Lawsuit accuses Callidus of driving firm into receivership

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An Alberta businessman is suing Callidus Capital Inc. for $205-million, alleging the distressed lender, led by financier Newton Glassman, drove his water-drilling company into receivership to take control of it and deprive him of lucrative international contracts.

The court action, launched this month, represents the latest legal tangle for Mr. Glassman, the Toronto-based chief executive officer of Callidus and its parent, Catalyst Capital Group Inc. His companies have come under scrutiny over their ability to realize value on behalf of their investors, and for the CEO's numerous battles in the courts involving a large cast of players.

The new case was launched by Kevin Baumann, in the name of his former company, Alken Basin Drilling Ltd., which agreed to a $28.5-million credit facility from Callidus in 2014. The following year, Callidus demanded payment of its loan, even though, according to Mr. Baumann, his company was not in default. Alken was put into receivership in 2016 and Callidus subsequently acquired the assets.

"How can one firm and one CEO have so much chaos and conflict tied to them?" Mr. Baumann said in an interview. "It's the worst thing that me and other borrowers have ever experienced in our life. It's not right."

The two sides have battled each other in previous actions regarding the loan and acquisition of Alken's assets. An Alberta court approved the transfer of assets in the receivership case in 2016. In subsequent action, Mr. Baumann was represented in his own name and that of another of his holdings, Pekisko Ranch Ltd. Callidus has sued to force Mr. Baumann to pay out a personal guarantee, which includes some land, that he made as part of the loan agreement. Earlier this year, Callidus's application for summary judgment was dismissed. The lender has filed an appeal. The legal fight provides a glimpse into the hardball tactics employed in lending to companies under financial strain.

The new suit, filed in a Calgary court, names Callidus Capital, Scott Sinclair, Altair Water and Drilling Services Ltd. and Sinclair Range Inc. as defendants. Altair is the Callidus-owned company that emerged with the Alken assets following the receivership, and Mr. Sinclair is its CEO as well as head of Sinclair Range, a corporate consulting and turnaround firm.

Among numerous allegations, none of which has been proven in court, Alken says Callidus breached the engagement letter signed with the loan agreement and, just before signing, insisted on a personal guarantee from Mr. Baumann. Alken alleges that, following the signing, Callidus refused several funding requests Mr. Baumann made under the agreement. The claim also charges that Mr. Sinclair, which Callidus appointed to help restructure Alken, had actually worked to help the lender take control of the company, which provides water-drilling services to the oil and gas industry.

"Alken states and the fact is that Sinclair never performed the services for which Alken contracted him. In particular, Sinclair did not liaise with Callidus on behalf of Alken. Nor did he assist Alken in developing a liquidity or turnaround plan," Alken says in its statement of claim. "Although Alken repeatedly submitted funding requests to Callidus through Sinclair these were denied."

In addition, Mr. Sinclair developed "corporate opportunities" with Egyptian and Kuwaiti businesses after Callidus appointed him president of the company during the receivership process, depriving Mr. Baumann or any potential buyer for the company of any benefit from them, the claim alleges.

During the insolvency case, the receiver said in a report that Altair had informed it of the Egyptian and Kuwaiti opportunities and said it would not have been appropriate to disclose the potential agreements to prospective purchasers that had not signed confidentiality agreements.

The case may mean uncertainty for Callidus, which provides debt financing to distressed companies and acquires those that cannot meet their obligations. The firm, which is majority-owned by Catalyst, began a process to find a buyer in the autumn of 2016. Mr. Glassman had set a target price of $18-$22 a share for a deal, based on avaluation that was done by National Bank Financial. The stock closed on Tuesday at $6.91, and there has been no word on an imminent privatization transaction. Callidus was slated to report first-quarter results late on Tuesday.

This is not the only issue that has brought the two sides to court. Last year, Mr. Baumann was named in another lawsuit launched by Mr. Glassman, who alleged Callidus had been targeted in a “wolf-pack conspiracy” to drive down the value of the stock to benefit short sellers. The suit was in reaction to a Wall Street Journal story last August about whistle-blower complaints to the Ontario Securities Commission, accusing Catalyst and Callidus of fraud. Other defendants include West Face Capital Inc., its CEO Greg Boland, Clarityspring Inc., M5V Advisors and several others.

Mr. Boland countersued, stating that he and West Face were not involved in any conspiracy, and that he closed out his short position in Callidus a couple of years earlier. Mr. Baumann said he was not part of any short-seller conspiracy.

Dan Gagnier, spokesman for Callidus, said Mr. Baumann’s claims had been found to be without merit during the insolvency proceedings for Alken.

“And we would note that Mr. Baumann has been named in litigation regarding market manipulation, so we question the timing, motive and co-ordination with others,” he said in a statement. “The only fact worth knowing here is that Mr. Baumann acted in direct contravention to his loan documents, a fact he has admitted under oath.”

Mr. Baumann is seeking $200-million for proceeds from the international contracts, and a further $5-million in punitive damages.