



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

CBS CORPORATION, GARY L.
COUNTRYMAN, CHARLES K. GIFFORD,
BRUCE S. GORDON, LINDA M. GRIEGO,
and MARTHA L. MINOW,

Plaintiffs,

v.

NATIONAL AMUSEMENTS, INC., SHARI
REDSTONE, SUMNER M. REDSTONE,
NAI ENTERTAINMENT HOLDINGS LLC,
and SUMNER M. REDSTONE NATIONAL
AMUSEMENTS TRUST,

Defendants.

C.A. No. 2018-____ - ____

VERIFIED COMPLAINT

1. Plaintiffs CBS Corporation, the media company, and the members of a Special Committee of independent directors bring this action to prevent CBS’s controlling stockholder National Amusements, Inc. (“NAI”), Shari Redstone, and Sumner Redstone from breaching their fiduciary duties and harming the Company and its public stockholders.

2. Ms. Redstone, through her recently-obtained domination and control of NAI, has taken actions over the past two years that have led the Special Committee to conclude that she presents a significant threat of irreparable and irreversible harm to the Company and its stockholders:

- After gaining control of Viacom, she pushed for a merger of CBS and Viacom, which also is controlled by NAI (refusing to allow all CBS stockholders to vote on a transaction) but promptly shut down discussions when CBS demanded certain governance protections at the combined company.
- Ms. Redstone has interfered with the Nominating and Governance Committee process. In 2017, Ms. Redstone filled Mr. Redstone's newly vacant board seat with the Redstones' personal lawyer who has since been instructing management and other directors on Ms. Redstone's/NAI's wishes — including the desire to replace certain directors.
- CBS's management team, led by Leslie Moonves (CEO and Chairman), is one of the most accomplished and successful in the media business. In a demanding and rapidly changing marketplace, the Moonves-led team articulated a strategic plan, executed on that plan and consistently delivered superior results. Nevertheless, Ms. Redstone has acted to undermine the management team, including, without board authority, talking to potential CEO replacements, deriding the Chief Operating Officer and threatening to change the Board. These escalating attacks

make it difficult for management to perform its duties and threatens continuity of management.

- Most recently, Ms. Redstone has once again proposed a CBS/Viacom merger which the Special Committee — formed with plenary authority to address the merger proposal — has concluded is not in the best interests of CBS and its stockholders.
- During the course of the Special Committee’s negotiations with respect to a possible merger, Ms. Redstone refused to agree to typical public company governance or submit any potential transaction to a vote of all of the unaffiliated public stockholders of CBS.
- It has been reported that Ms. Redstone is prepared to replace directors at CBS, including members of the Special Committee, in order to compel a merger regardless of the determination of the Special Committee and the other independent directors of CBS. As described below, she has done this before at Viacom.
- Ms. Redstone told the CEO of a potential acquirer of CBS that he should not make such an offer, thereby depriving CBS stockholders of a potentially value-enhancing opportunity that the Board or the Special Committee should have been free to evaluate.

3. This behavior and the uncertainty and negative public attention it has engendered have harmed CBS and its stockholders and will continue to do so. CBS's stock price has dropped from nearly \$70 per share to nearly \$50 per share since merger talks were reinstated — a loss of approximately \$7 billion in market cap suffered by the Class B stockholders. This loss of market value has occurred despite management consistently delivering excellent results.

4. By way of background, NAI (controlled by Ms. Redstone) controls the Company through dual-class shares. CBS has two classes of stock, both publicly traded on the New York Stock Exchange: Class A common stock, which has voting power, and Class B common stock, which does not. Ms. Redstone, through NAI, effectively controls approximately 79.6% of the voting power of CBS. But NAI owns only approximately 10.3% of the economic stake in the Company.

5. In 2005, CBS and Viacom were split into the standalone entities they are today. Thereafter, Mr. Redstone (who controlled NAI and CBS at that time) repeatedly made public statements promising that CBS would be run as an independent NYSE-listed public company, with independent management and an independent board. Mr. Redstone also made clear that he intended this commitment to continue even after he no longer had control. Ms. Redstone stood by these public statements and has not retracted them — publicly — since taking

the helm of NAI. Against this backdrop of promised independence, CBS flourished for a decade under the leadership of Mr. Moonves and his team.

6. But Ms. Redstone's recent actions show that she will break those promises. She has threatened to impose her and NAI's will on the Company at the expense of all of the Company's stockholders. She has undermined management. It has been publicly reported that she will replace directors who will not do her bidding. She has sought to combine CBS and Viacom regardless of the strategic and economic merits of the transaction and to the exclusion of considering any other potential transaction. Those actions have damaged, and will continue to damage, CBS and its stockholders.

7. The five members of CBS's Special Committee, all independent directors of the Company, unanimously believe that the CBS Board has a fiduciary duty to act now to protect all stockholders and prevent Ms. Redstone from continuing to misuse her power as a controller, in breach of her fiduciary duties. To that end, at the Special Committee's request, and with the support of the other independent directors, CBS has scheduled a meeting of the full CBS Board for this Thursday, May 17, 2018 (the "Special Board Meeting") to consider potential responses to Ms. Redstone's conduct, including the issuance of a dividend of voting Class A shares to all stockholders — both Class A and Class B. The contemplated dividend would have the effect of reducing the Redstones' and

NAI's voting power — from 80% to approximately 17% — but would not dilute the economic ownership interests of any CBS stockholders, including NAI. This dividend is expressly permitted by the Company's charter.

8. CBS's Special Committee believes that it is only a matter of time before Ms. Redstone will attempt to replace the independent directors at CBS who do not agree with her positions, just as she and NAI did at Viacom two years ago, in order to block the CBS Board from considering appropriate corporate strategies for CBS that would be in the best interests of all CBS shareholders—not just NAI. Plaintiffs are filing this complaint and accompanying motion for a temporary restraining order to prevent Ms. Redstone and NAI from attempting to replace the Board or modify the Company's governance documents before any Board action taken at the Special Board Meeting becomes effective.

