UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. BANK NATIONAL ASSOCIATION, Litigation Trustee of the Idearc Inc. et al. Litigation Trust,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 3:10-CV-1842-G
	§	
VERIZON COMMUNICATIONS INC., et al.,	§	
	§	
Defendants.	§	

PLAINTIFF'S BRIEF IN SUPPORT OF FINDINGS RELATING TO VALUE

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Plaintiff U.S. Bank National Association, Litigation Trustee of the Idearc Inc. et al. Litigation Trust ("Plaintiff" or the "Trust") files this Brief supporting its proposed findings relating to the value of Idearc, Inc. on November 17, 2006, as follows:

I. INTRODUCTION

The evidence adduced at trial established that Idearc's value as of November 17, 2006 was no more than $8.15 billion.[1] The correct measure of Idearc's value is assessed through the application of certain industry standard valuation methods – discounted cash flow (DCF) and market comparables. It would be wrong to rely on Idearc's stock price (or "market capitalization") to evaluate Idearc. While a company's stock price may well be an appropriate measure of value in many cases, it is wholly inappropriate when, as here, the stock price was inflated and untrustworthy. In these circumstances, Idearc's stock price must be disregarded. The proper combination of the discounted cash flow analysis and an analysis of "comparables" establishes that on November 17, 2006, Idearc's value was not more than $8.15 billion.

II. ARGUMENT AND AUTHORITIES

The trial evidence established that Idearc's value on November 17, 2006 could not have exceeded $8.15 billion.

A. A Combination of Discounted Cash Value and Comparables is the Proper Method to Evaluate Idearc.

Courts generally accept a combination of methodologies to determine the value of a business: (a) a discounted cash flow ("DCF") analysis;[2] (b) a market approach using comparable

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[1] Because Phase 1 of this trial focused on value only, this is the gross figure of Idearc's assets that does not attempt to account for Idearc's massive liabilities at the time of the Spin-off. In addition to the bank debt of approximately $9.15 billion, and the OPEB liability of approximately $400 million, which are undisputed, evidence before the Court proves that the tax consequences of a sale of Idearc on November 17, 2012 would have been $2.5025 billion. See Pls.' Proposed Findings of Fact & Conclusions of Law Nos. 244-247, Nov. 16, 2012. Idearc's value was therefore further reduced by $2.5025 billion, and its liabilities exceeded its assets by well over $11 billion. For purposes of this briefing and the proposed Findings of Fact and Conclusions of Law, Plaintiff is not addressing the liability of Idearc consistent with the Court's direction for Phase I.

[2] *See In re Nellson Nutraceutical,* 356 B.R. 364, 370 (Bankr. D. Del 2006) ("A DCF analysis derives the value of a company by calculating the company's future cash flows multiplied by a discount factor to determine a present value of those future cash flows.")

public companies as a guideline;[3] (c) a market approach using transactions (e.g., mergers or acquisitions) involving comparable businesses; and (d) market capitalization using the stock price of the subject company at a selected time. *See, e.g., VFB LLC v. Campbell Soup Co.*, 484 F.3d 624 (3d Cir. 2007); *ASARCO LLC v. Americas Mining Corp.*, 396 B.R. 278, 357 (S.D. Tex. 2008; *In re Iridium Operating LLC*, 373 B.R. 283, 344 (Bankr. S.D.N.Y. 2007); *In re Nellson Nutraceutical, Inc.,* 356 B.R. 364, 370 (Bankr. D. Del. 2006). Case specific facts and circumstances dictate the appropriate weight to be accorded each valuation method. *In re Zedda*, 103 F.3d 1195, 1206 (5th Cir. 1997); *Shubert v. Lucent Technologies, Inc. (In re Winstar Communic., Inc.)*, 348 B.R. 234, 274 (Bankr. D. Del. 2005) ("Each approach may yield a different result and which approach offers the best or better framework is a determination made in light of the facts of a case"), *aff'd*, 2007 WL 1232185 (D. Del. Apr. 26, 2007).

The DCF method is the most reliable methodology and courts give it the most weight. *Frymire–Brinati v. KPMG Peat Marwick*, 2 F.3d 183, 186 (7th Cir. 1993) (characterizing DCF as "the methodology that experts in valuation find essential"); *ASARCO*, 396 B.R. at 357 ("the DCF method is the most reliable means of valuing the [company's] … stock"); *In re Med Diversified, Inc.*, 334 B.R. 89, 98 (Bankr. E.D.N.Y. 2005) ("the most reliable method for determining the value of a business is the [DCF] Method.'") (quoting *Lippe v. Bairnco Corp.*, 288 B.R. 678 (S.D.N.Y. 2003)); *see also Steiner Corp. v. Benninghoff*, 5 F. Supp. 2d 1117, 1129 (D. Nev. 1998) (DCF is "in theory the single best technique to estimate the value of an economic asset") (quoting *Cede & Co. v. Tech., Inc.*, Civ. A. No. 7129, 1990 WL 161084, at *7 (Del. Ch. 1990), *aff'd in part, rev'd in part on other grounds*, 634 A.2d 345 (Del. 1993)).[4]

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[3] *See ASARCO LLC v. Americas Mining Corp.,* 396 B.R. 278, 352 n.68 (S.D. Tex. 2008) (this method "uses certain market information, such as revenue and EBITDA … from companies that are considered comparable to the company being valued. The value of each comparable company is then measured as a multiple of the various pieces of market data.")

[4] Defendants suggest that the DCF method is given substantial weight only for privately held companies. *See* Defendants' Joint Reply in Support of Motion to Strike Report and Testimony of Carlyn Taylor [Docket No. 533], at 7 n.3. However, Defendants ignore *ASARCO,* which involved the valuation of stock in a public company. Despite

Some courts have considered market capitalization (i.e., the stock price) to determine value. *See, e.g., VFB LLC,* 484 F.3d at 632, *Statutory Comm. of Unsecured Creditors v. Motorola, Inc. (In re Iridium Operating LLC),* 373 B.R. 283, 346 (Bankr. S.D.N.Y. 2007). However, these courts agree that **market price should be disregarded or discounted when the market lacks full information or has been manipulated, or when the market price was somehow distorted and did not fairly reflect the company's underlying enterprise value.** *VFB LLC,* 484 F.3d at 632, 633 ("All agree that if the market capitalization was inflated by Campbell's manipulations it was not good evidence of value" "*Absent some reason to distrust it*, the market price is 'a more reliable measure of the stock's value than the subjective estimates of one or two expert witnesses.'") (citations omitted) (emphasis added); *Iridium,* 373 B.R. at 303 ("The Court is not bound to accept the value that has been ascribed to Iridium's securities by the public markets and has the *broad discretion to find that the markets somehow were distorted and did not fairly reflect the underlying enterprise value of Iridium*" if there is "a substantial reason to depart from that standard and find that the value implied by an efficient market is not a trustworthy benchmark.") (emphasis added).

