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Congregation Birchos Yosef confirmation hearing delayed

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After a Jan. 6 confirmation hearing was delayed for Congregation Birchos Yosef, the owner of a Hasidic Jewish synagogue may submit its own reorganization plan to compete with one proposed by its secured lender. TD Bank NA is set on March 24 to seek confirmation of its plan for the Monsey, N.Y., debtor before Judge Robert D. Drain of the U.S. Bankruptcy Court for the Southern District of New York in White Plains. A Dec. 29 notice said the January confirmation hearing had been adjourned for unspecified reasons. Drain on Dec. 4 signed an order approving the disclosure statement for TD Bank's plan. Debtor counsel Allen A. Kolber of the Law Offices of Allen A. Kolber said the debtor may submit a rival plan that would fund recoveries through school tuition and reinstate TD Bank's claim. He said more would be clear after a Feb. 8 status conference where the debtor and lender are scheduled to confer with Drain. Under TD Bank's plan, most creditors would be paid through sale proceeds from eight pieces of real estate. The debtor has valued its real estate collectively \$26.7 million. Specifically, a religious school for boys is valued at \$10 million; a synagogue and parking lot at \$8 million; a religious school for girls at \$4.5 million; a school for special-needs children at \$2 million; a single-family residential building at \$1 million; a residential building and a two-family residential building each at \$500,000; and a single-family residential building at \$200,000. Within three weeks of the effective date, TD Bank would seek permission from the Supreme Court of the State of New York to sell the properties. If approved, the sale process would begin within 10 days. Sean C. Southard of Klestadt Winters Jureller Southard & Stevens LLP would serve as independent seller for the properties. Southard would receive 1% of the sale price as compensation. Tranzon LLC would serve as broker for the sales. For each sale, except for the synagogue, Tranzon would receive a 3% commission, unless the purchaser also retained a broker. In that case, Tranzon would receive a 2% commission. It is unclear what commission Tranzon might receive on the synagogue. Southard would have 45 days following the plan's effective date to round up a stalking-horse bidder for the properties, except for the synagogue, with minimum bids set at the estimated value. A lead bidder would be entitled to a breakup fee of 3% if it were not the ultimate buyer of any property. Bidders would have 30 days following the filing of a notice of stalking-horse bidder to submit competing bids. TD Bank would retain its lien on the synagogue. Southard declined to elaborate on what would happen to the synagogue and declined to say whether any interested parties had come forward. The lender, owed \$9.22 million with 9% postpetition interest and attorneys' fees, would be paid through the sale proceeds. The Internal Revenue Service would be made whole on its \$255,052 claim. TCF Equipment Finance Inc. would be paid in full on its \$143,155 claim through repossession of its vehicles, and general unsecured creditors, owed \$1 million, would be paid in full in cash. Two holders of mechanic's liens would receive sale proceeds from specific properties for an unspecified recovery. The debtor, founded in 1985, does not have any equity holders, as it is a nonprofit organization. Birchos Yosef ran into trouble beginning almost five years ago after three unnamed former board members, without the knowledge of the rest of the board, borrowed \$4.8 million from Harvey Klein in connection with a \$6 million purchase of two properties on Route 45 in Spring Valley, N.Y. Klein's relation to the debtor was not apparent. Debtor vice president Breindy Lebovits said in Feb. 26 declaration the board members then allegedly

let Birchos Yosef default on the mortgage loan on an unspecified date, leading Klein to subsequently on July 7, 2011, file a foreclosure action in the Supreme Court of the State of New York in Rockland County. The case has since been closed. The trouble caused by the board members allegedly continued in January 2012, when the three borrowed funds for Birchos Yosef through TD Bank. As part of the transaction, the new lender cross-collateralized all of the debtor's properties and took on the Klein loans, which then had \$3.5 million outstanding. After missing a Dec. 1, 2012, monthly payment to the lender, Birchos Yosef allegedly defaulted. TD Bank then filed a foreclosure action in the New York Supreme Court on Feb. 22, 2013. On Dec. 19, 2014, Judge Gerald E. Loehr entered an order allowing foreclosure and sale of the real estate. The debtor then filed for bankruptcy on Feb. 26. Joseph Lubertazzi Jr. and Matthew Heimann of McCarter & English LLP represent TD Bank. Lubertazzi could not be reached for comment Friday.

<http://pipeline.thedeal.com/tdd/ViewArticle.dl?id=13418094>

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

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