

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
Colt Holding Company LLC, et al.)	Case No. 15-11296 (LSS)
)	
Debtors.)	(Jointly Administered)
)	Obj. Deadline: Aug. 12, 2015 @ 5:00 p.m.
)	Hearing Date: Aug. 19, 2015 @ 2:00 p.m.
)	Ref. D.I. 13, 273

OBJECTION OF INTERNATIONAL UNION, UAW AND ITS LOCAL 376 TO DEBTORS' MOTION FOR ENTRY OF ORDER APPROVING BID PROCEDURES (INCLUDING PROPOSED SALE NOTICE, PROPOSED SALE ORDER AND PROPOSED PROCEDURES RELATED TO THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS IN CONNECTION WITH THE SALE)

International Union, UAW and its Local 376 (together, the "UAW"), by counsel, for their objections to the Debtors' Motion For Entry Of Order Approving Bid Procedures And Approving Procedures Related To The Assumption And Assignment Of Executory Contracts In Connection With The Sale (D.I. 13, 273)(the "Bid Procedures Motion"), respectfully state as follows:

1. The UAW is the collective bargaining representative of the Debtors' United States hourly employees, and has been for many years.

2. The UAW and the Debtor Colt's Manufacturing Company LLC ("CMC") are parties to a current collective bargaining agreement (the "CBA") entered into on April 1, 2014, and which is terminable by either party to the CBA no earlier than March 31, 2019. A true copy of the CBA is attached hereto as Exhibit A.

3. **The Proposed Bid Procedures Seek Relief Contrary to the Terms of the Colt-UAW CBA and thus Violate Bankruptcy Code Section 1113(f).** The CBA

provides in its Appendix I (entitled "Successorship") that "[f]or the duration of the agreement, CMC will require a potential purchaser of CMC or a substantial portion of its assets or operations to assume the Collective Bargaining Agreement." (Exhibit A hereto, p. 79.)

4. The CBA also requires CMC to pay for and provide various benefits constituting "retiree benefits" within the meaning of Section 1114(a) of the Bankruptcy Code (Exhibit A hereto, pp. 79-81), and provides that those benefits are "a lifetime benefit for future and past retirees and Spouses." Upon information and belief, the Debtors estimate their liability for such retiree benefits as in excess of \$35,000,000.

4. The Debtors have neither sought nor obtained an order of this Court rejecting the CBA under Section 1113 of the Bankruptcy Code, nor have the Debtors taken any steps to begin the Section 1113 negotiation process.

5. The Debtors have also not sought to modify or terminate the above-referenced retiree benefits pursuant to Section 1114 of the Bankruptcy Code.

6. Section 1113(f) of the Bankruptcy Code provides that "No provision of this title shall be construed to permit a trustee to unilaterally terminate or alter any provisions of a collective bargaining agreement prior to compliance with the provisions of this section."

7. The Bid Procedures Motion seeks entry of an order of this Court approving Bid Procedures for a post-petition free and clear sale of assets pursuant to Section 363. The Bid Procedures Motion does not require that "Qualified Bids" provide that the potential purchaser will assume the CBA, as required by Appendix I of the

CBA, quoted above. And the proposed Sale Order attached as an Exhibit to the Bid Procedures Motion purports to authorize the Debtors to sell their assets free and clear of interests, including contractual claims regarding successorship, despite the CBA requirement prohibiting the Debtors from selling assets to a purchaser that does not assume the CBA. See, e.g., proposed Bid Procedures, pp. 4-6, 10; proposed Sale Order, pp. 8, 9, 10, 11, 12, 16, 17, 18, 19, 20, 24-30.

8. These failures are contrary to Section 1113(f) of the Bankruptcy Code, which precludes use of "any provision" of Title 11 -- including Section 363 -- to sanction post-petition breaches of a collective bargaining agreement, absent rejection under the procedures set out elsewhere in Section 1113.

9. Further, the proposed Bid Procedures and the proposed Sale Order would, if approved, enjoin the UAW from seeking to contractually enforce the successorship and other provisions of the CBA. (See, e.g., proposed Sale Order, pp. 17-18, 21, 23, 24, 25.) Such an injunction would be, as to the UAW and labor contract enforcement, contrary to 29 U.S.C. 104(d).

10. Further, should a Purchaser assume the CBA, the proposed Bid Procedures and proposed Sale Order violate Section 1113(f) of the Bankruptcy Code by removing the authority of the arbitrators provided for in the CBA to set and determine amounts due for breaches of the CBA. (Compare, e.g., proposed Sale Order, pp. 21-22, with CBA, pp. 39-40.)

11. **The Bid Procedures Fail to Treat the UAW as a Consultation Party.** The Bid Procedures call for various disclosures, along with a number of consultation,

consent, Auction participation and other rights, all to be provided to identified "Consultation Parties," comprising "(i) the Prepetition Senior Lenders and Senior DIP Lenders, (ii) the Prepetition Senior Loan Agent and Senior DIP Agent, (iii) the Prepetition Term Lenders and Term DIP Lenders, (iv) the Prepetition Term Agent and Term DIP Agent; and (v) the Creditors' Committee." See proposed Order, pp. 5, 6; Bid Procedures, pp. 1, 2, 3, 4, 5, 6, 7, 8, 11; Sale Notice, p. 2.

12. Given the UAW's role as representative of the Debtors' hourly employees and retirees, the significant amounts due those persons under the CBA, including retiree benefits, and UAW's role in this case, it is appropriate to include UAW as a Consultation Party.¹

WHEREFORE, UAW requests that the Bid Procedures Motion be denied unless the Debtors amend the Bid Procedures and their exhibits, including the Sale Order and other exhibits, so as to fully remedy the foregoing objections.

Dated: August 11, 2015

COOCH AND TAYLOR, P.A.

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and

¹ The UAW understands that the Debtors have agreed to make the UAW a consultation Party and that revised Bid Procedures will reflect that.

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