Market capitalization is an unreliable valuation method when material information has been withheld from the market. In *Winstar,* for example, the defendant's expert testified that "'there was a large and active trading market for Winstar,[5]'" and that, based upon a market price analysis, Winstar was solvent on the transfer date. *Winstar,* 348 B.R. at 275-76. The court rejected this market capitalization methodology, however, because

> [t]he stock market value artificially overvalued the Debtor. For one thing market investors did not know that [defendant] was holding back on issuing its refinancing notice. [Defendant], but not the average investor, knew that Winstar's

ample evidence of the stock's market (NYSE) price, the court concluded that "in this case, the DCF method is the most reliable means of valuing the … stock." *ASARCO,* 396 F.3d at 357; *see also Questrom v. Fed. Dept. Stores, Inc.*, 84 F. Supp. 2d 483, 488 (S.D.N.Y. 2000) (involving valuation of a public company; "A number of methods are used in valuing *public* companies, *perhaps most notably DCF* (which one court has said 'is considered by experts to be the preeminent valuation methodology'))" (emphasis added), *aff'd*, 2 Fed. Appx. 81 (2d Cir. 2001).

[5] Winstar's stock was publicly traded. *Winstar,* 348 B.R. at 251.

> true financial picture was much bleaker than the Debtors' publicized financials would indicate.

Id. at 276. Because the market lacked complete and accurate information about Winstar's financial condition, the court gave ***zero*** weight to Winstar's stock price as a measure of value.

In *In re Chemtura Corp.,* 439 B.R. 561, 586 n.106 (Bankr. S.D.N.Y. 2010), the court held that:

> Many observers believe that behavior in the marketplace is the best indicator of enterprise value. … I don't believe that always to be the case, since as I saw in the *Global Crossing* and *Adelphia* cases on my watch, financial accounting techniques ... or fraud can give the marketplace a distorted impression of a company's worth.

See also ASARCO, 396 B.R. at 342-43 ("'[i]nformation and insight not communicated to the market may not be reflected in stock prices;'" thus, "[t]he weight a court should give the stock price in determining reasonably equivalent value necessarily depends on the reliability of that stock price as a reflection of the value of the company at the relevant time") (citation omitted).

When courts have adopted the market capitalization method, they have done so expressly because the market had full knowledge of facts supporting the subject company's value. In *Iridium,* for instance, the court relied on the market-price valuation of the company's publicly traded stock precisely because, as the court emphasized repeatedly, the market was well-informed about Iridium's business prospects and, in particular, the limitations inherent in the company's new satellite communications system. *Id.* at 294, 314, 328, 330-31 (equity investors, underwriters and senior lenders were well-informed about the limitations of the Iridium system), third parties were on notice of the system limitations, early investor had "eyes wide open." Similarly, the *VFB* court acknowledged certain manipulations in the sales and earnings information available to the public markets as of the spin-off, so it relied on the spun-off company's market capitalization several months later, "when the truth of [its] situation had

become clear." *VFB*, 482 F.3d at 682. Thus, in these cases, the market price was a reliable measure of value because the market was well-informed at the relevant time.

The Court should reject the market capitalization method due to Verizon's express misrepresentations and nondisclosure of material information affecting Idearc's value. Instead the Court should consider only DCF and market comparable methods of valuation.

B. Plaintiff established at trial that Idearc was worth no more than $8.15 billion on November 17, 2006.

Idearc's value on the Spin Date could not have exceeded **$8.15 billion**, materially less than the $9.515 billion in debt and long-term obligations that Idearc incurred as of that date. This valuation is supported by Verizon's internal valuations, Carlyn Taylor's expert testimony, and substantial evidence of Defendants' misrepresentations to the market.

1. Defendants themselves valued Idearc at $6.5 billion.

Prior to the Spin-off, Verizon and Diercksen themselves valued Idearc at around $6.5 billion based on historical trends.[6] It was only after Verizon decided to use the Spin-off to de-lever its own balance sheet and endeavored to raise billions of dollars in debt financing that Verizon began to tout Idearc's value as substantially higher.

In 2005, Diercksen conducted an in-depth study of Idearc's operations and analyzed Idearc's prior business forecasts, its current business plans and corporate strategy, and its performance against its own projections.[7] As part of this study, Verizon asked Diercksen to value Idearc as a stand-alone directories business. Diercksen's analysis—contained in a presentation called "Directories Analysis of Alternatives" [PX 27] and provided to Verizon CEO Ivan Seidenberg—revealed that over the previous five years, Idearc had consistently and materially underperformed its business plan and repeatedly reduced its projected performance:[8]

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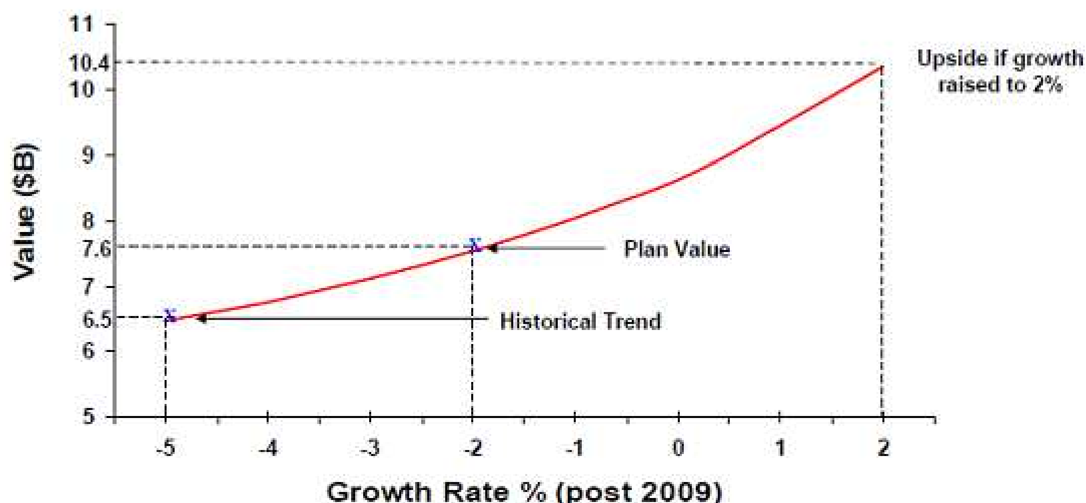
[6] Directories – Analysis of Alternatives at 26, 29 (PX 27). This evaluation did not include any value for the electronic side of Idearc's business, although electronic was a very small percentage of Idearc's overall business.
[7] *Id.*
[8] *Id.* at 18-23.

