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Probe Shows Bankrupt Centrix Chief Hid Wealth, Trustee Says

By **Rick Archer**

Law360 (October 30, 2018, 9:38 PM EDT) -- The trustee in the 12-year-old bankruptcy of auto finance lender Centrix Financial is taking company founder Robert Sutton back to court, saying the Sutton family hid assets using a variety of trusts, shell corporations and holding companies and that Sutton owes the trust at least \$15 million.

In an adversary complaint filed Monday, trustee Jeffrey A. Weinman said he has evidence Sutton and his family violated a 2014 financial disclosure clause when settling claims of fraudulent transfers.

"This enabled defendants to convince the trustee that they were essentially broke. Relying on the Suttons' representations, the trust agreed to settle the initial adversary matter for pennies on the dollar," he said.

Centrix, which specialized in auto loans to customers with bad credit, declared bankruptcy in 2006.

In 2008, Weinman filed a \$100 million adversary complaint alleging Sutton and a slew of other defendants made fraudulent transfers before the company filed for bankruptcy protection. The action was closed, reopened and survived multiple dismissal motions before the parties settled just before going to trial in April 2014

However, Weinman asked the court to reopen the case in November 2015, claiming the settlement was based on financial disclosures that could be materially false. U.S. District Judge Philip A. Brimmer **granted his motion**, allowing the trustee to investigate whether the Suttons concealed their assets.

In Monday's adversary complaint Weinman said he negotiated a settlement for only a fraction of the value of the transfers, waiving "tens of millions" in damages because the Suttons' disclosures led him to believe they did not have significant assets.

"The only caveat was a safety provision that the Suttons must provide full and accurate financial disclosures substantiating their representations. If any defendant's financial disclosure were materially false in any respect, a non-dischargeable judgment in favor of plaintiffs would enter in the amount of \$15 million," he said.

He said that since that time he has discovered the disclosures were "materially false in virtually every respect," and that the Suttons failed to disclose they had formed a number of trusts and corporations into which they had transferred their assets. He specifically claimed their \$2 million family home was transferred to a corporation owned by a family trust they claimed had only \$130,000 in assets.

Among the other accusations in the complaint was that Sutton's wife, Julie, had claimed she had no support from anyone but her husband and only \$1,500 in her checking account, when in actuality in the 15 months prior to the disclosure she had drawn more than \$300,000 in checks from a corporation that had been formed by a Sutton family trust.

Weinman also claimed the Suttons specifically denied having an ownership interest in a biotechnology startup firm named Nanosphere Health Sciences, when they actually controlled a nearly 70 percent

interest through a holding company.

In addition to the \$15 million disclosure penalty, Weinman said he was seeking to undo the transfers and a judgment of 150 percent of the value of the transfers.

Counsel for the trustee did not immediately respond to requests for comment. Sutton could not be immediately reached for comment Tuesday.

The trustee is represented by Patrick D. Vellone and Carissa V. Sears of Allen Vellone Wolf Helfrich & Factor PC.

Counsel information for the defendants was not immediately available Tuesday.

The case is Centrix Financial Liquidating Trust v. Robert Sutton et al., case number 1:18-cv-02769, in the U.S. District Court for the District of Colorado.

--Additional reporting by Y. Peter Kang. Editing by Michael Watanabe.

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