



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

JAMES BOCOCCO, VENTURI)
ANDERSONI, LLC, JOHN N. KYLE)
II, KRISTINA C. BRUNI, PAUL)
DESTEFANIS, PAULA ABERLE,)
MICHAEL DAGEN, ENTRUST)
FREEDOM/YVONNE WOOD,)
EQUITY TRUST/J.M. HUISINGA,)
IRWIN PODHAJSER, JAMES)
GALLAGHER, JEAN E. CHANDLER,)
JONATHAN HEISTEIN, LINDA)
KLINK, MICHAEL L. ROBERTS,)
PAVAN ANAND, PHYLLIS COHEN,)
RONALD R. TILLER, TYLER)
WOOD, STEPHEN CLAASSEN,)
MICHAEL TANIELIAN, FRANK)
NEVES, JOHN D. ROEHRS, STAN V.)
SMITH ON BEHALF OF THE STAN)
V. SMITH TRUST DATED APRIL 30,)
1993, ROBERT A. BEAN, RICHARD)
CAREY, AND ALLEN WHITMORE,)

Plaintiffs,)

v.)

HC2 HOLDINGS, INC., HC2)
BROADCASTING HOLDINGS INC.,)
HC2 BROADCASTING INC.,)
CONTINENTAL GENERAL)
INSURANCE COMPANY, PHILLIP)
A. FALCONE, MICHAEL J. SENA,)
WAYNE BARR, JR., LES LEVI,)
PAUL K. VOIGT, IVAN P. MINKOV,)
and PAUL L. ROBINSON,)

Defendants.)

C.A. No. 2021-_____

VERIFIED COMPLAINT FOR MONETARY AND EQUITABLE RELIEF

The above-captioned plaintiffs (“Plaintiffs”), by and through their undersigned counsel, hereby file this complaint, derivatively and directly, against defendants, HC2 Holdings, Inc. (“HC2 Holdings”), HC2 Broadcasting Holdings Inc. (“HC2 Broadcasting”), HC2 Broadcasting Inc. (“HC2 Inc.”), Continental General Insurance Corporation (“Continental”), Phillip A. Falcone, Michael J. Sena, Wayne Barr, Jr., Les Levi, Paul K. Voigt, Ivan P. Minkov, and Paul L. Robinson (collectively, “Defendants”) and allege as follows:

NATURE OF THE ACTION

1. This action is brought by certain minority shareholders of DTV America Corporation, (“DTV America”) for themselves and on behalf of DTV America, together with certain holders of options of DTV America stock (the “Option Holders”), against a conglomerate of overlapping entities and their interlocking directors. Plaintiffs assert claims for breaches of fiduciary duty, aiding and abetting in breaches of fiduciary duty, civil conspiracy, and tortious interference with contract and prospective economic advantage, for which the plaintiffs seek direct and derivative monetary and equitable relief necessitated by the defendants’ tripart scheme to (i) acquire majority control of DTV America, (ii) exploit that control by looting DTV America’s assets, and (iii) ultimately acquire the remaining

ownership of DTV America from the minority shareholders at a deep discount (the “Scheme”).

2. Upon HC2 Holdings’ acquisition of majority control of DTV America, it became one of the nation’s largest Low-Power TV station operators.

3. If HC2 Holdings, through its subsidiaries, had been willing to pay fair value to acquire 100% of DTV America, it could have carved-up and spread the enterprise value, assets, and business opportunities among its other broadcasting subsidiaries. That would have allowed the value of the enterprise to stay under the roof of HC2 Holdings, which is the ultimate parent company, but required it to pay the Minority Shareholders of DTV America compensation at a fair value for their shares.

4. Instead, Defendants acquired at fair value 51% of DTV America stock so that they could ultimately acquire the remaining stock from the minority shareholders and thereafter were able to pay a significantly discounted price for the remaining shares after they had the opportunity and power to systematically deprive DTV America of its value and assets transferring them to HC2 Holding’s wholly owned subsidiaries.

5. But for Defendants’ misconduct, absence of good faith and fair dealing, and violations of their fiduciary duties, their Scheme could not have been perpetrated

and the resulting damages to DTV America, its Minority Shareholders, and its Option Holders would have never occurred.

PARTIES

6. Defendant HC2 Holdings is a Delaware Corporation. HC2 Holdings is a publicly traded company and the ultimate parent company of DTV America and numerous other companies. HC2 Holdings describes itself on its website as a diversified holding company, which seeks opportunities to acquire and grow businesses that can generate long-term sustainable free cash flow and attractive returns in order to maximize value for all stakeholders. It has a diverse array of operating subsidiaries across multiple reportable segments.

