



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

FAIR VALUE INVESTMENTS, INC.,)
)
 Plaintiff,)
 v.) C.A. No. 2018-0677 JTL
)
 DBM GLOBAL, INC.,)
)
 Defendant.)
)

PLAINTIFF’S MOTION TO EXPEDITE

Plaintiff Fair Value Investments, Inc. (“FVI”), by and through its attorneys, hereby moves to have this proceeding expedited for trial and in support of this motion shows:

Introduction

This is a Section 220 books and records suit filed by FVI. FVI is a stockholder of defendant DBM Global Inc. (“DBM”). This litigation was commenced after prolonged negotiations with DBM did not result in production of the records that FVI believes it needs to investigate certain past and potential transactions involving DBM and HC2 Holdings Inc. (“HC2”)—the owner of 92% of DBM. Those negotiations with DBM continue.

The Transactions of Concern

There are two aspects of the relationship between DBM and HC2 that are of significant concern to FVI.

First, DBM financial statements have revealed the existence of a “tax-sharing agreement” with HC2 that involves DBM’s paying substantial amounts to HC2 based on income taxes that are not actually due because of HC2 tax loss credits that can be applied to DBM’s income as a consolidated taxpayer. However, the financial statements do not provide any specific information about either the provisions of that agreement, the amounts of income taxes that DBM would otherwise be obligated to pay as a non-consolidated taxpayer, any consideration to DBM for the cash transfers, or the amounts of cash that DBM actually transfers to HC2 pursuant to the reported agreement. The DBM financial statements have also revealed, again without details, that HC2 has regularly had DBM advance those funds to HC2 several months in advance of the time any theoretical taxes would have been payable, effectively maintaining a continuing multimillion dollar cash advance balance, without any apparent consideration to DBM.

Second, HC2 has over \$400 million in debt that has stated it intends to refinance shortly. Previously, HC2 has entered into repeated amendments of an Indenture with its creditors that restricted the amount DBM may borrow, as a way to support HC2’s increasing needs for debt. FVI has observed the public

statements of HC2, and of its officers who also serve as directors of DBM, reporting their intent to refinance the \$400 million debt to which the Indenture applies, raising concerns that DBM's directors will again agree to the restrictions of DBM's capital and corporate opportunities when HC2 refinances, using HC2's control of DBM's board of directors to serve HC2 at the expense of DBM and its minority shareholders. FVI does not believe such a use of DBM's credit, without any consideration, would be appropriate.

FVI seeks DBM records that are necessary to understand if DBM has been harmed by the advances of its funds to HC2 before those funds were to be otherwise paid in taxes and by the use of DBM's credit to finance HC2.

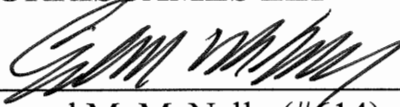
The Current Status And Relief Requested

FVI appreciates that Section 220 litigation is frequently expedited due to its summary nature and the need to determine if further expedited relief should be sought in follow-up litigation. However, FVI also acknowledges that it cannot contend that it will suffer irreparable harm absent immediate relief. For example, if it should later be determined that HC2 should compensate DBM for the use of DBM funds, a damages award would remedy that breach of HC2's duty to DBM. Similarly, DBM (and presumably its parent HC2) is now on notice that the future use of DBM's credit without compensation might be set aside later if a court holds that is improper.

Under these circumstances, FVI is reluctant to impose too much of a burden on the Court's crowded calendar. Thus, FVI only requests that a trial in this matter be scheduled in or after December, 2018. If so, FVI expects that counsel for the parties will be able to work out any intermediate dates, such as for a response to the complaint and discovery deadlines. That will also permit further settlement discussions with DBM.

A proposed form of Order is being filed herewith.

MORRIS JAMES LLP



Edward M. McNally (#614)
Kathleen A. Murphy (#5215)
500 Delaware Avenue, Suite 1500
P. O. Box 2306
Wilmington, DE 19801-1494
302.888.6800
Attorneys for Fair Value Investments, Inc.

Dated: September 18, 2018

Words: 648



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[PROPOSED] SCHEDULING ORDER

WHEREAS, the Plaintiff having filed a Complaint under 8 *Del. C.* § 220 and a Motion to Expedite and the parties having been given an opportunity to be heard,

IT IS ORDERED:

1. A one-day trial shall be held on _____, 201_, commencing at 10:00 a.m.
2. The parties shall confer and submit a more detailed Scheduling Order providing for further scheduling dates prior to the trial as are appropriate.

Vice Chancellor Laster