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REPUBLIC OF THE MARSHALL ISLANDS

IN THE SUPREME COURT

OF THE

REPUBLIC OF THE MARSHALL ISLANDS

SPHINX INVESTMENT CORP., A
REPUBLIC OF THE MARSHALL
ISLANDS CORPORATION,

Plaintiff,

v.

STAMATIS TSANTANIS; CHRISTINA
ANAGNOSTARA; DIMITRIOS
ANAGNOSTOPOULOS; ELIAS
CULUCUNDIS; IOANNIS (JOHN)
KARTSONAS; SEANERGY
MARITIME HOLDINGS CORP., A
REPUBLIC OF THE MARSHALL
ISLANDS CORPORATION,

Defendants.

Supreme Court No. 2024-01680

BEFORE: CADRA, Chief Justice; SEABRIGHT*, and SEEBORG**, Associate
Justices

SEABRIGHT, Associate Justice:

* The Honorable J. Michael Seabright, United States District Judge, District of Hawaii,
sitting by designation of the Cabinet.

** The Honorable Richard Seeborg, Chief United States District Judge, Northern District
of California, sitting by designation of the Cabinet.

I. INTRODUCTION

Sphinx Investment Corporation (“Sphinx”) filed this shareholder suit against Seanergy Maritime Holdings Corporation (“Seanergy”); the Chairman of Seanergy’s Board of Directors and its Chief Executive Officer (“CEO”), Stamatis Tsantanis; and the Directors of Seanergy’s Board: Christina Anagnostara, Dimitrios Anagnostopoulos, Elias Culucundis, and Ioannis (John) Kartsonas (collectively, “Defendants”). In an October 30, 2024 Corrected Order Granting Defendants’ Motion to Dismiss, the High Court determined that Sphinx’s claim was derivative, not direct, and that because Sphinx did not own shares of Seanergy at the time of the challenged issuance of stock, it lacked standing to bring a derivative action. This appeal thus turns on whether Sphinx’s Complaint sets forth a plausible direct shareholder claim. If so, the Complaint states a claim; if not, it does not.

For the reasons to follow, the court AFFIRMS the High Court.

II. BACKGROUND

The following background is derived from Sphinx’s Complaint and documents in the public record.¹ Defendant Seanergy is a Republic of the Marshall Islands (“RMI”) corporation that has been incorporated since 2008. In

¹ The Court “may look to matters of public record in deciding a Rule 12(b)(6) motion.” Order Granting Motions to Dismiss at 19, *Highland Floating Rate Opportunities Fund, et al. v* (continued . . .)

July 2022, Seenergy spun off a wholly owned subsidiary, United Maritime Corporation (“United”). Seenergy owns and operates 17 Capesize dry bulk carrier vessels.²

Defendant Tsantanis is the CEO and Chairman of the Board of Seenergy. He was appointed CEO on October 1, 2012, and became Chairman of the Board on October 1, 2013. He has been involved in the shipping and finance industry since 1998 and has held senior management positions in private and public shipping companies and financial institutions.

Defendants Anagnostara, Anagnostopoulos, Culucundis, and Kartsonas are the other four Directors of Seenergy’s Board (along with Tsantanis, referred to as the “Director Defendants”).

Anagnostara has been a Director of Seenergy since 2008. She is also a Director of Seenergy’s spinoff, United. As of March 30, 2023, Anagnostara owned 1.08% of Seenergy’s Common Stock. Anagnostara served as Seenergy’s CFO from November 17, 2008 until October 31, 2013, and has “more than 26 years of maritime and international business experience.” Before joining

Dryships Inc., RMI H. Ct. No. 2017-198, Sept. 27, 2018 (citation omitted), *aff’d* 4 MILR 162, Sept. 9, 2019.

² As explained by Plaintiff, “Capesize ships are the largest and most expensive dry cargo ships on Earth. Too big for the Suez and Panama Canals, they serve only the handful of coal and ore trade routes that pass Cape Horn or the Cape of Good Hope (Brazil, Australia, and South Africa to China; and South Africa to Europe).”

Seanergy, she served in executive and board positions of publicly listed companies in the maritime industry and was responsible for financial, capital raising, and accounting functions. She studied economics in Athens and is a Certified Chartered Accountant.

Anagnostopoulos has been a Director of Seanergy since 2009. As of March 30, 2023, Anagnostopoulos owned 1.33% of Seanergy's Common Stock. Anagnostopoulos has over 50 years of experience in shipping, ship finance, and bank management, has lectured at several universities across Europe, and has held posts at various banks including Senior Vice-President and Head of Shipping.

Culucundis has been a Director of Seanergy since 2008. As of March 30, 2023, Culucundis owned 1.31% of Seanergy's Common Stock. Since 1999, Culucundis has been the President, CEO, and Director of Equity Shipping Company, which specializes in starting, managing, and operating commercial and technical shipping projects. He has held Director and CEO positions at various shipping companies and is a Fellow of the Royal Institute of Naval Architects and a Chartered Engineer.

Kartsonas has been a Director of Seanergy since 2017. As of March 30, 2023, Kartsonas owned less than 1% of Seanergy's Common Stock. He has also been a member of the Board of Directors of United since June 2022, has been

involved in finance and commodities trading since 2000, and is the Principal and Managing Partner of a commodity-focused advisory firm in New York.

There are no familial relations between any of the Directors.

