

Fisker bankruptcy bidding heats up quickly (Update)

January 8 2014, by Randall Chase

Hybrid Technology, led by Hong Kong billionaire Richard Li, has offered \$55 million in an auction of Fisker Automotive's assets, just days after a bankruptcy judge in Delaware rejected Hybrid's plan to take over the failed electric-vehicle manufacturer in a private sale.

In court papers submitted Monday, Hybrid made a conditional offer of \$30 million in cash and \$25 million in credit for what it is owed as Fisker's senior secured lender. Hybrid also is promising that at least \$5.5 million will go to Fisker's unsecured creditors, provided that the official committee of unsecured creditors supports its proposal to be the lead, or "stalking horse" bidder in the auction.

Hybrid also noted that its cash consideration was subject to its rights as a secured creditor in all collateral involving a \$529 million loan commitment to Fisker from the U.S. Department of Energy. Hybrid recently paid \$25 million for DOE's outstanding loan balance of more than \$160 million, which resulted in a loss to U.S. taxpayers of \$139 million.

Hybrid's court filing came after U.S. Bankruptcy Judge Kevin Gross capped its credit bid ability at \$25 million—a third of the \$75 million credit bid Hybrid wanted to use in a private sale—and ordered a competitive auction that was sought by Fisker's unsecured creditors committee.

While making the new offer, Hybrid also signaled that it plans to

challenge the judge's ruling, which came after Chinese auto parts conglomerate Wanxiang Group Corp., working with the creditors committee, offered \$35.7 million in cash as the starting bid in a competitive auction, contingent on Hybrid's credit bid being eliminated or capped.

"Hybrid believes that the ruling was erroneous, intends to seek appellate review or other relief as promptly as practicable, and expressly reserves all of its rights in that regard," attorneys for the company wrote in Monday's court filing.

Attorneys for the creditors committee did not immediately respond to messages seeking comment Monday.

Hybrid's court filing came as attorneys prepared for a Monday afternoon hearing at which the judge was to consider a potential sale date and bid procedures, and Wanxiang's request to supplant Hybrid as Fisker's bankruptcy lender.

California-based Fisker, which had planned to build cars at a former General Motors plant in Delaware, filed for bankruptcy protection in November. The move culminated a long downward spiral that began after Fisker received the \$529 million DOE loan commitment.

Hybrid has previously indicated that it does not want to include the former GM site in Wilmington in its purchase of Fisker's assets and has no interest in building cars in Delaware.

Wanxiang, on the other hand, has said it would continue development and design of a second-generation line of Fisker vehicles, and that once such vehicles were ready for mass production in volumes requiring a separate manufacturing facility, it would manufacture them at the now-shuttered GM plant. Wanxiang had indicated in earlier court documents

that it wants to resume production of Fisker's problem-plagued first-generation car, the Karma, in Finland and eventually shift production to a Michigan facility.

Fisker's bankruptcy filing came after the company drew \$192 million on the Obama administration's green-energy loan before DOE officials suspended funding in 2011. Federal officials suspended the loans after Fisker failed to meet several sales and production milestones for its \$100,000 Karma luxury car. The Karma's problems included vehicle fires and recalls, problems with battery packs, the bankruptcy of Fisker's primary battery supplier, and inventory losses from Superstorm Sandy, which destroyed hundreds of vehicles at a port in New Jersey.

In a separate bankruptcy case, Wanxiang recently purchased Fisker's former battery supplier, A123 Systems, which is now known as B456 Systems Inc.

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