

Hedge Fund's \$26.2M Bid Tops Ch. 11 Auction For Aerogroup

By **Jeff Montgomery**

Law360 (February 16, 2018, 8:28 PM EST) -- Hedge fund Alden Global Capital emerged as the apparent winning bidder in Delaware on Friday for bankrupt shoe retailer Aerogroup International Inc., with a \$26.175 million bid that capped a nearly 24-hour, sometimes “testy,” marathon auction.

Gregg M. Galardi of Ropes & Gray LLP, counsel to Aerogroup, said Alden's final bid could make \$22.5 million available to the estate. The distribution breakdown from the cash pool, however, remains a potential point of friction, and has yet to be disclosed.

U.S. Bankruptcy Judge Kevin Carey reserved final approval for the order pending a review by the buyer, creditors and others after complaints that the asset purchase agreement and other documents were made public only shortly before the hearing, and only hours after the auction. The judge said an additional hearing could take place Tuesday, if required.

‘I acknowledge that it’s a little bit unusual in terms of the compressed time frame, but i do think with the weekend, those concerns it seems to me should be satisfied,” Judge Carey said.

Alden came out on top after weeks of friction among groups vying to secure Aerogroup, maker and retailer of the well-known Aerosoles brand and other footwear.

Galardi said the auction produced 11 bids, with three different leaders at various times and six potential bidders involved. Disputes arose late in the competition, with one bidder group effectively barred from entering another offer.

“We clearly had an obligation to maximize value to the estate, but it’s not always the highest and best,” Galardi said, adding that the bid in question was “not, technically speaking, a higher bid.”

In the lead-up to the auction, Alden and a limited liability company called Aero Brand Holdings LLC — comprised of BlueStar Alliance LLC, Paladin Partners LP and Wiesner Products Inc. — feuded over the priority of an earlier Aero Brand offer of \$20.6 million, with Aero Brand characterizing Aerogroup’s subsequent alliance with Alden a betrayal.

According to a transcript of the auction, BlueStar and Wiesner tried to enter a \$28 million bid at the end of the competition, but Galardi said an analysis found it would yield only \$800,000 for the debtor.

Matthew M. Murphy of Paul Hastings LLP, counsel to Aerogroup term lender THL Corporate Finance Inc., objected during Friday's hearing to entry of the auction transcript, citing disputed statements about allocation of the sale proceeds.

"It's of no consequence to me for this purpose or any other purpose I can think of at the moment," Judge Carey said. "To the extent that the parties have a dispute about what goes to which lender, you can bring it before me."

Murphy said THL had been in talks on the allocation issue for some time. According to the transcript, a blunt exchange took place near the end of the auction between Murphy and Arik Preis of Akin Gump Straus Hauer & Feld LLP, counsel to Alden, over Alden's determination to itemize its allocation.

In the transcript, Preis said Alden had a right to declare a non-binding allocation of bid proceeds to cover \$2.4 million for accounts receivable, \$5.3 million for inventory, \$2.5 million for cash and \$1.15 million for China deposits.

Aerogroup, parent AGI HoldCo and four other affiliates filed for Chapter 11 protection in September, reporting plans to restructure \$72 million in debt and seek a buyer or new investor. In addition to retail outlets, the company operates online, wholesale, royalty and licensing enterprises.

The debtors had originally planned to shutter 74 of their 78 retail stores, citing unfavorable rent terms as a key factor for the slide into bankruptcy.

Michael Klein of Cooley LLP, counsel to Aerogroup's official committee of unsecured creditors, told Judge Carey the committee was aware that unsecured creditors were not likely to recovery anything from sale proceeds. Other claims for asset recoveries, retained by Aerogroup, could offer some return, he said.

Aerogroup is represented by Scott D. Cousins, Erin R. Fay and Gregory J. Flasser of Bayard PA and Gregg M. Galardi and Mark R. Somerstein of Ropes & Gray LLP.

Aero Brand is represented by Robert W. Mallard, Alessandra Glorioso, Bruce R. Ewing, Janet M. Weiss and Daniel Goldberger of Dorsey & Whitney LLP.

Alden Global Capital is represented by Arik Preis, Deborah Newman and Jason P. Rubin of Akin Gump Strauss Hauer & Feld LLP and Laura Davis Jones and Joseph M. Mulvihill of Pachulski Stang Ziehl & Jones LLP.

The Official Committee of Unsecured Creditors is represented by Cathy Hershcoopf, Michael Klein and

Sarah Carnes of Cooley LLP and Michael Busenkell of Gellert Scali Busenkell & Brown LLC.

THL Corporate Finance Inc. et al. are represented by Matthew M. Murphy of Paul Hastings LLP and M. Blake Cleary of Young Conaway Stargatt & Taylor LLP.

The case is In re Aerogroup International Inc. et al., case number 1:17-bk-11962, in the U.S. Bankruptcy Court for the District of Delaware.

--Additional reporting by Matt Chiappardi and Vince Sullivan. Editing by Orlando Lorenzo.

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