



**PRIVATE & CONFIDENTIAL**

May 10, 2016

Alan Halperin, Esq.  
Paul, Weiss, Rifkind, Wharton & Garrison LLP



Dear Mr. Halperin:

You have requested that Empire Valuation Consultants, LLC (“Empire”) provide a response to the IRS’s request for an explanation of the lack of control and marketability discount applied in Empire’s valuations of: (1) a 37.75% interest in Black Family Partners, LP (“BFP”) as of October 25, 2013; and (2) a 34.53% interest in BFP as of December 4, 2013. Since the IRS’s questions are similar in nature for each valuation, we are providing a single response that is applicable in both cases.

We understand the IRS is seeking an explanation as to why Empire selected a lower, combined, lack of control and marketability discount of 15% rather than a higher one.

Empire did consider, as a starting point in selecting an applicable discount, the information presented by the following: Mergerstat Review 2013, Mergerstat’s 3<sup>rd</sup> Quarter Control Premium Study, Closed End Investments Companies, and the FMV Restricted Stock Study. The range from these studies for a “lack of control” discount, alone, was from 11.3% to 32.4%, while the range for the “lack of marketability” discount, alone, was from 21% to 27%. The total discount range would be from 29.9% to 50.6%. (Note: These are not additive but rather taken in sequential order.)

The aforementioned studies were reflective of companies where more liquidity and lack of control restrictions (among other issues) typically apply. These studies, involving such companies are informative even where such limitations are less restrictive, as in our instant case. In this case, given the BFP Agreement, the appropriate combined discount applicable is materially less than the low end of the range from the studies.

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Empire selected 15% as the combined discount (reflecting both lack of control and marketability) to apply in both GRAT valuations. This is well below the low end of the combined range of 29.9% derived from the studies. This lower rate was selected because of a number of factors, including the following:

The primary consideration was, as discussed in the valuations prepared by Empire, that Article 3.4 of the BFP Agreement states that BFP's partners may withdraw any portion of their capital account at any time. Further, upon such withdrawal the Partnership shall distribute assets of the Partnership to the withdrawing partner. This might typically indicate an even smaller combined discount, depending on a number of factors.

However, a number of issues, (assuming a third-party potential buyer/owner was to buy or own either of the two large interests), help to drive that discount, in Empire's opinion, to a level deemed reasonable, at 15%. The primary issues include:

- The value of assets, other than cash or small blocks of marketable securities that are to be distributed to a withdrawing partner, are subject to valuation by a qualified appraiser selected by the general partner. The general partner may choose what assets to give the withdrawing partner. These facts lend material risk to the "value" of the assets to be transferred and can lead to disagreements related to the assets.
- The BFP Agreement does not specify the timing of the distribution of the assets upon withdrawal. The composition and size of the blocks of assets that would be distributed in kind could take a significant amount of time to transfer. This likely exposes the partner to market shifts in value over time, especially since much of the value is tied up in one company's public stock equivalents.
- Disagreements on the appraisals of the assets may arise.
- As discussed in the valuations prepared by Empire, Article 9.1 of the BFP Agreement states that transfer of a partner's economic interest is permitted without the consent of any partner. However, the admission of the transferee of an economic interest as a partner requires consent of the general partner. Therefore, there is no guarantee that transferee will be admitted as a limited partner and may not receive rights as a limited partner other than the economic rights. Even if a partner does not want to withdraw, the transfer of their interest, other than an economic one alone, requires general partner approval, making the interest less marketable than a fully transferrable interest.

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Based on these and other factors, it was considered reasonable to select a combined lack of control/marketability discount at a level of 15%, well below the low end of the range of the sources cited, as upper end guides, in the Empire reports.

Sincerely,

Scott A. Nammacher, ASA, CFA  
Managing Director