

Cases: Revlon; Kahn v. M&F Worldwide; Technicolor
Interview of Ronald O. Perelman;
Chairman and Chief Executive Officer, MacAndrews & Forbes Inc.
Interviewed by: Lawrence A. Hamermesh, Executive Director,
University of Pennsylvania Law School Institute for Law &
Economics
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#00:00:00#

1 MR. HAMERMESH: Mr. Perelman, it's a pleasure to
2 speak to you today—

3 MR. PERELMAN: It's my pleasure.

4 MR. HAMERMESH: I really appreciate you taking the
5 time.

6 MR. PERELMAN: Thank you.

7 MR. HAMERMESH: I think you probably know that you
8 have a legendary status among Delaware corporate lawyers and
9 lawyers who study Delaware corporate law, so this is a rare
10 opportunity to get a little bit - a better sense of your role
11 in these cases and what these cases were about. So, thanks. In
12 that regard, what aspects of your personal background do you
13 think would be most meaningful to people who are studying
14 these cases?

15 MR. PERELMAN: I think I am the world's most
16 tenacious human being on the planet, and probably the most
17 impatient. And like to get things done quickly, and smartly,
18 and very rarely I reach the point of giving up. My first wife

1 once said to me, you'd kick a dead horse and tell it to get
2 its ass up moving. And I think that that one comment described
3 me more accurately than anything else I have ever heard about
4 me.

5 MR. HAMERMESH: Okay, so let's talk about how that
6 character gets applied. As I understand it, your business
7 vehicle, at least for a long time, has been MacAndrews and
8 Forbes. #00:01:45#

9 MR. PERELMAN: Correct.

10 MR. HAMERMESH: What's the history of that company?

11 MR. PERELMAN: MacAndrews and Forbes came about
12 through an acquisition by the first deal I ever bought called
13 Cohen-Hatfield Industries, which was a retail, wholesale, and
14 lease department jewelry operator. And it was significant in
15 several ways. First of all, it gave me a very easily and
16 quickly liquidatable vehicle to do the deal I wanted to do in.
17 And to do so with the support, I was only buying 45 percent of
18 that company, but to do so with the upfront support of the
19 shareholders and management. It was an American Stock Exchange
20 listed company. Secondly, we operated the lease department
21 stores in Wal-Mart. So, the day after this deal was announced
22 in *The Wall Street Journal*, I got a call from Sam Walton. And
23 he said, Mr. Perelman, this is Mr. Sam. I'd like to talk to
24 you about your new vehicle here that you just bought. I said

1 when's a good time? He said how about tomorrow morning. I flew
2 out to Bentonville, and from that first meeting, we developed
3 a fabulous, fabulous relationship. And several years later, he
4 said to me, I know that you don't want to be in this business
5 - probably two years later - forever. When you're ready to get
6 out, just call me; we'll take an inventory over the weekend,
7 and I'll send you a check on Monday. And we did do that, and
8 that's how it happened. And when we got to Revlon, Sam was
9 still having problems getting major brands to enter the
10 discount area in his stores. And the deal was that all the
11 department stores where your brands would sit would throw you
12 out if you went to Wal-Mart's. And he called me up one day,
13 and he said, I really need a cosmetics brand. Would you
14 consider selling to us? And I said you know what that means?
15 He said, absolutely. And I said, yes, we'll do it. And today,
16 they are our single largest customer. They are half of our
17 business. And more importantly, I think once you have sort of
18 proven yourself as a founding partner of Wal-Mart, and selling
19 your brands to them, they treat you differently. And they are
20 an amazing partner, to begin with. But if you were early on
21 with them, they treat you as almost family. And it's been a
22 fabulous, fabulous relationship for each of our companies to
23 have with Wal-Mart. So, we used Cohen-Hatfield to buy
24 MacAndrews and Forbes, which was then primarily a licorice

1 supplier to the tobacco industry, and a manufacturer of
2 chocolate to the secondary market - to the manufacturers. So,
3 we would sell chocolate to Entenmann's Bakery, and we would
4 sell chocolate to ice cream makers, and the like. We had a
5 very, very small retail business. And we ultimately sold that
6 and were left just with the licorice business. And I changed
7 the name from Cohen-Hatfield to MacAndrews and Forbes. And
8 that's been the name ever since.

