

# Enjoying the Ride

## *Cedar Fair, L.P. and Squire, Sanders & Dempsey L.L.P.*

By Scott M. Gawlicki

When a client first introduced Squire, Sanders & Dempsey L.L.P. to Sandusky, Ohio-based Cedar Fair, L.P., in the mid-1980s, Cedar Fair was a privately held company that owned and operated two of the country's best-known amusement parks: Cedar Point, located just outside Cleveland, and Valleyfair, in Shakopee, Minnesota.

Little did Squire Sanders know that in 1987 it would take the company public—under a complex master limited partnership (MLP), no less—and begin a mutually rewarding relationship that would help the company expand its family entertainment empire sixfold over the next 20 years.

With seven major amusement parks and five water parks under its umbrella, today's Cedar Fair generates more than \$550 million in revenues and boasts a market cap of roughly \$1.5 billion. Further, its MLP "units" trade on the New York Stock Exchange under a symbol that's not only unique, but appropriate: FUN.

Much of the company's success, says Cedar Fair Corporate Vice President of Finance and Chief Financial Officer Peter J. Crage, is partly attributable to its longstanding relationship with Squire Sanders.

"We have no internal legal counsel. For the most part we're a seasonal business, so our corporate staff is relatively small," Crage explains. "We've always relied on Squire Sanders to help us with day-to-day matters, especially SEC compliance and corporate governance issues. But where they really add value is in the area of tax planning, particularly as it relates to our mergers and acquisitions."



Photography by Alex Lippisch

*Cipriano S. Beredo III (left), Squire, Sanders & Dempsey L.L.P.; Peter J. Crage, Cedar Fair, L.P.; and Gordon S. Kaiser Jr., Squire, Sanders & Dempsey L.L.P.*

"As a publicly held limited partnership, they are a fairly rare entity," says Gordon S. Kaiser Jr., Squire Sanders' relationship partner. "We have been involved with the corporate and tax planning around their partnership structure since helping them go public in 1987; that gives us invaluable perspective in assisting the company in its acquisition and financing activities."

As an MLP, Cedar Fair does not pay federal income tax in the way a corporation or small business would. Rather, the company

prepares an informational federal tax return to determine its income. That income is then allocated to each unitholder based on the number of units held and their acquisition date.

The MLP structure is an attractive business form, Crage says, because it allows the partnership to pay out the majority of its earnings to its owners without first paying significant federal and state taxes at the entity level, thereby avoiding what is known as double taxation of earnings.



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However, the structure also requires special legal attention when it comes to virtually any Cedar Fair business matter, be it an internal restructuring, a new public offering or the use of units as currency to fund all or part of an acquisition. MLP-driven legal and tax issues, Kaiser says, can be extremely complex. A partner’s earnings depend, for example, on formulas that take into account both Cedar Fair earnings and park depreciation. Depreciation and tax levels vary for each partner, depending on how long the partner has owned the units.

“For example, when we look at a potential acquisition, we’re typically dealing with corporate- or family-owned parks,” Crage explains. “Bringing the acquisition into our particular partnership requires a strong familiarity with other partnership and corporate structures—specific legal and tax expertise we don’t possess internally. Squire Sanders understands all that and helps us work through it.”

### **Buying From a Rival**

Of the 10 Cedar Fair acquisitions Squire Sanders has been involved in so far, one of the most complex involved the 2004 purchase of archrival Six Flags’ Worlds of

Adventure—since renamed, in a return to the original, Geauga Lake—for \$145 million.

To fund roughly half of the purchase, Cedar Fair and Squire Sanders first secured a private placement of \$75 million for terms of seven to 11 years. Cedar Fair then funded the balance of the purchase price by temporarily expanding its revolving credit facility. Then, later in the year, it worked closely with Squire Sanders to complete a successful public offering that raised roughly \$73 million—enough to pay off the credit facility and fund the remainder of the acquisition.

“Squire Sanders was with us through the entire purchase, from the initial due diligence to negotiating the sales contract,” Crage says. “It was their responsibility to go through the data room on our behalf and then sit with us to go over the findings from a business perspective. Then they helped us put together and review the purchase and sales contracts.”

“Cedar Fair’s management team is extremely disciplined. They have a very clear idea of what works best for them, how and where to find value in an amusement park, and what’s good for the unitholders,” Kaiser

## partnership at a glance

### **Cedar Fair, L.P.**

On May 22, Cedar Fair announced it had entered into an agreement to acquire Paramount Parks for a purchase price of \$1.243 billion. This will involve the acquisition of five parks in the United States and Canada, and approximately double the size of Cedar Fair.