In 2021, Seanergy's Board decided to issue a new class of stock entitled Series B Preferred Stock (referred to as the "Series B Issuance" or "the transaction"). Prior to this transaction, Tsantanis was the largest shareholder—he owned shares giving him about 2% of the voting power of the company. The Series B Preferred Stock shares are each entitled to 25,000 votes per share on all matters submitted to a vote of the shareholders, provided that no holder of Series B Preferred Stock can have aggregate voting power in excess of 49.99% of all votes eligible to be cast on any matter. The shares cannot be transferred or sold without prior approval of the Board of Directors. And the shares have no dividend rights, cannot be redeemed or converted into common shares or any other security, and are not entitled to any special preference or benefit in the event of a liquidation, dissolution, or winding up of Seanergy.

Seanergy sold 20,000 shares of Series B Preferred Stock to Tsantanis, granting him 49.99% voting power. He paid \$250,000 for the shares of Series B Preferred Stock and owns 100% of the Preferred Stock that has been issued. Seanergy disclosed in a Securities and Exchange Commission Form 6-K that Tsantanis was given "substantial control and influence over our management and

affairs and over matters requiring shareholder approval, including the election of directors and significant corporate transactions, even though he owns significantly less than 50% of the Company economically.” Seanergy reported that it had “received a fairness opinion from an independent financial advisor that the [Series B Issuance] was for a fair value to all shareholders of the Company.” After the Series B Issuance, Tsantanis purchased more stock and increased his ownership share to 6.84%. Seanergy’s share price dropped about 20% since the Series B Issuance and trades at about a 54% discount to net asset value.

Sphinx is an RMI corporation that is owned and controlled by George Economou. In a series of transactions dating from August 7, 2023, through November 22, 2023, Sphinx purchased substantial stock in Seanergy until it had a total of 9.5% of the common stock (as of February 2024). On December 13, 2023, Sphinx announced its intention to launch a proxy contest, including nominating two candidates to serve on the Seanergy Board.

III. STANDARD OF REVIEW

This Court reviews de novo the dismissal of a complaint for failure to state a claim. *Momotaro v. Chief Elec. Off.*, 2 MILR 237, 241 (2004). In reviewing complaints on a motion to dismiss, “[p]laintiffs are entitled to all reasonable factual inferences that logically flow from the particularized facts alleged, but conclusory allegations are not considered as expressly pleaded facts or

factual inferences.” *Rosenquist v. Economou*, 3 MILR 144, 151 (2011) (quoting *White v. Panic*, 783 A.2d 543, 549 (Del. 2001) (internal quotation marks omitted)). The Court does not “blindly accept as true all allegations, nor [does it] draw all inferences from them in plaintiffs’ favor unless they are reasonable inferences.” *Id.* (some brackets added) (quoting *Panic*, 783 A.2d at 549). “[I]nferences that are not objectively reasonable cannot be drawn in the plaintiff’s favor.” *Id.* (quoting *Beam ex rel. Martha Stewart Living Omnimedia, Inc. v. Stewart*, 845 A.2d 1040, 1048 (Del. 2004)). To determine whether a plaintiff has stated a claim under Rule 12(b)(6), the court must set conclusory factual allegations aside, accept non-conclusory factual allegations as true, and determine whether these allegations state a plausible claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 677–80 (2009) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).³

³ Sphinx claims that this court should apply Delaware’s “reasonably conceivable” pleading standard, i.e., the court shall not affirm dismissal “unless the plaintiff would not be entitled to recover under any reasonably conceivable set of circumstances.” See *Wenske v. Blue Bell Creameries, Inc.*, 2018 WL 3337531, at *9 (Del. Ch. July 6, 2018). This “reasonable conceivability” standard appears to require more than notice pleading but less than the plausibility standard articulated by the United States Supreme Court in *Twombly* and *Iqbal*. Sphinx is mistaken. Although we look to Delaware corporate law in interpreting substantially similar provisions of RMI law, we do so only to interpret the RMI’s corporate law. See *Rosenquist*, 3 MILR at 151–52; see also *Samsung Heavy Indus. Co., Ltd. v. Focus Investments, Ltd.*, 4 MILR 134, 148 (2018) (stating that RMI courts look to the “non-statutory law of Delaware and other states substantially similar legislative provisions in interpreting” RMI corporate law). We thus apply our own procedural rules, and adopt the *Twombly/Iqbal* standard for RMI courts.

IV. DISCUSSION

This case turns on whether Sphinx’s claims are derivative or direct.

“A derivative suit enables a stockholder to bring suit on behalf of the corporation for harm done to the corporation.” *Brookfield Asset Mgmt., Inc. v. Rosson*, 261 A.3d 1251, 1262 (Del. 2021) (en banc). In contrast, a stockholder “who is directly injured retains the right to bring an individual action for injuries affecting his or her legal rights as a stockholder.” *Id.* at 1263. “Classification of a particular claim as derivative or direct can be difficult.” *Id.* And here, because Sphinx did not own Seanergy stock at the time of the transaction, its claims would have to be direct to have standing to bring suit. If, as the High Court found, the claims are derivative, Sphinx lacks standing.

