
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, DC 20549

FORM 8-K

CURRENT REPORT

**Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): November 5, 2020

Libbey Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State of incorporation)

1-12084
(Commission File Number)

34-1559357
(IRS Employer identification No.)

300 Madison Avenue, Toledo, Ohio
(Address of principal executive offices)

43604
(Zip Code)

Registrant's telephone number, including area code: **(419) 325-2100**

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of Each Class</u>	<u>Trading Symbol</u>	<u>Name of Each Exchange on Which Registered</u>
None ⁽¹⁾	None ⁽¹⁾	None ⁽¹⁾

(1) On June 10, 2020, NYSE Regulation, Inc. filed an application on Form 25 with the Securities and Exchange Commission (the "SEC") to delist the common stock of Libbey Inc. (the "Company"). The delisting was effective June 22, 2020. The deregistration of the common stock under section 12(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") became effective on September 8, 2020.

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions (see General Instructions A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01 Entry into a Material Definitive Agreement.

As previously disclosed, on June 1, 2020, Libbey Inc. (the “Company”), Libbey Glass Inc. (“Libbey Glass”), and each direct and indirect domestic subsidiary of Libbey Glass (each a “Libbey Subsidiary” and, together with the Company and Libbey Glass, the “Debtors”) commenced voluntary cases (the “Chapter 11 Cases”) under Chapter 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). The Chapter 11 Cases are being jointly administered under the caption *In re: Libbey Glass Inc., et al.*, Case No. 20-11439 (LSS). On October 20, 2020, the Bankruptcy Court entered an order confirming the First Amended Joint Plan of Reorganization for Libbey Glass Inc. and its Affiliate Debtors under Chapter 11 of the Bankruptcy Code (as it may be amended, supplemented or otherwise modified, the “Plan”). Copies of the Plan and the order confirming the Plan were filed as exhibits 2.1 and 99.1, respectively, to the Company’s Current Report on Form 8-K filed with the Securities and Exchange Commission (the “SEC”) on October 20, 2020. Filings with the Bankruptcy Court related to the Chapter 11 Cases are available free of charge electronically at <https://cases.primeclerk.com/libbey>. Information contained on, or that can be accessed through, such website or the Bankruptcy Court is not part of this Current Report on Form 8-K, and we disclaim liability for any such information.

DIP Credit Agreements

In connection with the Chapter 11 Cases, on June 3, 2020: (1) Libbey Glass Inc. and Libbey Europe B.V., as borrowers (the “ABL Borrowers”), entered into the Debtor-In-Possession Credit Agreement (the “DIP ABL Credit Agreement”) with the guarantors party thereto, the lenders party thereto from time to time, and JPMorgan Chase Bank, N.A., as administrative agent; and (2) the Company, Libbey Glass Inc., as borrower, the other Debtors, the other guarantors party thereto, Cortland Capital Market Services LLC, as administrative agent and collateral agent, and the lenders party thereto from time to time entered into the Superpriority Secured Debtor-In-Possession Credit Agreement (the “DIP Term Loan Credit Agreement”) and, together with the DIP ABL Credit Agreement, the “DIP Credit Agreements”). Copies of the DIP Term Loan Credit Agreement and DIP ABL Credit Agreement were filed as exhibits 4.1 and 4.2, respectively, to the Company’s Current Report on Form 8-K filed with the SEC on June 9, 2020.

On November 5, 2020, pursuant to the terms of the DIP Term Loan Credit Agreement, the Required Lenders (as defined in the DIP Term Loan Credit Agreement) agreed to extend the date by which a Plan of Reorganization must be consummated to November 12, 2020. On November 6, 2020, pursuant to the terms of the DIP ABL Credit Agreement, the Administrative Agent (as defined in the DIP ABL Credit Agreement) agreed to a corresponding extension under the DIP ABL Credit Agreement. On November 11, 2020 and November 12, 2020, the Required Lenders and the Administrative Agent, respectively, agreed to further extend such dates to November 13, 2020.