7. Defendant HC2 Broadcasting is a Delaware corporation. HC2 Broadcasting was established in October 2017. As stated on its website, HC2 Broadcasting is the broadcasting subsidiary of HC2 Holdings. As of January 4, 2021, HC2 Broadcasting operates 229 broadcast television stations. In addition, HC2 Broadcasting has approximately 210 silent licenses and construction permits. The total HC2 Broadcasting footprint, including construction permits, covers approximately 130 U.S. markets, including 34 of the top 35 markets across the United States and Puerto Rico.

8. Defendant HC2 Inc. is a Delaware corporation and a wholly owned subsidiary of HC2 Broadcasting and HC2 Holdings. HC2 Inc. owns 43% of the

shares of DTV America stock. HC2 Inc. serves as non-operating entity formed solely for the purpose of holding legal title to the 43% of the shares of DTV America acquired in November 2017.

9. Defendant Continental is a Texas corporation. Continental owns roughly 8% of DTV America stock. Continental is a wholly owned subsidiary of HC2 Holdings.

10. Defendant Phillip A. Falcone (“Falcone”) served as the chairman of the board of directors, President, and Chief Executive Officer of HC2 Holdings from May 2014 until April 2020. Falcone was the President and member of the board of directors of HC2 Broadcasting from October 2017 until May 2020, as well as a director and officer of DTV America.

11. Defendant Michael J. Sena (“Sena”) has served as the Chief Financial Officer of HC2 Holdings since June 2015. Sena also is an executive officer and member of the board of directors of HC2 Broadcasting from its inception in October 2017. Sena is a director of DTV America and a former Chief Financial Officer.

12. Defendant Les Levi (“Levi”) has been the Chief Operating Officer of DTV America from December 2017 through April 2018. In November 2017, Levi became a member of DTV America’s board of directors. In May 2020, Levi became the Managing Director of Business Strategy of DTV America.

13. Defendant Ivan P. Minkov (“Minkov”) has been DTV America’s Chief Financial Officer since 2018. Additionally, Minkov has served as an executive officer of HC2 Broadcasting since 2018 and a member of the board of directors of HC2 Broadcasting since its inception in October 2017.

14. Defendant Paul K. Voigt (“Voigt”) was HC2 Holdings’ Senior Managing Director, Investments between October 2014 and May 2018.

15. Defendant Wayne Barr, Jr. (“Barr”) has served as a member of the board of directors of HC2 Holdings since 2014 and as the CEO since June 2020. Since February 2021, he is also the Chief Executive Officer of HC2 Broadcasting and a member of its board of directors.

16. Defendant Paul L. Robinson (“Robinson”) was the Chief Legal Officer of HC2 Holdings between March 2016 and September 2017.

17. In November 2017, when the HC2 Holdings, HC2 Broadcasting, Continental, and HC2 Inc. (together the “HC2 Entities”) acquired majority control of DTV America, DTV America owned more than 50 operating stations, primarily in various top 100 designated market areas including Orlando, Tampa, Jacksonville, Fort Myers, Minneapolis, Detroit, and St. Louis.

18. Since November 2017, Falcone, Levi, Sena, and Minkov (collectively the “D&O Defendants”) have all, at one time, served as either a director, officer or both of DTV America. Levi and Sena have served (and continue) to serve as

executive officers and members of DTV America's board of directors. Minkov has served as its Chief Financial Officer since April 2018. Starting in November 2017, Falcone served as DTV America's Chairman of the Board, President, and Chief Executive Officer.

19. At the inception of the Scheme, the D&O Defendants had roles as either executive officers and directors of DTV America and served as either a director or officer at one or both of the HC2 Entities. Assisting the D&O Defendants, Barr, Voigt, and Robinson were executive officer and/or directors of HC2 Holdings.

20. Derivative Plaintiff James Bocoock is currently a stockholder of DTV America and has been a stockholder continuously throughout the pertinent period pertaining to this action.

21. Derivative Plaintiff Venturi Andersoni, LLC is currently a stockholder of DTV America and has been a stockholder continuously throughout the pertinent period pertaining to this action.

22. Certain Plaintiffs are minority shareholders of DTV America and were shareholders of DTV America prior to June 2017 ("Minority Shareholders"). The names of each shareholder plaintiff are set forth on Exhibit 1 hereto.

