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HAWAII NEWS

Land tied to a bankrupt Albert Hee company is bought by a related firm

By Andrew Gomes • Today • *Updated 10:38 pm*

A Hawaii fiber-optic cable network established by Albert Hee is closer to new ownership in the wake of Hee's 2015 federal tax fraud conviction.

A U.S. Bankruptcy Court judge in Honolulu approved a settlement agreement Monday involving two companies that were created by Hee and forced into bankruptcy two years ago.

As part of the settlement, a Hee family business is buying 163 acres of land in Mililani that includes operations facilities for the telecommunications network that in part serves about 3,600 customers on state Department of Hawaiian Home Lands homesteads.

Blue Ivory Hawaii Corp., the Hee family company, is buying the property for $2 million from one of Hee's bankrupt businesses, Paniolo Cable Co.

The sale was approved by Bankruptcy Judge Robert Faris with support from creditors of Paniolo Cable and a court-appointed trustee controlling Paniolo Cable, Michael Katzenstein.

There was a late competing offer to buy the property for $2.5 million, but this bid floated last week by an unidentified prospective purchaser was conditioned on a detailed analysis by the bidder.

Katzenstein said in a filing that an attorney representing the prospective bidder made the offer and that Paniolo creditors favored the more certain deal with Blue Ivory, which deposited $2 million into an escrow account May 15.

Jonathan Bolton, a local attorney representing Katzenstein, said Blue Ivory's $2 million purchase offer was fair, reasonable and did not present potential delays for bringing Paniolo Cable and sister company Sandwich Isles Communications Inc. out of bankruptcy through an auction that already has been delayed by COVID-19.

"There is no fraud, collusion or other improper action between Blue Ivory and the trustee," Bolton said at Monday's hearing to consider the sale.

Lex Smith, an attorney representing the parent company of Sandwich Isles owned by Hee, said the real estate sale is a critical part of the settlement and that the settlement is key to continuing telecom services to DHHL homesteads.

Under the deal, Paniolo will lease back buildings on the Mililani property used for the company's operations, and proceeds from the land sale will benefit creditors.

The sale to Blue Ivory is part of an agreement to settle litigation by Sandwich Isles against Katzenstein.

Katzenstein, a corporate restructuring expert with Washington, D.C.-based firm FTI Consulting Inc., won a $257 million judgment against Sandwich Isles in January on behalf of Paniolo's creditors after filing the equivalent of a lawsuit in bankruptcy court in Honolulu last year. Sandwich Isles, in return, filed its own claims against Katzenstein.

Katzenstein said in a Friday filing in court that he believes he would likely prevail in the litigation initiated by Sandwich Isles but that numerous issues could be raised by Sandwich Isles that result in significant expense and delays to selling the company's assets.

"I anticipate that, without the proposed settlement, (Sandwich Isles) would likely continue to resist collection efforts and would litigate many issues regarding my attempt to execute on (Sandwich Isles') remaining assets, and my attempt to sell those assets, along with (Paniolo Cable's) assets."

Katzenstein took ownership of Sandwich Isles assets, including the Mililani property, in March on behalf of Paniolo at a public auction at which no one else bid. The next step is for Katzenstein to auction Paniolo's assets, which now include the assets of Sandwich Isles.

Paniolo's assets include undersea cabling and cable landing base stations that it leases to Sandwich Isles, which owns telecom network infrastructure on DHHL land.

Bolton said investment bankers have had discussions with potential buyers and that he hopes to present a bid that could stoke competition from others in the next few weeks.

Such a sale would detach Paniolo and Sandwich Isles from the Hee family following the downfall of founder Albert Hee.

Hee was indicted in 2014 on tax fraud charges stemming from allegations he claimed bogus business expenses that included $505,502 for jewelry worn by his wife and two daughters, $92,000 for massages, a $1.3 million house used exclusively by his children and $752,082 for college tuition, books and rent for his children.

A federal jury convicted Hee of federal tax fraud in 2015, and in 2016 a judge imposed a 46-month prison sentence on Hee for having $2.75 million of personal expenses claimed as business expenses by the parent company of Sandwich Isles, Waimana Enterprises Inc.

Hee, who is done with his sentence, also was facing financial difficulties running Sandwich Isles with public subsidies.

The company received more than $249 million from the federal Universal Service Fund — money generated by fees paid by telecom customers across the country. But the Federal Communications Commission trimmed annual subsidies in 2010 and then cut off all or nearly all of the subsidy in 2015.

In 2016 the FCC imposed $76 million in penalties that Sandwich Isles contested.

Also in 2016 the U.S. Department of Agriculture disclosed that Sandwich Isles defaulted on USDA loans as early as 2013 and 2014. The agency said it was owed more than $108 million from loans used to build the company's network.

Paniolo Cable had related financial difficulties because it relied on income from Sandwich Isles for connecting to its interisland fiber- optic network.

Creditors of Paniolo Cable, including HSBC Securities (USA) Inc. and Deutsche Bank, forced the cable company into bankruptcy and sought repayment of debts totaling about $257 million.

According to FCC documents, Paniolo Cable's fiber- optic network is a valuable asset with enough capacity to provide broadband service to the entire state, though only a small fraction of that capacity has been used.

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