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Case Name: [Frank G. Pilkiewicz, Ph. D., et al. v. Transave, LLC](#)
Case Conclusion: May 2014
Caption: Delaware Court of Chancery, C.A. No. 6319-CS
Keywords: Appraisal Action, Fair Value, Preferred Stock
Industry: Pharmaceuticals, Biotechnology
Professionals: [David G. Clarke, ASA](#), [Michael J. Mattson](#), [William Jeffers, CFA](#), [Joseph W. Thompson, CFA, ASA](#), and [William P. McInerney, ASA](#)

Transave, Inc. was a privately-held biopharmaceutical company focused on developing drugs for the treatment of lung infections. In December 2010, Transave merged with Insmad, Inc., a publicly traded shell company. Under the terms of the merger agreement, Insmad acquired all of the outstanding capital stock of Transave and paid off Transave's debt of \$7.8 million. Transave preferred and common stockholders received, in the aggregate, (i) approximately 25.9 million shares of Insmad common stock, (ii) approximately 91.7 million shares of Insmad Series B Conditional Convertible Preferred Stock with a stated value of \$0.7114 per share, and (iii) cash consideration of \$561,280. After giving effect to the merger, former Transave stockholders held a 46.7% equity interest in the combined company (on an as-converted, fully diluted basis), and Insmad shareholders held the remaining 53.3%.

At the time of the merger, Transave did not have any drugs on the market but was far along in the process of developing an anti-infective, inhaled drug compound with strong commercial prospects. The drug had the potential to become a leading treatment for at least three types of infection, for which few or no competing treatments existed. In order to finish clinical trials and bring the drug to market, however, Transave needed funding. Insmad was a pharmaceutical development company that had sold its technology portfolio and was looking for an opportunity to deploy its cash.

A group of former Transave stockholders brought an appraisal action, seeking the fair value of their common shares. David G. Clarke, ASA, a Managing Principal of the Griffing Group, submitted opening and rebuttal reports and testified at deposition on behalf of the petitioners. The matter settled shortly before trial.

David G. Clarke, ASA was assisted by Michael J. Mattson, William Jeffers, CFA, Joseph W. Thompson, CFA, ASA and William P. McInerney, ASA. The petitioners were represented by Paul A. Fioravanti, Jr., Marcus E. Montejo, and Laina M. Herbert of Prickett, Jones and Elliott, P.A. and Richard Feldman and Stephen M. Rosenberg of Rosenberg Feldman Smith, LLP.