Looking ahead, Diercksen observed that even though Idearc's five-year financial forecasts had "consistently declined" since 2001, Idearc's current base business forecast assumed that Idearc's performance would improve (i.e., Idearc predicted it would reverse its historical trend).[9] But Diercksen concluded that Idearc's ability to reduce the revenue decline was "uncertain" at best and that Idearc faced a "[s]ignificant risk of . . . underperformance [of its] current plan."[10]

Diercksen found that Idearc's historical growth rate (negative 5%) indicated a value of $6.5 billion[11] for the print side of the business. *Id.* at 26. Idearc's current plan (negative 2% growth rate), for which Diercksen believed there was "significant risk of…underperformance," suggested a corresponding value of $7.6 billion. *Id.* at 28. Diercksen's findings are illustrated in the following slide, taken directly from Verizon's analysis:

Valuation of Print Yellow Pages



Given Idearc's proven inability to meet its own forecasts (which it repeatedly adjusted downward from year to year) and Diercksen's conclusion that Idearc faced a "significant risk of

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[9] *Id.* at 21-22 (plan "assume[d] reduced decline in core print [yellow pages] revenue and EBITDA compared with [Idearc's] historical record.").
[10] *Id*. at 44.
[11] Defendants placed a $0 value on the electronic side of the business based on his historical performance. PX 27, at 28.

underperformance" of its current plan, Diercksen's findings demonstrate Verizon's belief that the true value of its directories business was between *$6.5 and $8.8 billion*.[12]

a. Carlyn Taylor's testimony.

Carlyn Taylor, the industry's leading expert in the valuation of directories businesses, performed a thorough critical analysis of Idearc's value, using three of the most reliable and commonly accepted valuation methods. She properly weighted the values derived from those methods according to the facts and circumstances of this case. Trial Transcript Volume 4A (hereafter, "Vol. __") 115:1-116:14. **Taylor concluded that Idearc's value on the Spin date was no more than $8.15 billion.** Vol. 4A, 113:25-114:6, 116:15-18.

Taylor employed industry standard methods and analyses to reach this conclusion. Taylor derived Idearc's value by:

- applying the DCF methodology and two market-based methodologies ("market multiples" and "comparable transactions"), which have been the standard methodologies used by valuation experts for 50 years; and
- weighting them appropriately at 70/30, respectively, to arrive at an "Enterprise Value from Operations" of $8.15 billion, i.e, the mid-point in a range from $7.5 - $8.8 billion.

Vol. 4A 18:20-20:4, 20:18-25. Taylor's methods, analyses and conclusions are correct and appropriate, and should be adopted by the Court in determining that Idearc's value on the Spin Date was $8.15 billion, far less than the $9.515 billion of Idearc's actual, non-contingent debt on the Spin Date, rendering the company insolvent.

(i) DCF Valuation.

As Taylor explained, the DCF analysis involves two steps: (1) project Idearc's debt-free cash flows for a five-year period from 2006-2010 (the "Projection Period") and then add a "terminal value" at the end of the projection period to incorporate value beyond that period, and

[12] *Id.* at 32. The $8.8 billion figure included a $1.2 billion value that Defendants placed on the electronics business.

(2) discount the projected cash flows and terminal value back to the Spin Date (to account for the time value of money). Vol. 4A, 21:8-22:9, 73:3-74:8.

As a key predicate for preparing her DCF valuation, Taylor studied both Idearc (e.g., its revenues, margins, and cash flow) and its competitors in order to understand Idearc's operating performance relative to other companies in the industry. Vol. 4A 30:23-31:17, 32:7-17. In particular, such information is useful to determine the reasonableness of projections used for the DCF analysis. Vol. 4A 36:22-24.

As the starting point for her cash flow projections, Taylor considered Verizon's own "base case" projections (the "Base Case"), which Verizon disclosed to the market (e.g., the debt underwriters) in connection with the spin. Vol. 4A 48:7-18, 51:8-13, 54:15-25, 57:17-24. Taylor and her staff performed a detailed and thorough analysis of the voluminous financial data that VIS prepared in connection with its Base Case projections. Vol. 4A 54:15-55:24. Based on her investigation and analysis, Taylor concluded that the projections in Verizon's Base Case model were very aggressive and were not reasonable under the circumstances. Vol. 4A 71:4-8. Taylor therefore made adjustments to the Base Case to correct four specific errors (incumbent revenue not in line with historical performance; overstatement of independent print directories revenue; failure to account for expenses; and arbitrary bad debt expense). Vol. 4A 53:20-54:3, 54:15-55:6, 58:11-16; PX 1849, PX 1851. Based on those corrections, Taylor prepared projections of VIS's revenue and EBITDA for the Projection Period (the "FTI Case"). Vol. 4A 53:20-54:3, 54:15-55:6, 58:11-16; PX 1849, PX 1851.

Taylor also considered projections that Houlihan, Lokey, Howard & Zukin ("Houlihan" or "HLHZ") prepared before the spin (the "HLHZ Downside Case"),[13] and analyzed the detailed work underlying Houlihan's projections Vol. 4A 48:19-20, 51:20-52:1, 52:9-16; 57:25-58:5. Taylor also considered projections derived strictly from a mathematical extrapolation of the trend

[13] Verizon hired Houlihan to prepare an opinion regarding VIS's solvency. *See* PX 802.

of VIS's actual historical performance from 2003-2006 (the "Trend Case"). Vol. 4A 48:20-22; 53:3-9; PX 1849, PX 1851. According to the valuation literature, projections for a DCF analysis should not deviate from historical trends without a good explanation. Vol. 4A 53:10-19.

Taylor then incorporated a "terminal growth rate" to determine value after the Projection Period. Vol. 4A 77.3-10. Taylor derived her terminal growth rate using the Gordon Growth Model, which is the standard in the valuation literature. Vol. 4A 81:1-9.[14] Even Defendants' expert, Hopkins, admitted that the Gordon Growth Model is preferred in the academic literature. Vol. 8A 102:19-25. The terminal growth rate Taylor used was the same as the growth rate she used for the five-year Projection Period. Her terminal growth rate was reasonable and conservative because, given the secular decline in the print directories business, she could have used a lower terminal growth rate (reflecting a greater rate of decline after the Projection Period). Vol. 4A 77:11-78:5.

Finally, in discounting Idearc's projected future income to present value as of the Spin date, Taylor calculated a discount rate of 9.75% using the standard accepted Weighted Average Cost of Capital (WACC) methodology.[15] Vol. 4A, 74:9-13. That is effectively the same rate Verizon used in the valuation it performed in the summer of 2005.[16] Vol. 4A 74:14-17. Taylor's discount rate is supported by the literature on valuation standards, and is substantially lower than the discount rate she used in the valuation she performed at the request of Idearc's board of directors in 2010. Vol. 4A 74:18-25.

