

Appeals court approves Fiat's purchase of Chrysler

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Family dealership owners Nick Tarbox, left, Kim Tarbox and Jim Tarbox of Tarbox Motors in Rhode Island and Massachusetts enter US Bankruptcy Court, Thursday, June 4, 2009, in New York.. (AP Photo/Louis Lanzano) (Louis Lanzano - AP)

A federal appeals court Friday approved the U.S.-government-backed sale of Chrysler to Italian automaker Fiat, but left in place until Monday a stay of the sale to allow pension funds opposing the transaction to appeal to the U.S. Supreme Court.

After a 10-minute break following less than two hours of oral arguments inside a ceremonial courtroom here, a three-member panel of the U.S. Court of Appeals for the 2nd Circuit announced its decision upholding a U.S. bankruptcy judge's ruling earlier this week. But Chief Justice Dennis Jacobs said the transaction could not go forward until 4 p.m. Monday or until the U.S. Supreme Court declines to hear the case.

"There's still one more stop on the train," said Tom Lauria, an attorney for a group of creditors who are trying to stop the sale. He represents three Indiana pension and construction funds holding about \$42 million of \$6.9 billion in secured loans to Chrysler.

The Indiana funds argued that the government-funded sale illegally distributes more value to stakeholders who are junior than to the senior lenders. The government is putting up the \$2 billion, to be distributed to the first-lien lenders, who would be recovering about 29 cents on the dollar. Fiat is offering access to technology for fuel-efficient vehicles but not cash. The United Auto Workers would own 55 percent of the new company.

The Indiana funds contend that Chrysler is worth much more than \$2 billion and that the Treasury misused Troubled Assets Relief Program funds by funneling the money to Chrysler. That federal money, the Indiana funds say, was meant to rescue financial institutions.

The Fiat transaction was the only alternative to liquidation, under which the senior lenders would receive much less than \$2 billion, attorneys for Chrysler, the UAW and others supporting the sale argued. The attorneys noted that 100 percent of the value of the transaction was going to the lenders. Other stakeholders, they argued, are receiving value created in the new company -- value the senior lenders are not entitled to. An attorney for the U.S. government, which would get a minority stake in the new Chrysler, said TARP funds were used appropriately.

Washington Post, Washington, June 5th, 2009, Business, online.