9. Plaintiffs are also proposing that, if the Board approves the dividend, CBS will not issue any Class A shares distributable in the stock dividend, or otherwise cause that dividend to become effective, pending further order of the Court. The temporary restraining order will ensure that the Board can adequately deliberate and, if it deems appropriate, take actions to protect the interests of all CBS stockholders. If the Board were to approve the dividend, the public stockholders of CBS would be able to elect the Board of their choice thereafter.

THE PARTIES

10. Plaintiff CBS Corporation is a media corporation headquartered in New York and organized under the laws of Delaware. It is one of the world's largest entertainment companies. The Company's common stock is divided into two classes, both of which are publicly traded on the New York Stock Exchange. CBS Class A common stock (traded as "CBS.A") has one vote per share on all issues. CBS Class B common stock (traded as "CBS") has no voting rights. CBS has 14 directors on its Board, the majority of whom are independent under NYSE rules.

11. The Special Committee is comprised of five independent directors: chairman Bruce S. Gordon, Gary L. Countryman, Charles K. Gifford, Linda M. Griego, and Martha L. Minow.

12. Bruce S. Gordon is an independent director of CBS and serves as Chair of the Special Committee. Mr. Gordon completed a 35-year career in the telecommunications industry in 2003 when he retired from Verizon, where he served as President of the Retail Markets Group since 2000. Before that, Mr. Gordon served as President of Enterprise Business of Bell Atlantic (Verizon's predecessor) since December 1998. Mr. Gordon is also a director of Northrop Grumman and was formerly a director of ADT Corp. Mr. Gordon became the first business executive to head the National Association for the Advancement of

Colored People, which he led from 2005 to 2007. He has been a director of CBS since 2006 and is a Class B stockholder.

13. Special Committee member Gary L. Countryman is an independent director of CBS. Mr. Countryman is a 40-year veteran of the insurance industry, and has been Chairman Emeritus of Liberty Mutual since 2000. He served as Chairman of Liberty Mutual from 1986 to 2000 and as its Chief Executive Officer from 1986 to 1998. He has been a director of CBS since 2007 and is a Class A and Class B stockholder.

14. Special Committee member Charles K. Gifford is an independent director of CBS. Mr. Gifford has been Chairman Emeritus of Bank of America since February 2005, and was a director of Bank of America for 12 years. He was Chairman and Chief Executive Officer of BankBoston before its 1999 merger with Fleet Financial and became President and Chief Operating Officer of the combined companies. Mr. Gifford became Chief Executive Officer of FleetBoston Financial in 2001 and Chairman in 2002. He has been a director of CBS since 2006 and is a Class B stockholder.

15. Special Committee member Linda M. Griego is an independent director of CBS. Ms. Griego has served, since 1986, as President and Chief Executive Officer of Griego Enterprises, Inc., a business management company. From 1990 to 2000, Ms. Griego held a number of government-related

appointments, including Deputy Mayor of Los Angeles, President and Chief Executive Officer of the Los Angeles Community Development Bank, and President and Chief Executive Officer of Rebuild LA. Over the past two decades, she has also served on a number of government commissions and boards of directors of nonprofit organizations, including current service on the boards of the David and Lucile Packard Foundation, the MLK Health and Wellness, CDC, and the board of Trustees of the Charles R. Drew University of Medicine and Science. Ms. Griego has served as a director of publicly traded and private corporations, and is presently serving as director of AECOM. She has been a director of CBS since 2007 and is a Class B stockholder.

16. Special Committee member Martha L. Minow is an independent director of CBS. Ms. Minow's 37-year career at Harvard Law School, including her tenure as Dean of Harvard Law School, reflects exceptional achievements in academia. She is the Carter Professor of General Jurisprudence at Harvard Law School and a Harvard University Distinguished Service Professor. A fellow of the American Academy of Arts & Sciences since 1992, Ms. Minow has also been a senior fellow of Harvard's Society of Fellows, a Fellow of the American Bar Foundation, and a Fellow of the American Philosophical Society. She has served extensively on government commissions and boards of directors of nonprofit organizations, and currently serves as Vice-Chair of the Legal Services

Corporation, a trustee of the MacArthur Foundation and an advisory council member of the MIT Media Lab, among others. Ms. Minow has been a director since 2017, when she was nominated at the request of Ms. Redstone, and is a Class A and Class B stockholder.

17. NAI is a Maryland corporation headquartered in Massachusetts and the controlling stockholder of CBS. NAI beneficially owns, directly and indirectly through its co-defendant and wholly-owned subsidiary NAI Entertainment Holdings LLC, approximately 79.6% of CBS's outstanding Class A Common Stock and approximately 10.3%, on a combined basis, of CBS's outstanding Class A Common Stock and Class B Common Stock. In 2016, the board of directors of NAI was reconstituted to include Ms. Redstone's daughter Kimberlee Ostheimer, and her friend Jill Krutick, along with herself and her son, Tyler Korff. Ms. Redstone effectively controls NAI.

18. Defendant NAI Entertainment Holdings LLC, a direct, wholly-owned subsidiary of NAI, is a Delaware corporation headquartered in Massachusetts.

19. Defendant Sumner M. Redstone is Chairman Emeritus of CBS and previously served as Executive Chairman of CBS until February 2016. He is also the CEO and Chairman of the Board of NAI. (Mr. Redstone has been named as a defendant to ensure appropriate relief).

20. Defendant Sumner M. Redstone National Amusements Trust (the “SMR Trust”) is the irrevocable trust of defendant Sumner M. Redstone. The SMR Trust owns 80% of the voting interest of NAI. The governance documents of the SMR Trust provide that, in the event of Mr. Redstone’s death or incapacity, voting control of the NAI voting interest held by the SMR Trust will pass to the board of trustees, which will include Ms. Redstone and her son, Mr. Korff. As discussed below, in 2016, Mr. Redstone’s estate plan was changed to reconstitute the board of trustees of the SMR Trust to include Ms. Redstone, her daughter (Ms. Ostheimer), Thaddeus Jankowski (the general counsel of NAI), and Ms. Krutick, thereby ensuring Ms. Redstone’s complete control of the SMR Trust.

