundreds of independent funeral homes and cemeteries. At the end of 1998, the four largest firms (Service Corporation, Loewen, Stewart Enterprises, and Carriage Services) collectively owned 2,986 funeral homes and 1,083 cemetery properties in the U.S., but this represented only 13.5% and 11.3%, respectively, of the U.S. market. (They also owned businesses outside the U.S.) Exhibit 1 provides financial data for the major firms in the industry and Exhibit 2 shows their stock price performance.

Aggregate revenues in the death care industry were relatively predictable. One reason was that death rates were largely driven by demographic factors that did not vary significantly from year to year. Since 1960, the number of deaths in the U.S. had increased at an annually compounded rate of 0.8% a year. Occasional large deviations from this rate were possible, however.¹ Another stabilizing influence on revenues was the historical lack of price competition in the industry. New entry into the funeral home business was extremely difficult, given how much weight most people placed on tradition and reputation when selecting a funeral home. New entry into the cemetery business was often limited by regulation, or by scarcity of land. Further, in the case of at-need sales, bereaved family members were rarely in a frame of mind to haggle over price.

This industry stability produced an exceedingly low business failure rate among funeral homes. According to Dun & Bradstreet, the average annual failure rate for funeral homes and crematoria—8 out of every 10,000—was less than one-tenth the rate for all U.S. businesses.

Pre-need Business

During the 1990s, pre-need sales of funeral services and cemetery plots had come to represent an increasing share of the death care business. The segment of the population that was most likely to buy on a pre-need basis—former Baby Boomers who were now in their 50s and 60s—was rapidly expanding. From the companies' perspective, pre-need sales provided a way to lock in sales growth and market share. A

¹For example, the number of deaths in the U.S. actually declined in 1981 and 1982—by 0.6% and 0.2%, respectively—but then increased by 2.3% in 1983 due to the sudden onset of HIV-related illnesses. Source: F. B. Bernstein and Y. C. Nainzadeh, *Post Life Services*, Merrill Lynch, April 26, 1999.

large and increasing fraction of Loewen's revenues was derived from pre-need sales, particularly of cemetery plots; by 1998, \$258 million (41%) of its funeral services revenues was from pre-need sales, as was \$306 million (75%) of its cemetery revenues (up from 22% and 61%, respectively in 1995).

SCI was especially aggressive in marketing its pre-need business. At the end of 1998, SCI had a pre-need funeral backlog of \$3.7 billion, compared to \$410 million for Loewen, \$819 million for Stewart Enterprises, and \$225 million for Carriage Services.² (The backlog represented the total value of insurance policies outstanding that have been taken out to cover the costs of providing future services and products under pre-need sales contracts.) It was estimated that the total pre-need market in the U.S. was between \$20 billion and \$50 billion in size, measured by current backlog.³

Pre-need sales gave rise to cash flows in advance of rendering services. These funds were either invested in securities or in an insurance contract. Companies earned an investment return on monies that were paid to them in advance. The accounting for pre-need services was quite complicated. Standard industry practice was to defer recognition of revenues until services were delivered, but for pre-need sales of cemetery plots, the profit on the sale was usually as current income, although additional customer payments and expenses would not be received or incurred until well after that recognition.

Growth through Consolidation

Loewen Group and the other large public death care companies employed a dramatically different business model than traditional family-owned funeral homes. Traditional businesses had historically had to contend with high fixed operating costs, which limited profit margins. Fixed costs were high because a funeral home might typically perform only one or two services a week, yet have to employ an office receptionist and various back office staff full time. Similarly, essential assets like hearses and embalming equipment would sit around most of the time unused, tying up capital.

In the 1960s, Robert Waltrip, founder of Service Corporation (SCI), recognized the potential to realize enormous cost savings in the industry by buying up funeral properties in concentrated geographic areas, and eliminating redundant assets and overhead expenses. A cluster of funeral homes formed this way would only have to employ a single receptionist, for example, and could share hearses and other fixed assets. A typical cluster might include ten to twenty properties, located within a 30- to 60-mile radius. It was estimated that in an SCI-owned funeral home, fixed costs represented 54% of revenues on average, compared to 65% for the rest of the industry (although SCI homes were typically somewhat larger than average).⁴ To avoid alienating local communities, SCI continued to operate acquired properties under the original name; no "SCI" sign or logo was displayed.

SCI's consolidation strategy had two other potential benefits. First, through increased buying power, the company might be able to obtain price concessions from suppliers (e.g., for caskets and embalming chemicals). In addition, managers of the acquired businesses would gain access to SCI's considerable financial resources and professional management practices. Thus SCI-owned funeral homes were also able to lower their variable costs, which were estimated to be 15% of revenues, versus 23% for the average U.S. funeral home.⁵

²Ibid.

³Data from the National Funeral Directors Association.

⁴See C. Schreiber and B. Esty, *Service Corporation International*, HBS Case No. 296-080 (July 24, 1996).

⁵Ibid.

