

Liquidating Draw Another Circle Seeks Employee Bonuses

By **Matt Chiappardi**

Law360, Wilmington (August 5, 2016, 3:26 PM ET) -- Draw Another Circle LLC, owner of liquidating media retail chains Hastings Entertainment Inc. and MovieStop LLC, asked the Delaware bankruptcy court Thursday to approve several bonus payments to up to 30 employees in an effort to keep them onboard while the company winds down.

The up to \$548,000 in requested bonuses would go to employees with titles such as “manager,” “supervisor” and “vice president,” and would not include company insiders such as its CEO and chief financial officer, both of which would be subject to greater scrutiny under bankruptcy rules for extra compensation, Draw Another Circle said in court papers.

Draw Another Circle, which did not find a going-concern buyer for its assets and is running going-out-of-business sales at its retail locations, said it wanted to make the payments to alleviate what was becoming an exodus of its workforce.

“More than 20 employees from the corporate headquarters have voluntarily resigned from the debtors since the petition date, and the debtors are concerned about additional employee departures now that they are conducting going-out-of-business sales and winding down their operations,” Draw Another Circle said.

The employees set to receive the payouts include those in departments like network security and financial analysis, from which additional departures would “seriously jeopardize” the company’s ability to wind down in an organized fashion, the debtor said.

In a declaration supporting the payments from Draw Another Circle’s financial adviser FTI Consulting, managing director Chas E. Harvick said the amount is below the \$800,000 median for companies in a comparable situation.

Under the Bankruptcy Code, debtors are allowed, with court permission, to make payments to non-insider employees for the sole purpose of keeping them on during the course of a Chapter 11 case, but bonuses to higher-level executives must pass rigorous benchmarks to ensure there are sufficiently difficult goals in place to unlock the money.

Draw Another Circle has not yet requested a bonus plan for its directors and officers, but did ask in July for a \$125,000 bonus plan for store-level employees, according to court records.

The Delaware bankruptcy court recently rejected an executive bonus plan in the Sports Authority Holdings Inc. Chapter 11, another liquidating retail case.

In that instance the requested bonuses were for higher-level employees, and U.S. Bankruptcy Judge Mary F. Walrath said it would be “inappropriate” to pay out what would have been up to roughly \$2.9 million to executives while everyone else was losing their jobs.

Draw Another Circle says the employees in its payment plan perform essential functions to keep up the company’s obligations in the agency agreement it struck with the liquidators running the going-out-of-business sales.

The company, which has assets that also include sports memorabilia distributor SP Images Inc., filed for Chapter 11 protection in June, listing nearly \$140 million in debt and blaming the consumer paradigm shift to online shopping for its woes.

One of its assets, the MovieStop retail video chain, was already taken out of the lineup with going-out-of-business sales being run at all of its stores.

Draw Another Circle had acknowledged in court that finding buyers for the other chains in its portfolio was a long shot, noting that it was the only bidder when it bought the assets in 2014.

Draw Another Circle LLC is represented by Christopher M. Samis, L. Katherine Good and Chantelle D. McClamb of Whiteford Taylor & Preston LLC and Cathy Hershkopf, Michael Klein and Robert Winning of Cooley LLP.

The case is In re Draw Another Circle LLC, et al., case number 1:16-bk-11452, in the U.S. Bankruptcy Court for the District of Delaware.

--Additional reporting by Jeff Montgomery and Vince Sullivan. Editing by Emily Kokoll.