Assignment and Assumption Agreement

On November 5, 2020, pursuant to the Plan, the Company and Libbey Glass entered into that certain Assignment and Assumption Agreement (the “Assignment Agreement”). Upon execution of the Assignment Agreement, the Company assigned and transferred to Libbey Glass, and Libbey Glass acquired from the Company and assumed all of the Company’s right, title and interest in, to and under (i) all employee compensation and benefit programs (the “Employee Plans”) not expressly rejected, including all trusts, trust agreements, insurance contracts, administrative service agreements, investment management agreements or any other contract or agreement relating to the funding and administration of such Employee Plans and (ii) any other agreement, contract or guarantee in the name of the Company (collectively, the “Acquired Assets”). Libbey Glass assumed from the Company and agreed to pay, discharge and perform, all of the obligations and liabilities of the Company in connection with the Acquired Assets.

The foregoing description of the Assignment Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Assignment Agreement, which is filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated by reference herein.

Contribution and Exchange Agreement

On November 5, 2020, pursuant to the Plan, the Company and Libbey Holdings Inc., a Delaware corporation (“Holdings”), entered into that certain Contribution and Exchange Agreement (the “Contribution Agreement”). Upon execution of the Contribution Agreement, the Company contributed to Holdings 100% of the outstanding common stock of Libbey Glass in exchange for 100 shares of Holdings common stock.

The foregoing description of the Contribution Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Contribution Agreement, which is filed as Exhibit 10.2 to this Current Report on Form 8-K and incorporated by reference herein.

Cautionary Note on Forward-Looking Statements

This Current Report on Form 8-K, including the exhibits hereto, includes forward-looking statements as defined in Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended. Such statements reflect only the Company’s best assessment at this time and are indicated by words or phrases such as “goal,” “plan,” “expects,” “believes,” “will,” “estimates,” “anticipates,” or similar phrases. These forward-looking statements include all matters that are not historical facts. They include statements regarding, among other things, the Company’s intentions, beliefs or current expectations concerning the timing of its emergence from Chapter 11. By their nature, forward-looking statements involve risks and uncertainties because they relate to events and depend on circumstances that may or may not occur in the future. Investors are cautioned that forward-looking statements are not guarantees of future performance and that our actual results of operations, financial condition and liquidity, and the development of the industry in which we operate, may differ materially from these statements. Investors should not place undue reliance on such statements. Important factors potentially affecting performance include but are not limited to risks and uncertainties related to the ability to consummate the Plan; risks attendant to the bankruptcy process and the length of time that we may be required to operate in bankruptcy; the effectiveness of the overall restructuring activities pursuant to the Chapter 11 Cases and any additional strategies that we may employ to address our liquidity and capital resources; restrictions on us due to the terms of the proposed exit financing arrangements and restrictions imposed by the applicable courts; the effects of the Chapter 11 Cases on the Company and on the interests of various constituents, including holders of the Company’s common stock; other litigation and inherent risks involved in a bankruptcy process; risks related to the trading of the Company’s securities on the OTC Pink marketplace; the impact of

COVID-19 on the global economy, our associates, our customers and our operations, our high level of indebtedness and the availability and cost of credit; high interest rates that increase the Company's borrowing costs or volatility in the financial markets that could constrain liquidity and credit availability; the inability to achieve savings and profit improvements at targeted levels in the Company's operations or within the intended time periods; increased competition from foreign suppliers endeavoring to sell glass tableware, ceramic dinnerware and metalware in our core markets; global economic conditions and the related impact on consumer spending levels; major slowdowns or changes in trends in the retail, travel, restaurant and bar or entertainment industries, and in the retail and foodservice channels of distribution generally, that impact demand for our products; inability to meet the demand for new products; material restructuring charges related to involuntary employee terminations, facility sales or closures, or other various restructuring activities; significant increases in per-unit costs for natural gas, electricity, freight, corrugated packaging, and other purchased materials; our ability to borrow under the Company's DIP financing arrangements; protracted work stoppages related to collective bargaining agreements; increased pension expense associated with lower returns on pension investments and increased pension obligations; increased tax expense resulting from changes to tax laws, regulations and evolving interpretations thereof; devaluations and other major currency fluctuations relative to the U.S. dollar and the euro that could reduce the cost competitiveness of the Company's products compared to foreign competition; the effect of exchange rate changes to the value of the euro, the Mexican peso, the Chinese renminbi and the Canadian dollar and the earnings and cash flows of our international operations, expressed under U.S. GAAP; the effect of high levels of inflation in countries in which we operate or sell our products; the failure of our investments in e-commerce, new technology and other capital expenditures to yield expected returns; failure to prevent unauthorized access, security breaches and cyber-attacks to our information technology systems; compliance with, or the failure to comply with, legal requirements relating to health, safety and environmental protection; our failure to protect our intellectual property; and the inability to effectively integrate future business we acquire or joint ventures into which we enter. These and other risk factors that could cause results to differ materially from the forward-looking statements can be found in the Company's Annual Report on Form 10-K, the Company's Quarterly Reports on Form 10-Q, the Company's other filings with the SEC and in the Disclosure Statement filed with the Bankruptcy Court in connection with the Chapter 11 Cases. Refer to the Company's most recent SEC filings for any updates concerning these and other risks and uncertainties that may affect the Company's operations and performance. Any forward-looking statements speak only as of the date of this Current Report on Form 8-K, and the Company assumes no obligation to update or revise any forward-looking statement to reflect events or circumstances arising after the date of this report.

