II. ANALYSIS

Our appraisal statute, 8 *Del. C.* § 262, provides, "[t]hrough [the appraisal] proceeding, the Court shall determine the fair value of the shares exclusive of any element of value arising from the accomplishment or expectation of the merger or consolidation, together with interest, if any, to be paid upon the amount determined to be the fair value. In determining such fair value, the Court shall take into account all relevant factors."[250] "Easy enough," one might say on a first read, but the judicial appraisal process, through the years, has proven to be anything but "easy."[251]

"Section 262(h) unambiguously calls upon the Court of Chancery to perform an independent evaluation of 'fair value' at the time of a transaction . . . [and] vests

---

[250] 8 *Del. C.* § 262(h).

[251] *See, e.g.*, *In re Orchard Enters., Inc.*, 2012 WL 2923305, at *18 (Del. Ch. July 18, 2012) ("As a law-trained judge who has to come up with a valuation deploying the learning of the field of corporate finance, I choose to deploy one accepted method as well as I am able, given the record before me and my own abilities."); *Global GT LP,* 993 A.2d at 517 n.126 (explaining that "academics and professionals throw around . . . ranges of value [that] are used by a law-trained judge to come to a single point estimate of value" and that "[t]he law-trained judges who must perform such analyses are more conscious than anyone of the inherent risk of error in such an endeavor, and indeed of the reality that no one can really tell if an error was made"), *aff'd,* 11 A.3d 214; *Finkelstein,* 2005 WL 1074364, at *12 ("The judges of this court are unremittingly mindful of the fact that a judicially selected determination of fair value is just that, a law-trained judge's estimate that bears little resemblance to a scientific measurement of a physical reality."). Indeed, "the judges of this Court" have lamented the challenges posed by the appraisal statute for many years. While perhaps repetitive, these expressions serve a valuable function; they serve as a longhand way of saying to the parties and the community of interest: "I've done the best I can here."

the Chancellor and Vice Chancellors with significant discretion to consider 'all relevant factors' and determine the going concern value of the underlying company."[252] "By instructing the court to 'take into account all relevant factors' in determining fair value, the statute requires the Court of Chancery to give fair consideration to 'proof of value by any techniques or methods which are generally considered acceptable in the financial community and otherwise admissible in court.' Given that '[e]very company is different; [and] every merger is different,' the appraisal endeavor is 'by design, a flexible process.'"[253]

Taking to heart the mandate of Section 262(h), as reiterated by our Supreme Court, I have carefully considered all relevant factors. And I have assigned those factors the weight (or not) I determined they deserve based on my evaluation of the credible evidence, and my application of "accepted financial principles" as derived from that evidence.[254]

A. The Merger Price is Not a Reliable Indicator of Norcraft's Fair Value

As our Supreme Court has recognized, "corporate finance theory reflects a belief that if an asset—such as the value of a company as reflected in the trading

---

[252] *DFC*, 172 A.3d at 364 (quoting 8 *Del. C.* § 262(h)).

[253] *Dell*, 177 A.3d at 21 (quoting *Weinberger v. UOP*, 457 A.2d 701, 713 (Del. 1983); *Golden Telecom,* 11 A.3d at 218; and *In re PetSmart, Inc.*, 2017 WL 2303599, at *26 (Del. Ch. May 26, 2017)) (alteration in original).

[254] *Dell*, 177 A.3d at 22.

value of its stock—can be subject to close examination and bidding by many humans with an incentive to estimate its future cash flows['] value, the resulting collective judgment as to value is likely to be highly informative[.]"[255] So long as "all estimators hav[e] equal access to information, the likelihood of outguessing the market over time and building a portfolio of stocks beating it is slight."[256] Thus, the Supreme Court has emphasized that our courts must appreciate "the economic reality that the sale value resulting from a robust market check will often be the most reliable evidence of fair value, and that second-guessing the value arrived upon by the collective views of many sophisticated parties with a real stake in the matter is hazardous."[257]

Nevertheless, our Supreme Court has declined on several occasions to pronounce a presumption in favor of deal price in determining fair value.[258] Instead, it has reiterated the "flexible" nature of the trial court's fair value calculus, while also noting its lack of "confidence in [its] ability to craft, on a general basis, the

---

[255] *DFC*, 172 A.3d at 370.

[256] *Id.*

[257] *Id.* at 366.

[258] *See, e.g.*, *id.*; *Golden Telecom*, 11 A.3d at 217–18.

precise pre-conditions that would be necessary to invoke a presumption" in favor of the deal price.[259]

Here, Norcraft's deal process did not include a meaningful market check and, consequently, the Merger Price was not "arrived upon by the collective views of many sophisticated parties with a real stake in the matter."[260] Prior to the execution of the Merger Agreement, the Company chose to negotiate with Fortune and Fortune alone.[261] That decision, if made as a strategic choice, does not alone render Norcraft's deal process unsound.[262] Nor does it preclude a finding that Norcraft's deal process resulted in a reliable indication of fair value (reflected by the Merger Price). Indeed, even Petitioners' expert has acknowledged that negotiating with a

---

[259] *DFC*, 172 A.3d at 366.

[260] *Id.*

[261] TT 13–15 (Eldridge).

[262] *See In re Fort Howard Corp. S'holders Litig.*, 1988 WL 83147, at *13–14 (Del. Ch. Aug. 8, 1988) (finding board-chosen single-bidder process satisfied *Revlon* duties); *In re Pennaco Energy, Inc.*, 787 A.2d 691, 706 (Del. Ch. 2001) ("[T]he mere fact that the Pennaco board decided to focus on negotiating a favorable price with Marathon and not to seek out other bidders is not one that alone supports a breach of fiduciary duty claim."); *In re MONY Gp. Inc. S'holder Litig.*, 852 A.2d 9, 21 (Del. Ch. 2004) (same) (quoting *Pennaco*, 787 A.2d at 706).

single potential buyer pre-signing can, in certain instances, lead to significant value.[263]

But the single bidder focus here, while perhaps not amounting to a breach of fiduciary duty,[264] did not provide a meaningful market check as would yield a reliable indication of fair value. First, there is no evidence that the Board or Citi employed a single bidder approach for the sake of achieving a strategic advantage or maximizing value. Second, and more troubling, the Board's focus on only one bidder was tainted by the fact that Buller (who was conflicted) served as Norcraft's lead negotiator from start to finish.

The shambolic pre-signing process left Norcraft's post-signing go-shop as the only meaningful opportunity to check the market.[265] Unfortunately, Fortune

---

[263] JX 31 (Guhan Subramanian, *Go-Shops vs. No-Shops in Private Equity Deals: Evidence and Implications*, 63 Bus. Law. 729 (2008)) at 755 ("[A] pure go-shop can be a valuable tool for extracting the highest possible price in the sale of [a] company.").

[264] *M.P.M. Enters., Inc. v. Gilbert*, 731 A.2d 790, 797 (Del. 1999) ("A fair merger price in the context of a breach of fiduciary duty claim will not always be a fair value in the context of determining going concern value."); *In re Trados Inc. S'holder Litig.*, 73 A.3d 17, 78 (Del. Ch. 2013) ("A court could conclude that a price fell within the range of fairness and would not support fiduciary liability, yet still find that the point calculation demanded by the appraisal statute yields an award in excess of the merger price."); *Reis v. Hazelett Strip-Casting Corp.*, 28 A.3d 442, 466 (Del. Ch. 2011) (same).

[265] Petitioners urge the Court to conclude that "a go-shop only process" is, *per se*, inadequate to generate fair value. Pet'rs' Post Trial Opening Br. 3 (citing *IQ Hldgs. v. Am. Commercial Lines*, 2013 WL 4056207 (Del. Ch. Mar. 18, 2013) and *Huff Fund Inv. P'ship v. CKx, Inc.*, 2013 WL 5878807, at *13 (Del. Ch. Nov. 1, 2013)). Having reviewed the cited authority, I do not see where *IQ Holdings* addressed the issue at all. As for *CKx, Inc.*, while the court acknowledges that a scenario where the only market check is an

extracted concessions from Norcraft that rendered the go-shop process equally ineffective as a price discovery tool.

1. The Board's Singular Focus on Fortune, Failure to Manage Buller's Conflicts and Misplaced Reliance on the Go-Shop

There is no dispute that neither Norcraft nor Citi contacted other bidders before Norcraft signed the Merger Agreement. This resulted in lost opportunities. Not only did Norcraft miss the opportunity to test the market before committing to Fortune, it also missed the opportunity to leverage the interest of another suitor to extract a higher price from Fortune. Given these missed opportunities, it is not surprising that, by the time the parties settled on the Merger Price, Norcraft's management still believed that the merger consideration was too low.[266] The plan, therefore, was to put all eggs in the go-shop basket as a means to achieve fair value for Norcraft stockholders.[267]

---

unsuccessful go-shop might undermine the reliability of the deal price as an indicator of fair value, the court says nothing of adopting a rule that a go-shop alone will *never* produce fair value for the target. *Id.* at *13. I see no basis in law or fact to adopt such a rule.

[266] JX 140 (e-mail from Reilly to Buller, Maselli and Citi representatives, Feb. 20, 2015) (Reilly: "I do believe we are leaving $ on the table"); TT 29:19–22 (Eldridge) (Buller "eager to try and find a buyer at a higher valuation"); JX 138 (e-mail from Ginter to Buller, Feb. 19, 2015) ("Current offer will be 10.9x or less by the time we close in April at $25.50. so we weren't happy with the deal in [O]ct[ober] but now we are?").