Since going public as a limited partnership in 1987, Cedar Fair, L.P. holdings have expanded to include hotel facilities, seven amusement parks and five water parks. Its primary assets include Cedar Point, Valleyfair, Dorney Park & Wildwater Kingdom, Worlds of Fun and Oceans of Fun, Knott’s Berry Farm, Michigan’s Adventure and Geauga Lake & Wildwater Kingdom. Cedar Fair also owns separate-gated water parks near San Diego and in Palm Springs, Calif. The group also owns and operates six hotel facilities.

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**Peter J. Crage** has served as corporate vice president of finance and chief financial officer since July 2005. In August 2004, he rejoined Cedar Fair to serve as vice president and corporate controller after having served as vice president of finance at Delaware North Companies in its Parks and Resorts Division. Prior to that, Crage served as corporate treasurer of Cedar Fair from 1999 to 2002. Crage is a certified public accountant. Contact him at [pcrage@cedarfair.com](mailto:pcrage@cedarfair.com).

says. “But in addition to all the normal complexity of an M&A transaction, you’ve got the additional MLP tax issues that are far more complex than you would find in a traditional corporate setting. It’s our job to backstop them along the way.”

## Squire, Sanders & Dempsey L.L.P.

Squire, Sanders & Dempsey L.L.P. represents a wide range of clients all over the world in all aspects of capital markets activity, serving the counseling and transactional needs of *Fortune* 500 corporations, newly emerging enterprises and a wide variety of companies in between.

Firm clients include both users and sources of financing—issuers and underwriters, borrowers and lenders—so its advice includes all perspectives, and its relationships include connections to many sources of capital.

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**Gordon S. Kaiser Jr.** leads Squire Sanders' corporate practice and has extensive experience in U.S. and international mergers and acquisitions, complex finance, corporate governance, public utility law and U.S. securities law. Kaiser was the lead counsel in several multibillion-dollar merger, acquisition and financing transactions in the industrial, utility and leisure sectors. His international experience includes structuring transactions with Japanese companies and representing the Czech electric utility in the first public bond offering in the Czech Republic since the

1989 Velvet Revolution, as well as complex cross-border merger and acquisition activity. Kaiser is Peer Review Rated. Contact him at [gkaiser@ssd.com](mailto:gkaiser@ssd.com).

**Cipriano S. Beredo III** is experienced in mergers and acquisitions, securities, corporate governance and general corporate law matters. Beredo has acted as lead counsel in a number of acquisitions and divestitures and counsels public and privately held companies on a wide range of corporate governance and securities law matters. Contact him at [cberedo@ssd.com](mailto:cberedo@ssd.com).

## Customer-Focused Partners

Cedar Fair's approach to its unitholders and park guests makes it a fun client to work for, Beredo adds.

"It really is a unique client," he says. "Here in Ohio, everyone knows Cedar Point and has a story or fond memory about a family visit to Cedar Point or one of Cedar Fair's other parks. That makes it fun. Their mission is to ensure everybody has a great day together with their family and friends. They're heavily focused on the customer's experience. That's energizing, because it's our focus too."



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## Making a Plan

Responsibilities were meted out in a similar fashion when Cedar Fair chose to implement a corporate governance-driven restructuring plan. Under the new structure, implemented in 2004, the company's limited partners now elect the board of directors of the general partner each year.

"This put Cedar Fair at the forefront of corporate governance," explains Cipriano S. Beredo III, a Squire Sanders senior associate who focuses on M&A transactions and securities law matters. "In other MLPs, the general partner—a majority shareholder, usually a founder or a wholly owned

subsidiary—elects the board. But we devised a structure so Cedar Fair unitholders elect the slate. It was a first-of-its-kind transaction."

That, of course, led to new responsibilities. Squire Sanders is now responsible for helping organize the company's annual meeting, reviewing and filing 10-Ks and other financial documents with the SEC, and managing and contributing to the company's annual proxy statement.

The amusement park industry continues to evolve—some of today's major parks began more than a century ago as relatively small mom-and-pop businesses—and Crage sees a bright future for Cedar Fair.

"We're very well positioned," he says. "We have a strong balance sheet and strong partners, including Squire Sanders. It's a strong relationship. They have the institutional knowledge and experience we need, especially going forward." ●