21. Defendant Shari Redstone is the daughter of Sumner Redstone, Vice Chair of the CBS and Viacom boards, and President and a director of NAI. Ms. Redstone is also a trustee of the SMR Trust and effectively controls the SMR Trust, NAI and Viacom, though the legitimacy of Ms. Redstone’s control remains subject to challenge and ongoing litigation. Through the Shari E. Redstone Trust, Ms. Redstone owns the remaining 20% voting interest in NAI not controlled by the SMR Trust.

JURISDICTION

22. This Court has jurisdiction over this action pursuant to 10 *Del. C.* §§ 341 and 342, as this matter is a cause in equity for which there is no adequate remedy at law.

BACKGROUND

I. CBS's governance structure and leadership following the split from Viacom.

23. CBS began as a radio broadcaster almost 100 years ago. In 1970, CBS spun off its cable television business, Viacom. NAI, under the control of Sumner Redstone, acquired Viacom in 1987. In 2000, NAI acquired CBS and merged it into the old Viacom.

24. In November 2005, NAI announced the separation of CBS and Viacom, which was completed on December 31, 2005. The charters of both companies provided that the common stock would consist of Class A and Class B stock, which were to be identical except as otherwise specified, with the primary difference being that the Class A stock would be able to vote and the Class B would not. By virtue of its Class A stock ownership, NAI holds approximately 80% of the voting power of each company, but only approximately 10% of the economic interest.

25. CBS's charter vested in the Board the right to declare stock dividends — and, notably, gave the Board the right to declare a dividend of Class

A voting stock to all the stockholders, including the Class B stockholders. Article IV, Section 2(b) of the charter provides in relevant part:

The Board of Directors may, at its discretion, declare a dividend of any securities of the Corporation . . . to the holders of shares of Class A Common Stock and Class B Common Stock (i) on the basis of a ratable distribution of identical securities to holders of shares of Class A Common Stock and Class B Common Stock or (ii) on the basis of a distribution of one class or series of securities to holders of shares of Class A Common Stock and another class or series of securities to holders of Class B Common Stock,

The second subsection is subject to a proviso on how those different classes of securities may differ.

26. Therefore, the plain language of the Charter authorizes the Board to issue a stock dividend of either “identical” securities to both classes of stockholders, or different securities to the different classes. The charter thus clearly vests in the Board the power and authority to grant a stock dividend that would provide voting power to the non-voting shareholders provided only that identical voting shares so issued are issued ratably to the Class A and Class B stockholders. The Viacom charter is identical.

27. The Company reiterated this authorization to issue a dividend in the form of Class A stock in its registration statement in 2005: the Company informed its investors that, if the Board were to declare a stock dividend, “the board of directors will determine whether the holders of CBS class A common

stock and CBS class B common stock are to receive identical securities or to receive different classes or series of securities.” (CBS Corp., Form S-4/A, Nov. 23, 2005.) The Company described the Board’s power to approve stock dividends similarly in subsequent registration statements.¹

28. Following the 2005 split, CBS continued to be the home to the CBS broadcasting network and steward of government-regulated broadcast licenses that CBS is obligated to use in the public interest. Mr. Redstone became Chairman of CBS, Ms. Redstone became the Company’s Vice Chair, and Mr. Moonves became President and Chief Executive Officer. Mr. Moonves has held senior management positions at CBS since 1995, including President of CBS Entertainment and President, CEO and Chairman of CBS Broadcasting.

II. Sumner Redstone promises strong corporate governance practices to protect public stockholders at CBS and Viacom.

29. Sumner Redstone’s super-majority voting control was long recognized as a potential cloud and depressant on the market value of CBS stock, which Wall Street dubbed the “Redstone Discount.” As Michael Nathanson, an analyst at Sanford Bernstein, explained: “There is definitely a Redstone discount on [CBS and Viacom].” “Investors will say, ‘I don’t want to be involved with any of these because we don’t know what Sumner will do.’” (*New York Times*, Nov. 25, 2008.)

¹ See, e.g., CBS Corp., Form S-3ASR, Nov. 3, 2017; CBS Corp., Form S-3ASR, Nov. 3, 2011.

30. In an effort to mitigate this “Redstone discount,” from its beginnings as a stand-alone company, CBS (and Viacom) adopted and maintained, with Sumner and Shari Redstone’s public support, corporate governance policies and procedures that were designed to protect the public stockholders. On multiple occasions, from the Form S-4 filing in connection with its spinoff in 2005 up to its most recent proxy statement which Ms. Redstone reviewed and approved, CBS touted the independence of its Board and, with Sumner Redstone’s agreement, represented that CBS was — and would be — governed by an independent Board “despite being a ‘controlled company.’”

31. For instance, in the registration statement filed in connection with its 2005 spin-off, CBS represented that:

- “a majority of the CBS Corp. directors must be independent, as ‘independence’ is defined in the NYSE listing standard and in the CBS Corp. Guidelines”; and that
- “[i]n several areas, CBS Corp.’s practices will go beyond the requirements of the NYSE listing standards. For example, despite being a ‘controlled company,’ CBS Corp. will have a majority of independent directors on its board of directors and will have an independent compensation committee and an independent nominating and governance committee”

32. CBS made materially identical representations on many subsequent occasions, including in all 13 of the proxy statements it filed between 2006 and 2018.²

33. CBS's Corporate Governance Guidelines, which readers of CBS's SEC filings are encouraged to review, provide:

- “The Board has adopted these guidelines to reflect CBS's commitment to the highest standards of corporate governance”
- “The Board currently has 14 members. The Board will regularly evaluate its size in connection with the director nomination process and at such other times as it deems appropriate.”
- “*Independence.* A majority of CBS's directors will meet the criteria for independence established by the New York Stock Exchange (NYSE) corporate governance listing standards.”
- “The Nominating and Governance Committee [which is composed of independent directors] will recommend director candidates to the Board in accordance with the criteria, policies and principles set forth in its Charter and in these Guidelines. Qualified candidates for the Board recommended by stockholders shall be reviewed in accordance with the policies established by the Nominating and Governance Committee.”