A. Sphinx Does Not Plausibly Allege a Direct Claim

The Business Corporations Act (“BCA”) § 79, addressing derivative actions brought in the RMI, provides in part:

- (1) Right to bring action. An action may be brought in the right of a corporation to procure a judgment in its favor, by a holder of shares or of voting trust certificates of the corporation or of a beneficial interest in such shares or certificates.
- (2) Ownership requirement. In any such action, it shall be made to appear that the plaintiff is such a holder at the time of bringing the action and that he was such a holder at the time of the transaction of which he complains, or that his shares or his interest therein devolved upon him by operation of law.

In interpreting this provision, we look to Delaware case law as required by BCA § 13.⁴ Delaware General Corporation Law (“DGCL”) § 327, which is substantially similar to BCA § 79, provides:

§ 327. Stockholder’s derivative action; allegation of stock ownership.

In any derivative suit instituted by a stockholder of a corporation, it shall be averred in the complaint that the plaintiff was a stockholder of the corporation at the time of the transaction of which such stockholder complains or that such stockholder’s stock thereafter devolved upon such stockholder by operation of law.

Under Delaware law, the test for whether a claim falls under § 327—in other words, whether it is a direct claim or a derivative claim subject to the ownership requirement—is set forth in *Tooley v. Donaldson, Lufkin & Jenrette, Inc.*, 845 A.2d 1031 (Del. 2004). The inquiry turns “*solely* on the following

⁴ BCA § 13 states:

§ 13. Construction; adoption of United States corporation law.

This Act shall be applied and construed to make the laws of the Republic, with respect to the subject matter hereof, uniform with the laws of the State of Delaware and other states of the United States of America with substantially similar legislative provisions. Insofar as it does not conflict with any other provision of this Act, the non-statutory law of the State of Delaware and of those other states of the United States of America with substantially similar legislative provisions is hereby declared to be and is hereby adopted as the law of the Republic, provided however, that this section shall not apply to resident domestic corporations.

questions: (1) who suffered the alleged harm (the corporation or the suing stockholders, individually); and (2) who would receive the benefit of any recovery or other remedy (the corporation or the stockholders, individually)?” *Id.* at 1033; *see also Brookfield Asset Mgmt.*, 261 A.3d at 1263 (reaffirming and clarifying the *Tooley* test). In analyzing the first prong, part of “the inquiry should be whether the stockholder has demonstrated that he or she has suffered an injury that is not dependent on an injury to the corporation.” *Id.* at 1036.

“Under *Tooley*, the plaintiffs’ classification of the suit is not binding.” *In re MultiPlan Corp. S’holders Litig.*, 268 A.3d 784, 801 (Del. Ch. 2022) (internal quotations, alterations, and footnote omitted). The court must “look to all the facts of the complaint and determine for itself whether a claim is direct or derivative.” *Id.* (internal quotations omitted).

According to Sphinx, the Series B Issuance was a change of control—it effected “a shift in control from a diversified group of public equity holders to a controlling interest.” *Brookfield*, 261 A.3d at 1266. This type of transaction may give rise to a direct claim. *Id.* (citing *Revlon, Inc. v. MacAndrews & Forbes Hldgs., Inc.*, 506 A.2d 173, 182 (Del. 1986) (holding that once a corporate board decides to effectuate the sale of the company, its duty changes “from the preservation of [the company] as a corporate entity to the maximization of the company’s value at a sale for the stockholders’ benefit.”)). When a controlling

interest in a company is sold, the Board of Directors has an obligation to obtain a higher price for the stock (a “control premium”) on behalf of shareholders, to compensate them for their loss of voting power. *Paramount Commc’ns, Inc. v. QVC Network Inc.*, 637 A.2d 34, 42–43 (Del. 1994). In *Tooley* terms, the injury (loss of voting power and the opportunity to obtain a control premium) inures to individual stockholders, not the company, and the remedy flows to stockholders. *Tooley*, 845 A.2d at 1033.

Conversely, Defendants argue that the Series B Preferred Stock purchased by Tsantanis (and its concomitant 49.99% voting rights) was *not* a controlling interest in the company under Delaware law.⁵ Thus, according to Defendants, Sphinx’s claim is that the corporation sold off a block of voting rights too cheaply, thus diluting the corporation’s value and the value of shareholders’ holdings. A claim for dilution of voting rights is derivative. *Brookfield*, 261 A.3d at 1266 (holding that claims for dilution of corporate assets are derivative claims).

⁵ Defendants also argue (citing *In re Pennaco Energy, Inc. S’holders Litig.*, 787 A.2d 691, 704 (Del. Ch. 2001)) that *Revlon, Inc. v. MacAndrews & Forbes Hldgs. Inc.*, 506 A.2d 173 (Del. 1986), is distinguishable because it only applies to an “endgame transaction” constituting “the final opportunity . . . for stockholders to realize value from their investment in the company.” But this simply is another way of arguing that there was no change of control of Seanergy. If the Series B Issuance transferred a controlling interest to Tsantanis, this would effectively take control away from a diversified group of equity holders and obviate their ability to approve sale of a controlling interest in the future, thus constituting their final opportunity to obtain a control premium. See *In re Pattern Energy Grp. Inc. S’holders Litig.*, 2021 WL 1812674, at *31 (Del. Ch. May 6, 2021) (stating that *Revlon*’s enhanced scrutiny applies to “final stage” transactions, which include “a transaction like a change of control that fundamentally alters ownership rights”).

Under the *Tooley* test, the company was injured—its value was diluted—and the company receives the recovery. Although shareholders see a reduction in value of their shares, their injury “flowed indirectly to them in proportion to, and via, their shares . . . and thus any remedy should flow to them in the same way, derivatively via the corporation.” *Id*; see also *Tooley*, 845 A.2d at 1033.