The consolidation strategy had its critics, however. Over the years there had been recurring accusations in the news media that SCI and other funeral home consolidators reduced competition and charged excessive prices.⁶

Ray Loewen's Way

Ray Loewen's entry into the funeral home consolidation business began in 1969, when he purchased a funeral home in British Columbia after learning that the home's owner was thinking of selling out to SCI. (At the time, Loewen owned a single funeral home in Ontario.) Loewen foresaw that increasing numbers of funeral home directors, many of them in their 20s or 30s who had inherited the business from their parents, would be receptive to selling their businesses to pursue alternative careers or because a disproportionate fraction of their wealth was tied up in the business. Loewen approached the consolidation process differently from SCI. The few Canadian funeral directors who had sold their businesses to SCI appeared to be unhappy with SCI's approach of managing "from afar."⁷ Loewen's self-described approach, in contrast, was to take a majority ownership stake in each acquired business, but to retain the same managers if possible, and to give them relative autonomy:

You can't have a group of MBAs in a head office telling funeral directors how to work. They feel they know their craft and their community. So let's stress local management. If a man wants to retire—or do some estate planning—and he has a good operation, number one in his community, let's give him a good deal, allowing him to live well, ease up a bit, but remain with the firm that carries the family name.⁸

The seller often retained a small minority stake in the business, and might receive Loewen stock as partial payment. (SCI, in contrast, had a policy of acquiring full ownership of acquired properties, although the previous owners might be kept on in a management role.) After acquiring a business, Loewen Group would often provide financing for capital improvements and increased merchandising. However, the company eschewed aggressive sales tactics, the use of telemarketing, and negative advertising that was critical of competitors. Loewen believed such tactics undermined the industry's credibility. However, Loewen apparently spared no expense in courting independent funeral home and cemetery owners who were potential acquirees.

As Loewen Group continued to grow through acquisitions during the 1970s and 1980s, its demand for capital increased, and in mid-1987 it listed its shares on the Toronto Stock Exchange. (Three years later it also acquired a U.S. listing on Nasdaq.) In August 1987, Loewen paid \$1.8 million for its first U.S. acquisition, on condition that the owner stay as manager for three years. "It was made clear," the owner said, "that if I did not wish to work, they did not wish to buy."⁹ Shortly thereafter, Loewen acquired a small local chain of funeral homes in Fresno, California. Having achieved a foothold in the giant U.S. market, Loewen Group's growth escalated. Dozens, later hundreds, of new properties were added every year. Exhibit 3 shows acquisition premiums paid by Loewen and its competitors and Exhibit 4 presents summarized financial data over a ten-year period. By 1998, the company had properties in 48 U.S. states and eight Canadian provinces.

⁶For example, see Bruce Mohl, "Growth of Chains Has Led to Rise in Funeral Prices," *The Boston Globe*, August 28, 1995, p. 1. In 1998, the CBS investigative news program *60 Minutes* ran a report investigating allegations of over-charging by SCI.

⁷Kenneth Bagnell, "A Profitable Undertaking," *The Globe and Mail*, October 21, 1988, p. 128.

⁸Ibid.

⁹Ibid.

SCI's Hostile Takeover Offer

Described in the news media as "fierce competitors" and "archrivals," Loewen Group and SCI increasingly found themselves competing for properties in the same markets. In 1994, the two companies collided in the United Kingdom, where each sought to acquire the large British funeral company, Great Southern. SCI ultimately prevailed, paying almost \$200 million.¹⁰

During 1996 SCI had made several informal acquisition proposals to Loewen, but all were declined. On September 17, 1996—the very day that Loewen's stock began trading on the New York Stock Exchange—SCI announced a formal offer to acquire all Loewen common stock for US\$43 a share, which would value Loewen at about \$2.5 billion. The offer was addressed to Ray Loewen personally, in a letter from SCI's president (Exhibit 5). At the close of the day of this announcement, Loewen stock traded at about US\$40, below the proposed acquisition price, but significantly higher than the \$33.75 closing price the day before.

Loewen's board of directors promptly rejected the offer. Ray Loewen believed the company's stock, which only two weeks earlier had traded around \$30 a share, was significantly undervalued. He portrayed SCI's action as an attempt to eliminate an important, and more successful, competitor. One sympathetic expert described the situation as "This is an example of someone taking advantage of a company that is struggling."¹¹ Although within two weeks of its initial offer SCI increased its bid to \$45 a share—and redirected its offer to Loewen's shareholders directly—Ray Loewen said the company's stock was worth at least \$52 a share.

The stock price was depressed, he argued, because of a recent unfavorable jury verdict against the company in Mississippi. A funeral home operator had accused Loewen Group of renegeing on an agreement to purchase two of his homes, plus certain insurance services. Although the properties were worth only a few million dollars, in November 1995 the jury found the company liable for damages of \$500 million, including \$400 million in punitive damages. Loewen's stock price fell by 15% on the day the verdict was announced, and its bonds were soon downgraded to speculative, or "junk," status.¹² To appeal the verdict, under Mississippi law the company would have had to post a bond equal to 125% of the award, or \$625 million. For the year, the company reported an expense of \$165 million to settle this and other lawsuits.

Loewen responded vigorously to SCI's informal approaches as well as to its formal offer. It filed an antitrust lawsuit in U.S. Federal court against SCI. (Soon thereafter a number of states, as well as the Canadian government, started their own antitrust investigations of the proposed acquisition.) Loewen also adopted lucrative severance packages, or "golden parachutes," for more than 70 of its senior executives.¹³ And, perhaps most significantly, it accelerated its acquisition program.

