

MARKET WATCH

Dow Industrials

▼ 12,734.63 (-22.33)

S&P 500

▼ 1,318.43 (-7.63)

NASDAQ

▼ 2,805.28 (-13.03)

Bloomberg Midlands

▼ 497.90 (-3.83)

Crude oil (NYMEX)

▲ 99.70 (+0.30)

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BUSINESS BRIEFS

Penney's plan boosts stock

J.C. Penney Co. shares soared 18.8 percent Thursday after the department store chain delivered a 2012 profit outlook that's well above analysts' projections. The company expects adjusted earnings per share to be at least \$2.16 for the fiscal year, above analysts' \$1.60 per share estimate, according to FactSet. Penney's new CEO, Ron Johnson, who was the mastermind behind the successful Apple Inc. stores, laid out an aggressive plan Wednesday to reinvent the business.

More Pepsi brands hit \$1 billion

PepsiCo Inc. said Thursday that three more of its brands have surpassed \$1 billion in annual revenue. PepsiCo said Diet Mountain Dew, Brisk and Starbucks ready-to-drink beverages each hit this key measure. PepsiCo sells Brisk and Starbucks through partnerships with Unilever and Starbucks Corp., respectively. PepsiCo now has 22 billion-dollar brands.

Mortgage rate rise is first in month

The average rate on the 30-year fixed mortgage rose this week for the first time in a month, though it remained below 4 percent for the eighth straight week. Freddie Mac said the average rate on the 30-year fixed mortgage rose to 3.98 percent, up from 3.88 percent the previous week, which was the lowest level on record. The average on the 15-year fixed mortgage also rose to 3.24 percent, from 3.17 percent.

Court blocks Chevron move

A U.S. appeals court blocked Chevron Corp. from using a New York law to try to bar a group of Ecuadorians from collecting on an \$18 billion judgment in an environmental damage lawsuit. The Manhattan-based appeals court Thursday reversed a lower-court order, saying Chevron can't use the law against the plaintiffs before they try to collect.

From wire reports

ONLY IN THE WORLD-HERALD

# Bank asks for control of 46 HearthStone houses

■ Wells Fargo acts after the struggling builder misses a payment deadline on a \$17.5 million loan.

By CINDY GONZALEZ  
WORLD-HERALD STAFF WRITER

HearthStone Homes, one of the Omaha area's biggest homebuilders, has failed to pay a \$17.5 million loan and its bank is seeking control of nearly 50 houses, according to a lawsuit filed in Douglas County.

In the suit filed Wednesday, Wells Fargo Bank said HearthStone missed a Monday deadline to pay \$17,498,123. The bank asked the court to assign an independent party to secure and ensure completion of 46 single-family homes in various phases of construc-

tion.

A hearing has been set for Feb. 1 with Judge Thomas A. Otepka.

"Due to the lack of funds available to HearthStone Homes to complete construction (and) maintain the real estate, there presently exists a manifest danger of material and physical injury, as well as immediate and ongoing damage to the character and value of the real estate," the lawsuit said.

To "prevent further damage," Wells Fargo said, the bank needs to take over maintenance of the grounds and preservation of utility service at the properties.

Scott Kinkaid, a HearthStone vice president who has been with the company 12 years, said it's unfortunate that Wells Fargo turned to legal action when it knew HearthStone had been working toward a solution.

"Times are tough," he said. "We're putting plans in place to get through it."

Kinkaid said that multiple investors have shown interest in HearthStone and that owner John Smith was coming close to a decision that would keep the company in the Omaha area another 40-plus years.

"We'd been working with them in good faith," Kinkaid said of Wells Fargo, adding that HearthStone had told the bank it would have a solution by Friday. The bank chose the lawsuit instead.

Angie Kaipust, Wells Fargo spokeswoman, said Thursday the bank is seeking "what's

best" for all parties with an interest in the 46 homes identified in the lawsuit.

"Our goal is to make sure those homes get constructed, buyers get their homes and that contractors and subcontractors get paid."

Kinkaid holds out hope the bank will withdraw its lawsuit.

He said that the \$17.5 million loan with Wells Fargo included funds for land as well as houses and that HearthStone's inventory includes homes other than the 46 financed by Wells Fargo. HearthStone, he said, has about 90 houses in various stages of production and operations are ongoing. Three new contracts were signed Wednesday.

"There are other funding mechanisms moving along just fine, and we continue to

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From wire reports

ONLY IN THE WORLD-HERALD

Omaha pulling in retailers

Low unemployment helps city attract new businesses

BY LEIA MENDOZA | WORLD-HERALD STAFF WRITER



DAVE CROY/THE WORLD-HERALD

The Omaha-Council Bluffs area's retail market is picking up speed faster than in other parts of the country, experts in the industry said this week.

"Some retailers miss the boat when they don't look at the Midwest and only look at the coasts," said Susan Flesher, director of real estate for Einstein Bros Bagels, based in Lakewood, Colo. "Omaha has one of the lowest unemployment rates in the country. I think someone has money to spend here."