9 MR. HAMERMESH: Okay. And so, was that interaction
10 with Sam Walton the impetus for the original idea of acquiring
11 Revlon? Was that- #00:05:48#

12 MR. PERELMAN: No.

13 MR. HAMERMESH: Okay, so where did that come from?

14 MR. PERELMAN: No, that came later. I had heard that
15 Bergerac was thinking about taking it private. And it was sort
16 of you know, around - they used to have what they called the
17 gin-rummy crowd. And it was Bergerac; it was Martin Revson, it
18 was Ed Downe, it was two or three other people. And all those
19 people talked a lot, and they talked about Bergerac talking
20 about taking it private. And I looked at it, and it was our
21 perfect kind of transaction. It had many pieces; many of the
22 pieces I thought were much more valuable than the market was
23 giving them credit for. And I liked the beauty business, which
24 nobody else liked. And it became, you know, very, very quickly

1 obvious to me that this was a transaction that was just
2 perfect for us. And you know, then we started the process.

3 MR. HAMERMESH: Right. How important was the aspect
4 of Pantry Pride with its net operating loss carried forward,
5 was that part of the thinking too? #00:07:10#

6 MR. PERELMAN: Well, we bought Pantry Pride because
7 of its NOL. It was in three terrible businesses; the retail
8 food business, the retail drug store business, and the sub-par
9 finance business, basically, of electronic parts and
10 components. And, but I thought that we could get out of those
11 three businesses pretty quickly. And then, we would be left
12 with a vehicle with cash and a large NOL. And the NOL, I
13 thought, was a valuable asset for this, or any other
14 transaction. So, when we sort of defined Revlon as a target,
15 they just fit together really, really nicely; both in timing-
16 wise and in what we expected to do as a vehicle.

17 MR. HAMERMESH: Okay. So, you mentioned Michel
18 Bergerac-

19 MR. PERELMAN: Right.

20 MR. HAMERMESH: Of course, these veiled references
21 in the court opinions to strong personal antipathy and your
22 meetings with him. But let's hear it from the horse's mouth.
23 What was it like meeting- #00:08:23#

1 MR. PERELMAN: Well, my first meetings with him were
2 very good. I called him up; we met, we had several phone
3 conversations. He was entertaining the idea seriously. And
4 then, like that, his - he changed and no longer wanted to do a
5 transaction, of any kind. And maybe he thought that he still
6 wanted to take it private some time later, but he certainly
7 didn't want to do the deal with me. And he called me up one
8 day and said, look, I really don't want to do that deal, and
9 let's just stop talking. And then was unavailable for any
10 further phone conversations or meetings.

11 MR. HAMERMESH: Any idea where that came from?
12 #00:09:14#

13 MR. PERELMAN: No, but no place good, you know.

14 MR. HAMERMESH: Okay. I know that you had an earlier
15 conversation with him, there was also apparently some meeting
16 later on after the offers had been on the table for a while.
17 Some settlement discussions-

18 MR. PERELMAN: Yes.

19 MR. HAMERMESH: -- was he part of that or not?
20 #00:09:31#

21 MR. PERELMAN: He was part of that. It was arranged
22 by Judge Rifkind who was on both of our boards and Arthur
23 Liman, and it - he got nowhere, of course. He said to me, very
24 proudly, that he hunted lions and tigers, so I was not a

1 threat to him. So, I said, well, you know, that just answers
2 the issue, you know, why don't we just sit down, you know,
3 you're a lion-hunter, I'm a little pipsqueak from
4 Philadelphia, you know. Let's see if we can work out a deal.
5 And he said, no, I want no part of that and... He probably
6 lived the biggest life of any CEO in America, and maybe even
7 the world. I mean their offices were like palaces. He had a
8 727 of his own. He traveled with his own doctor. He had his
9 plane outfitted to go on safaris with gun racks and all the
10 accoutrements for safaris and was well-paid, you know, on top
11 of it. So, he liked the lifestyle. And I guess, ultimately,
12 thought that I would interfere with that. You know, probably
13 right.

