

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

MUDRICK CAPITAL MANAGEMENT)
L.P., et al.,)

Plaintiffs,)

v.)

QUARTERNORTH ENERGY INC.,)

Defendant.)

QUARTERNORTH ENERGY INC.,)

Counterclaim-Plaintiff,)

v.)

MUDRICK CAPITAL MANAGEMENT)
L.P., et al.,)

Counterclaim-Defendants.)

C.A. No. 2024-0106-LWW

MEMORANDUM OPINION

Date Submitted: July 9, 2026
Date Decided: October 29, 2026

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WILL, Vice Chancellor

Defendant QuarterNorth Energy Inc. emerged from bankruptcy in 2021 with a capital structure consisting of common stock and warrants. Its largest stockholders received the right to designate QuarterNorth's board of directors. The warrant holders—including the plaintiffs here—bargained for anti-dilution protections to preserve the value of their warrants if the board returned significant cash to the common stockholders.

Under the governing warrant agreements, if QuarterNorth paid an extraordinary cash dividend, the warrants' share counts and exercise prices would be adjusted according to a formula. The principal disputed input in that formula is "M"—the fair market value of one share of QuarterNorth common stock on the business day before the ex-dividend date. Because QuarterNorth's stock was not listed on an exchange, its board was required to determine "M" in good faith and in a commercially reasonable manner.

In June 2023, QuarterNorth declared a cash dividend that triggered an anti-dilution adjustment. Relying on bids and valuations from a recent sale process, the board valued QuarterNorth's aggregate equity before the dividend at \$1.7 billion. QuarterNorth then divided that total by the undiluted number of outstanding common shares and participating units, setting "M" at \$209.79 per share. The plaintiffs sued for breach of contract, alleging that "M" should have been based on lower over-the-counter broker quotes. QuarterNorth brought a counterclaim

asserting the breach of a drag-along provision in its stockholders agreement when the company was later acquired.

After trial, I conclude that QuarterNorth breached the warrant agreements, though not to the extent the plaintiffs contend. The board acted in subjective good faith and reasonably rejected stale quotes from an illiquid, uninformed secondary market in favor of a \$1.7 billion aggregate equity valuation. QuarterNorth failed, however, to act in a commercially reasonable manner when it divided that valuation by an undiluted share count that disregarded in-the-money warrants. Accounting for the dilutive effect of those warrants reduces “M” to \$190.93 per share and entitles the plaintiffs to approximately \$3 million in expectation damages plus interest. Finally, the counterclaim defendants breached the drag-along provision in the stockholders agreement, entitling QuarterNorth to nominal damages.

I. BACKGROUND

The following facts were stipulated to by the parties or proven by a preponderance of the evidence at trial.¹

A. QuarterNorth's Formation and Capital Structure

Defendant QuarterNorth Energy Inc. (the "Company") is a privately held oil and gas company incorporated in Delaware and headquartered in Houston, Texas.² It was formed on August 27, 2021, pursuant to a Chapter 11 reorganization of Fieldwood Energy Inc. and its debtor affiliates.³ Fieldwood was an oil and gas exploration and production company in the Gulf of Mexico before it filed for bankruptcy.⁴ After Fieldwood emerged from bankruptcy, its deepwater assets were spun off and allocated to the newly formed QuarterNorth.⁵

¹ See Pre-Trial Stipulation and Order (Dkt. 179) ("PTO"). Trial occurred over four days, during which nine fact and two expert witnesses testified. The trial record contains 586 joint exhibits, including 20 deposition transcripts. Trial testimony is cited as "[Name] Tr." See Trial Trs. (Dkts. 194-97). Exhibits are cited by the numbers provided on the parties' joint exhibit list as "JX __," unless otherwise defined, and pincites are to the joint exhibit pagination. See Updated Joint Ex. List (Dkt. 184). If joint exhibit pagination is unavailable, pincites are to the last four digits of Bates stamps (shown as '----'). Deposition transcripts are cited as "[Name] Dep." See Notice of Lodging of Dep. Trs. (Dkt. 182).

² PTO ¶¶ 1, 33.

³ *Id.* ¶ 1. Fieldwood filed for bankruptcy in August 2020 amid the COVID-19 pandemic and a decline in oil prices. Mudrick Tr. 9; PTO ¶ 65. The operative plan of reorganization was dated June 25, 2021. JX 3 (describing the bankruptcy plan for Fieldwood Energy LLC and its affiliated debtors).

⁴ Mudrick Tr. 10; PTO ¶¶ 33, 65.

⁵ Mudrick Tr. 12-13.

As part of the reorganization, QuarterNorth issued various financial instruments to Fieldwood's creditors on account of prepetition debts.⁶

First, QuarterNorth issued common stock and subscription rights to Fieldwood's first-lien holders, including funds managed by Invesco Senior Secured Management, Inc., Nuveen Asset Management LLC, and Franklin Advisers, Inc.⁷ This package constituted "the lion's share of [QuarterNorth's] post-restructured equity."⁸

Second, QuarterNorth issued "significant warrant packages" (the "Warrants") to Fieldwood's second-lien holders, including plaintiffs Mudrick Capital Management L.P. and Ellington Management Group.⁹ The Warrants were split into two tranches.¹⁰ The first tranche of Warrants (the "Tranche 1 Warrants") consisted of 2,780,926 warrants with an exercise price of \$166.09 per share.¹¹ And the second tranche of Warrants (the "Tranche 2 Warrants") consisted of 5,355,857 warrants

⁶ *Id.* at 11; Weiss Tr. 579.

⁷ PTO ¶ 2; Mudrick Tr. 12-17.

⁸ Mudrick Tr. 11.

⁹ *Id.*; Dane Tr. 166; PTO ¶ 2; *see infra* note 130 (listing the plaintiffs). Each individual warrant entitled its holder to receive one share of QuarterNorth common stock upon exercise and payment at a specified strike price. JX 4 § 3(a); JX 5 § 3(a).

¹⁰ PTO ¶ 2.

¹¹ *Id.* (containing a typographical error listing 2,780,976 rather than 2,780,926 Tranche 1 Warrants).

with an exercise price of \$189.42 per share.¹² The Warrants were governed by two separate, substantially identical agreements, each dated August 27, 2021 (the “Warrant Agreements”).¹³

QuarterNorth also issued “New Money Warrants” to parties who provided debt financing to QuarterNorth at closing, and “GUC Warrants” to Fieldwood’s general unsecured creditors.¹⁴

B. The Warrant Agreements and Anti-Dilution Provisions

Under the Warrant Agreements, the Warrants allocated both risk and upside to the second-lien creditors.¹⁵ If the business proved more valuable than the first-lien debt, the second-lien creditors would receive a “substantial recovery for a second lien position.”¹⁶ If not, the Warrants would “ultimately be worthless.”¹⁷

The second-lien creditors negotiated for protections against actions the Company’s stockholders could take to reduce QuarterNorth’s equity value at the

¹² *Id.*

¹³ JX 4; JX 5 (with JX 4, “Warrant Agreements”); *see* PTO ¶ 2 (stipulating that the Warrant Agreements are identical in all material respects, except for the number of warrants and strike prices).

¹⁴ JX 3; PTO ¶¶ 2, 67.

¹⁵ Mudrick Tr. 14.

¹⁶ *Id.*

¹⁷ *Id.*

second-lien holders' expense.¹⁸ Chief among those protections was a guarantee that the Warrant holders' share counts and exercise prices would be adjusted to prevent dilution from the issuance of a large dividend to stockholders.¹⁹

These provisions were memorialized in Section 6(b) of the Warrant Agreements, within a section titled "Anti-Dilution Provisions."²⁰ The Anti-Dilution Provisions were triggered if the aggregate cash dividends paid by the Company during a fiscal year exceeded 30% of its annual free cash flow, requiring adjustments to the Warrants' share counts and exercise prices (the "Warrant Adjustments").²¹ They were drafted to protect the second-lien Warrant holders by returning them to the "economic position they were in prior to [any large] dividend."²² Where assets were distributed out of the Company, the Warrants would be adjusted to reflect that the business was worth less.²³

¹⁸ *Id.* at 20-22.

¹⁹ *Id.*

²⁰ Warrant Agreements § 6(b).

²¹ *Id.*; *see* PTO ¶ 4.

²² Mudrick Tr. 23-24; *see* Dane Tr. 167-68; Mills Tr. 552-53.

²³ Mudrick Tr. 23-24.

Section 6(b) set out two formulas to calculate the Warrant Adjustments:²⁴

$$U_a = U_b \times \frac{M}{M - D}$$

$$P_a = P_b \times \frac{M - D}{M}$$

U_b is defined as the “Warrant Share Number” immediately before the adjustment, and U_a is defined as the “Warrant Share Number” immediately after the adjustment.²⁵ P_b is the “Exercise Price” immediately before the adjustment, and P_a is the “Exercise Price” immediately after the adjustment.²⁶

The present dispute centers on “M” and, to a lesser extent, “D.” Under Section 6(b), “M” is the “Fair Market Value of one Share as of the Trading Day immediately preceding the ex-date for [the] dividend or distribution” at issue.²⁷ The operative definition of “Fair Market Value” provides that, “in the case of securities not” listed on a public exchange, Fair Market Value was to be “determined in good faith and in

²⁴ PTO ¶ 5. The parties stipulated that Section 6(b) of the Warrant Agreements and the formulas it contains are clear and unambiguous. *Id.* ¶ 68.

²⁵ PTO ¶ 6; Warrant Agreements § 1 (defining “Warrant Share Number” as the number of “Shares” into which the Warrants are exercisable, as adjusted pursuant to the Warrant Agreements); *see infra* note 29 and accompanying text (defining “Share”).

²⁶ PTO ¶ 6; Warrant Agreements § 1 (defining “Exercise Price” as the price per Share for which a Warrant is exercisable—initially \$166.09 for the Tranche 1 Warrants and \$189.42 for the Tranche 2 Warrants—as adjusted pursuant to the Warrant Agreements).

²⁷ PTO ¶ 6.

a commercially reasonable manner by the Board.”²⁸ “Share” is defined as one share of QuarterNorth common stock.²⁹ The relevant “Trading Day” is June 20, 2023.³⁰ “D” is defined as the Fair Market Value of the excess portion of the cash dividend made per Share as of the record date.³¹

C. The Stockholders Agreement

In connection with its emergence from Fieldwood’s Chapter 11 bankruptcy, QuarterNorth entered into a Stockholders Agreement with its post-reorganization securityholders, including the former first-lien creditors and second-lien creditors—principally funds managed by Invesco, Franklin, and Nuveen, as well as the plaintiffs.³² The Stockholders Agreement established QuarterNorth’s governance framework, granting rights to designate members of the Board of Directors (the “Board”) and setting forth the rights and obligations of QuarterNorth’s common stockholders and Warrant holders.³³

²⁸ Warrant Agreements § 1. The Warrant Agreements contain three definitions of Fair Market Value, but the parties stipulated that only the above-quoted definition is applicable. PTO ¶¶ 7, 69.

²⁹ Warrant Agreements § 1.

³⁰ PTO ¶ 7 (stating that June 20 was also the “Dividend Reference Date”).

³¹ *Id.* ¶ 6; Warrant Agreements § 6(b).

³² JX 6 (“Stockholders Agreement”).

³³ *Id.* at arts. 2, 3, 4.

The Stockholders Agreement established a seven-member Board.³⁴ Under Section 2.01(a), Invesco had the right to designate two directors, and Franklin and Nuveen could each designate one director.³⁵ QuarterNorth’s Chief Executive Officer, Michael Dane, served as the fifth director.³⁶ The sixth and seventh directors were designated collectively by the remaining stockholders.³⁷ Invesco designated Peter Niehaus and Peter Wollman, Franklin designated Joseph Mills, and Nuveen designated John Simon.³⁸ The remaining stockholders designated Jeffrey Soine and Scott Heck.³⁹

The Board was populated by industry veterans who had served in both the C-suite and on other corporate boards.⁴⁰ Each Board member contributed decades of experience in the oil and gas industry—spanning operations, engineering,

³⁴ *Id.* § 2.01(a).

³⁵ *Id.* § 2.01(a)(i)-(iii).

³⁶ *Id.* § 2.01(a)(iv); PTO ¶ 34.

³⁷ Stockholders Agreement § 2.01(a)(v).

³⁸ *Id.* § 2.01(d).

³⁹ *Id.*

⁴⁰ *See, e.g.*, Mills Tr. 445-49 (testifying that he was “working on [his] 44th year in the oil and gas business,” having served as the CEO of six companies (a mix of public and private companies) and a member of 17 boards); Soine Tr. 653-55 (testifying that he had “[a]bout 35” years in the oil and gas industry, serving first as an engineer before transitioning into officer positions and then starting his own oil and gas company); Heck Tr. 721-23 (testifying that he has “[a]pproximately 40” years of experience, with extensive experience at oil and gas “compan[ies] emerging from bankruptcy”); Simon Tr. 780-81 (testifying to “47, 48 years” in the industry).

restructurings, and M&A. As the outside directors testified at trial, they viewed themselves as independent of the stockholders who appointed them.⁴¹

The Stockholders Agreement also contained drag-along provisions, which applied to holders of QuarterNorth's common stock and Warrants.⁴² Under Section 3.03(a), where holders "owning 50% or more of the Aggregate Common Stock propose to Transfer shares of Common Stock . . . including through a sale of equity interests, merger or sale of all or substantially all assets of the Corporation (a 'Drag-Along Sale') . . . , [they] may at their option require" the other holders to "vote . . . all shares . . . in favor of, and adopt, such Drag-Along Sale."⁴³ In effect, this provision required QuarterNorth securityholders to support and vote their voting shares in favor of a merger if holders collectively owning 50% or more of the common stock opted to pursue such a sale.⁴⁴

⁴¹ Mills Tr. 454-56 (disagreeing "vehemently" with any suggestion that he and his fellow board members were not independent); *id.* at 526 (Q: "Did you understand that one of the provisions in the [S]tockholders [A]greement allowed Franklin to remove you from the board of directors at any time it wanted?" A: "Sure. I mean, it was an appointment. So sure, they could pick whoever they wanted." Q: "So hypothetically, if your views split at some point with Franklin, they could pick a new . . . director?" A: "And they were certainly entitled to do that. That doesn't affect how I run my business."); Simon Tr. 785-86 (Q: "Did you ever enter into any agreements with Nuveen, whether written or oral, as part of joining QuarterNorth's board?" A: "The only oral agreement per se was I made it abundantly clear to them when they chose to appoint me to the board that I was going to be an independent director.").

