

City of Plantation Police Officers' Employees' Retirement System v. Jeffries

COURT: United States District Court for the Southern District of Ohio
CASE NUMBER: 2:14-CV-01380
CASE LEADERS: Mark Lebovitch, Adam Hollander

In late 2013 and early 2014, BLB&G, with and on behalf of the City of Plantation Police Officers' Employees' Retirement System ("Plaintiff or the "System"), undertook an investigation into possible breaches of fiduciary duty by the members of the board of directors (the "Board") of Abercrombie & Fitch Co. ("ANF" or the "Company"). Plaintiff's investigation included making a demand on the ANF Board, pursuant to Section 220 of the Delaware General Corporation Law, to inspect the Company's books and records. Based on that investigation, the System believed that there was a basis to assert claims that the members of the Board had breached their fiduciary duties to ANF and its public shareholders by, among other things, causing ANF to agree to pay its Chief Executive Officer, Michael S. Jeffries ("Jeffries"), over \$140 million in total compensation since 2008, an amount the System believed was improper and not warranted by the Company's declining financial performance over that time. The System also believed that there was a basis to assert claims of breaches of duty in connection with key corporate governance failures at the Company, including a lack of adequate internal controls over ethics and compliance.

To the Board's credit, the Board and ANF's counsel, rather than subject the Company to what would have likely been hard-fought and protracted litigation, engaged with BLB&G and the System in an attempt to develop and implement meaningful compensation and governance reforms that would benefit the Company and its shareholders. Working with well-regarded governance experts, the System and BLB&G developed a series of key reforms that formed the core of the System's settlement demand on the Board. During negotiations, the Board implemented enhancements to ANF's executive compensation scheme, as proposed by the System, in order to better align executive compensation with the Company's performance. In addition, following negotiations, the Board agreed to implement numerous meaningful reforms to the Company's internal controls over ethics and compliance, including establishing and empowering a Chief Ethics and Compliance Officer at ANF and strengthening protections over the Company's nonpublic information.

On August 29, 2014, BLB&G, on behalf of the System, filed a Verified Stockholder Derivative Complaint in the Southern District of Ohio for the benefit of nominal defendant ANF against the members of the Board, seeking to remedy the Board members' breaches of fiduciary duties from at least August 15, 2011 to the present (the "Relevant Period"). Specifically, the Complaint alleged that the Defendant Board members breached their duties by awarding Defendant Jeffries with outsized compensation that was not aligned with ANF's performance, and by failing to institute or enforce meaningful internal controls over ethics and compliance. A copy of the Complaint can be found [here](#).

The parties entered into Stipulation and Agreement of Settlement (the "Stipulation") on August 28, 2014 setting forth the agreed-upon terms of the settlement of this Action. The parties submitted an amended Stipulation on October 2, 2014 (the "Amended Stipulation"), for the limited purpose of clarifying the scope of the claims being released by ANF Stockholders under the Settlement. A copy of the Amended Stipulation can be found [here](#).

Pursuant to the Settlement, among other things, Defendants have agreed, through its Board, for ANF to adopt corporate governance reforms in the areas of ethical and compliance management, internal controls, and executive compensation as set forth in Exhibit A to the Stipulation.

On October 10, 2014, the Court granted preliminary approval of the settlement and approved the Notice of Settlement, which can be found here. The Court has scheduled a Settlement Hearing for December 18, 2014 at 10:00 a.m. Please note that there is no proof of claim form for Stockholders to submit in connection with this settlement, and ANF stockholders are not required to take any action in response to this settlement.

Case Documents

- October 10, 2014 - Notice of Proposed Settlement of Derivative Action, Settlement Fairness Hearing and Right to Appear
- October 10, 2014 - Order Granting Motion For Preliminary Approval of a Settlement in a Derivative Action
- October 2, 2014 - Amended Stipulation and Agreement of Settlement
- August 29, 2014 - Verified Stockholder Derivative Complaint
- August 29, 2014 - Exhibit A (Corporate Governance Enhancements) to Plaintiff's Motion for Preliminary Approval of the Derivative Litigation Settlement