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Spokesman: Leibovitz working to resolve loan issue

By ULA ILNYTZKY (AP) – 18 minutes ago

NEW YORK — Celebrity photographer Annie Leibovitz was still trying to resolve a dispute with a company that loaned her \$24 million — money that she had to repay this week or lose the rights to her life's work, her spokesman said Wednesday.

The lender, Art Capital Group, sued the 59-year-old Leibovitz in July, claiming she breached an agreement that authorized it to act as the agent in the sale of her photography and real estate.

The deadline to repay the loan passed at 11:59 p.m. Tuesday without either party saying what would happen next.

Leibovitz, whose portraits have regularly graced the covers of Vanity Fair, Vogue and Rolling Stone, risked losing the lucrative copyright to her images if she didn't pay back the loan. Last year, Leibovitz put up as collateral three Manhattan townhouses, an upstate New York property and the copyright to every picture she has ever taken — or will take — to secure the loan.

"Annie is continuing to work to resolve this matter with Art Capital," her spokesman, Matthew Hiltzik, said Wednesday.

Art Capital, a Manhattan-based company that issues short-term loans against fine and decorative arts and real estate, declined to comment after the deadline passed.

While the two sides worked quietly to try to resolve the situation, an intellectual property expert not involved in the case said there is a chance for a deal.

"Maybe there's another lender, or a good Samaritan or angel ... to help Annie Leibovitz reach a settlement," William Heller, an intellectual property lawyer at McCarter & English.

Art Capital could renegotiate to allow her time to make payments, extend the loan for a period of time or accept the intellectual copyrights to only part of the collection, he said. The company has legitimate rights under its current agreement, but the case had "an emotional component" that might make it "want to consider some type of negotiated solution rather than a litigated solution."

Art Capital consolidated all Leibovitz's loans in September 2008. The company said Leibovitz needed the money to deal with a "dire financial condition arising from her mortgage obligations, tax liens and unpaid bills to service providers and other creditors."

Its lawsuit charged she had breached a December sales agreement with the company, granting Art Capital the right to sell the collateral before the loan came due. The lawsuit claimed the photographer refused to allow real estate experts into her homes to appraise their value and blocked the company from selling her photographs.

Art Capital has estimated the value of the Leibovitz portfolio at \$40 million, and real estate brokers say her New York properties are worth about \$40 million.

Pace Law School Professor and intellectual property lawyer Horace Anderson said the "messiness" of the Leibovitz case may make other lenders think twice before issuing loans in similar situations.

Under the sales agreement with Leibovitz, Art Capital would get 10 percent commission on the sale of Leibovitz's real estate and 15 percent on the sale of her portfolio. Leibovitz would get the remainder after paying off the \$24 million loan, interest and other fees. If she defaults, the company would get a net 12 percent commission, after paying approximately 13 percent for costs and fees.

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