⁴² Stockholders Agreement § 3.03(a).

⁴³ *Id.* § 3.03(a)(ii).

⁴⁴ *Id.* § 3.03(a).

D. The Sale Process and Katmai Wells

In late 2021, the Board began exploring a sale of QuarterNorth.⁴⁵ In May 2022, it retained Barclays to serve as its financial advisor for the sale process.⁴⁶

The Board chose Barclays for two main reasons. First, Barclays “had a history with QuarterNorth,” having gained a deep understanding of its business and principal assets while advising Fieldwood during its bankruptcy.⁴⁷ Second, Barclays was the “preeminent” investment bank for Gulf of Mexico oil and gas asset sales and mergers.⁴⁸

Once engaged, Barclays contacted approximately 50 potential counterparties.⁴⁹ As the sale process unfolded, QuarterNorth made a discovery with profound implications for its value.⁵⁰ At the time, QuarterNorth was successfully producing from an existing deepwater well in the Gulf of Mexico called Katmai East.⁵¹ Seeking to build on that success, it was simultaneously drilling a neighboring well called Katmai West that was “high risk” and “high potential.”⁵² Katmai West

⁴⁵ PTO ¶ 70.

⁴⁶ *Id.*; Mills Tr. 461-62.

⁴⁷ Mills Tr. 462.

⁴⁸ *Id.*; *see also* Simon Tr. 788-89.

⁴⁹ JX 31 at 10; PTO ¶ 70; Soine Tr. 705-06.

⁵⁰ Mills Tr. 459.

⁵¹ *Id.* at 523.

⁵² *Id.* at 467, 482-83.

was a “deep exploratory well” in 6,000 feet of water, drilled to a 32,000-foot depth, and carried a \$200 million dry hole cost.⁵³ Whether Katmai West would match Katmai East’s productivity—or perform at all—remained unknown until drilling was complete.

Katmai West’s development lagged for several months during the sale process.⁵⁴ The oil rig QuarterNorth planned to use was “tied up with another operator,” preventing QuarterNorth from accessing it until September 2022.⁵⁵ QuarterNorth began actively drilling Katmai West in December 2022 and confirmed in January 2023 that oil was present.⁵⁶ Still, it could not know the volume of the reservoir deep beneath the earth until drilling progressed in the spring.⁵⁷

Potential bidders in the sale process were given direct—though preliminary—insight into Katmai West’s potential.⁵⁸ They had access to a confidential data room with technical information on the prospects of the well, including a year-end reserve report.⁵⁹ Although the Board and management closely tracked these developments,

⁵³ *Id.* at 455.

⁵⁴ *Id.* at 463.

⁵⁵ *Id.*

⁵⁶ *Id.* at 463-64.

⁵⁷ *Id.* at 482-83.

⁵⁸ *Id.* at 463-64.

⁵⁹ *Id.* at 464-65, 467; JX 50; Sauvageau Dep. 173-77.

QuarterNorth deliberately withheld details of Katmai West’s progress from the market to prevent competitors from offsetting its leaseholds.⁶⁰

E. The Offers

The sale process resulted in five preliminary bids ranging in valuation from approximately \$1.4 billion to \$1.8 billion.⁶¹

On March 7, 2023, Barclays presented two acquisition proposals to the QuarterNorth Board.⁶² One was from Elliott Investment Management L.P., an investment management firm.⁶³ The other was from Talos Energy Inc., a publicly traded oil and gas company.⁶⁴

On February 21, Elliott had submitted a non-binding proposal to purchase QuarterNorth’s operating assets for approximately \$1.35 billion in cash, implying a total equity value of \$1.657 billion after adding QuarterNorth’s net cash and other adjustments.⁶⁵ On February 24, Talos had submitted a non-binding offer to acquire

⁶⁰ Mills Tr. 459.

⁶¹ JX 280.

⁶² JX 285.

⁶³ *Id.* at 6-7. Elliott pursued the transaction in conjunction with Ridgewood Energy Corporation. PTO ¶ 70.

⁶⁴ JX 285 at 6-7.

⁶⁵ PTO ¶ 71; Kristiansen Tr. 359-60; Fischel Tr. 1024-25; *see also* Mills Tr. 466 (describing the Elliott bid); JX 291 at 13; JX 59. After transaction-related adjustments (resulting in an enterprise value of \$1.382 billion) and the addition of QuarterNorth’s \$275 million in net cash, Elliott’s \$1.35 billion proposal implied an aggregate equity value of \$1.657 billion. *See* JX 291 at 13, 18; JX 344 (Expert Report of D. Fischel) (“Fischel Report”) ¶ 9 n.11.

QuarterNorth at an implied equity valuation of \$1.704 billion (inclusive of net cash), consisting of 35% cash and 65% Talos stock.⁶⁶ Talos subsequently amended its offer to increase the cash consideration to 46%.⁶⁷ Both proposals were based on QuarterNorth’s standalone asset value, as identified by the respective bidders, and neither priced in merger synergies.⁶⁸

The Board determined that neither bid was sufficient. During the sale process, the Board worked with its advisors and reviewed internal reserve analyses, including data supporting a \$1.822 billion net asset value of QuarterNorth’s oil and gas reserves, to conclude that QuarterNorth had an aggregate equity value of approximately \$1.7 billion to \$1.75 billion.⁶⁹ This view was driven, in part, by the transformative breakthrough of Katmai West.⁷⁰

As director Joseph Mills—who has decades of experience in the oil and gas exploration and production space—testified at trial, Katmai West was a “game

⁶⁶ PTO ¶ 72; Kristiansen Tr. 359-60; Fischel Tr. 1025; *see also* Heck Tr. 732; Mills Tr. 465-67; JX 291 at 18; JX 61. Talos’s offer valued QuarterNorth’s operating assets at approximately \$1.425 billion (\$1.429 billion after adjustments), which implied an aggregate equity value of \$1.704 billion after adding QuarterNorth’s \$275 million in net cash. *See* JX 291 at 18; Fischel Report ¶ 9 n.11.

⁶⁷ PTO ¶ 73; *see also* Mills Tr. 467 (describing the Talos bid).

⁶⁸ *See* Dane Tr. 343; Sauvageau Dep. 210-11.

⁶⁹ JX 291 at 19; Dane Tr. 181, 253; Soine Tr. 689-90 (explaining that \$1.822 billion was the asset-level valuation before making balance sheet adjustments for net cash and debt).

⁷⁰ Mills Tr. 481-82.

changer” that exceeded all expectations.⁷¹ Drilling and production into the spring months revealed “that the reservoir was even bigger” than QuarterNorth had hoped.⁷² This success shaped the Board’s belief that Elliott and Talos undervalued QuarterNorth.⁷³

Elliott’s participation in the sale process ended on April 16, 2023.⁷⁴ QuarterNorth submitted a counterproposal to Talos two days later, proposing an implied equity valuation of \$1.739 billion and reducing the amount of Talos equity in the mix of consideration.⁷⁵ Talos countered by lowering its bid after a decline in Talos’s stock price reduced the value of its stock component.⁷⁶ The Board rejected Talos’s counteroffer and formally ended the sale process on May 30, 2023.⁷⁷

⁷¹ *Id.* at 482.

⁷² *Id.* at 482-83, 523.

⁷³ Heck Tr. 736 (describing the Katmai discovery as a “company-maker for QuarterNorth,” because it “changed the outlook from a production and value standpoint dramatically”); Soine Tr. 662; Mills Tr. 483. Katmai is now the “single most valuable asset on [the] balance sheet.” *Id.* at 467.

⁷⁴ PTO ¶ 74; JX 291 at 16.

⁷⁵ PTO ¶ 75; JX 88 at 3.

⁷⁶ PTO ¶ 76; *see* Simon Tr. 790; *see also* Dane Tr. 292-94; Kristiansen Tr. 361-62.

⁷⁷ Soine Tr. 683-84; PTO ¶¶ 76, 77.

F. The Dividend

As the sale process wound down, the Board explored an alternative “return of capital business strategy.”⁷⁸ It considered both a cash dividend and a stock repurchase program.⁷⁹ The Board concluded that a stock buyback was “not an appropriate use of capital at [that] time” because material nonpublic information—including data on Katmai West—created a “value gap” between QuarterNorth and selling stockholders in the uninformed market.⁸⁰ Instead, it opted to pursue a \$200 million cash dividend, which it determined to be “in the best interest of the Company’s stockholders based on the cash needs of [the Company] through 2023.”⁸¹

On June 6, 2023, the Board declared a regular cash dividend of \$200 million (the “Dividend”).⁸² The Dividend had a “Dividend Reference Date” of June 20, 2023, a record date of June 21, 2023, and a payment date of June 29, 2023.⁸³ The Board knew that the Dividend could trigger a Warrant Adjustment under Section

⁷⁸ JX 119 at 4; JX 127 at 2.

⁷⁹ JX 127 at 2; JX 108 at 3, 7 (recommending a “\$200 [million] capital return program in the near and medium term” and a “warrant restructuring”).

⁸⁰ JX 127 at 2; Soine Tr. 664-65; Simon Tr. 796.

⁸¹ JX 127 at 2; PTO ¶ 78.

⁸² PTO ¶ 80; JX 146 at 3 (stating an initial per-share amount of \$24.79, or approximately \$24.68 per security across 8,103,388 participating common shares, as-converted New Money Warrants, and vested restricted stock units).

⁸³ PTO ¶¶ 7, 80.

6(b) of the Warrant Agreements.⁸⁴ QuarterNorth management subsequently prepared slides with a pro forma calculation of the Warrant Adjustment reflecting an aggregate equity valuation of \$1.75 billion.⁸⁵

QuarterNorth announced the Dividend and the formal end of the sale process on June 8, explaining that “none of the bids received in the process represented the best opportunity to maximize value for the Company’s stockholders.”⁸⁶ It also advised that the Board would calculate the Company’s free cash flow for 2023 in early 2024.⁸⁷ Because the Section 6(b) formula depended on full-year free cash flow and the aggregate amount of dividends paid during the fiscal year, the Warrant Adjustment could not be finalized until QuarterNorth completed its year-end audited financial statements.⁸⁸

G. The Talos Acquisition and Drag-Along Notice

Negotiations with Talos resumed in September 2023.⁸⁹ On September 15, Talos transmitted a new letter of intent that implied a pre-Dividend equity value of

⁸⁴ JX 124 at 21; Soine Tr. 669.

⁸⁵ JX 162 at 10; JX 124 at 22; Mills Tr. 481; Dane Tr. 181.

⁸⁶ JX 161 at 3; *see* PTO ¶ 81.

⁸⁷ JX 260 at 2; *see* PTO ¶ 81.

⁸⁸ Soine Tr. 668-69 (explaining that it was not possible to calculate the Warrant Adjustment until QuarterNorth had its “year-end financials” because it “relied on . . . free cash flow for the year” and “the aggregate dividend amount,” which could both only be calculated at the close of the fiscal year); Simon Tr. 797-98.

⁸⁹ JX 217 at 2.

\$1.735 billion for QuarterNorth.⁹⁰ In October 2023, another company—Harbour Energy plc—made an all-cash offer with an implied pre-Dividend equity value of \$1.783 billion.⁹¹ Though Harbour Energy opted to pursue a different venture in Europe, negotiations with Talos continued.⁹²

On January 12, 2024, the Board voted unanimously to approve a merger with Talos.⁹³ Consideration for the transaction consisted of \$965 million in cash and 24.8 million shares of Talos common stock.⁹⁴ Post-Dividend, the aggregate equity merger consideration was roughly \$1.603 billion.⁹⁵ The merger consideration was based on QuarterNorth’s standalone asset value and did not include a control premium or synergies.⁹⁶ The next day, QuarterNorth and Talos executed an Agreement and Plan of Merger (the “Merger Agreement”).⁹⁷ Talos then filed a Form 8-K with the U.S. Securities and Exchange Commission announcing the execution of the Merger Agreement.⁹⁸

⁹⁰ *Id.* at 6; *see infra* note 219 and accompanying text (discussing post-Dividend offers).

⁹¹ JX 280 at 5.

⁹² JX 247 at 13; JX 223; Simon Tr. 802-03.

⁹³ PTO ¶ 82; JX 247.

⁹⁴ JX 254; PTO ¶ 83.

⁹⁵ PTO ¶ 83; Dane Tr. 196-97; JX 308 at 17.

⁹⁶ Dane Tr. 197-98; Sauvageau Dep. 211.

⁹⁷ JX 275; JX 247; PTO ¶ 82.

⁹⁸ JX 248.

On January 13, 2024, a group of QuarterNorth stockholders—including Franklin, Invesco, and Nuveen—delivered a Drag-Along Sale Notice to QuarterNorth securityholders.⁹⁹ The notice stated that the stockholder group, which owned more than 50% of QuarterNorth’s common stock, was exercising its rights under Section 3.03(a) of the Stockholders Agreement to require the other securityholders to vote for the merger.¹⁰⁰

The plaintiffs that held common stock (along with counterclaim-defendant Mudrick Cav Master, L.P.) did not vote on the merger.¹⁰¹ The Talos merger was subsequently approved on February 20, 2024, with holders of 93% of the participating voting securities voting in favor.¹⁰² The merger closed on March 4, 2024.¹⁰³

⁹⁹ JX 271 at 3-4; PTO ¶ 89.

¹⁰⁰ JX 271 at 3-4; PTO ¶ 89; *see also* Stockholders Agreement § 3.03(a).

¹⁰¹ PTO ¶ 90. The non-voting securityholders included plaintiffs Mudrick Distressed Opportunity Fund Global, L.P., Blackwell Partners LLC – Series A, Boston Patriot BatteryMarch St LLC, Mudrick Distressed Opportunity Drawdown Fund II, L.P., Mudrick Distressed Opportunity Drawdown Fund II SC, L.P., CII Holdco Inc., EF Holdco Inc., ECO Holdco Inc., Ellington Private Opportunities Master Fund II (A) LP, and counterclaim-defendant Mudrick Cav Master, L.P. *Id.* ¶ 89; *id.* at 1-2.