It is undisputed that Sphinx did not own shares at the time of the transaction. Thus, the Court must determine whether the Complaint plausibly alleges that the transaction provided Tsantanis with a controlling interest in Seanergy.⁶

⁶ Defendants argue that, irrespective of whether Sphinx’s suit is direct or derivative, it cannot bring its suit because it purchased shares after the Series B Issuance had occurred, violating “Delaware courts’ long-standing policy against purchasing suit.” Delaware law does not support this argument. Although the ownership requirement for derivative claims is laid out by statute, there is no similar statute for direct claims, and Delaware courts have held that new stockholders can bring direct claims for change of control transactions. See *W. Palm Beach Firefighters Pension Fund v. Moelis*, 310 A.3d 985, 1002 (Del. Ch. 2024) (“Delaware law has not invented a common law contemporaneous ownership requirement for direct claims. The right to assert a direct claim is a property right associated with the shares, so . . . the ability to assert a direct claim and benefit from any remedy passes to the buyer with the shares.”) (footnotes and citations omitted), *rev’d on other grounds sub nom. Moelis & Co. v. W. Palm Beach Firefighters’ Pension Fund*, – A.3d –, 2026 WL 184868 (Del. Jan. 20, 2026); *In re Activision Blizzard, Inc. S’holder Litig.*, 124 A.3d 1025, 1050–51 & n.14 (Del. Ch. 2015) (“Delaware has a longstanding rule that claims are freely assignable and can be asserted by the acquirer if the right of action is the type of claim that would survive the death of the transferor and pass to his personal representative. . . . Direct claims survive and are transferrable.”).

Although Defendants cite *Omnicare*, which applied a judicially created version of the contemporaneous ownership requirement to a direct claim as a matter of public policy, that case appears to be an outlier and has been criticized for misreading Delaware Supreme Court precedent. *Omnicare, Inc. v. NCS Healthcare, Inc.*, 809 A.2d 1163, 1169 (Del. Ch. 2002); *Activision*, 124 A.2d at 1051 n.14; *Moelis*, 310 A.3d at 1002. The other authority Defendants cite appears to deal with derivative claims, not direct claims. *In re Smiledirectclub, Inc. Derivative Litig.*, 2021 WL 2182827, at *8 (Del. Ch. May 28, 2021).

1. *Sphinx’s Allegations Do Not Plausibly Give Rise to an Inference That the Series B Issuance Resulted in a Change of Control*

In order to determine whether the Series B Issuance effected a change of control to Tsantanis, the court must determine whether, after the transaction, Tsantanis met the criteria for a controlling stockholder under Delaware law. A shareholder is a controller if “it owns a majority interest in or *exercises control* over the business affairs of the corporation.” *Kahn v. Lynch Commc’n Sys., Inc.*, 638 A.2d 1110, 1113 (Del. 1994) (quoting *Ivanhoe Partners v. Newmont Mining Corp.*, Del. Supr., 535 A.2d 1334, 1344 (1987)). As recently explained by the Delaware Supreme Court:

As a general rule, stockholders do not owe fiduciary duties to the corporation or its stockholders and are free to act in their self-interest. But a stockholder who owns or controls over 50% of a Delaware corporation’s stock is presumed to exercise “hard” control and assumes fiduciary duties in certain circumstances. This is because a majority stockholder controls the levers of power within the corporation.

* * *

Conversely, a stockholder who owns or controls less than 50% of a corporation’s voting power is not presumed to be a controlling stockholder with fiduciary duties. Even so, a minority stockholder can be a controlling stockholder by exercising actual control over the

corporation's business and affairs or by exercising actual control over a specific transaction.

In re Oracle Corp. Derivative Litig., 339 A.3d 1, 19–20 (Del. 2025) (footnotes and citations omitted).

Numerous Delaware cases have examined whether a particular minority stockholder has a controlling interest (that is, qualifies as a “controller”). In 2014 the Delaware Chancery Court found that “the cases do not reveal any sort of linear, sliding-scale approach whereby a larger share percentage makes it substantially more likely that the court will find the stockholder was a controlling stockholder.” *In re Crimson Expl. Inc. Stockholder Litig.*, 2014 WL 5449419, at *10 (Del. Ch. Oct. 24, 2014) (summarizing cases); *see also Witmer v. Armistice Cap., LLC*, 344 A.3d 632, 650–51 (Del. Ch. 2025) (citing *Crimson* with approval). Stockholders with as little as 15%, 22%, 26%, and 28% have been deemed controllers, while stockholders or members owning as high as 49%, 47%, 46%, and 44% have been held not to be controllers.⁷ Although the determination is fact-

