



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

CWA LOCAL 1180 ADMINISTRATIVE  
FUND, and CWA LOCAL 1180  
MEMBERS' ANNUITY FUND,  
Individually and on Behalf of All Others  
Similarly Situated,

Plaintiffs,

v.

MEADWESTVACO, CORP., JOHN A.  
LUKE JR., MICHAEL E. CAMPBELL,  
JAMES G. KAISER, RICHARD B.  
KELSON, SUSAN J. KROPF, GRACIA C.  
MARTORE, JAMES E. NEVELS,  
TIMOTHY POWERS, ALAN D. WILSON,  
and ROCK-TENN CO.

Defendants.

C.A. No. \_\_\_\_\_ - \_\_\_\_\_

**VERIFIED CLASS ACTION COMPLAINT**

Plaintiffs CWA Local 1180 Administrative Fund and CWA Local 1180 Members' Annuity Fund ("Plaintiffs"), by their attorneys, brings the following Verified Class Action Complaint ("Complaint") on their own behalf and on behalf all stockholders of MeadWestvaco Corp. ("MWV" or the "Company"), other than Defendants (as defined below) and their affiliates, against MWV's board of directors (the "Board" or the "Individual Defendants") for breaching their respective fiduciary duties and/or aiding and abetting those breaches of fiduciary duty in connection with Rock-Tenn Co.'s ("RTC" or "RockTenn") offer to acquire all of the Company's outstanding shares of stock through a merger. The

allegations in this Complaint are based upon Plaintiffs' personal knowledge as to themselves, and upon information and belief and investigation of counsel as to all other allegations herein, as follows:

### **NATURE OF THE ACTION**

1. On January 26, 2015, MWV and RTC announced that they entered into a definitive combination agreement to create a consumer and corrugated packaging entity ("TopCo") in a transaction with a combined equity value of \$16 billion (the "Merger" or "Proposed Transaction"). The combined company (TopCo) reportedly will have combined net sales of \$15.7 billion and adjusted EBITDA of \$2.9 billion, including the purported impact of \$300 million in estimated annual synergies to be achieved over three years.

2. Under the terms of the agreement, which was unanimously approved by the boards of directors of both companies, MWV stockholders will receive 0.78 shares of TopCo for each share of MWV held for a total consideration of approximately \$9.2 billion (the "Proposed Consideration").

3. RTC stockholders will be entitled to elect to receive either (a) 1.00 shares of TopCo or (b) cash in an amount equal to the volume weighted average price of RTC common stock during a five-day period ending three trading days prior to closing for each share of RTC held. The cash and stock elections by RTC stockholders will be subject to proration such that the resulting ownership of

TopCo will be approximately 50.1% by MWV stockholders and 49.9% by RTC stockholders, and based on the shares outstanding today, approximately 7% of RTC shares will receive cash in lieu of stock.

4. As detailed below, MWV's decision to enter into the Merger was driven by pressure exerted by activist investor Starboard Value LP, together with its affiliates ("Starboard"), which commenced an aggressive campaign in June 2014 demanding extensive change at the Company, including a threatened proxy fight. Indeed, the Merger's announcement comes roughly eight months after Starboard founder Jeffrey Smith launched an activist campaign at the Company with a June 2 letter to MWV. The strongly worded letter argued that the business' "conglomerate structure" was obscuring its true value and urging it to consider strategic changes. Tellingly, until Friday January 23, 2015, the deadline to nominate dissident investors to the Company's board was set for Wednesday, January 28, 2015. On Friday, January 23, 2015, however, MWV extended the deadline until February 27, 2015.

5. It also was reported in the financial press that prior to the Merger's announcement, Starboard managers were eyeing the director election deadline and seriously considering a proxy fight. Companies typically set the election deadline 60 or 90 days before the anniversary of their previous year's annual meeting, which in MWV's case was on April 28, 2014.