¹⁰² PTO ¶ 91.

¹⁰³ *Id.*

H. The Warrant Adjustments

In January 2024, the Board met to determine the Warrant Adjustments.¹⁰⁴ Relevant here, it set out to calculate the value of “M”—the Fair Market Value of one Share of QuarterNorth stock as of June 20, 2023 (the Trading Day immediately preceding the ex-date for the Dividend), as determined in good faith and in a commercially reasonable manner by the Board.¹⁰⁵

At a January 22 meeting, the Board discussed a letter it had received from counsel for certain holders of Tranche 1 and Tranche 2 Warrants, which asked the Board to rely on “market-based evidence” of past trading prices to calculate the “proper” Warrant Adjustment.¹⁰⁶ Though it was privately held, QuarterNorth’s equity was quoted on Markit, “[a]n independent third-party source owned by S&P Global” and “the leading provider/aggregator of broker-dealer quotes and transactions in nonexchange traded” markets.¹⁰⁷ The Board concluded that prior trades were not a reliable indicator of value because QuarterNorth’s stock was “thinly traded” and no secondary trades had occurred for several months surrounding

¹⁰⁴ *Id.* ¶¶ 84-85; JX 291.

¹⁰⁵ *See* JX 905; PTO ¶ 7 (explaining that the parties’ “core dispute relates to the input ‘M’”); Mudrick Tr. 76-77, 157-60 (testifying that the other inputs were not meaningfully contested).

¹⁰⁶ JX 281 at 2-3.

¹⁰⁷ Mudrick Tr. 38.

the valuation date.¹⁰⁸ Through counsel, the Board sent a response explaining that the warrant-adjustment process had not yet concluded and that it was “taking into consideration all relevant factors, including the relatively small and sporadic non-public trades.”¹⁰⁹

The Board also reviewed a presentation prepared by Barclays during the sale process titled “Project Compass Warrant Adjustment Discussion.”¹¹⁰ The presentation identified three potential approaches to calculating “M.”¹¹¹ The first approach would rely on “Offers Received,” using “buyer indications of value received during the [sale] process.”¹¹² The second approach, titled “Barclays Valuation,” would evaluate “QuarterNorth databases . . . utilizing market prices and market views on risk factors and discount rates.”¹¹³ And the third approach—titled “Market Quotes”—would rely on secondary market data as a proxy for stock

¹⁰⁸ Dane Tr. 235; Soine Tr. 684; JX 284 at 2 (“There was then a discussion on the thinly traded nature of the Company’s stock and that sporadic quotes do[] not constitute a true market.”).

¹⁰⁹ JX 299 at 3. The letter, drafted by counsel for the QuarterNorth Board, also explained that case law cited in the Warrant holders’ letter was inapposite because it pertained to publicly traded companies. *Id.* at 3-4.

¹¹⁰ JX 280; JX 284.

¹¹¹ JX 280 at 3.

¹¹² *Id.*

¹¹³ *Id.*

price.¹¹⁴ Barclays cautioned against the third approach, explaining that prior quotes “[m]ay not accurately represent” fair market value due to the “illiquid” nature of the market and the fact that sporadic prior trades did “not reflect a sale of the entire company.”¹¹⁵

The Board did not make a final determination on the proper method for calculating “M” at the January 22 meeting.

A second Board meeting to discuss the Warrant Adjustments was held two days later, on January 24.¹¹⁶ At the meeting, the Board addressed the Company’s annual free cash flow for fiscal year 2023 and the determination of “M.”¹¹⁷

The Board reviewed another presentation prepared by Barclays, which again outlined the possible approaches the Board could use to calculate “M.”¹¹⁸ The presentation included an illustrative table translating aggregate valuations into per-share prices by dividing the aggregate figures by 8,103,388 common shares—an undiluted share count that excluded the Tranche 1 and Tranche 2 Warrants (as well as the GUC Warrants).¹¹⁹ At a \$1.7 billion valuation, the table reflected an

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ JX 291.

¹¹⁷ *Id.* at 2.

¹¹⁸ *Id.* at 6-22.

¹¹⁹ *Id.* at 14. The 8,103,388 share count consisted of 6,044,497 shares of initial common stock, 1,908,828 as-converted New Money Warrants, and 150,063 restricted stock units

illustrative price of \$209.79 per share.¹²⁰ The Board discussed the offers previously received from Elliott and Talos and concluded that the “Offers Received” approach was the most reliable method to determine the Fair Market Value of the Company.¹²¹

The final decision was put to a vote. Directors Niehaus and Wollman recused themselves from the vote because their employer, Invesco, owned both QuarterNorth common stock and Warrants.¹²² The remaining five directors unanimously approved resolutions determining: (1) that the Company’s annual free cash flow in fiscal year 2023 was \$254.9 million, thus triggering the Warrant Adjustments; and (2) that the Fair Market Value of the Company as of June 20, 2023 was \$1.7 billion.¹²³ The voting directors further delegated authority to management to calculate the required Warrant Adjustments in accordance with the Warrant Agreements.¹²⁴

On January 30, 2024, QuarterNorth provided a notice of the Warrant Adjustment and an accompanying presentation to holders of the Tranche 1 and

under QuarterNorth’s equity incentive plan—the securities that participated in the June 2023 Dividend. *See* JX 304 at 3; *see infra* note 228 and accompanying text.

¹²⁰ JX 291 at 14.

¹²¹ *Id.* at 2, 13.

¹²² *Id.* at 3; Dane Tr. 212 (“Peter Niehaus and Peter Wollman were both employees of Invesco. Invesco was a common equity holder, as well as a warrant holder. And so just given their ownership in these securities that were under discussion and likely to be impacted, they and the board felt that it was appropriate for them to recuse themselves.”).

¹²³ JX 291 at 3; *see* Mills Tr. 507-08.

¹²⁴ JX 291 at 3.

Tranche 2 Warrants.¹²⁵ The notice identified “M” as \$209.79 and “D” as \$15.24.¹²⁶ Management reached the \$209.79 figure for “M” by applying “simple division,” dividing the Board’s \$1.7 billion aggregate valuation of the Company by the 8,103,388 undiluted “common shares” outstanding, as shown in the January 24 presentation.¹²⁷ Although the Tranche 1 and Tranche 2 Warrants (and GUC Warrants) were in the money at a \$1.7 billion valuation, the denominator included none of those warrant shares.¹²⁸

The resulting Warrant Adjustment provided a 7.8% increase in the Tranche 1 and Tranche 2 Warrant shares and a 7.3% reduction in the exercise price of both tranches.¹²⁹

I. This Litigation

On February 7, 2024, certain holders of the Tranche 1 and Tranche 2 Warrants filed this lawsuit against QuarterNorth, Franklin, Invesco, and Nuveen before the

¹²⁵ PTO ¶ 85; JX 304.

¹²⁶ JX 304 at 3; PTO ¶ 86.

¹²⁷ Dane Tr. 225-26, 283; JX 291 at 14.

¹²⁸ Dane Tr. 286-87 (confirming that the Warrants were in the money at a \$1.7 billion valuation); Simon Tr. 831-33 (same); *see also* Fischel Tr. 968-70.

¹²⁹ PTO ¶ 87 (containing a typographical error listing 2,988,810 rather than 2,998,810 Tranche 1 Warrants). The Tranche 1 Warrant shares increased from 2,780,926 to 2,998,810, and the Tranche 2 Warrant shares increased from 5,355,857 to 5,775,486. *Id.* Likewise, the exercise price for the Tranche 1 Warrants was reduced from \$166.09 to \$154.02, and the exercise price for the Tranche 2 Warrants was reduced from \$189.42 to \$175.66. *Id.*

Talos merger closed on March 4.¹³⁰ They moved for a preliminary injunction to enjoin the defendants from imposing a “Drag-Along Sale” on the plaintiffs, which I denied.¹³¹

The plaintiffs filed an amended complaint on May 28.¹³² They brought claims for breach of contract and unjust enrichment, the latter of which I dismissed for failure to state a claim—leaving QuarterNorth as the sole defendant.¹³³ QuarterNorth filed a counterclaim for breach of contract on December 27, alleging that the counterclaim defendants breached their obligations under Section 3.03(a) of the Stockholders Agreement by failing to vote for the Talos merger.¹³⁴

¹³⁰ Verified Compl. (Dkt. 1). The plaintiffs are: Mudrick Distressed Opportunity Fund Global, L.P., Blackwell Partners LLC – Series A, Boston Patriot BatteryMarch St LLC, Mudrick Distressed Opportunity Drawdown Fund II, L.P., Mudrick Distressed Opportunity Drawdown Fund II SC, L.P., CII Holdco Inc., EF Holdco Inc., ECO Holdco Inc., Ellington Private Opportunities Master Fund II (A) LP, Mudrick Distressed Opportunity SIF Master Fund, L.P., and Ellington Special Opportunities LLC. PTO at 1-2.

¹³¹ See Mem. Op. Regarding Mot. for a Prelim. Inj. (Dkt. 49).

¹³² Verified Am. Compl. (Dkt. 53).

¹³³ *Id.* ¶¶ 68-93; Order Granting in Part Defs.’ Am. Mot. to Dismiss (Dkt. 70). As a result, the stockholder defendants—Franklin, Invesco, and Nuveen, and their corresponding entities—were dismissed.

¹³⁴ Def.’s Answer and Verified Countercl. (Dkt. 75).

Trial took place from May 5 to 8, 2026.¹³⁵ Post-trial briefing was complete as of July 2.¹³⁶ Post-trial argument was held on July 9, and the matter was submitted for decision at that time.¹³⁷

II. ANALYSIS

Trial concerned two breach of contract claims. The core dispute is whether QuarterNorth breached its contractual obligation to determine the Warrant Adjustment inputs—principally “M”—in good faith and in a commercially reasonable manner. The plaintiffs claim that QuarterNorth fell short of this standard, breaching Section 6(b) of the Warrant Agreements. A separate dispute concerns whether the counterclaim defendants breached the drag-along provision in the Stockholders Agreement by refusing to return a proxy card or vote for the Talos merger.

“Under Delaware law, the elements of a breach of contract claim are: 1) a contractual obligation; 2) a breach of that obligation by the defendant; and 3) a resulting damage to the plaintiff.”¹³⁸ The claim’s proponent bears the burden of

¹³⁵ Judicial Action Form (Dkt. 188).

¹³⁶ See Pls.’-Counterclaim Defs.’ Opening Post-trial Br. (Dkt. 198) (“Pls.’ Post-trial Opening Br.”); Def.-Counterclaim Pl.’s Answering Post-trial Br. (Dkt. 199) (“Def.’s Post-trial Answering Br.”); Pls.’-Counterclaim Defs.’ Reply Post-trial Br. (Dkt. 204) (“Pls.’ Post-trial Reply Br.”).

¹³⁷ See Tr. of Post-trial Oral Arg. (Dkt. 207) (“Post-trial Hr’g Tr.”).

¹³⁸ *H-M Wexford LLC v. Encorp, Inc.*, 832 A.2d 129, 140 (Del. Ch. 2003).

proving each element by a preponderance of the evidence—meaning to prove that something is more likely than not.¹³⁹

Resolving the claims turns primarily on the text of the Warrant Agreements and Stockholders Agreement. “When interpreting a contract, the Court [gives] priority to the parties’ intentions.”¹⁴⁰ To do so, the court looks within “the four corners of the agreement” and “constru[es] the agreement as a whole.”¹⁴¹ It must interpret the plain text as it “would be understood by an objective, reasonable third party.”¹⁴² The court must also read the contract in a way that gives meaning to each term, avoiding surplusage, and “reconcil[ing] all of [its] provisions ‘in order to determine the meaning intended to be given to any portion of it.’”¹⁴³

Applying these principles, I conclude that QuarterNorth breached Section 6(b) of the Warrant Agreements. Although the Board acted in subjective good faith and

¹³⁹ *Taylor v. State*, 2000 WL 313501, at *2 n.11 (Del. Feb. 23, 2000) (“[T]o establish something by a preponderance of the evidence means to prove that something is more likely so than not so.”).

¹⁴⁰ *GMG Cap. Invs., LLC v. Athenian Venture P’rs I, L.P.*, 36 A.3d 776, 779 (Del. 2012) (citation omitted).

¹⁴¹ *Id.*; *In re Viking Pump, Inc.*, 148 A.3d 633, 648 (Del. 2016) (citation omitted); *see also Chi. Bridge & Iron Co. N.V. v. Westinghouse Elec. Co. LLC*, 166 A.3d 912, 913-14 (Del. 2017) (“In giving sensible life to a real-world contract, [Delaware] courts must read the specific provisions of the contract in light of the entire contract.”).

¹⁴² *Salamone v. Gorman*, 106 A.3d 354, 367-68 (Del. 2014) (citation omitted).

¹⁴³ *Warner Commc’ns Inc. v. Chris-Craft Indus., Inc.*, 583 A.2d 962, 967 (Del. Ch. 1989) (citation omitted), *aff’d*, 567 A.2d 419 (Del. 1989).

reasonably adopted a \$1.7 billion aggregate equity valuation, QuarterNorth failed to determine “M” in a commercially reasonable manner when it divided that valuation by an undiluted share count that disregarded the in-the-money Warrants. The plaintiffs did not, however, prove any error in QuarterNorth’s calculation of “D.” The plaintiffs are entitled to expectation damages of approximately \$3 million, plus pre- and post-judgment interest. On the counterclaim, I conclude that the counterclaim defendants breached Section 3.03(a) of the Stockholders Agreement by failing to vote for the Talos merger, entitling QuarterNorth to \$1 in nominal damages. Finally, each side will bear its own attorneys’ fees. My reasoning follows.

A. Whether QuarterNorth Breached the Warrant Agreements

The Warrant Agreements required that if QuarterNorth issued a dividend causing aggregate annual cash dividends to exceed “30% of the Company’s free cash flow for [that] fiscal year, . . . the Exercise Price and Warrant Share Number shall be adjusted pursuant to” a specific anti-dilution formula.¹⁴⁴ The purpose of the Warrant Adjustment formulas was to preserve the economic positions the Tranche 1 and Tranche 2 Warrant holders occupied before an extraordinary dividend distributed assets out of QuarterNorth.¹⁴⁵ Broadly speaking, the formulas subtract “D” (the Fair Market Value of the excess portion of the dividend made per Share as

¹⁴⁴ Warrant Agreements § 6(b).

