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Bankrupt Transmar Allowed To Use Its Cash For A Week

By **William Gorta**

Law360, New York (January 4, 2017, 10:25 PM EST) -- A New York bankruptcy judge at an expedited hearing Wednesday gave emergency approval for cocoa trader Transmar Group to use cash collateral to keep the lights on, but held off on full approval to make sure all relevant parties have been notified.

U.S. Bankruptcy Judge James L. Garrity held the first-day motion hearing four days after Transmar filed its Chapter 11 petition on New Year's Eve. Transmar attorney Joseph L. Schwartz of Riker Danzig Scherer Hyland & Perretti LLP explained that the Saturday filing was necessary because prepetition lenders demanded that the debtor company commence Chapter 11 proceedings by Dec. 31. He told Judge Garrity the filing was a collaborative effort with the lenders, who had consented to all the first-day motions.

Judge Garrity said he didn't want to leave unsecured creditors, many of which are in other countries, in the dark and only granted the motion to use cash collateral until a continuation of the hearing Tuesday.

"Let's be frank," Judge Garrity told Schwartz. "I'm concerned there hasn't been any notice to unsecured creditors. I'm not sure I'm prepared to move at the same pace you want to."

He also said he would consider Transmar's motion to pay wages and benefits at the continued hearing.

"I look forward to a very successful reorganization in this case," the judge said.

Transmar said in court papers that it has more than \$400 million in debt. Much of the problem involves its indirect European subsidiary Euromar Commodities GmbH, which took a bath when unhedged forward contracts resulted in huge losses. Euromar is in insolvency and while Transmar owes it some money, Euromar owes Transmar a lot more, Schwartz said.

"Euromar owes us net, net up to \$100 million," Schwartz said.

The falling price of cocoa and unpredictably in currency also caused problems for Transmar, he said.

Transmar, a privately held business based in Morristown, New Jersey, was founded more than 35 years ago by its CEO, cocoa trader Peter G. Johnson.

Transmar's filing also lists Tokyo-based Itochu Corp. as an owner of significant equity.

Itochu is a large global trader that formed a joint venture with Transmar in February, according to the debtor's website.

Itochu was to contribute cash into Transmar Group Ltd., a newly formed U.K. limited company, which was to hold the majority of Transmar's existing global cocoa operations, according to the debtor's website. Itochu was to receive a minority stake slightly below 20 percent of the joint venture's equity in exchange for its capital.

Transmar is represented by Tracy L. Klestadt, Joseph C. Corneau and Christopher J. Reilly of Klestadt Winters Jureller Southard & Stevens LLP, and Joseph L. Schwartz, Tara J. Schellhorn and Rachel F. Gillen of Riker Danzig Scherer Hyland & Perretti LLP.

The creditor banks are represented by Andrew P. DeNatale, Daniel P. Ginsberg and Matthew G. Garofalo of Stroock & Stroock & Lavan LLP.

The case is In re Transmar Commodity Group Ltd., case number 1:16-bk-13625, in the U.S. Bankruptcy Court for the Southern District of New York.

--Editing by Aaron Pelc.

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