[267] *See* JX 3 (Buller Dep.) at 85–86.

Of course, on the other side of the table, Fortune perceived the Merger Price as very favorable (to Fortune).[268] It was protective of that price and sought to avoid or limit the go-shop to preclude a topping bid.[269] And that is precisely what it did.

Norcraft's Board left the negotiations principally to Buller. Yet Buller was just as (if not more) fixated on extracting commitments from Fortune regarding the TRAs and his future role with the combined company as he was on securing the best price possible for Norcraft. Fortune, for its part, was "stringing Buller along" as it negotiated with him over the Merger Price, leading him to believe he might continue

---

[268] JX 185 (e-mail chain between Fortune director David Mackay and Klein, Mar. 20, 2015) (Mackay: "Looks very positive[.] A good strategic fit at a reasonable price . . . I fully support the deal and hope no one comes along and offers more."); *id.* (Klein:"You are spot on – its [sic] a good price, and there is a risk someone comes along and tries to top the offer."); JX 300 (Mar. 31, 2015 e-mail from Fortune director Mackay to Fortune's other directors and deal team members) ("Let's hope no one bids!").

[269] TT 146:18–147:9 (Biggart) (explaining a Fortune presentation analyzing potential go-shop competitors "[b]ecause at this point in time, we're about to agree to a go-shop, and our CEO is very upset about the idea of doing this"); *see also* JX 5 (Klein Dep.) at 164:11–22 ("Q. And Norcraft insisted on some type of go-shop process, right? A. Yes. Q. And in the context of negotiating that, your goal was to minimize the chances that the go-shop process would result in a higher bidder, -- A. I wanted to -- Q. -- correct? A. -- give them what they needed – the minimum amount they needed to satisfy their fiduciary responsibility which I know they had."). Of course, it is not unusual—or inherently problematic—for a prospective acquiror to want to avoid being outbid after having expended considerable time, effort and funds. Fortune's attitude, however, suggests that it appreciated the pre-sign process did not yield fair value for Norcraft stockholders and that it wanted to protect that advantage throughout the go-shop process. Again, this is precisely what the Board reasonably should have expected from the party sitting on the other side of the table.

his employment with Fortune post-close.[270] When Fortune finally informed Buller (after settling on the Merger Price) that he would have no place at Fortune post-close, Fortune secured Buller's continued commitment to the Merger by stringing him along again, this time by dangling the possibility that Fortune would be willing to sell Norcraft Canada to Buller after the closing.[271]

The Board either did not appreciate Buller's conflict, or chose not to manage it, until Buller announced that he would pursue the acquisition of Norcraft Canada after closing.[272] By then, Buller had been spurring with Fortune in an attempt to extract every dollar he demanded for the TRAs (diverting consideration from the stockholders) and had pushed hard for post-closing employment with Fortune. Yet all along, the Board did nothing to manage the conflict—it did not form a special committee of its members to negotiate with Fortune or take any other steps to neutralize Buller's influence. Even its half-hearted effort to recuse Buller from

---

[270] JX 166 (e-mail from Klein to Fortune deal team, Mar. 12, 2015); TT 205 (Biggart) (On March 6, 2015, Fortune "definitively told [Buller] he didn't have the job.").

[271] *See* JX 189 (e-mail chain between Dave Randich, head of Fortune's cabinet division, Klein and members of Fortune's deal team, Mar. 23, 2015); JX 199 (Mar. 26, 2015 e-mail from RBC to Klein and other members of Fortune's deal team); JX 202 (Mar. 27, 2015 e-mail from Buller to PwC); JX 194 (e-mail chain between members of Norcraft and Fortune deal teams, Mar. 25, 2015).

[272] JX 11 (Reilly Dep.) at 158–160.

further Board deliberations regarding the Merger following his demonstrated interest in Norcraft Canada proved ineffective.[273]

Given that the single-bidder pre-signing process led by a conflicted negotiator yielded what at least some within Norcraft deemed unsatisfactory consideration, it was imperative that the Norcraft Board run an effective post-signing go-shop. It did not.

2. The Post-Sign Go-Shop Provides No Basis to Rely on the Deal Price

Although it is hardly clear that Norcraft's Board appreciated this fact, the ineffective pre-signing process should have made clear that the post-signing go-shop would offer the only real opportunity for a meaningful market check.[274] Unfortunately, that process fell far short on many levels, as the following evidence illustrates:

- Prior to the Go-Shop Period, it was not widely known that Norcraft was "up for sale"[275]; thus, potentially interested parties did not know that Norcraft was

---

[273] JX 13 (Biggart Dep.) at 107–109, 111:6–112:3; JX 194 (e-mail chain between members of Norcraft and Fortune deal teams, Mar. 25, 2015).

[274] *In re AOL, Inc.*, 2018 WL 1037450, at *9 (Del. Ch. Feb. 23, 2018) (observing "if front-end information sharing is truncated or limited, the post-agreement period should be correspondingly robust, so to ensure that information is sufficiently disseminated that an informed sale can take place and bids can be received without disabling impediments").

[275] The Merger Agreement was publicly announced on March 30, 2015. *See* JX 227 (Norcraft Mar. 30, 2015 Proxy Statement) at 3. That same day, the Go-Shop Period began. PTO ¶ 2cc.

"in play" before the Merger was announced, putting them several steps behind Fortune in pursuing an acquisition of Norcraft[276];

- Norcraft's Board appeared to lack even a basic understanding of the terms and function of the go-shop[277];

---

[276] JX 19 (Subramanian Report) at 34; JX 243 (Citi Buyers Log) at 2 ("investment is too big [] to consider in a short period"); *id.* at 12 ("can't move fast enough in 35 days"); *id.* at 2, 5, 7–9 (prospective bidders explaining they had no interest in competing against Fortune).

[277] *See, e.g.*, JX 3 (Buller Dep.) at 207:5–24 ("Q. Do you know what Norcraft's rights were if another proposal came in during the go-shop period? A. Don't recall. Q. Do you have any knowledge of what Norcraft could have done if one of the go-shop parties was interested and made a bid? A. We could have pursued the offer. Q. Were there any restrictions on Norcraft's ability to pursue an offer? A. Some, but I don't recall what they were. . . . Q. Do you recall anything about Fortune's rights if another offer came in? A. I don't recall."); JX 8 (Eldridge Dep.) at 85:17–19 ("Q. What kind of matching rights did Fortune have in this transaction? A. I don't recall."); JX 9 (Maselli Dep.) at 75:5–78:5 ("Q. Under the terms of the merger agreement, what needed to occur for a go-shop participant to continue to negotiate with Norcraft regarding a possible sale after the go-shop period ended? . . . A. I don't know what the threshold was, but . . . if it was a sufficiently robust offer, they would have an opportunity to complete the transaction."); JX 11 (Reilly Dep.) at 121:3–130:20 ("Q. Did you personally ever consider what effect the tender and support agreements would have on the go-shop process? A. I can't recall. . . . To be honest with you, I'm not an expert in going private transactions, though I've been around for a while; and, in my estimation, the retention of both Ropes and Citibank and to rely on their advice and counsel with respect to the process was, you know, doing my duty. So that's kind of what we really looked to the experts to help us. . . . Q. What are matching rights? A. I have no idea. . . . Q. Okay. Well, do you know what type of matching rights Fortune had in Norcraft's go-shop process? . . . A. I don't recall. . . . Q. Do you recall any discussions among Norcraft's directors or officers with respect to Fortune's matching rights in this go-shop process? A. I do not. Q. Under the merger agreement that Norcraft signed with Fortune Brands, what needed to happen for a go-shop participant to continue to negotiate with Norcraft regarding a possible sale after the go-shop period ended? A. I don't recall."); *cf.* JX 1 (Ginter [CFO] Dep.) at 140:9–14 ("A. My knowledge of a go-shop is limited in that regard. I know the banks ran it for us and prepared a list of potential investors that may be interested in looking at Norcraft. But my knowledge of a go-shop is limited to that and what I learned during the process.").

- Any potential bidder had to value the TRAs—and provide for the satisfaction of Norcraft's payment obligations thereunder—within the Go-Shop Period, a task that Fortune had several months to complete (and struggled to navigate successfully, even with the assistance of expert tax advisors)[278];

- Fortune had an unlimited match right under the Merger Agreement, which gave Fortune four business days to match a superior proposal by a third-party bidder and two business days to match any subsequent proposal by the same bidder[279];

- In order to proceed with an alternate transaction, Norcraft had to receive a "Superior Proposal" by the end of the Go-Shop Period, "essentially requir[ing] the bidder to get the whole shebang done within the [Go-Shop Period]."[280] This requirement was made more onerous by the TRAs' interaction with the Merger Agreement's go-shop provisions, allowing "Fortune [to] close its tender offer for the 54 percent [of Norcraft common stock] before Norcraft [could] terminate the merger agreement, because Norcraft [couldn't] terminate on the possibility of a superior proposal. [Rather, Norcraft could] only terminate after [it had] given Fortune four days to match. And the four days [could] go beyond the tender offer expiration."[281]

---

[278] JX 5 (Klein Dep.) at 137–139; JX 11 (Reilly Dep.) at 164–165; JX 130 (Feb. 9, 2015 RBC presentation regarding TRA value); JX 162 (Mar. 10, 2015 RBC email attaching questions regarding TRAs).

