

2. Specifically, Kistefos proposed that the Company's bylaws be amended so that the term of an incumbent director who does not receive the affirmative vote of a majority of the Company's stockholders (the vote required for election to the Board) will expire immediately upon such vote (hereafter, "Proposal 8"). Proposal 8, if adopted, would prevent holdover directors from remaining on the Board for another term despite receiving less than the required majority vote. As described in the Verified Complaint, Kistefos has submitted this Proposal 8 to give "teeth" to the Company's otherwise illusory majority voting requirement.

3. The Board rejected Proposal 8 on the basis that, if adopted, the proposal would violate Sections 141(b) and 141(k) of the Delaware General Corporation Law ("DGCL") and Sections 2 and 3 of Article Five of the Company's certificate of incorporation.

4. Nothing in either Section 141 of the DGCL or Article Five of the certificate of incorporation, however, justifies the Board's rejection of Proposal 8. Accordingly, through the instant action, Kistefos seeks a declaratory judgment that the Company must permit Proposal 8 to be voted on by stockholders at its 2009 annual meeting.

5. Although a date for Trico's 2009 annual meeting has not yet been set, Delaware law requires it to be held within 13 months of the last annual meeting, which was held on June 12, 2008. In addition, Trico has announced that its Board has fixed a record date of April 17, 2009 for the meeting. Since Trico's bylaws provide that a record date may be no more than 60 days before the date of the meeting, the 2009 annual meeting must take place no later than June 16, 2009. In order for Kistefos to have a

meaningful opportunity to present Proposal 8 to Trico's stockholders, expedited relief is required.

6. Expedition will not cause significant disruption or burden to the parties. The dispute at issue is a straightforward one. The Court need only determine whether Proposal 8, if adopted, would violate the DGCL and the Company's certificate of incorporation, as stated by the Board. Discovery will not be necessary, and Kistefos has filed contemporaneously herewith a motion for judgment on the pleadings, adjudication of which will be determinative of the validity of Proposal 8.

7. Because of the time sensitivity regarding proposals to be submitted for stockholder vote at the Company's upcoming annual meeting, along with the limited scope of the relief requested, expedited proceedings are appropriate.

BACKGROUND

8. The facts relevant to this motion are set forth in detail in Kistefos' Verified Complaint (the "Complaint"). Trico is a Delaware corporation that provides marine support vessels to the global offshore oil and gas industry, operating primarily in international markets. Kistefos, a Norwegian limited company, is Trico's largest stockholder and has been since Trico emerged from Chapter 11 bankruptcy protection in March, 2005. Kistefos currently owns approximately 22.2% of Trico's issued and outstanding common stock.

9. Trico's recent market and financial performance has been a total disaster. Not only has its stock price fallen nearly 95% (wiping out roughly \$650 million in market capitalization in a year), Trico's most recent annual report, filed with the United States

Securities and Exchange Commission (the "SEC") on March 12, 2009 (the "2008 Annual Report"), reveals that Trico's Board and management have permitted the Company to incur more than \$805 million in debt on less than \$557 million in annual revenues.

10. On December 23, 2008, Kistefos sent a letter to Trico's Board, expressing its concern with the Company's recent financial woes and making various suggestions. Among those suggestions was Kistefos' proposal that two of its representatives, Messrs. Sveaas and Korsvold, be appointed to the Board. This proposal would provide Trico with a stockholder's perspective on the Company's economic condition, and would provide Trico's Board with the significant benefit of the prospective Board members' strategic, financial and offshore services industry experience. The letter made the further suggestion that Trico's bylaws should be amended to declassify the Board, and asked the Board to include a proposal to that effect in management's proxy materials for the 2009 Annual Meeting.

11. Trico denied Kistefos' requests, and it continued to deny further requests made by Kistefos in the ensuing months. An iterative series of nominations and advance notice of proposals culminated in Kistefos' March 14, 2009 presentation to Trico's Board, which contained a series of nominations and proposals (the "Final Nominations," attached as Exhibit D to the Complaint). Among these Final Nominations was Proposal 8. On its face, Proposal 8 imposes a director qualification designed to give effect to Trico's current governance scheme, which requires majority voting for directors. If adopted, Proposal 8 would require that incumbent directors who are up for election and receive only a plurality (rather than requisite majority) of affirmative votes of

stockholders will no longer be qualified to serve as directors, thus eliminating the possibility of an illusory election and a Board diminished in legitimacy by rejected "holdover" directors. Specifically, Proposal 8 states:

(B) A person shall be ineligible to serve as a director if such person fails to receive the number of votes required to elect directors at any meeting of stockholders at which such person is to be elected (including any such meeting referred to in Article II and Article III hereof). The term of any existing director of the Corporation who fails to receive the number of votes required to re-elect such existing director at any meeting of stockholders at which such existing director is nominated to be re-elected (including any such meeting referred to in Article II and Article III hereof) shall immediately expire, and a vacancy in the Board of Directors shall be deemed to exist. This Section 7(C)(1) of Article II shall not be amended or repealed by the Board of Directors without a unanimous vote of all of the directors then serving on the Board of Directors.