23. Option Holder Plaintiffs, Kyle, Bruni, DeStefanis, Dagen, Podhajser, Aberle, Bean, and Bocoock are stock option holders of DTV America stock.

JURISDICTION

24. This Court may exercise subject matter jurisdiction over this matter pursuant to 10 *Del. C.* §§ 341-342.

25. Defendants are subject to service of process and personal jurisdiction in this case pursuant to 10 *Del. C.* § 3111, 10 *Del. C.* § 3114, and 10 *Del. C.* § 3104 as the means of service of process for the civil conspiracy theory of personal jurisdiction, specifically in connection with the direct claim for tortious interference.

FACTUAL BACKGROUND

The Scheme

26. In 2015, HC2 Holdings commenced, through its wholly owned subsidiaries, the acquisition of DTV America common stock.

27. By June 2017, HC2 Holdings, through its alter ego and wholly owned subsidiary Continental, had acquired approximately 8% of the outstanding common stock of DTV America.

28. In June 2017, HC2 Holdings caused HC2 Inc. to enter into an agreement with certain shareholders of DTV America to purchase their shares. This purchase agreement amounted to the sale of about 43% of the outstanding common stock of DTV America, and, then together with, the 8% then controlled by HC2 Holdings, made HC2 Holdings (through its wholly owned subsidiaries) the 51% majority owner.

29. As stated in a HC2 Holdings press release of June 27, 2017, “HC2 Holdings, Inc. (“HC2”) ... announced today that a subsidiary of HC2 Holdings has agreed to enter into a series of transactions that ... will result in HC2 and its subsidiaries owning over 50% of shares of common stock of DTV America Corporation.”

30. In June 2017, the future looked bright for DTV America, as the D&O Defendants represented, in writing, to new employees, to wit:

(i) [DTV America] is engaged in the business of owning and acquiring low power television (LPTV) broadcast licenses and construction permits (CPs) across the US to build a wireless distribution platform covering select DMAs; (ii) [DTV America] currently owns and operates 52 LPTV stations and intends to launch more than 50 new broadcast LPTV stations in the US over the next 12 month using LPTV licenses and CPs in its portfolio; and (iii) [DTV America] is also engaged in the development of technology to optimize the use of broadcast TV spectrum and the distribution of video content over its LPTV broadcast distribution platform...

31. In November 2017, HC2 Broadcasting (through its wholly owned non-operational acquisition entity, HC2 Inc.) closed on the purchase of the approximate 43% of additional outstanding shares under the purchase agreement entered in June 2017.

32. Falcone was the leader of HC2 Holdings and the confederacy behind the scheme, namely Falcone, Levi, Sena, Minkov, Barr, Robinson, and Voigt (sometimes collectively, the “Conspirators”).

33. Beginning in 2016, Falcone, Voigt, and Robinson met with DTV America officials and shareholders repeatedly until the signing of the purchase agreement in June of 2017. It was primarily their responsibility in dealing with DTV America officers to paint the rosy picture of DTV America under HC2 Holding's wing. During that time, the Conspirators were provided access to DTV America's business plan, including, among things, immediate, near term LPTV broadcast station purchase opportunities around the country. From June 2017 to November 2017, the Conspirators had continuous access to newly identified LPTV station purchase opportunities.

34. Between June 2017 and November 2017, the Conspirators, aided and abetted by HC2 Entities, prompted HC2 Holdings (through its wholly owned subsidiaries) to purchase a number of the LPTV broadcast stations that were identified in DTV America's business plan.

35. Between June 2017 and December 2020, more than 100 LPTV stations that were identified by DTV America (prior to November 2017) as its acquisition candidates were purchased by HC2 Holdings through subsidiaries other than DTV America. There was no contrary voice at DTV America to speak up against co-opting of the business opportunities of DTV America because, from November 2017 to date, DTV America board of directors and executive officers were completely

comprised of all or some subset of the Conspirators. All the members of the board of directors of DTV America were also members of the Conspirators.

36. In addition to stealing the business opportunities of DTV America, the Conspirators caused DTV America to transfer the ownership of certain LPTV broadcasting station licenses to other wholly owned subsidiaries of HC2 broadcasting without paying any value (let alone fair market value) for those licenses.