In June 1996, Loewen, in partnership with the investment firm, The Blackstone Group, announced its plans to acquire the then-fourth-largest funeral service provider in the U.S., Prime Succession Inc. The total purchase price was \$320 million, financed with \$190 million of bank and public high-yield debt. A few months later, in a similar transaction, Loewen and Blackstone acquired Rose Hills cemetery, the largest cemetery in North America, for \$285 million, of which \$155 million was financed with

¹⁰Rachel Bridge, "SCI Set to Tie Up Southern Deal," *The Evening Standard*, August 8, 1994, p. 1.

¹¹Mark S. Poert, "Smaller Firms Would Gain from 'Death-Care' Spiral," *Merger and Acquisitions Report*, September 23, 1996.

¹²Junk bonds, also known as *high-yield* or *below investment grade* bonds, are bonds that receive ratings lower than a BBB- by Standard & Poor's, or a Baa3 rating by Moody's.

¹³Loewen already had a "poison pill" shareholder rights plan in place before SCI made its offer.

debt. These transactions were complicated. After four years Loewen would have the option to buy Blackstone's equity stake (a "call"); but after six years, Blackstone would have the option to sell its stake to Loewen (a "put"). If Loewen bought out Blackstone, it would effectively pay an amount that would give Blackstone a 24% return per annum on its investment. If Blackstone exercised its option, Loewen would be obligated to pay Blackstone an amount of cash (or shares) that was determined by a EBITDA-multiple calculation of Blackstone's equity in the investment.

During all of 1996, Loewen acquired 159 funeral homes, 136 cemeteries, and two insurance companies, for total consideration of \$620 million. By the beginning of 1997, it had entered into agreements to purchase \$222 million of additional properties.

A relatively high percentage of the financing for these acquisitions came from issuing debt. The company's stated policy on debt financing was to maintain its long-term debt to equity ratio in the range of 1 to 1.5.¹⁴ It expected that this ratio would move towards the top of the target range when it made more acquisitions, but it would endeavor to bring the ratio back down eventually through equity issues. At the end of 1996 Loewen's debt/equity ratio was 1.4:1.

In the first week of 1997, SCI suddenly dropped its bid for Loewen. In addition to concerns over the antitrust suit and Loewen's various takeover defenses, SCI cited Loewen's high debt financing costs as a major deterrent to proceeding with the offer. Special mention was made of the Prime Succession and Rose Hills transactions.

Distress

Loewen continued its aggressive growth strategy in 1997, acquiring 138 funeral homes, 171 cemeteries, and one insurance company, paying a total of \$546 million. The year also marked the company's entry into the United Kingdom, where it acquired 32 funeral homes. Debt again played an important role in financing this growth, and for the full year, interest expense on long-term debt was \$132 million, up from \$93 million in 1996.

Loewen's businesses, however, performed less well than expected. The company attributed this in part to a decline in death rates, which negatively impacted all death care companies. Although Loewen's total funeral revenues increased by 9.5% during the year, its established funeral homes (i.e., those not acquired during the year) performed 3.2% fewer services than in 1996, and the gross margin earned by these properties declined from 40.8% to 38.7%. The company attributed most of the margin decline to an increase in reserves for doubtful accounts. The gross margin earned by Loewen's cemetery business also declined in 1997, from 31% to 28.2%. The company said this decline occurred in part because it reversed \$3.7 million of sales (and \$1.2 million of related costs) that it had reported in 1996 for transactions that were supposed to have taken place in 1997, but were never consummated. In addition, it took a \$2.1 million write down for cemetery accounts receivable.

These trends worsened in 1998. Revenues and profits for the company's established funeral services and cemetery businesses continued to fall. In early October, it announced that earnings for the third quarter would likely be more than 30% below what analysts had forecasted—causing Loewen's stock price to fall 15% in a single day. Management blamed the shortfall on declining death rates, difficulties in integrating newly acquired assets, and problems in the cemetery business. By the end of 1998 Loewen's stock price had fallen to \$8.44, from \$25.75 at the start of the year.

¹⁴The Loewen Group Inc., Form 10-K, December 31, 1996. The ratio was calculated on the basis of book values.

New Management

In the second half of 1998, Loewen took a number of steps to address its problems. It severely cut back the pace of acquisitions. During all of 1998, it acquired only 89 funeral homes and 65 cemeteries, paying \$278 million. It hired investment bankers to explore different options for raising cash and improving profitability. In July 1998, it sold its First Capital Life insurance subsidiary for \$24 million, recording an accounting gain of about \$5 million.

In October, following the company's third-quarter profit warning, Ray Loewen resigned as chief executive officer, and three months later he was replaced as chairman. Loewen had recently owned more than 18% of the company's common stock, but he had been forced to surrender almost his entire stake to the Canadian Imperial Bank of Commerce to settle a personal loan. Now the company's largest shareholder, the bank nominated John Lacey as Loewen Group's new chairman.

