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Dickstein Deal May Leave Ex-Partners With Lighter Wallets

By **Andrew Strickler**

Law360, New York (February 12, 2016, 10:54 PM ET) -- Leaders of Dickstein Shapiro LLP halted capital repayments to the crowd of partners who fled the struggling firm last year, sources told Law360 on Friday, a move that has prompted some to wonder if those partners will ever be paid back following the firm's announced breakup and asset sale to Blank Rome LLP.

Following a string of failed deals in recent months, Dickstein caught a lifeline in Philadelphia-based Blank Rome, which said Feb.11 it has agreed to take in a majority of Dickstein's remaining lawyers, along with scores of staffers and some office space.

But rather than a typical merger in which the new entity assumes the acquired firm's debts and partner obligations, the deal amounted to a mass lateral hire and a shutdown of the floundering Dickstein, with Blank Rome picking up more than 100 lawyers from Dickstein's Washington, D.C., and New York offices and adding government contracts and insurance practices.

While Blank Rome's chairman said the firm took on some liabilities from Dickstein, some former Dickstein partners said the deal may have unfairly benefited Blank Rome by funneling money due the Dickstein partnership.

"If it's a dissolution, how can they take [accounts receivable], which is a Dickstein asset, and transfer that to Blank Rome when there are still claims to be paid?" one former partner asked.

Two sources with knowledge of Dickstein confirmed Friday that some recently departed partners did not get their scheduled capital repayment checks that had been due in the second half of last year. The firm did not provide an explanation, according to one source.

While the Dickstein partnership agreement includes a clause allowing the business to hold capital under dire financial circumstances, the partner said it appeared that Dickstein had withheld capital even as it prepared to use unpaid fees and other money due the firm as a bargaining chip to close the Blank Rome deal.

Following Dickstein's failed bid to join Bryan Cave LLP and other firms in recent months, "they had to sweeten the pot to do this deal," the former partner said.

While the dissolution deal is a relative rarity in BigLaw, it is not without recent precedent. The former Bingham McCutchen LLP, which hit hard financial times in 2013 and later delayed partner pay in an attempt to stay solvent, was dissolved in late 2014 as more than 750 lawyers and staffers joined Morgan Lewis & Bockius LLP. A handful of Bingham lawyers also landed at Blank Rome.

Cooley LLP bankruptcy counsel Robert Eisenbach said most disputes over fees in firm breakups revolve not around unpaid fees for past work but on the ongoing business of partners at their new firms, a scenario exemplified in clawback litigation springing from the Heller Ehrman LLP bankruptcy.

But in most situations, he said, money earned by a dissolving partnership would be a business asset to be used initially to satisfy creditors, with any remainder split among partners.

“Generally speaking, partner capital is equity capital and not a creditor claim in the classic sense, and creditors need to be paid in full before they would get a chance to recover anything,” he said.

James Carroll, a Massachusetts-area consultant hired by Dickstein to lead the liquidation, confirmed Friday that some money owed to Dickstein would go with lawyers to Blank Rome.

“This was a deal that was done. Attorneys took with them their books of business and their [work in progress], and in return, Dickstein got other benefits,” he said.

When asked about capital repayments and accounts receivable derived from departed lawyers, Carroll responded: “That’s a question for individual partners to ask, and I don’t have a global answer for you."

On Friday, Blank Rome Chairman Alan Hoffman declined to comment on the accounts receivable issue or other details of the deal. He also declined to say whether or not a true merger was ever discussed.

“All I can tell you is we purchased, acquired, certain assets and assumed certain liabilities,” he said. “And as to liabilities that the Dickstein firm may have had to former partners, associates, things like that, that never once was asked. I have no idea.”

Messages left for former Dickstein Chairman James Kelly, now managing partner of Blank Rome's D.C. office, were not returned Friday.

--Additional reporting by Natalie Rodriguez. Editing by Mark Lebetkin and Christine Chun.