



COVID-19 Restrictions Crater Art Van's Liquidation Plans

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Law360 (March 24, 2020, 11:35 AM EDT) -- Statewide business and travel restrictions imposed by governors seeking to stem the spread of COVID-19 have forced bankrupt home furnishing retailer Art Van Furniture to cease all operations, including going-out-of-business sales at most of its stores, the company told a Delaware judge Tuesday.

During a status conference conducted over the phone, debtor attorney Gregory W. Werkheiser of Benesch Friedlander Coplan & Aronoff LLP said shelter-in-place orders have been issued in Michigan, Pennsylvania and Ohio, where most of Art Van's stores are located, forcing the nonessential furniture retailer to lay off all of its workers and shut down its stores.

In addition to the cessation of the liquidation sales, Werkheiser said that a proposed going-concern sale that would have seen 44 of Art Van's 169 stores sold to its former owners to continue operating has fallen through due to the uncertainty created by the pandemic.

The debtor's access to its prepetition lender's cash collateral is also set to be terminated after Wells Fargo NA informed Art Van late last week that the company was in default under an interim cash collateral order.

"We are, notwithstanding that, still in communications with our lenders and the [official] committee [of unsecured creditors] about trying to find a path forward that works for everyone," Werkheiser said.

He asked the court to schedule a hearing for Thursday afternoon for U.S. Bankruptcy Judge Christopher S. Sontchi to hear any dispute raised by the debtor over the actions taken by Wells Fargo.

Werkheiser said the actions take by the debtor were largely dictated by global events far outside of Art Van's control and the hope is to come to some kind of consensual resolution with Wells Fargo and other parties to the case that will allow for a budget to be approved that works until circumstances improve. In the meantime, Art Van needed to cut expenses to preserve the value of its estate.

Jennifer Feldsher of Morgan Lewis & Bockius LLP, representing Wells Fargo, told the court the economic disruption caused by the COVID-19 outbreak has left the lender with few options, and said that getting through the crisis should be the goal of all parties.

“There isn’t anything that anybody can do today. The stores are shut down and the debtor let the employees go,” she said. “Now, it’s about bridging, and everybody’s focus should be ... to bridge as best we can from where we are today to where we may be at a time when the stores are reopened and hopefully the GOB process that was laid out to begin with can resume so this collateral can be liquidated and monetized.”

Bradford J. Sandler of Pachsulski Stang Ziehl & Jones LLP, representing the creditors committee, said the situation is very fluid and while the proposed going concern transaction has fallen through, there is hope that those assets can be preserved with an eye toward reviving that deal in the future.

“Right now estate is spending as little money as possible so whenever we emerge from the current situation there is still availability to have a meaningful process to maximize value,” he said.

Art Van filed its Chapter 11 petition March 8, citing extreme market conditions for its retreat into bankruptcy while carrying more than \$200 million in debt.

Based in Michigan, the company said in initial court declarations that its sales have been declining significantly since 2016 as competition increased, expenses jumped and expansion attempts fizzled.

Founded in 1959, Art Van currently operates 169 furniture and mattress stores in Michigan, Indiana, Ohio, Illinois, Pennsylvania, Maryland, Missouri and Virginia under the names Art Van, Pure Sleep, Scott Shuptrine Interiors, Levin Furniture, Levin Mattress and Wolf Furniture.

The company was acquired by Thomas H. Lee Partners LP in March 2017, funded by a sale-leaseback transaction with Art Van-owned stores. The Pennsylvania-based Levin and Wolf businesses were acquired in November 2017, the declaration said.

Those Pennsylvania stores were the subject of a going-concern sale bid from their former owners, the Levin family, who sought to reacquire them through the bankruptcy process.

Art Van is represented by Gregory W. Werkheiser, Michael J. Barrie, Jennifer Hoover, Kevin Capuzzi and John C. Gentile of Benesch Friedlander Coplan & Aronoff LLP and Marc J. Phillips and Maura I. Russell of Montgomery McCracken Walker & Rhoads LLP.

Wells Fargo is represented by J. Cory Falgowski of Burr & Forman LLP and Marjorie S. Crider, Christopher L. Carter and Jennifer Feldsher of Morgan Lewis & Bockius LLP.

The official committee of unsecured creditors is represented by Bradford J. Sandler and Robert J. Feinstein of Pachulski Stang Ziehl & Jones LLP.

The case is In re: Art Van Furniture LLC et al., case number 20-10553, in the U.S. Bankruptcy Court for the District of Delaware.

--Editing by Alyssa Miller.

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