



David Carickhoff and Allen Kadish Mentioned in Law360 Article, “Creditors Seek To Force Tough Mudder Into Bankruptcy”

Press Releases

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By

Law360 (January 7, 2020, 9:04 PM EST) -- A trio of contractors on Tuesday asked a Delaware bankruptcy judge to put Tough Mudder LLC into Chapter 11, saying the company is in danger of complete collapse and that they could lose the \$850,000 they say they're owed for work on its obstacle courses.

In a motion asking to start an involuntary Chapter 11 case and appoint a trustee to oversee the company, the three construction companies — Pennsylvania-based Valley Builders and Trademarc and Indiana-based David Watkins Homes — said Tough Mudder has stopped responding to their attempts to collect and that to their understanding the organization has missed payroll and ceased some operations.

“As of the involuntary petition date, the petitioning creditors have reason to believe that absent Chapter 11 protection and the immediate appointment of a trustee, operations will cease, employees will leave and the value of the entire enterprise will be lost,” they said.

Brooklyn-based Tough Mudder was founded by William Dean and Guy Livingstone in 2010 and operates 10- to 12-mile obstacle course racing events in the U.S., Canada, U.K., Germany and Australia.

In their petition, the contractors said Livingstone is no longer an officer with the company and that he filed a breach of contract suit against the company in New York federal court last year.

In his February 2019 complaint, Livingstone alleged the company failed to pay him \$3 million it owes him on a promissory note. In the complaint, Livingstone claimed the company began a “continuous and precipitous

financial decline” after he ended his active involvement in 2013, hasn’t posted a profit since 2015, and that an attempt to find a buyer in December 2018 failed.

The company had operated a gym business, Tough Mudder Bootcamp, but in 2018 announced it was spinning the business off as part of an effort to secure new capital. A Massachusetts federal judge last year rejected an attempt by a group of runners suing Tough Mudder over a relocated event to stop the spinoff and later tossed the runners’ claims.

In December, competitor **Spartan Race** announced it had acquired an option to buy Tough Mudder’s U.K., Canadian and German events. In their motion, the contractors said they also understood that the company had reached terms to buy Tough Mudder’s U.S. operations, but that no sale has been closed.

The contractors say that based on blog posts, news reports and communication with Tough Mudder employees and creditors, they understood the company has missed payroll and ended some operations, and that its Canadian subsidiary has begun restructuring proceedings.

The contractors said that between the three of them they are owed more than \$850,000 for work assembling and disassembling obstacles at Tough Mudder events over the last five years, and that there has been no response to recent attempts to contact the company.

“It is clear that the alleged debtors are not paying their debts as they come due and that absent immediate relief, the enterprise will be rendered worthless,” they said.

The contractors said they were “disappointed” that the company has not filed for Chapter 11 itself or announced any business plans.

“They fear that the principals have abdicated their responsibilities after personally benefiting from the enterprise while it was generating revenue, and are presently content to let the business fail,” they said.

Counsel for the contractors and representatives for Tough Mudder did not immediately respond to requests for comment late Tuesday.

The contractors are represented by David W. Carickhoff and Allen G. Kadish of **Archer & Greiner PC**.

Counsel information for Tough Mudder was not immediately available Tuesday.

The case is In re: Tough Mudder Inc. et. al., case number 20-10036 in the **United States Bankruptcy Court for the District of Delaware**.

--Editing by Alanna Weissman.



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