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Transaction ID 59915956
Case No. 12072-VCL

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

CHESTER COUNTY RETIREMENT SYSTEM, individually, and on behalf of all those similarly situated,	)	
Plaintiff,	)	
v.	)	C.A. No. 12072-VCL
JOSHUA L. COLLINS, DAVID A. WILLMOTT, ROBERT E. BEASLEY, JR., RONALD CAMI, ANDREW C. CLARKE, NELDA J. CONNORS, E. DANIEL JAMES, HAROLD E. LAYMAN, MAX L. LUKENS, DANIEL J. OBRINGER, BLOUNT INTERNATIONAL, INC., AMERICAN SECURITIES LLC, P2 CAPITAL PARTNERS, LLC, P2 CAPITAL MASTER FUND I, L.P., ASP BLADE INTERMEDIATE HOLDINGS, INC., ASP BLADE MERGER SUB, INC., and GOLDMAN SACHS & CO.,	)	
Defendants.	)	

ORDER GRANTING MOTIONS TO DISMISS

WHEREAS:

A. This putative class action challenges a merger in which Blount International, Inc. ("Blount" or the "Company") was acquired by affiliates of American Securities LLC and P2 Capital Partners, LLC (together, the "Buyers").

B. The transaction was governed by an agreement and plan of merger dated December 9, 2015 (the "Merger Agreement"). Pursuant to its terms, each publicly held share of Blount common stock was converted into the right to receive $10 per share, subject to the stockholder's right to seek appraisal.

C. The Merger Agreement was recommended to Blount's board of directors (the "Board") by a special committee (the "Committee") whose members were four non-management directors: Robert E. Beasley, Jr., Ronald Cami, Max L. Lukens, and Daniel L. Obringer.

D. The Merger Agreement was approved and recommended to the stockholders by the Board. The Board comprised the members of the Committee and six other directors. Four were non-management directors: E. Daniel James, Andrew C. Clarke, Nelda J. Connors, and Harold E. Layman. Two were members of management: CEO Joshua Collins and COO David Willmott. Collins and Wilmott did not vote on the merger.

E. Collins and Willmott are participating in the merger with the Buyers as part of the buyout group.

F. On January 12, 2016, Blount filed a preliminary proxy with the SEC. After receiving comments on its preliminary proxy from the SEC, Blount filed an amended preliminary proxy on February 16, 2016. Blount filed a definitive proxy statement on March 9, 2016. After this litigation was filed, Blount supplemented its disclosures to address issues raised by the complaint. This order refers to Blount's disclosures collectively as the "Proxy."

G. At a meeting of stockholders on April 7, 2016, Blount's stockholders voted in favor of the merger. Of Blount's total outstanding shares entitled to vote, more than 75% were cast in favor of the merger. Approximately 71% of the unaffiliated shares were cast in favor of the merger.

H. The plaintiffs allege that Blount's directors breached their fiduciary duties in connection with the merger. They allege that the Buyers aided and abetted the directors in breaching their fiduciary duties. They also allege that the Company's financial advisor, Goldman Sachs & Co. ("Goldman"), aided and abetted the directors in breaching their fiduciary duties.

I. The defendants have moved to dismiss the complaint for failing to state a claim on which relief can be granted.

IT IS HEREBY ORDERED:

1. The motion is GRANTED. This action is DISMISSED WITH PREJUDICE.

2. On a motion to dismiss, "(i) all well-pleaded factual allegations are accepted as true; (ii) even vague allegations are well-pleaded if they give the opposing party notice of the claim; (iii) the Court must draw all reasonable inferences in favor of the non-moving party; and (iv) dismissal is inappropriate unless the plaintiff would not be entitled to recover under any reasonably conceivable set of circumstances susceptible of proof." *Savor, Inc. v. FMR Corp.*, 812 A.2d 894, 896–97 (Del. 2002) (footnotes and internal quotation marks omitted).

3. When a transaction has been approved by a majority of the disinterested stockholders in a fully informed and uncoerced vote, the business judgment rule applies and "insulates the transaction from all attacks other than on the grounds of waste[.]" *In re KKR Fin. Hldgs. LLC S'holder Litig.*, 101 A.3d 980, 1001 (Del. Ch. 2014), *aff'd sub nom. Corwin v. KKR Fin. Hldgs. LLC*, 125 A.3d 304 (Del. 2015). "When the business judgment

rule standard of review is invoked because of a vote, dismissal is typically the result." *Singh v. Attenborough*, 137 A.3d 151, 151-152 (Del. 2016).