14 MR. HAMERMESH: Okay. You also mentioned Judge
15 Rifkind, and I wanted to ask a question about him. It's pretty
16 unusual, in my experience, to have someone on the board of the
17 bidder and on the board of the target-

18 MR. PERELMAN: Right.

19 MR. HAMERMESH: -- and at least in an unsolicited
20 deal. So, what was your relationship to him? What role did he
21 play in this case, and I noticed he wasn't a defendant-

22 #00:11:15#

23 MR. PERELMAN: Yeah, my relationship with him was
24 very close. He was counsel to my then wife's grandfather and

1 father. I had known him for many, many years. He was an
2 elegant, brilliant, honorable man. I asked him to go on our
3 board, and he agreed. And was a great director. He gave very -
4 he had a lot of wisdom, he had a lot of smarts, he had a lot
5 of practical experience. He was a District Court judge
6 previously, and he was a fabulous director. We did not discuss
7 with him the transaction of the hostile bid but told him about
8 it when we were making the bid. And he said you know, I'm
9 going to have to resign from one or the other of the
10 companies. I said I know, and a day or two later, he called me
11 up, and she said, look, I've been on the Revlon Board for many
12 years, and I was Revson's counsel, and I think I should resign
13 from your board. And I said fine. And ultimately, after we did
14 the transaction, he came back on our board, which I thought
15 was very gracious of him, you know. But I always retained a
16 very close and warm relationship with him.

17 MR. HAMERMESH: Before, during, and after-

18 MR. PERELMAN: Correct. And with Arthur, also.

19 MR. HAMERMESH: Right. Arthur Liman, yeah. So, this
20 next question is one that's probably impossible to answer
21 because it's hindsight. You know, the Revlon case has become
22 you know, if you think of one significant Delaware case,
23 that's probably it.

24 MR. PERELMAN: Right.

1 MR. HAMERMESH: Did you have any - when the
2 litigation started, when the hostility started, did you have
3 any sense that it was going to be developing into something
4 that momentous? #00:13:19#

5 MR. PERELMAN: No. I don't think anybody did. The
6 uniqueness to us at the time was the size of a hostile deal -
7 of that deal - it was probably the largest hostile deal done
8 up until that moment. And to us, that was significant. The
9 concept of an outsider, as myself, going into that arena was
10 sort of unique. But the legal aspects of it, you know, we
11 thought were pretty simple, you know. And you know, everybody
12 calls it a hostile deal, a hostile deal - it's only hostile to
13 one guy that's CEO. I mean, ultimately, it's the shareholders
14 who decide, and if they want it, it's a friendly deal, you
15 know. So, it's either no deal or a friendly deal. It's
16 certainly never a hostile deal to the shareholders, you know,
17 and but that sort of stuck as a title for these kinds of
18 deals, you know.

19 MR. HAMERMESH: Right. You know, ultimately, you're
20 dealing with the stockholders, but in 1985, when this was all
21 going down, the Delaware Supreme Court had just approved this
22 very weird corporate technique called the poison pill,
23 colloquially-

24 MR. PERELMAN: Right.

1 MR. HAMERMESH: -- and Revlon's directors adopted
2 one. And I'm curious if you recall what your thinking was
3 about that at the time. Was it an obstacle? Not an obstacle?
4 Something you thought - I know your side challenged it, but
5 what was your thinking about it? #00:15:02#

6 MR. PERELMAN: Well, you know it first came in play,
7 it was new. We couldn't figure out what it meant, whether it
8 was legal. But ultimately, Joe and I - Joe Flom and I just you
9 know, concluded that if we eventually get to a price that is
10 acceptable, it will disappear. So, it's no different than any
11 other transaction at that point. It just brings you to the
12 table a little bit differently and a little bit weaker, maybe.
13 But it brings you to the table. And so, we didn't view it as
14 an insurmountable obstacle.