¹⁴⁵ See Mudrick Tr. 20-24; Dane Tr. 167-68; Mills Tr. 552-53.

of the record date) from “M” (the Fair Market Value of one Share on the Trading Day before the ex-dividend date) to measure the proportion by which an excess dividend reduced the value of a Share of common stock and to adjust the Warrants’ share counts and exercise prices accordingly.¹⁴⁶

The Warrant Agreements provide three definitions of “Fair Market Value.”¹⁴⁷ The first definition concerns “shares of stock that are listed on” a “U.S. national or regional securities exchange.”¹⁴⁸ The second definition concerns cash, defining its Fair Market Value as “the amount thereof.”¹⁴⁹ And the third definition concerns “securities not covered by [the first definition] or any other property, *as determined in good faith and in a commercially reasonable manner by the Board.*”¹⁵⁰ The parties agree that only the third definition is implicated here for the determination of “M.”¹⁵¹

This definition of Fair Market Value gave the Board discretion to determine the value of one Share, subject to two requirements.¹⁵² First, the Board’s

¹⁴⁶ See *supra* notes 24-31 and accompanying text (summarizing the Warrant Adjustment formulas and related definitions); Warrant Agreements § 6(b).

¹⁴⁷ Warrant Agreements § 1 (defining “Fair Market Value”).

¹⁴⁸ *Id.* (definition (i) of Fair Market Value); *id.* (defining “Exchange”).

¹⁴⁹ *Id.* (definition (ii) of Fair Market Value).

¹⁵⁰ *Id.* (definition (iii) of Fair Market Value) (emphasis added).

¹⁵¹ PTO ¶¶ 7, 69.

¹⁵² See *Weinberg v. Waystar, Inc.*, 294 A.3d 1039, 1045 (Del. 2023) (explaining that “and” is generally construed “conjunctively”). The plaintiffs suggest that the phrase “in a

determination must be made “in good faith”—a subjective standard.¹⁵³ “A plaintiff contending that a party did not comply with its express contractual duty of good faith would typically have to show that the party acted in subjective bad faith.”¹⁵⁴ Second, the Board’s determination must be made “in a commercially reasonable manner”—an objective standard.¹⁵⁵ A commercially reasonable determination is one made “in accordance with commonly accepted commercial practice.”¹⁵⁶

The plaintiffs challenge the determination of both “M” and “D.”

commercially reasonable manner” merely modifies “in good faith,” rather than imposing an independent requirement. *See* Pls.’ Post-trial Opening Br. 51-55. That reading is inconsistent with settled principles of contract interpretation. Delaware courts construe contracts to give independent meaning and effect to every provision, avoiding any interpretation that renders contractual language mere surplusage. *See Osborn ex rel. Osborn v. Kemp*, 991 A.2d 1153, 1159-60 (Del. 2010).

¹⁵³ Warrant Agreements §§ 1, 6(b); *see DV Realty Advisors LLC v. Policemen’s Annuity & Ben. Fund of Chi.*, 75 A.3d 101, 109-11 (Del. 2013) (observing that contractual “good faith” is a subjective standard that is analyzed in the context of the “larger provision—or value” the contract “sought to protect”).

¹⁵⁴ *ev3, Inc. v. Lesh*, 114 A.3d 527, 539 (Del. 2014) (emphasis omitted).

¹⁵⁵ Warrant Agreements § 1. The Warrant Agreements do not define “commercially reasonable manner.” Delaware “courts look to dictionaries for assistance in determining the plain meaning of terms which are not defined in a contract.” *Lorillard Tobacco Co. v. Am. Legacy Found.*, 903 A.2d 728, 738 (Del. 2006); *see infra* note 156 and accompanying text.

¹⁵⁶ *Commercially Reasonable*, Black’s Law Dictionary (12th ed. 2024); *see also Menn v. ConMed Corp.*, 2022 WL 2387802, at *29 (Del. Ch. June 30, 2022) (defining a “commercially reasonable” determination as one that “requires a showing that the determination was in keeping with prevailing trade practice among reputable and responsible business and commercial enterprises” engaged in similar businesses).

1. The Value of “M”

The primary dispute concerns whether the Board’s determination of “M” reflects “the Fair Market Value of one Share as of the Trading Day immediately preceding the ex-date” for the Dividend.¹⁵⁷ The relevant Trading Day is June 20, 2023—the business day immediately preceding the ex-date for the Dividend.¹⁵⁸ When the defined terms are substituted with their definitions, “M” is the value of one share of QuarterNorth common stock as of June 20, 2023, as determined in good faith and in a commercially reasonable manner by the Board.¹⁵⁹

QuarterNorth determined “M” to be \$209.79.¹⁶⁰ It reached this figure from the Board’s adoption of a \$1.7 billion aggregate equity valuation for QuarterNorth.¹⁶¹ That aggregate figure was then divided by 8,103,388 shares, reflecting QuarterNorth’s outstanding common stock, as-converted New Money

¹⁵⁷ Warrant Agreements § 6(b) (defining “M”).

¹⁵⁸ PTO ¶ 7.

¹⁵⁹ Warrant Agreements § 6(b) (reflecting the insertion of defined terms for “Trading Day” and “Fair Market Value”); *id.* § 1 (defining “Trading Day” as a “Business Day”); *id.* (defining “Business Day” as “any day other than a Saturday or Sunday or any other day on which national banking associations in the State of New York generally are closed for commercial banking business”); *see* Mudrick Tr. 93 (acknowledging this reading).

¹⁶⁰ *See* JX 291 at 14; PTO ¶ 86; JX 304 at 3.

¹⁶¹ JX 291 at 3.

Warrants, and restricted stock units (RSUs) issued under its equity incentive plan (EIP).¹⁶²

The plaintiffs assert that this determination breached the Warrant Agreements in two ways. First, they claim that the Board valued only QuarterNorth as a whole, rather than one share of QuarterNorth common stock. Second, they claim that the Board acted neither in good faith nor in a commercially reasonable manner. QuarterNorth argues otherwise.

I conclude that the Board fulfilled its contractual mandate to determine the value of one QuarterNorth share. I further conclude that the Board's adoption of a \$1.7 billion aggregate equity value was made in good faith and in a commercially reasonable manner. The Board acted in subjective good faith when it divided that valuation by 8,103,388 shares. But the calculation was not commercially reasonable because it disregarded the in-the-money Warrants.

a. Contractual Mandate

The plaintiffs contend that the Board disregarded its contractual obligation to value one share of QuarterNorth common stock. They argue that the Board bypassed valuing one share and instead valued QuarterNorth as a whole, relying solely on the January 24, 2024 Board minutes.¹⁶³ Those minutes state that the Board

¹⁶² *See id.* at 14; JX 304 at 3.

¹⁶³ Pls.' Post-trial Opening Br. 33-37.

“determine[d] in good faith using a commercially reasonable manner, and ratif[ied], that the fair market value of the Company as of the day prior to the record date (June 21, 2023) for the 2023 dividend was \$1.7 [billion].”¹⁶⁴ Although the formal resolutions in the minutes do not state a per-share valuation, the trial record confirms that the Board determined “M” to be \$209.79.

The directors consistently and credibly testified that the Board adopted the specific per-share figure of \$209.79 rather than just the \$1.7 billion total equity valuation. For example, Mills explained that the Board “approved the dollar per share, the \$209” and confirmed he had “no doubt” the Board determined “M” to be \$209.79.¹⁶⁵ Heck likewise explained that he “reviewed the calculations multiple times, [and] that the [\$]1.7 billion divided by the outstanding shares was the [\$]209.79.”¹⁶⁶ Barclays’ Ivor Kristiansen substantiated this testimony, stating that he presented the per-share breakdown of \$209.79 alongside the \$1.7 billion equity valuation.¹⁶⁷ The January 24 Board deck corroborates these accounts, showing that the Board reviewed a slide calculating a “Fair Market Value Per Share (M)” of \$209.79.¹⁶⁸

¹⁶⁴ JX 291 at 3.

¹⁶⁵ Mills Tr. 508.

¹⁶⁶ Heck Tr. 741; *see also id.* at 733, 738, 742; Simon Tr. 811-12, 863; Dane Tr. 225-26.

¹⁶⁷ Kristiansen Tr. 380-81, 387.

¹⁶⁸ JX 291 at 14; *see also* Kristiansen Tr. 380-81.

The plaintiffs also claim that the Board failed to find the Fair Market Value for “one Share” of QuarterNorth stock as the Warrant Agreements required, and instead analyzed “M” on a per-share basis.¹⁶⁹ They highlight the difference between the Warrant Agreements’ description of “M” as a determination of “one Share” and “D” as a “per Share” determination.¹⁷⁰ In collapsing this distinction, they posit, the Board treated the valuation of a single share and the pro rata allocation of the entire Company as one and the same.

This argument elevates form over substance. Delaware law generally presumes that the use of different contractual terms implies different meanings.¹⁷¹ The variation here—valuing “one Share” versus a dividend made “per Share”—reflects basic grammar rather than a substantive restriction on valuation methodology.¹⁷² The formulas require single-share inputs. Because dividends (measured in cash) are paid in lump sums, the aggregate cash amount must be divided “per Share” to calculate “D” for use in the adjustment formula.¹⁷³ “M,” by

¹⁶⁹ See Pls.’ Post-trial Opening Br. 39-41.

¹⁷⁰ *Id.* at 41.

¹⁷¹ See *Williams Cos., Inc. v. Energy Transfer LP*, 2020 WL 3581095, at *12 n.123 (Del. Ch. July 2, 2020) (“One principle of contract interpretation in Delaware is that the use of different language in different sections of a contract suggests the difference is intentional—i.e., the parties intended for the sections to have different meanings.”).

¹⁷² See Def.’s Post-trial Answering Br. 39-40.

¹⁷³ See Warrant Agreements § 6(b).

contrast, concerns the “Fair Market Value of one Share” to fit into the formula, and the three-part definition of “Fair Market Value” provides flexibility depending on whether QuarterNorth’s stock is traded publicly at the time of the Warrant Adjustment.¹⁷⁴

The Board valued “one Share.” It did so by dividing the aggregate equity value by the number of outstanding shares. Whether that method was appropriate is a question of commercial reasonableness.

b. Good Faith

To establish that the Board failed to act “in good faith” under the Warrant Agreements, the plaintiffs must prove that the directors determined “M” without “honesty in fact” or with an improper motive.¹⁷⁵ The plaintiffs failed to make this showing.

The plaintiffs posit that the Board was conflicted and beholden to QuarterNorth’s largest common stockholders, giving the directors incentives to calculate the Warrant Adjustments in a way advantageous to those stockholders and harmful to Warrant holders.¹⁷⁶ To the extent this control theory bears on the

¹⁷⁴ See *id.* § 1.

¹⁷⁵ *DV Realty Advisors*, 75 A.3d at 110-11 (concluding that an agreement’s express “good-faith” requirement was a subjective standard grounded in “honesty in fact”); see *supra* notes 153-154 and accompanying text.

¹⁷⁶ See Pls.’ Post-trial Opening Br. 25-28; Pls.’ Post-trial Reply Br. 21-24.

contractual good faith standard, it was not borne out at trial. The two directors employed by Invesco—Niehaus and Wollman—recused themselves from the January 24, 2024 vote.¹⁷⁷ Although Franklin and Nuveen had the contractual rights to designate and remove Mills and Simon, being designated by a large stockholder, without more, does not compromise a director’s independence.¹⁷⁸ The five voting directors—four of whom were seasoned outside industry veterans—credibly testified that they acted independently and never took direction from the stockholders who designated them.¹⁷⁹

The plaintiffs also contend that the Board deferred blindly to QuarterNorth’s management team, which was intent on artificially suppressing the Warrant Adjustments.¹⁸⁰ They assert that the directors engaged in a results-oriented process, backing into an inflated “M” variable to preserve the roughly \$177 per-share payout estimated when the Talos merger was announced in January 2024.¹⁸¹ The chronology does not support that contention.

¹⁷⁷ JX 291 at 3; Dane Tr. 212.

¹⁷⁸ See *McElrath v. Kalanick*, 224 A.3d 982, 995 (Del. 2020) (“[B]eing nominated or elected by a director who controls the outcome is insufficient by itself to reasonably doubt a director’s independence because ‘that is the usual way a person becomes a corporate director.’” (quoting *Aronson v. Lewis*, 473 A.2d 805, 816 (Del. 1984), *overruled on other grounds by Brehm v. Eisner*, 746 A.2d 244, 253-54 (Del. 2000))).

¹⁷⁹ Mills Tr. 453-56, 526; Soine Tr. 660-61; Heck Tr. 721-25; Simon Tr. 785-88.

¹⁸⁰ See Pls.’ Post-trial Opening Br. 50-54.

¹⁸¹ *Id.* at 50-55; see JX 254; JX 248.

The Board’s adoption of a \$1.7 billion valuation in January 2024 was not based solely on the Talos merger price. Rather, the Board had concluded during the spring 2023 sale process—more than six months before the Talos Merger Agreement was signed—that QuarterNorth was worth \$1.7 billion to \$1.75 billion.¹⁸² When the Board declared the Dividend in June 2023, management’s pro forma Warrant Adjustment slides similarly modeled a \$1.75 billion valuation.¹⁸³

The plaintiffs further argue that the Board’s determination of “M” could not have been made in good faith given the meaningful difference between \$209.79 and the per-share prices at which QuarterNorth stock traded in the secondary market.¹⁸⁴ The trial record shows, however, that the Board considered the valuation at two meetings in January 2024.¹⁸⁵ It reviewed the market data as one piece of its analysis, including in direct response to the Warrant holders’ January 2024 letter.¹⁸⁶ With Barclays’ guidance, the directors weighed several valuation approaches along with information obtained during the sale process.¹⁸⁷

¹⁸² Dane Tr. 181, 253; Mills Tr. 481-83; Soine Tr. 665; JX 285 at 6-7; JX 291 at 19.

¹⁸³ JX 162 at 10; JX 124 at 22; Mills Tr. 481; Dane Tr. 181.

¹⁸⁴ Pls.’ Post-trial Opening Br. 44-55; Pls.’ Post-trial Reply Br. 21-24.

