

Case Name: City of Daytona Beach Police and Fire Pension Fund, et al. v. Examworks Group, Inc., et al.
Case Conclusion: September 2017
Caption: Delaware Court of Chancery, Consol. C.A. No. 12481-VCL
Keywords: Fiduciary Duty; Class Action; M&A Litigation
Industry: Medical Services
Professionals: William Jeffers, CFA, Joseph W. Thompson, CFA, ASA, and David J. Neuzil, CFA

In April 2016, ExamWorks Group, Inc. announced it had agreed to be acquired by Leonard Green & Partners, L.P. in a deal valued at approximately \$2.2 billion. Headquartered in Atlanta, ExamWorks is a leading provider of independent medical examinations, primarily for the insurance and legal industries.

ExamWorks stockholders filed a class action lawsuit alleging that the Board of Directors breached their fiduciary duties by allowing the company's Executive Chairman to control the sales process, by relying on conflicted legal counsel, and for selling the company for an inadequate price.

Counsel for the plaintiff class retained William Jeffers, CFA of the Griffing Group to provide valuation analysis and expert witness testimony. In January 2017, Mr. Jeffers issued an expert report that demonstrated that the fair value of ExamWorks was significantly higher than the transaction price. In February, he issued a rebuttal report that criticized the reports submitted by the defendants' experts, Gregg Jarrell and Daniel Fischel.

Both Mr. Jeffers and Mr. Jarrell agreed that the company's projections were reasonable and could be relied upon for the purpose of valuing the company using a discounted cash flow analysis. They also agreed that ExamWorks was sufficiently unique to preclude using other publicly-traded companies for comparative valuation. Mr. Fischel argued that the merger price was the most reliable indicator of the company's fair value.

Mr. Jeffers noted that Mr. Jarrell's valuation was flawed due to its reliance on (i) a beta factor that was too high, (ii) a statutory tax rate that was significantly higher than the Company's effective tax rate, (iii) a profit margin in the terminal period that understated the company's projections, and (iv) a capital expenditure rate which was unreasonable and unsustainable.

Mr. Jeffers argued that Mr. Fischel's argument was a tautology, because he contended that the only reliable benchmark for determining the fair value of a company is the market price. Since there was no independent way of measuring the validity of the benchmark, the equivalence of market value and fair value was (purportedly) true by definition. Mr. Fischel also failed to recognize the extraordinary equity benefits the acquirer offered to Company management.

Soon after the rebuttal reports were exchanged, the parties agreed to a settlement favorable to plaintiffs. Approval of the settlement is pending.

William Jeffers, CFA was assisted by Joseph W. Thompson, CFA, ASA, and David J. Neuzil, CFA. The plaintiffs were represented by Kevin H. Davenport, Paul A. Fioravanti, Jr., Michael Hanrahan, and Bruce E. Jameson of Prickett, Jones and Elliott, P.A.; and J. Daniel Albert, Lee D. Rudy, and Michael C. Wagner, of Kessler Topaz Meltzer & Check, LLP.