37. The Conspirators also stripped DTV America of valuable technology and intellectual property. Long before the Conspirators arrived on the scene, DTV America developed internally a proprietary system called "DTV Cast." DTV Cast, the platform for which was DTV America's own proprietary hardware and software, enabled TV programming from a central "hub" to any connected TV station in the US. DTV Cast was recognized in the broadcast television industry as the most advanced TV program distribution system in existence. Since it allows for the connectivity to the "hub" without the need for multiple and extremely expensive satellite dishes. The system provides for a low cost of operation, flexibility in maintenance, remote monitoring, remote operations, and the ability to scale to hundreds of TV stations.

38. HC2 Entities, under the direction of the Conspirators, rebranded DTV Cast as "Central Cast" and appropriated it for HC2 Broadcasting as if DTV Cast was

an asset of HC2 Broadcasting. The Conspirators caused HC2 Entities to co-opt that technology and intellectual property without paying any value or consideration for that asset.

39. Misappropriating the DTV Cast Technology and using it as its “hub” for an economically feasible, fully integrated network of LPTV stations located anywhere in the United States made it possible for the HC2 Entities to go on a \$150,000,000 acquisition spree to purchase these stations, starting in November 2017. Many of the acquisitions were originally identified by DTV America. Yet, none of those acquisitions were made for the benefit of DTV America. In fact, DTV America did not acquire one company or subsidiary following the November 2017 takeover by the HC2 Entities.

40. From time-to-time the Federal Communications Commission (the “FCC”) undertakes what it calls a “repacking” process. “Repacking” involves reorganizing television stations in the broadcast television bands so the stations remaining on the air after the incentive auction occupy a smaller portion of the Ultra High Frequency (UHF) band, thereby freeing up a portion of that band for new wireless services use. The process includes the following steps: Full Power/Class A stations receive a confidential letter from the FCC with their new station channel assignment and assigned transition phase in the repacking plan. The FCC releases the list of all stations to be repacked and their assigned channels.

41. After the Conspirators took control in November of 2017, they took the best stations that were repacked by the FCC from DTV America and diverted those stations to other wholly owned subsidiaries of HC2 Holdings.

42. With the first two parts of the Scheme completed (gain control, loot DTV America and deprive it of its going concern value), the third and final step of the Scheme has now been put in play by the Conspirators – *i.e.*, make offers to Minority Shareholders to purchase their shares at a deep discount. This commenced in November 2020.

The Minority Shareholders of DTV America

43. All Minority Shareholder Plaintiffs were shareholders of DTV America and prior to June 2017 and remain shareholders today having no information or power to protect themselves from the economic consequences of the Scheme.

44. DTV America's shares are not liquid, as there is a very limited number of potential purchasers for the sale of these shares. Thus, absent redress from this Court, the Minority Shareholders will be stuck with illiquid and seriously devalued shares; just as the Conspirators intended.

The Stock Option Holders of DTV America

45. The Option Holder Plaintiffs were granted their options under a DTV America stock option plan (the "Option Agreement"). (A copy of the stock option plan is attached as Exhibit 2).

46. If the per dollar value of the shares is less than the strike price, the shares will be worth less than what the option holder pays for the shares and the options would commonly be known to be “out of the money.”

47. Unless the stock options will at some point be worth more than the Strike Price, the options are essentially worthless.

48. As it pertains to the Option Holders, the second part of the Scheme had the same intent and purpose as it did with respect to the Minority Shareholders – with one distinction. With respect to out of the money stock options with no chance whatsoever of ever being in the money, the stock options are rendered valueless and there is no need for the Conspirators to even have to offer pennies on the dollar to buy out those options.

DEMAND FUTILITY

49. As particularized herein, and at all times pertinent hereto, the members of DTV America’s board of directors were interested and lacked independence due to their interconnected relationship with and overriding allegiance to the HC2 Entities, rendering those directors incapable of making an impartial decision as to any derivative claims asserted in this action, and thereby excusing any pre-suit demand relating such claims.

COUNT I

BREACH OF FIDUCIARY DUTY OF LOYALTY TO DTV AMERICA

(Minority Shareholders on Behalf of DTV America Against D&O Defendants)

50. Plaintiffs incorporate the preceding paragraphs as if set forth fully herein.

51. D&O Defendants Falcone, Sena, Levi, and Minkov served as directors and officers of DTV America during the time of the Scheme. Sena, Levi, and Minkov remain directors or officers today. Throughout the Scheme, the D&O Defendants also were officers, directors of or affiliated with either HC2 Holdings or HC2 Broadcasting.