Item 9.01 Financial Statements and Exhibits.

d) Exhibits:

<u>Exhibit No.</u>	<u>Description</u>
10.1	<u>Assignment and Assumption Agreement, dated November 5, 2020, by and between Libbey Inc. and Libbey Glass Inc.</u>
10.2	<u>Contribution and Exchange Agreement, dated November 5, 2020, by and between Libbey Inc. and Libbey Holdings Inc.</u>

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Libbey Inc.
Registrant

Date: November 12, 2020

By: /s/ Jennifer M. Jaffee
Jennifer M. Jaffee
Senior Vice President, General Counsel and Secretary

ASSIGNMENT AND ASSUMPTION

This Bill of Sale and Assignment and Assumption (this "Agreement") is entered into as of November 5, 2020, by and between Libbey Inc., a Delaware corporation ("Assignor") and Libbey Glass Inc., a Delaware corporation ("Assignee"). Assignor and Assignee are herein referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, pursuant to the *First Amended Joint Plan of Reorganization for Libbey Glass and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* filed with the Bankruptcy Court for the District of Delaware (as supplemented, modified or amended from time to time, and including the exhibits thereto, the "Plan"), Assignee has agreed to assume and acquire from Assignor, and Assignor has agreed to convey, transfer, assign and deliver to Assignee, all of Assignor's right, title and interest in, to and under the Acquired Assets (as defined below) and the liabilities and obligations related thereto (the "Assignment"), upon the terms and subject to the conditions set forth in the Plan; and

WHEREAS, pursuant to the Restructuring Transactions Steps (as defined in the Plan), the Assignment shall be effective as of the date hereof, but prior to Assignor's formation of Libbey Holdings Inc., a Delaware corporation and soon-to-be directly owned subsidiary of Assignor.

NOW, THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt of sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. Assignment and Assumption of Acquired Assets. Subject to the terms of the Plan, Assignor hereby conveys, transfers, assigns and delivers to Assignee and its respective successors and assigns, and Assignee hereby acquires from Assignor and assumes, all of Assignor's right, title and interest in, to and obligations under (i) any Employee Compensation and Benefit Program (as defined in the Plan) (including, for the avoidance of doubt, all trusts, trust agreements, insurance contracts, administrative service agreements, investment management agreements or any other contract, agreement relating to the funding and administration of such Employee Compensation and Benefit Programs) that is not expressly rejected as set forth in the Plan or otherwise set forth on Schedule I attached hereto (the "Assumed Plans"), and (ii) any other agreement, contract or guarantee in the name of Assignor (the "Old Parent Contracts" and collectively with the Assumed Plans, the "Acquired Assets"); *provided however*, that each Employee Compensation and Benefit Program and Old Parent Contract that is expressly rejected as set forth in the Plan and as set forth on Schedule I attached hereto (the "Rejected Plans and Contracts") shall not be conveyed by Assignor or assumed by Assignee and will not be Acquired Assets. Assignee hereby assumes from Assignor, and agrees to pay, discharge and perform, all of the obligations and liabilities of Assignor in connection with the Acquired Assets. Assignee does not assume any liability or obligation with respect to the Rejected Plans and Contracts, which shall remain obligations and liabilities of the Assignor, subject to the terms of the Plan.