34. The Nominating and Governance Committee Charter, which is referenced in the Corporate Governance Guidelines and is another document that CBS's stockholders are encouraged to read, states:

² See CBS Corp. Schedules 14A issued April 14, 2006; April 13, 2007; April 11, 2008; April 24, 2009; April 16, 2010; April 15, 2011; April 13, 2012; April 12, 2013; April 11, 2014; April 10, 2015; April 15, 2016, April 7, 2017, and April 6, 2018.

- “The Nominating and Governance Committee is established by the Board for the following purposes: (i) assisting the Board by identifying individuals qualified to become Board members and recommending to the Board director nominees to stand for election at the next annual meeting of stockholders, (ii) making recommendations to the Board as to the independence of each director, (iii) monitoring significant developments in the law and practice of corporate governance and of the duties and responsibilities of directors of public companies”
- “The committee shall identify and recommend to the Board candidates for election or re-election to the Board, or for appointment to fill any vacancy that is anticipated or has arisen on the Board, in accordance with the criteria, policies and principles set forth in the Company’s Corporate Governance Guidelines and this Charter.”
- “The committee shall review qualified candidates for the Board recommended by stockholders. The process for stockholders to submit their recommendations for candidates for the Board will be disclosed in the Company’s annual proxy statement.”

35. From the outset, CBS, its Board, and the investing public understood that Mr. Redstone, on behalf of NAI, was fully committed to the principle expressed in these corporate filings: that CBS should be and would be governed by an independent board of directors for the benefit of the Company and all its stockholders, not just the controlling stockholder. For example, in an October 4, 2006 appearance on television, Mr. Redstone said of CBS and Viacom: *“I have never operated these companies as controlled companies. I do not operate that way. I never will.”* And, on August 6, 2007, *BusinessWeek* published an excerpted interview with Mr. Redstone in which he stated: “Control is bad if you

use it for your own interests. And everyone in our industry knows I have never done that. . . . So I certainly don't put my interests ahead of the stockholders. I have never used control for my personal interests.”

36. As the chairman of the board of CBS's controlling stockholder, NAI, Mr. Redstone reiterated these sentiments on countless occasions. Each time, he extolled the CBS Board's independence and reiterated that CBS's controlling stockholder would not interfere with the business judgment of the Board in conducting the business and affairs of CBS.

37. As a director of both CBS and NAI, Ms. Redstone approved and never contradicted the foregoing statements. Moreover, in the past she has publicly stated her own support of the CBS Board and intention not to interfere with the Company's management. But Ms. Redstone failed to respect these promises at Viacom and is now threatening to do the same at CBS.

III. CBS performs strongly for more than a decade.

38. All the while, CBS has experienced tremendous success and has been a market leader. That success continues today: CBS has been the most-watched television network in primetime for 14 out of the past 15 seasons and for the last nine consecutive years. For the 2017-18 season, the CBS Television Network has three of the top five scripted series, and seven of the top 10 scripted series — far more than all of the other networks combined. In addition, CBS has

14 time-period-winning programs, also more than all the other networks combined. This includes the #1 new series and the #1 news magazine. Thirteen CBS series are averaging more than 10 million viewers, more than any other network.

39. At a time when many media companies are losing subscribers because of cord-cutting, CBS is winning subscribers through its strategy of distributing its premium content across all the platforms that viewers want, including traditional multichannel video programming distributors (“MVPDs”), virtual MVPDs (through “skinny bundles”), and its direct-to-consumer streaming services, CBS All Access and Showtime OTT. The Company has now grown its paid subscribers at CBS and Showtime for three quarters in a row, both sequentially and year over year. This is a rare, significant, and telling metric in today’s media environment.

40. The Company’s strategic success has translated into record financial results year after year, with 2017 marking the company’s eighth straight year of earnings per share (“EPS”) growth, and the company achieving significant returns for shareholders and positioning CBS for further long-term success. CBS had an “exceptional” 2016, and “achieved a record level of revenue” in 2017. (CBS Schedule 14A, Apr. 7, 2017; 2017 Proxy Statement.) Both years’ proxy filings attributed these banner results to the continued leadership of Mr. Moonves and the senior management team. This success continued in the most recent

earnings report, when CBS posted EPS growth of 26% in the first quarter of 2018, marking the Company's 33rd consecutive quarter of EPS growth. In connection with the release of those earnings, Mr. Moonves recently stated "there is so much more to come."

IV. Ms. Redstone Acquires Control of NAI and Viacom.

41. In February 2016, as Mr. Redstone's health continued to decline, he retired from his role as Chairman of both CBS and Viacom. Acting under circumstances that have been and continue to be the subject of litigation, Ms. Redstone then took control of the SMR Trust, NAI and Viacom.

42. Though Ms. Redstone temporarily acquiesced in the selection of Mr. Moonves as the new Chairman of CBS, she had soured on Viacom CEO Phillippe Dauman and was the sole director to vote against his election as the new Chairman of Viacom. Though he was elected Chairman by the vote of the remaining directors, he soon became Ms. Redstone's first target. Ms. Redstone's conduct at Viacom, including removing directors and a CEO, is directly relevant to the request for injunctive relief and is described more fully below at paragraphs 63 and 66.

V. In 2016, Ms. Redstone makes her first attempt to shore up Viacom through a merger of CBS and Viacom.

43. Immediately after ensconcing new directors on the Viacom board, NAI, under Ms. Redstone's control and with Mr. Redstone's actual or

effective acquiescence, sent letters to the boards of Viacom and CBS recommending that they consider a merger. The deal foundered because CBS insisted, as a precondition to further talks, that NAI agree to restrictions on NAI's ability to act unilaterally and to guarantee absolutely that the combined CBS/Viacom entity would be managed as a non-controlled public company with a majority-independent board for at least the next five years. Ms. Redstone—contrary to the long-expressed promises of her father—would not agree to that.

44. On the day the merger talks were called off, December 12, 2016, Viacom's stock price fell 9% from the previous business day's close, while CBS's shares were flat.

VI. Starting in late 2017, Ms. Redstone makes her second attempt to combine CBS and Viacom to the detriment of CBS shareholders.