⁷ Compare *FrontFour Cap. Grp. LLC v. Taube*, 2019 WL 1313408, at *5 (Del. Ch. Mar. 11, 2019) (15%); *Williamson v. Cox Commc'ns, Inc.*, 2006 WL 1586375, at *1 n.4 (Del. Ch. June 5, 2006) (17.1%); *In re Tesla Motors, Inc. S'holder Litig.*, 2018 WL 1560293, at *2 (Del. Ch. Mar. 28, 2018) (22.1%); *In re Zhongpin Inc. Stockholders Litig.*, 2014 WL 6735457, at *7 (Del. Ch. Nov. 26, 2014) (26%), *rev'd on other grounds sub nom. In re Cornerstone Therapeutics Inc. S'holder Litig.*, 115 A.3d 1173 (Del. 2015); *Skye Min. Invs., LLC v. DXS Cap. (U.S.) Ltd.*, 2020 WL 881544, at *4 n.38 (Del. Ch. Feb. 24, 2020) (28.07%), *with Citron v. Steego Corp.*, 1988 WL 94738, at *1 (Del. Ch. Sept. 9, 1988) (48.8%); *Odyssey Partners, L.P. v. Fleming Companies, Inc.*, 735 A.2d 386, 392 (Del. Ch. 1999) (46.8%); *In re W. Nat. Corp. S'holders Litig.*, 2000 WL 710192, at *1 (Del. Ch. May 22, 2000) (46%); *Puma v. Marriott*, 283 (continued . . .)

intensive, Delaware courts nonetheless frequently resolve this question at the motion to dismiss stage.⁸

A critical factor is control over the board of directors, which is intended to represent the interests of all stockholders. *See Sciabacucchi v. Liberty Broadband Corp.*, 2017 WL 2352152, at *17 (Del. Ch. May 31, 2017) (“Consideration of controller status focuses on the alleged controller, and whether it effectively controls the board of directors so that it also controls disposition of the interests of the unaffiliated stockholders. . . .”); *In re Viacom Inc. S’holders Litig.*, 2020 WL 7711128, at *23 (Del. Ch. Dec. 29, 2020) (“When analyzing director independence in the presence of a controlling stockholder, the focus is on domination of the board with regard to the transaction at issue.”) (ellipsis and internal quotations omitted).

Independence means that a director’s decision is based on the corporate merits of the subject before the board rather than extraneous considerations or influences. . . . [I]t is not enough to charge that a director was nominated by or elected at the behest of those controlling the outcome of a corporate election. That is the usual way a person becomes a corporate director.

A.2d 693, 695 (Del. Ch. 1971) (46%); *Superior Vision Servs., Inc. v. ReliaStar Life Ins. Co.*, 2006 WL 2521426, at *1 (Del. Ch. Aug. 25, 2006) (44%).

⁸ *See, e.g., In re Crimson Expl. Inc. S’holder Litig.*, 2014 WL 5449419, at *10 (Del. Ch. Oct. 24, 2014) (noting three cases when a court determined that a shareholder was not a controlling shareholder at the motion-to-dismiss stage in its summary table of cases). There are many more recent examples. *See, e.g., In re Rouse Properties, Inc.*, 2018 WL 1226015, at *2 (Del. Ch. Mar. 9, 2018); *In re GGP*, 2021 WL 2102326, at *2–3 (Del. Ch. May 25, 2021), *aff’d in part, rev’d in part and remanded on other grounds*, 282 A.2d 37 (Del. 2022).

Aronson v. Lewis, 473 A.2d 805, 816 (Del. 1984), *overruled on other grounds by Brehm v. Eisner*, 746 A.2d 244 (Del. 2000).

The mere fact that a director may lack independence from a stockholder does not necessarily deem the stockholder a controller. *Sciabacucchi*, 2017 WL 2352152, at *17 (“[I]t does not necessarily follow that an interested party also *controls* directors, simply because they lack independence. Lack of independence focuses on the director, and whether she has a conflict in the exercise of her duty on behalf of her corporation. Consideration of controller status focuses on the alleged controller, and whether it effectively controls the board of directors so that it also controls disposition of the interests of the unaffiliated stockholders.”). But evidence of an alleged controlling stockholder’s outsize influence in the boardroom or close ties with directors is frequently persuasive in finding control. *See, e.g., In re Pattern Energy Grp. Inc. S’holders Litig.*, 2021 WL 1812674, at *44 (Del. Ch. May 6, 2021) (holding that an entity’s strong ties to officers with roles such as founder, CEO, executive vice presidents, COO, chief compliance officer, and general counsel supports a reasonable inference of its outsized influence in the boardroom); *FrontFour Cap. Grp. LLC v. Taube*, 2019 WL 1313408, *22–25 (Del. Ch. Mar. 11, 2019) (inferring from a stockholder’s frequent communications and strong relationship with a majority of board members on a special committee that the stockholder was controlling); *In re*

Tesla Motors, Inc. S'holder Litig., 2018 WL 1560293, at *19 (concluding that it was reasonably conceivable that Elon Musk, owner of 22.1% of company's common stock, was a controller based on well-pled facts related to "Musk's voting influence, his domination of the Board during the process leading up to the [challenged acquisition] against the backdrop of his extraordinary influence with the Company generally, the Board level conflicts that diminished the Board's resistance to Musk's influence, and the Company's and Musk's own acknowledgement of his outsized influence").

Other factors may serve as evidence of soft control that—in combination with the shareholder's ownership share—could indicate a controlling interest. The ability to influence decisions or members of the Board through roles such as CEO or Chairman is indicative of soft power. *Basho Tech. Holdo B, LLC v. Georgetown Basho Investors, LLC*, 2018 WL 3326693, at *27–*28 & n.322 (Del. Ch. July 6, 2018). Other factors include the right to designate directors and decisional rules in governing documents that may enhance the stockholder's power. *Id.* at *27.