[279] JX 221 (Merger Agreement) § 5.4(g); *see Lender Processing*, 2016 WL 7324170, at *25 ("In this case, the most persuasive explanation is that the existence of an incumbent trade bidder holding an unlimited match right was a sufficient deterrent to prevent other parties from perceiving a realistic path to success. . . . Without a realistic path to success, it made no sense to get involved."). Fortune's Vice President of M&A confirmed that "the team at Fortune understood that unlimit[ed] matching rights would discourage potential bidders in a go-shop process." JX 12 (Baab Dep.) 99–100. And, Fortune's CEO touted Fortune's match right when instructing RBC how to dissuade potential go-shop participants from bidding. JX 232 (e-mail chain between RBC, Klein and other members of Fortune's deal team, Apr. 7, 2015).

[280] *In re Lear Corp. S'holder Litig.*, 926 A.2d 94, 119–20 (Del. Ch. 2007).

[281] TT 289:1–7 (Subramanian).

- On April 14, 2015, about two weeks into the thirty-five-day Go-Shop Period, Fortune launched Tahiti's tender offer,[282] triggering the TSAs and causing 53.6% of Norcraft's outstanding shares to be committed to supporting the Norcraft-Fortune transaction absent a superior proposal[283]; *and*

- In a fit of bad judgment, RBC attempted to contact and dissuade possible bidders from topping Fortune's bid during the go-shop.[284]

Presented with this factual record, I am not persuaded that Norcraft's go-shop process provided a meaningful market check that resulted in a transaction price derived from the "collective views of many sophisticated parties with a real stake in the matter."[285] Accordingly, I do not accord any weight to the deal price in my fair value calculus.[286]

---

[282] PTO ¶ 2ee. As noted, the Go-Shop Period began on March 30, 2015. PTO ¶ 2cc.

[283] JX 229 (Buller TSA); JX 230 (SKM TSA); JX 231 (Trimaran TSA).

[284] JX 232 (e-mail chain between RBC, Klein and other members of Fortune's deal team, Apr. 7, 2015) (RBC describing its planned efforts to dissuade potential buyers); *id.* (Klein expressing his interest in RBC "shutting the door on [potential buyers] and their willingness to look at [Norcraft]").

[285] *DFC*, 172 A.3d at 366. Respondent advanced deal price less synergies as reflecting Norcraft's fair value. Accordingly, it was Respondent's burden to prove the reliability of Norcraft's deal process. Respondent, however, failed to meet that burden—its witnesses struggled to recall basic aspects of the deal process and its valuation expert presented only a cursory, mostly conclusory, analysis of that process. Petitioners, on the other hand, presented credible evidence demonstrating that deal price less synergies is not a reliable indicator of Norcraft's fair value.

[286] This, of course, means that I give no weight to Austin Smith's deal price less synergies valuation.

3. Insufficient Evidence to Consider the Efficient Market Hypothesis

Following our Supreme Court's renewed endorsement of the efficient capital market hypothesis in *Dell*, I requested that the parties submit supplemental post-trial briefing addressing whether Norcraft's unaffected trading price was probative of Norcraft's fair value on the Merger date.[287] Because this case was tried before the Supreme Court's decision in *Dell*, the parties presented limited evidence at trial respecting Norcraft's trading history and the market for its stock. Consequently, the parties had a rather limited record to draw upon when addressing this issue in their supplemental submissions.[288]

To the extent the trial evidence is informative at all on this issue, it does not support assigning any weight to Norcraft's unaffected trading price for purposes of determining Norcraft's fair value on the Merger date. Norcraft had a limited public trading history given that it had just completed an IPO eighteen months before the Merger.[289] What trading did occur following the IPO was relatively limited, an

---

[287] D.I. 91.

[288] *See AOL*, 2018 WL 1037450, at *10, n.118 (declining to engage in an extensive analysis of the efficient market hypothesis when the parties did not present either an argument to that effect or sufficient evidence to allow the court to undertake the analysis on its own).

[289] JX 216 (e-mail from RBC to Biggart, Mar. 29, 2015, attaching RBC presentation on Norcraft) at FB0047792, FB0047795.

unsurprising phenomenon given the niche market in which Norcraft operated.[290] The analyst coverage of Norcraft's stock was relatively sparse.[291] Based on this record, I am unable to conclude that the market for Norcraft's common stock was efficient or semi-strong efficient.[292] Absent that finding, I do not assign any weight to Norcraft's unaffected trading price as an indicator of Norcraft's fair value on the Merger date.[293]

B. Norcraft's Fair Value under "Traditional Methods" of Valuation

Having determined that neither the Merger Price nor Norcraft's unaffected stock price provide a reliable indicator of the Company's fair value, I must now consider the remaining valuation analyses presented by the parties' experts. In this regard, our law is clear that:

---

[290] *See* JX 68 (Sept. 18, 2014 Fortune Presentation) at FB0089499; JX 215 (Citi Board Discussion Materials) at FB0049833.

[291] *See* JX 215 (Citi Board Discussion Materials) at FB0049845.

[292] *See Dell*, 177 A.3d at 25 ("A market [for a company's stock] is more likely efficient, or semi-strong efficient, if [the company] has many stockholders; no controlling stockholder; 'highly active trading'; and if information about the company is widely available and easily disseminated to the market." (quoting *DFC*, 172 A.3d at 373–74)).

[293] *See Verition P'rs Master Fund Ltd. v. Aruba Networks, Inc.*, 2018 WL 922139, at *24 (Del. Ch. Feb. 15, 2018) ("*DFC* and *Dell* teach that if a company's shares trade in a market having attributes consistent with the assumptions underlying a traditional version of the semi-strong form of the efficient capital markets hypothesis, then the unaffected trading price provides evidence of the fair value of a proportionate interest in the company as a going concern." (footnote omitted)).

> In discharging its statutory mandate, the Court of Chancery has the discretion to select one of the parties' valuation models as its general framework or to fashion its own. The Court of Chancery's role as an independent appraiser does not necessitate a judicial determination that is completely separate and apart from the valuations performed by the parties' expert witnesses who testify at trial. It must, however, carefully consider whether the evidence supports the valuation conclusions advanced by the parties' respective experts.[294]

I have followed this guidance as I have worked through the experts' competing analyses here.

1. Comparable Companies and Precedent Transaction Analyses Are Not Reliable

As previously mentioned, both experts performed a comparable company analysis. Austin Smith also performed a precedent transaction analysis. "The utility of a comparable company [or precedent transaction] approach is dependent on the similarity between the company the court is valuing and the companies [or precedent transactions] used for comparison."[295] When there are no sufficiently comparable companies or precedent transactions, such analyses are unavailing in the search for fair value.[296]

---

[294] *M.G. Bancorp., Inc. v. Le Beau*, 737 A.2d 513, 525–26 (Del. 1999).

[295] *IQ Hldgs., Inc.*, 2013 WL 4056207, at *1 (quoting *Doft & Co. v. Travelocity.com Inc.*, 2004 WL 1152338, at *8 (Del. Ch. May 20, 2004)) (internal quotation omitted); *see also Merion Capital*, 2013 WL 3793896, at *5; James R. Hitchner, *Financial Valuation: Applications and Models* 291–93, 297 (4th ed. 2017) (cited in JX 21 (Clarke Rebuttal Report)).

[296] *In re Orchard Enters., Inc.*, 2012 WL 2923305, at *9 (Del. Ch. July 18, 2012) ("Reliance on a comparable companies or comparable transactions approach is improper where the

After carefully reviewing the evidence, I see no factual basis to rely on a precedent transaction or comparable company analysis as an indicator of Norcraft's fair value as of the Merger date. The parties agree that there had not been an acquisition of any publicly-traded, "dealer channel" cabinet manufacturer—or a satisfactorily comparable business[297]—in any temporal proximity to the Merger.[298] Nor were the parties (or their experts) able to identify any truly comparable companies that could support a reliable comparable company analysis.[299] It is,

---

purported 'comparables' involve significantly different products or services than the company whose appraisal is at issue, or vastly different multiples."); *see also* Hitchner, *supra*, at 292–93.

[297] *See* JX 13 (Biggart Dep.) at 75:1–76:23, 152:22–153:1 (explaining he could not recall any precedent transaction in the dealer channel since 2010). Many of the precedent transactions identified by Austin Smith preceded the Norcraft-Fortune Merger by three or more years during a time in which the housing market was still recovering from the Great Recession. *See* JX 20 (Austin Smith Report), Ex. 14 (Precedent Transaction Method) (showing that 11 out of the 16 transactions predated 2012). The remaining transactions involved very small, non-public companies, making them unfit for comparison. *See id.* Under these circumstances, I see no reason to dwell on a precedent transaction analysis in determining Norcraft's fair value on the Merger date. *See Merion Capital,* 2013 WL 3793896, at *5 ("The utility of a market-based method depends on actually having companies that are sufficiently comparable that their trading multiples provide a relevant insight into the subject company's own growth prospects."); *see also* Hitchner, *supra*, at 304–06.

[298] *See* JX 20 (Austin Smith Report), Ex. 14 (Precedent Transaction Method) (showing that 11 out of the 16 transactions predated 2012); JX 18 (Clarke Report) at 4 n.8; JX 21 (Clarke Rebuttal Report) at 6.

[299] *Cf.* JX 20 (Austin Smith Report) at 25–28 (explaining, "of the guideline public companies, [Norcraft] is most similar to (though smaller than) American Woodmark, the only other pure-play cabinet manufacturer," "Norcraft is significantly smaller than most of the guideline public companies based on revenue, EBITDA, or assets"); TT 510:10–13

therefore, unsurprising that neither expert relied on market-based approaches (comparable company or precedent transaction analyses) as the principal metric by which to value Norcraft.[300] Instead, they offered these valuations to corroborate the results they reached utilizing their preferred valuation methodologies.[301] Because I disagree that market-based valuation metrics provide any guidance here, I do not consider those metrics further.