45. To strengthen Viacom at the expense of CBS's shareholders, Ms. Redstone yet again set out to merge CBS and Viacom. Rumors that Ms. Redstone was planning this move started circulating in late 2017.

46. By early January 2018, in the face of analysts and investors viewing Viacom's prospects as a standalone business as grim, Ms. Redstone once again formally approached the boards of CBS and Viacom and pressed for a combination of the two companies. Viacom's stock price leapt as a result. Between the start of November 2017 (when speculation about Ms. Redstone's potential actions first began) and early May 2018, Viacom's stock price

has risen nearly 20%, while the S&P 500 has been virtually flat, rising a mere 3%. By contrast, the market understood that the deal would not be beneficial for CBS. In April 2018, CBS's stock price sank to a low of \$49.20 per share because of the Viacom-related speculation, 28% off its 52-week high and approximately a \$7 billion loss in market cap for the Class B public stockholders. The "Redstone Discount" was back.

47. Ms. Redstone has also made clear that she will not entertain any third-party offers for control of CBS, even if they offer a high premium to CBS's stock price.

48. But her actions went further than simply stating that she would not entertain other offers for CBS. In the past year, Ms. Redstone took it upon herself to tell the CEO of a potential acquirer that he should not even make an offer for CBS to the CBS Board. The refusal even to allow the Board to consider such an offer deprived CBS's stockholders of a value-enhancing opportunity that the Special Committee or the Board, not Ms. Redstone, should have been free to evaluate and potentially use as leverage in other negotiations, including the Special Committee's negotiations with Viacom.

49. In response to Ms. Redstone's demand that CBS again consider a merger of CBS and Viacom, the CBS and Viacom boards each formed special committees to evaluate and negotiate a potential combination, just as they had in

late 2016. The CBS Special Committee consists of five independent directors. As outlined above, all five of these directors were eminently suited for service on the Special Committee:

- Mr. Gordon, a CBS director since 2006 and a Class B stockholder, served as President of a division of Verizon and its predecessor entity between 1998 and 2003. He is also a director of Northrop Grumman and was formerly a director of ADT Corp.
- Mr. Countryman, a CBS director since 2007 and a Class A and Class B stockholder, has been Chairman Emeritus of Liberty Mutual since 2000. He served as Chairman of Liberty Mutual from 1986 to 2000 and as its Chief Executive Officer from 1986 to 1998.
- Mr. Gifford, a CBS director since 2006 and a Class B stockholder, has been Chairman Emeritus of Bank of America since February 2005, and was a director of Bank of America for twelve years. He has also served as Chairman and Chief Executive Officer of BankBoston and FleetBoston, and was a director of Eversource Energy.
- Ms. Griego, a director of CBS since 2007 and a Class B stockholder, has been CEO of Griego Enterprises, Inc., a business management company, since 1986. Ms. Griego has had a distinguished career in government, including serving as deputy mayor of Los Angeles, and is presently serving as director of AECOM.
- Ms. Minow has been a director of CBS since 2017, and is a Class A and Class B stockholder. Ms. Minow is the Carter Professor of General Jurisprudence at Harvard Law School, where she has also served as Dean. She has served extensively on government commissions and boards of directors of nonprofit organizations.

50. The Board granted its full authority to the Special Committee to, among other things, “take such actions as it may deem necessary or desirable to consider, negotiate and oversee the Potential Transaction, including with respect to making recommendations to the Board and stockholders of the Corporation in

favor of or against the Potential Transaction, [and] determine whether any such Special Committee Matters are in the best interest of the Corporation and its stockholders and to report its recommendation to the Board and/or the stockholders of the Corporation.” The Board further determined that it would not approve any transaction without a prior favorable recommendation of the Special Committee. The Special Committee members were to serve until a successor was duly appointed and qualified, or until their death or resignation. There was no contemplation that any of these directors would not continue to be directors throughout the full process of considering a potential transaction, including all matters arising from or relating to a potential transaction, as well as allowing the Board to consider the appropriate actions to take following a decision to end discussions of a combination.

51. At least publicly, NAI, controlled by Ms. Redstone, professed support for “the processes announced by CBS and Viacom to evaluate a combination of the two companies, which we believe has the potential to drive significant, long-term shareholder value.” But behind the scenes it was quite different. Ms. Redstone refused to submit any potential transaction to a vote of all of the CBS public stockholders, and insisted to be party to the special committees’ confidentiality agreement and receive all the materials the committees received. At

critical moments, she has injected herself into the process and made it difficult for the two independent committees to function free of her interference.

52. On February 1, 2018, the Company confirmed publicly that the Special Committee had been formed. Given the Company's long-time commitment to independent governance, stockholders reasonably expected that the Special Committee would operate free from the influence of NAI.

53. On February 20, 2018, at least one analyst upgraded its outlook on CBS, based on the "thinking that rational heads would prevail" and that any merger between Viacom and CBS would see a premium flowing to CBS, not the other way around. As the analyst later put it, "Viacom needs CBS, not vice versa." (*Huber Research*, Apr. 5, 2018.)

54. But the parties began negotiations very far apart with respect to an appropriate exchange ratio and the relative value of the companies. As the negotiations continued through March and April of this year, the parties also disagreed on other key terms such as management and governance of the combined companies. Indeed, the CBS Special Committee members had misgivings as to whether a merger was in the best interests of CBS shareholders other than NAI and would not agree to any combination absent the appropriate management structure and corporate governance protections of a combined entity.

55. The two sides were able to move closer on some terms, but the negotiations were repeatedly undermined by public leaks of confidential offer terms and the substance of the negotiations and Ms. Redstone's improper influence. And critical corporate governance issues designed to protect the independence of any merged entity could never be resolved because the Viacom special committee advised the CBS Special Committee that these points had to be resolved with Ms. Redstone. As news of the parties' differences continued to leak, the public (as well as the Special Committee) began to anticipate Ms. Redstone's feared next step — replacing the CBS Board and management to force through the merger. Indeed, the *Wall Street Journal* predicted that “[h]er next move may be to oust CBS board members loyal to Mr. Moonves” in order to force through a deal with her chosen successor, no matter the potential harm to CBS stockholders.