Agreeing to contractual limitations on power may guard against a finding of control. *Sciabacucchi*, 2017 WL 2352152, at *17–19 (finding that a stockholder who was restricted from accumulating more than 35% of the stockholder vote and designating more than four of ten directors was not

controlling); *DiNardo v. Renzi*, 1987 WL 10014, at *4 (Del. Ch. Apr. 24, 1987) (concluding that a majority stockholder can lack the ability to exercise control where it has contractual limitations on its ability to vote shares). And statements in public disclosures by a company can inform a court’s analysis of whether a stockholder is a controller. *See, e.g., In re Tesla Motors*, 2018 WL 1560293, at*18–19 (finding a controlling stockholder where public disclosures stated, among other things, that “[Tesla is] highly dependent on the services of Elon Musk, [who is] highly active in [the Company’s] management”); *In re Zhongpin*, 2014 WL 6735457, at *9 (“The 10–K implies that Zhu possessed latent control; as a result of his stock ownership, he could exercise significant influence over shareholder approvals for the election of directors, mergers and acquisitions, and amendments to Zhongpin’s bylaws.”), *rev’d on other grounds sub nom. In re Cornerstone Therapeutics Inc, S’holder Litig.*, 115 A.3d 1173 (Del. 2015); *In re Primedia Inc. Derivative Litig.*, 910 A.2d 248, 251 (Del. Ch. 2006) (finding stockholder was a controller where disclosures stated that the stockholder “has control of our common stock and has the power to elect all the members of our board of directors and to approve any action requiring stockholder approval”).

The Complaint alleges the following in support of the claim that Tsantanis became a controlling stockholder through the Series B Issuance:

- Tsantanis was Seanergy’s long-term CEO and Chairman.

- Tsantanis gained 49.99% voting control of Seanergy through the Series B Issuance for a “paltry” \$250,000.
- Seanergy stated that Tsantanis gained “substantial control and influence over our management and affairs and over matters requiring shareholder approval, including the election of directors and significant corporate transactions” in its Form 6-K filing disclosing the Series B Issuance.
- All board members “on information and belief” “[have] personal or professional ties to Mr. Tsantanis.”
- Tsantanis controls United, which was spun off in July 2022 (he owns all of United’s Series B Preferred Shares, giving him 49.99% control of United’s voting power). Defendants Kartsonas and Anagnostara are not independent of Tsantanis because they owe their lucrative director positions at United to Tsantanis, the de facto controller.
- The four other Directors are not independent from Tsantanis because they approved the Series B Issuance, which Sphinx alleges was an unfair transaction.
- Because the four other Directors collectively hold 5% voting power, the board “gave itself de jure control of the company” and entrenched itself through the Series B Issuance.

Even taking the Complaint’s allegations in the light most favorable to Sphinx, there is no plausible inference that Tsantanis became a controlling stockholder after the Series B Issuance.

First, Tsantanis’s 49.99% voting block did not provide him with hard control.⁹ *In re Oracle*, 339 A.3d at 19 (“As a general rule, stockholders do not owe

⁹ Sphinx argues—not unpersuasively—that in situations requiring a majority vote, Tsantanis’s voting block will control because it would effectively require every other

(continued . . .)

fiduciary duties to the corporation or its stockholders and are free to act in their self-interest. But a stockholder who owns or controls over 50% of a Delaware corporation's stock is presumed to exercise 'hard' control and assumes fiduciary duties in certain circumstances.”) (citations omitted); *Witmer*, 344 A.3d at 649 (“[A] stockholder who owns or controls less than 50% of a corporation's voting power is not presumed to be a controlling stockholder with fiduciary duties.”) (internal quotation marks omitted). Instead, because Tsantanis does not hold majority voting control (and his control is capped at 49.99%), Delaware law requires that there be other indicia of influence over the other Directors (i.e., soft control) in order to hold that the Series B Issuance effected a change of control. *In re Morton's Rest. Grp., Inc. S'holders Litig.*, 74 A.3d 656, 664 (Del. Ch. 2013) (“When a stockholder owns less than 50% of the corporation's outstanding stock, ‘a plaintiff must allege domination by a minority shareholder through actual control of corporate conduct.’”). Sphinx's allegations fail in this regard as well.

Sphinx's central allegation appears to be that because the Series B Issuance conferred 49.99% voting control on Tsantanis, he must have had

shareholder, including the four other Board members, to vote against him in order to overcome his voting share. This, Sphinx claims, effectively gives Tsantanis control over, among other things, any questions brought to a vote at stockholder meetings and any vote for removal of the Directors. But there is a fundamental flaw in this argument—Delaware law characterizes any shareholder controlling less than 50% of the vote as lacking “hard control” and requires a showing of “soft control” in order to find that the shareholder has a controlling interest. And, as stated by *In re Crimson*, 2014 WL 5449419, at *10, Delaware does not apply a “sliding-scale approach” to determine shareholder control.

disproportionate influence over the other Directors. But this is circular reasoning. The acquisition of a large block of shares—even a block with 49.99% voting power—is not sufficient by itself under Delaware law to show soft control. *See In re GGP*, 2021 WL 2102326, at *12 (“[A] plaintiff cannot simply allege that a minority blockholder is a controller, tout its substantial holdings and commensurate influence, leave it at that and then hope to survive a motion to dismiss. More is needed.”); *Basho*, 2018 WL 3326693, at *28 (“Rarely (if ever) will any one source of influence or indication of control, standing alone, be sufficient to make the necessary showing.”).

