

# Necco dispute clears hurdle in bankruptcy court

By [Jon Chesto](#) Globe Staff, July 24, 2019, 8:25 p.m.



The NECCO factory in Revere. (ARAM BOGHOSIAN FOR THE BOSTON GLOBE)

The Sky Bar, Sweethearts, and Candy Buttons all have new owners, as does the shuttered Necco factory in Revere that had once churned out a sea of confections that would make Willy Wonka proud.

But the roughly \$10 million left over from the sale of Greater Boston's last great candy maker? That remains untouched amid a dispute between a bankruptcy trustee and

Necco's former parent company.

The trustee, Harold Murphy, just won a significant victory in US bankruptcy court in Boston. Judge Melvin Hoffman essentially denied nearly every effort by Necco's former parent firm, Ares Capital, to dismiss a case brought by Murphy. Ares had acquired a previous private-equity owner of Necco, ACAS.

The case now moves forward, with a trial expected next year. [Murphy has sued Ares](#), claiming the investment firm and its predecessor piled debt onto the Necco business while running the once massive candy empire into the ground. Murphy wants Necco's former suppliers and other unsecured creditors to be fully reimbursed for the bills left unpaid by the candy company's demise last year, a figure that totals at least \$20 million.

Murphy is trying to persuade the judge to knock Ares from its position as first in line for the proceeds from the Necco sale. (Ares was a secured creditor as well as the former owner.) He also claims that ACAS enriched itself from Necco over the years, even as the candy business bled tens of millions. He wants to recoup some of that money, too.

Ares, meanwhile, has argued in court that it deserves all the sale proceeds, and that its predecessor did its best to keep the struggling business open for as long as possible. (A spokesman for Ares declined to comment.)

It's all a bitter twist to [a sugary saga](#) that began more than 150 years ago, with lozenges sold by Chase and Company in the 1840s. Chase teamed up with two other candy makers to form the New England Confectionery Co. in 1901. Necco became a fixture in Fort Point, in a brick campus that now [houses Amazon](#), and soon, the new headquarters for [General Electric](#). Necco later moved to Cambridge — in a space now occupied by Novartis — before settling in its final resting spot in Revere in 2003.

ACAS acquired Necco in 2007, and proceeded to split the 50-acre Revere property and the money-losing candy business into two separate firms.

Did ACAS make an improper sweetheart deal? Murphy sure thinks so. He argues that the private-equity firm enriched itself as a landlord, and then as a seller of the prime real estate. ACAS sold the site and the 830,000-square-foot factory building in 2017 [for nearly \\$55 million](#), and the new owners are prepping the property for new tenants.

Murphy, in his litigation, points out that Ares, then in the process of acquiring ACAS, put the kibosh on a previous deal to sell both the candy business and the real estate to a different buyer, one that could have kept Necco afloat.

Ares eventually did sell the business, too, but its value had waned considerably by the time Necco was up for the taking in a bankruptcy auction last year. [An unflattering report](#) from the Food & Drug Administration on a rodent infestation at the factory didn't help matters.

Billionaire Dean Metropoulos' Round Hill Investments [ended up buying Necco](#) last year out of bankruptcy, with an initial goal of turning it around. (Murphy sued Round Hill over a \$1 million payment from the sale, another dispute that remains unresolved.)

Metropoulos may be best known for [resurrecting the Hostess brand](#). But he had considerably less luck with wafers and candy hearts, and decided after two months that [he wanted out](#). The once-mighty candy conglomerate was broken up, spun off to an array of far-flung buyers. Spangler Candy Co. [ended up](#) with Necco Wafers and Sweethearts. Boyer Candy Co. [landed Clark Bars](#). The Duck Soup shop in Sudbury [won the Sky Bar](#). Sorry, Mary Jane fans. That quirky molasses-and-peanut butter candy [may end up orphaned](#) .

The sun finally has set on the once-proud Necco empire. The fight over what's left behind, however, just keeps going.