12. While the Board has accepted the nominations and proposals proffered in the Final Nominations, it denied Kistefos' request that it be permitted to present Proposal 8 to Trico's electorate at the 2009 annual meeting. The Board submitted that Proposal 8, if adopted, "would be invalid...because it is inconsistent with, among other things, Sections 141(b) and 141(k) of the Delaware General Corporation Law and Article FIVE, Sections 2 and 3 of Trico's charter." Based on this misreading of Delaware law, the Board conveyed its intent to "disregard this proposal if Kistefos presents it for stockholder action at the 2009 annual meeting."

13. Contrary to the Board's statements, Proposal 8 was valid when made and complies in all material respects with Trico's certificate of incorporation, its bylaws, and applicable law. Trico's stated reasons for rejecting Proposal 8 – the purported violations of Section 141 of the DGCL and Article Five of the certificate of incorporation – are

without merit. Accordingly, Kistefos is entitled to a declaratory judgment that Proposal 8 will properly be before the Trico 2009 annual meeting when that meeting convenes.

ARGUMENT

14. The Court of Chancery will order expedited proceedings when "the plaintiff has articulated a sufficiently colorable claim and shown a sufficient possibility of a threatened irreparable injury." *Giammargo v. Snapple Beverage Corp.*, 1994 WL 672698, at *2 (Del. Ch. Nov. 15, 1994). In applying this standard, the Court "traditionally has acted with a certain solicitude for plaintiffs" and "has followed the practice of erring on the side of more [expedited proceedings] rather than fewer." *Id.* As the Delaware Supreme Court has observed, "Delaware courts are always receptive to expediting any type of litigation in the interests of affording justice to the parties." *Box v. Box*, 697 A.2d 395, 399 (Del. 1997).

15. Through this action, Kistefos seeks a declaration that Proposal 8 was properly made, and that Trico is required to allow Proposal 8 to be presented at the 2009 annual meeting.

16. On the face of its Verified Complaint, Kistefos has presented more than a colorable claim. There is no question that the stockholders of a Delaware corporation are entitled to amend the corporation's bylaws. 8 *Del. C.* § 109. Moreover, there is no dispute that Kistefos has complied with the advance notice provisions of Trico's bylaws.

17. In addition, Kistefos has also clearly "shown a sufficient possibility of a threatened irreparable injury" such that the motion to expedite should be granted. *Giammargo*, 1994 WL 672698, at *2. Defendants have already announced that they will

not allow Proposal 8 to be presented to the Company's stockholders at the annual meeting. Thus, without expedition, Trico's stockholders will not be able to consider this proposal from the Company's largest stockholder.

18. Trico's 2008 Annual Meeting was held on June 12, 2008. Delaware law requires its 2009 Annual Meeting to be held, at the latest, within 13 months of that date. 8 *Del. C.* § 211. Trico has already publicly announced its April 17 record date for the meeting. In order for Kistefos to have a meaningful opportunity to present Proposal 8 at the 2009 Annual Meeting, it must be allowed a reasonable period of time in which it can present its case to Trico's stockholders. Absent expedited relief, Kistefos' attempted resort to the shareholder franchise will be rendered meaningless.

19. Kistefos has therefore established both a sufficiently colorable claim and a sufficient possibility of irreparable harm. In addition, the limited scope of this action -- indeed, Kistefos believes that discovery will be unnecessary to adjudicate the legal validity of Proposal 8 -- militates in favor of expedited proceedings. The only issue to be determined by the Court is whether Proposal 8, if adopted, would be valid under applicable law. To that end, Kistefos has filed contemporaneously herewith a motion for judgment on the pleadings, adjudication of which will be determinative of the validity of Proposal 8.

20. Accordingly, a prompt final disposition of Kistefos' claims should be scheduled in sufficient time to allow it to solicit stockholders to vote in favor of its proposal.

CONCLUSION

For the reasons set forth above, as well as those presented in the Complaint, Kistefos respectfully requests that the Court grant its motion for expedited proceedings and schedule a prompt hearing to resolve Kistefos' motion for judgment on the pleadings.

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