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Sports Authority Gets Nod For 'Perfect' Vendor Settlement

By Matt Chiappardi

Law360, Wilmington (July 7, 2016, 7:17 PM ET) -- A Delaware bankruptcy judge gave Sports Authority the nod Thursday to settle much of the fierce dispute with its consignment vendors, despite opposition from the unsecured creditors committee, calling the deal a "perfect settlement" that will avoid years worth of litigation.

During a hearing in Wilmington, U.S. Bankruptcy Judge Mary F. Walrath rejected arguments from the official committee of unsecured creditors that the settlement — which allows participating consignment vendors to recover a portion of their sales proceeds and avoid lengthy litigation over who has a lien on the merchandise — disproportionately benefits Sports Authority Holding Inc.'s term lenders, saying that the court does not have to find that the resolution is the best one possible, only that it's not the worst.

Judge Walrath said the deal was far from the worst outcome, which could be protracted court fights that risk the bankruptcy estate getting nothing at all, and went as far as calling it "perfect" because each side had to give up something valuable.

"This is, quite frankly, a perfect settlement," the judge said from the bench. "Nobody is getting everything."

The struggle with consignment vendors has cast a shadow over Sports Authority's case from nearly the start, locking the national retailer, which never found a going-concern buyer and is now liquidating, into a series of battles over whether proceeds from the goods that make up roughly 20 percent of overall sales should go back to the vendors or be used to satisfy prepetition debt now that the company is in bankruptcy.

Committee attorney Robert J. Feinstein of Pachulski Stang Ziehl & Jones LLP conceded that the fight has been "tremendously destructive" and floated the notion that it may have ruined Sports Authority's prospects of finding a going-concern buyer.

But the committee opposed the settlement on grounds it included a waiver of potential preference actions, which can be a lucrative source or recovery for unsecured creditors, without Sports Authority having done any serious research into how that might affect money flowing into the estate.

Unsecured creditors also argued that Sports Authority's term lenders, which have been a staunch proponent of the view that the consignment vendors' proceeds should satisfy prepetition debt, are getting too lopsided a benefit.

Sports Authority countered that it did consider the impact of a preference claim waiver and believed that some consignment vendors might have valid defenses that would put that source of recovery at risk anyway.

Under the deal, which was agreed to by about 70 of Sports Authority's roughly 160 vendors, certain vendors would get various percentages of their proceeds from the sale from roughly 25 percent to 40 percent, with some such as ASICS America Corp. and Castlewood Apparel Corp. in a

higher tier that could get up to around 50 percent.

Sports Authority had **tried to settle** the consignment fight earlier in the case with a deal giving vendors around 60 percent of what they would be entitled to under their existing contracts, but **abandoned the resolution** when term lender agent Wilmington Savings Fund Society mounted opposition.

Sports Authority **filed for Chapter 11 protection** in March, about a month after the company skipped a \$21 million interest payment on outstanding notes. The company listed about \$1.1 billion in debt and cited the rapid and accelerating change in the retail sector with consumers eschewing brick-and-mortar stores for online shopping.

The company had hoped to find a going-concern buyer for at least some of its roughly 450 locations, but none materialized and Sports Authority **liquidated them all**.

Sports Authority is represented by Robert Klyman, Matthew Williams and Keith Martorana of Gibson Dunn, and Michael R. Nestor, Kenneth J. Enos and Andrew L. Magaziner of Young Conaway Stargatt & Taylor LLP.

The committee is represented by Robert J. Feinstein, Jeffrey N. Pomerantz and Bradford J. Sandler of Pachulski Stang Ziehl & Jones LLP.

Agron is represented by Ronald S. Gellert and Margaret F. England of Gellert Scali Busenkell & Brown LLC, and David S. Kupetz and Jessica L. Vogel of SulmeyerKupetz PC.

ASICS America Corp. is represented by Christopher S. Loizides of Loizides PA, and Adrienne K. Walker, Jeffrey A. Davis and Eric R. Blythe of Mintz Levin Cohn Ferris Glovsky and Popeo PC,

The case is Sports Authority Holdings Inc., case number 1:16-bk-10527, in the U.S. Bankruptcy Court for the District of Delaware.

--Additional reporting by Jonathan Randles. Editing by Patricia K. Cole.

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