Next, Tsantanis was the CEO and Chairman of the Board, but he was not Seanergy’s founder, and there is no allegation that he provided Seanergy with specialized or essential services such that its existence was tied to his leadership. *Cf. In re Tesla Motors*, 2018 WL 1560293, at *13 (finding control where Musk was the company’s CEO, visionary, founder, Chairman and largest stockholder, and company relied on Musk’s leadership extensively in its operations). All four other Directors are career professionals in the shipping or finance industries. Anagnostara, Anagnostopoulos, and Culucundis were appointed to the Board years before Tsantanis became Chairman and CEO, which—in combination with their credentials—suggests that they were appointed for their expertise rather than ties with Tsantanis. Only one director, Kartsonas, was appointed after Tsantanis, and

Sphinx did not allege any facts suggesting that he was personally close with Tsantanis or beholden to him for his appointment to the Board. Though Sphinx alleges—in a conclusory fashion— “personal and professional ties,” there are no allegations from which the court could infer close friendship or family ties between the directors and Tsantanis, and no family ties were disclosed in SEC filings. *See, e.g., Telxon Corp. v. Meyerson*, 802 A.2d 257, 264 (Del. 2002) (stating that a director may lack independence on account of a “close personal or familial relationship”).

The fact that two Directors, Anagnostara and Kartsonas, sit on the board of United with Tsantanis, and allegedly owe their positions to Tsantanis, does not establish that they are beholden to him. *Aronson*, 473 A.2d at 816 (“[I]t is not enough to charge that a director was nominated by or elected at the behest of those controlling the outcome of a corporate election. That is the usual way a person becomes a corporate director.”). Furthermore, the Series B Issuance occurred in December 2021, and United was spun off from Seanergy in July 2022. The fact that Anagnostara and Kartsonas were not affiliated with United at the time of the Series B Issuance further attenuates Sphinx’s claims.

Sphinx does not allege that Tsantanis has any further contractual rights (beyond the 49.99% voting rights he acquired) that would enable him to direct Seanergy’s operations. Tsantanis’s power was subject to limitations. The

Board must approve the transfer of any Series B shares and retains the power to issue stock (including further Series B shares). The shares do not carry significant economic value in the event of dissolution. And Sphinx does not allege that Tsantanis had any other commercial relationships with Seanergy that would provide him with leverage (for example, loans to Seanergy). *See, e.g., Hamilton Partners, L.P. v. Highland Cap. Mgmt., L.P.*, 2014 WL 1813340, at *13 (Del. Ch. May 7, 2014) (concluding at the motion-to-dismiss stage that a holder of 48% of a company’s stock and 82% of a company’s debt, which was in default, was a controlling stockholder). There is no allegation of threats or litigation against other directors to secure their support of the transaction.

In sum, construing Sphinx’s allegations in the light most favorable to it, the Complaint fails to plausibly allege that Tsantanis was a controlling shareholder.

2. *Defendants Did Not Constitute a Control Group*

Sphinx also claims that the Directors acted as a “control group.” This claim also fails. The Delaware Chancery Court recently articulated the test for a control group as follows:

To demonstrate that a group of stockholders exercises control collectively, the [plaintiff] must establish that they are connected in some legally significant way—such as by contract, common ownership, agreement, or other arrangement—to work together toward a shared goal. To show a legally significant connection, the [plaintiff] must

allege that there was more than a mere concurrence of self-interest among certain stockholders. Rather, there must be some indication of an actual agreement, although it need not be formal or written.

In re Pattern Energy Grp., 2021 WL 1812674, at *41 (citing *Sheldon v. Pinto Tech. Ventures, L.P.*, 220 A.3d 245, 251–52) (Del. 2019)).

Here, there are no allegations of an agreement among the Directors beyond voting in favor of the Series B Issuance. There is an insufficient showing that the Directors were “connected in some legally significant way.” In short, the Complaint fails to plausibly allege that the Directors constituted a control group.

3. *Sphinx’s Claims Are Derivative and Must Be Dismissed*

Because Sphinx has not adequately alleged that Tsantanis acquired a controlling interest through hard control or soft control of the Board, or that Director Defendants were a control group, it cannot allege direct claims under *Revlon*. Instead, Sphinx brings a suit for corporate dilution or waste, which is a derivative claim under *Brookfield*. And because Sphinx did not possess Seanergy stock at the time of the transaction, it fails to meet the derivative suit standing requirement under BCA § 79.

B. The “Safe Harbor” Provision Contained in § 58 of the RMI’s Business Corporation Act Does Not Preclude Judicial Review

In addition to addressing standing, the High Court also determined that Sphinx’s claims for breach of loyalty, breach of the duty of care, and breach of

the duty of good faith should also be dismissed under the safe harbor provision set forth in the BCA § 58. In this regard, the High Court erred.

BCA § 58 provides in relevant part:

§ 58. Director conflicts of interest.

