Corporate Bankruptcy's Hidden Toll on Gift Card Users

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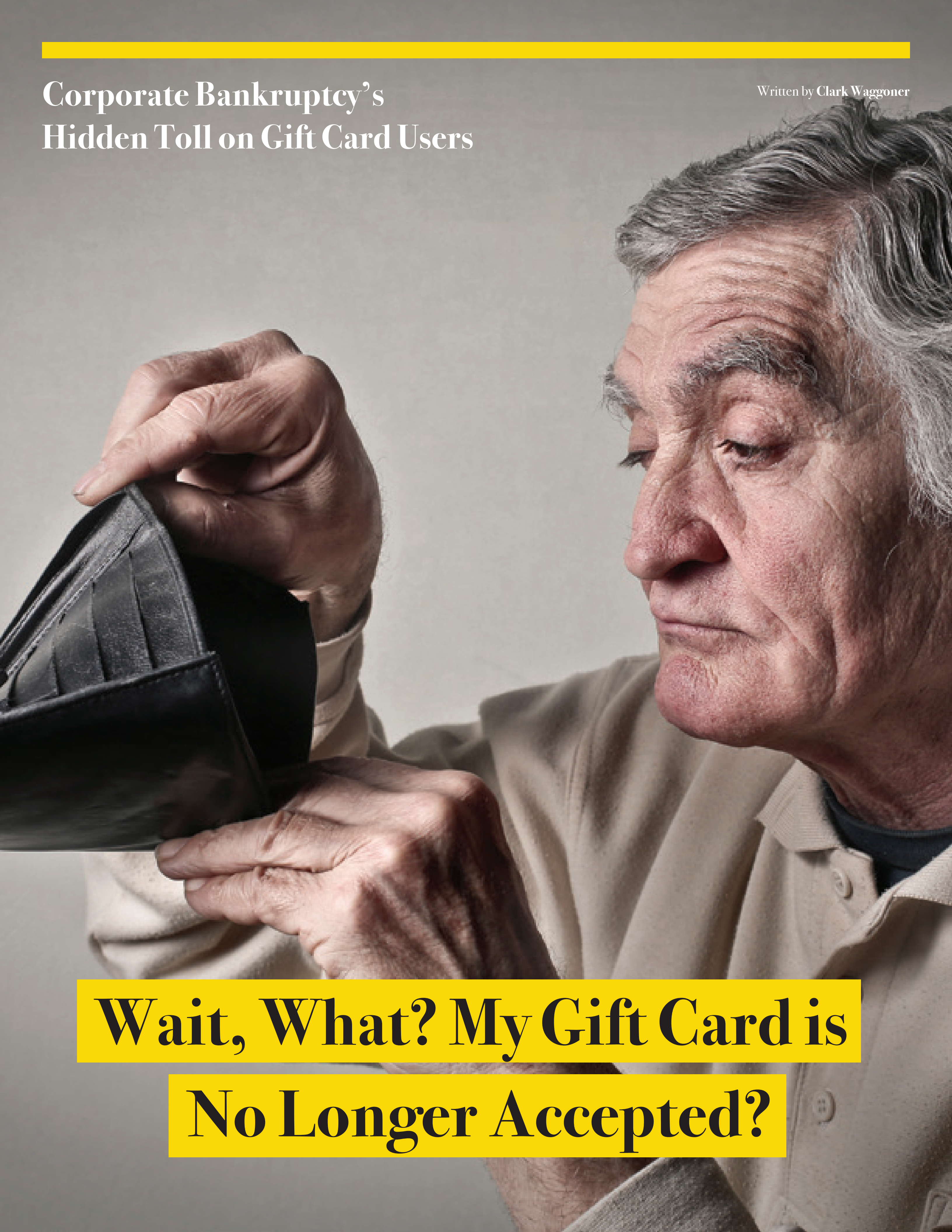

Wait, What? My Gift Card is No Longer Accepted?

Ever have this happen? You purchase or receive a gift card, stick it in your purse or wallet only to rediscover it 3 – 6 months later. The problem? Instead of having credit at a merchant you shop like you thought you had, the card is no longer honored.

The explanation? Even though the store looks the same and the logo and name on the card may are identical, the brand has been through a bankruptcy and changed ownership. Now, for one reason or another, the previously existing gift cards are no longer accepted.

Ultimately, this creates confusion for gift card users. They have no reason to spend their time researching if the brands they currently buy from are distressed. No, they are rightfully concerned with more important matters – like getting great quality or value for their money. So when a consumer sticks a gift card in their purse or wallet, the last thing on their mind is whether or not the merchant will still be in business when they use it. In fact, many people reading this article may, for example, still have a Radio Shack gift card in their purse or wallet without knowing that it no longer holds any value.

Restructuring vs. Complete Bankruptcy

Making things even more confusing, there are two different types of corporate bankruptcy with even more outcomes that may occur.

One thing few realize is that a bankruptcy proceedings' outcome is not up to the merchant. Rather, they are determined by the court, so despite a brand's best intentions and efforts, the result of a bankruptcy proceeding cannot be known ahead of time. A merchant may well be sincere in their efforts to reassure consumers that they are only entering bankruptcy to restructure, but it is the court that decides their fate, not them. This is what happened when Sports Authority entered bankruptcy. They were attempting to restructure only to be told by the courts that they instead had to liquidate all their assets.