¹⁸⁵ JX 280; JX 284 at 1-2; JX 291 at 1-3; *see* PTO ¶¶ 84-85.

¹⁸⁶ JX 281 at 2-3; JX 284 at 2; JX 299 at 3; Dane Tr. 231; Soine Tr. 684-85.

¹⁸⁷ *See* JX 280 at 3-10; JX 284 at 2; JX 291 at 2, 6-22; Soine Tr. 684-90.

The Board approved the \$1.7 billion aggregate equity valuation and the resulting \$209.79 per-share figure presented in Barclays' January 24 presentation in reliance on Barclays and management.¹⁸⁸ Although dividing the \$1.7 billion aggregate equity value by an undiluted share count was commercially unreasonable, as explained below, the evidence does not establish that the directors acted in subjective bad faith.¹⁸⁹ Nor does the use of a flawed valuation methodology reflect subjective bad faith if the valuing party acted honestly.¹⁹⁰

Accordingly, the plaintiffs failed to prove that the Board fell short of its mandate to determine "M" in good faith.

c. Commercial Reasonableness

Resolving whether the Board's determination of "M" was commercially reasonable is less straightforward. Commercial reasonableness is an objective

¹⁸⁸ JX 291 at 3, 14; Mills Tr. 508; Soine Tr. 681-82; Heck Tr. 733, 738, 741-42; Simon Tr. 811-12; *cf.* 8 *Del. C.* § 141(e) (protecting directors who rely in good faith upon corporate records, officers, and advisors selected with reasonable care); *Brinckerhoff v. Enbridge Energy Co.*, 159 A.3d 242, 260 (Del. 2017) (observing that good-faith reliance on a qualified advisor may support a finding of contractual good faith).

¹⁸⁹ *See infra* Section II.A.1.c.ii.

¹⁹⁰ *See Senior Hous. Cap., LLC v. SHP Senior Hous. Fund, LLC*, 2013 WL 1955012, at *26 (Del. Ch. May 13, 2013) (noting that methodological disagreements do not establish that an appraiser charged with valuing a contractual input failed to make a "good faith, independent judgment").

test.¹⁹¹ In the context of the Warrant Agreements, it asks whether the Board’s methodology in calculating “M” was objectively reasonable in keeping with prevailing commercial and valuation practice.¹⁹²

Here, the analysis has two parts: the numerator and the denominator. First, I must consider the Board’s rejection of secondary market trading data in favor of an aggregate equity value. And second, I must assess the division of that \$1.7 billion figure by an undiluted share count. The former was objectively reasonable; the latter was not.

i. *The Aggregate Equity Valuation*

The plaintiffs argue that the only commercially reasonable way to determine the Fair Market Value of one Share on June 20, 2023 was based on secondary over-the-counter market data.¹⁹³ Relying on the expert opinion of Daniel R. Fischel, they maintain that the Board was required to adopt \$138.50—the midpoint of bid-ask quotes for QuarterNorth common stock published on Markit on June 20, 2023—as “M.”¹⁹⁴ I disagree. Although market price is ordinarily a reliable indicator of fair

¹⁹¹ See *supra* notes 155-156 and accompanying text; see also *Edgewater Growth Cap. P’rs LP v. H.I.G. Cap., Inc.*, 68 A.3d 197, 215 (Del. Ch. 2013) (assessing commercial reasonableness by comparing the challenged conduct with industry practices).

¹⁹² See Warrant Agreements § 1 (definition (iii) of Fair Market Value).

¹⁹³ Pls.’ Post-trial Opening Br. 44-50.

¹⁹⁴ Fischel Report ¶¶ 15, 32; see Fischel Tr. 913, 935-36.

value when a stock trades actively in an efficient market, the contract and the market realities here dictate a different approach.¹⁹⁵

First, the Warrant Agreements gave the Board discretion to depart from trading price when setting the Fair Market Value for privately traded securities. The Warrant Agreements mandate the use of trading prices only under the first definition of Fair Market Value, which applies to stock listed on a “U.S. national or regional securities exchange.”¹⁹⁶ QuarterNorth was privately held and unlisted, and so the third definition of Fair Market Value applies, which permits the Board to determine value in a “commercially reasonable manner.”¹⁹⁷

Second, QuarterNorth’s stock did not trade in an active, liquid, or well-informed market.¹⁹⁸ As a privately held company emerging from bankruptcy, QuarterNorth had no public float, no reporting obligations, and no equity analyst

¹⁹⁵ See *Dell, Inc. v. Magnetar Glob. Event Driven Master Fund Ltd.*, 177 A.3d 1, 25 (Del. 2017) (observing that market price is a reliable indicator of fair value where the market is efficient or semi-strong efficient, where the price “reflects the judgments of many stockholders” informed by public filings, industry information, and analyst research) (citation omitted); *Applebaum v. Avaya, Inc.*, 812 A.2d 880, 890 (Del. 2002) (observing that a “well-informed, liquid trading market” provides a “measure of fair value”).

¹⁹⁶ Warrant Agreements § 1 (definition (i) of Fair Market Value).

¹⁹⁷ *Id.* (definition (iii) of Fair Market Value).

¹⁹⁸ JX 346 (Rebuttal Report of Daniel B. Beaulne) (“Beaulne Rebuttal Report”) ¶¶ 20-55; Beaulne Tr. 1088-91, 1097-1101; see also Weiss Tr. 601-02 (testifying that QuarterNorth was relatively liquid in the context of reorganized companies and compared to private equity-backed companies with a single stockholder).

coverage.¹⁹⁹ Trading was restricted to qualified institutional buyers transacting over the counter through broker-dealers.²⁰⁰ Average weekly trading volume in the year preceding the Dividend was roughly 0.1% to 0.2% of QuarterNorth’s total equity—a fraction of turnover associated with an active, efficient market.²⁰¹ Several of the 35 sporadically executed trades were forced liquidations by funds or winding-down entities accepting depressed “liquidity bids.”²⁰²

More critically, the June 20, 2023 valuation date fell during a five-month stretch with no trading activity. No trades of QuarterNorth common stock occurred between March 14, 2023 and August 18, 2023—157 days spanning three months before and two months after the valuation date.²⁰³ The plaintiffs’ proposed \$138.50

¹⁹⁹ Beaulne Rebuttal Report ¶¶ 27-32, 51-53.

²⁰⁰ Fischel Report ¶ 29.

²⁰¹ Beaulne Rebuttal Report ¶¶ 23-24 (noting a 1% to 2% weekly trading volume benchmark for an active, efficient market (citing James R. Hitchner, *Financial Valuation: Applications and Models*)); Beaulne Tr. 1090-91, 1098; Fischel Tr. 994-95; *see also* Mudrick Dep. 138 (acknowledging average weekly trading volume of \$667,000 in the 30 weeks preceding the Dividend, or less than 0.1% of total equity).

²⁰² Beaulne Rebuttal Report ¶ 53 (quoting Caraher Dep. 33 and Wollman Dep. 143); *see also id.* ¶¶ 54, 84-85 (noting that institutional stockholders marked holdings to Markit quotes solely as a matter of back-office compliance policy rather than an affirmative judgment of fair market value, and that Invesco switched to an aggregate equity value-based approach in late 2022).

²⁰³ Fischel Report ¶ 24 & Ex. 1 (showing no trades in QuarterNorth common stock between March 14, 2023 and August 18, 2023); Fischel Tr. 1042-44; Beaulne Rebuttal Report ¶¶ 25, 35. Although a chart in Barclays’ January 24, 2024 Board presentation plotted share price data points in April and June 2023, they reflect non-binding Markit quotes rather than executed trades. *Compare* JX 291 at 20, *with* Fischel Report, Ex. 1.

valuation is based on an unexecuted broker-dealer quote midpoint on Markit rather than an executed transaction price.²⁰⁴ Those broker quotes had a wide bid-ask spread and remained static on major industry news days when comparable Gulf of Mexico exploration and production stocks moved sharply.²⁰⁵

The market also lacked material nonpublic information about the Katmai West well, which was a transformative asset for QuarterNorth.²⁰⁶ QuarterNorth publicly disclosed that it had begun drilling at Katmai West in late 2022 and confirmed an initial discovery in early 2023.²⁰⁷ But it deliberately withheld from the market the reservoir volume, production results, and year-end reserve reports to prevent competitors from offsetting its Gulf of Mexico leaseholds.²⁰⁸ That information asymmetry created a “value gap” between QuarterNorth’s internal knowledge and the market—the very reason the Board declined to pursue a stock repurchase program in June 2023.²⁰⁹

²⁰⁴ Fischel Report ¶ 32; Beaulne Rebuttal Report ¶¶ 25, 35.

²⁰⁵ Beaulne Rebuttal Report ¶¶ 36-50, figs. 1-8; Mudrick Dep. 140-41 (acknowledging that QuarterNorth stock had a “not tight bid-ask spread”).

²⁰⁶ Mills Tr. 459, 464-67; Heck Tr. 736; Soine Tr. 662.

²⁰⁷ Mills Tr. 463-65; JX 40; *see also* Fischel Report ¶ 28 & Ex. 3 (noting high-level stockholder updates).

²⁰⁸ Mills Tr. 458-59, 467-68; JX 40; *see also* Beaulne Rebuttal Report ¶ 70.

²⁰⁹ JX 127 at 2; Soine Tr. 664-65; Simon Tr. 796.

If the Board had set “M” on June 20, 2023 using Markit quotes, it would have relied on stale broker bids and asks in a market without regular trades or material information about Katmai West’s prospects.²¹⁰ It was commercially reasonable for the Board to reject that data. This approach aligns with Delaware law, which recognizes that “[t]he court cannot defer to market price as a measure of fair value if the stock has not been traded actively in a liquid market.”²¹¹

It was likewise commercially reasonable for the Board to adopt a \$1.7 billion aggregate equity valuation as its starting point for “M.”²¹² QuarterNorth’s valuation expert, Daniel Beaulne, explained that the standard practice for valuing a privately held Gulf of Mexico oil and gas exploration company is to first determine its aggregate equity value.²¹³ To do so, the valuator uses net asset value reserve analyses, comparable transactions, and M&A offers—and then derives the per-share value from that total.²¹⁴

²¹⁰ See JX 280 at 3; JX 284 at 2; Dane Tr. 231; Soine Tr. 684-85.

²¹¹ *Applebaum*, 812 A.2d at 890; see also *Seagraves v. Urstadt Prop. Co.*, 1996 WL 159626, at *7 (Del. Ch. Apr. 1, 1996) (“To be reliable, market price must be established in an active market.”).

²¹² JX 291 at 2-3, 13-19; Mills Tr. 481-83; Soine Tr. 684-90.

²¹³ See JX 345 (Opening Expert Report of Daniel B. Beaulne) (“Beaulne Opening Report”) ¶ 32; see also Beaulne Rebuttal Report ¶¶ 19, 66-70; Beaulne Tr. 1087-93, 1103-04.

²¹⁴ Beaulne Opening Report ¶¶ 32, 34, 48-53, 63-80; Beaulne Rebuttal Report ¶¶ 19, 66-70, 77, 81; Beaulne Tr. 1075-81, 1087, 1093.

The Board had objective valuation evidence supporting a \$1.7 billion aggregate equity value as of June 20, 2023.²¹⁵ Just months earlier, after a sale process in which Barclays contacted approximately 50 potential counterparties, QuarterNorth received arm's-length offers from Elliott (\$1.657 billion) and Talos (\$1.704 billion).²¹⁶ Unlike the secondary market trades, these bids were made with the benefit of preliminary information about drilling in the Katmai West well, which had been available in a data room.²¹⁷

The Board had rejected even those bids as too low because they did not yet capture the full extent of the Katmai West reservoir, which ongoing drilling and production into spring 2023 proved was larger than previously predicted.²¹⁸ That decision was validated when M&A discussions resumed in September 2023 and QuarterNorth received offers from Talos and Harbour Energy implying pre-Dividend equity values of \$1.735 billion and \$1.783 billion, respectively, and consummated the Talos merger at an implied pre-Dividend equity value of roughly

²¹⁵ JX 291 at 6-22; Beaulne Rebuttal Report ¶¶ 56-82.

²¹⁶ PTO ¶¶ 70-73; JX 285 at 6-7; JX 291 at 13, 18; Mills Tr. 464-67. Because QuarterNorth held \$275 million in net cash before the Dividend, the bidders' enterprise value proposals (\$1.382 billion from Elliott and \$1.429 billion from Talos, after adjustments to their \$1.35 billion and \$1.425 billion offers) equated to implied equity values of \$1.657 billion and \$1.704 billion, respectively. *See* Fischel Report ¶ 9 n.11; JX 291 at 13, 18; Kristiansen Tr. 359-60; *supra* notes 65-66 and accompanying text.

²¹⁷ *See* Mills Tr. 464-65, 467-68.

²¹⁸ *Id.* at 465, 482-83; Heck Tr. 736; Soine Tr. 683-84; PTO ¶¶ 77, 81.

\$1.8 billion.²¹⁹ The plaintiffs' \$138.50 per-share figure, by contrast, implies a total equity value of roughly \$1.1 billion—well below what informed buyers were willing to pay.²²⁰

The plaintiffs' contention that the \$1.7 billion valuation was commercially unreasonable because the M&A offers inherently include synergies and a control premium is refuted by the record.²²¹ Elliott was a financial buyer proposing an asset purchase, and Talos's corporate representative confirmed that Talos's bids and the final merger consideration were based on QuarterNorth's standalone asset value and included neither synergies nor a control premium.²²² Nor did the Board rely on the bids in isolation. Its \$1.7 billion figure was corroborated by an independent reserve report supporting a \$1.822 billion net asset value, as well as Barclays' net asset value (\$2.1 billion), peer trading comparables (\$1.6 billion), and precedent transaction comparables (\$1.8 billion) analyses.²²³

Thus, the plaintiffs did not prove that the Board acted in a commercially unreasonable manner by adopting a \$1.7 billion aggregate equity valuation.

²¹⁹ JX 217 at 6; JX 280 at 5; Beaulne Rebuttal Report ¶ 62; PTO ¶¶ 82-83, 91.

²²⁰ See Beaulne Rebuttal Report ¶ 60.

²²¹ Compare Fischel Report ¶ 18, with Dane Tr. 343, Sauvageau Dep. 210-11, and Beaulne Rebuttal Report ¶¶ 61, 63.