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[14] In its DCF analysis, Houlihan failed to use the Gordon Growth model and instead applied its own arbitrary judgment to determine a terminal growth rate of 0.9%, which is akin to making up the answer and is thus unreliable. Vol. 4A 79:15-25. Houlihan's terminal growth rate is unrealistic as an expected long-term growth rate for VIS, which experienced average annual EBITDA declines of 5.3% from 2003-2006.

[15] WACC is determined by calculating the company's costs of debt and equity, adding risk-related premiums (e.g., equity risk, size risk, and company-specific risk), and then weighting the resulting figures by the relative percentages of equity and debt in the company's overall capital structure. *See, e.g., In re CBN Int'l, Inc.,* 393 B.R. 306, 320 (Bankr. W.D.N.Y. 2008); *In re Mirant Corp.*, 334 B.R. 800, 817 (Bankr. N.D. Tex. 2005).

[16] When Verizon performed its valuation in the summer of 2005, it used a discount rate (WACC) that weighted out to 9.25%. PX 27, p. 25. At that time, interest rates were 50 basis points (i.e., one-half of one percent) lower than when Taylor performed her DCF calculation using a discount rate of 9.75%. Vol. 5A 48:3-10. After adjusting for this interest-rate differential, the discount rates used by Verizon and Taylor are equivalent.

Taylor calculated her WACC according to a standard formula that uses two components – the cost of equity and the cost of capital[17], and then weighted those two components based on Idearc's optimal capital structure. Vol. 4A 75:11-76:14. Taylor also added a specific company discount rate of 2% in her calculation of cost of equity, which added 1% to the overall discount rate after weighting the cost of equity with the cost of debt. Taylor's specific company discount is consistent with applicable valuation standards. Vol. 4A 76:15-77:2.

In order to determine a range for Idearc's value on the spin date under the DCF method, Taylor then applied the DCF calculations to three different models—the HLHZ Downside Case, the FTI Case, and the Trend Case. PX 1852. Taylor concluded that the value of Idearc on the spin date derived from applying the DCF valuation method to the foregoing three models ranged from a low of $5.3-5.4 billion to a high of $6.3 billion. Vol. 4A 83:22-84:4, 92:14-19; PX 1852, PX 1882. Her ultimate opinion was that Idearc's value on the spin date under the DCF approach was $5.85 billion, the mid-point of that range. Vol. 4A 92:20-93:3; PX 1852, PX 1882. The range of DCF values as determined by Taylor is consistent with Verizon's own analysis in July 2005, when it concluded that VIS had a value of $6.5 billion assuming VIS would decline at the annual rate of 5%. Vol. 4A 84:5-9; PX 27, p. 27.

(ii) Market-Based Valuations.

In addition to her DCF valuation, Taylor determined Idearc's value using two market-based methods, the "guideline public companies" approach and the "guideline transactions" approach. Vol. 4A 19:19-20:4, 93:4-10. In each instance, the analysis focused on whether data about other companies could be used as a proxy for the company being valued (here, Idearc). Vol. 4A 19:19-23, 20:18-25, 36:15-21, 94:12-17. Each method is useful *only* if companies or

[17] WACC is determined by calculating the company's costs of debt and equity, adding risk-related premiums (e.g., equity risk, size risk, and company-specific risk), and then weighting the resulting figures by the relative percentages of equity and debt in the company's overall capital structure. *See, e.g., In re CBN Int'l, Inc.,* 393 B.R. 306, 320 (Bankr. W.D.N.Y. 2008); *In re Mirant Corp.*, 334 B.R. 800, 817 (Bankr. N.D. Tex. 2005).

transactions in the respective sample sets are sufficiently similar to Idearc to provide a relevant comparison.

As a baseline for valuing Idearc under these market methods, Taylor used the same companies that Houlihan used in its analysis. Vol. 4A 93:11-16; PX 666, pp. 41. However, the primary problem with this set of companies is that only one (RH Donnelley) of the five "comparable" companies had all operations in the United States, as did Idearc.[18] Vol. 4A 93:17-94:11, 95:20-96:5; DX 1. The non-U.S. companies had significantly higher growth expectations for EBITDA than Idearc. Vol. 4A 94:18-95:2; DX 1.

The "guideline transactions" analysis, relying on 17 transactions in the directories sector from 2002 through 2006, suffered similar deficiencies. All of the companies had healthy, positive growth rates, while Idearc's revenue and EBITDA showed significant declines. And several transactions involved the sale of companies that were much smaller (in terms of EBITDA) than Idearc. For these reasons, the companies involved in the transactions cited by Houlihan were substantially dissimilar to Idearc. Vol. 4A 99:19-100:16.

The Tax Sharing Agreement ("TSA") affected Idearc's valuation under the "guideline transactions" method because it restricted Idearc's ability to engage in transactions in the capital markets, including a sale of the company. The TSA imposed two important restrictions. First, it prohibited Idearc from making changes affecting the equity in the company. Second, it barred Idearc from repaying or refinancing $7.6 billion of the debt it incurred in the spin (i.e., the Senior Notes and the Tranche B loan) before its maturity. PX 1068, § 3.03. Further, the agreements governing the debt Idearc incurred in the spin required the company to prepay the debt upon a change of control. Thus, the TSA imposed important restrictions (akin to a Catch 22) on Idearc's

[18] In addition, when RH Donnelley bought the Dex directories company, it received over $10 billion in net operating losses ("NOLs"). Those NOLs conferred tremendous tax benefits on RH Donnelley, to the extent that it has not paid any income tax since it acquired Dex in 2006. The NOLs increased RH Donnelley's value by $2-2.5 billion. Vol. 4A 98:1-20, 105:3-106:15. Idearc had no such tax assets or advantages following the spin.

ability to sell the company or engage in any merger or acquisition transactions. Vol. 4A 109:15-110:9; PX 1068, § 3.03. In an internal email dated October 20, 2006, less than three weeks before the spin, Kevin Balsley, a vice president in Verizon's tax department, noted that the tax bill for Idearc if it violated the TSA would be in the $5 billion range and characterized it as a "poison pill." Vol. 4A 112:10-11, 113:3-11; PX 1541a.

Based on Taylor's experience in considering tax issues in large merger and acquisition transactions, she concluded that the restrictions in the TSA impaired the marketability of Idearc on the spin date and would have a negative influence on how buyers would look at the company as a potential acquisition. Vol. 4A 111:4-8, 111:14-112:3. Thus, she further concluded that the TSA affected the appropriate weight given to the "guideline public companies" valuation. Vol. 4A 109:3-7.