A graduate of Harvard Business School, John Lacey had built a reputation as a successful turnaround specialist. On the day that his appointment was announced, Loewen's stock price increased by 20% on the Toronto Stock Exchange. In previous assignments, Lacey had shown an ability to raise large amounts of cash through asset sales. For example, while at Oshawa Group, a Canadian grocery store chain, he negotiated the sale of the entire company for \$1.5 billion. Following his appointment to Loewen, Lacey said: "My role over the last five or six years has been one of maximizing shareholder value. . . . I think what I do is look for opportunities to deliver value to the shareholders."¹⁵

Company Debt

By the end of the year, Loewen Group's long-term debt was the highest it had ever been, at \$2.3 billion (including debt due within a year). The debt structure was complicated. For example, it owed approximately \$540 million to a consortium of 25 Canadian and U.S. banks, led by the Bank of Montreal. It also had over \$1.5 billion of publicly issued, senior guaranteed notes outstanding in nine different tranches.¹⁶ About \$875 million of the total long-term debt would mature in 1999.

Almost all of the debt was secured, or collateralized, by various assets of the company. If Loewen were liquidated, secured creditors would be entitled to receive the cash generated from the sale of the assets that secured their debt. In 1996, the banks and the note holders had agreed to share most of their security on a *pari passu* basis (i.e., in the event of liquidation, the two groups of creditors would have equal claim to the resulting cash proceeds).¹⁷

Loewen also had large contingent and other liabilities outstanding. This amount included \$87.8 million owed to former owners of certain funeral and cemetery properties that Loewen had acquired. For tax reasons, the sellers had chosen to be paid in installments over several years, with \$14 million due in each of the next two years. In return, they had signed contracts promising not to compete against Loewen during the life of the payments ("non-competition agreements").

¹⁵Drew Hasselback, "Lacey Joins Loewen for Another Selloff," *The Financial Post*, January 25, 1999, p. C02.

¹⁶A tranche is one class of a multiclass security or asset. The classes generally differ by risk profiles that are determined by differing maturity or priority of the claims on the underlying asset. In this case, the tranches of debt had differing maturities and seniority.

¹⁷The security consisted of accounts receivables and any related rights to receive payment, the capital stock of substantially all of Loewen's majority-owned subsidiaries, and a guarantee by each subsidiary that had pledged its stock.

The company's bank and public debt contained numerous covenants.¹⁸ Among other things, the covenants limited the amount of debt and preferred stock that the company could issue and the dividends it could pay. Other covenants restricted the company's ability to sell assets, or required that proceeds from asset sales be used to retire debt. A covenant in Loewen's bonds stated that if ownership of the company's stock changed significantly, Loewen would have to offer to repurchase the bonds for 101% of their face value.

If Loewen violated a covenant or missed a scheduled interest or principal payment, an event of default would be declared. Creditors would then, after 30 days, have the right to accelerate their claims (i.e., all principal and accrued interest would become immediately due and payable). "Cross default" covenants in the debt ensured that if any one debt contract defaulted, all other contracts would be considered in default as well. In early 1999 Loewen was not in compliance with certain covenants in its bank debt. If it could not persuade its banks to waive the defaults, or renegotiate the covenants, the company might have no choice but to file for bankruptcy.

Bankruptcy

Corporate bankruptcy in the U.S. was governed by the U.S. Bankruptcy Code ("Code"). Chapter 11 of the Code dealt with reorganizations. If a company filed for Chapter 11,¹⁹ it was allowed to conduct its regular business and propose a financial restructuring plan, without interference from creditors (e.g., secured creditors could not seize their collateral). A central presumption of the Code was that firms were worth more as going concerns than if shut down.²⁰ The bankruptcy case was overseen by a judge, who could hear appeals from creditors if they believed they were being unfairly treated. Creditors were also allowed to form committees to represent their interests in the case. Such committees could hire their own legal and financial advisors, and charge all professional fees to the company. The company also hired its own advisors.

To emerge from bankruptcy, management of the bankrupt firm (the "debtor") proposed a plan of reorganization to the creditors. The plan divided the firm's creditors and other financial claimholders into classes, and each class was asked to exchange its claims for new claims. Each class would vote separately on the proposed plan. If each class approved the plan by at least one-half in number and two-thirds in value, the judge would approve the plan and the firm would exit from Chapter 11. Minority creditors who voted against the plan would have to accept the will of the majority. The judge would determine whether the reorganization plan left the firm with a sensible new capital structure.

¹⁸A covenant is a promise by the borrower that certain acts will be performed and others refrained from. Typical covenants can require maintaining minimum working capital ratios, or interest coverage ratios. They can also place limits on significant asset purchases or sales.

¹⁹To initiate the bankruptcy procedure, Loewen's over 850 U.S. and 100 Canadian subsidiaries would probably each have to pay filing fees of \$800 to the courts.

²⁰In some countries, such as the United Kingdom, bankruptcy generally meant that the firm was liquidated or sold, and the proceeds were paid to creditors from most senior to most junior. In these countries, shareholders would only receive anything if there was enough value to make all creditors whole—which rarely happened.

Management had the exclusive right to propose the first plan. The law stated that a plan had to be proposed within 120 days of the bankruptcy filing, and confirmed within an additional 60 days. After this date the judge could allow other interested persons to file alternative plans. Most judges were willing to grant management extensions to the deadline, however. In practice, multiple extensions were often granted, and large complex cases might run for two or three years before an initial vote was taken.