(*Wall Street Journal*, Apr. 5, 2018.)

56. On numerous occasions, press reports have been sourced to “persons close to Ms. Redstone” or “persons with knowledge of Ms. Redstone's thinking” or similar formulations, indicating that Ms. Redstone was the source of the leaks. These instances have, among other things, expressed Ms. Redstone's disregard for Joseph Ianniello (CBS's COO) and her criticism of the CBS Board of Directors as lacking independence and (in her view) being overly deferential to Mr. Moonves. Those reports also included Ms. Redstone's assertion and belief that Mr.

Moonves could be “fired” if he did not agree to a deal, and that if necessary she would replace Board members to make it happen. And it was reported that Ms. Redstone falsely suggested there was a general lack of long-range strategic planning at the company. These reports, which were widely re-covered by many media outlets after their initial appearances, demonstrably damaged CBS.

57. The market continued to react negatively to the prospect of a deal forced through by Ms. Redstone on her proposed terms. On January 28, 2018, shortly after word leaked that the talks had resumed, a Wells Fargo analyst issued a report titled “CBS-VIAB? No Thank You” and downgraded her view on CBS. On April 9, 2018, Macquarie issued a research report downgrading CBS’s share price target from \$63 to \$54 — 14% — because a deal would be “expensive, costly and risky.” Like the CBS Special Committee, Macquarie “fail[ed] to see deal accretion.” Macquarie concluded: “CBS shouldn’t want to bother with this.” But Macquarie also believed that Ms. Redstone would cram down the “forced” deal on CBS and regarded its consummation as “inevitable.” Other analyst reports and industry observers agreed that the potential merger would not be a deal CBS would pursue under normal circumstances.

58. The market is in no doubt *why* Ms. Redstone believes she can force the deal on CBS. Also on April 9, on the *Faber Report*, CNBC analyst David Faber warned that Ms. Redstone would replace CBS’s board if the CBS

Special Committee did not agree that Bob Bakish, her handpicked CEO of Viacom, should be given a senior role in the combined company and ultimately succeed Mr. Moonves. Mr. Faber pointed out that Ms. Redstone's actions left CBS's public stockholders, who owned 90% of the equity, helpless:

What I continue to hear, Jim, is the following. If Bob Bakish is not appointed COO and President under a deal that is hammered out—and they've got a lot of math to get through here—but if that doesn't happen, Leslie—*I mean, Shari Redstone's going to start replacing board members.* And by the way, Dick Parsons takes his role today—he was announced as a new board member—*that's a shot across the bow right there from Shari Redstone in terms of what she can do.* If you're a CBS shareholder, you may be saying, 'Really? I've got to overpay? I think my Special Committee has to overpay for this company? Do I have any role here? Do I have any say?' I guess the answer's no!

59. Faber concluded: “[The leadership of the combined company] is the crucial issue. . . . Either one of [CBS or Shari Redstone] backs off, *or, I believe, Shari Redstone will begin the process of replacing board members at CBS, who will agree with her view, and therefore, do the deal that she wants.*”

60. On April 10, 2018, Todd Juenger of Sanford Bernstein issued a report predicting that the transaction would be a disaster for CBS. In the Sanford Bernstein analyst's view, CBS should “absolutely not” be “pursuing a bid for [Viacom].” Sanford Bernstein cut its price target for CBS from \$66 per share,

which assumed that CBS would continue to be an independent entity, to \$56 per share, which assumed an 80% chance of a deal with Viacom.

61. On April 11, 2018, both CBS and NAI were forced to issue statements of support for Mr. Moonves amidst growing rumors that Ms. Redstone was prepared to oust Mr. Moonves and the CBS Board. CBS stated: “The industry and the marketplace know Leslie Moonves’ record and we think it speaks for itself.” NAI stated: “National Amusements has tremendous respect for Les Moonves and it has always been our intention that he run a combined company.” The issuance of such statements did not quiet the well-founded speculation that, despite NAI’s “intention,” Ms. Redstone was contemplating replacing members of the CBS Board and/or Mr. Moonves in order to secure her merger on her terms.

VII. The Special Committee determines to reject a CBS/Viacom merger and seeks to take action to protect Company’s stockholders.

62. In meetings and informal discussions during the week of May 7, 2018 and continuing over the weekend of May 11–13, 2018, the CBS Special Committee finally determined that a CBS/Viacom merger is not in the best interests of CBS stockholders (other than NAI). The Special Committee believes that once Ms. Redstone learns of this determination, she could assert her power, as she did at Viacom, to immediately replace members of the Board and use the new directors to force through the merger on terms favorable to herself and NAI but

harmful to CBS — a merger the Special Committee determined is not in the best interests of the Company—and make other changes to the CBS organizational documents that will adversely impact the ability of the CBS Board to exercise its fiduciary duties and protect CBS stockholders.

63. Specifically, in mid-2016, the Viacom board had begun considering a potential sale of all or part of its film subsidiary, Paramount, a proposal suggested by Viacom management. But on June 6, 2016, rather than allowing the directors to freely exercise their fiduciary duties to all shareholders and consider the matter, NAI delivered written consents to Viacom amending the company's bylaws to require, among other things, unanimous director approval of any transaction involving Paramount. This amendment effectively killed the idea without any consideration or discussion by the board as Ms. Redstone, one of Viacom's directors, had made clear her opposition. Ms. Redstone in effect used her disproportionate voting power — like at CBS, NAI's voting power at Viacom comes not through economic ownership, but through a dual-class stock structure — to grant herself a veto on board actions.

64. Ten days later, Ms. Redstone caused a second written consent to be delivered, this time removing four independent directors from the Viacom board, as well as Mr. Dauman. Ms. Redstone's unilateral action was, simply, a

corporate coup effected via the disproportionate voting power afforded her by Viacom's dual-class stock structure.

