A Union of Professionals

American Federation
of Teachers, AFL-CIO

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December 3, 2013

Mr. Wayne T. Smith
Chairman of the Board, President and Chief Executive Officer
Community Health Systems
4000 Meridian Boulevard
Franklin, TN 37067

Mr. Steven Shulman
Chair of the Board
Health Management Associates
5811 Pelican Bay Boulevard, Suite 500
Naples, FL 34108

Dear Messrs. Smith and Shulman:

I write as a representative of 2,000 employees in your workforce, and on behalf of American Federation of Teachers workers and retirees who are shareholders with more than $1 trillion in pension fund assets. We have deep concerns regarding Community Health Systems' (CHS) proposed acquisition of Health Management Associates (HMA).

This pending acquisition raises serious concerns for long-term shareholder value. These risks arise in connection with apparent conflicts of interest in the transaction itself, along with the ongoing U.S. Department of Justice investigation targeting CHS for Medicare fraud. Our concerns are furthered by CHS management's layoffs of registered nurses and other critical staff, and attempts to impose nurse rationing and gag orders on nurses at CHS hospitals. These actions jeopardize patient confidence and the reputation of your hospitals for responsive, high-quality care.

We believe this acquisition disadvantages shareholders, as well as patients and communities served by CHS and HMA hospitals. The consequences of the proposed acquisition are further complicated by serious conflicts of interest, potential self-dealing, and possible violations of applicable law arising from Glenview Capital's ownership stake in both companies.

The fact that a single hedge fund, Glenview Capital, owns the largest block of shares in both CHS and HMA, and therefore is the most influential player on both sides of the transaction, raises serious questions about the board's fiduciary responsibility. These apparent conflicts of interest call into question the true beneficiaries of the proposed transaction, and the extent to which shareholders, employees, and the patients and communities they serve will be made to pay the long-term price for excessive short-term risk-taking by corporate insiders and controlling shareholders.

Glenview Capital and Conflicted Transactions under Delaware Law

Glenview Capital's presence as an activist shareholder troubles us because of its unique and potentially deeply problematic position of being the largest shareholder of both HMA and CHS. This merger is already subject to shareholder litigation on the question of the substantive fairness of HMA's bid price.[1] Glenview's participation on both sides of the transaction also presents four additional questions regarding the fairness of this transaction:

(1) How did Glenview Capital participate in this transaction? Did it negotiate on two sides, reflecting its interests in both companies? How much information did it have regarding the merger before that merger was announced?

(2) Have Glenview and the boards of both companies structured the transaction such that Glenview's unique position can be abused at the expense of other shareholders and stakeholders?

(3) Did the fairness opinion provided by the investment banks reviewing the transaction address the potential conflict of interest of Glenview Capital as a controlling shareholder?

(4) Is it the view of both boards that the transaction will be evaluated by Delaware or other courts using the deferential "business judgment rule," or will the structure of the transaction expose it to the stricter scrutiny of the "entire fairness doctrine"? If the transaction will be evaluated under the entire fairness standard, what steps have the boards taken to ensure that the structure of the transaction will survive that review?

Entire Fairness or Business Judgment Rule?

Under Delaware law, most board decisions, including decisions to merge or to be acquired, are subject to the deferential "business judgment rule" standard of review in Delaware courts.[2] There is an exception for decisions that violate directors' "duty of loyalty," which is a duty largely to avoid fraud and self-dealing.[3]

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[1] See Aliaga v. Health Management Associates, Inc., complaint available at http://media.naplesnews.com/media/static/HMASecuritiesSuit-1.pdf

[2] See Sinclair Oil Corp v. Levien, 280 A.2d 717,720 (Del. 1971) ("A board of directors enjoys a presumption of sound business judgment, and its decision will not be disturbed if they can be attributed to any rational business purpose."); Cede & Co. v. Technicolor, Inc., 634 A.2d 345, 361 (Del. 1993) ("To rebut the [business judgment] rule, a shareholder plaintiff assumes the burden of providing evidence that directors, in reaching their challenged decision, breached [their duties of] loyalty or due care. If a shareholder plaintiff fails to meet this evidentiary burden, the business judgment rule attaches to protect corporate officers and directors and the decision they make, and our courts will not second-guess these business judgments." [internal citations omitted]). The business judgment rule reflects the "cardinal precept of the General Corporation Law of the State of Delaware ... that directors, rather than shareholders, manage the business and affairs of the corporation." Aronson v. Lewis, 473 A.2d 805, 811 (Del. 1984).

[3] Sterling v. Mayflower Hotel Corp., 93 A.2d 107, 110 (Del. 1952) (A majority shareholder standing "on both sides of the transaction, ... bear[s] the burden of establishing its entire fairness."); see also Weinberger v. UOP, Inc., 457 A.2d 701, 710 (Del. 1983); and Rosenblatt v. Getty Oil Co., 493 A.2d 929, 937 (1985).

In cases that touch on the board's duty of loyalty, the transaction can be, in specific circumstances, reviewed for "entire fairness," which focuses in part on the decision-making process at play during the transaction. Entire fairness review allocates the burden of persuasion to the defendant to show that the transaction was entirely fair, a departure from the usual burden in civil litigation that requires plaintiffs to make their case.

A recent en banc decision from the Delaware Supreme Court clarified the extent of the entire fairness doctrine. In *Americas Mining Corp. v. Theriault*, 51 A.3d 1213 (Del. 2012), the court upheld the Chancery Court's determination that an acquisition by the company Southern Peru of Southern Peru's controlling shareholder's own subsidiary implicated duty of loyalty concerns sufficient to trigger entire fairness review. And because the company didn't follow the necessary procedures to ensure an entirely fair review of the transaction, the defendants were liable for $2 billion in damages, including a $305 million fee for attorneys.

We request your answer as to whether the entire fairness standard applies to this transaction, and whether you view Glenview as a controlling shareholder.

Glenview's successful replacement of the HMA board reflects its influence, especially now, over company decisions—including, most recently, the decision to accept unanimously CHS's acquisition offer. For these reasons, I respectfully request your clarifications on how the board is treating Glenview's status as an interested party with significant conflicts in the merger.

In summary, the proposed sale and acquisition of HMA by Community Health Systems raises serious legal and regulatory questions regarding conflicts of interest, compliance with fiduciary responsibilities, and the impact on shareholders, affiliated hospitals and employees.

The questions raised here need to be answered in advance of any further action by the parties to ratify and consummate the agreements. We would welcome the chance to meet with the boards of both companies to further discuss our concerns about this transaction.

Respectfully yours,

Randi Weingarten
President

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cc: Larry Robbins, Glenview Capital
Mary Jo White, U.S. Securities and Exchange Commission
Edith Ramirez, Federate Trade Commission