

# Answers few for creditors

By Marilyn Davin

Tuesday afternoon nearly 30 creditors, debtors, and others interested in the ongoing Humboldt Creamery bankruptcy crowded into a second-floor hearing room in Eureka's old post office building for an informational meeting led by San Francisco-based U.S. Department of Justice (Northern District of California) trial attorney Patricia Cutler.

Cutler opened the informal hour-long meeting by explaining that she is not a judge and did not have the authority to make rulings.

"The purpose of this meeting is to allow for the examination of debtors under oath," she explained to the group, adding that

she would ask questions herself. Sitting with Cutler at a table at the front of the room were Len Mayer, acting CEO of the creamery, and Ori Katz, a member of the creamery's San Francisco-based legal counsel, Shepard Mullin Richter & Hampton LLP.

After swearing in Katz, Cutler's initial questions were largely procedural, focusing on who prepared documents relating to the bankruptcy, who reviewed them before filing, and whether amendments had been made. She did, however, also inquire about the ongoing investigation into alleged financial irregularities at the creamery, including how the cream-

ery's auditors could have essentially been asleep at the wheel at the time the alleged irregularities occurred. Mayer conceded that there are still questions about what exactly transpired, and that the matter had been turned over to the FBI and the U.S. Department of Justice.

The first to step up to the mike was Jerome Davis, who said he represented eight individuals who purchased \$370,000 of shares shortly before the creamery's financial troubles became public.

"We weren't even issued receipts," he said. "We were told the money would be returned to us. Where do we stand?"

Katz recommended that the group retain an attorney "as a group.

"That's the answer, unfortunately," he said.

Next up was Ferndaler Tom Bess, a recently retired 65-year Loleta dairyman who, by his own reckoning, spent some 18 years on the creamery's board of directors until about three years ago.

"Seven out of nine directors were organic," he said, "...and they received incentives that only the organic producers got [whether they produced or not]. I never thought it was right," he told the group.

Longest to testify was Ray Gutierrez, representing California Dairies Inc., the creamery's largest unsecured creditor. Gutierrez asked Mayer and Katz

how they planned to address the creamery's ultimate sale.

"We will have a transparent process," Katz replied. "Everyone will have access to information, and we will treat everyone equally."

Pressed on what undisclosed potential bidders for the creamery have been told about its alleged financial irregularities, Katz said, "All the buyers know of past irregularities. Most bidders accept that, and understand they're seeing a snapshot going forward. We're asking them to bid on what we have."

When asked how these [alleged irregularities] could have happened, Katz said "There were inefficiencies and misstatements in the financials that

masked them."

Katz said that he will submit a revised interim operating budget to the court "either tomorrow morning or the next day," adding that the court has so far worked willingly with the creamery to ensure that business continues through the creamery's sale and its eventual new plan of operation. He said he hoped that bids for the creamery could be accepted "by the end of the month," and that a subsequent operating plan would "realistically [take] 30 -60 days at best."

The testimony, taken in the ironic shadow of a floor-to-ceiling mural featuring a dairy cow, lasted just under an hour.