

AgFeed Shareholders Blame Hormel For Ch. 11

By **Matt Chiappardi**

Law360, Wilmington (October 30, 2014, 1:58 PM ET) -- The equity committee for bankrupt AgFeed Industries Inc. launched an adversary action Wednesday alleging ex-business partner Hormel Foods Corp. made "false representations" and knew about claims it had asserted against the hog production company that led to an arbitration award that the debtor says ultimately pushed it into Chapter 11.

In an adversary suit filed in the Delaware bankruptcy court, the equity committee alleges Hormel made false statements in communications with AgFeed, then headquartered in China, that induced it to purchase prominent hog grower M2P2 LLC in 2010 and expand its operations into the United States.

Hormel said M2P2 or its subsidiaries had not breached its agreement to raise and supply pigs to the company but later turned around and pressed claims that it had in an arbitration proceeding against AgFeed, the equity committee claims.

In 2013, an arbitrator found partially in favor of both parties, resulting in a nearly \$8 million award to Hormel when fees were taken into account, but the payment was an event of default on AgFeed's \$68.5 million credit facility from Farm Credit Services of America that the debtor has cited as one of the prime reasons for its bankruptcy filing in July of that year, according to court records.

"By proceeding with the acquisition in reasonable reliance on Hormel's false representations, debtor incurred substantial damages and was ultimately forced, along with the AgFeed entities, to seek relief under Chapter 11," the adversary action states. "Debtor was justified in proceeding with the acquisition in reliance upon Hormel's false representations and behaved reasonably in doing so, but was nevertheless deceived by such false representations."

The equity committee is pressing both misrepresentation and breach-of-contract claims and seeking damages to be determined at trial.

It also objected, in a separate filing, to a \$2.8 million claim by Hormel in the case connected to an unsecured note, arguing that the amount owed to the food giant will be more than offset by the damage award that would arise out of the adversary action.

A representative for Hormel called the equity committee's claims "baseless" in a brief emailed statement Thursday.

"Hormel Foods will vigorously defend these baseless claims," the statement read.