

Cozen O'Connor Oversees Bankruptcy Acquisition of New York-based Luxury Coffee Chain FIKA

Tuesday, January 22, 2019

NEW YORK – January 22, 2019 — Cozen O'Connor today announced Frederick “Erik” Schmidt, Jr. — a leading member of its Bankruptcy, Insolvency & Restructuring practice and one of New York City’s top bankruptcy attorneys — managed the successful Section 363 acquisition of New York-based coffee shop chain FIKA by a newly formed acquisition vehicle owned by an outside investor group, a secured lender to FIKA, and FIKA’s prior owners and senior management. Assisting Schmidt with this acquisition were members of the firm’s Corporate Practice Benjamin A. Bomrind and David K. Goldfarb.

Founded in 2006 and headquartered in New York City, FIKA (pronounced Fee-Kah) operates a chain of high-end espresso bars — along with a bakery and chocolate factory — at six locations. It also operates catering and e-commerce businesses. After several years of steady growth, FIKA expanded rapidly in 2013 by opening 12 more stores for a total of 17 locations.

The expansion required significant start-up costs for each of the locations before they could become profitable. FIKA was subsequently unable to secure additional investors to cover the expansion costs and its operations alone could not absorb the increased start-up expenses. The legacy costs from the aggressive expansion forced FIKA, therefore, to close a number of locations and return to a streamlined, conservative business model centered on fewer stores.

In early 2018, FIKA’s corporate parent, Pachanga Inc., reached an agreement to sell the company to Schmidt’s clients, a family group of investors. Under Schmidt’s guidance, an acquisition vehicle, FIKA Acquisitions LLC was formed. The acquisition vehicle was funded with cash through equity and debt infusions and the acquisition of the secured debt owed by FIKA through a capital contribution. FIKA Acquisitions then purchased FIKA’s assets through a section 363 sale — an auction process under the U.S. Bankruptcy Code designed to ensure financially troubled businesses receive the highest possible sale price. The acquisition closed in November 2018.

“The advantages of a Section 363 sale — for both the buyer and seller — include speed, transfer of assets free and clear of encumbrances and interests, transfer of beneficial contracts, avoidance of exposure to successor liability claims and claims under fraudulent transfer laws,” Schmidt says. “This case proves once again that while a Section 363 sale is a complex process and carries its share of risks, it can be an efficient way for a buyer to acquire a financially troubled business.”

The FIKA transaction represents another high-profile Chapter 11 case for Schmidt, who has advised debtors, creditors, asset purchasers, trustees, secured lenders, creditors’ committees, landlords, and other parties in large and mid-sized Chapter 11 matters — including cases involving Vivaro Corporation, Unilife Corporation, Toisa Limited, Bernard L. Madoff Investment Securities LLC, Getty Petroleum Marketing, Inc., Horizon Shipbuilding, Inc., Residential Capital, LLC, Nutrition 21, Inc., FX Luxury Las Vegas I, LLC, and Ultra Stores, Inc.

About Cozen O'Connor Bankruptcy, Insolvency & Restructuring

Bankruptcy is unique from other practice areas, because it combines transactional and litigation practice. Attorneys must design complicated contracts as readily as they make oral arguments. Cozen O'Connor’s bankruptcy attorneys’ breadth of experience in putting deals together and trying cases makes them ideally suited to operate at this legal crossroads.

Related Practice Areas

- Bankruptcy, Insolvency & Restructuring
- Corporate

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- Food & Beverage

The firm's bankruptcy attorneys have extensive trial experience and move easily between the courtroom and the conference room. Whether overseeing a Chapter 11 case on behalf of a creditors' committee, declaring insolvency, executing an out-of-court restructuring, or lodging a cross-border complaint, bankruptcy-related matters move fast. The practice is structured to facilitate prompt team formation, which allows the firm to get up and running without delay.

About Cozen O'Connor

Established in 1970, Cozen O'Connor has more than 925 attorneys who help clients manage risk and make better business decisions. The firm counsels clients on their most sophisticated legal matters in all areas of the law, including litigation, corporate, and regulatory law. Representing a broad array of leading global corporations and middle market companies, Cozen O'Connor services its clients' needs through 33 offices across two continents.

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