

## FTD's Ch. 11 Sale Timeline, Employee Bonuses OK'd In Del.

By **Vince Sullivan**

Law360, Wilmington (June 25, 2019, 2:10 PM EDT) -- Bankrupt flower retailer FTD Companies Inc. received court approval Tuesday in Delaware for its proposed sale timeline and employee bonus plans after telling the court it had finalized asset purchase agreements with stalking horse bidders and reduced the bonus pool for critical workers.

During a hearing in Wilmington, debtor attorney Timothy W. Hoffmann of Jones Day said FTD had reached final agreement on the terms of asset purchase agreements with three proposed stalking horse bidders late Monday that would bring in more than \$100 million to the Chapter 11 estate.

While the terms of the agreements are sealed in court documents, a press release issued late Monday by FTD indicated that Nexus Capital Management LP submitted a baseline bid of \$95 million for the core assets of the debtor, while two smaller groups of assets — its Personal Creations business line, which includes Gifts.com, and its Gourmet Food unit, which includes Shari's Berries — received bids of \$18.1 million and \$5 million, respectively.

An affiliate of Edible Arrangements founder Tariq Farid made the offer for the Gourmet Food unit, and the Personal Creations line received the bid from Planet Art. A July 2 hearing is scheduled before U.S. Bankruptcy Judge Laurie Selber Silverstein to seek approval of the stalking horse bids and the bid protections that go along with them.

But on Tuesday, Judge Silverstein approved the debtor's sale timeline, which calls for a July 15 deadline for competing bids, a July 22 auction and a July 31 sale hearing. She said comments from the official committee of unsecured creditors supporting the quick progression of FTD's Chapter 11 case were influential in her decision.

Committee attorney Jason Adams of Kelley Drye & Warren LLP said productive conversations with the debtor and the extensive marketing of assets completed before FTD filed for bankruptcy gave his clients comfort in agreeing to the expedited sale plan.

"We recognize the difficulties this company is facing and so with that information and that open dialogue we were able to get comfortable with this timeline," Adams said.

Judge Silverstein also approved a modified key employee incentive plan, or KEIP, that had drawn objection from the Office of the U.S. Trustee.

Debtor attorney Brad B. Erens of Jones Day said the maximum pool available for executive bonuses had been reduced from the originally proposed \$5 million down to \$4 million, and that the finalization of the asset purchase agreements the previous night had brought greater clarity to the question of whether the bonus plan was truly incentivizing.

With the \$95 million bid in hand from Nexus, Erens said that after working capital adjustment estimates were applied to the proposed baseline purchase price, KEIP participants would only be eligible for the minimum bonus payments under the plan. If the actual adjustment turned out to be greater than estimated, the participants would likely not receive any bonus payments.

"We are just barely above that first threshold for the KEIP participants," Erens said. "A slight reduction from our estimates would mean the KEIP participants earn nothing."

The debtor's compensation adviser, John Dempsey, testified that the need to maintain positive operational cash flows until the closing of the sale to prevent downward adjustments to the working capital factors and to maintain eligibility for the minimum bonus payment was a significant motivator for the executives covered under the bonus plan. Reaching the higher sale target value — which was filed under seal — to earn a high bonus payment is also a goal toward which the participants will have work, and will not be easily attainable.

The U.S. trustee had objected to the proposed plan, saying the benchmarks for payments were too easily met, but Judge Silverstein cited Dempsey's testimony in approving the modified KEIP, saying the five executives will need to continue to work hard to earn the bonus payments.

"With respect to the KEIP, I'm content that it is incentivizing," she said.

A separate Key Employee Retention Plan, aimed at enticing 68 critical rank-and-file employees to remain with FTD through the pendency of the bankruptcy cases with up to \$1.9 million in aggregate bonuses, also received court approval Tuesday.

Flower delivery company FTD and 14 affiliates sought Chapter 11 protection in Delaware bankruptcy court in early June, with more than \$220 million in debt and plans to break up and sell the enterprise.

FTD and its affiliates are represented by Daniel J. DeFranceschi, Paul N. Heath, Brett M. Haywood and Megan E. Kenney of Richards Layton & Finger PA, and Heather Lennox, Thomas A. Wilson, Brad B. Erens, Timothy W. Hoffmann and Caitlin K. Cahow of Jones Day.

The U.S. Trustee is represented by Timothy J. Fox Jr.

The official committee of unsecured creditors is represented by Jennifer R. Hoover and Kevin M. Capuzzi of Benesch Friedlander Coplan & Aronoff and Erin R. Wilson, Jason R. Adams, William S. Gyves, Lauren S. Schluskel and Maeghan J. McLoughlin of Kelley Drye.

The case is In re: FTD Companies Inc. et al, case number 19-11240, in the U.S. Bankruptcy Court for the District of Delaware.

--Editing by Abbie Sarfo.