2. The DCF Analysis

"[A] DCF analysis can provide the court with a helpful data point about the price a sale process would have produced had there been a robust sale process involving willing buyers with thorough information and the time to make a bid."[302]

> The basic premise underlying the DCF methodology is that the value of a company is equal to the value of its projected future cash flows, discounted to the present value at the opportunity cost of capital. Calculating a DCF involves three steps: (1) one estimates the values of future cash flows for a discrete period, where possible, based on contemporaneous management projections; (2) the value of the entity attributable to cash flows expected after the end of the discrete period must be estimated to produce a so-called terminal value, preferably using a perpetual growth model; and (3) the value of the cash flows for

---

(Clarke) ("I view Norcraft being somewhat unique in that regard. So these are not -- you know, these are not perfect comps.").

[300] JX 18 (Clarke Report) at 32, 55; TT 636:17–637:6 (Clarke); JX 20 (Austin Smith Report) at 29.

[301] JX 18 (Clarke Report) at 32, 55; TT 636:17–637:6 (Clarke); JX 20 (Austin Smith Report) at 29.

[302] *Dell*, 177 A.3d at 35.

the discrete period and the terminal value must be discounted back using the capital asset pricing model or "CAPM." In simpler terms, the DCF method involves three basic components: (1) cash flow projections; (2) a discount rate; and (3) a terminal value.[303]

a. The Disputed Inputs

As is typically the case, the substantial delta between the experts' DCF valuations can be traced to their disagreements regarding the DCF inputs. Their most significant disagreements are: (1) whether to extend the Base Case projections by an additional five years; and (2) how to calculate Norcraft's beta in connection with estimating Norcraft's WACC. On the latter point, the experts disagree regarding (i) the selection of appropriate guideline public companies ("GPCs") for a proxy beta calculation and whether net debt or gross debt should be used to unlever the GPC betas and relever the resulting proxy beta[304]; and (ii) whether Norcraft's observed capital structure or a target capital structure should be used to relever the concluded

---

[303] *Merion Capital,* 2013 WL 3793896, at *10 (internal citation omitted).

[304] *See* Shannon P. Pratt & Roger J. Grabowski, *Cost of Capital: Applications and Examples* 223 (5th ed. 2014) (cited in JX 18 (Clarke Report)) ("Using betas of guideline public companies for estimating a proxy beta has been found to provide reasonably accurate estimates of the subject company"); Duff & Phelps, *2015 Valuation Handbook, Guide to Cost of Capital* 5-3 (2015) (cited in JX 18 (Clarke Report)); *Andaloro v. PFPC Worldwide, Inc.*, 2005 WL 2045640, at *15 (Del. Ch. Aug. 19, 2005). "A company's debt capital can be measured by [gross] debt or net debt, where net debt is equal to total debt *less* excess cash." JX 23 (Austin Smith Rebuttal Report) at 23 (emphasis in original).

beta when calculating Norcraft's cost of equity.[305] The experts generally agree on the remaining DCF inputs.

i. Management Projections

"The most important input necessary for performing a proper DCF is a projection of the subject company's cash flows. Without a reliable estimate of cash flows, a DCF analysis is simply a guess."[306] While Norcraft's management (Buller and Ginter) prepared several sets of projections, the experts agree that the most reliable projections are the Base Case projections—and both experts relied on those projections in their primary DCF analyses.[307]

The record reflects that Norcraft management did not prepare long-term projections in the ordinary course of Norcraft's business.[308] Nevertheless, Buller and Ginter knew how to prepare long-term projections and they approached the Base

---

[305] The capital structure used to relever the subject company's unlevered beta should also be used when calculating its WACC (for weighting purposes). TT 854:17–857:10 (Austin Smith).

[306] *AOL*, 2018 WL 1037450, at *11 (quoting *Del. Open MRI Radiology Assocs., P.A. v. Kessler*, 898 A.2d 290, 332 (Del. Ch. 2006)). *See also* Shannon P. Pratt, Robert F. Reilly & Robert P. Schweihs, *Valuing a Business: The Analysis and Appraisal of Closely Held Companies* 156 (4th ed. 2000) (cited in JX 18 (Clarke Report)) (hereinafter "Valuing a Business").

[307] As noted, Austin Smith performed two additional DCF analyses, one relying on the Ginter 2014 Projections and another relying on a Capitalization of Cash Flow methodology. *See* JX 20 (Austin Smith Report) at 23–24. Neither analysis, however, formed the basis for her final conclusion regarding fair value. *See id.* at 1.

[308] JX 1 (Ginter Dep.) at 27:2–28:14, 34:5–10; JX 3 (Buller Dep.) at 101:20–24.

Case projections with a view to providing the Board with a reliable estimate of Norcraft's future financial performance.[309] When all was said and done, Buller and Ginter were confident they had prepared a set of realistic, reasonable projections upon which Citi and the Board could rely in assessing Norcraft's value during the course of negotiations.[310] While not perfect, I am satisfied that the Base Case projections provide a reliable foundation for a valid DCF.[311]

The experts' dispute regarding the Base Case projections does not turn on their reliability (or lack thereof), but rather on whether the projections should be extended

---

[309] JX 3 (Buller Dep.) at 115:8–18 (explaining that the Base Case projections were "something [management] felt very, very comfortable in doing"); *id.* at 114:11–22; JX 1 (Ginter Dep.) at 93:23–25 (stating the Board approved the Base Case projections); JX 11 (Reilly Dep.) at 55:9–19.

[310] JX 3 (Buller Dep.) at 115:8–18. *Cf. Petsmart*, 2017 WL 230359, at *12 (noting that the respondent company's management characterized their projections as "bordering on being too aggressive"—even "approaching 'insan[ity]'") (alteration in original) (internal quotation marks, footnote and record citation omitted).

[311] TT 473–75 (Clarke) (explaining why the Base Case projections are reasonable). Austin Smith found several "significant limitations" to the Base Case projections: (1) they were not created in the ordinary course; (2) they were not created using the same procedure as Norcraft's annual budgets (*i.e.*, bottoms-up); (3) they projected an additional five years of growth after two years of already achieved growth in a cyclical industry; and (4) Ginter and Buller, who prepared the Base Case projections, allegedly knew they were going to lose their jobs if the transaction was completed—introducing the possibility of bias. TT 734:10–736:14 (Austin Smith). Despite all of her concerns, however, Austin Smith relied on the Base Case projections for her primary DCF analysis. TT 737:13–23 (Austin Smith). *See In re Appraisal of Ancestry.com, Inc.*, 2005 WL 399726, at *18 (Del. Ch. Jan. 30, 2015) (noting that "in a number of cases Delaware Courts have relied on projections that were prepared by management outside of the ordinary course of business and with the possibility of litigation") (collecting cases).

by an additional five years. Clarke opined that the extension was necessary, while Austin Smith opined that a PGR should be applied at the end of the five-year Base Case projection period.

According to Clarke, extending the Base Case projections is necessary to capture Norcraft's future cash flows because "the Base Case [p]rojections had not reached [a] steady state at the end of the [five-year] projection period" and, therefore, "it would be inappropriate to apply a standard [PGR] at th[e] last year [of that period]."[312] To account for Norcraft's growth potential as of 2019, Clarke extended the Base Case projections by an additional five years—through 2024—"to gradually reduce growth rates over time until reaching [a 3.5%] PGR."[313]

Austin Smith, on the other hand, maintains that extending the Base Case projections is inappropriate because doing so forecasts growth that Norcraft almost certainly could not achieve. In this regard, she points out that the cabinetry industry is cyclical, as demonstrated by trends in (1) the industry's historical performance (growth and decline); and (2) the historical growth (and decline) of the residential

---

[312] JX 18 (Clarke Report) at 2.

[313] *Id.* 2–3. Clarke "gradually reduce[d] growth rates over time until reaching the PGR," *id.*, by applying a "straight line reduction in growth" from the end of the Base Case projections to the end of his additional five-year projection period. TT 606–607. According to Clarke, "if [he] had to use 2019 as the final year of [his] projections, [he] would need to use a higher [PGR of 4.4%] to account for the tapering of [Norcraft's] growth to a steady state." JX 21 (Clarke Rebuttal Report) at 27 n.62.

construction market.[314] Extending the Base Case projections by an additional five years implies a ten-year period of consistent growth following two years of already achieved growth. According to Austin Smith, projecting twelve years of steady growth for a business in the cabinetry industry is patently unreasonable.[315]

On this point, I find Austin Smith most credible. The evidence adduced at trial supports her view that the cabinetry industry is cyclical and follows the cycle of the residential construction market.[316] The evidentiary record also reflects that the residential construction market is projected to reach a "steady state" at or slightly before the last year of the Base Case projection period (2019).[317] Moreover, insofar

---

[314] JX 23 (Rebuttal Report of Yvette R. Austin Smith ["Austin Smith Rebuttal Report"]) at 5–6.

[315] *See id.* at 4–6.

