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Bankruptcy Brief: Extended Stay Creditors' Committee Asks Court to Terminate Exclusivity to File Competing Plan

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On Wednesday, the Official Committee of Unsecured Creditors of Extended Stay, Inc., joined by Starwood Capital Group Global, L.P., filed a motion asking the bankruptcy court to terminate Extended Stay's exclusive periods to file proposed plans of reorganization and solicit acceptances of a plan to allow the Committee and Starwood to propose a competing plan of reorganization which they argue is superior to Extended Stay's proposed Fifth Amended Plan of Reorganization. The Committee/Starwood plan would offer "substantially greater distributions to creditors, including distributions comprised of equity and warrants to creditors currently out of the money under the Debtors' proposed plan, resulting in hundreds of millions of dollars in additional value for the Debtors' estates and their creditors" according to the Committee. The motion attaches a term sheet for the potential alternative plan of reorganization and the Committee highlights five elements of the term sheet which it argues render the Committee/Starwood plan "far more compelling than the Debtors' plan":

1. "Reinstatement of the mortgage debt (the "Mortgage Debt") in the principal amount of $4.1 billion (the additional value provided to otherwise disenfranchised creditors at levels L and M of the Mortgage Debt is estimated at $175 million), including amortization payments;
2. A guaranteed 5% of the reorganized entities' equity to the Mezzanine Creditors (defined below) on the effective date of the Committee/Starwood Plan;
3. A Rights offering to enable the Mezzanine Creditors to purchase up to 20% of the reorganized equity, fully back-stopped by Starwood in the amount of $140 million (the Mezzanine Creditors are currently completely out of the money under the Debtors' plan);
4. Warrants to the Mezzanine Creditors for 20% of the equity in the reorganized entities after the new capital is repaid with a 20% internal rate of return; and
5. Establishment of a litigation trust (the "Litigation Trust"), which will include all viable, non-operations related third party claims and be funded initially by a $15 million loan from the reorganized entities to be repaid solely from the net litigation proceeds."

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