15 MR. HAMERMESH: Well, in this case, of course, once
16 there's a deal with somebody, and you say the pill is fine;
17 anybody who is somebody plus something plus X is also fine-

18 MR. PERELMAN: Exactly. Even better - fine.

19 MR. HAMERMESH: Yeah, right. In the course of the
20 back and the forth of the offers and counteroffers, Revlon
21 initially did a self-tender - an exchange offer - notes for
22 stock and, I don't know how much you remember about that. But
23 was that something that gave you any pause or gave you any
24 concern? #00:16:18#

1 MR. PERELMAN: Well, it was very interesting because
2 just before they did it, I was at the US Open. And I sat in a
3 box that was two boxes behind Bergerac's box - the Revlon box.
4 And he had his box full of his cronies and executives, and he
5 was eating grapes. And he started throwing the grapes at me.
6 And fortunately, I had ducked, and he didn't hit me very
7 often, but I was thinking, you know, what's going on that he
8 is throwing grapes at me? And he was taking delight that he
9 was going to be the winner, that he just was going to announce
10 on Monday this exchange offer and that that's the end of me,
11 you know. When I read it, to me, he just bought 30-percent of
12 the stock or whatever it was instead of me buying it, you
13 know, and we'll just equalize the price out, and that's the
14 end of it, you know, it doesn't mean anything, you know. And
15 the - whatever conditions they put into the instrument could
16 be waived or of no moment. So, it didn't slow us down for a
17 second. It actually made it, you know, he financed a third of
18 the transaction for us, you know. Not a third, 25 percent of
19 the transaction for us, that's all he did.

20 MR. HAMERMESH: Of course, the case ends up in
21 Delaware. It's not that I have always wondered this, but I
22 have just recently got curious about the choice of bringing it
23 in Delaware. I imagine you could have brought the case in New

1 York, or maybe elsewhere, but do you recall any thinking about
2 why Delaware? #00:18:19#

3 MR. PERELMAN: No. I think that was Joe's choice. I
4 think he felt most comfortable in this case in Delaware, that
5 it would be understood the most and, but that was Joe's call,
6 not mine.

7 MR. HAMERMESH: In the course of the back and forth
8 in this deal, after Forstmann Little entered the picture, you
9 had an affidavit at one point where you talked about your
10 philosophy about bidding against Forstmann Little. And the
11 court described it as an incremental bidding strategy where
12 whatever they could bid, you could bid at least somewhat more?

13 MR. PERELMAN: A quarter.

14 MR. HAMERMESH: A quarter, right? Which is what we
15 saw, in fact, right. I think I know the answer to this, but
16 just to hear it from you; what was the thinking more precisely
17 behind that strategy? #00:19:13#

18 MR. PERELMAN: Revlon would not give us any of the
19 information. But of course, Forstmann Little had the
20 information. And Forstmann Little was a fiduciary and an
21 agent, not a principal. So, I figured look, if it's good
22 enough for a fiduciary agent to buy this transaction at 46 or
23 47 or whatever, it's got to be good for me. And so, they did
24 the due diligence for us, in effect. And you know, we were

1 able to get enough of a feel for the value of the assets we
2 did not want to be in plus the comfort that Forstmann Little
3 agreed with us as the value that we were able to make that
4 statement. So, we had a lot of confidence in the ability of
5 Forstmann Little to do their due diligence properly.