65. Litigation in this Court followed.³ Both NAI and the directors sued seeking an expedited determination pursuant to 8 *Del. C.* § 225(a) as to the proper composition of the Viacom board and the validity of the bylaw amendments. *See In re Viacom, Inc.*, C.A. No. 12472-CB (Del. Ch.). The directors, led by Fred Salerno, the lead independent director and a well-known and well-regarded business executive, alleged that Mr. Redstone had not validly caused NAI to issue the written consents to replace the board, but that the consents had been procured by the improper influence of Ms. Redstone and were invalid. In a hearing on July 29, 2016, this Court rejected a host of arguments from NAI and Ms. Redstone as to why the directors' suit should be dismissed, and allowed discovery to proceed. (Tr. of Oral Arg., *Viacom*, C.A. No. 12472-CB (July 29, 2016)). Within three weeks, NAI, Mr. Redstone, and Ms. Redstone entered into a confidential settlement, and thereby avoided having to prove the validity of the actions taken. The result of this settlement was that Ms. Redstone's nominees would remain on and effectively control the Viacom board. It was not determined whether or not Mr. Redstone actually had valid power to issue the consents.

³ Litigation had already begun in both California and Maryland regarding the proper trustees of the SMR Trust following the events of the second half of 2015.

66. Ms. Redstone's actions at Viacom broke the promises that NAI and Mr. Redstone had consistently made to Viacom's stockholders and demonstrated her willingness to use consents to remove independent directors.

67. Even if Ms. Redstone does not seek to cause such a merger, CBS's stockholders who relied on the repeated promises of independence will suffer significant and continuing harm, as replacing the independent directors would make even clearer that under Ms. Redstone's control the independence of the CBS Board will not be respected. The Special Committee believes that Ms. Redstone's actions have made plain that her continued conduct as a controlling stockholder is inimical to the best interests of all CBS stockholders.

68. Ms. Redstone's misconduct and interference has made it difficult for the CBS management team installed by the CBS Board to effectively manage the Company's affairs and implement the Board's and management's long-term interests of the Company and its shareholders. The Special Committee believes that Ms. Redstone has already destroyed tremendous stockholder value, and she threatens to do even more harm if she does not get "her way" – a threat she has made good on at Viacom.

69. No management team can perform in the shadow of the dangerous power Ms. Redstone wields. While Ms. Redstone has on occasion issued public statements saying that she supports current CBS management, her

conduct belies those words. Ms. Redstone has made disparaging comments to high-profile industry participants about senior CBS management integral to the Company's long-term success. Ms. Redstone has also talked with industry participants about replacing CBS's management, as if she and she alone — not the Board statutorily empowered to manage the Company's business affairs — can make such a decision without regard to the consequences to the Company and its other stockholders.

70. Thus, the Special Committee has recommended that the Board convene a special meeting to consider the issuance of a dividend of Class A voting stock to all Class A and Class B stockholders, as further discussed below, in order to protect the long-term interests of CBS's stockholders going forward, especially in light of the decision to deny Ms. Redstone the merger she so desperately seeks.

71. Therefore, at the request of the Special Committee, CBS has noticed the Special Board Meeting for May 17, 2018, three days from today. The Special Committee intends to recommend to the Board at the Special Board Meeting that the Board approve the dividend. At the Special Board Meeting, at which Ms. Redstone will be present, the Board will have the opportunity to fully consider whether the dividend is in the best interests of CBS stockholders. Ms. Redstone and her advisors will have a full opportunity at the Special Board Meeting to make their views known to her fellow directors and participate fully in

all deliberations regarding the issuance of the dividend. The Special Committee, which was vested with the full authority of the Board with respect to any “matters relating to, or arising from,” its “consider[ation], negotiat[ion] and overs[ight] [of] the Potential Transaction,” also authorized the filing of this lawsuit to prevent defendants from interfering — in breach of their fiduciary duties — with the orderly proceeding of the Special Board Meeting. The Special Committee has also discussed the potential stock dividend with the remaining independent directors of CBS, who have expressed their support for the Special Board Meeting and the issuance of the dividend subject to further discussion at the upcoming Special Board Meeting.

72. The timing of the Special Board Meeting is in accordance with CBS’s bylaws, which provide that the notice of the meeting must be sent at least 24 hours before the meeting takes place. Even though the bylaws do not require that the notice specify the purpose of a meeting, the notice for the Special Board Meeting states that the CBS Board will discuss the issuance of a dividend of Class A voting stock to all the Class A and Class B stockholders. Such a dividend is permitted by CBS’s charter. The effect of the dividend will be to dilute Ms. Redstone’s and NAI’s voting stake from approximately 80% to approximately 17%. The dividend will, however, have no effect on Ms. Redstone’s and NAI’s (or

any stockholder's) economic stake in CBS, and NAI will continue to hold the largest voting position in the Company (in excess of its economic stake).

73. Given her reported threats and her history at Viacom, there is a significant risk that Ms. Redstone will seek to preempt the Board from having the opportunity to consider whether to take these actions, by replacing the independent directors in the three days before Thursday's Special Board Meeting. Therefore, Plaintiffs are seeking a temporary restraining order to prevent Ms. Redstone, Mr. Redstone, or NAI from taking such inequitable action and preventing those parties from interfering with the effectiveness of the decisions to be made at the Special Board Meeting. If the Board were to approve the dividend, the public stockholders of CBS would be able to elect the Board of their choice thereafter. The members of the Special Committee are prepared, in an orderly manner following this Court upholding the issuance of the dividend, to step down or not stand for re-election to the CBS Board. Any vacancies on the CBS Board created thereby would be filled by the Nominating and Governance Committee (and, in the normal course, considered and voted upon by all CBS stockholders) with independent, highly-qualified directors in a manner that is customary for an independent, NYSE-listed public company.

74. If the Court grants this relief, and if the CBS Board approves the stock dividend of Class A shares to be considered at the Special Board

Meeting, CBS, and each of its directors, officers, agents, servants, employees and attorneys, and those persons in active concert or participation with it, would agree not to issue any Class A shares distributable in the stock dividend or otherwise cause such dividend to become effective, pending further order of the Court.

