Instant Brands Trustee Sues Former Sponsor Cornell
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[Link**]**

Casual accusations of bad faith regarding private equity's relationship with portfolio holdings are hardly unknown in the bankruptcy world, but the trustee for former Cornell Capital LLC holding Instant Brands has made formal allegations regarding a dividend recapitalization.

In a complaint filed Wednesday, Nov. 13, in the U.S. Bankruptcy Court for the Southern District of Texas, Alan D. Halperin accused Cornell of plundering the Downers Grove, Ill.-based houseware and kitchen appliance maker. Instant Brands Acquisition Holdings Inc. filed for Chapter 11 in June 2023 and sold its assets to Centre Lane Partners LLC that October for about $350.8 million.

(The debtor is now known as Corelle Brands Acquisition Holdings LLC.) According to Halperin, an attorney at Halperin Battaglia Benzija LLP, the misconduct began after New York-based Cornell acquired Instant Brands Inc. in a March 2019 deal to merge it with World Kitchen LLC and realized it had overpaid by "hundreds of millions," as Instant Brand's founders, who sold the company for largely noncash consideration, allegedly inflated its 2018 Ebitda by $39 million.

"This will end with a fraud claim pursued by [insurer] AIG," the firm's founder, Henry Cornell, allegedly said. Halperin alleged Cornell threatened to sue, leading to a February 2020 restructuring agreement that released the founders from breach of representation and warranty claims in return for a reduction in the founders' equity stake, the cancellation of a major portion of their seller notes and a waiver of their share of the first $200 million in Instant Brand dividends.

Then, according to the complaint, in March 2021, without disclosing the agreement to lenders, Cornell pursued a dividend recapitalization that resulted in Instant Brands taking on a $450 million term loan.

The firm allegedly then used that new money and $100 million from Instant Brands' balance sheet cash to fund a $345 million dividend, with Cornell receiving $200 million, the company's sellers $101 million and management $4 million.

Instant Brands proved unable to meet the optimistic expectations for growth laid out by Cornell and its management following the dividend recap, and by January 2023, it was effectively out of money. The firm then allegedly instructed Instant Brands to violate its credit agreement and transfer assets out of its creditor collateral pool into unrestricted subsidiaries in exchange for $55 million in liquidity, hoping a potential voiding of the dividend recap under the Bankruptcy Code could be avoided as long as a case commenced outside of the two-year statutory window to assert a fraudulent conveyance claim.

The transaction proved to be insufficient for Instant Brands' viability, however, as it continued to perform poorly, and by June 2023 the company defaulted on its debt and entered Chapter 11, attributing its petition to global macroeconomic and geopolitical challenges.

Instant Brands was founded in 2009 and offers products under the Pyrex, Corelle, CorningWare and Snapware brands, though the company is undoubtedly best known for its Instant Pot pressure cooker.

An overestimation of that product's place in the sun, however, as one employee put it in a now-unveiled 2022 presentation about the company's deteriorating situation, may have been ultimately to blame for the company's troubles.

"Instant Pot was a huge fad," the employee said. "People who want to buy them already have them."

"Halperin seeks to have the dividend and seller notes repaid, which he said constituted a fraudulent transfer. He also seeks compensation for alleged breaches of fiduciary duties and other charges.

"We are aware of the complaint, which is baseless and without merit. We intend to vigorously defend ourselves," Cornell said in a statement.

Kyle A. Lonergan, James Hartmann Smith and Joshua J. Newcomer of McKool Smith PC are counsel to Halperin.