2. Substitution. For the avoidance of doubt, Assignor hereby confirms that Assignee, its successors and assigns shall fully substitute Assignor with respect to any and all rights to demand and receive any and all of the Acquired Assets and to give receipts and releases for and in respect of the Acquired Assets, or any part thereof, at the sole expense and for the benefit of the Assignee, its successors and assigns.

3. Assumed Plan Matters. Assignee hereby adopts in all respects and continues in full force and effect the Assumed Plans. For each Assumed Plan for which Assignor is a “fiduciary”, “named fiduciary” or “plan administrator” within the meaning of Title I of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), Assignor hereby assigns and transfers all powers to act in such capacity to Assignee, and Assignee acknowledges, accepts and agrees that by reason of its assumption of and its substitution under the Assumed Plan, that it is and will be a “fiduciary”, “named fiduciary” or “plan administrator” , as applicable, of such Assumed Plan under ERISA in substitution of the Assignor.

4. No Representations. Each of the Parties acknowledge, agree and confirm that none of the Parties make any representation or warranty whatsoever, express or implied, in this Agreement.

5. Governing Law; Waiver of Jury Trial. This Agreement, and all issues and questions concerning the construction, validity, interpretation and enforceability of this Agreement and the exhibits and schedules hereto, and all claims and disputes arising hereunder or in connection herewith, whether purporting to sound in contract or tort, or at law or in equity, shall be governed by, and construed in accordance with, (i) the Laws of the State of Delaware, without giving effect to any choice of law or conflict of law rules or provisions and (ii) ERISA, to the extent applicable to an Assumed Plan. **EACH PARTY HERETO WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION BASED UPON, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.**

6. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7. Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement shall remain in full force and effect. The Parties further agree that if any provision contained herein is, to any extent, held invalid or unenforceable in any respect under the laws governing this Agreement, they shall take any actions necessary to render the remaining provisions of this Agreement valid and enforceable to the fullest extent permitted by law and, to the extent necessary, shall amend or otherwise modify this Agreement to replace any provision contained herein that is held invalid or unenforceable with a valid and enforceable provision giving effect to the intent of the Parties.

8. Entire Agreement. This Agreement (together with the schedules to this Agreement) and the Plan constitute the entire agreement between the Parties relating to the transactions contemplated hereby and supersede any other agreements, whether written or oral, that may have been made or entered into by any of the Parties or any of their respective affiliates or representatives relating to the transactions contemplated hereby. Nothing in this Agreement shall alter any liability or obligation of the Parties arising under the Plan.

9. Further Assurances; Amendments; Assignments. At any time and from time to time hereafter, at the other Party's reasonable request, each Party shall take any and all steps and shall execute, acknowledge and deliver to the other party any and all future instruments and assurances necessary or reasonably requested in order to more fully carry out the purposes hereof. This Agreement shall be binding upon and inure to the benefit of each party hereto and its respective successors and assigns, and nothing herein, expressed or implied, is intended to confer upon any third party any rights or remedies.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN DULY EXECUTED AS OF THE DATE HEREOF.

LIBBEY INC.

By: /s/ Jennifer M. Jaffee
Name: Jennifer M. Jaffee
Title: Senior Vice President, General Counsel
and Secretary

[Signature Page to Assignment and Assumption Agreement]

LIBBEY GLASS INC.

By: /s/ Jennifer M. Jaffee

Name: Jennifer M. Jaffee

Title: Senior Vice President, General Counsel
and Secretary

[Signature Page to Assignment and Assumption Agreement]

CONTRIBUTION AND EXCHANGE AGREEMENT

This CONTRIBUTION AND EXCHANGE AGREEMENT (this "Agreement"), dated as of November 5, 2020, is entered into by and between Libbey Inc., a Delaware corporation (the "Company"), and Libbey Holdings Inc., a Delaware corporation ("Holdings").

