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Binder & Binder seeks use of new DIP

Andrew Hedlund

Thanks to slow disbursements from Washington, one of the nation's largest advocacy firms for Social Security disability claimants wants to tap another source of postpetition financing in hopes of avoiding liquidation.

Binder & Binder-The National Social Security Disability Advocates (NY) LLC in a Tuesday, Feb. 10, motion requested use of a \$6 million debtor-in-possession loan from prepetition mezzanine lender Stellus Capital Investment Corp. Debtor counsel Cassandra Porter of Lowenstein Sandler LLP said a scheduled Feb. 17 hearing on the matter before Judge Robert D. Drain of the U.S. Bankruptcy Court for the Southern District of New York in White Plains has been adjourned to Feb. 24.

Binder & Binder would use the proceeds of the facility, which would accrue interest at 10%, to pay off the \$3 million in new money provided under its \$26 million DIP from prepetition lenders U.S. Bank NA and Capital One NA . The other \$23 million of the Dec. 18 loan was rolled-up prepetition debt. The original DIP accrues interest at an unspecified base rate plus 4.25%.

The remainder of the new DIP would fund working capital and other corporate needs of Binder & Binder, among other uses. An interim order would allow for use of up to \$4.5 million.

Court papers show that slow disbursements from the U.S. Social Security Administration and the U.S. Department of Veterans Affairs have caused Binder & Binder's cash flow to dwindle. The Hauppauge, N.Y., debtor said it needed the new money to ride out the temporary slowdown and allow for a potential reorganization or another restructuring alternative. Failure to obtain the funds, Binder & Binder asserted, would result in a " 'controlled liquidation' solely for the benefit of the existing DIP lenders."

The smaller payments from the federal government led Binder & Binder to default on its original financing on Jan. 26 by breaching some of the loan's covenants. Without access to the new DIP provided by Stellus, Binder & Binder said it would not be able to service new cases.

U.S. Bank and Capital One have not allowed the debtor to make modifications to the current DIP that would expand the size of the loan, court papers said.

This is not the first time the federal government's actions adversely affected the company, however. In a Dec. 19 declaration, chief restructuring officer William Brandt Jr. of Development Specialists Inc. said the federal government

negatively affected Binder & Binder's business through the sequestration budget cuts passed in 2011 and the more than two-week government shutdown in October 2013.

While Social Security benefits were not cut as a result of sequestration, uncertainty around how the cuts might affect new claims delayed their processing, with workflow interruptions causing problems for Binder. The 2013 shutdown caused the debtor's revenue projections to fall short by about 20%, according to court papers.

In early 2014, Binder & Binder, facing a liquidity crunch, hired Lincoln International LLC to "solicit incremental financing or a capital infusion," Brandt said in his declaration.

The company could not secure more funding and hired Brandt's firm to explore strategic alternatives or undergo an operational restructuring, court papers said.

Because of the company's continued inability to service its senior secured debt, Binder & Binder decided it had to file for bankruptcy. It filed a petition on Dec. 18.

Binder & Binder helps individuals navigate the Social Security Administration and the Department of Veterans Affairs by aiding them in filling out benefit applications and guiding them through the appeals process if an application is denied.

There are two main programs administered by the SSA — the Social Security disability insurance program and the Social Security supplemental income program. The VA administers the Veterans Affairs disability benefits program.

Mary Seymour of Lowenstein Sandler worked on securing the new DIP loan. Seymour was not available for comment. Nicholas Vislocky and Kenneth Rosen of Lowenstein are also debtor counsel.

Joseph Corneau, Tracy Klestadt and Maeghan J. McLoughlin of Klestadt Winters Jureller Southard Stevens LLP represent the official committee of unsecured creditors, which comprises T&G Industries Inc. , Teaktronics Inc. , the United Service Workers Union, Local 455 IUJAT and related funds and W.B. Mason Co.

<http://pipeline.thedeal.com/tdd/ViewArticle.dl?id=100051077294>

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

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