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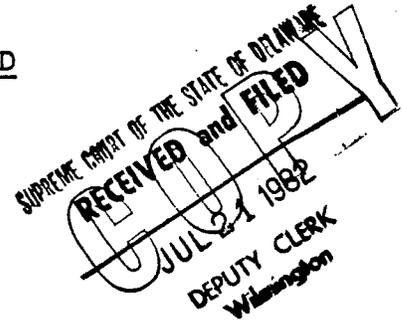
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July 21, 1982

BY HAND

The Honorable Daniel L. Herrmann
Chief Justice
Supreme Court of the State of Delaware
820 North French Street
Wilmington, Delaware 19801

RE: Weinberger v. UOP, Inc.,
No. 58, 1981



Dear Chief Justice Herrmann:

I write in response to Mr. Payson's letter of July 16, respecting whether the multi-page report prepared at Signal by Messrs. Chithea and Arledge, entitled "UOP ACQUISITION, March 6, 1978" (Plaintiff's Trial Exhibit PX-74; A1472-1499) ("PX-74") was disclosed to UOP's outside directors at or prior to their March 6, 1978 special meeting ("the UOP Meeting") to vote on the proposed merger.

In the time since Mr. Payson's letter came to my attention this Monday, we have made an intensive review of the record and briefing in this litigation. We were handicapped because Mr. Prickett, who is far more familiar with the record than anyone else in this firm, is out of the country until August 6.

Nevertheless, we think our interpretation of the record is correct. If anyone was proceeding under a "mistake of fact", it was Mr. Walkup. We find nothing in the record to corroborate Mr. Walkup's impression that he turned over PX-74.

We offer the Court the following matters of record which indicate that Mr. Walkup did not deliver PX-74 to the outside directors at the UOP Meeting.

1. PX-74 was marked at the October 25, 1978 deposition of Signal's President, Mr. Shumway. He testified that he made sure that, prior to the March 6, 1978 meeting of the Signal Board of Directors, PX-74 was sent to Signal's outside directors. (Shumway Dep., pp. 108-110; Exhibit A, hereto.)* There was no testimony by Mr. Shumway that PX-74 was also sent to UOP's outside directors.

2. At the November 9, 1978 deposition of Mr. Crawford, UOP's President, he could not recall that any documents other than a draft of the merger agreement were sent to UOP's directors before the March 6, 1978 UOP Meeting (Crawford Dep., p. 138; Exhibit B, hereto).

3. More direct record evidence that PX-74 was not delivered to UOP's outside directors may be found in the

* This transcript and the other deposition transcripts cited herein were offered as part of the plaintiff's case (Trial Transcript, pp. 4 and 12). For the Court's convenience we have attached copies of certain papers cited herein as exhibits to this letter.

deposition testimony of one of the document's two authors, Mr. Chitiea.* In his December 13, 1978, deposition, Mr. Chitiea testified, at pages 72-75, about PX-74 and its preparation. PX-74, including the calculations in its "Backup" section, was made available to Signal's directors. To Chitiea's knowledge, they were not made available to the directors of UOP. Mr. Chitiea "didn't share" that information with the other directors of UOP. He was never questioned about PX-74's contents by UOP's outside directors at or prior to the UOP Meeting. (Chitiea Dep., pp. 72-75; Exhibit C hereto).

4. None of the UOP outside directors who testified stated that they saw PX-74.

(a) Mr. Clements, in his March 6, 1979 deposition, at page 29, recollected receipt of no written material other than the Lehman Brothers fairness opinion [PX U-49-092 (as produced by UOP); PX287 (as produced by Signal)]. At pages 49 and 50 of his deposition Mr. Clements confirmed that testimony. (Clements Dep., pp. 29, 49-50; Exhibit D, hereto.)

(b) In his March 8, 1979 deposition, Mr. Logan, at page 83, recalled presentation of no documentary material other than the Lehman Brothers fairness letter and that

* A review of the December 13, 1978 deposition of PX-74's other author, Mr. Arledge, reveals that he was not specifically questioned on its distribution.

"[t]here may have been items referring to subsequent actions that would be necessary." (Logan Dep., p. 83; Exhibit E, hereto.)

(c) Mr. Lenon, who was deposed on March 8, 1979, testified that he attended the UOP Meeting by conference telephone. Consequently, he would not have been present to review PX-74 if, in fact, Mr. Walkup had provided a copy to the UOP directors at the meeting. (Lenon Dep., p. 24; Exhibit F, hereto.)

(d) Mr. Pizzitola, who was deposed on January 30, 1979 testified that he also attended by telephone. (Pizzitola Dep., pp. 23-24; Exhibit G, hereto.) Naturally, Mr. Walkup could not have given him a copy of PX-74 at the UOP Meeting either.