6 MR. HAMERMESH: And your work for you. #00:20:19#

7 MR. PERELMAN: And our work for us, that is correct.

8 MR. HAMERMESH: And you had NOL's that they didn't,
9 presumably.

10 MR. PERELMAN: Correct.

11 MR. HAMERMESH: So, at some point during the bidding
12 process, after the litigation gets under way, you report - a
13 number of people reported on settlement discussions and
14 involving their trying to buy some of the key assets from
15 Revlon from you if you take over the company. Does that ring a
16 bell at all? #00:20:50#

17 MR. PERELMAN: No. The only discussion I recall
18 having was up at the Revlon offices, late at night, and they
19 called this around dinner time, this meeting. I offered
20 Forstmann Little the ability to buy NHL for \$150 million. And
21 we didn't know what NHL was, really, or how good it was. They
22 sort of obscured their numbers in a group, so, in the
23 healthcare group, so we couldn't really ascertain how good it
24 was. And I think Teddy would have done the deal, but Michel

1 said no. And they left about \$3 billion on the table by not
2 accepting that.

3 MR. HAMERMESH: Right, and Teddy Forstmann.

4 MR. PERELMAN: Teddy Forstmann.

5 MR. HAMERMESH: Yeah. So, at the time, I'll just
6 tell you my own recollection of this. We're in court, in the
7 Court of Chancery and you're trying to enjoin the Forstmann
8 deal with its lockups and cancellation fee and no-shop clause
9 and it all made sense except, at the time the argument
10 occurred in the Court of Chancery, your bid, I think, was at
11 fifty-six and a quarter and Forstmann was at fifty-seven and a
12 quarter. And I remember thinking, well, maybe they got some
13 good arguments, but why would a court shoot down a fifty-seven
14 and a quarter deal to allow a fifty-six and a quarter deal to
15 go forward? So, my question I'm leading up to is at what point
16 did you decide and why to up your bid to the 58 that
17 eventually carried the day? #00:23:01#

18 MR. PERELMAN: We thought that two things. They -
19 that it might make the judge a little more comfortable in
20 deciding with us. That, in fact, we were a higher bid rather
21 than a lower bid. And I just thought that was the place we had
22 to be; anything else was sort of silly. And I think it
23 surprised them. And fortunately, the judge liked it, and I

1 think it made it a little more difficult to rule against us.
2 And it worked out.

3 MR. HAMERMESH: Yeah. Well, for what it's worth, I
4 think that was absolutely right. No question about it. But
5 help me out with this one--

6 MR. PERELMAN: Yes.

7 MR. HAMERMESH: -- because you were at fifty-six and
8 quarter versus Forstmann's fifty-seven and a quarter for maybe
9 a week or ten days or so. And I'm wondering--

10 MR. PERELMAN: Why did we stay there?

11 MR. HAMERMESH: -- what happened to that incremental
12 bidding strategy? I mean why not just top pretty much right
13 away? Was there a - what were your thoughts? #00:24:09#

14 MR. PERELMAN: I don't remember what was going on at
15 the time, but there must have been some goings-on that made us
16 sort of sit and wait until the right time. I think the timing
17 of when we jumped was, to us, very important, you know, so
18 that we might maybe take them by a little surprise and they
19 wouldn't be prepared for it, and I think that's what did, in
20 fact, happen.

21 MR. HAMERMESH: Another question that's probably not
22 answerable, but if you look back on what happened; there's a
23 bidding war. There are various thumbs on the scales; we all
24 know that. But eventually, you come out on top at \$58 a share.

1 If you had been sitting in the Revlon board room, what do you
2 think the board should have done to get to 58? #00:25:17#

3 MR. PERELMAN: The Revlon board was a Bergerac
4 board, completely. And never really acted as an independent
5 unit. And when Bergerac brought in Forstmann Little, they were
6 sort of Bergerac's bidding partner. Had the board come to us
7 and negotiated in good faith a transaction, we would have
8 avoided the whole nasty process, and we would have either
9 gotten to their price or not gotten to their price very
10 quickly. They never did that. They never gave us the
11 information. The board should have demanded that. A lot of
12 members of the board, particularly Ezra Zilka, took great
13 offense at the concept that he violated his fiduciary duty as
14 held by the court. And I think that tainted his reputation for
15 a long time afterward, as it did other members of the board
16 because they really didn't do what was required of them, and
17 you know, that's how we won it, basically. But they could have
18 had us and one or two or five other people - or no other
19 people, you know, sit down and work against the Lazard
20 evaluation or another bid and we either hit it, or we didn't
21 you know, and it would have been much more productive for
22 everybody.