[316] *See* JX 20 (Austin Smith Report) at 21–22 & Ex. 3 (Indexed Growth of Norcraft Adjusted EBITDA versus Key Economic Indicators 2013–2015); TT 21:8–9 (Eldridge) ("[B]uilding products companies are cyclical . . . . "); JX 23 (Austin Smith Rebuttal Report), Fig. 1 (Comparison of Normalized Growth Patterns); *id.* at Fig. 2 (Historical and Forecasted EBITDA Margins); TT 607:23–608:1 (Clarke) ("Q: Mr. Clarke, the cabinet business is cyclical, isn't it? A. Yes."); *see also* JX 23 (Austin Smith Rebuttal Report), Fig. 1 (Comparison of Normalized Growth Patterns); *id.* at Fig. 2 (Historical and Forecasted EBITDA Margins); JX 5 (Klein Dep.) at 312:4–10. In light of this determination, I decline to apply Petitioners' suggested 4.4% PGR since that PGR is based on an unrealistic assessment of Norcraft's future financial performance. *See* JX 21 (Clarke Rebuttal Report) at 27 n.62.

[317] *See* JX 112 (Gabelli Report) (stating, as of January 2015, "[w]e see a gradual recovery in housing that will materialize over the next several years"); JX 535 (Fortune Investor Presentation, "Maximum Long-Term Value," May 1, 2015) ("Expectation is for the housing market to return to steady state (1.5 million [new construction] starts and 5–6% [average] annual [repair and remodeling] growth) by 2017 or 2018."). According to "accepted financial principles," *Dell*, 177 A.3d at 22, "terminal value must reflect an

as Norcraft's own management was not inclined to project Norcraft's financial results beyond FY2019, I see no basis to do so *post hoc* for the sake of reaching a litigation result.

ii. Norcraft's Estimated WACC

The parties also dispute how to calculate the applicable discount rate based on Norcraft's estimated WACC. More specifically, they dispute how to calculate Norcraft's beta in connection with estimating Norcraft's cost of equity capital (a key component of WACC).

The application of a discount rate to financial projections attempts to "convert the [subject company's] expected economic income stream to present value."[318]

---

appropriate estimate of sustainable growth." Pratt, *supra*, at 49. "[F]or cyclical businesses[] the discrete [projection] period commonly corresponds to the number of years or periods until the point is reached where the net cash flow represents an average base net cash flow expected over an *entire* business cycle," *i.e.*, until the midpoint of the cycle. *Id.* at 47 (emphasis supplied); *see also* Robert W. Holthavsen & Mark E. Zmijewski, *Corporate Valuation: Theory, Evidence & Practice* 216 (2014) ("[T]he steady state for a company in a cyclical industry should be at the midpoint of the cycle."). Clarke's extension of the Base Case projections posits a ten-year growth trend but does not account for cyclicality in the cabinetry industry and the impact of such cyclicality on Norcraft's free cash flows. *See* JX 14 (Clarke Dep.) at 60–61 (explaining his extension does not reflect cyclicality prior to 2025); JX 23 (Austin Smith Rebuttal Report), Fig. 1 (Comparison of Normalized Growth Patterns); JX 18 (Austin Smith Report), Fig. 1 (Norcraft Net Sales and EBITDA (Historical 2003-2014) (citing JX 99 (Norcraft Jan. 2015 Management Presentation))). *See also AOL*, 2018 WL 1037450, at *19 ("In a fast-paced industry with significant fluctuations, where management is hesitant to project beyond four years, using a three-stage DCF model or a ten year projection period seems particularly brazen.").

[318] Pratt, *supra*, at 8; *see also* Duff & Phelps, *supra*, at 10-15.

Where the discount rate is based on the subject company's WACC, the projected future cash flows and terminal value are discounted by the WACC to bring them back to present value.[319] A company's WACC represents the cost (to the company) of financing its business operations; it comprises the weighted average of the company's cost of debt and equity[320]:

$$\textbf{WACC} = \left(r_{equity} \times \frac{E}{V}\right) + \left(r_{debt} \times \frac{D}{V} \times (1 - t)\right)$$

where:

r_{equity}	=	cost of equity capital
E	=	market value of the company's equity
r_{debt}	=	cost of debt capital
D	=	value of the company's debt
$V = E + D$	=	total value of the company's equity and debt
t	=	applicable tax rate

Here, both experts calculated Norcraft's cost of equity capital pursuant to CAPM.[321] Following CAPM, a company's cost of equity is calculated as follows[322]:

---

[319] Pratt, *supra*, at 546 ("WACC generally works as a substitute for the enterprise-cash-flow discount rate."). *See also* Valuing a Business, *supra*, at 184.

[320] Valuing a Business, *supra*, at 184; Duff & Phelps, *supra*, at 10-16.

[321] JX 18 (Clarke Report) at 33; JX 20 (Austin Smith Report), Ex. 5 (WACC Calculation).

[322] Duff & Phelps, *supra*, at 2-13.

$$r_{equity} = r_{no\text{-}risk} + (\beta \times ERP) + SS$$

where:

$r_{no\text{-}risk}$	=	risk-free rate of return
β	=	beta coefficient of the subject company
ERP	=	equity risk premium
SS	=	size premium

The experts generally agree on many of the relevant inputs to calculate Norcraft's WACC; both experts used the same risk-free rate of return (2.75%), equity risk premium (6.21%) and size premium (2.69%).[323] The experts differed, however, in their respective estimates of Norcraft's pre-tax cost of debt. Clarke estimated Norcraft's pre-tax cost of debt as 6.95%—based on "the average of the 15-year yield-to-maturity of B and BB rated bonds" as of the Merger date.[324] Austin Smith, by contrast, estimated Norcraft's pre-tax cost of debt as 5.85%—based on the "[a]verage of (a) BofA Merrill Lynch US High Yield B Effective Yield as of 5/12/15 [the Merger date] and (b) total return on Norcraft['s] [then-outstanding] term loan (including [the] effect of issuance discount)."[325]

---

323 JX 21 (Clarke Rebuttal Report) at 27.

324 JX 18 (Clarke Report) at 41.

325 JX 20 (Austin Smith Report), Ex. 5 (WACC Calculation). The BofA Merrill Lynch US High Yield B Effective Yield "represents the effective yield of the ICE BofA[] [Merrill Lynch] US Corporate B Index, a subset of the ICE BofA[] [Merrill Lynch] US High Yield Master II Index tracking the performance of US dollar denominated below investment grade rated corporate debt publically issued in the US domestic market. This subset includes all securities with a given investment grade rating B." ICE BofAML US High Yield B Effective Yield, retrieved from FRED, Fed. Reserve Bank of St. Louis;

The experts' respective estimates of Norcraft's pre-tax cost of debt are both reasonable. As of the Merger date, Norcraft's long-term debt was rated "B2" by Moody's Global Credit Research and "B+" by Standard & Poor's, and the yield to maturity on high-yield U.S. corporate bonds with 10+ year maturity on that date was approximately 6.34%.[326] Accordingly, I use the average of the experts' respective estimates of Norcraft's pre-tax cost of debt (6.40%) for my DCF analysis.[327]

As to the estimation of Norcraft's cost of equity, the experts' principal point of disagreement concerns Norcraft's beta coefficient. "Beta is a measure of the

---

https://fred.stlouisfed.org/series/BAMLH0A2HYBEY (last visited July 24, 2018). By way of reference, Citi used a pre-tax cost of debt of 5.3% in its calculation of Norcraft's WACC and RBC used 4.5%. *See* JX 18 (Clarke Report) at 41 n.91.

[326] JX 267 (Norcraft FY2014 10-K) at 21; ICE BofAML US High Yield B Effective Yield, retrieved from FRED, Fed. Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/BAMLH0A2HYBEY (last visited July 24, 2018); S&P U.S. High Yield Corporate Bond 10+ Year Index, *available online at* https://us.spindices.com/indices/fixed-income/sp-us-high-yield-corporate-bond-10-year-index (last visted on July 24, 2018). The experts do not challenge each other's estimates of Norcraft's pre-tax cost of debt. *See* JX 21 (Clarke Rebuttal Report) at 31 ("Austin Smith's conclusion [regarding Norcraft's pre-tax cost of debt] is in the range of reasonableness given Norcraft's improving performance and generally positive industry outlook as well being consistent with the financial advisors' cost of debt estimate.").

[327] This average figure tracks the ICE BofA Merrill Lynch US High Yield B Effective Yield as of the Merger date (6.39%) and the S&P U.S. High Yield Corporate Bond 10+ Year Yield to Maturity as of that date (6.34%). ICE BofAML US High Yield B Effective Yield, retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/BAMLH0A2HYBEY (last visited July 24, 2018); S&P Dow Jones Indices LLC, S&P U.S. High Yield Corporate Bond 10+ Year Index, *available online at* https://us.spindices.com/indices/fixed-income/sp-us-high-yield-corporate-bond-10-year-index (last visited on July 24, 2018).

systematic risk of a stock; the tendency of a stock's price to correlate with changes in the market. . . . [B]etas for equity capital are used as a modifier to the equity risk premium [] in the context of [calculating a company's cost of equity]."[328]

A company's beta is measured by tracking relative change in the trading price of its stock over a discrete time period (the "lookback period"), with a set frequency (*e.g.*, daily, weekly, monthly).[329] When there is insufficient data on the trading history of a company's stock, the company's "beta must be an estimate based on the [observed] betas of comparable, publicly traded companies" (*i.e.*, a "proxy beta").[330] Observed betas are *levered* betas; they reflect a company's operating risk *and* its financial risk.[331] Thus, when calculating a proxy beta, one must "unlever" each GPC's observed (levered) beta to remove the debt-related risk(s) of that particular GPC.[332] Once the GPC betas are unlevered, and the mean or median of those betas is calculated, the unlevered summary measure beta (*i.e.*, the unlevered proxy beta)

---

[328] Duff & Phelps, *supra*, at 5-1.

