

Chancery Court Denies Petition for Judicial Dissolution

Judicial Dissolution Is A Limited Remedy

The Delaware Court of Chancery recently issued its decision in *In re Seneca Investments LLC*, CA No. 3624-CC (Del. Ch. Sept. 23, 2008), granting a motion for judgment on the pleadings and denying a petition for judicial dissolution. This case builds on previous case law by reaffirming the limited role of judicial dissolution as a remedy and by further clarifying some of the circumstances a court may consider in evaluating a petition for judicial dissolution.

The petitioner, Michael Tierney ("Petitioner"), sought judicial dissolution, alleging that Seneca Investments LLC ("Seneca") had abandoned its business. Seneca, in turn, sought to dismiss the petition through a motion for judgment on the pleadings.

In analyzing the petition for dissolution under the Delaware Limited Liability Company Act (the "LLC Act"), the court noted that a decree of dissolution may be ordered when "it is no longer reasonably practicable to carry on the business [of a limited liability company] in conformity with a limited liability company agreement." (Op. at 5-6). Looking to prior case law and an analogous limited partnership dissolution statute, the court recognized judicial dissolution may be available when a deadlock exists which prevents the company from operating or where the purpose of the entity has been fulfilled or is impossible to carry out.

As a deadlock did not exist, the court focused on whether it was impracticable for Seneca to fulfill its business purpose by looking to the purpose set forth in Seneca's organizational documents. The court rejected arguments of Petitioner, noting that, given the limited role of a court in ordering dissolution under the LLC Act, it will not attempt to police violations of



operating agreements by dissolving limited liability companies or to divine some other business purpose by interpreting provisions of organizational documents outside of the purpose clause. In short, the court emphasized the narrow scope of judicial dissolution as a remedy and found no facts alleged by Petitioner to indicate it was not reasonably practicable to carry on the business of Seneca in conformity with its operating agreement. Thus the court granted Seneca's motion for judgment on the pleadings and denied the petition for judicial dissolution.