RECITALS

WHEREAS, the Company currently owns all of the outstanding stock of Libbey Glass Inc., a Delaware corporation ("Libbey Glass", and such stock, "Libbey Glass Stock");

WHEREAS, as contemplated by the *First Amended Joint Plan of Reorganization for Libbey Glass Inc. and its Affiliate Debtors under Chapter 11 of the Bankruptcy Code* filed with the Bankruptcy Court in the District of Delaware [Docket No. 574] (including the plan supplements and all other exhibits and schedules thereto, in each case, as may be further amended, modified or supplemented from time to time, the "**Plan**"), and upon the terms and subject to the conditions of this Agreement, the Company desires to contribute to Holdings all of the Libbey Glass Stock (the "Contribution") in exchange for 100 shares of common stock, par value \$0.01, of Holdings ("Holdings Stock");

WHEREAS, immediately following the Contribution, Libbey Glass will convert from a Delaware corporation into a Delaware limited liability company pursuant to Section 266 of the Delaware General Corporation Law and Section 18-214 of the Delaware Limited Liability Company Act (the "Conversion");

WHEREAS, Holdings was formed as of the date hereof under the laws of the State of Delaware; and

WHEREAS, the Contribution shall take effect as of the date hereof immediately following formation of Holdings.

AGREEMENT

NOW, THEREFORE, in order to implement the foregoing and in consideration of the mutual representations, warranties, covenants and agreements contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Contribution/Acceptance. In accordance with the Plan, and effective as of the date hereof, the Company hereby agrees to make the Contribution to Holdings, and Holdings agrees to issue the Holdings Stock, free and clear of all liens, in exchange for the Contribution and to record such Shares on its books and records.
 2. Representations and Warranties. Each party hereto hereby represents and warrants that, as of the date hereof:
 - 2.1. Due Authorization. The execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action on the part of such party.
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- 2.2. Due Execution and Delivery, Enforceability. This Agreement has been duly executed and delivered by such party in accordance with its terms and represents a legal, valid and binding obligation of each such party.
3. Intended Tax Treatment & Plan of Reorganization. For U.S. federal income tax purposes (and applicable state and local income tax purposes), the parties intend that the Contribution, together with the Conversion, will qualify as a reorganization pursuant to Section 368(a)(1)(F) of the Internal Revenue Code of 1986, as amended (the “Code”) (the “Intended Tax Treatment”). None of the parties hereto (or any of their affiliates) shall take a position on any tax return or in any proceeding that is inconsistent with the Intended Tax Treatment. The parties hereto adopt this Agreement as a “plan of reorganization” within the meaning of the Treasury Regulations promulgated under Section 368 of the Code.
4. Miscellaneous.
- 4.1. Further Assurances. The parties hereto shall at any time and from time to time after the date hereof execute and deliver such further instruments of conveyance and transfer, in form and substance reasonably satisfactory to counsel for the parties hereto, and take such other action as the parties hereto may reasonably request in order to more effectively convey, transfer and vest full and complete ownership of the Libbey Glass Stock and the Holdings Stock.
- 4.2. Waiver; Amendment. Neither this Agreement nor any provision hereof shall be waived, amended, modified, changed, discharged or terminated except by an instrument in writing executed by the parties hereto.
- 4.3. Severability. If any provision of this Agreement or the application of any such provision to any person or circumstance shall be declared illegal, void or unenforceable in any respect by a court of competent jurisdiction, all other provisions of this Agreement shall not be affected and shall remain in full force and effect.
- 4.4. Section and Other Headings. The section headings contained in this Agreement and the schedules thereto are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- 4.5. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW OR CONFLICTS PROVISION THEREOF, WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW OR CONFLICTS PROVISION THEREOF.
- 4.6. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which together shall be deemed to be one and the same agreement. Delivery of an executed counterpart to this Agreement by facsimile or PDF file will be deemed to be delivery of an original executed counterpart to this Agreement.
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4.7. Third Party Rights. Nothing in this Agreement is intended or shall be construed to confer upon or give any person, other than the parties hereto and their respective successors, any rights.

(Signature Page Follows)

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

LIBBEY GLASS INC.

By: /s/ Jennifer M. Jaffee

Name: Jennifer M. Jaffee

Title: Senior Vice President, General Counsel and
Secretary

Signature Page to Contribution and Exchange Agreement

LIBBEY HOLDINGS INC.

By: /s/ Jennifer M. Jaffee

Name: Jennifer M. Jaffee

Title: Senior Vice President, General Counsel and
Secretary

Signature Page to Contribution and Exchange Agreement