(iii) Weighting of DCF and Market-Based Valuations.

Under relevant valuation standards, there are two ways to adjust values derived from the market-based methods when, as here, the companies cited as comparables are dissimilar to the company being valued. One method is to adjust the EBITDA multiples used to derive those values. The other method is to adjust the weight assigned to the market-based values relative to the weight assigned to the DCF value when determining the overall value of the subject company. Vol. 4A 98:21-99:2. In fact, where there are significant differences between the target company and its "comparables" with respect to revenue, size, profitability, growth rates, and/or geographic focus, courts have severely underweighted the market-based methods or rejected them altogether. *See In re Radiology Assocs, Inc. Litig*., 611 A.2d 485, 490 (Del. Ch. 1991) (rejecting the market-based methods because "the differences between Radiology and MMI and MEDIQ as to product mix, revenues, profit margins, revenue and earnings growth rates, assets and geographic markets combine to make any comparison with Radiology

meaningless."); *In re Orchard Enterprises, Inc*., 2012 WL 2923305, at *9 (Del. Ch. Jul. 18, 2012) (holding that the analyses based on comparables were not reliable and that the DCF method should be given exclusive weight); *see also Andaloro v. PFPC Worldwide, Inc.*, 2005 WL 2045640, at *9 (Del. Ch. Aug. 19, 2005) (noting that "[t]he DCF method is frequently used in this court" and that the method may be given "great, and sometimes even exclusive, weight when it may be used responsibly," the Court assigned the DCF method 75% weight even where there existed a "good array of solid comparables.").

Taylor adopted the second method—adjusting the weighting—to account for the multiple discrepancies between Idearc and the comparable companies and transactions Houlihan used in its market-based valuations. Specifically, her analysis started with values ranging from $11.7 billion to $13.2 billion under the market multiple approach. Her value under the comparable transactions method ranged from a low of $13.4 billion to a high of $15.8 billion. These value ranges were identical to those in the report that Houlihan prepared in October 2006 at the request of Verizon's board. Vol. 4A 114:7-25; PX 1882; PX 666, p. 20. Taylor did not adjust the underlying multiples Houlihan used. Instead, she made appropriate adjustments to the weight assigned to the market-based values derived from those multiples.

After considering Idearc's value under the DCF and market-based methods, Taylor placed 70% weight on the DCF approach and 30% weight on the market approach. Vol. 4A 115:1-10. Based on her experience, knowledge and training, Taylor concluded that of the three valuation methods in her analysis, buyers rely most heavily on the DCF analysis to determine what a company is worth. Vol. 4A 113:13-24. Taylor assigned 30% weight to the market-comparable valuations because, as she previously showed, VIS was significantly inferior to the other guideline public companies; the transactions Houlihan cited did not involve reasonably comparable companies; and the other companies used in both market-based valuations were

growth companies, while Idearc's revenue and EBITDA were declining. Moreover, the TSA's restrictions prevented Idearc from accessing the transaction market, which conflicts with the essential premise of the "comparable transaction" method, i.e., that the subject company (Idearc) has the ability to access the market. Vol. 4A 115:11-116:10.

Based on the foregoing weighted averages of the DCF and market-based valuations, Taylor determined that Idearc's enterprise value from operations (without considering non-operating liabilities) ranged from $7.5 billion to $8.8 billion. Taylor's ultimate opinion was that Idearc's enterprise value from operations as of November 17, 2006 was no more than $8.15 billion, the mid-point of that range. Vol. 4A 116:11-18, PX 1882.

2. Taylor correctly rejected the market capitalization method as unreliable.

In conducting her analysis, Taylor rejected the market capitalization (i.e., stock price) valuation method under the specific circumstances presented. Instead, Taylor determined that Idearc's post-spin stock price was no indication of Idearc's value because Verizon withheld critical information from the market and made material misrepresentations. Specifically, Taylor considered, inter alia, the following information that Verizon withheld from, or misrepresented to, the financial market:

- Idearc had a history of significantly underperforming its revenue projections;[19]
- Verizon and Idearc knew that Idearc's management was incompetent and had already cost the company $5 billion.[20]
- The projections were negotiated and dictated by Verizon to Idearc management and were not presented in good faith;[21]
- Idearc underperformed in large urban markets (its primary focus) relative to its performance in other markets;[22]
- Verizon had internally valued Idearc at $6.5 billion if the performance continued consistent with the historical trends;[23]

[19] Vol. 3 67:4-19; 68:13-16; 69:1-25; 72:4-17; Vol. 4A 10:3-13, PX 27 at pg. 21.
[20] Vol. 2A 35:21-24; 36:25-42:24; 63:24-65:2.
[21] PX 283, 287, 300; Vol. 3, 87:14-21, 88:4-17.
[22] Vol. 3 93:13-94:22, 95:4-6, 96:17-100:1, 101:4-10; Vol. 4A, 12:2-13:2, PX 233A, PX 233B, DX 261, DX 526.
[23] PX 27; Vol. 3, 78:1-81:20.

- Numerous internal Verizon communications and documents discussed the withholding of information in connection with the Spin-off;[24] and
- Traditional print directories likely to continue to decline, ability to offset with electronic product uncertain[25]
- The directories business was a "harvest business," or one that has reached its peak and will slowly decline.[26]

Taylor's decision to reject the market capitalization method is entirely supported by the facts presented at trial. Stock price is not a proper measure of value when the market lacks sufficient information about the company and its prospects. *Winstar Communic., Inc.,* 348 B.R. at 274. Here, ***Verizon itself admitted that the market did not correctly value Verizon's directories business, which is one of the reasons Idearc decided to engage in the Spin-off in the first place.*** Directories – Analysis of Alternatives [PX27] at 44. In devising the Spin-off, Diercksen and his team recognized that the market had a "more bullish view of [Verizon's] directories unit than [Verizon's] internal plan for VIS" and that, because of this asymmetry of information, prospective purchasers would "likely have a much more positive view of the prospects for directories" than Verizon. *See* Directories – Varying Viewpoints on VIS at 2-5 [PX 35]; November 17, 2005 e-mail from John P. Fitzgerald to John W. Diercksen and Sophia Y. Xu [PX 71]. Verizon recognized that it needed to "ride the high tide" and dispose of Idearc before the market corrected its valuation. October 9, 2005 e-mail from Sophia Y. Xu to John P. Fitzgerald [PX 45]. Having recognized and benefitted from the market's overvaluation at the time of the Spin-off, Verizon's *ex post facto* suggestion that the market's valuation is accurate and dispositive is both disingenuous and impermissible.

