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Colt Owner Blasts Bondholder-Backed \$75M DIP

By **Jamie Santo**

Law360, Wilmington (July 6, 2015, 9:05 PM ET) -- Sciens Capital Management LLC, majority stakeholder of Colt Defense LLC, took aim recently at a \$75 million debtor-in-possession package lined up by the bankrupt gun maker, claiming the required \$55 million debt roll-up would hand control of the Chapter 11 process to a collection of senior noteholders.

Sciens acknowledged that Colt needs funding to see it through the Chapter 11 but argued that the **\$75 million DIP** furnished by prepetition lenders and an ad hoc consortium of bondholders is inappropriate because it contains "coercive and outcome-altering 'roll-up' provisions," according to a limited objection filed in Delaware bankruptcy court on Thursday.

"There is no support, or need, for these extraordinary provisions which will indisputably limit the debtors' flexibility and options in attempting to navigate a successful outcome to these cases," Sciens said.

Colt entered bankruptcy last month aiming to fund its stay in Chapter 11 with a \$20 million DIP provided by prepetition lenders but **caught flak** from certain bondholders who claimed the loan would force a quick sale to Sciens. After floating competing proposals, the lenders and bondholders made peace and put together a consensual \$75 million DIP package, which received interim approval from U.S. Bankruptcy Judge Laurie Selber Silverstein on June 24.

Sciens contends that the recently arranged DIP is being driven by the bondholder group's desire to steer the case away from a sale and toward a reorganization favorable to senior noteholders such as themselves, according to the objection.

"The ad hoc consortium lenders' naked attempt to gain control of these cases for their own benefit via the proposed roll-up is an overreach, is not supported by the record of these cases, and should be denied," Sciens said.

While the ad hoc noteholders argued that sale milestones in the original DIP were coercive, they now seek to replace those provisions with an equally burdensome roll-up, Sciens said. The new DIP facility enables the ad hoc group to "dictate the outcome" of the Chapter 11 process, since they would be "immune from a plan of reorganization cram down," thanks to their recent acquisition of some of Colt's senior debt, according to the objection.

"This is precisely the type of outcome determinative measure that the ad hoc consortium itself excoriated at the **first day hearing**," Sciens said.

Moreover, the new \$75 million DIP tacks on onerous provisions but, due to the \$55 million

roll-up, provides Colt with no additional money, according to the objection.

“Despite boasting a loan amount of nearly four times the amount initially contemplated by the original proposed DIP, only the same \$20 million would actually be available to the debtors,” Sciens said.

Judge Silverstein will consider final approval of the DIP at July 10 hearing in Wilmington, Delaware.

Under the proposed financing, the ad hoc consortium — which acquired senior debt held by Marblegate Asset Management LLC prior to the interim hearing — will furnish \$41.67 million under the new DIP, \$35 million of which will be used to roll up that debt, according to court documents.

Prepetition term lenders, a group led by Wilmington Savings Fund FSB as agent, will provide \$33.33 million, with \$20 million used to take out existing debt.

Connecticut-based Colt, which has been supplying firearms to U.S. armed forces since the Mexican-American War, **sought court protection** June 14 about a week after **warning** that bankruptcy was a possibility if it wasn't successfully able to renegotiate \$250 million in bond debt.

The 175-year-old weapons manufacturer entered Chapter 11 initially aiming to run a quick auction with Sciens serving as stalking horse, an idea that drew the ire of certain noteholders.

The ad hoc bondholders — a group holding \$153 million in 8.75 percent senior notes due in 2017 — allege that Sciens helped land Colt in its current financial predicament by claiming the gun maker's available cash and tax benefits for itself instead of reinvesting those amounts back into the company.

Sciens is represented by Anthony W. Clark, Jason M. Liberi, Jay M. Goffman, Mark A. McDermott and Evan A. Hill of Skadden Arps Slate Meagher & Flom LLP.

Colt is represented by Mark D. Collins and Jason M. Madron of Richards Layton & Finger PA and John J. Rapisardi, Peter Friedman and Joseph Zujkowski of O'Melveny & Myers LLP.

The ad hoc bondholders are represented by William P. Bowden and Karen B. Skomorucha Owens of Ashby & Geddes PA and Robert J. Stark, Andrew M. Carty and James W. Stoll of Brown Rudnick LLP.

WSFS and the prepetition term lenders are represented by Eric Hellige, Seth Lieberman and Patrick Sibley of Pryor Cashman LLP.

The case is In re: Colt Holding Company LLC et al., case number 1:15-bk-11296, in the U.S. Bankruptcy Court for the District of Delaware.

--Additional reporting by Jonathan Randles and Matt Chiappardi. Editing by Christine Chun.

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