Wis. Firm Wins OK To Subpoena Accountants In $17M Tax Row

By **Jimmy Hoover**

Law360, Washington (June 13, 2016, 5:22 PM ET) -- The U.S. Tax Court has granted a Wisconsin holding company's request to subpoena the accountants for allegedly deadbeat paper companies as part of the firm's attempt to establish bad debt deductions in a $17 million fight with the IRS.
Judge Kathleen Kerrigan gave family-owned VHC Inc. the go-ahead to serve a subpoena and notice of deposition on Schenck SC that seek the financial statements and tax returns of clients ST Paper Holdings, Tak Investments and other affiliated companies, according to an order entered last week.

The companies allegedly acquired the debt when they purchased a business formed by an estranged relative of VHC's founders.

Counsel for the parties could not be reached for comment Monday.

In its March 2015 petition, VHC said it owned debt and not equity in relative Ron Van Den Heuvel's spinoff business, and that the IRS wrongly increased VHC's taxable income during the period while disallowing deductions for 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 mills and other businesses, the petition said.

Though VHC declined Ron's solicitations to invest in those firms — 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. The firm cited Ron Van Den Heuvel's 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 his company in 1998, the petition said.

Shortly before 2000, 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, terror attacks, saying the status of a Middle Eastern company in the U.S. had become too risky.

About the same time, Enron, one of the debtor’s key backers, filed for bankruptcy.

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

Starting in 2003, VHC and the debtor company began a series of “often heated” meetings for repayment plans, according to VHC. However, a series of bad deals prevented the payments for years, causing VHC to declare the bad-debt deductions on each year's tax 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 Van Den Heuvel's assets. Believing that the deal would bear fruit, VHC waived its bad debt deduction for its 2006 returns. However, VHC recanted when it learned that under a new arrangement, it would receive only promissory notes rather than cash payments for the loans.

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

The IRS is represented by Christa A. Gruber.

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

--Editing by Jill Coffey.

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