Further, Verizon withheld material information from the market and made affirmative misrepresentations regarding Idearc's business:

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[24] DX 261, PX 321, PX 330.
[25] PX 27, at 44.
[26] Vol. 3, 57:15-59:16, 61:14-62:10.

(i) Contrary to Defendants' misrepresentations, Idearc was not a growth company.

"We tried to stabilize it, but we were unable to change the fact that it was not a growth company."[27] — Ivan Seidenberg on cross-examination at trial.

CEO Seidenberg admitted at trial what Defendant Diercksen's review had confirmed: that Idearc was a declining business and not a growth business. *See* PX 27. But Seidenberg's knowledge and Diercksen's findings were never disclosed to the market, despite Diercksen's conclusion that the market's valuation of Idearc would "be very sensitive to growth expectations and any transaction generated tax shield."[28] Instead, knowing that Idearc's value in the Spin-off would depend on Idearc's "growth expectations," Verizon commissioned McKinsey & Co. to help Idearc develop a five-year business plan to maximize what Verizon could extract from Idearc.[29] McKinsey's initial projections showed that Idearc's prospects were *even worse* than Verizon had predicted and that Idearc's five-year business plan was far too optimistic.[30]

Despite McKinsey's findings, Idearc's dismal historical performance, Diercksen's conclusion that Idearc faced a "significant risk of underperformance" of its current plan, and Verizon's internal belief that a "'turnaround' [was] nowhere in sight," Verizon decided to revise Idearc's five-year business plan to show an entirely unrealistic and unsupported *improvement* in Idearc's expected performance.[31] Verizon modified Idearc's business plan to far exceed McKinsey's long-term projections, making Idearc's growth prospects look more favorable than Verizon believed to be true.[32]

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[27] Vol. 6A 103:11-104:3.
[28] Directories – Analysis of Alternatives at 33 [PX 27].
[29] *Id.*; December 30, 2005 e-mail from John W. Diercksen to Ivan Seidenberg and Doreen A. Toben [PX 121].
[30] March 17, 2006 e-mail from Laurence D. Fulton to John W. Diercksen; Project Sunburst – Summary of Prospectives, dated March 16, 2006 at 6 [PX 213].
[31] *See, e.g.*, Vol. 2A 5:6-6:15; March 24, 2006 e-mail from Sophia Y. Xu to John P. Fitzgerald, John W. Diercksen and Philip Seskin [PX 243] (turnaround "nowhere in sight").
[32] April 11, 2006 e-mail from John P. Fitzgerald to Philip R. Marx [PX 283] (describing modifications to base plan); April 13, 2006 e-mail from Thomas Bartlett to Kathy Harless [PX 297] (same).

Verizon shared these new projections and business plan with the Spin-off underwriters, rating agencies, and the "private siders" who would purchase Idearc debt in the Spin-off.[33] To ensure that these market-makers did not learn the truth about Idearc's expected performance, ***Verizon concealed and never disclosed its internal analyses and valuation of Idearc, McKinsey's study and findings, and Idearc's original business plan.*** In fact, before the investment bankers and financing teams who would underwrite the Spin-off were allowed access to the Idearc data room, Verizon ordered that Idearc's old business plan be removed and replaced by the new plan[34] to avoid "undermin[ing] credibility" of the new plan. Verizon also "coached" Idearc executives "to represent that there is only one version of the plan."[35] Thus, "going forward, there [w]ould be no reference to McKinsey other than as a source for very high level overall industry trends."[36]

In addition to concealing its own and McKinsey's real analyses and conclusions and providing the market with unrealistic and unreasonable projections, Verizon withheld or misrepresented other material information related to Idearc's growth potential. For instance, Verizon never revealed that Idearc's "initiatives to-date to fend off competition (new book launches, price cut, online effort, etc.) . . . haven't been successful;" its conclusion that Idearc's decline could not be blamed on past "operational missteps;" that Idearc had "already tried (and likely exhausted) organic turnaround strateg[ies];" or that Idearc faced "serious value erosion" in the near term.[37]

Verizon also knew, at the time of the Spin-off, that electronic margins were a fraction of the margins for print directories but implied in its disclosures that electronic revenue would offset losses in print revenue dollar for dollar, which Verizon knew was untrue. Vol. 4A 16:16-

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[33] *See, e.g.*, Confidential Information Memorandum for Private Siders at 6-13 [PX 673]; April 18, 2006 e-mail from Sophia Y. Xu to Cliff Wilson, *et al*. (new plan included in data room) [PX 313].
[34] April 18, 2006 e-mail from Sophia Y. Xu to Cliff Wilson, et al. [PX 313].
[35] April 24, 2006 e-mail from John P. Fitzgerald to Sophia Y. Xu [PX 328].
[36] April 24, 2006 e-mail from Neil Olson to John P. Fitzgerald [PX 330].
[37] October 9, 2005 e-mail from Sophia Y. Xu to John P. Fitzgerald [PX 45].

17:11; Idearc Form 10 [PX 901]. Revenues in urban markets, such as New York, Boston and Philadelphia, where Idearc's business was concentrated far more than its competitors, also were dropping precipitously [PX 233a], a fact that was undisclosed to the market.[38]

In stark contrast to Verizon's belief that Idearc faced a certain decline and that a turnaround was "nowhere in sight," Defendants touted Idearc to prospective lenders as "[a] great company well positioned for the future."[39]

Defendants do not contend that the market was aware of each these facts. Instead, they contend that the market was generally aware of the coming shift from print to electronic media, citing a few analyst reports broadly discussing the shift and increasing competition. But reports generally acknowledging this shift or the competition Idearc faced in urban markets do not in any way alert the market to the specific problems Idearc faced and Verizon's view that such problems were not fixable. For instance, as Taylor explained, Idearc's Form 10 disclosure discussed competition generally but did not disclose the fact that the competition was causing very large decline in major markets. Vol. 4A 12:6-17.

(ii) Defendants falsely represented that Idearc's management was competent.