[329] *Id.* at 5-3.

[330] *Id.*; Pratt, *supra*, at 223. When calculating a company's beta, change in the trading price of the company's stock is measured relative to change in the returns of the overall market (or a proxy therefor) over the relevant observation period. JX 18 (Clarke Report) at 34.

[331] JX 18 (Clarke Report) at 34–35.

[332] *See* Duff & Phelps, *supra*, at 5-25 and 10-17.

must be relevered to add back financial risk.[333] The relevant financial risk, however, is the subject company's not the GPCs'.[334]

The experts generally agree that there is insufficient information regarding Norcraft's own beta to allow a reliable beta calculation based solely on that information—a function of Norcraft's limited trading history.[335] Accordingly, they agree that the use of a proxy beta is appropriate. They disagree, however, as to (1) which GPCs should be used to derive the proxy beta; (2) whether gross debt or net debt should be used to unlever the GPC betas and relever the resulting unlevered proxy beta; and (3) whether Norcraft's observed capital structure or a target capital structure should be used to relever the proxy beta.

I begin with the first point of disagreement—appropriate GPCs. Clarke used four GPCs for his proxy beta calculation—American Woodmark, Masonite, PGT and Ply Gem[336]—which he selected by applying a set of comparability-related

---

[333] *See* JX 18 (Clarke Report) at 34–35.

[334] *See* Duff & Phelps, *supra*, at 10-21; Pratt, *supra*, at 244.

[335] *See* JX 18 (Clarke Report) at 37–39; JX 23 (Austin Smith Rebuttal Report) at 18–20. While Clarke found Norcraft's observed beta "statistically relevant," he did not rely upon that beta beyond using it to define the lower end of a range of betas. He ultimately selected the higher end for his DCF. *See* JX 18 (Clarke Report) at 37–39.

[336] JX 18 (Clarke Report) at 51. Clarke notes in his report that RBC used all four of his chosen companies and Citi used three of the four in their respective analyses of Norcraft. *Id.*

screening criteria.[337] After selecting these four GPCs, Clarke then calculated each GPC's beta over a two-year lookback period (measured weekly) and a one-year lookback period (measured daily)—both periods relative to the Merger date—and unlevered each observed GPC beta using the gross debt of the corresponding GPC.[338] This led Clarke to derive an (unlevered) proxy beta for Norcraft of 0.80 based on the mean and median of the unlevered GPC betas.[339]

Austin Smith, by contrast, identified sixteen GPCs for her proxy beta calculation; the four companies selected by Clarke and twelve additional companies,

---

[337] *Id.* at 48–49. Clarke's screening criteria were: (1) public company; (2) industry classification of "Building Products"; (3) 2014 Calendar Year Revenue between $40 million and $4 billion; (4) primary geographic location in the U.S. or Canada; and (5) no recent major divestures or pending significant acquisitions. *Id.* Clarke's application of these criteria yielded a set of sixty-five companies, which Clarke then screened "for companies with a minimum expected EBITDA margin of 7.5% for fiscal year 2016 (approximately half of Norcraft's EBITDA margins) and a maximum expected EBITDA margin of 22.5% for fiscal year 2016 (approximately 50% above Norcraft's margins). In addition, [he] screened for companies that had forecasted 2016 revenue growth between 5% (approximately half of Norcraft's expected growth) and 15% (approximately 50% above Norcraft's expected growth). Based on those two criteria, the 65 companies were reduced to 28." *Id.* at 50. Clarke then determined that four of those companies—his four chosen GPCs—"had a primary business in manufacturing products for the [repair and remodeling] and/or new construction residential home construction [markets]." *Id.*

[338] *Id.* at 38 & sched. 5-C; JX 517 (native Excel version of Clarke's DCF model).

[339] JX 18 (Clarke Report) at 39 ("An unlevered beta of 0.80 is slightly above the median and average of the one-year daily betas of the [GPCs] (0.75 to 0.79) while slightly below the median and average two-year weekly betas of the [GPCs] (0.81 to 0.87)."). Clarke relevered his concluded unlevered beta for Norcraft based on Norcraft's actual (observed) capital structure as of the Merger date (75% equity, 25% debt, per Clarke). *Id.*, sched. 5-B. This resulted in a relevered beta for Norcraft of 0.97. *Id.*

including Fortune and Masco.[340] Having selected these sixteen GPCs, Austin Smith derived a proxy beta for Norcraft based on the median of the unlevered GPC betas, measured weekly over a two-year lookback period—relative to the Merger date—and unlevered using each GPC's net debt.[341] This resulted in an unlevered proxy beta for Norcraft of 1.02.[342]

Each expert disputes the suitability of the other's selected GPCs. According to Clarke, Austin Smith's selected GPCs "were either not comparable [to Norcraft] and/or were going through significant restructuring events that impacted their historical betas."[343] Austin Smith, for her part, maintains that Clarke's methodology for selecting GPCs is "fundamental[ly]" flawed, principally because: (i) it "results

---

[340] JX 20 (Austin Smith Report) at 26 & Ex. 4 (Beta Calculation). The other ten GPCs were: Armstrong World Industries, Inc., Beacon Roofing Supply, Inc., Builders FirstSource, Inc., Caesarstone Ltd., Continental Building Products, Inc., Mohawk Industries, Inc., Patrick Industries, Inc., Quanex Building Products Corporation, Trex Company, Inc. and Universal Forest Products, Inc. *Id.*, Ex. 4 (Beta Calculation). Austin Smith divided her sixteen GPCs into two groups: Group I (comprising American Woodmark, Masco and Fortune), "which consists of companies operating specifically (though not exclusively) in the cabinet market, and Group II [comprising the rest of the GPCs], which consists of companies operating in the general residential building products sector." *Id.* at 26.

[341] *Id.*, Exs. 4 (Beta Calculation) and 5 (WACC Calculation).

[342] *Id.*, Exs. 4 (Beta Calculation) and 5 (WACC Calculation). Austin Smith relevered her concluded unlevered beta for Norcraft based on a target capital structure comprising 86% equity and 14% debt. *Id.*, Ex. 5 (Calculation of WACC). This yielded a relevered beta for Norcraft of 1.12. *Id.*

[343] JX 21 (Clarke Rebuttal Report) at 28.

in the exclusion of two of the three publicly-traded cabinet manufacturers: Fortune . . . and Masco"; and (ii) it yields a relatively small set of companies, all but one of which manufacture products other than cabinets—meaning they are less comparable to Norcraft than Fortune and Masco.[344]

Both experts present valid arguments. After considering the evidentiary record, I have determined to derive a proxy beta for Norcraft based on the weekly observed betas of Fortune, Masco, American Woodmark, Masonite, PGT and Ply Gem, measured over a two-year lookback period (relative to the Merger date). I acknowledge the size difference between Norcraft, on one hand, and Fortune and Masco, on the other, but there are few publicly-traded, "dealer channel" cabinet manufacturing businesses operating in the United States from which to draw.[345] To account for this dynamic, I have selected a set of GPCs that includes publicly-traded companies directly competing with Norcraft (Fortune, Masco and American Woodmark), and also public companies operating in the same general industry that are more comparable in size to Norcraft (Masonite, PGT and Ply Gem).[346] Since

---

[344] JX 23 (Austin Smith Rebuttal Report) at 17.

[345] *See* JX 112 (Gabelli Report) at CITI-00053582.

[346] *See* Pratt, *supra*, at 223 ("The more guideline companies used in the sample size, the better the accuracy."); *id.* ("The accuracy is also enhanced if the guideline public companies are reasonably close in size to the subject company. When the guideline public companies are larger than the subject company, the beta estimate for the subject company is likely biased low because of the propensity of betas of larger companies to be smaller than the betas of smaller companies."). My selection of GPCs is further supported by RBC

neither party has provided me with a principled way to assign different weights to the betas of individual GPCs, I have determined to derive the proxy beta by taking the median of the unlevered GPC betas.[347]

As to the question whether to use gross or net debt for unlevering and relevering purposes, I have determined that Clarke's approach (gross debt) is most appropriate. I consulted the finance literature cited by both experts with regard to this issue and have come to the conclusion that using gross debt is the more generally accepted approach when applying the *Hamada* unlevering and relevering formulas

---

and Citi's choices of GPCs. RBC included all six of the selected companies, JX 216 (Mar. 29, 2015 e-mail from RBC to Biggart, attaching RBC presentation) at FB0047799, and Citi included five out of the six (it did not include Masonite). JX 505 (Citi Discussion Materials for the Fairness Opinion Committee) at CITI-00075076.

[347] *See* Pratt, *supra*, at 204 (explaining that to derive a proxy beta, one will take the median or an average of the unlevered betas). This approach also avoids additional risk for error that might flow from assigning different weights. *See* JX 530 (Bradford Cornell, *Corporate Valuation, Tools for Effective Appraisal and Decision Making* (1993)) at 68. As previously explained, Austin Smith derived a proxy beta for Norcraft based on the median of the unlevered betas of her selected GPCs. JX 20 (Austin Smith Report), Exs. 4 (Beta Calculation) and 5 (WACC Calculation). Clarke's proxy beta calculation, by contrast, took into account both the median and the mean of the unlevered betas of his selected GPCs. JX 18 (Clarke Report) at 39. My proxy beta calculation utilizes the median rather than the mean of the unlevered GPC betas. I took that approach to account for Masonite. Austin Smith and Clarke included Masonite in their respective analyses but both acknowledged that its business was less comparable to Norcraft than some of the other companies considered. Indeed, Masonite exhibited a significantly lower unlevered beta that risked distorting the Court's measurement of Norcraft's relative operating risk (if the Court were to use the mean for summary measure purposes).

