

## *In re Delphi Financial Group Shareholder Litigation*

**COURT:** Delaware Court of Chancery

**CASE NUMBER:** C.A. No. 7144-VCG

**CASE LEADERS:** Mark Lebovitch

Shareholder class action lawsuit filed in the Delaware Court of Chancery on behalf of Pontiac General Employees Retirement System and similarly situated shareholders of Delphi Financial Group (“Delphi” or the “Company”). The action arises from the conduct of the Delphi board of directors (the “Board”), senior officers and the Delphi’s founder and controlling shareholder in selling the Company to Tokio Marine Holdings Inc. (“TMH”).

Robert Rosenkranz (“Rosenkranz”), Delphi’s chairman, CEO and founder, controls the Company through his sole ownership of the Company’s high vote Class B shares. Together with ownership of his publicly traded Class A shares, Rosenkranz controls 49.9% of Delphi’s voting interests and personally elects all but one Delphi director. Despite an explicit prohibition in the Company’s Certificate of Incorporation on the payment of disparate consideration for the Class B shares in a change on control transaction, that is exactly what the Board agreed to.

On December 21, 2011, the companies announced that TMH pay \$43.875 for each of Delphi’s Class A shares and \$52.875 for every Class B share. This differential consideration bestows an unwarranted \$70 million windfall on Rosenkranz, who used his position at the helm of the Company to leverage the best possible deal for himself at the expense of Delphi’s public shareholders. In addition to commandeering the sale process from an ill-suited special committee, Rosenkranz arranged an unwritten side agreement with TMH to continue to pay for his related party transactions for at least five years, totaling roughly \$60 million in extra consideration for him alone.

On February 16, 2012, Plaintiffs filed a second amended complaint in the consolidated action, which, in addition to original allegations of breach of fiduciary duty, also alleges that the preliminary proxy statement omitted material information and provided materially misleading information.

On February 19, 2012 Plaintiffs submitted their opening brief in support of a preliminary injunction. On February 26, 2012 Defendants filed their answering briefs and Plaintiffs filed their reply brief on February 29, 2012. The hearing on the preliminary injunction was set for March 2, 2012 in Wilmington, Delaware.

### **Case Documents**

- June 29, 2012 - Declaration of Nathan A. Cook in Support of Plaintiffs' Opening Brief in Support of Final Approval of Settlement, Class Certification and Application for An Award of Attorneys' Fees and Reimbursement of Expenses
- June 29, 2012 - Plaintiffs' Opening Brief in Support of Final Approval of Settlement, Class Certification and Application for an Award of Attorneys' Fees and Reimbursement of Expenses
- May 23, 2012 - Notice of Proposed Settlement of Class Action
- March 9, 2012 - Oral Argument on the Plaintiffs' Omnibus for Preliminary Injunction
- February 17, 2012 - Reply Brief in Support of Plaintiffs' Motion for a Preliminary Injunction

- February 29, 2012 - The Delphi Defendants' Answering Brief in Opposition to Plaintiffs' Motion for Preliminary Injunction