

Merion Capital LP v. Safeway Inc.

COURT: Delaware Court of Chancery

CASE NUMBER: 10719--VCL

CASE LEADERS: Jeroen van Kwawegen

BLB&G was retained by Merion Capital LP and Merion Capital II LP (collectively, “Merion Capital”) as part of a group of several investments funds seeking an appraisal of their shares of Safeway Inc. pursuant to Section 262 of the Delaware General Corporation Law in connection to the merger of Safeway and Albertson’s LLC (the “Merger”). BLB&G filed the Petition for Appraisal on behalf of Merion Capital on February 25, 2015 in the Court of Chancery of the State of Delaware.

On March 6, 2014, Safeway entered into a merger agreement to be acquired by an affiliate of Albertson’s LLC, an operator of retail stores that is owned by Cerberus Capital Management, L.P. The Merger was consummated on January 30, 2015 and each share of Safeway’s common stock, other than shares as to which, among other things, appraisal had been demanded, was converted into the right to receive: (i) \$34.92 in cash without interest; (ii) one contingent value right relating to Safeway’s 49% interest in Mexico-based food and general merchandise retailer Casa Ley, S.A. de C.V.; and (iii) one contingent value right relating to any deferred consideration relating to the sale of assets of Safeway’s real-estate development subsidiary Property Development Centers, LLC.

With the Petition for Appraisal filed on behalf of Merion Capital, BLB&G sought a judicial order determining the fair value of Merion’s Safeway shares and directing Safeway to pay such amount to Merion Capital.

In June 2015, as reported in the Wall Street Journal, through the Petition for Appraisal and the exercise of appraisal rights, BLB&G obtained a 26% premium over the merger price within months of the deal closing for Merion Capital’s shares of Safeway common stock. The settlement, at \$44 per share, netted \$127 million more to the settling funds than the merger price of \$34.92 would have given them.