

In re Viacom Inc. Stockholders Litigation

COURT: Delaware Court of Chancery

CASE NUMBER: 2019-0948-JRS

JUDGE: Vice Chancellor Joseph R. Slights III

CASE CONTACTS: Jeroen van Kwawegen, Gregory V. Varallo, Edward G. Timlin, Andrew Blumberg, Daniel Meyer, Margaret Sanborn-Lowing

This stockholder class action on behalf of former Viacom, Incorporated (“Viacom”) stockholders challenges the stock-for-stock merger of Viacom and CBS, Inc. (the “Merger”). The Merger was accomplished at the behest of Viacom and CBS’s controlling stockholders, Shari Redstone (“Redstone”) and National Amusements Inc. The complaint alleges that the Merger was the product of an unfair process that resulted in an unfair price for Viacom’s stockholders. Specifically, as to process, the complaint alleges, among other things, that the Merger was negotiated by a conflicted special committee—consisting of directors Redstone appointed to the Viacom Board by written consent—that prioritized effectuating Redstone’s wishes (e.g., ensuring that Viacom’s CEO became CEO of the combined company) over the interests of Viacom’s stockholders. Illustrating the unfairness of the price, the complaint alleges that (i) in 2018, Viacom and CBS agreed to an exchange ratio of 0.6135 CBS shares for every Viacom share (implying a \$12.8 billion Viacom enterprise value) before the potential merger fell through due to corporate governance disagreements, (ii) between the time the potential merger fell through in 2018 and the time CBS and Viacom agreed to the Merger in 2019, Viacom’s financial performance improved dramatically while CBS’s financial performance and prospects deteriorated, and (iii) Viacom’s stockholders received a worse exchange ratio in the Merger (0.59625) than was negotiated in 2018, implying that Viacom was worth \$1 billion less than it was worth in 2018 before its financial performance improved dramatically.

The complaint asserts claims for breach of fiduciary duty against (i) Viacom’s controlling stockholders; (ii) Viacom’s special committee that negotiated and recommended the Merger; and (iii) Viacom’s CEO.

On February 6, 2020 Vice Chancellor Slights appointed BLB&G as Lead Counsel and its client, California Public Employees’ Retirement System, as Lead Plaintiff.

On February 28, 2020 Lead Plaintiff filed an Amended Verified Class Action Complaint. Defendants filed motions to dismiss the Complaint, and on September 15, 2020 the Delaware Court of Chancery heard arguments on the Defendants’ motions. On December 29, 2020 the Court largely denied Defendants’ motions. (Click on “Case Documents” at left to view the Court’s Opinion.)

BLB&G continues to vigorously prosecute this action. The matter is now in the discovery phase of litigation.