

§872. Judicial action

1. Nonconflicting-interest transaction not actionable. A transaction effected or proposed to be effected by a corporation, or by an entity controlled by a corporation, may not be the subject of equitable relief, or give rise to an award of damages or other sanctions against a director of the corporation, in a proceeding by a shareholder or by or in the right of the corporation on the ground that the director has an interest regarding the transaction if it is not a director's conflicting-interest transaction. [PL 2007, c. 289, §28 (AMD).]

2. Conflicting-interest transaction not actionable if standards met. A director's conflicting-interest transaction may not be the subject of equitable relief or give rise to an award of damages or other sanctions against a director of the corporation, in a proceeding by a shareholder or by or in the right of the corporation, on the ground that the director has an interest regarding the transaction, if:

A. Directors' action regarding the transaction was taken in compliance with section 873 at any time; [PL 2007, c. 289, §28 (AMD).]

B. Shareholders' action regarding the transaction was taken in compliance with section 874 at any time; or [PL 2007, c. 289, §28 (AMD).]

C. The transaction, judged according to the circumstances at the relevant time, is established to have been fair to the corporation. For purposes of this paragraph, a transaction is fair to a corporation if, taken as a whole, the transaction was beneficial to the corporation, taking into appropriate account whether the transaction was:

(1) Fair in terms of the director's dealings with the corporation; and

(2) Comparable to what might have been obtained in an arms-length transaction, given the consideration paid or received by the corporation. [PL 2007, c. 289, §28 (AMD).]

[PL 2007, c. 289, §28 (AMD).]

SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §B69 (AMD). PL 2007, c. 289, §28 (AMD).

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