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Case Name:	In Re Safeway Inc. Shareholders Litigation
Case Conclusion:	September 2014
Caption:	Delaware Court of Chancery, C.A. No. 9445-VCL
Keywords:	Economic Damages, Contingent Value Rights, Fair Market Value, Fiduciary Duties
Industry:	Grocery Retailing
Professionals:	William Jeffers, CFA, David G. Clarke, ASA, and William P. McInerney, ASA

On March 6, 2014, an investor group led by the private equity firm Cerberus Capital Management agreed to buy Safeway Inc., the second-largest grocery store chain in the U.S., for approximately $9.1 billion. The merger sought to combine Safeway with Albertsons LLC, which is owned by Cerberus. The proposed consideration consisted of $32.50 of cash per share plus Contingent Value Rights (CVRs) entitling the holder to a pro-rata share of the proceeds of the sale of the following Safeway assets: (i) a minority interest in Casa Ley, a 200-store grocery store chain in Mexico; and (ii) Property Developments, LLC, a real estate development company that develops grocery store locations for Safeway.

Safeway shareholders filed a class action complaint, arguing that Safeway's Board of Directors had breached their fiduciary duties by allowing the company's CEO to conduct the sale process despite his interest in remaining CEO of the company following a sale. Plaintiffs further claimed that the director defendants breached their duties by permitting an investment bank selected by the CEO to serve as Safeway's financial advisor for the sale, despite the bank's longstanding ties to Cerberus.

Plaintiffs also alleged that by failing to create a special committee to negotiate and value the merger, and by agreeing to accept the Casa Ley and PDC CVRs (which failed to convey meaningful value to the stockholders), the director defendants' breaches resulted in an inadequate sale price for the company.

On June 13, 2014, the parties entered into a settlement agreement which, among other things, amended several structural components of the CVRs to deliver greater value to Safeway's stockholders. William Jeffers, CFA, a Principal at The Griffing Group, provided financial analysis to plaintiffs' counsel in connection with their negotiation of the terms of the settlement and later prepared an affidavit, which was submitted to the Court, explaining the economic benefits of the settlement to the plaintiffs. Vice Chancellor J. Travis Laster the accepted the value of the settlement as determined by Mr. Jeffers and approved the settlement on September 17, 2014.

William Jeffers, CFA was assisted by David G. Clarke, ASA and William P. McInerney, ASA. The plaintiffs were represented by Mark Lebovitch and Jeroen Van Kwawegen of Bernstein Litowitz Berger & Grossmann LLP; Stuart M. Grant and Cynthia A. Calder of Grant & Eisenhofer P.A.; Lee D. Rudy and J. Daniel Albert of Kessler Topaz Meltzer & Check, LLP; and Joseph E. White, III, Jonathan M. Stein, and Adam Warden of Saxena White P.A.