5. The minutes of the UOP Meeting (PX-U-223; B499-505; Exhibit H, hereto) do not identify PX-74 as having been delivered to UOP's outside directors. This is especially telling in light of the care the minutes take to recite the materials purportedly given UOP's directors. The time-table of the proposed merger, a summary of UOP's By-Laws relating to indemnification, the Lehman Brothers fairness letter and proposed resolutions for the approval of the transaction are all identified as being in the "Director's books". Past minutes, the Proposed Merger Agreement, the Agreement Regarding Merger, historical financial

comparisons, and estimated income for 1978 are all identified in the minutes as available. Mr. Walkup's presentation of the Signal offer is recited. But the minutes contain no mention of the Chitiea-Arledge report or the up to \$24 merger price it presented to the Signal directors. One would think that if Mr. Walkup had, in fact, provided such a significant study as PX-74 to UOP's outside directors, these carefully drafted minutes would have said so.

6. It is difficult to identify each document contained in the "Director's book" distributed at the UOP Meeting. However, it is significant to note that such documents as U-49-(117) (the time-table) and U-49-092 (Lehman fairness letter to UOP), which the minutes identify as contained in the Director's book, were produced in pre-trial discovery by UOP. Our files indicate that PX-74 was not produced by UOP. It was only produced by Signal. This would seem to offer further support that PX-74 was not released to UOP's outside directors. Otherwise, it would have been produced by UOP along with the other documents considered by UOP's directors at the UOP Meeting. (See ¶1 of Plaintiff's July 5, 1978 First Request for Production, part of Docket Entry No. 1).

7. Pages 38-45 (Exhibit I, hereto) of the September 19, 1980 post-trial brief of Signal and UOP contain a thorough recitation of the documents purportedly available to the Signal

and UOP boards, respectively, at their March 6, 1978 meetings. PX-74 is specifically identified as available at the Signal board meeting. Yet, PX-74 is nowhere mentioned in defendants' careful list of what the UOP Board considered.

8. I must also comment on the belated manner in which defendants have chosen to rely on Mr. Walkup's apparently mistaken testimony. (Indeed, we question defendants' right to make this thirteenth hour argument at all.) Plaintiff's argument that PX-74 was never disclosed to UOP's outside directors was made in the briefing. (See, e.g., Plaintiff's August 14, 1981 Reply Brief, p. 13). Until last Friday, rather than arguing that PX-74 was disclosed to UOP's outside directors, defendants have always chosen, in briefing and argument, to simply belittle this important study by Messrs. Arledge and Chithea. For example, in the original appellate argument on September 14, 1981, Mr. Prickett, specifically argued this point. (See TR. 19.) In response to questions by Justice Duffy, Mr. Halkett did not dispute that PX-74 was never disclosed to UOP's outside directors. He chose, again, to simply belittle its contents. (TR. 35-36.) And again, at last month's hearing, the defendants followed the same approach. (See, for example, TR. 42-46, 52-54).

Now, fully three weeks after final argument, defendants have been forced to recognize the materiality of PX-74 and have tried

to construct an argument around Mr. Walkup's December 14, 1978 deposition. As the above analysis indicates, Mr. Walkup was, at best, mistaken. I do not accuse defendants' counsel of knowingly attempting to take advantage of Mr. Walkup's mistake. But, I think I can point to the basis for confusion. It appears that a "summary of figures" was given to all of the UOP directors in the form of a 3 page document produced in discovery by UOP as U-49 (094-096). It is attached as Exhibit J, hereto. Its first page, captioned "WHY \$21.00 PER SHARE" is identical to the fourth page of PX-74. Its contents consist of what the minutes reflect Mr. Walkup as stating at the March 6, 1978 UOP Meeting.

There is no corroborative evidence that Mr. Walkup in fact gave PX-74 to UOP's outside directors. What is corroborated is that U-49 (094-096) was presented at the UOP Meeting. Although a mistake by Mr. Walkup and/or his counsel is possible, a comparison of the two documents indicates that U-49 (094-096) is not the significant informational document that PX-74 is. UOP's outside directors did not receive PX-74. Therefore, we respectfully suggest that liability does rest on the Signal defendants for their failure to disclose PX-74 either to UOP's outside directors or to UOP's minority stockholders.

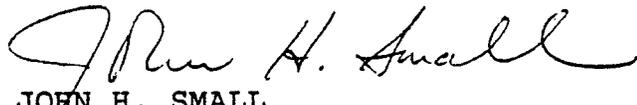
In conclusion, allow me to reiterate my apology that Mr. Prickett is not available to personally respond on this issue. If the Court has not ruled on the merits of the appeal by his

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return next month, he may ask leave to supplement this letter. Nevertheless, I believe I have correctly identified what is in the record to establish that PX-74 was not provided to UOP's outside directors. However, I recognize that there are others, such as Mr. Prickett, who are more familiar with the record than I.

Respectfully yours,


JOHN H. SMALL

JHS/dt

cc: The Honorable John J. McNeilly
The Honorable William T. Quillen
The Honorable Henry R. Horsey
The Honorable Andrew G.T. Moore, II
Robert K. Payson, Esquire
A. Gilchrist Sparks, III, Esquire
Mr. T.E. Townsend, Jr., Clerk