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Synapse Wireless Buyout Price Doubled Fair Value, Appraisal Says

By Mike Leonard Jul 15, 2020

- • Dissenting shareholder argued for huge buyout price hike
- • Judge lowers it, saying no ‘reliable indicators’ of value

McWane Inc. offered Synapse Wireless Inc. investors nearly double the fair price when buying out the partial subsidiary in 2016, a Delaware judge ruled, rejecting the lone dissenting shareholder’s bid to hike the deal price tenfold.

Although the valuations offered by both sides “have significant flaws,” Vice Chancellor Joseph R. Slights III wrote Tuesday, “one expert credibly made the best of less than perfect data,” and “the other did not.”

The decision leaves former Synapse shareholder William R. Kruse with only about $0.23 for each of his 582,000 shares—less than the $0.43 a share given to other bought-out investors, and well below the $4.18 apiece his expert claimed the shares were worth.

It’s the latest in a series of rulings that has Delaware court watchers wondering if appraisal lawsuits asking the Chancery Court to second-guess a deal price are still worth filing, particularly given the risk they could backfire, as Kruse’s did.

McWane’s victory comes about a week after the state’s top court turned back an appraisal challenge to the $16 billion merger between Newell Rubbermaid Inc. and Jarden Corp., which created consumer goods giant Newell Brands Inc.

‘“No” is Not an Answer’

The Synapse case proved unusually nettlesome, even by appraisal litigation standards, according to Slights.

The most reliable indicators of fair value—"market-based evidence” such as a stock’s trading price or competing offers from other suitors—simply weren’t available, the judge noted.

Nor were the next-best types of evidence particularly relevant, given that both sides challenged the deal price, the company’s financial projections didn’t seem to match “Synapse’s operative reality,” and the transactions offered as comparison points just weren’t that similar, Slights said.

“After carefully reviewing the evidence, it is difficult to discern *any* wholly reliable indicators of Synapse’s fair value,” he wrote.

While judges hearing most types of cases have the option of concluding “that neither party carried their burden,” the judge said, “‘no’ is not an answer in the unique world of statutory appraisal litigation.”

With some misgivings and a few minor tweaks, he adopted the “discounted cash flow” analysis offered by the company’s expert, calling it “far superior to any valuation I might endeavor to undertake on my own.”

Kruse’s expert, on the other hand, relied on questionable assumptions, criticized the company’s position “without providing an alternative,” made several serious errors, and included some data inputs that were “simply not relevant,” Slights said.

Continuing a Trend

Chancery Court judges last year turned back challenges to TransCanada Corp.'s $13 billion buyout of Columbia Pipeline Group, the $7.5 billion sale of Panera Bread Co. to JAB Holding Co., and Sibanye Gold Ltd.'s $2.2 billion acquisition of Stillwater Mining Co.

The state’s justices also effectively rejected a challenge to the $2.7 billion merger between Hewlett Packard Co. and Aruba Networks Inc., hiking the deal price just $2.

Just one recent ruling has bucked the trend: a January decision upholding the price SourceHOV Holdings Inc. investors got when they were bought out in the three-way tie-up that created Exela Technologies Inc. That case is being appealed.

The company was represented by Richards, Layton & Finger PA and Maynard, Cooper & Gale PC. The investor was represented by the Williford Firm LLC.

The case is Kruse v. Synapse Wireless Inc. , Del. Ch., No. 12392, 7/14/20 .

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