In addition to being protected from creditors, firms benefited in other ways while they were in Chapter 11. They did not have to pay interest on their unsecured debt. They could cancel leases and other so-called "executory contracts," where both parties to the contract were still obligated to perform future services, such as the non-competes that Loewen had signed with acquired funeral homes. They could also borrow from new lenders through "debtor-in-possession financing," based on a provision of Chapter 11 giving new lenders to a bankrupt firm higher priority than the firm's pre-bankruptcy lenders.

If Loewen were to file for Chapter 11, its situation could be complicated by the fact that roughly 10% of its business was conducted in Canada.²¹ A U.S. bankruptcy filing would almost certainly trigger a simultaneous bankruptcy filing in Canada. Canadian bankruptcy law was governed by the Companies' Creditors Arrangement Act (CCAA), which differed in some important ways from Chapter 11. For example, it was generally easier for creditors to remove management than in the U.S. In addition, management had only one chance to present a reorganization plan before the judge would order the firm liquidated. There was no provision for debtor-in-possession financing as in the U.S. If Loewen filed for bankruptcy in both countries, some kind of administrative protocol would have to be established for resolving potential conflicts between the two courts.

The Company's Options

John Lacey had relatively little time to develop a plan for dealing with the growing crisis. In December, the company suspended dividends for common shareholders. The company had \$42 million of debt payments coming due in the first two weeks of April, and in early March it had still not reached an agreement with its banks on how to restructure their loans. Analysts publicly speculated that Loewen would soon start to sell some of its assets; one commented "Everyone is simply waiting for a liquidation of the assets."²² However, raising large amounts of cash through asset sales could be difficult. The death care industry in general was feeling the effects of lower death rates, so there might be limited demand for Loewen's properties. Further, piecemeal sales of assets could take a long time, given the company's organizational complexity. Making a difficult situation even worse, regulators had recently suspended the licenses of sixteen of Loewen's funeral homes in Florida, after discovering certain accounting violations. Whether the full extent of the problem had been discovered remained to be determined.

²¹Loewen's U.S. assets were owned and operated by Loewen Group International Inc., a wholly owned subsidiary of the Canadian parent company.

²²Will Edwards, "Funeral Service Unable to Find Buyer for Shares," Cincinnati Enquirer, November 27, 1999.

EXHIBIT 1 Selected Data on Loewen Group and Its Main Competitors (dollars in US\$ millions, except for per share items)

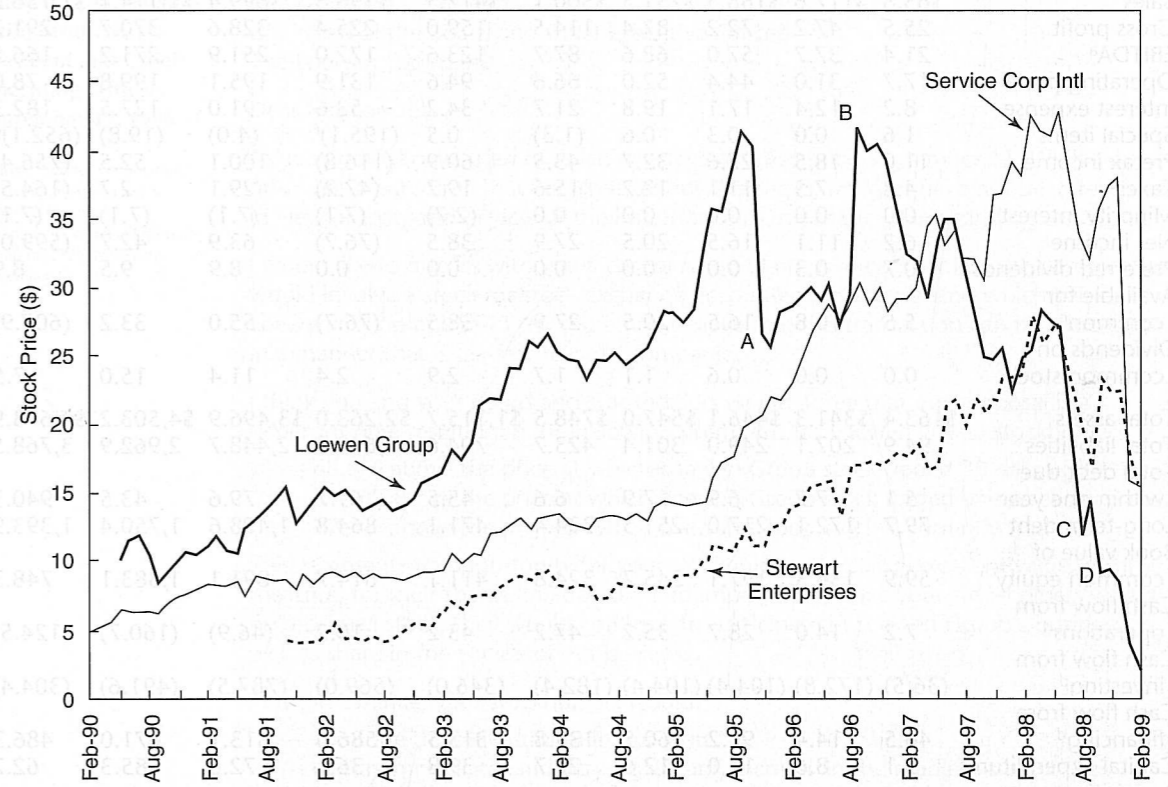
Sources: Datastream, Compustat, and company annual reports.