(1) Effect of personal financial interest or common directorship. No contract or other transaction between a corporation and one (1) or more of its directors, or between a corporation and any other corporation, firm, association or other entity in which one (1) or more of its directors are directors or officers, or have a substantial financial interest, shall be either void or voidable for this reason alone or by reason alone that such director or directors are present at the meeting of the board, or of a committee thereof, which approves such contract or transaction, or that his or their votes are counted for such purpose:

(a) if the material facts as to such director's interest in such contract or transaction and as to any such common directorship, officership or financial interest are disclosed in good faith or known to the board or committee, and the board or committee approves such contract or transaction by a vote sufficient for such purpose without counting the vote of such interested director, or, if the votes of the disinterested directors are insufficient to constitute an act of the board as defined in section 55 of this Act, by unanimous vote of the disinterested directors;

The High Court held that, construing the facts in the light most favorable to Sphinx, the Transaction met all of the requirements of BCA § 58(1)(a). That is, the material facts as to Tsantanis's interest in the Series B

Issuance were known to the Board Members, and that an independent committee of disinterested directors (namely, Anagnostara, Anagnostopoulos, and Culucundis) approved the transaction without Tsantanis’s vote. The High Court also stated that the Directors obtained a fairness opinion prior to approving the action. And, based on this finding, the High Court held that “the protection of § 58 also warrant[s] dismissal” of the causes of action for breach of loyalty, breach of the duty of care, and breach of the duty of good faith.

We disagree with the High Court’s ruling—under its plain language, BCA § 58 only addresses whether certain interested transactions are subject to being void or voidable under common law, but says nothing about immunizing those transactions from judicial review. There would be no reason for § 58 to state that a transaction that meets specific criteria shall be void or voidable “for this reason *alone*” if there were not other reasons that could render the same transaction void or voidable.

The equivalent safe harbor provision in Delaware General Corporation Law § 144(a) (“DGCL § 144(a)”)¹⁰ supports this reading. Although the caselaw interpreting DGCL § 144(a) appears contradictory at times, the better

¹⁰ The court rejects Defendants’ argument that the then-effective version of DGCL §144(a) is not substantially similar to BCA §58. Both statutes contain the relevant language that a transaction is not “void or voidable solely for this reason” (DGCL § 144), or “void or voidable for this reason alone” (BCA §58). Thus, Delaware case law informs the court’s interpretation of the similar language in BCA § 58.

view holds that it does not provide an absolute defense to a qualified interested transaction nor remove it from judicial review. That is, common law standards of review for qualified interested transactions still apply.¹¹ *See Cumming on behalf of New Senior Inv. Grp., Inc. v. Edens*, 2018 WL 992877, at *20 (Del. Ch. Feb. 20, 2018) (summarizing the case law and describing it as “murky at best”); *see also* Blake Rohrbacher, John Mark Zeberkiewicz & Thomas A. Uebler, *Finding Safe Harbor: Clarifying the Limited Application of Section 144*, 33 Del. J. Corp. L. 719, 737–38 (2008) (noting discrepancies in statutory and common-law analyses of covered transactions). As explained in *Fliegler v. Lawrence*, 361 A.2d 218, 222 (Del. 1976), DGCL §144(a) “merely removes an ‘interested director’ cloud when its terms are met and provides against invalidation of an agreement ‘solely’

¹¹ The Chancery court has explained the common law standards for review of interested transactions as follows:

Delaware has three tiers of review for evaluating director decision-making: the business judgment rule, enhanced scrutiny, and entire fairness. Which of the three standards applies depends initially on whether the board members (i) were disinterested and independent (the business judgment rule), (ii) faced potential conflicts of interest because of the decisional dynamics present in particular recurring and recognizable situations (enhanced scrutiny), or (iii) confronted actual conflicts of interest such that the directors making the decision did not comprise a disinterested and independent board majority (entire fairness). The standard of review may change further depending on whether the directors took steps to address the potential or actual conflict, such as by creating an independent committee, conditioning the transaction on approval by disinterested stockholders, or both.

In re Pattern Energy Grp., 2021 WL 1812674, at *30 (footnotes, internal quotations, formatting, and citations omitted).

because such a director is involved. Nothing in the statute . . . removes the transaction from judicial scrutiny.”¹²

As another court explained:

[S]atisfaction of §§ 144(a)(1) or (a)(2) simply protects against invalidation of the transaction “solely” because it is an interested one. As such, § 144 is best seen as establishing a floor for board conduct but not a ceiling. Thus, equitable common law rules requiring the application of the entire fairness standard on grounds other than a director’s interest still apply.

Cumming, 2018 WL 992877, at *21. The same is true for BCA § 58.

The High Court should not have dismissed Sphinx’s claims for breach of loyalty, breach of the duty of care, and breach of the duty of good faith based on BCA §58 without first engaging in the required common law analysis. But because this court agrees with the High Court that Sphinx did not have standing to bring its derivative suit, the High Court’s error was harmless.

¹² Much of the confusion in Delaware courts appears to stem from whether DGCL § 144(a), in addition to altering the common law rule of voiding interested transactions, also provides for a business judgment rule of review (as opposed to application of the entire fairness standard). *See, e.g., Benihana of Tokyo v. Benihana, Inc.*, 906 A.2d 114, 120 (Del. 2006). Here, we need not decide the common law standard of review for an interested transaction that meets the requirements of BCA § 58. Instead, we simply determine that BCA § 58 is more limited in scope than the High Court determined—it saves such transactions from per se voidability but not judicial review.

V. CONCLUSION

Accordingly, the High Court’s dismissal of Sphinx’s Complaint is
AFFIRMED.

Dated: February 20, 2026

/s/ Daniel Cadra
Daniel N. Cadra
Chief Justice

/s/ J. Michael Seabright
J. Michael Seabright
Associate Justice

/s/ Richard Seeborg
Richard Seeborg
Associate Justice