(as both experts did),[348] which utilize "total debt" as an input.[349] I also find that considering net debt, while it might eliminate some of the drawbacks of the *Hamada* approach if done properly,[350] complicates the analysis and adds a significant risk of error to an already abstract process.

In her deposition, Austin Smith explained that using net debt requires "a judgment call" because "public companies don't report excess cash."[351] In essence, to derive net debt, one "look[s] at how the cash balances for th[e chosen] companies changed over time, and [then] look[s] at the relationship between cash and debt, and come[s] to an assessment."[352] If insufficient data about excess cash is

---

[348] JX 18 (Clarke Report), sched. 5-B (Cost of Equity Calculation per CAPM); JX 20 (Austin Smith Report), Exs. 4 (Calculation of Beta) and 5 (Calculation of WACC).

[349] Pratt, *supra*, at 243. The *Hamada* unlevering formula is as follows:

$$\beta_{unlevered} = \frac{\beta_{levered}}{\left(1 + \left((1 - \text{tax rate}) \times (\text{Total Debt/Equity})\right)\right)}$$

Id. at 247.

By corollary, the *Hamada* relevering formula is:

$$\beta_{levered} = \beta_{unlevered} \times \left[1 + (1 - \text{tax rate}) \times \frac{\text{Total Debt}}{\text{Total Equity}}\right]$$

Id.

[350] *See id.* at 262–63.

[351] JX 16 (Austin Smith Dep.) at 192:5–12.

[352] *Id.* at 192:13–16.

available, "total cash is assumed to equal excess cash."[353] Considering the many variables already at play in a DCF analysis (especially when deriving a proxy beta), I find that figures based on a "judgment call" are unreliable in the absence of a principled way to evaluate the soundness of the underlying "judgment." For all these reasons, I have utilized gross debt rather than net debt for unlevering and relevering purposes.

That takes me to the final beta-related dispute: the appropriate capital structure to relever the unlevered proxy beta. Austin Smith submits that a target capital structure based on the capital structure of comparable companies provides the most reliable input, while Clarke advocates the use of Norcraft's actual (observed) capital structure as of the Merger date. Austin Smith explains her choice by noting that Norcraft only went public in 2013 and its management had not indicated as of the Merger that it intended to maintain the Company's then-existing capital structure.[354] According to Austin Smith, it is likely that, over time, Norcraft's capital structure would come to resemble that of its peers.[355] Clarke counters that Norcraft's observed capital structure as of the Merger date was the "operative reality" of the Company at

---

[353] *Id.* at 192:18–21.

[354] *See* JX 23 (Austin Smith Rebuttal Report) at 22; TT 764:1–19 (Austin Smith).

[355] *See* TT 764:1–19; JX 23 (Austin Smith Rebuttal Report) at 22.

that time and, as such, is the appropriate capital structure to apply when relevering the unlevered proxy beta.[356]

Clarke has the better of this debate. While there are instances where using a target capital structure for relevering purposes would be appropriate,[357] especially where the target's capital structure is in flux, that is not the case here. It is true that, as of the Merger, Norcraft had operated for only eighteen months after its IPO. There is no evidence, however, that management intended to change Norcraft's capital structure, and any suggestion that it would do so is nothing more than sheer

[Remainder of Page Intentionally Left Blank]

---

[356] TT 506:11–17 (Clarke).

[357] *See* Duff & Phelps, *supra*, at 1-15, 1-16.

speculation.[358] Accordingly, I refer to Norcraft's observed capital structure as of the Merger (75% equity, 25% debt) to relever Norcraft's concluded unlevered beta.[359]

---

[358] TT 859:4–16 (Austin Smith) ("Q. And you testified earlier that you found no evidence in the record which would guide you in selecting what that target capital structure would be for Norcraft. Correct? A. That's right. Q. And so you had to use the data from comparable companies. Correct? A. Right. Q. And just to be explicit, there's no evidence in the record that Norcraft had any expectation of changing its capital structure after the transaction. Correct? A. That's correct."). Austin Smith herself recognizes that use of a target capital structure is only appropriate when "the company's existing capital structure is not equal to the company's target capital structure." JX 23 (Austin Smith Report) at 21–22. According to Austin Smith, Clarke's estimation of Norcraft's actual capital structure as of the Merger date is erroneous because it fails to account for Buller et al.'s ownership of Norcraft LLC units convertible into a 12.3% equity ownership interest in Norcraft (in the form of shares of Norcraft common stock). *Id.* at 21. Austin Smith's criticism in this regard is based on her (apparent) assumption that the conversion of the Norcraft LLC units into Norcraft common stock would not affect the per share trading price of that stock. *See id.* (calculating Norcraft's fully diluted market capitalization on the Merger date without adjusting for the potential dilutive effect of a Norcraft-LLC-unit-to-Norcraft-common-stock conversion on the per share trading value of Norcraft common stock). Upon reviewing the record, it is unclear how such a conversion would affect Norcraft's market capitalization—and, by extension, the equity component of Norcraft's capital structure. In addition, Austin Smith's calculation of Norcraft's fully diluted market capitalization on the Merger date does not account for the exercise of all outstanding options on Norcraft stock on that date. *See id.* ("The total equity in Norcraft['s] capital structure was $452 million . . . not the $396 [million] calculated by Mr. Clarke. The operating cash flows of Norcraft were supported not just by the equity of Norcraft Inc. but also by [Buller et al.'s] ownership interest [in Norcraft] LLC."); *but cf. id.* at 13 & n.25 ("[Norcraft's] implied fully diluted market capitalization was $532 million based on the transaction price of $25.50 [multiplied by] *20,869,976* fully diluted shares [outstanding].") (emphasis supplied). Moreover, as previously noted, Austin Smith's calculation of Norcraft's fully diluted shares outstanding as of the Merger date is inconsistent with the information set forth in Norcraft's Form 10-Q for Q1 FY2015 and the Funds Flow Memorandum prepared in connection with the Merger. The inclusion of all options on Norcraft stock outstanding as of the Merger date in the equity component of Norcraft's fully diluted capital structure (together with all Norcraft common stock and convertible Norcraft LLC units outstanding on that date) implies a capital structure of approximately 76% equity and 24% debt. I am satisfied, therefore, that Clarke's estimation of Norcraft's actual capital structure on the Merger date captures Norcraft's "operative reality" on that date. Accordingly, I have adopted that estimation.

b. The Court's DCF Valuation of Norcraft

Like Clarke and Austin Smith, I begin my DCF analysis with the Base Case projections, adjusted to deduct for income tax expense in each of the projected years (based on a 38% tax rate). This adjustment yields the following figures for Norcraft's net operating profit after taxes ("NOPAT")[360]:

FY2015-E (Stub)	FY2016-E	FY2017-E	FY2018-E	FY2019-E
$18.3 million	$31.8 million	$36.0 million	$41.9 million	$50.3 million

I next adjust the NOPAT figures to obtain unlevered free cash flow figures for each projected year by (1) adding back non-cash charges—depreciation, amortization and stock compensation expense; (2) deducting Norcraft's capital expenditures; and (3) deducting year-over-year change in Norcraft's net working capital ("NWC"). My adjustments with respect to each item track those made by both experts.[361]

---

[359] For these same reasons, I refer to that same capital structure to calculate Norcraft's WACC (for weighting purposes).

[360] The calculation of Norcraft's NOPAT (and unlevered free cash flow) for FY2015 is based on the Base Case projections for the May–December 2015 period. Hence the "Stub" notation. Austin Smith took this same approach in her DCF analysis. JX 20 (Austin Smith Report), Ex. 6 (DCF Analysis). I have adopted Austin Smith's approach in this regard, given that the operative valuation date here is May 12, 2015 (the Merger date).

[361] *See* JX 18 (Clarke Report), sched. 2-A (DCF Analyis); JX 20 (Austin Smith Report), Ex. 6 (DCF Analysis). In calculating the period-over-period change in Norcraft's NWC, both experts excluded Norcraft's current TRA liability in each of the projected years. JX 20 (Austin Smith Report), Ex. 6 (DCF Analysis) ("Working capital excludes tax-related items."); *see* JX 517 (native Excel version of Clarke's DCF model). The rationale for this

The foregoing adjustments yield the following figures for unlevered free cash flow in each of the projected years:

FY2015-E (Stub)	FY2016-E	FY2017-E	FY2018-E	FY2019-E
$20.8 million	$36.73 million	$40.06 million	$44.36 million	$49.84 million

To calculate the present value of these unlevered cash flows, like Clarke and Austin Smith, I have applied a discount rate based on Norcraft's estimated WACC. My WACC calculation also uses CAPM to estimate Norcraft's cost of equity—based on the parties' common risk-free rate of return (2.75%), equity risk premium (6.21%) and size premium (2.69%)—and uses a 6.40% pre-tax cost of debt, which yields a post-tax cost of debt for Norcraft of 3.97% (again based on a 38% tax rate).

