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Case Name: Basho Technologies Holdco B, LLC, et al. v. Georgetown Basho Investors, LLC, et al.

Case Conclusion: July 2018

Caption: Delaware Court of Chancery, C.A. No. 11802-VCL

Keywords: Economic Damages, Entire Fairness, Fiduciary Duties

Industry: Database Software

Professionals: David G. Clarke, ASA

Basho Technologies, Inc. (“Basho”) was an early-stage database software company. One of Basho’s lead investors, Georgetown Basho Investors, LLC (“Georgetown”) used its blocking rights to effectively gain control of Basho and then made self-dealing transactions in which Basho was forced to acquiesce to Georgetown’s onerous financing terms.

Prior to Georgetown’s interference, Basho was considered a leader in the burgeoning markets for NoSQL and distributed systems software. However, the self-dealing efforts of Georgetown drove away key employees and placed Basho into financial distress. The company fell behind its competitors and ceased operations. It entered receivership in 2017. Earl Galleher, a co-founder of Basho, and other shareholders (the “Galleher Shareholders”), filed suit against Georgetown and others for breaching their fiduciary duties.

The case largely revolved around Basho’s January 2014 Series G round of financing. The onerous terms of the financing favored Georgetown and were viewed as a “red flag” by interested investors who admired Basho’s technology but declined to invest in the financing round due to concerns with Georgetown’s behavior as Basho’s controlling shareholder. Vice Chancellor Laster concluded that the Series G financing “started the Company on a greased slide to failure …”

The Griffing Group was retained by counsel for plaintiff Earl Galleher. David G. Clarke, ASA, a Managing Principal of the Griffing Group, submitted an opening report and testified at trial in October 2017, opining that the Galleher Shareholders suffered $17 million in direct damages resulting from the Series G financing. Mr. Clarke submitted a supplementary report valuing the Galleher Shareholders’ holdings at approximately $20 million prior to the Series G financing, indicating damages of $18 million.

In his July 2018 opinion, Vice Chancellor Laster ruled in favor of the plaintiffs and concurred with Mr. Clarke’s estimates of damages, concluding that the Galleher Shareholders suffered damages of $17.5 million as a direct result of the Series G financing, and an additional $2.8 million in damages resulting from defendants’ mismanagement of Basho following the Series G financing.

Petitioner Earl Galleher was represented by R. Montgomery Donaldson, Robert A. Penza, and Robert V. Spake of Polsinelli PC.