²²² PTO ¶ 71; Mills Tr. 466; Dane Tr. 343; Sauvageau Dep. 210-11; Beaulne Rebuttal Report ¶¶ 61, 63.

²²³ JX 291 at 13-19; Soine Tr. 690; Dane Tr. 253; Beaulne Rebuttal Report ¶¶ 64-82.

ii. *The Per-Share Calculation*

Although the Board's selection of a \$1.7 billion aggregate equity valuation for QuarterNorth was commercially reasonable, its method of calculating the Fair Market Value of "one Share" based on that figure was not. To derive "M," QuarterNorth divided the \$1.7 billion aggregate equity value by an undiluted share count of 8,103,388 shares.²²⁴ As Fischel observed, this approach was "conceptually flawed because it did not account" for the substantial number of in-the-money Warrants.²²⁵

The \$1.7 billion valuation adopted by the Board represented QuarterNorth's aggregate equity value based on M&A bids and enterprise-level analyses.²²⁶ Yet QuarterNorth's capital structure did not consist only of approximately 8.1 million common shares, zero-strike New Money Warrants, and Dividend-participating restricted stock units.²²⁷ It also included over 8 million Tranche 1 and Tranche 2

²²⁴ JX 291 at 14; JX 304 at 3; PTO ¶ 86; Dane Tr. 225-26, 280.

²²⁵ Fischel Report ¶ 32 n.45; Fischel Tr. 968-70; *see also* Pls.' Post-trial Opening Br. 48 (arguing that the Board's "simple division" denominator was "erroneous" because the Board "failed to consider that all of the warrants were in the money . . . and should have been included in the share count"); Pls.' Post-trial Reply Br. 26-27 (critiquing the Board's use of an undiluted share count to calculate "M" rather than a fully diluted share count).

²²⁶ JX 291 at 2-3, 13-19; Dane Tr. 181, 225-26; Soine Tr. 684-90; *see also* Beaulne Opening Report ¶¶ 32, 109 (observing that under a top-down valuation approach, "it's appropriate to determine the Fair Market Value of the entire equity of the company and divide by the appropriate number of shares").

²²⁷ *See* PTO ¶¶ 2, 67; Fischel Report, app. C ¶¶ 1-4 & fig. C-1. The New Money Warrants were zero-strike warrants issued to certain creditors when Fieldwood emerged from

Warrants, as well as the GUC Warrants issued to Fieldwood’s general unsecured creditors, and additional equity-based awards under the EIP.²²⁸ At a \$1.7 billion equity valuation, the Tranche 1, Tranche 2, and GUC Warrants—which had strike prices of \$166.09 (Tranche 1 and GUC Warrants) and \$189.42 (Tranche 2 Warrants)—were in the money.²²⁹

If QuarterNorth had been sold for \$1.7 billion on June 20, 2023, the proceeds would have flowed not only to the 8.1 million common shares and participating units, but also to the Warrant holders, who held claims to a substantial portion of that equity.²³⁰ In fact, the acquisition proposals from Elliott and Talos that the Board relied on in setting the \$1.7 billion valuation were for 100% of QuarterNorth’s fully

bankruptcy that participated in cash dividends on an as-converted basis and were already included in the Board’s 8,103,388 share count. *Id.* app. C, fig. C-1.

²²⁸ See PTO ¶¶ 2, 67; Fischel Report, app. C ¶¶ 2-3 & fig. C-1 (describing 6,044,497 shares of initial common stock, 1,908,828 New Money Warrants, 2,780,926 Tranche 1 Warrants, 5,355,857 Tranche 2 Warrants, and up to 584,246 GUC Warrants).

²²⁹ See Dane Tr. 286-87 (confirming that the Warrants would have been in the money at a \$1.7 billion valuation); Simon Tr. 831-33 (same); see also Fischel Report ¶ 32 n.45; Beaulne Rebuttal Report ¶ 88 & Ex. 1; Pls.’ Post-trial Opening Br. 48; Pls.’ Post-trial Reply Br. 26-27. Under Fieldwood’s plan of reorganization and the Warrant Agreements, the Tranche 1 and GUC Warrants (\$166.09 strike price) were in the money at an aggregate equity value above \$1.321 billion, and the Tranche 2 Warrants (\$189.42 strike price) were in the money at an aggregate equity value above \$1.585 billion. See Fischel Report, app. C ¶ 2 nn.6-8 & fig. C-1.

²³⁰ Fischel Tr. 968-70; see also Robert W. Holthausen & Mark E. Zmijewski, *Corporate Valuation: Theory, Evidence & Practice* 6-8, 18, 570-74 (2d ed. 2020) (explaining that equity value includes all claims on the company’s resources, including warrants and options, which must be accounted for when measuring the per-share value of common stock).

diluted equity and assumed that all in-the-money Warrants would be exercised, converted, or canceled out of the aggregate purchase price.²³¹ QuarterNorth director Peter Wollman—a portfolio manager at Invesco, the Company’s largest stockholder—took the same approach in a September 2022 pricing memorandum by dividing QuarterNorth’s aggregate equity value by its fully diluted share count, including management incentive shares and Warrants.²³²

When translating an aggregate equity value into a per-share price, standard valuation practice requires dividing by the fully diluted share count, which accounts for the dilutive effect of in-the-money warrants and options.²³³ QuarterNorth contravened this principle when calculating “M.” By dividing the \$1.7 billion equity

²³¹ See JX 72 at 3 (Elliott assuming all warrants would be “exercised or cancelled prior to Closing”); *id.* at 86 (Talos assuming the acquisition would “includ[e] the QuarterNorth Warrants”).

²³² Wollman Dep. 74-75 (testifying that his September 2022 pricing memo divided QuarterNorth’s equity value by the fully diluted share count, including management shares and warrants, and explaining that Invesco “always value[d]” using fully diluted counts if the “value price” was going to “hit . . . the warrants”); JX 37 at 1; *see also* Fischel Report ¶ 30 n.41.

²³³ See Fischel Tr. 968-70; *see also* Holthausen & Zmijewski, *supra* note 230, at 13-14 & Exs. 1.2-1.3, 570-74 (dividing aggregate equity value by “fully-diluted . . . share equivalents outstanding” to determine per-share price and explaining the cashless exercise method for in-the-money warrants and options); Beaulne Rebuttal Report ¶ 88 & n.66 (acknowledging that “[d]iluted shares reflect all outstanding shares in the market if converted, such as warrants, convertible bonds, and employee options” (citing Shannon P. Pratt & ASA Educ. Found., *Valuing a Business: The Analysis and Appraisal of Closely Held Companies*)); *cf.* Beaulne Opening Report, Ex. 5 at 60 n.8 (calculating the equity market value of QuarterNorth’s comparable public peer companies “[b]ased on reported diluted shares”).

value by 8,103,388 undiluted shares, QuarterNorth assigned 100% of its equity value to common stock (and participating units) and \$0 to more than 8 million in-the-money Warrants.²³⁴ Using the undiluted share count as the denominator inflated the per-share value of “M” to \$209.79.²³⁵

Thus, QuarterNorth breached Section 6(b) of the Warrant Agreements by failing to determine “M” in a commercially reasonable manner.²³⁶ Accounting for the dilutive effect of the in-the-money Warrants and all granted EIP awards yields a fully diluted share count of 8,903,839.²³⁷ With an aggregate equity value of \$1.7

²³⁴ See JX 291 at 14; JX 304 at 3.

²³⁵ See Fischel Report ¶ 32 n.45 (observing that using an appropriately diluted share count “would have resulted in a lower fair market value determination for one share, even if one accepted the Board’s fair market value determination of \$1.7 billion for the entire company”); Fischel Tr. 968-70.

²³⁶ See Warrant Agreements §§ 1, 6(b). Although the Board relied in subjective good faith on Barclays and management, Barclays did not perform a per-share valuation of QuarterNorth common stock or advise the Board on how to translate the \$1.7 billion aggregate equity value into the “M” variable. See Kristiansen Tr. 380-81; *see also* Fischel Report ¶ 21. But even if management or an advisor had supplied the undiluted share count, an objectively unreasonable calculation breached the Warrant Agreements regardless of whether the Board adopted it in good faith. See *supra* note 152 and accompanying text.

²³⁷ See Beaulne Rebuttal Report ¶ 88 & fig. 9, Ex. 1 (calculating 8,903,839 fully diluted shares, consisting of 7,953,325 common shares and as-converted New Money Warrants, 470,396 equity-based awards, and 480,118 net shares from the cashless exercise of all the in-the-money warrant series: Tranche 1, Tranche 2, and GUC Warrants). Though QuarterNorth’s 8,103,388 denominator included only the 150,063 vested EIP units that participated in the June 2023 Dividend, Beaulne’s 8,903,839 fully diluted denominator included 470,396 EIP awards that would convert into common shares in a liquidity event at a \$1.7 billion valuation. Compare JX 304 at 3, with Beaulne Rebuttal Report ¶ 88 & fig. 9, Ex. 1; *see also* Fischel Report, app. C ¶¶ 4-5, 16 & fig. C-6 (including all vested and unvested EIP awards in QuarterNorth’s fully diluted share count). Fischel, who relied on secondary market quotes to determine “M,” did not calculate an alternate fully diluted share

billion as the numerator and a fully diluted share count of 8,903,839 as the denominator, “M” equals \$190.93 per share.²³⁸

2. The Value of “D”

The parties also dispute the calculation of the “D” input to the Warrant Adjustment formula.²³⁹ Under Section 6(b) of the Warrant Agreements, “D” is defined as the “Fair Market Value of the dividend or distribution made per Share as of the record date for such dividend or distribution.”²⁴⁰ That definition is qualified by a proviso:

[I]n the case of a cash dividend a portion of which would cause the aggregate amount of cash dividends paid by the Company for any fiscal year to exceed 30% of the Company’s free cash flow for such fiscal year, *as determined by the Board in good faith*, “D” shall be equal to the Fair Market Value of such portion of such dividend made per Share as of the record date for such dividend.²⁴¹

The Fair Market Value of cash is defined as “the amount thereof.”²⁴²

At its January 24, 2024 meeting, the Board determined in good faith that QuarterNorth’s 2023 annual free cash flow was \$254,944,000, making the 30%

count at a \$1.7 billion valuation. *See* Fischel Report ¶ 32 n.45; Pls.’ Post-trial Reply Br. 26-27 (citing Beaulne’s diluted share calculation).

²³⁸ Beaulne Rebuttal Report ¶ 88 & fig. 9, Ex. 1.

²³⁹ *See* PTO ¶ 6; Pls.’ Post-trial Opening Br. 55-56.

²⁴⁰ Warrant Agreements § 6(b).

²⁴¹ *Id.* (emphasis added).

²⁴² PTO ¶ 6; *see* Warrant Agreements § 1 (definition (ii) of Fair Market Value).

allowable dividend threshold \$76,483,200.²⁴³ Subtracting that \$76,483,200 threshold from the \$200,000,000 Dividend declared in June 2023 equals an excess dividend of \$123,516,800.²⁴⁴ QuarterNorth divided that \$123,516,800 excess dividend by the 8,103,388 shares and units that participated in the Dividend to calculate a “D” of \$15.24 per share.²⁴⁵

The plaintiffs contend that QuarterNorth made two “input errors” in calculating “D” under Section 6(b) of the Warrant Agreements.²⁴⁶ Correcting for those purported errors, they insist that “D” should be \$15.66 per share.²⁴⁷ Neither contention succeeds.

First, the plaintiffs argue that the dividend used to calculate “D” should have been \$201,063,000, yielding an excess dividend numerator of \$124,579,800 based on a line item for dividends reported in QuarterNorth’s 2023 audited financial statements.²⁴⁸ The trial record belies this argument. The Board’s June 6, 2023

²⁴³ JX 291 at 3; Fischel Report, app. C ¶ 8 & fig. C-4. The plaintiffs do not challenge the Board’s good faith adoption of QuarterNorth’s 2023 annual free cash flow.

²⁴⁴ JX 291 at 3; Fischel Report, app. C ¶ 8 & fig. C-4.

²⁴⁵ JX 304 at 3; PTO ¶ 86; Fischel Report, app. C ¶ 9 & fig. C-4.

²⁴⁶ Pls.’ Post-trial Opening Br. 55-56; Fischel Report, app. C ¶ 11.

²⁴⁷ *See* Pls.’ Post-trial Opening Br. 55-56; *see also* Fischel Report, app. C ¶¶ 11-13 & fig. C-4.

²⁴⁸ *See* Pls.’ Post-trial Opening Br. 55-56; Pls.’ Post-trial Reply Br. 28-30; *see also* Fischel Report, app. C ¶ 13 & n.32 (citing JX 332 at 3-4).

resolution capped the Dividend at \$200 million.²⁴⁹ As Dane testified without contradiction, “the only dividend that was paid and declared in 2023 was the \$200 million dividend.”²⁵⁰ The additional \$1,063,000 reflected in the financial statements was not a dividend paid on QuarterNorth common stock, but funds placed in a restricted cash account for unvested management incentive plan awards.²⁵¹ The Board properly used the \$123,516,800 excess dividend resulting from the \$200,000,000 Dividend as the numerator for “D.”

Second, the plaintiffs argue that QuarterNorth erred by dividing the excess dividend by 8,103,388 units rather than 7,953,325 shares—i.e., only shares of initial common stock and as-converted New Money Warrants.²⁵² They maintain that 150,063 restricted stock units issued under QuarterNorth’s EIP should have been

²⁴⁹ PTO ¶ 80; JX 146 at 3; Dane Tr. 183-84.

²⁵⁰ Dane Tr. 267; *see also id.* at 269-70.

²⁵¹ Dane Tr. 269-70, 344-45; *see also* Fischel Tr. 1059 (acknowledging that he was not opining that management incentive plans qualify as dividends with respect to common shares). The plaintiffs alternatively argue that the \$1,063,000 reserve was a “distribution” under Section 6(b). *See* Pls.’ Post-trial Reply Br. 29. This argument fails for the same reason. The 30% free cash flow threshold in Section 6(b) is measured by “the aggregate amount of cash dividends paid by the Company for any fiscal year” with respect to Shares, and the plaintiffs stipulated that the June 2023 payment was a “cash dividend.” Warrant Agreements § 6(b); PTO ¶ 78.