Taylor's decision to reject stock price as a measure of value is further supported by undisputed evidence that Defendants' touted Idearc's management highly while internally they acknowledged Idearc's management's incompetence. Diercksen, Idearc's sole director, believed that Idearc's new management—which he personally appointed—represented "the rising tide of incompetence." *See* PX 869, at 1; Vol. 2A 64:14-65:24. He believed that Idearc's management had reduced the business' value by over $5 billion before the Spin-off even took place. *See id.* Diercksen, with all his years of experience as a Verizon top executive and former CFO of a

[38] While some of this information was disclosed to Verizon's advisors, who each made at least $50 million off of this deal, there is no evidence that those advisors passed the information on to the public.
[39] Lenders' Presentation for Public Siders at 13, 35-36, 42 [PX 768]; March 24, 2006 e-mail string between John P. Fitzgerald and Sophia Y. Xu [PX 245] (turnaround "nowhere in sight").

yellow pages business, Vol. 1A 66:22-25, believed that Idearc's "entire organization"—specifically including CEO Kathy Harless, CFO Andrew Coticchio, and soon-to-be CFO Dee Jones—constituted the "rising tide of incompetence." *See* Vol. 64:1-25. Mr. Diercksen nonetheless cast Idearc adrift with this "incompetent" management at the helm and without ever sharing his knowledge with analysts, the Securities and Exchange Commission, or the investing public. *See* Vol. 2A 66:24-67:15. Indeed, Mr. Diercksen and Verizon affirmatively endorsed Idearc's "incompetent" management in documents filed with the Securities and Exchange Commission and made available to the public. *See generally* PX 901 (Amendment No. 6 to the Idearc Form 10).

Defendants failed to rebut evidence of this omission and false endorsement. Instead, they seek to minimize Diercksen's views of Idearc management as "idiosyncratic" and not worthy of disclosure to the markets. *See* Vol. 5B 37:12. But Diercksen's views were not just the opinions of one random person; ***they were the beliefs of Idearc's only director.*** The man who was solely responsible for acting in Idearc's best interests believed he had installed a management team of misfits who had already caused the company tremendous harm.

(iii) These misrepresentations were material.

To determine a statement or omission's materiality, "[t]he appropriate inquiry is whether, under all the circumstances, the omitted fact or the prediction without a reasonable basis is one a reasonable investor would consider significant in making the decision to invest, such that it alters the total mix of information available about the proposed investment." *Rubinstein v. Collins*, 20 F. 3d 160, 168 (5th Cir. 1994). "It is equally well established that when a corporation does make a disclosure — whether it be voluntary or required — there is a duty to make it complete and accurate." *Lucia v. Prospect Street High Income Portfolio, Inc.*, 36 F. 3d 170, 175 (1st Cir. 1994) (internal citations omitted).

Verizon made public misrepresentations regarding the state of Idearc's business and failed to disclose additional material information that a reasonable investor would consider significant. Verizon's public presentation of Idearc as a growth company, while Verizon privately acknowledged that it was a harvest company in decline that had never met projections, was a material misrepresentation. The fact that Verizon had been completely unable to predict the future performance since 2001 would have been material to ratings agencies, Verizon's advisors at JP Morgan, Bear Stearn and Morgan Stanley, and other private side market participants who relied upon Verizon's 2006 spin-off projections to rate the bonds and estimate the value of Idearc's business, because it would demonstrate that the Spin-off projections, like the prior projections, were unreliable. Vol. 3 75:3-9. Additionally, Defendants' failure to disclose the management's incompetence and the fact that management had already cost Idearc over $5 billion misled the markets and artificially bolstered Idearc's value. Had investors known that Idearc's management team harmed the company to the tune of $5 billion prior to the Spin-off while it was under Verizon's supervision, the market could have reasonably expected several billion dollars of additional damage to Idearc's value once this team of so-called incompetents was on its own. *See also* testimony of Jennifer Nason, who testified that the competence of management was a significant factor in assessing whether to extend credit to a company, Vol. 7A 129:9-13.

Statements regarding value, growth potential, and the competence of management, even when presented as the speaker's opinion, are material and actionable. *See, e.g.*, *Virginia Bankshares, Inc. v. Sandberg*, 501 U.S. 1083, 1090 (1991); *see also Eisenberg v. Gagnon*, 766 F.2d 770 (3d Cir. 1985) (statements relating to predictions or forecasts of future activity may be material misrepresentations if the prediction did not have a reasonable factual basis); *In re 3Com Securities Litigation*, 761 F. Supp. 1411, 1415-16 (N.D. Cal. 1990) (same). In *Virginia*

Bankshares, Inc. v. Sandberg, 501 U.S. 1083, 1090 (1991), the Court considered statements that a merger proposal would give shareholders "a high value for their shares." Although the defendant argued that such statements were impossible to verify and thus not actionable, the Supreme Court held that conclusory statements of reasons, belief, or opinion—e.g., "high value"—may be so contrary to the verifiable historical facts that they falsely "misstate the speaker's [true] reasons" and "mislead about the stated subject matter." *Id.* at 1095. Indeed, the Supreme Court explained that "there is no room to deny that a statement of belief by corporate directors about a recommended course of action, or an explanation of their reasons for recommending it," can be material and actionable. *Id.* at 1090-91.

Similarly, in *United States v. Skilling*, 554 F.3d 529 (5th Cir. 2009), *aff'd in part and vacated in part by Skilling v. United States*, 130 S. Ct. 2896 (2010), the Fifth Circuit upheld former Enron CEO Jeff Skilling's fraud conviction. Mr. Skilling had expressed rosy opinions about Enron's financial health. Among other things, he told analysts that all of Enron's businesses were "uniquely strong franchises with sustainable high earnings power." *Id.* at 553-54. He also characterized a certain business unit as a "stable, high-growth business" and "not a trading business," and claimed that another business unit was having "a great quarter on the intermediation side of the bandwidth business." *Id.* at 554. Mr. Skilling further told analysts that there was "essentially strong growth on the intermediation side, strong growth on the content services side, in terms of people, budgets the whole thing." *Id.* The government presented evidence of contrary, verifiable facts—including evidence that a business unit endorsed by Mr. Skilling had an unsupportable cost structure—to show that Mr. Skilling's statements were false when made. *Id.*

Mr. Skilling argued that his statements were merely opinions that could not form the basis of liability. *Id.* at 552. Rejecting this notion, the Court held that "[i]f Skilling honestly

believed these predictions, then they would not be actionable. However, if Skilling did not honestly believe them, then they could" allow a jury to find him liable. *Id.* at 553, 555. Because government prosecutors proved that his statements—even though ostensibly mere opinions—were knowingly false when made, the Fifth Circuit upheld Mr. Skilling's conviction. *Id.* at 553-54.

Just as in *Skilling*, the evidence establishes that Defendants "did not honestly believe" in their characterization of Idearc's potential. They likewise "did not honestly believe" their endorsement of Idearc's management. *See, e.g.*, PX 869, at 1; Vol. 2A 64:1-25; PX 322, at 1. Defendants manipulated Idearc's forecasts and made material misrepresentations and omissions regarding Idearc's operations and prospects in order to artificially inflate Idearc's market value and maximize its own return. Because Verizon ensured that the market was misinformed and artificially overvalued Idearc, Idearc's stock price at the time is no indication of Idearc's value. This Court (like both Carlyn Taylor and the *Winstar* court) should accord zero weight to Idearc's stock price in the public market as a measure of its value on the Spin Date.

