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Choxi.com sets auction after bid procedures approved

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Online discount retailer Choxi.com heads to auction after its bidding procedures were given the court's nod of approval.

At a Monday, Dec. 19, hearing, Judge Shelley C. Chapman of the U.S. Bankruptcy Court for the Southern District of New York in Manhattan set a Jan. 12, 2017, auction for the New York City-based debtor after approving its revised bidding procedures, said Isaac Nutovic of Nutovic & Associates, who was appointed at the hearing to represent the creditors committee.

On Dec. 9, Chapman approved Choxi's stalking-horse agreement, a licensing agreement with creditors N.D. Gems Inc., which holds \$1.3 million in claims, and 9th Avenue LLC, owed \$35,000.

Under the five-year licensing agreement - which was challenged by three other interested parties, spurring an impromptu auction on Dec. 8 for the stalking horse role - the creditors will pay a one-time administration fee of \$250,000, plus Choxi's estate 12% of gross revenue in the first year of the agreement, 10% in the second year, 8% in the third year, 6% in the fourth year and 4% in the fifth year.

The deal is valued at \$3.8 million.

All competing parties against the stalking horse must submit bids worth a total of at least \$2.5 million while agreeing to commit at least \$1 million in the first year to qualify for the auction. Bids must be submitted by Jan. 9, 2017, Nutovic said.

A sale hearing is scheduled for Jan. 19, 2017, according to Nutovic.

Stalking-horse N.D. Gems and 9th Avenue, collectively referred to as Savalia Lender Group because they are owned by Harry Savalia who owns a 1% equity stake in the debtor, were challenged at the Dec. 8 hearing by competing parties OpenSky Corp., Source Force LLC and U.S.A. Dawgs Inc.

Savalia originally submitted a lead offer worth \$900,000 but raised its bid to \$3.8 million, securing it as the stalking horse while the competing parties dropped out.

Choxi filed for Chapter 11 on Dec. 5 in response to an involuntary Chapter 7 petition filed by certain creditors on Nov. 10. The e-commerce company, which sells brand-name and non-brand name merchandise--ranging from jewelry

to electronics--shuttered its business in October amid declining revenue and the fraudulent transfer of certain shares of the company's stock by its largest investor.

Oak Investment Partners, which invested \$25 million in Choxi, was ordered to repurchase \$11 million in Series A stock of an Asian e-commerce entity before making its own investment. Oak general partner Iftikhar Ahmed instead funneled the \$11 million into a personal account.

Choxi listed \$1.5 million in assets and \$33.9 million in liabilities in its petition.

Tracy L. Klestadt and Stephanie R. Sweeney of Klestadt Winters Jureller Southard & Stevens LLP are debtor counsel.

<http://pipeline.thedeal.com/tdd/ViewArticle.dl?id=13933200>

---- **Index References** ----

Company: 9TH AVENUE CO LTD; OAK INVESTMENT PARTNERS; OPEN SKY CORP; PROTECT THE FORCE LLC

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