6. In response to Starboard, it appeared that MWV was taking steps to appease the agitating investor. For example, on January 8, 2015 the Company said it was spinning off its specialty chemicals business into a separate publicly-traded company, a transaction which reportedly it is still committed to completing by year-end, though now to the benefit of all of the stockholders of TopCo and not just the stockholders of MWV.

7. Later on January 22, 2015, MWV announced it was selling off its European-based tobacco folding carton business for an undisclosed amount. Starboard had demanded the Company consider both these moves, particularly the spinoff. Moreover, Starboard urged a hike in stockholder distributions and the Company in November declared a \$0.25 a share dividend.

8. Starboard continued its pressure on the MWV Board. For example, Starboard demanded that MWV monetize real estate assets in Brazil and South Carolina and realize value from its overfunded pension plan.

9. Although Starboard started pressuring the MWV Board in June 2014, Starboard ratcheted up its pressure in December 2014 when it increased its stake to 6.1%, and disclosed it had entered into an advisory agreement with Steven Klinger and George Wurtz, two people Starboard retained with a \$50,000 fee. In an SEC filing concerning its increased position, Starboard said it retained Messrs. Klinger and Wurtz because of their “unique skill set, industry experience and industry

knowledge.” Wurtz is chairman of Soundview Paper, a tissue products company, and Klinger is former COO of Smurfit-Stone Container Corp., according to the Starboard filing. In 2010, RTK bought Smurfit-Stone. Published reports indicated that Messrs. Wurtz and Klinger were to be proffered as dissident board candidates.

10. Starboard presented a substantial threat to MWV’s Board based on its history pressuring other boards. For example, Starboard recently pressured Wausau Paper, to make two divestitures and then pressured it to remove its CEO. Nevertheless, Starboard commenced a proxy contest, urging stock buybacks, a dividend and seeking cuts to corporate overhead. In July 2014 Wausau settled with Starboard adding one dissident director, a move that put Starboard firmly in control of Wausau after it had installed four of the candidates backed by the dissident in the prior two years.

11. When Office Depot agreed to a \$1.2 billion merger with OfficeMax Inc. in February 2013, Starboard still launched a proxy contest, partly because Mr. Smith reportedly wanted to be involved in post-deal integration efforts. Again, Smith pressured Office Depot to give him three board seats, one of which he occupied.

12. Against this backdrop and a potential proxy contest looming, MWV’s Board agreed to the Merger which included the Proposed Consideration, which failed to achieve adequate value for stockholders as demonstrated below.

## **THE PARTIES**

13. Plaintiffs are and were, at all times relevant hereto, holders of shares of MWV common stock. Plaintiff CWA Local 1180 Administrative Fund holds 2,350 shares of MWV and Plaintiff CWA Local 1180 Members' Annuity Fund hold 12,400 shares of MWV at the time of the commencement of this action.

14. Defendant MWV is a Delaware corporation that maintains a principal place of business at 501 South 5th Street, Richmond, Virginia 23219. MWV is a global packaging company providing services for brand leaders across multiple industries. MWV also produces specialty chemicals for the automotive, energy, and infrastructure industries. MWV's common stock is traded on the New York Stock Exchange under the ticker symbol "MWV."

15. Defendant John A. Luke, Jr. is and has been, at all relevant times, a member of the Board. Mr. Luke is Chairman of the Board, Chief Executive Officer and has served on the Board since 2002.

16. Defendant Michael E. Campbell is and has been, at all relevant times, a member of the Board. Mr. Campbell is Chairman of the Nominating and Governance Committee; a member of the Finance, and the Safety, Health, and Environment Committees; and has served on the Board since 2002.

17. Defendant James G. Kaiser is and has been, at all relevant times, a member of the Board. Mr. Kaiser is Chairman of the Safety, Health &

Environment Committee; a member of the Audit Committee; and has served on the Board since 2002.

18. Defendant Richard B. Kelson is and has been, at all relevant times, a member of the Board. Mr. Kelson is a member of the Compensation & Organization Development, and the Safety, Health & Environment Committees, and has served on the Board since 2002.