23 MR. HAMERMESH: So, run much more like a real
24 auction.

1 MR. PERELMAN: Sure.

2 MR. HAMERMESH: How did you feel about the way the
3 Delaware Courts behaved? #00:27:28#

4 MR. PERELMAN: I thought we won, so I thought they
5 were great.

6 MR. HAMERMESH: Probably a simple question, right?
7 Yeah?

8 MR. PERELMAN: Yeah, exactly. They were perfect.

9 MR. HAMERMESH: You've gone on to do other deals;
10 buying, selling, and of course, the Revlon case is again,
11 probably one of the most important ones for telling lawyers
12 how these things have to happen, and what directors are
13 supposed to do, what - did you draw any lessons from that, in
14 particular, in that case, the way it came out? #00:27:59#

15 MR. PERELMAN: I think the most important thing to
16 me that the case provided for is an obligation of the board to
17 do what's right and they weren't doing what was right with us.
18 And I think I'm sort of proud that we pursued it to the point
19 to get the courts to hold that there is a responsibility for
20 being a director, and the responsibility is to the
21 shareholders and you've got to live up to that responsibility.
22 And my daughter now is at NYU Law School, one of my daughters,
23 and she's studying that case. And she, fortunately, is very
24 impressed with the way her father acted in that case-

1 MR. HAMERMESH: So, she doesn't claim tenaciously
2 impatient-

3 MR. PERELMAN: No.

4 MR. HAMERMESH: No? Okay.

5 MR. PERELMAN: No, but she saw the good side of her
6 father.

7 MR. HAMERMESH: This next question is more a matter
8 of curiosity than about the case, but so, you succeed in
9 acquiring Revlon. It was - you had a good bit of information
10 about it, but not everything-

11 MR. PERELMAN: Right.

12 MR. HAMERMESH: -- were there surprises that you
13 encountered when you- #00:29:36#

14 MR. PERELMAN: Only positive ones. NHL, it was much
15 better than we thought, much, much better, NHL. The assets
16 were worth much, much more than we thought - the ones that we
17 wanted to sell off. The beauty business was much more
18 difficult to manage than I had thought, although I am still
19 happy we kept it and still own it. But it turned out to be a
20 much better company than I thought it was before we got in
21 there. And with, you know, peripheral assets, like they had a
22 Hotel Particulier in France, in Paris, which was their
23 international headquarters that was designed around Geneen's,
24 Hal Geneen's management style, because that's where Bergerac

1 came from, of having these big, big management meetings where
2 everybody had a microphone in front of their seat and could
3 speak and answer questions about [unintelligible], and it was
4 much too elegant for us and we put it on the market to sell,
5 and we sold it to, I believe an Arab buyer, shortly after we
6 bought the company, for about a hundred and fifty million, US.
7 So, there were those kinds of little blueberries around that
8 were fabulous. And the people were better than I thought,
9 also. So, it turned out to be a very, very good deal for us.

10 MR. HAMERMESH: I want to move on to two other
11 cases, but anything else about that Revlon situation you want
12 to share? #00:31:41#

13 MR. PERELMAN: Not that I can think of. If something
14 comes up, I'll let you know.

15 MR. HAMERMESH: Yeah, that's good... So, the two
16 other cases are a much more recent one. The M&F Worldwide -
17 going private transaction. And that, too, has come to be a
18 landmark and from my perspective, the strategy that was
19 adopted there about pre-requiring approval by a real special
20 committee of independent directors and pre-requiring a
21 majority of the minority stockholder approval on full
22 disclosure and a promise that we won't do it unless we get
23 those things done. First of all, that has some risks to it,
24 obviously, like what if they don't want to do it? And by the