4. "In the absence of a controlling stockholder that extracted personal benefits, the effect of disinterested stockholder approval of the merger is review under the irrebuttable business judgment rule, even if the transaction might otherwise have been subject to the entire fairness standard due to conflicts faced by individual directors." *Larkin v. Shah*, 2016 WL 4485447, at *1 (Del. Ch. Aug. 25, 2016).

> [E]ven if [Plaintiff] had pled facts from which it was reasonably inferable that a majority of [the company's] directors were not independent, the business judgment standard of review still would apply to the merger because it was approved by a majority of the shares held by disinterested stockholders of [the company] in a vote that was fully informed.

In re KKR, 101 A.3d at 1003.

5. Because the merger received disinterested stockholder approval, the business judgment rule will apply and dismissal will result unless the plaintiff has "allege[d] that facts are missing from the statement, identif[ied] those facts, state[d] why they meet the materiality standard and how the omission caused injury." *Malpiede v. Townson*, 780 A.2d 1075, 1087 (Del. 2001) (internal citation and quotations omitted). A post-closing claim for monetary damages stemming from a failure to disclose information in the proxy materials "survives only to the extent that material omissions continued to exist when the [stockholders] voted." *In re Alloy, Inc. S'holder Litig.*, 2011 WL 4863716, at *13 (Del. Ch. Oct. 13, 2011). An omission is material only if there is a "substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as

having significantly altered the 'total mix' of information made available." *TSC Indus. v. Northway*, 426 U.S. 438, 449 (1976); *see Rosenblatt v. Getty Oil Co.*, 493 A.2d 929, 944 (Del. 1985) (adopting *TSC* standard).

6. The plaintiff alleges that the Proxy failed to disclose (i) Cami's prior legal representations of Lehman Brothers and American Securities well before he left Cravath Swain & Moore LLP in 2010 and (ii) Cami's later employment by Davis Polk & Wardwell LLP after the merger closed. The Cravath representations are old and stale and would not alter the total mix of information. The Davis Polk connection could not have compromised Cami's independence. If anything, it indicates that Davis Polk would have worked even harder to represent the interests of the Committee on which Cami served. Additional disclosure would not have changed the total mix of information.

7. The plaintiff alleges that the Proxy omitted information regarding certain of the "terms" of the Goldman engagement letter and its relationships with the Buyers. The Proxy disclosed the material terms of Goldman's engagement and revealed that Goldman had a longstanding and thick relationship with the Buyers. The terms of Goldman's retention in 2008 were not material. The terms of Goldman's engagement for the transaction were material and sufficiently disclosed. Additional disclosure would not have changed the total mix of information.

8. The plaintiff alleges that the Proxy did not disclose the Committee's "understanding of the Company's 'standalone valuation'" that formed "the stated basis for the Special Committee's approval" of the merger. Delaware law does not require directors to formulate and disclose a view of a company's standalone value. The Committee and the

Board relied on the financial advisors and disclosed a fair summary of their work product. *See In re MONY Grp. Inc. S'holder Litig.*, 852 A.2d 9, 32 (Del. Ch. 2004).

9. The plaintiff alleges that the Proxy should have provided additional information about the terms of the grant of stock options to Collins and Willmott. The Proxy disclosed that Collins and Willmott "are expected to collectively receive a grant of options to purchase an aggregate of 6% of the fully-diluted common stock of" the new post-closing company subject to vesting criteria, including satisfaction of certain predetermined performance targets or predetermined cash-on-cash return thresholds. This was sufficient for stockholders to understand the magnitude of Collins and Willmott's option-based, buy-side participation. Additional disclosure would not have changed the total mix of information.

10. Because the plaintiff has not pled a viable disclosure claim, the business judgment rule applies. The plaintiff does not allege that the Board committed waste. In any event, "the vestigial waste exception has long had little real-world relevance, because it has been understood that stockholders would be unlikely to approve a transaction that is wasteful. *Singh*, 137 A.3d at 152 (footnote omitted). In light of the stockholders' approval, there is no rational argument that waste occurred here.

11. Having failed to plead a claim for breach of fiduciary duty, the plaintiff likewise has failed to plead a claim for aiding and abetting. *Malone v. Brincat*, 722 A.2d 5, 14-15 (Del. 1998).

12. Although the plaintiff named the Company as a defendant, it did not assert any claims against the Company.

Vice Chancellor J. Travis Laster
December 6, 2016