	Loewen		Service Corp. International		Stewart Enterprises		Carriage Services					
	Dec 96	Dec 97	Dec 98	Dec 96	Dec 97	Dec 98	Oct 96	Oct 97	Oct 98	Dec 96	Dec 97	Dec 98
Sales	\$899.4	\$1,114.1	\$1,136.2	\$2,294.2	\$2,468.4	\$2,875.1	\$433.4	\$532.6	\$648.4	\$40.3	\$77.4	\$116.8
Gross profit	328.6	370.7	291.7	713.1	812.8	879.3	139.8	175.1	217.1	10.8	27.2	45.8
SG&A expense	76.7	99.5	125.2	63.2	66.8	66.8	14.1	15.4	16.6	2.5	5.3	7.6
Depreciation and amortization	56.8	71.4	88.5	108.7	125.2	160.5	21.7	18.0	21.1	3.6	7.8	11.4
Operating profit	195.1	199.8	78.0	541.2	620.8	651.9	104.0	141.8	179.4	4.7	14.1	26.7
Net interest expense	91.0	127.5	182.3	149.3	141.1	177.1	26.1	38.0	43.8	4.5	6.2	10.2
Taxes	29.1	2.7	(164.5)	148.6	205.4	176.4	30.8	36.7	23.1	0.1	3.7	7.5
Other miscellaneous income ^a	(11.1)	(26.9)	(659.2)	22.0	59.4	43.6	4.1	0.4	(70.6)	(0.3)	0.1	0.5
Net income	63.9	42.7	(599.0)	265.3	333.8	342.1	51.3	67.4	41.9	(0.3)	4.3	9.5
Preferred dividends	8.9	9.5	8.9	0.0	0.0	0.0	0.0	0.0	0.0	0.6	0.9	0.6
Available for common ^b	55.0	33.2	(607.9)	265.3	374.6	342.1	51.3	69.7	41.9	(0.4)	3.6	8.9
Earnings per share (reported)	0.97	\$0.48	(\$8.22)	1.10	\$1.36	\$1.34	0.62	\$0.76	\$0.43	(0.19)	\$0.33	\$0.67
Assets	\$3,496.9	\$4,503.2	\$4,673.9	\$8,869.8	\$10,514.9	\$13,266.2	\$1,365.9	\$1,637.2	\$2,048.9	\$131.3	\$277.9	\$466.1
Short-term debt ^c	79.6	43.5	940.3	162.2	94.5	115.8	4.2	34.0	11.2	1.1	2.3	6.4
Long-term debt	1,428.6	1,750.4	1,393.9	2,221.2	2,634.7	3,764.6	515.9	524.4	913.2	43.3	126.0	216.2
Preferred stockholders' equity	157.1	157.1	157.1	0.0	—	—	0.0	—	—	17.3	14.0	1.7
Common stockholders' equity	891.1	1,383.1	748.3	2,235.3	2,726.0	3,154.1	547.4	819.6	839.3	57.0	98.6	200.4
Market value of equity	2,310.6	1,903.2	624.9	6,613.4	9,295.0	9,865.7	1,431.6	2,020.3	2,260.7	190.0	211.8	449.5
Number of funeral homes	956	1,070	1,151	3,377	3,685	4,066	308	401	558	76	120	166
Number of cemeteries	313	483	550	345	392	433	120	129	140	10	20	27
Interest coverage ^d	2.1	1.6	0.4	3.6	4.4	3.7	4.0	3.7	4.1	1.0	2.3	2.6
Bond rating	BB+	BB+	BB ^h	BBB+	BBB+	BBB+	NA	BBB	BBB	NA	NA	NA
Equity beta	0.81	0.63	1.18	0.93	0.58	0.65	1.19	1.30	1.31	NA	1.36	1.44
Price/earnings ratio	42.0	57.3	NM	24.9	24.8	28.8	27.9	29.0	54.0	(457.9)	58.8	50.4
Market/book ratio	2.6	1.4	0.8	3.0	3.4	3.1	2.6	2.5	2.7	3.3	2.1	2.2
Return on book equity ^e	6.2%	2.4%	-81.2%	11.9%	13.7%	10.9%	9.4%	8.5%	5.0%	-0.7%	3.7%	4.5%
Dividend payout ratio	20.6%	45.1%	NM	21.3%	18.7%	25.8%	5.4%	5.2%	14.0%	0.0%	0.0%	0.0%
CAGR Sales over 3 years ^f	44.2%	38.7	23.8	36.6%	30.2	20.3	33.4%	27.9	20.7	66.5%	78.7	68.9
Cash flow from operations	(46.9)	(160.7)	(124.5)	209.9	299.4	329.6	11.6	(15.2)	18.3	0.3	9.7	6.6
Cash flow from investing	(787.5)	(491.6)	(304.4)	(480.1)	(633.4)	(1,059.9)	(191.9)	(205.9)	(275.5)	(46.0)	(74.8)	(153.5)
Cash flow from financing	813.1	671.0	486.3	256.9	336.8	1,041.6	187.1	229.2	259.4	39.8	69.5	143.6

^aIncludes special and extraordinary expenses, net of tax. ^bIncome after preferred dividends that is available to common shareholders. Preferred equity is senior to common equity, and so must be paid first. Available for common is the amount of income available after preferred equity dividends are made. ^cCurrent portion of long-term debt included in short-term debt line item. ^dInterest coverage is measured as operating profit divided by interest expense. ^eReturn on equity is calculated as the end of period available for common divided by the end of period book value of equity. ^fCompound Annualized Growth Rate. ^hRepresents asset impairment expense for a write-down of properties to fair value, including the company's investment in the Prime Succession and Rose Hills properties. ⁱLoewen's debt was downgraded to B+ in January 1999 and to B- in February 1999. ^jSCI adds back an extraordinary expense of \$40.8 million to net income to get available for common.