1 same token, at the time, it wasn't clear what good that would
2 do you, given the way the law was. So, I'm curious about your
3 thinking in terms of how you committed to doing that and how
4 that strategy came about? #00:32:47#

5 MR. PERELMAN: It was, I think pretty easy to come
6 to that position. We had a company that had four sort of
7 boring businesses that nobody took a real interest in. Some of
8 them were in decline. We made an offer that we thought was an
9 exceptionally good offer. And I didn't want to be in a
10 position where we would end up with years of litigation over
11 valuation and pricing. And this was a way that I think
12 Allingham had suggested we could do it and avoid all that. I
13 don't believe it had ever been done before and I thought it
14 would be you know, sort of interesting to try something new
15 and with the belief that I thought we had the right price. And
16 not trying to low ball the transaction. And fortunately, it
17 worked out. And Leo Strine was the Chancellor—

18 MR. HAMERMESH: The Chancellor...right. #00:34:27#

19 MR. PERELMAN: -- and I had no idea that he would
20 like it so much, but he loved the approach. And it worked. And
21 I think it's a good way to do transactions. You can't always
22 do them that way, but we at Revlon, now, for example, have -
23 we own about 90 percent of the stock and there's five percent
24 that's held by one guy, so, you can't have him in majority of

1 the minority. So, it doesn't always apply that you can do it.
2 Or, you may have hostile shareholders that for one reason or
3 another are opposed to it. But if you've got a true
4 shareholder base of size, it's a good way to go, and I'm glad
5 the court liked it.

6 MR. HAMERMESH: Yeah, oh, and I think Tom Allingham
7 is a great lawyer—

8 MR. PERELMAN: Yes.

9 MR. HAMERMESH: But I think he had some clues,
10 perhaps, that maybe this was going to work from other things
11 that Chancellor Strine had written, but you never know.

12 MR. PERELMAN: You never know.

13 MR. HAMERMESH: Yeah.

14 MR. PERELMAN: Yeah.

15 MR. HAMERMESH: And I guess one of the worries in
16 structuring a deal that way is that you're going to find some
17 minority shareholders are going to try to extract a hold up
18 out of the situation. But you, obviously, felt that that was
19 not something that was likely given what— #00:35:57#

20 MR. PERELMAN: Yeah, I felt comfortable that that
21 would not be the case. Oh, you never can tell, but I didn't
22 think we had, at that moment, anybody that would do that. And
23 we ended up paying almost a 60 percent premium over the

1 closing day's price before we announced. So, the price was
2 right.

3 MR. HAMERMESH: Yeah. My last area of questioning is
4 about the Technicolor case - the third in your hat trick of
5 major Delaware cases.

6 MR. PERELMAN: The longest - the longest case of-

7 MR. HAMERMESH: Absolutely, the longest running. So,
8 in the Technicolor litigation, which went on for so long,
9 there were lots of back and forth, lots of issues here and
10 there and I'd like to think that you didn't have to involve
11 yourself daily with each of them. But, and we have talked to a
12 lot of the other participants in the case and have their take
13 on it, but as probably the key client, are there things about
14 that case that you would like to record for posterity?

15 #00:37:10#

16 MR. PERELMAN: Yeah, I think two things. I think the
17 concept of looking backwards rather than forwards as we have
18 found ourselves in valuing the price that we were going to
19 pay. The video processing unit became a very, very profitable
20 part of the business, which nobody had any clue of. A lot of
21 the focus was on how that business developed years later, you
22 know. And I think that's a wrong way to look at a transaction.
23 You know, you got to look at it from the moment that you're
24 making the decision to buy, and what it looks like and with

1 the knowledge that's available and nobody had any idea what
2 home entertainment was going to be. The other thing that was
3 most bothersome was we kept winning the cases - the lower
4 court cases, and then it was sent back by the Supreme Court to
5 be reviewed again. And ultimately, the value that was
6 determined to be the right price was less than we paid, but in
7 Delaware, they had the ability to get interest from the moment
8 that the offer became live until they got paid.