Defendants rely on a single case for the proposition that Verizon's failure to disclose Mr. Diercksen's knowing installation of incompetent management is not actionable. The case stands for no such thing. In *Rosenzweig v. Azurix Corp*., 332 F.3d 854, 869 (5th Cir. 2003), the court affirmed a securities fraud complaint's dismissal because the plaintiffs had failed to allege that "defendants knew, or reasonably should have known, the statements were false or misleading when made." *Id*. at 861.[40] Indeed, the *Skilling* court distinguished the case on this very point. *Rosenzweig* therefore lacks application here.

[40] The court also found that the plaintiffs had failed to meet the strict pleading standards when it came to the defendants' scienter. *Id*.

b. *Carlyn Taylor is the only qualified disinterested evaluator who testified at trial.*

(i) Taylor is by far the most qualified and credible expert providing testimony in this case.

Taylor is a Senior Managing Director in the Corporate Finance Group of FTI Consulting, Inc. ("FTI"), a publicly traded global financial and economic consulting firm with over 3,500 professionals. Vol. 3B 9:19-10:18. She is one of the national leaders of the Corporate Finance practice of FTI, the leader of the Communications, Media and Entertainment ("CME") industry practice, and the Chief Executive Officer of FTI Capital Advisors, LLC ("FTICA"), a wholly-owned broker dealer subsidiary of FTI that is registered with the Financial Industry Regulatory Authority ("FINRA"). Vol. 3B 10:1-18; Vol. 4A 5:1-12. She is a true practicing business evaluator – less than ten percent (10%) of her practice involves expert witness work. Vol. 3B 24:18-24.

She has B.S. and M.A. degrees in economics from the University of Southern California ("USC"), where she graduated as the University's valedictorian. She has FINRA securities licenses including series 7 General Securities Sales Representative, series 24 General Securities Principal, series 79 Investment Banking Representative and series 63 Uniform State Securities Law Agent. Vol. 3B 11:13-12:25; Vol. 4A 6:13-24. She is a Certified Public Accountant with an Accredited in Business Valuation (ABV) credential from the AICPA;[41] and she is a Certified Insolvency and Restructuring Advisor (CIRA).[42] Vol. 3B 11:25-12:8.

In her capacity as the CME Industry Leader at both FTI and PricewaterhouseCoopers LLP ("PwC"), Taylor has led over 100 engagements involving the financial restructuring of telecom and media companies during the past 15 years. Vol. 3B 19:1-25; Vol. 4A 30:4-14. In addition to the restructuring engagements, she has led approximately 450 to 500 investment

[41] American Institute of Certified Public Accountants.

[42] Designation obtained from The Association of Insolvency & Restructuring Advisors ("AIRA") to show a high level of proficiency and experience with insolvent companies.

banking and financial consulting engagements including M&A advisory, due diligence of business plans for buyers or financial investors, valuation, financial assessments of products and services, statistical analysis of pricing, strategic advisory work, and testifying as an expert witness in commercial and bankruptcy litigations. Vol. 3B 31:17-22. Taylor also has done extensive work in the directories' business, having worked on 11 different engagements in yellow pages and directories, many involving valuation calculations for investors. Vol. 4A 31:22-24. She was even hired by Idearc to value its business before Idearc filed for bankruptcy. Vol. 3B 63:14-64:12, 65:10-18.

(ii) Defendants' objection that Taylor was never formally "recognized" by the Court lacks merit.

Plaintiff timely designated Taylor as an expert witness and timely provided Defendants with Taylor's expert report. After providing Defendants notice, Plaintiff introduced Taylor as a trial witness on October 17, 2012. *See* Vol. 3B 8:16-25. Taylor testified about her career spanning more than 20 years in the financial sector and her personal participation in over 500 restructuring transactions. *See* Vol. 3B 31:17-25, 32:1-24. After Plaintiff questioned Taylor on her opinions regarding the market at the time of the Spin-off transaction, Plaintiff passed the witness. Defendants then engaged in several hours of cross-examination, asking Taylor her opinion on the industry, technical issues, and other matters.

Pursuant to FRE 702, Ms. Taylor need not have been formally proffered to the Court to have her expert testimony considered. *See Berry v. City of Detroit*, 25 F.3d 1342, 1351 (6th Cir. 1994); *U.S. v. McKinnon*, 985 F.2d 554, 1993 WL 20039, at *4 (4th Cir. 1993). Taylor was by far the most qualified expert as to Idearc's value, and she testified at length to same. Under similar circumstances, federal courts have consistently ruled that "Rule 702 does not condition the admissibility of expert testimony on the proponent's incantation of any particular phrases." *See Newfound Mgmt. Corp., Gen. Partner of Newfound Ltd. P'ship v. Sewer*, 34 F. Supp. 2d

305,311 (D.V.I. 1999) (*citing U.S. v. Vastola, et al.*, 899 F.2d 211 (3d Cir.), *vacated on other grounds by*, 497 U.S. 1001 (1990)). In *Newfound Mgmt. Corp,* a real estate development corporation brought an action to quiet title over disputed land. *Id.* at 305. Central to the plaintiff's case was testimony and a survey created by an expert. *Id.* at 311. The defendants objected to the plaintiff's survey and the witness's testimony because the plaintiff did not tender the surveyor as an expert. *Id.* The court found that the testimony was properly entered. *Id.* By establishing a foundation outlining the surveyor's credentials—including his experience, background, and familiarity with the property—the plaintiff has satisfied the requirements of FRE 702. *Id.*

Here Ms. Taylor established that she has dealt with multi-billion dollar transactions within the Directories industry, and has provided the full panoply of valuation services for members of the industry, including for Idearc itself. She is, flat out, the best expert anywhere to evaluate Idearc. In her expert opinion, Idearc's value as of November 17, 2006 was no more than $8.15 billion. *See* Vol. 3B 31-32. This, along with her other testimony, sufficiently qualifies her as an expert witness.

III. PRAYER

In light of the foregoing, Plaintiff prays that the Court (1) enter the findings of fact and conclusions of law filed contemporaneously herewith; and (2) find that Idearc's value as of November 17, 2006 was no more than $8.15 billion.

Respectfully submitted,

/s/ David Taubenfeld

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ATTORNEYS FOR U.S. BANK
NATIONAL ASSOCIATION
as Litigation Trustee on Behalf of the
Idearc Inc. et al. Litigation Trust

CERTIFICATE OF SERVICE

On November 16, 2012, the undersigned electronically submitted the foregoing document with the Clerk of Court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. The undersigned hereby certifies that all counsel and/or *pro se* parties of record have been electronically served in accordance with Federal Rule of Civil Procedure 5(b)(2).

/s/ David Taubenfeld
David Taubenfeld

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