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Paper Mill Co. Seeks Void Of $17M IRS Deficiency Notice

By **Jimmy Hoover**

Law360, Washington (March 11, 2015, 1:35 PM ET) -- A Wisconsin holding company with stakes in various paper mill enterprises has told the U.S. Tax Court that the Internal Revenue Service wrongly served it with $17 million in deficiencies for the years 2004 to 2010 after wrongly disallowing deductions from bad debt held by an estranged family member.

Family-owned VHC Inc. said that the company owned debt and not equity in relative Ron Van Den Heuvel's spinoff business, and that the IRS wrongly increased its taxable income during the period while disallowing deductions from the debt, which a series of bad deals had rendered illiquid.

VHC, which was first formed as a contracting firm by Ron's older relative Raymond Van Den Heuvel, underwent "significant expansion" from the 1980s to the 1990s, prompting Ron to form his own company in 1997 and begin buying paper mill facilities and businesses, the petition said.

Though VHC declined Ron's investment solicitations in his companies –– saying doing so would conflict with its customer base –– VHC began issuing debt in the form of promissory notes to Ron's acquired companies for equipment and overhead costs, drawing from his experience as a sales representative for VHC along with potential funding from major banks and companies, including Enron, which ultimately purchased a $5 million stake in the company in 1998, the petition said.

One such credit line came shortly before 2000, when VHC issued a line of credit to Ron's cotton fiber plant for the installation of a key machine. It did so at the request of United Arab Emirates Investment Ltd., which had made an offer on the plant that would have far exceeded the amount of the company's debt for the machine. However, UAEI withdrew from the deal at the last minute after the Sept. 11, 2001, terrorist attacks, saying the status of a Middle Eastern company in the U.S. at the time was too risky.

Around the same time, Enron, one of the debtor's key backers, filed for bankruptcy.

"With the collapse of both deals, lenders began contacting petitioner about accelerating repayment of the loans to the debtor's companies and calling in the guarantees of petitioner," VHC said.

VHC gave the company even more money following the two collapses to help the debtor get back on its feet, according to the petition.

According to VHC, starting in 2003, the two companies began a series of "often heated" meetings for repayment plans. However, a series of bad deals prevented the payments for years, causing VHC to declare the deductions on each year's returns.

In 2007, however, it appeared that the debt would be repaid with an offer on the mill from

Goldman Sachs-backed ST paper, which offered to purchase Ron's assets. Believing that the deal would bear fruit, VHC waived its bad debt deduction for its 2006 returns. However, the company recanted when it learned that under a new arrangement, it would only receive promissory notes rather than cash payments for the loans.

VHC said it considered filing a lawsuit against the debt-holder but that, after an attorney consultation, “the conclusion was that there were very few assets that could be recovered and that the debtor and the debtor’s companies’ net worth was very small or non-existent."

Though the debts are not equity, even if they are, the petition said, “the amounts accrued by petitioner as income from services performed for the debtor’s companies should be reversed."

VHC is represented by Robert E. Dallman, Daniel B. Geraghty and Thomas R. Vance of Whyte Hirschboeck Dudek SC.

No counsel information was available for the IRS on Wednesday.

The case is VHC Inc. et al v. Commissioner of Internal Revenue, cade number is 004756-15, in U.S. Tax Court.

--Editing by Philip Shea.