52. As directors and officers, the D&O Defendants owed fiduciary duties to DTV America.

53. While directors and officers, the D&O Defendants used their authority to transfer valuable assets from DTV America to the HC2 Entities and their affiliates, including but not limited to state of the art intellectual property, the lucratively “repackaged” broadcasting channels, the LPTV licenses, and the network programming relationships.

54. As directors and officers of DTV America, the D&O Defendants failed to adequately bid or attempt to pursue lucrative business opportunities, previously identified in DTV America’s business plan, but instead improperly passed those

opportunities over to the HC2 Entities and their subsidiaries.

55. DTV America is/was financially able to exploit for itself each of the opportunities that the D&O Defendants usurped for the benefit of the HC2 Entities.

56. Each opportunity is/was within DTV America's line of business;

57. DTV America had a legitimate interest and expectancy in each opportunity that the D&O Defendants usurped for the benefit of the HC2 Entities;

58. By usurping DTV America's opportunities for the benefit of the HC2 Entities, the D&O Defendants breached their fiduciary duty of loyalty to the Minority Shareholders.

59. D&O Defendants breached their fiduciary duties owed to DTV America as they attempted to gut DTV America of its assets and deprive it of lucrative business opportunities.

60. As a result of the foregoing, Minority Shareholders, on behalf of DTV America are entitled to a derivative award of damages against the D&O Defendants in an amount to be determined at trial but not less than \$30 million.

COUNT II

BREACH OF FIDUCIARY DUTY OF LOYALTY OWED DIRECTLY TO THE MINORITY SHAREHOLDERS

(Minority Shareholders Against the HC2 Entities)

61. Plaintiffs incorporate the preceding paragraphs as if set forth fully herein.

62. HC2 Holdings through its wholly owned subsidiaries, Continental and HC2 Inc., together, own 51% of DTV America's stock and, therefore, HC2 Holdings constitutes a de facto Majority Shareholder.

63. As Majority Shareholder of DTV America, the HC2 Entities owe a fiduciary duty of loyalty to Minority Shareholders.

64. As Majority Shareholder, the HC2 Entities stole numerous business opportunities that were previously identified and targeted by DTV America that were within its line of business.

65. DTV America is/was financially able to exploit for itself each of these opportunities.

66. Instead of allowing DTV America to profit from their targeted opportunities, the HC2 entities purchased them for themselves or through one of their numerous wholly owned subsidiaries or affiliates.

67. At the time the Scheme occurred, no director of DTV America was independent of HC2 Holdings or HC2 Broadcasting as they were elected by the HC2 Entities or were serving as an officer or director of one of the HC2 Entities.

68. As Majority Shareholder, the HC2 Entities improperly diverted the majority of the valuable assets from DTV America to either itself or its subsidiaries for little to no consideration, including but not limited to, state of the art intellectual property and its most lucratively "repackaged" broadcasting channels.

69. The Majority Shareholder took no corrective measures to ensure the impartiality of the foregone business opportunities or asset transfers.

70. The Majority Shareholder's breaches of its fiduciary duty of loyalty has proximately caused substantial economic harm to the Minority Shareholders.

71. As a result of the foregoing, Minority Shareholders are entitled direct relief in the form of a damages award against the Majority Shareholder in an amount to be determined at trial.

COUNT III

BREACH OF FIDUCIARY DUTY OF LOYALTY OWED TO MINORITY SHAREHOLDERS

(Minority Shareholders Against the D&O Defendants)

72. Plaintiffs incorporate the preceding paragraphs as if set forth fully herein.

73. By virtue of their positions as executive officers and directors of DTV America, D&O Defendants owed fiduciary duty of loyalty to the Minority Shareholders of DTV America.

74. D&O Defendants repeatedly breached their fiduciary duty of loyalty to the Minority Shareholders by virtue of the Scheme, causing them economic harm.

75. As a result of the foregoing, the Minority Shareholder are entitled to direct relief in the form of a damages award against D&O Defendants in an amount to be determined at trial.

COUNT IV

CIVIL CONSPIRACY

(All Plaintiffs Against All Defendants)

76. Plaintiffs incorporate the preceding paragraphs as if set forth fully herein.

77. To the extent any members of the Conspirators were not part of that group from its inception, each one of them at a point in time that they became a member engaged in overt acts in furtherance of the conspiratorial Scheme all of which were flagrant, willful and gross violation of their fiduciary duties.

78. With respect to Robinson and Voigt who departed from HC2 Holdings and from the Conspirators in 2017 and 2018, respectively, they are liable for the damages caused by the Scheme after their departure.