Imagine the confusion gift card users felt who were still shopping at Sports Authority stores felt. They couldn't have known that the store they shopped at was owned first by the bankruptcy courts and then by liquidators instead of Sports Authority. Consumers came in with gift cards they genuinely thought had value, only to discover they were worthless.

Even more confusing to gift card users are bankruptcy cases like Cold Water Creek or Sharper Image, where the brand was sold to new owners. These owners, who did not sell these gift cards and lacked the data to properly manage these existing systems, stopped honoring them. From the perspective of the gift card user, this makes no sense at all. The company's branding and image are consistent, no warning was given, and little recourse is available when they learn their gift card will not be honored. Rather than having their loyalty honored, they are given a confusing explanation.

Who Decides If Your Gift Card Still Has Value?

Perhaps the most confusing issue here is that in many circumstances, once they have filed for bankruptcy, it is not up to the merchant whether or not they can accept previously issued gift cards. To try to make this a little easier to understand, here's a quick rundown of who decides if gift cards are still honored during and after a bankruptcy:

- Once a merchant files for bankruptcy, Chapter 7 or 11, they lose the power to make decisions for themselves about accepting gift cards.
- At this point, it is the bankruptcy court who decides if they can accept them. Currently, courts make this decision from a perspective of maximizing the value of the assets they are liquidating.
- This is why courts currently typically deny a merchant the ability to continue honoring its gift card or loyalty programs during liquidation. However inaccurate it may be, the belief behind this is that accepting previous gift card credit lowers the amount that can be made by liquidating inventory.
- If the courts force a merchant to close their doors and sell off all their assets, their relationship with the consumer ceases. At this point, even though their stores may be open for liquidation purposes, in most cases, any value left on a gift card is lost.
- If, instead, the court allows the company to be restructured and sold, then the new owner decides how to handle existing gift cards. Currently, however, new owners often have no access to the old gift card or loyalty system so rarely can they accurately track and honor existing gift cards.

Answering the Big Questions About Gift Card & Merchant Bankruptcy

When it comes to fixing the situation for consumers, there are some big questions to answer still. What should a company do when purchasing a brand in bankruptcy proceedings?

From the consumer perspective, the best thing that could happen is for courts to start requiring purchasers to honor the existing gift card and loyalty reward programs. Perhaps a more feasible solution would be including a clause in the purchase agreement that stipulates existing gift cards be honored for a year or similar period of time.

Despite the cost, there are several benefits those purchasing distressed brands can get from honoring an existing gift card program. One challenge here is that new ownership does not always have access to the data they need to do this. In such situations, still honoring at least a percentage of the existing gift card value with a discount or promotion can help preserve consumer good will because it shows them they are valued by giving them the benefit of the doubt in a situation they obviously didn't create.

Another big question, of course, is what can gift card user do to protect themselves from purchasing gift cards from a merchant who may soon be entering bankruptcy? Shelly from Giftcards.com has this advice to offer consumers:

"The longer you hold onto a gift card, the more that can go wrong. My advice to protect yourself from bankruptcy or anything else that could negatively impact your ability to get the full value of your gift cards is to use them right away. The bottom line is we don't know what's coming. The only way to be 100% certain to avoid something like this happening is to use the gift card as soon as you get it."

- Shelly Hunter, Giftcards.com

Emerging Industry Watch Dogs

Despite these challenges, progress on protecting gift card users is being made daily by watch dogs emerging around the industry. One such watch dog is National Gift Card, whose approach to better safeguarding their customers created a bit of a stir when they presented it at the recent GCN conference in Chicago.

In order to be even more proactive about protecting their gift card customers from getting stuck with dead gift cards, NGC has setup a system of alerts for Google, social media, and Mercator for every one of the merchants they represent. These alerts allow them to instantly keep up on any news that may indicate a merchant could be in stress, like store openings, closings, financial reports, etc.

"By monitoring these alerts, we've developed a 'watch list of merchants' that have been appearing in the news for issues that put them at higher risk of bankruptcy."

- Ashley Harris, NGC Group

Once a merchant has been added to the list, NGC begins to closely monitor operations in order to protect themselves, their distribution partners in the B2B space, and their end customers from getting stuck with hundreds to thousands of dollars in suddenly worthless Gift Cards. Hopefully, with a heads up, they can offload or use any extra inventory they may be carrying in order to minimize risk of loss.

"It's definitely a balancing act, but constantly watching the news, monitoring our inventory, and having continual conversations with our partners have really been the secret sauce for the success we've been having." *- Ashley Harris, NGC Group*

Working Around a Merchant's Hesitancy to Be Upfront About Bankruptcy

By and large, NGC says merchants have been supportive of such efforts as they realize it's in their own customers' best interest. However, there has been some pushback from time to time. As a rule, NGC keeps in close contact with merchants because of how sensitive the subject is. The goal is to give such merchants every opportunity to share input with them before NGC ever shares anything with their distribution partners.

"Because this issue is so sensitive, merchants have been reluctant to be up front about it. Instead of actionable information, we sometimes just get PR talking points. So while we want to be sensitive, we've ended up in a bad situation enough times that we felt it was in our and our clients' best interest to put these pieces into place."

- Eric Thiegs, NGC Group

The pushback merchants give on this makes sense. One way NGC handles it is to make sure their merchants know that NGC's policy is to simply put the card status of such merchants on hold as opposed to pulling them completely from the catalog. If a merchant is able to recover or restructure their finances, they are put right back into the catalog.

"This is about protecting customers, not blacklisting a merchant."

- Eric Thiegs, NGC Group