



Not Reported in A.2d

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Bakerman v. Sidney Frank Importing Co., Inc.  
 Del.Ch.,2006.

UNPUBLISHED OPINION. CHECK COURT  
 RULES BEFORE CITING.

Court of Chancery of Delaware.  
 Bruce M. BAKERMAN, Plaintiff,  
 v.

SIDNEY FRANK IMPORTING CO., INC., Estate  
 of Sidney E. Frank, Lee R. Einsidler, John R. Frank.  
 Stuart W. Moselman, William F. Thompson, and  
 Thomas Bruno, Defendants,  
 and GREY GOOSE BOTTLING CO., L.L.C.,  
 Nominal Defendant.  
**No. Civ.A. 1844-N.**

Submitted Aug. 31, 2006.  
 Decided Oct. 10, 2006.  
 Revised Oct. 16, 2006.

Norman Monhait, of Rosenthal, Monhait &  
 Goddess, P.A., Wilmington, Delaware, William T.  
 Reid, IV, Lisa Tsai, and **EricD. Madden**, of  
 Diamond Mccarthy Taylor Finley & Lee, LLP,  
 Austin, Texas, and **EricD. Madden**, of Diamond  
 Mccarthy Taylor Finley & Lee, LLP, Dallas, Texas,  
 for Plaintiff, of counsel.

Stephen C. Norman, of Potter Anderson & Corroon  
 LLP, Wilmington, Delaware, Jay W. Waks,  
 Gregory J. Wallace, Christine A. Neagle, and  
 William Poorten, of Kaye Scholer LLP, New York,  
 New York, for Defendants, of counsel.

*MEMORANDUM OPINION*

CHANDLER, J.

\*1 In 2000, a company's chief legal counsel was  
 granted a membership interest in a non-wholly  
 owned subsidiary. Four years later, the company  
 negotiated a multi-billion dollar sale of it and its  
 subsidiary's assets to a third party that required the  
 unanimous consent of the subsidiary's members.  
 After receipt of such consents, the transaction was

consummated. One month following the sale, the  
 chief legal counsel to the parent was terminated. He  
 has since brought this lawsuit, claiming among  
 other things that the managers of the subsidiary  
 breached their fiduciary duty by abdicating nearly  
 all of the consideration paid by the third party  
 acquiror to the subsidiary's parent. In addition, he  
 alleges that his consent as a member of the  
 subsidiary was coerced.

Before me is defendants' motion to dismiss the  
 complaint. For the reasons set forth below, the  
 motion is granted in part and denied in part. Part I  
 of this Opinion sets out the factual background that  
 gave rise to this lawsuit. Part II delineates plaintiff's  
 claims, defendants' responses to those claims, and  
 the standard to be applied at this stage of the  
 proceedings. Part III examines and applies the legal  
 principles governing each claim. This Part  
 concludes that two claims, for tortious interference  
 with contract and for unjust enrichment, must be  
 dismissed. The remaining claims-direct and  
 derivative claims related to fiduciary breaches and  
 to contractual breaches-all survive the defendants'  
 challenge at this stage. Finally, Part IV summarizes  
 the conclusions.

I. FACTUAL BACKGROUND

As required, the facts are drawn from the complaint,  
 the documents it incorporates, and facts not subject  
 to reasonable dispute.<sup>FN1</sup>

FN1. See *In re Gen. Motors (Hughes)*  
*S'holder Litig.*, 897 A.2d 162, 169  
 (Del.2006) (on a motion to dismiss, trial  
 court may properly take judicial notice of  
 matters that are not subject to reasonable  
 dispute).

*A. The Makings of a Superpremium Vodka*

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