Flesher realized Omaha's potential for growth during her previous job about two years ago when she brought Panda Express to the area and saw its success. Now she's hoping to do the same for Einstein Bros Bagels.

Flesher attended the International Council of Shopping Centers' Heartland States Idea Exchange and Alliance Program at the CenturyLink Center Omaha this week in hopes of finding potential sites in the area. She was among more than 180 retailers, public officials, developers and brokers sharing ideas and making deals at the two-day conference.

Flesher said her company is hoping to expand to Omaha, Lincoln, Council Bluffs and the Kansas City area.

"I like the Midwest, and if you grew up here, you get it," she said. "Omaha has a great economic development

See *Retail market*: Page 2

WERNER ENTERPRISES

## Trucking firm posts record profits for 2011

By STEVE JORDON  
WORLD-HERALD STAFF WRITER

Werner Enterprises Inc. of Omaha reported net income of \$29.4 million, or 40 cents per share, in the three months that ended Dec. 31, a 21.8 percent increase from the same period last year, on a 9.7 percent increase in revenue to \$507.9 million.

The trucking company said 2011 net income reached a record \$102.8 million, or \$1.40 per share, up 28.2 percent from 2010, and revenue increased 10.3 percent to \$2 billion. The quarterly increase was the eighth year-over-year improvement of more than 20 percent.

Freight demand improved from September to December, followed by a normal seasonal decline in mid-December, the company said. The increased demand is due more likely to limited truckload capacity than increased economic activity, Werner said.

Average revenue per mile was up 4.6 percent in the fourth quarter from a year earlier. Werner said it plans to keep its fleet at about 7,300 trucks, but the count was slightly lower because of "the increasingly challenging driver market."

Regulations on truck emissions have increased the price of new trucks, making it more difficult for some competitors to upgrade their fleets, Werner said. Diesel prices were 63 cents a gallon higher in the fourth quarter than a year earlier and 41 cents higher so far this year.

The company said its capital spending totaled \$232.2 million in 2011 and this year would be between \$160 million and \$210 million.

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## CEO says if Gavilon is sold, 'core group' to stay in Omaha

By ROSS BOETTCHER  
WORLD-HERALD STAFF WRITER

The president and chief executive of Omaha-based Gavilon, the former commodity-trading arm of ConAgra Foods Inc., said Thursday that if the company is sold, it will maintain a significant presence and employee base in Omaha.

Gavilon's owner, Ospraie Management of New York City, said last week that it was exploring a multibillion-dollar sale of the company. Thursday, Greg Heckman, Gavilon's chief, was asked about a sale during an Association for Cor-

porate Growth meeting at Happy Hollow Country Club.

"As long as I've got something to say about it," he said, "we'll always have a large part of our employee base here."

Since the company is in commodities, an industry Heckman described as one rooted in the relationship between "man and machine," he said the best people to handle those jobs are in Omaha, where there's a solid base of qualified workers.

"People are such a core part of a commodities business," Heckman said. "A lot of those people are really set here, so you can come up with any scenario. ... There will always be a core group in Omaha. I just don't see how we wouldn't always be here."

Gavilon is the 19th-largest privately owned company in the

United States and the third-largest grain storage company. It employs 350 people at its Omaha headquarters and 40,000-square-foot trading floor that is leased from ConAgra at its downtown Omaha campus. The company has about 2,000 employees at more than 300 locations, mostly in the United States.

After being divested from ConAgra in 2008, just before the global financial crisis hit, Gavilon has increased its sales and scope significantly.

During the past three years, Heckman and the company's business development team have led 13 completed acquisitions and the construction of 14 significant projects, and established 10 new office spaces, including one in Ukraine, a country that Heckman said will need to raise its agricultural production to help meet future com-

modity and food demands.

For all of last year, the company distributed 38 million tons of grain and 6 million tons of fertilizer, as well as 350,000 barrels of crude oil every day.

Being privately owned has allowed Gavilon some of the flexibility to make the growth moves it has since 2008, Heckman said. The company still has to report its finances to investment banks and consult with Ospraie's board on certain big-ticket items, but for the most part Heckman and his management team are free to run their "deal shop" within the company as they wish.

"I love being private," he said. "I don't know if we'll always be private, but I love being private."

Heckman's talk ranged from Gavilon's history, which dates to 1865, when the company was the

Peavey Group, to the company's breakup with ConAgra after the trading group became less and less of a core component to the packaged food giant's long-term plans.

And because Gavilon also is involved in energy trading, storage and distribution, Heckman commented on the Keystone XL pipeline scuffle raging in Washington D.C. This month, the U.S. State Department and President Barack Obama formally rejected the pipeline proposal.

"If you've got to reroute it, or whatever, there's got to be a way to do (the project)," said Heckman, who said he was speaking for himself, not Gavilon. "We've got smart people in this country, we should be able to figure out a way to do that."

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