---

exclusion appears to be that Norcraft's payment obligations under the TRAs are non-ordinary-course, non-operating liabilities. *See* JX 18 (Clarke Report) at 29, 46. It is, therefore, more accurate to describe the experts' respective NWC-related computations as calculating period-over-period change in Norcraft's net operating working capital ("NOWC"). The Court's calculation of period-over-period change in Norcraft's NWC—or rather, its NOWC—likewise excludes Norcraft's current TRA liability in each of the projected years. I also note that both experts departed from the Base Case projections' forecast of Norcraft's "current portion of long-term debt" in FYs 2018 and 2019. *See* JX 20 (Austin Smith Report), Ex. 6 (DCF Analysis); JX 517 (native Excel version of Clarke's DCF model); JX 509 (native Excel version of Base Case projections). Both experts projected a $1.5 million figure for each year, whereas the Base Case projects zero for both years. *Compare* JX 20 (Austin Smith Report), Ex. 6 (DCF Analysis) *and* JX 517 (native Excel version of Clarke's DCF model), *with* JX 509 (native Excel version of Base Case projections). The record is unclear as to why, exactly, the experts chose to depart from the Base Case in this particular respect. Nevertheless, because both experts made the same adjustment to the Base Case projections with regard to Norcraft's "current portion of long-term debt" in FYs 2018 and 2019, I have followed suit.

To derive a beta for my cost of equity calculation, I have unlevered the observed weekly betas of my selected GPCs over a two-year lookback period relative to the Merger date, using the *Hamada* unlevering formula and gross debt rather than net debt. That computation yielded the following unlevered betas:

Guideline Public Company	Levered Beta	Unlevered Beta
American Woodmark	1.09	1.02
Masco	1.26	0.99
Fortune	1.15	1.07
Masonite	0.55	0.47
PGT	0.88	0.78
Ply Gem	1.60	0.98

The median of the unlevered GPC betas, 0.98, constitutes Norcraft's concluded unlevered beta. I then relevered that beta using Norcraft's observed capital structure of 75% equity and 25% debt (per Clarke's estimation), resulting in a levered beta for Norcraft of 1.187. Incorporating this levered beta into my WACC calculation, along with the other inputs already mentioned—again using Norcraft's observed capital structure—I derived a WACC for Norcraft of 10.60%. Applying Norcraft's concluded WACC to discount its projected future cash flows to present value, I have calculated the present value of those cash flows to be $149.7 million.

To calculate Norcraft's terminal value, I have used the Perpetuity Growth method (as did both experts),[362] which posits that terminal value equals the quotient

[362] JX 18 (Clarke Report) at 43 ("I calculated [Norcraft's] terminal value using the Perpetuity Growth Method[.]"); JX 20 (Austin Smith Report) at 20 ("To calculate

of (1) the subject company's terminal year free cash flow (here, $51.41 million); and (2) the applicable capitalization rate (here, 7.10%)[363]—discounted to present value using the applicable discount rate (here, Norcraft's WACC of 10.60%).[364] This yields a terminal value of $477.2 million.

Summing together the present value of Norcraft's projected unlevered cash flows ($149.7 million) and its terminal value ($477.2 million) results in an operating value for Norcraft of $626.9 million. To calculate Norcraft's total equity value, I then made the following adjustments to Norcraft's concluded operating value:

[Norcraft's] terminal value I relied upon the Gordon Growth (or Perpetuity Growth) model.").

[363] In the Perpetuity Growth model, the capitalization rate is calculated as the positive difference between the applicable discount rate and the subject company's PGR. JX 18 (Clarke Report) at 43. I have used Norcraft's WACC (10.60%) as the applicable discount rate and a 3.5% PGR for Norcraft, which together imply a capitalization rate of 7.10%.

[364] *Id.* Mindful of Clarke's justified criticism of Austin Smith's calculation of Norcraft's terminal year free cash flow, my calculation of that value adjusts for the fact that Norcraft's projected depreciation and amortization expense in the final year of the Base Case projections (FY2019) exceeds Norcraft's projected capital expenditures in that year by approximately $100,000. The adjustment entails implying a 3:4 relationship between Norcraft's depreciation/amortization expense and capital expenditures in perpetuity and thereby avoids "underinvesting in net PP&E." JX 21 (Clarke Rebuttal Report) at 25; *see* Hitchner, *supra*, at 138 ("[I]n a growing business, long-term annual estimated capital expenditures exceed annual depreciation, primarily due to inflation."); *see also* Gilbert E. Matthews & Arthur H. Rosenbloom, *Delaware's Unwarranted Assumption that Capex Should Equal Depreciation in a DCF Model*, (May 15, 2018), https://corpgov.law.harvard.edu/2018/05/15/delawares-unwarranted-assumption-in-dcf-pricing/ ("The assumption that depreciation equals capital expenditures is only appropriate if it is also assumed that there is no growth and no inflation. However, . . . the normalized capital expenditures of a [perpetually] growing company must materially exceed depreciation over time.").

- adding Norcraft's excess cash as of the Merger date, calculated as $62.6 million[365];
- adding the value of the TRA-related tax benefits realized by Norcraft in each of the projected years, calculated as $4.3 million[366]; *and*
- deducting Norcraft's long-term debt as of the Merger date, calculated as $147.5 million.[367]

---

[365] Both experts added Norcraft's estimated excess cash to its operating value in order to calculate the Company's total equity value. JX 18 (Clarke Report), sched. 2-A (DCF Analysis); JX 20 (Austin Smith Report), Ex. 6 (DCF Analysis). The experts differed, however, in how they calculated Norcraft's excess cash and thus reached different estimates of that figure. As noted, Austin Smith calculated Norcraft's excess cash on the Merger date based on the "Cash from Norcraft" figure in the "Funds Flow Memorandum" for the Merger ($54,396,335.01), JX 249 at 2, *less* a $20 million cash balance (cash for operations, per the Base Case projections), *plus* the product of (1) Norcraft's total options outstanding as of the Merger date (1,142,383) and (2) the weighted average exercise price of those options ($16.01). JX 20 (Austin Smith Report), Ex. 6 (DCF Analysis). Clarke, by contrast, calculated Norcraft's excess cash on the Merger date as the sum of (1) the cash balance indicated in Norcraft's Q1 FY2015 Form 10-Q ($63,135,000), JX 248 at 4, and (2) the Merger-related fees indicated in that same filing ($1.2 million), *less* $20 million cash for operations (per the Base Case projections). JX 18 (Clarke Report) at 45. I have adopted Clarke's approach, but have added to his excess cash figure Norcraft's cash receipts from the exercise of all options outstanding on the Merger date (1,142,383) at the weighted average exercise price ($16.01). JX 248 (Norcraft's Q1 FY2015 Form 10-Q) at 14. I find that this holistic approach best approximates Norcraft's "operative reality" as of the Merger date.

[366] Clarke valued the TRA-related tax benefits realized by Norcraft in each of the projected years at $4.4 million, JX 18 (Clarke Report) at 46, while Austin Smith valued them at $4.2 million. JX 20 (Austin Smith Report), Ex. 7 (Tax Characteristics Analysis). Having considered each expert's (quite complicated) approach to valuing those tax benefits, I find that both approaches—and both resulting valuations—are reasonable (they differ by approximately $200,000). Accordingly, I have adopted the average of the experts' respective value estimates.

[367] Like Clarke and Austin Smith, I have drawn this figure directly from Norcraft's Q1 FY2015 Form 10-Q. JX 248 (Norcraft's Q1 FY2015 Form 10-Q) at 4; JX 18 (Clarke Report) at 47; JX 20 (Austin Smith Report), Ex. 6 (DCF Analysis).

These adjustments to Norcraft's operating value yield a total equity value for Norcraft of $546.3 million. Dividing Norcraft's total equity value by Norcraft's fully diluted shares outstanding as of the Merger date (20,880,123),[368] I conclude that Norcraft's equity value per share on that date was $26.16.

3. The Merger Price as a "Reality Check"

As explained above, I have determined that the Merger Price is not a reliable indicator of Norcraft's fair value as of the Merger date. That does not mean, however, that the Merger Price is *irrelevant* for purposes of the Court's fair value determination. To the contrary, it is appropriate to consider the Merger Price as a "reality check" on the Court's DCF valuation of Norcraft.[369] Insofar as I am obliged to articulate a principled, evidence-based explanation for the delta between the Merger Price and the Court's DCF valuation (here, $0.66 per share), I am satisfied that the process infirmities I have identified resulted in the Board leaving $0.66 per share on the bargaining table.[370] With that said, I am also satisfied that the delta

---

[368] JX 248 (Norcraft's Q1 FY2015 Form 10-Q) at 11.

[369] *See AOL*, 2018 WL 1037450, at *2 ("I take the parties' suggestion to ascribe full weight to a [DCF] analysis . . . [and thus] relegate transaction price to a role as a check on that DCF valuation: any such valuation significantly departing from even the problematic deal price here should cause me to closely revisit my assumptions.").

[370] I am mindful that "[t]he issue in an appraisal is not whether a negotiator has extracted the highest possible bid. Rather, the key inquiry is whether the dissenters got fair value and were not exploited." *Dell*, 177 A.3d at 33. Here, in light of the identified flaws in Norcraft's deal process (pre- and post-sign), I find it more likely than not that the Board

between the Merger Price and the DCF value is not so great as to cause me to question whether the DCF value is grounded in reality.[371]

III. CONCLUSION

For the foregoing reasons, I have found the fair value of Norcraft shares as of the Merger date (May 12, 2015) was $26.16 per share. The statutory rate of interest, compounded quarterly, shall accrue from the date of closing to the date of payment. The parties should confer and submit an implementing final judgment within ten (10) days.

"left a portion of [Norcraft's] fundamental value on the table." *Verition P'rs Master Fund*, 2018 WL 922139, at *44.

[371] *See AOL*, 2018 WL 1037450, at *2.