9 MR. HAMERMESH: At a very attractive rate.

10 #00:39:10#

11 MR. PERELMAN: A very attractive rate. So, it became
12 an investment vehicle, the court, rather than a determinant of
13 fact or law or value, and I think that it is and was very
14 unfair. So, we ended up paying you know, I'm making this up,
15 25 cents less than the offer price, but we paid \$50 million in
16 interest, which was just silly. And you know, the plaintiffs
17 knew that - and this started out - the plaintiff started out
18 as just wanting to roll from one year to the next. And so,
19 would it be okay if we took our money and you know, so they
20 started this action to justify that. And then, they realized,
21 hey, this is a pretty good investment vehicle. You know. And
22 that's not what the court should be. And so, I was a little
23 disappointed in the court. But I think that for the most part,

1 the law that comes out of the Delaware courts is probably the
2 best corporate law in the land.

3 MR. HAMERMESH: And, in this case, I will stick up
4 for the courts a little because to some extent, that was
5 driven by the statute and not by the courts, which also has
6 been maybe not completely fixed, but ameliorated. #00:40:56#

7 MR. PERELMAN: Yeah. But I think the judge has some
8 ability to deal with that—

9 MR. HAMERMESH: It's true.

10 MR. PERELMAN: -- and I don't think that a plaintiff
11 should you know, be rewarded in that regard for, in this case,
12 losing, you know with that kind of things, so...

13 MR. HAMERMESH: Right. Or even if winning by a
14 little bit, not worth it. Yeah, I agree. Anything you recall
15 about efforts to settle that case? I mean, over 22 years, or
16 whatever it was—

17 MR. PERELMAN: I don't think they ever wanted to
18 settle. Because the amounts were so small, that you know, they
19 were the only surviving plaintiff, you know; everybody else
20 was long gone. The statute had passed. And we would have
21 settled it you know, a dollar more, you know, because there
22 was not much money. And we knew what potentially it could mean
23 with the long drawn out case, which we didn't want. But they

1 saw it as a bank, that you know, the US - Delaware Savings and
2 Loan, you know.

3 MR. HAMERMESH: Or hedge fund or something, yeah.

4 #00:42:14#

5 MR. PERELMAN: Yeah, that's exactly.

6 MR. HAMERMESH: Anything else you would like to
7 share with students of Delaware corporate law about your
8 involvement in these cases or other ones that we haven't
9 talked about?

10 MR. PERELMAN: I think as I tell my daughter, who is
11 a student of Delaware law, but studying in New York, the
12 courts in Delaware are fair, they're smart - I think they're
13 the smartest business judges in the land. And I think the key
14 to doing well in any court today is to be fair and to be open
15 and be transparent. And I think that's the primary thing that
16 I have learned over time as I have gotten older is
17 transparency and fairness and compliance, you know. Just as a
18 sideline, one of the people who is sitting here listening is
19 going to hate this, but I found myself in a situation on a
20 charitable board recently. And I said, you know, I'll take
21 this job, but these are the three things that I am going to
22 insist upon: diversity, compliance, and transparency. And
23 everybody said yeah, yeah, yay! You know we applaud that, you
24 know. But in reality, when it came down to them and their

1 issue, they didn't applaud it at all, you know. And I
2 ultimately left that enterprise and, but I think it makes life
3 much simpler and much easier, you know. And there are no
4 secrets in the world anyway, so be as transparent as you can.
5 And I think the courts like that.

6 MR. HAMERMESH: Absolutely. Well, I think most
7 everybody is aware of your extraordinary philanthropy in
8 obvious and visible ways, but fewer people are aware of your
9 gifts to the Delaware corporate law, so, I want to thank you
10 for those and everything and for your time - I much appreciate
11 it-

12 MR. PERELMAN: I thank you very much. This is a real
13 treat. Thank you. Nice to see you.

14 MR. HAMERMESH: Good-

15 #00:44:52#

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