JCPenney Avoids Liquidation, but Hard Work Remains

After weeks of wrangling and a dearth of bidders, bankrupt JCPenney has finally found a buyer—mall operators Brookfield Property Group and Simon Property Group—and will avoid liquidation.

The department store chain said that based on a letter of intent, it plans to ink a stalking horse asset purchase agreement to sell its retail and operating assets via a court-supervised process to the two real estate groups for $1.75 billion in cash and debt.

Meanwhile, the company's real estate assets, including distribution centers, will be placed in a separate real estate investment trust and property holding company that will be owned by the company's first-lien lenders.

The plan is for JCPenney to enter into a master lease for the real estate assets with the lender-controlled property holding companies.

"We have determined that an agreement with Brookfield and Simon, as well as the formation of separate real estate investment trusts owned by our first lien lenders, is the best path forward to maximize value for our stakeholders, ensure we keep the most stores open and associates employed, and position JCPenney to build on our over 100-year history," said Jill Soltau, CEO of JCPenney, in a statement.

The mid-tier department store anticipates that the process, with the stalking horse bid subject to higher offers, will be completed ahead of the holiday shopping season.

How the deal benefits both malls and JCPenney

In putting together the deal, JCPenney may have ultimately avoided liquidation not due to the strength of its underlying business, but because it simply outlasted Sears.

With Macy's also planning to close a number of stores, it is likely Simon and Brookfield could ill afford to lose another important mall tenant, said Steven Dennis, a former retail executive and the president and founder of SageBerry Consulting. By salvaging JCPenney, the mall operators potentially buy themselves more time to figure out how to address vacancies.

At issue are co-tenancy clauses embedded into lease agreements that require malls to maintain a certain level of occupancy. If those clauses are tripped and the mall owners are unable to find new tenants to fill the vacated spaces, they would then have to renegotiate the leases for the remaining tenants, which could prove to be financially challenging.

"Had JCPenney been liquidated, the urgency to work through those issues would have been accelerated," Dennis said. In effect, this deal means Simon and Brookfield have more control over what happens to their real estate.

On the flip side, Sears' slow-moving liquidation under Eddie Lampert allowed for its locations to be gradually converted to other uses, such as gyms, restaurants and movie theaters. But that may not be a viable strategy going forward, certainly not in the near-term, as those kinds of businesses are also struggling. As a result, landlords will need to be more creative than ever in securing new tenants.

Neither Simon nor Brookfield responded to requests for comment as of this article's publication.

What’s next for JCPenney

JCPenney, meanwhile, must find a path forward when department stores are out of favor and apparel sales continue to take a hit during the pandemic.

One possible solution is for Simon and Brookfield to work with brand management firm Authentic Brands Group, which has been on a retail buying spree lately, to fill the stores with compelling new merchandise. Both real estate groups have already worked with Authentic Brands on the acquisition of a number of retailers. The most recent deals involving Simon include denim purveyor Lucky Brand and clothier Brooks Brothers this summer.

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