

White and Williams Secures Affirmance of Judgment in Shareholder Dispute

8.20.15

In *Finnegan v. Baker*, issued on August 14, 2015, the Appeals Court of Massachusetts affirmed the judgment in favor of the defendants, four individuals represented by White and Williams, on claims arising out of conversions of loans to stock that resulted in the defendants gaining a majority interest in VBenx Corporation, a closely-held Delaware corporation that provides employer-sponsored Internet portals through which employees can access and purchase voluntary benefits and other programs. The plaintiffs' claims were tried to Associate Justice Peter M. Lauriat of the Massachusetts Superior Court in April, May, and June 2011. A few months after the trial, the plaintiffs filed a duplicative action in the Delaware Court of Chancery. In early 2012, Judge Lauriat enjoined the plaintiffs from pursuing the Delaware action. Later that year, Judge Lauriat rendered his decision on the claims that had been tried, finding and ruling in favor of the defendants on three of the four counts of the operative complaint and dismissing the fourth as moot. Judge Lauriat subsequently entered a separate and final judgment against the plaintiffs on their claims, leaving the defendants' counterclaims at the Superior Court for future determination. The plaintiffs appealed from the separate and final judgment.

In its August 14, 2015 decision, the Appeals Court began by addressing a jurisdictional issue it had raised *sua sponte* at oral argument – whether the trial court had abused its discretion in entering a separate and final judgment. The court ruled that there had been no error. Turning to the merits, the Appeals Court addressed whether Judge Lauriat had correctly concluded that the transactions at issue were voidable – not void – under Delaware law and thus subject to equitable defenses, and whether he had correctly found that the transactions had been ratified. It began by noting that after the Superior Court decided the case, Delaware abolished the void/voidable distinction, and that Delaware law now provides mechanisms for validating acts and stock issuances that were not taken or made in strict conformity with Delaware corporate law. The Appeals Court ruled that the defendants would be entitled under this new Delaware law to a declaration validating the challenged transactions. It went on, nonetheless, to evaluate Judge Lauriat's analysis under prior law. It ruled that his conclusion that the convertible loan transactions were not void for lack of corporate formalities was fully consistent with Delaware case law. The court also ruled that he had correctly found that the loan transactions had been ratified, noting that the evidence fully supported the finding that "all were fully informed of the convertible nature of the loans, benefited from the receipt of the funds to VBenx, and accepted that the loans could be converted to shares if the shareholders so elected."

The Appeals Court also rejected the plaintiffs' challenges on two subsidiary issues. It affirmed Judge Lauriat's determination that the corporation had properly increased the number of authorized shares from 10 million to 20 million. It also affirmed Judge Lauriat's ruling regarding the composition of the board of directors as of and after March 31, 2009.

The parties will now turn to the defendants' counterclaims, which have been largely stayed.

The defendants are represented by David Chaffin and Rachel Eisenhaure in Boston and Marc Casarino in Delaware.