79. As a result of the conspiracy, the Minority Shareholders have suffered economic injury in terms of substantial devaluation of their stock holdings.

80. As a result of the foregoing, Plaintiffs are entitled to direct relief in the form of a damages award against Defendants in an amount to be determined at trial.

COUNT V

AIDING AND ABETTING THE BREACH OF FIDUCIARY DUTIES

(Minority Shareholders, on Behalf of Themselves and DTV America, Against the HC2 Entities)

81. Plaintiffs incorporate the preceding paragraphs as if set forth fully herein.

82. The D&O Defendants, as directors and officers of DTV America, owed a fiduciary duty of loyalty to DTV America and the Minority Shareholders.

83. The D&O Defendants breached the fiduciary duty of loyalty to DTV America by diverting business opportunities that rightfully belonged to DTV America to HC2 Entities and their affiliates.

84. The HC2 Entities knowingly participated by substantially assisting or abetting in the Scheme and the actions of the D&O Defendants that constituted a breach of their fiduciary duties.

85. None of the actions taken by the Conspirators in the second part of the Scheme (carving up the enterprise value of DTV America and re-distributing same among the other wholly owned subsidiaries that HC2 Holdings owned) could have been accomplished without the participation of the HC2 Entities.

86. The HC2 Entities' actions aided and abetted the Control Group's Scheme and breach of the D&O Defendants' fiduciary duties, resulting in damages

to the Minority Shareholders.

87. As a result of the foregoing, Minority Shareholders, on behalf of themselves and DTV America, are entitled to a damages award against Defendants in an amount to be determined at trial.

COUNT VI

TORTIOUS INTERFERANCE WITH PROSPECTIVE A CONTRACT, BUSINESS RELATIONS AND/OR ECONOMIC ADVANTAGES AGAINST OPTION HOLDERS

(Option Holders Against All Defendants)

88. The Option Holders, Plaintiffs Kyle, Bruni, DeStefanis, Dagen, Bean, Podhajser, Obrero, Aberle, and Bocoock incorporate the preceding paragraphs as if set forth fully herein.

89. Each of the Option Holders entered into an Option Agreement with DTV America captioned “DTV America Corporation Stock Option Award Agreement under 2016 Omnibus Incentive Plan.” The Option Agreements are valid and enforceable contracts.

90. Defendants knew of the Option Agreement and the Option Holder’s ability to become stockholders and/or financially benefit from the Option Agreement.

91. Defendants intentionally and improperly interfered with the Option Holders’ prospective contractual interests relating to the Options, causing the Option

Holder's pecuniary loss while profiting from the asset and opportunity transfers to the HC2 Entities.

92. Defendants intentionally and improperly interfered with the Option Holders' interests and expectations relating to the Options.

93. Defendants' intentional and interference proximately caused the Option Holders pecuniary loss.

94. As a result of the foregoing, Option Holders are entitled to an award of damages against Defendants Falcone, Sena, Barr, Levi, Voigt, Minkov, Robinson, HC2 Holdings and HC2 Broadcasting in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs respectfully request that the Court enter judgment in their favor and against Defendants as follows:

- a) Awarding compensatory and other damages, including consequential, and rescissory damages, as referenced in the aforementioned counts;
- b) Awarding restitutionary relief, including without limitation, disgorgement of all ill-gotten gains;
- c) Imposing a constructive trust over all wrongfully acquired property and resulting profits;
- d) Issuing a permanent mandatory injunction compelling Defendants to restore all misappropriated assets and profits to DTV America;

- e) Issuing a permanent injunction prohibiting Defendants from further misappropriating DTV America's corporate opportunities and property;
- f) Ordering the D&O Defendants to furnish an accounting as to the disposition of and profits relating to the transactions underlying the fiduciary claims alleged herein, including without limitation, and all usurped opportunities, misappropriated property, and any other breaches of fiduciary duties.
- g) Awarding the costs and expenses of this action, including attorney's fees;
- h) Awarding pre- and post-judgment interest at the applicable statutory rate(s); and
- i) Awarding all such other relief as this Court deems just and proper.

BERGER HARRIS LLP

By: /s/ John G. Harris
John G. Harris, Esq. (DE ID # 4017)
1105 N. Market Street, Ste 1100
Wilmington, Delaware 19801
(302) 655-1140 telephone
(302) 655-1131 fax
jharris@bergerharris.com

Attorney for Plaintiffs