EXHIBIT 2 Stock Price History, 1990-1999 (US\$)

Source: Datastream. Carriage Services first traded in August 1996 and is omitted from the figure for clarity.


Selected key events:

- A Nov. 2, 1995 Loewen Group is ordered to pay a \$500 million civil damages award by a Mississippi jury in a breach of contract suit.
- B Sep. 17, 1996 Service Corporation International makes an unsolicited offer to acquire Loewen.
- C Aug. 6, 1998 Loewen discloses that second-quarter earnings were 56% lower than last year.
- D Oct. 8, 1998 Ray Loewen is removed as CEO of Loewen Group, following company's announcement on previous day that third-quarter earnings will be less than 13 cents a share, versus analysts' consensus estimate of 19 cents a share.

EXHIBIT 3 Acquisitions by Major Death Care Companies, 1996-1998 (in US\$ millions)

 Source: F. B. Bernstein and Y. C. Nainzadeh, *Post Life Services*, Merrill Lynch, April 26, 1999.

Acquirer	Revenues of Acquired Companies (1)			Amount Spent on Acquisitions (2)			Acquisition Revenue Multiple: (2) ÷ (1)		
	1996	1997	1998	1996	1997	1998	1996	1997	1998
The Loewen Group	251.5	187.6	29.1	620.0	546.0	278.0	2.47x	2.91x	9.55x
Service Corp. Int'l	180.0	260.0	296.0	363.0	643.0	784.0	2.02x	2.47x	2.65x
Stewart Enterprises	68.8	77.8	109.1	179.0	184.5	266.3	2.60x	2.37x	2.44x
Carriage Services	28.6	42.8	51.9	69.1	118.3	158.7	2.42x	2.76x	3.06x

EXHIBIT 4 Historical Financial Information for Loewen, 1989–1998 (in US\$ millions)

Sources: Datastream, Compustat, Bloomberg.

	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998
Sales	\$63.8	\$117.6	\$188.5	\$231.5	\$300.1	\$417.5	\$598.5	\$899.4	\$1,114.1	\$1,136.2
Gross profit	25.5	47.2	72.2	87.4	114.5	159.0	225.4	328.6	370.7	291.7
EBITDA ^a	21.4	37.7	57.0	68.6	87.7	123.6	172.0	251.9	271.2	166.5
Operating profit	17.7	31.0	44.4	52.0	66.6	94.6	131.9	195.1	199.8	78.0
Interest expense	8.2	12.4	17.1	19.8	21.7	34.2	53.6	91.0	127.5	182.3
Special items	1.6	0.0	0.3	0.6	(1.3)	0.5	(195.1) ^f	(4.0)	(19.8)	(652.1) ^g
Pretax income	11.0	18.5	27.6	32.7	43.5	60.9	(116.8)	100.1	52.5	(756.4)
Taxes ^b	4.8	7.5	11.1	12.2	15.6	19.7	(47.2)	29.1	2.7	(164.5)
Minority interest	0.0	0.0	0.0	0.0	0.0	(2.7)	(7.1)	(7.1)	(7.1)	(7.1)
Net income	6.2	11.1	16.5	20.5	27.9	38.5	(76.7)	63.9	42.7	(599.0)
Preferred dividends	0.7	0.3	0.0	0.0	0.0	0.0	0.0	8.9	9.5	8.9
Available for common ^c	5.5	10.8	16.5	20.5	27.9	38.5	(76.7)	55.0	33.2	(607.9)
Dividends on common stock	0.0	0.0	0.6	1.1	1.7	2.9	2.4	11.4	15.0	7.5
Total assets	\$163.4	\$341.3	\$446.1	\$547.0	\$748.5	\$1,115.7	\$2,263.0	\$3,496.9	\$4,503.2	\$4,673.9
Total liabilities	94.9	207.1	249.0	301.4	423.7	704.6	1,648.3	2,448.7	2,962.9	3,768.5
Total debt due										
within one year	5.1	7.2	6.9	7.9	6.6	45.5	69.7	79.6	43.5	940.3
Long-term debt	79.7	172.1	217.0	251.5	334.4	471.1	864.8	1,428.6	1,750.4	1,393.9
Book value of common equity	59.9	134.3	197.1	245.7	324.8	411.1	614.7	891.1	1,383.1	748.3
Cash flow from operations ^d	7.2	14.0	28.7	35.2	47.2	43.2	10.2	(46.9)	(160.7)	(124.5)
Cash flow from investing ^d	(36.5)	(172.8)	(104.4)	(104.4)	(182.4)	(346.0)	(569.0)	(787.5)	(491.6)	(304.4)
Cash flow from financing ^d	46.5	14.4	91.2	60.5	139.8	313.5	586.0	813.1	671.0	486.3
Capital expenditures	3.1	8.6	14.0	12.6	20.7	39.8	36.1	72.6	85.3	62.7
Acquisition expenditures	36.0	159.7	78.4	83.2	147.6	265.6	487.9	619.6	546.5	252.6
Net proceeds from issuing equity	33.9	53.5	46.0	32.4	54.6	128.4	203.1	371.0	439.4	1.8
Net proceeds from issuing debt	14.0	91.7	37.2	28.3	84.2	172.9	381.2	455.2	253.5	508.1
Market value of equity	NA ^h	301.6	438.1	550.8	980.7	1,086.9	1,219.2	2,310.6	1,903.2	624.9
Market/book ratio	NA	2.2	2.2	2.2	3.0	2.6	2.0	2.6	1.4	0.8
Price/earnings ratio	NA	28.0	26.6	26.8	35.1	28.2	NM	42.0	57.3	NM
Interest coverage	2.2	2.5	2.6	2.6	3.1	2.8	2.5	2.1	1.6	0.4
Senior bond rating	-	-	-	-	BBB	BBB	BBB	BB+	BB+	BB ⁱ
Return on equity ^e	9.3%	8.0%	8.4%	8.4%	8.6%	9.4%	-12.5%	6.2%	2.4%	-81.2%
Dividend payout ratio	-	-	3.4%	5.2%	6.1%	7.5%	NM	20.6%	45.1%	NM
Year-end stock price	NA	\$10.88	\$13.38	\$15.50	\$25.38	\$27.00	\$25.31	\$39.13	\$25.75	\$8.44
Number of shares (in mill.)	NA	27.7	32.7	35.5	38.6	40.3	48.2	59.0	73.9	74.0