²⁵² Pls.’ Post-trial Opening Br. 55-56; Fischel Report, app. C ¶ 12 & fig. C-4.

excluded from the denominator because they were not “Shares” outstanding.²⁵³ This argument is flawed.

The \$200 million Dividend was paid to all 8,103,388 participating securities—including shares of common stock, the as-converted New Money Warrants, and the EIP RSUs.²⁵⁴ Fischel’s calculation keeps the excess portion of the \$200 million Dividend in the numerator (including the portion attributable to the EIP unit holders) but removes the 150,063 EIP units from the denominator.²⁵⁵ This approach improperly inflates the dividend paid “per Share” by treating cash distributed to EIP unit holders as though it were paid to common stockholders.²⁵⁶ The 8,103,388 participating securities shared ratably in the Dividend (\$123,516,800 of which was excess), and so each common share outstanding on the record date

²⁵³ See Pls.’ Post-trial Opening Br. 55-56; Pls.’ Post-trial Reply Br. 28-29.

²⁵⁴ See Fischel Report, app. C ¶¶ 5, 7 & nn.12, 18; JX 304 at 3; Dane Tr. 267-70; *see also* Post-trial Hr’g Tr. 126-28.

²⁵⁵ See Fischel Report, app. C ¶ 12 & fig. C-4.

²⁵⁶ See *id.* Conversely, if the 150,063 EIP units were excluded from the denominator, then cash paid to those 150,063 EIP units (approximately \$24.68 per unit, or \$15.24 per unit in excess dividends) would also have to be excluded from the numerator—leaving the per-share excess dividend unchanged at \$15.24. See Post-trial Hr’g Tr. 126-28; *see also* Holthausen & Zmijewski, *supra* note 230, at 570 (explaining that restricted stock units are “share equivalents”).

received \$15.24 in excess dividends.²⁵⁷ QuarterNorth therefore did not breach the Warrant Agreements by calculating “D” as \$15.24.

3. Remedy

QuarterNorth breached the Warrant Agreements by calculating “M” in a commercially unreasonable manner when it used an undiluted share count to determine the Fair Market Value of one Share of QuarterNorth stock.²⁵⁸ The standard remedy for breach of contract “is based upon the reasonable expectations of the parties ex ante.”²⁵⁹ Such expectation—or benefit-of-the-bargain—damages are measured by the amount of money that would put the promisees in the same financial position they would have occupied had the promisor performed the contract as promised.²⁶⁰ Here, damages must restore the plaintiffs to the economic position they would have occupied if QuarterNorth had calculated “M” using a fully diluted share count.

²⁵⁷ $\$123,516,800 / 8,103,388 = \15.2426 , or \$15.24 per share. See JX 304 at 3; Fischel Report, app. C, fig. C-4.

²⁵⁸ See *supra* Section II.A.1.c.ii. QuarterNorth—not the Board—is the counterparty to the Warrant Agreements and the defendant in this action. See PTO ¶ 1; Warrant Agreements, Preamble.

²⁵⁹ *Siga Techs., Inc. v. PharmAthene, Inc.*, 132 A.3d 1108, 1130 (Del. 2015).

²⁶⁰ See *id.*; see also *Duncan v. Theratx, Inc.*, 775 A.2d 1019, 1022 (Del. 2001). Once the fact of damages is established with reasonable certainty, the “amount of damages can be an estimate.” *Siga Techs.*, 132 A.3d at 1111 (emphasis removed).

a. QuarterNorth's Zero Damages Argument

As an initial matter, QuarterNorth asserts—relying on Beaulne—that reducing “M” from \$209.79 to \$190.93 using 8,903,839 fully diluted shares results in zero damages.²⁶¹ Beaulne insists that “D” must likewise be adjusted by dividing the \$123,516,800 excess dividend by the same 8,903,839 diluted share count, which reduces “D” from \$15.24 to \$13.87 per share.²⁶² If “M” and “D” are both reduced by the same diluted share count, the change in the denominator cancels out in the Warrant Adjustment formulas ($\frac{M}{M-D}$ and $\frac{M-D}{M}$), leaving the adjustments unchanged from the ratio calculated by QuarterNorth.²⁶³

This approach rests on the argument that because the definitions of “M” and “D” both use the defined term “Share,” their calculations must include the same share count denominator.²⁶⁴ But “Share” is defined in the Warrant Agreements as

²⁶¹ See Def.’s Post-trial Answering Br. 56-59; Post-trial Hr’g Tr. 123, 133-34, 148.

²⁶² Beaulne Rebuttal Report ¶¶ 87-90 & Exs. 1-3.

²⁶³ See *id.* ¶ 90 & Ex. 3. Beaulne calculated that $\$190.93 / (\$190.93 - \$13.87) = \$190.93 / \$177.06 =$ a ratio of 1.078335. This matches the ratio calculated by QuarterNorth: $\$209.79 / (\$209.79 - \$15.24) = \$209.79 / \$194.55 = 1.078335$. See *id.*; see also Beaulne Opening Report ¶ 111 & n.85, fig. 16 (“[T]he formula comes to the same result no matter what share count is used—so long as the same share count is used throughout.”).

²⁶⁴ See Beaulne Rebuttal Report ¶ 89 n.71; see also Post-trial Hr’g Tr. 143.

one share of QuarterNorth common stock—not as an aggregate share-count denominator.²⁶⁵ Under Section 6(b), “D” and “M” measure two different things.²⁶⁶

“D” measures the excess cash dividend “made per Share as of the record date” for the Dividend.²⁶⁷ It looks to the actual cash distribution. The June 2023 Dividend was never paid to holders of the Tranche 1, Tranche 2, or GUC Warrants because they were unexercised on the record date and ineligible to participate in cash dividends.²⁶⁸ Each participating common share (along with each as-converted New Money Warrant and EIP restricted stock unit) received \$15.24 in excess cash dividends—not \$13.87.²⁶⁹ As Fischel explained, dividing the \$123,516,800 excess dividend by 8,903,839 diluted shares would allocate part of the Dividend to unexercised Warrants that did not participate in it.²⁷⁰

Unlike “D,” which looks to the cash actually distributed per participating share, “M” considers the Fair Market Value of “one Share” immediately before the Dividend.²⁷¹ Because the Board chose to value one Share by starting with

²⁶⁵ Warrant Agreements § 1.

²⁶⁶ *Id.* § 6(b).

²⁶⁷ *Id.*

²⁶⁸ Fischel Report, app. C ¶¶ 5, 7; Beaulne Rebuttal Report ¶ 88.

²⁶⁹ *See supra* note 254 and accompanying text; JX 304 at 3; Fischel Report, app. C ¶¶ 7, 9 & fig. C-4.

²⁷⁰ *See* Fischel Tr. 968-70; Pls.’ Post-trial Reply Br. 26-27.

²⁷¹ Warrant Agreements § 6(b).

QuarterNorth’s \$1.7 billion total equity value, the denominator must include all securities with an economic claim to that \$1.7 billion.²⁷² The 8,903,839 fully diluted share count appropriately includes 480,118 shares attributable to the cashless exercise of the in-the-money Tranche 1, Tranche 2, and GUC Warrants.²⁷³

Thus, holding “D” at the actual \$15.24 excess dividend paid per share while correcting “M” to \$190.93 per share is consistent with the terms of the Warrant Agreements and the record.

b. The Plaintiffs’ Damages

Both sides’ experts—Fischel for the plaintiffs and Beaulne for QuarterNorth—used the same general approach to calculate how changes to “M” and “D” affect the Warrant Adjustments under Section 6(b) of the Warrant Agreements.²⁷⁴ Fischel entered his proposed inputs (“M” of \$138.50 and “D” of \$15.66) into the Section 6(b) formulas to calculate the corrected Warrant Share

²⁷² See *supra* Section II.A.1.c.ii.

²⁷³ Beaulne Rebuttal Report ¶ 88 & fig. 9, Ex. 1. Beaulne calculated 480,118 shares upon the cashless exercise of the in-the-money Warrants—361,784 for the Tranche 1 Warrants, 42,326 for the Tranche 2 Warrants, and 76,008 for the GUC Warrants (reflecting 389,330 initial GUC Warrants and 194,916 true-up GUC Warrants, or 584,246 total GUC Warrants). *Id.* He used the formula $W \times \frac{M-E}{M}$, where “W” is the pre-adjustment Warrant Share Number, “M” is the unrounded Fair Market Value per Share (approximately \$190.93), and “E” is the pre-adjustment Exercise Price. *Id.*; see also Holthausen & Zmijewski, *supra* note 230, at 570-74 (explaining this cashless exercise method for calculating net shares from in-the-money warrants).

²⁷⁴ Compare Fischel Report, app. C ¶ 14 & fig. C-5, with Beaulne Rebuttal Report ¶¶ 89-90 & Ex. 3, and Beaulne Opening Report ¶¶ 110-11 & figs. 15-16.

Number (U_a) and Exercise Price (P_a).²⁷⁵ In his rebuttal report, Beaulne used Fischel’s table, substituting a fully diluted “M” of \$190.93 and a reduced “D” of \$13.87.²⁷⁶

As explained above, Beaulne’s “M” of \$190.93 per share (derived by dividing the Board’s \$1.7 billion valuation by 8,903,839 fully diluted shares) is commercially reasonable.²⁷⁷ And QuarterNorth’s original “D” of \$15.24 per share (derived by dividing the \$123,516,800 excess dividend by the 8,103,388 participating shares and units) is accurate.²⁷⁸ Subtracting a “D” of \$15.24 from an “M” of \$190.93 yields a post-dividend value (“M” – “D”) of \$175.69 per share. Using these inputs in the Section 6(b) formulas increases the Warrant Share Numbers by approximately 8.67% (compared to QuarterNorth’s 7.83% increase) and reduces the Exercise Prices by approximately 7.98% (compared to QuarterNorth’s 7.26% reduction):²⁷⁹

²⁷⁵ Fischel Report, app. C ¶ 14 & fig. C-5; *see also* Warrant Agreements § 1 (defining Warrant Share Number and Exercise Price); Pls.’ Post-trial Opening Br. 56-57; *see supra* note 25 and accompanying text.

²⁷⁶ Beaulne Rebuttal Report ¶ 90 & Ex. 3; *see also* Def.’s Post-trial Answering Br. 56-58.

²⁷⁷ *See supra* Section II.A.1.c.i-ii; Beaulne Rebuttal Report ¶ 88 & fig. 9, Ex. 1.

²⁷⁸ *See supra* Section II.A.2; JX 304 at 3.

²⁷⁹ $\frac{M}{M-D} = \$190.93 / \$175.69 = 1.0867437$, and $\frac{M-D}{M} = \$175.69 / \$190.93 = 0.9201802$. For the complete Warrant Adjustment formulas, *see* note 24, *supra*, and accompanying text.

Input/Output	Pre-Adjustment ²⁸⁰	QuarterNorth's Calculation ²⁸¹	Corrected Calculation ²⁸²
Fair Market Value per Share ("M")	-	\$209.79	\$190.93
Excess Dividend per Share ("D")	-	\$15.24	\$15.24
Post-Dividend Value per Share ("M" – "D")	-	\$194.55	\$175.69
Tranche 1 & GUC Exercise Price (P_a)	\$166.09	\$154.02	\$152.83 ²⁸³
Tranche 2 Exercise Price (P_a)	\$189.42	\$175.66	\$174.30 ²⁸⁴
Tranche 1 Warrant Shares (U_a)	2,780,926	2,998,810	3,022,154 ²⁸⁵
Tranche 2 Warrant Shares (U_a)	5,355,857	5,775,486	5,820,444 ²⁸⁶
GUC Warrant Shares (U_a)	389,330	419,834	423,102 ²⁸⁷

²⁸⁰ See Warrant Agreements § 1; PTO ¶ 2; Fischel Report, app. C, figs. C-2, C-5.

²⁸¹ See JX 304 at 3; Fischel Report, app. C, fig. C-2; Beaulne Opening Report, fig. 15.

²⁸² The Corrected Calculations apply the Section 6(b) formulas to the pre-adjustment figures using the unrounded multipliers in note 279, *supra*.

²⁸³ Tranche 1 & GUC Exercise Price (P_a) = $\$166.09 \times 0.9201802 = \152.83 (unrounded: $\$152.83272$).

²⁸⁴ Tranche 2 Exercise Price (P_a) = $\$189.42 \times 0.9201802 = \174.30 (unrounded: $\$174.30053$).

²⁸⁵ Tranche 1 Warrant Shares (U_a) = $2,780,926 \times 1.0867437 = 3,022,154$.

²⁸⁶ Tranche 2 Warrant Shares (U_a) = $5,355,857 \times 1.0867437 = 5,820,444$.

²⁸⁷ GUC Warrant Shares (U_a) = $389,330 \times 1.0867437 = 423,102$. This table reflects the 389,330 initial GUC Warrants, excluding the 194,916 true-up GUC Warrants included in the "M" denominator and accounted for separately in Fischel's model. See Fischel Report, app. C ¶ 10 n.22 & figs. C-5, C-6; Beaulne Rebuttal Report ¶ 88 & fig. 9, Exs. 1, 3.

To translate these corrected Warrant Adjustments into monetary damages, Fischel used a three-step model that measures the additional proceeds the plaintiffs would have received when their Warrants were cashed out in the Talos merger on March 4, 2024.²⁸⁸

First, he determined the per-share merger consideration payable under the corrected Warrant Adjustments.²⁸⁹ In the Talos merger, QuarterNorth equity holders ratably shared \$1,597,475,350 of total merger consideration, equaling \$177.55 per share at closing (or \$177.60 per share as anticipated at signing) under QuarterNorth's Warrant Adjustments.²⁹⁰ Since the corrected Warrant Adjustments result in more Warrant shares with lower exercise prices, the Warrant holders are entitled to a greater share of the merger consideration, which slightly reduces the per-share merger payout across all shares.²⁹¹

²⁸⁸ See Fischel Report ¶ 33 & app. C ¶¶ 15-19, figs. C-6, C-7, C-8; Pls.' Post-trial Opening Br. 56-57. QuarterNorth challenged the "M" and "D" inputs that Fischel used in his model but not the three steps of the model itself. See Beaulne Rebuttal Report ¶¶ 87-90; Def.'s Post-trial Answering Br. 56-58; Post-trial Hr'g Tr. 132.

