RICHARDS LAYTON & FINGER

Delaware Corporate Law Update

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Court of Chancery Holds "*Revlon* Duties" Inapplicable to Directors of PBCs

In *Drakes Landing Associates, L.P. v. Tilden Park Capital Management, L.P.*, C.A. No. 2025-0898-NAC (Del. Ch. July 29, 2026), the Delaware Court of Chancery squarely addressed, for the first time in a written decision, the fiduciary duties and standards of review applicable to directors of Delaware public benefit corporations ("PBCs") in a change-of-control transaction.

The Court held that the traditional *Revlon* obligation to seek the best price reasonably available for stockholders does not apply as a standard of conduct to PBC directors because, under Section 365(a) of the Delaware General Corporation Law (the "DGCL"), PBC directors are required to balance stockholders' pecuniary interests, the interests of persons materially affected by the PBC's conduct and the public benefits stated in the PBC's certificate of incorporation. The Court explained that *Revlon*'s price-maximization mandate conflicts with Section 365(a)'s express balancing requirement, and that PBC directors cannot be required to pursue the highest value reasonably available for stockholders to the exclusion of the corporation's public-benefit purpose and affected stakeholders. The Court nevertheless left open whether a modified form of enhanced scrutiny—referred to by the Court as "PBC enhanced scrutiny"—could apply to a change-of-control transaction involving a PBC as a standard of review, under which the Court would examine whether the directors' balancing of these interests fell outside the range of reasonableness.

The Court did not directly decide this question because it found that the challenged transaction, which was approved by an independent special committee, invoked the statutory protections applicable to decisions of PBC directors under Section 365(b) of the DGCL. Section 365(b) provides, in relevant part, that with respect to director decisions implicating Section 365(a)'s balancing requirement, a director "will be deemed to satisfy such director's fiduciary duties to stockholders and the corporation if such director's decision is both informed and disinterested and not such that no person of ordinary, sound judgment would approve." Because the plaintiffs conceded that the special committee members were disinterested and independent, and their allegations regarding the adequacy of the committee's market check expressed concerns only about stockholders' pecuniary interests without challenging the committee's consideration of the other interests implicated by the statutory balancing test, the Court dismissed the plaintiffs' fiduciary duty and related aiding and abetting claims. The Court also suggested that even if the corporation were not a PBC, the fiduciary duty claims would have been dismissed under Delaware's new statutory safe harbor, Section 144 of the DGCL.

The decision confirms that directors of PBCs are not subject to a singular obligation to maximize stockholder value, whether in the sale of control context or otherwise, and must instead balance that interest with the PBC's identified public benefits and the interests of persons materially affected by the PBC's conduct. The decision further recognizes the significant protections afforded to PBC directors under Section 365(b) of the DGCL, which serves as a statutory business judgment rule to protect PBC director decisions balancing these interests so long as the decision is informed and disinterested and does not constitute waste.