COUNT ONE

(Against NAI, Sumner Redstone, and Shari Redstone)

Breach of Fiduciary Duty

75. Plaintiffs repeat and incorporate by reference the allegations above.

76. NAI has at all times owed fiduciary duties to CBS and its public stockholders. By virtue of, among other things, NAI's super-majority interest in the voting shares of CBS, NAI owes fiduciary duties as a controlling stockholder. Mr. Redstone and Ms. Redstone owe fiduciary duties to CBS as NAI's controllers. Additionally, Ms. Redstone owes fiduciary duties to CBS and its public stockholders as a director of CBS.

77. NAI, Mr. Redstone, and Ms. Redstone cannot exploit NAI's controlling stockholder position in CBS to secure benefits unavailable to, and at the expense of, the other stockholders of CBS who own a majority of the Company's equity but only a minority of its voting shares. Rather, NAI, Mr. Redstone, and Ms. Redstone owe uncompromising duties of loyalty and good faith

that preclude them from profiting inequitably at the expense of the Company or its other public stockholders.

78. NAI, Mr. Redstone, and Ms. Redstone violate, and threaten to continue to violate, their fiduciary duties by abusing their control to threaten the independent corporate governance of CBS, which they previously publicly supported, at the expense of the Company and its public stockholders. NAI, Mr. Redstone, and Ms. Redstone's potential use of written consents to remove CBS directors and force through a combination with Viacom at any cost — or any other abuse of the control power that they possess — would likewise be an abuse of control that attempts to reap private benefits for the controlling stockholder and the Redstones at the expense of CBS and its public stockholders.

79. The threat of such action by NAI, Mr. Redstone, and Ms. Redstone is inequitable. Relief from such a threat is necessary to protect the corporation and its public stockholders from exploitation by a controlling stockholder who is in the process or threatening to violate her fiduciary duties to the Company.

80. NAI's, Mr. Redstone's, and Ms. Redstone's unlawful and inequitable actions threaten irreparable harm to the Company and its public stockholders. NAI, Mr. Redstone, and Ms. Redstone would suffer no injury from

being subject to an injunction while the Board considers the appropriate measures to address the threat posed by them.

81. Plaintiffs have no adequate remedy at law.

COUNT TWO

(Against NAI, Sumner Redstone, and Shari Redstone)

Estoppel

82. Plaintiffs repeat and incorporate by reference the allegations above.

83. Mr. Redstone, Ms. Redstone, and NAI were aware that CBS stockholders and the members of the CBS Board valued the controlling stockholder's public commitment to the independent governance of CBS, notwithstanding CBS's status as a controlled company, and attributed significant value to the strength of CBS's independent Board in all matters of corporate governance. CBS stockholders agreed to invest in CBS on the basis of NAI's commitment to continue to operate CBS as an independent company. Mr. Redstone, Ms. Redstone, and NAI are estopped from taking action that is inconsistent with their prior representations.

84. Plaintiffs have no adequate remedy at law.

COUNT THREE

(Against NAI Entertainment Holdings LLC and the SMR Trust)

Aiding and Abetting Breach of Fiduciary Duty

85. Plaintiffs repeat and incorporate by reference the allegations above.

86. As alleged above, NAI, Mr. Redstone, and Ms. Redstone have violated the fiduciary duties they owe, as controlling stockholders of CBS, to CBS and its public stockholders. NAI Entertainment Holdings and the SMR Trust have aided and abetted this conduct. NAI Entertainment Holdings and the SMR Trust were aware of the fiduciary obligations of the defendants to CBS and its public shareholders, or had constructive knowledge of such obligations. By knowingly participating in the actions or threatened actions of NAI, Mr. Redstone, and Ms. Redstone described above, NAI Entertainment Holdings and the SMR Trust have aided and abetted those defendants' breaches of fiduciary duty.

87. Plaintiffs have no adequate remedy at law.

PRAYER FOR RELIEF

88. Plaintiffs seek the following relief:
- A. An injunction against any action by NAI, and each its their directors, officers, agents, servants, employees, attorneys, and persons in active concert or participation with them, Sumner Redstone, and Shari Redstone, to (a) interfere with the composition of CBS's Board (other than electing the slate currently nominated for election at the May 18 annual meeting of stockholders) or to modify CBS's governance documents until any actions approved at the Special Board Meeting become effective; (b) take any other actions to interfere with any decisions taken by CBS's Board at the Special Board Meeting and (c) interfere with the issuance of any shares payable in a stock dividend;
 - B. A declaration that any action to (a) interfere with the composition of CBS's Board (other than electing the slate currently nominated for election at the May 18 annual meeting of stockholders) or to modify its governance documents until any actions approved at the Special Board Meeting become effective; (b) take any other actions to

interfere with any decisions taken by CBS's Board at the Special Board Meeting; and (c) interfere with the issuance of any shares payable in a stock dividend would constitute a breach of their fiduciary duties;

- C. Costs and attorneys' fees incurred in maintaining this action;
and
- D. Any other relief the Court deems proper.

ROSS ARONSTAM & MORITZ LLP

/s/ David E. Ross

Of Counsel:

Theodore N. Mirvis
Jonathan M. Moses
Carrie M. Reilly
Claire E. Addis
Cecilia A. Glass
WACHTELL, LIPTON, ROSEN
& KATZ
51 West 52nd Street
New York, New York 10019
(212) 403-1000

Attorneys for Plaintiff CBS Corp.

Greg A. Danilow
Joseph S. Allerhand
Stacy Nettleton
Seth Goodchild
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
(212) 310-8000

*Attorneys for Plaintiffs Gary L.
Countryman, Charles K. Gifford, Bruce
S. Gordon, Linda M. Griego, and
Martha L. Minow*

May 14, 2018

David E. Ross (Bar No. 5228)
Bradley R. Aronstam (Bar No. 5129)
Garrett B. Moritz (Bar No. 5646)
S. Michael Sirkin (Bar No. 5389)
Roger S. Stronach (Bar No. 6208)
100 S. West Street, Suite 400
Wilmington, Delaware 19801
(302) 576-1600

*Attorneys for Plaintiffs CBS Corp.,
Gary L. Countryman, Charles K.
Gifford, Bruce S. Gordon, Linda M.
Griego, and Martha L. Minow*