NA: Not Available; NM: Not meaningful

^aEarnings Before Interest, Taxes, Depreciation, and Amortization. ^bLoewen's combined Canadian Federal and Provincial tax rate was 45%. ^cIncome after preferred dividends that is available to common shareholders. Preferred equity is senior to common equity, and so must be paid first. Available for common is the amount of income available after preferred equity dividends are made. ^dThe cash flows from 1989 and 1990 are taken from SEC Form 20-F and converted from Canadian dollars into U.S. dollars using the average exchange rates of 1.1842 and 1.1667 Canadian dollars per U.S. dollar, respectively. Form 20-F is the form that foreign issuers must file instead of Form 10-K that domestic issuers must file with the SEC. ^eReturn on equity is calculated as the end of period available for common divided by the end of period book value of equity. ^fSpecial charges, including legal expenses, from the settlements of two lawsuits. ^gRepresents asset impairment expense for a write-down of properties to fair value and write-down of company's investment in Prime Succession and Rose Hills. ^hLoewen began trading in the United States in 1990. ⁱLoewen's debt was downgraded to B+ in January 1999 and to B- in February 1999.

**EXHIBIT 5
Letter to Raymond
Loewen from William
Heiligbrodt, SCI's
President and Chief
Operating Officer,
September 17, 1996**

Source: "Service Corporation International Announces a Proposed Business Combination with the Loewen Group Inc.," *PR Newswire*, September 17, 1996.

September 17, 1996

Mr. Raymond L. Loewen
Chairman of the Board and Chief Executive Officer
The Loewen Group Inc.

Dear Mr. Loewen:

As you know, I have tried to reach you several times since September 11. While your office has assured me that you received my messages, my calls have not been returned. In view of that, and in view of the importance of this matter, I am sending this letter.

I would like to discuss with you a combination of our two companies. The combination would involve a stock-for-stock exchange accounted for as a pooling which values Loewen Group at US\$43 per share. We believe that this transaction can be structured in a manner that is tax-free to both companies . . .

I think you and your Board and stockholders would agree that our proposal is a generous one, resulting in the following premiums for Loewen Group stockholders:

- 48.9% above the price at which Loewen Group stock traded 30 days ago;
- 39.3% above the price at which Loewen Group stock traded one week ago; and
- 27.4% above the price at which Loewen Group stock is currently trading.

This represents an opportunity for your stockholders to realize excellent value, by any measure, for their shares. In addition, and importantly, since your stockholders would be receiving stock, they would continue to participate in Loewen Group's business as well as share in the upside of our business.

Thus, in essence, your stockholders would:

- continue their investment in our industry;
- get an immediate, and very significant, increase in the market value of their investment;
- get that immediate and substantial increase on an essentially tax free basis; and
- diversify their risk by participating in a much larger number of properties.

This is a "win-win" situation for you and your stockholders.

Finally, with respect to consideration, I would note also that our proposal is based on public information. After a due diligence review, we may be in a position to increase the consideration that your stockholders would receive. . . .

I would very much like to discuss any and all aspects of our proposal directly with you and your Board of Directors. We believe you and they will recognize the tremendous benefit to your stockholders of our proposal. Our proposal is conditioned upon approval of our Board and upon negotiation of mutually satisfactory agreements providing for a combination on a pooling basis.

We hope that after you meet with us, you will similarly determine that the transaction should be pursued. We look forward to hearing from you.

In view of the importance of this matter, we are simultaneously releasing this letter to the press.

Sincerely,

William Heiligbrodt
President and Chief Operating Officer
Service Corporation International