Insights: Perspectives

Kilpatrick Townsend Leverages Multimillion Dollar Bankruptcy & Financial Restructuring for Indenture Trustee for Second-Lien Noteholders

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KILPATRICK TOWNSEND

KT Client Success

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Kilpatrick Townsend recently represented ongoing bankruptcy and financial restructuring client Wilmington Savings Fund Society, FSB (WSFS) — as the indenture trustee and collateral agent for the second-lien noteholders — during the Chapter 11 bankruptcy and liquidation auction of The Bon-Ton Stores, Inc. Through an unprecedented joint venture, WSFS, along with Great American Group LLC and Tiger Capital Group LLC, jointly acquired rights to the merchandise, real estate, intellectual property, and other assets of the iconic department store chain and its subsidiaries for an aggregate purchase price of approximately $780 million.

The firm began its involvement in February 2018 in the midst of The Bon-Ton's Chapter 11 bankruptcy cases, when the second-lien noteholders, led by an ad hoc group of a majority of holders, advanced the idea to liquidate the company to best serve their economic interests. Not a popular position with the other capital structure members or the bankruptcy judge — especially on the first day of a case — the firm worked with the ad hoc group to maximize the value and recovery for WSFS' noteholders.

Following an almost 48-hour auction process, the U.S. Bankruptcy Court Judge for the District of Delaware Mary F. Walrath approved the successful bid by WSFS, Great American Group, and Tiger Capital Group to culminate The Bon-Ton Stores, Inc. et al. Chapter 11 cases. As such, Great American Group and Tiger Capital Group will lead the liquidation of The Bon-Ton's 212 stores in 23 states across the Northeast, Midwest, and upper Great Plains under The Bon-Ton, Boston Store, Bergner's, Carson's, Elder-Beerman, Herberger's, and Younkers nameplates. The joint venture will also liquidate all other acquired assets, with the anticipation that the sales — a sometimes unfortunate but recent trend in the current brick and mortar retail climate — will provide meaningful recoveries to the second-lien noteholders.

Kilpatrick Townsend Partners David Posner and Todd Meyers led a collaborative team of attorneys, including Senior Counsel Al Lurey and Associates Gianfranco Finizio and Kelly Moynihan to successfully represent our client.

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