

## Rockport's Amended Ch. 11 Bid Protections Get Court's OK

By **Vince Sullivan**

*Law360, Wilmington (June 5, 2018, 8:25 PM EDT)* -- Bankrupt shoemaker The Rockport Co. LLC cobbled together a resolution Tuesday to address the concerns of unsecured creditors about more than \$6 million in bid protections for a stalking horse bidder, gaining the approval of a Delaware bankruptcy judge.

During a hearing in Wilmington, the debtor's attorney Mark D. Collins of Richards Layton & Finger PA said the committee's objection was resolved through negotiations with stalking horse bidder CB Marathon OpCo LLC, which resulted in changes to the circumstances that would trigger the payment of a \$4.5 million breakup fee and \$2 million expense reimbursement.

William P. Weintraub of Goodwin Procter LLP, representing the stalking horse, an affiliate of Charlesbank Equity Fund IX, said the resolution would maintain the bid protections while addressing the concerns of unsecured creditors.

"The construct and the thinking behind what we've done with the breakup fee and expense reimbursement is to attempt to preserve for Charlesbank a breakup fee when it has served its role in inducing another higher offer," Weintraub said. "The focus was really on temporal issues relative to when a termination occurs."

In essence, the deal limits the situations where the protections would be payable to the stalking horse bidder, he said, to the closing of an alternate transaction that was higher and better than the initial floor bid. Under the agreement, if Rockport terminated the deal prior to a June 29 bid deadline, or if Charlesbank kills its offer before a July 10 auction, then the breakup fee and expense reimbursement would not be payable, he said.

"If the termination were to occur late in the process — and we take that to be after the bid deadline or after the auction — there would be no breakup fee or expense reimbursement unless an alternative transaction closed," Weintraub said.

In the event Charlesbank terminates its \$150 million offer due to a breach of the purchase agreement by Rockport, the stalking horse would be entitled to an expense reimbursement from the proceeds of an alternative sale, he said.

U.S. Bankruptcy Judge Laurie Selber Silverstein approved the bidding procedures, saying the amendments were acceptable to the court.

Rockport hit Chapter 11 in mid-May after costs associated with unwinding the operation from its former parent company Adidas were much higher than expected. Coupled with supplier issues in recent years, the challenges led to strained liquidity and an effort to find a buyer.

The winning bidder at auction will be purchasing Rockport's global wholesale operations and its e-commerce platforms, but its North American retail operations are not yet included in the baseline bid. Charlesbank is considering making an offer on some part of the retail network, but Rockport received permission at a first-day hearing last month to prepare for the liquidation of the stores not selected by the stalking horse.

A final decision on the closing of its retail stores was deferred until June 13, Collins said Tuesday. He said the unsecured creditors committee and the landlords of store locations pressed the debtor to postpone action on store closings to allow a last-ditch effort at negotiations with Charlesbank over the assumption and assignment of leases.

The company has \$287 million of funded debt made up of a \$57 million revolving credit facility, \$188 million in secured notes, \$12 million in subordinated notes and about \$30 million in trade debt, according to court papers.

The debtors are represented by Mark D. Collins, Michael J. Merchant, Amanda R. Steele, Brendan J. Schlauch and Megan E. Kenney of Richards Layton & Finger PA.

The unsecured creditors committee is represented by Jay R. Indyke, Robert Winning, Sarah A. Carnes and Lauren A. Reichardt of Cooley LLP and Christopher M. Samis, L. Katherine Good and Aaron H. Stulman of Whiteford Taylor & Preston LLC.

Charlesbank is represented by Evelyn J. Meltzer and David M. Fournier of Pepper Hamilton LLP and William P. Weintraub and Barry Z. Bazian of Goodwin Procter LLP.

The case is In re: The Rockport Co. LLC et al., case number 1:18-bk-11145, in the U.S. Bankruptcy Court for the District of Delaware.

--Editing by Edrienne Su.