²⁸⁹ Fischel Report, app. C ¶¶ 15-16 & fig. C-6.

²⁹⁰ *Id.* app. C ¶ 10 & fig. C-3 (noting that the anticipated payout at the time of the Merger Agreement was \$177.60 per share, and the actual payout at the March 4, 2024 closing was \$177.55 per share).

²⁹¹ *Id.* app. C ¶¶ 15-16 & fig. C-6 (showing that whether the Warrants are modeled on a cash-exercise basis or a cashless-conversion basis, the resulting adjusted merger consideration per share is identical).

Second, Fischel measured the damages per Warrant by comparing what the Warrants were worth at the closing of the Talos merger under the corrected Warrant Adjustments to what QuarterNorth paid.²⁹² In the merger, each Warrant was cashed out for the per-share merger consideration minus the Warrant's adjusted Exercise Price, multiplied by the adjusted number of Warrant shares.²⁹³ The difference between the total merger payout for each Warrant tranche under the corrected adjustments and the actual payout is then divided by the pre-adjustment number of Warrants to calculate the damages per Warrant.²⁹⁴

Third, Fischel multiplied the per-Warrant damages by each plaintiff's respective Warrant holdings and deducted the corresponding reduction in proceeds on each plaintiff's common stock holdings.²⁹⁵ Mudrick and Ellington held both Warrants and QuarterNorth common stock when the Talos merger closed, and so the lower per-share merger consideration resulting from the corrected Warrant Adjustments would have reduced the proceeds they received on their common shares.²⁹⁶ Fischel appropriately deducted that common stock reduction from each

²⁹² *Id.* app. C ¶ 18 & fig. C-7.

²⁹³ *Id.* app. C ¶ 18 & n.36, fig. C-7 (referring to this payout as the Warrant's "intrinsic value").

²⁹⁴ *Id.* app. C ¶ 18 & fig. C-7.

²⁹⁵ *Id.* app. C ¶ 19 & fig. C-8.

²⁹⁶ *Id.*; *see also* Post-trial Hr'g Tr. 132 (QuarterNorth's counsel explaining that in Fischel's damages model, "there was some money paid to them as stockholders, so you net that out").

plaintiff's Warrant damages so that the plaintiffs recover only their net expectation damages.²⁹⁷

In Fischel's model, his proposed Warrant Adjustments (a 12.75% Warrant share increase and an 11.31% Exercise Price reduction) yielded \$16.8 million in net damages.²⁹⁸ Because the corrected calculations in the table above (an 8.67% Warrant share increase and a 7.98% Exercise Price reduction) represent roughly 17% to 18% of the adjustment Fischel modeled over QuarterNorth's calculation, the plaintiffs suffered approximately \$3 million in total net damages before interest.²⁹⁹ Neither expert's report ran Fischel's three-step merger payout model using the combined inputs of \$190.93 for "M" and \$15.24 for "D." The parties must confer and submit a joint schedule with their proposed final order calculating the precise

²⁹⁷ Fischel Report, app. C ¶ 19 & fig. C-8 (listing Mudrick's holdings at closing, including assigned Bardin Hill claims, as 1,551,566 Tranche 1 Warrants, 2,976,769 Tranche 2 Warrants, and 397,935 common shares; and Ellington's holdings at closing, adjusted for a December 2023 sale of 7,500 common shares, as 110,431 Tranche 1 Warrants, 212,682 Tranche 2 Warrants, and 15,248 common shares).

²⁹⁸ *Id.* app. C ¶¶ 14, 19 & figs. C-5, C-8; Pls.' Post-trial Opening Br. 57.

²⁹⁹ *See* Fischel Report, app. C ¶¶ 14-19 & figs. C-5, C-6, C-7, C-8. In Fischel's model, increasing the Warrant shares by 12.75% (4.92 percentage points above QuarterNorth's 7.83% increase) and reducing the Exercise Prices by 11.31% (4.05 percentage points beyond QuarterNorth's 7.26% reduction) yielded \$16,811,140 in total net damages (\$15,638,827 for the Mudrick plaintiffs and \$1,172,313 for the Ellington plaintiffs). *Id.* figs. C-5, C-8. The corrected calculations in the table above (0.84 and 0.72 percentage points beyond QuarterNorth's respective adjustments) equal roughly 17% to 18% of the adjustment Fischel modeled, corresponding to approximately \$3 million in total net damages (approximately \$2.8 million to \$2.95 million for the Mudrick plaintiffs and approximately \$210,000 to \$220,000 for the Ellington plaintiffs).

damages for the Mudrick and Ellington plaintiffs under Fischel’s model based on the corrected calculations in the table above.

c. Interest

“In Delaware, prejudgment interest is awarded as a matter of right.”³⁰⁰ “Prejudgment interest serves two purposes: first, it compensates the plaintiff for the loss of the use of [its] money; and second, it forces the defendant to relinquish any benefit that it has received by retaining the plaintiff’s money in the interim.”³⁰¹ Given that the Warrant Agreements do not specify an interest rate, I look to the legal rate of interest—5% over the Federal Reserve discount rate—as the “benchmark.”³⁰²

Fischel calculated prejudgment interest at the statutory rate running from March 4, 2024 (the date the Talos merger closed and merger proceeds were distributed) in four ways: simple interest and interest compounded monthly, quarterly, and annually.³⁰³ Here, compound interest “better reflects the financial realities of conducting business” and puts the plaintiffs “back into the position they were before the breach.”³⁰⁴ Prejudgment interest will be awarded at the statutory

³⁰⁰ *Citadel Hldg. Corp. v. Roven*, 603 A.2d 818, 826 (Del. 1992).

³⁰¹ *Brandywine Smyrna, Inc. v. Millennium Builders, LLC*, 34 A.3d 482, 486 (Del. 2011).

³⁰² *Summa Corp. v. Trans World Airlines, Inc.*, 540 A.2d 403, 409 (Del. 1988); *see* 6 *Del. C.* § 2301(a).

³⁰³ Fischel Report ¶ 33 & app. C ¶ 20, fig. C-9.

³⁰⁴ *Murphy Marine Servs. of Del., Inc. v. GT USA Wilmington, LLC*, 2022 WL 4296495, at *24 (Del. Ch. Sept. 19, 2022).

rate compounded quarterly from March 4, 2024 through the date of judgment, together with post-judgment interest.³⁰⁵ The parties must confer on and submit a proposed final order incorporating an updated prejudgment interest calculation based on the plaintiffs' net damages.

B. Whether the Counterclaim Defendants Breached the Stockholders Agreement

QuarterNorth brings a counterclaim alleging that the counterclaim defendants breached the drag-along voting provisions of Section 3.03(a) of the Stockholders Agreement by failing to vote in support of the Talos merger.³⁰⁶ Section 3.03(a)(ii) of the Stockholders Agreement provides that if holders owning 50% or more of the Aggregate Common Stock propose to transfer shares in a "Drag-Along Sale" (including a merger), they may require each other "Drag-Along Holder" to "vote . . . all shares . . . in favor of, and adopt, such Drag-Along Sale" and execute related proxies or consents.³⁰⁷ QuarterNorth contends that this provision was triggered,

³⁰⁵ See *id.* (awarding prejudgment interest, compounded quarterly); see also *ITG Brands, LLC v. Reynolds Am., Inc.*, 2025 WL 670818, at *13 (Del. Ch. Mar. 3, 2025) ("Modern Delaware law typically applies compound interest. The interval of compounding is discretionary. But quarterly compounding is common."), *aff'd*, 351 A.3d 519 (Del. 2025) (TABLE).

³⁰⁶ Def.'s Post-trial Answering Br. 60-62; PTO ¶¶ 89-90; see Stockholders Agreement § 3.03(a). QuarterNorth asserted its counterclaim against all plaintiffs (except Ellington Special Opportunities LLC and Mudrick Distressed Opportunity SIF Master Fund, L.P., which held only Warrants) and counterclaim-defendant Mudrick Cav Master, L.P. PTO at 1-2; *id.* ¶¶ 20-32, 89.

³⁰⁷ Stockholders Agreement § 3.03(a)(ii); PTO ¶ 89.

contractually obligating the counterclaim defendants to vote their shares in favor of the merger.³⁰⁸

It is undisputed that on January 13, 2024, QuarterNorth stockholders holding more than 50% of the Company's common stock delivered a Drag-Along Sale Notice requiring the other securityholders to vote for the Talos merger.³⁰⁹ It is also undisputed that the counterclaim defendants did not vote for or against the Talos merger. Rather, they abstained from the February 20, 2024 merger vote to avoid any argument that they had waived their challenge to the Warrant Adjustments.³¹⁰

The counterclaim defendants acknowledge that Section 3.03(a) of the Stockholders Agreement required them to vote for the Talos merger.³¹¹ But they assert that their obligation was excused by QuarterNorth's prior material breach of the Warrant Agreements. They argue that QuarterNorth's improper Warrant Adjustments deprived them of the full merger consideration to which their Warrants were entitled under Section 3.03(d)(iii) of the Stockholders Agreement, excusing their performance under Section 3.03(a)(ii).³¹² I disagree.

³⁰⁸ Def.'s Post-trial Answering Br. 60-62; Post-trial Hr'g Tr. 135-37; *see* JX 271 at 3-4; PTO ¶ 89.

³⁰⁹ *See* JX 271 at 3-4; PTO ¶ 89.

³¹⁰ PTO ¶¶ 89-90; Mudrick Tr. 73-74.

³¹¹ *See* Pls.' Post-trial Opening Br. 57-59; Pls.' Post-trial Reply Br. 30-32.

³¹² *See* Pls.' Post-trial Opening Br. 57-59; Pls.' Post-trial Reply Br. 30-32; *see also* Stockholders Agreement § 3.03(d)(iii).

“A party is excused from performance under a contract if the other party is in material breach thereof.”³¹³ QuarterNorth’s breach occurred under Section 6(b) of the Warrant Agreements—separate contracts from the Stockholders Agreement.³¹⁴ Section 3.03(d)(iii) of the Stockholders Agreement required that Warrant holders in a Drag-Along Sale receive the same net consideration they would have received had they exercised their Warrants before the sale.³¹⁵ But the parties’ dispute over the proper calculation of those Exercise Prices and Warrant Share Numbers is governed by Section 6(b) of the Warrant Agreements—not the Stockholders Agreement. And the plaintiffs are being made whole for that breach of the Warrant Agreements through expectation damages.³¹⁶

Nor may a party refuse to perform its obligations under an agreement while simultaneously retaining the benefits of the transaction.³¹⁷ Having accepted the merger consideration for both their common stock and their Warrants, the counterclaim defendants were not excused from complying with the voting directive of Section 3.03(a).

³¹³ *In re Mobilactive Media, LLC*, 2013 WL 297950, at *13 (Del. Ch. Jan. 25, 2013).

³¹⁴ *Compare* Warrant Agreements, *with* Stockholders Agreement.

³¹⁵ Stockholders Agreement § 3.03(d)(iii).

³¹⁶ *See supra* Section II.A.3.b.

³¹⁷ *See Mobilactive Media*, 2013 WL 297950, at *14.

The counterclaim defendants' failure to vote for the Talos merger therefore breached Section 3.03(a) of the Stockholders Agreement. QuarterNorth concedes, however, that it suffered no actual damages from the breach.³¹⁸ The Talos merger was approved on February 20, 2024 with holders of 93% of participating voting securities voting in favor, and the transaction closed on March 4, 2024.³¹⁹ When a party proves a breach of contract without actual loss, it is entitled to nominal damages.³²⁰ Accordingly, QuarterNorth is awarded nominal damages of \$1 on its counterclaim.

C. Attorneys' Fees

Both parties seek an award of attorneys' fees.³²¹ Delaware follows the American Rule, under which each party bears its own attorneys' fees unless an exception applies.³²² Neither the Warrant Agreements nor the Stockholders Agreement contains a fee-shifting provision. Nor are any other grounds for shifting fees present.

³¹⁸ See Def.'s Post-trial Answering Br. 62; Post-trial Hr'g Tr. 136-37.

³¹⁹ PTO ¶ 91.

³²⁰ See, e.g., *Symbiont.io, Inc. v. Ipreo Hldgs., LLC*, 2021 WL 3575709, at *46 (Del. Ch. Aug. 13, 2021) (awarding nominal damages for the technical breach of an operating plan).

³²¹ PTO ¶¶ 97, 99.

³²² See *Mahani v. Edix Media Gp., Inc.*, 935 A.2d 242, 245 (Del. 2007) ("Under the American Rule and Delaware law, litigants are normally responsible for paying their own litigation costs.").

QuarterNorth did not prevail on the central dispute—recovering only nominal damages on its counterclaim—and identifies no basis to shift fees. Although the plaintiffs prevailed on their claim for breach of the Warrant Agreements, they did not prove that QuarterNorth acted in bad faith.³²³ As explained above, the Board acted in subjective good faith and relied on its advisors.³²⁴

Accordingly, each party will bear its own attorneys’ fees.

III. CONCLUSION

QuarterNorth breached Section 6(b) of the Warrant Agreements by failing to determine “M” in a commercially reasonable manner. Judgment will be entered in favor of the plaintiffs on their breach of contract claim for the damages calculated in accordance with Section II.A.3.b, above, prejudgment interest at the statutory rate, compounded quarterly from March 4, 2024 through the date of judgment, and post-judgment interest at the statutory rate, compounded quarterly thereafter. Judgment will be entered in favor of QuarterNorth on its counterclaim for breach of Section 3.03(a) of the Stockholders Agreement in the amount of \$1 in nominal damages. Each side will bear its own attorneys’ fees.

³²³ See *Arbitrium (Cayman Islands) Handels AG v. Johnston*, 705 A.2d 225, 231 (Del. Ch. 1997) (explaining that the bad-faith exception to the American Rule is a “narrow exception” and applies only where the party against whom fees are sought acted in “egregious[]” bad faith), *aff’d*, 720 A.2d 542 (Del. 1998).

³²⁴ See *supra* Section II.A.1.b.

Within 14 days, the parties must confer on and file a joint schedule calculating the plaintiffs' net damages and an updated prejudgment interest calculation consistent with the methodology outlined in this decision. They must also confer on and file a proposed final order and judgment to implement this decision.