NH BUSINESS REVIEW

Ex-chairman says he'll bid for bankrupt Performance Sports Group

Roustan sees antitrust issues in 'stalking horse' bid

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Investor Graeme Roustan has been a vocal critic of Performance Sports Group's recent financial decisions.

Performance Sports Group's former chairman says he will oppose the proposed $575 million bankruptcy sale of the Exeter-based sports equipment company's assets to its largest shareholder, Sagard Capital Partners LP.

"I believe Sagard shouldn't be at the table in any capacity whatsoever," W. Graeme Roustan told NH Business Review on Monday, the day the PSG filed for bankruptcy reorganization under both Canadian and U.S. law, claiming $608 million in debt.

Roustan, who said he expects to put in a bid of his own for the company, said that Sagard, which currently owns 17 percent of the company, has a conflict of interest. Sagard's parent company, Power Corporation of Canada, owns part of Adidas, which owns CCM, PSG's largest competitor, he said.

Roustan also said that the deal raises antitrust issues and has said his lawyers have already contacted the offices of the Canadian Competition Bureau, Prime Minister Justin Trudeau and Ontario Premier Kathleen Wynne, asking them to intervene in the Canadian bankruptcy proceedings in Ontario.

PSG is also asking the bankruptcy court to approve $368 million of debtor in possession financing, so that PSG will be able to continue operations until the end of February, the target date for the sale to close. Otherwise, the company – with only slightly more than $7 million in cash – would not be able to pay its bills going forward, it said in numerous filings.

It is hoping to get the court to OK the first $25 million of that financing Tuesday morning at a hearing in Delaware.

Thin ice

PSG – once known as Bauer Hockey Equipment – went public on the New York Stock Exchange just two months after it acquired Easton-Bell Sports' baseball and softball business for $330 million, in a $125 million initial public offering.

But the debt-laden company soon was skating on thin ice. When diamond sports sales slowed, the company took a $145 million impairment charge on that asset in June 2015. Then in August, it failed to file its annual financial statement with the Securities and Exchange Commission, because of an internal investigation. That would have triggered a possible default among its lenders. It negotiated an extension, but failed to meet that deadline on Friday, partly because that internal investigation as still continuing.

In an affidavit filed by Brian Fox, appointed as the restructuring officer for the bankruptcy on Monday, he blamed consolidation of the retail sports industry, including the bankruptcy filing of The Sports Authority retail chain, for the company's financial woes, as well as currency headwinds.

In addition, PSG has been dealing with regulatory authorities in two countries. The Boston office of the Securities and Exchange Commission opened an inquiry into PSG's revised earnings guidance, Fox said. And the Ontario Securities Commission started an "issue-oriented review of PSG's continuous disclosure record."

The company's management has also been unstable. Former CEO Kevin Davis abruptly resigned in May, temporarily replaced by the company's former chief financial officer, Amir Rosenthal. Harlan Kent took over as CEO in June.

Rosenthal left the company on Oct. 28, as did Todd Harman, executive vice president of hockey, the company announced Monday. Harman has been replaced by Mike Thorne, and Dan Sills was appointed s the new executive vice president of hockey.

Davis and Rosenthal were named in a class action lawsuit charging they misled investors to inflate the company's stock price. On Oct. 13, they filed a response contesting those charges.

'Stalking horse'

Meanwhile, there is no guarantee that the Sagard sale will take place.

First, Sagard is meant to be "stalking horse," to set a price floor, so it could be outbid by other companies in an auction expected to take place in January. Sagard would get a $2.5 million "work fee" for its trouble, plus a $20 million "breakup" fee, if the company is sold to someone else. The bankruptcy court would have to approve that arrangement.

How much creditors and shareholders will receive in any sale may not be known for years. Bankruptcy procedures are a costly and time-consuming process. Interest on the debtor in possession financing, for instance, is a steep 8 percent, along with about $5.6 million in fees, according to the Canadian monitor's report on the bankruptcy filing. There will be another estimated $15 million for court, legal fees and indemnity fees for top executives, according to the monitor's report. But bankruptcy legal fees often surpass that amount.

Roustan strongly criticizes the company's recent financial decisions, blaming the move to open its own retail stores and for paying too much for the Easton baseball and softball business. He noted that, not counting expenses like the write-off, the company would have earned $98 million in 2015.

"How does the company go to making $100 million profit a year ago to a bankruptcy filing today? Where was the board?" he asked.

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