19. Defendant Susan J. Kropf is and has been, at all relevant times, a member of the Board. Ms. Kropf is a member of the Finance, and the Nominating & Governance Committees, and has served on the Board since 2002.

20. Defendant Gracia C. Martore is and has been, at all relevant times, a member of the Board. Ms. Martore is Chairman of the Audit Committee; a member of the Compensation and Organization Development, and the Finance Committees; and has served on the Board since 2012.

21. Defendant James E. Nevels is and has been, at all relevant times, a member of the Board. Mr. Nevels is a member of the Audit, and the Compensation and Organization Development Committees, and has served on the Board since June 2014.

22. Defendant Timothy Powers is and has been, at all relevant times, a member of the Board. Mr. Powers is Chairman of the Compensation and

Organization Development Committee; a member of the Audit Committee; and has served on the Board since 2006.

23. Defendant Alan D. Wilson is and has been, at all relevant times, a member of the Board. Mr. Wilson is Chairman of the Finance Committee; a member of the Compensation and Organization Development, and Safety, Health & Environment Committees; and has served on the Board since 2011.

24. The Defendants identified in paragraphs 15 through 23 are collectively referred to herein as the “Individual Defendants” or the “Board.” By virtue of their corporate directorships, the Individual Defendants are fiduciaries of the Company as well as of the Plaintiffs and the other Company stockholders.

25. Each Individual Defendant herein is sued individually as well as in his or her capacity as an officer and/or director of the Company, and the liability of each arises from the fact that each has engaged in all or part of the unlawful acts, plans, schemes, or transactions of which Plaintiffs complain of herein.

26. Defendant Rock-Tenn Co. is a Georgia corporation with a principal place of business at 504 Thrasher Street, Norcross, Georgia 30071. RTC describes itself as “one of North America’s leading providers of packaging solutions and manufacturers of containerboard and paperboard.” RTC trades on the New York Stock Exchange under the ticker symbol “RKT.”

27. Collectively, MWV, the Individual Defendants, RTC, are referred to herein as “Defendants.”

### **CLASS ACTION ALLEGATIONS**

28. Plaintiffs bring this action on Plaintiffs’ own behalf and as a class action on behalf of all other public stockholders of MWV (except Defendants herein, and any persons, firm, trust, corporation or other entity related to or affiliated with them and their successors in interest), who are or will be threatened with injury arising from Defendants’ wrongful actions, as more fully described herein (the “Class”).

29. This action is properly maintainable as a class action for the following reasons:

a. The Class is so numerous that joinder of all members is impracticable. According to *Bloomberg*, there are 166.7 million shares of common stock outstanding. There are likely thousands of beneficial holders of MWV common stock scattered throughout the world.

b. There are questions of law and fact which are common to the Class including, among other things, whether:

- i. Whether the Defendants engaged in a proper process that maximized stockholder return;
- ii. Whether the Defendants breached their fiduciary duties of loyalty and/or due care with respect to Plaintiffs and the

other members of the Class in connection with the Proposed Transaction;

- iii. Whether the Defendants unjustly enriched themselves and other insiders or affiliates of Proposed Transaction;
- iv. Whether the Defendants breached any of their other fiduciary duties to Plaintiffs and the other members of the Class in connection with the Proposed Transaction, including the duty of good faith and fair dealing;
- v. Whether Defendants aided and abetted the breaches of fiduciary duties alleged by Plaintiffs against the Individual Defendants; and
- vi. Whether Plaintiffs and the other members of the Class would suffer irreparable injury were the Proposed Transaction consummated.

c. Plaintiffs are committed to prosecuting this action and have retained competent counsel experienced in litigation of this nature. Plaintiffs' claims are typical of the claims of the other members of the Class and Plaintiffs have the same interests as the other members of the Class. Accordingly, Plaintiffs are adequate representatives of the Class and will fairly and adequately protect the interests of the Class.

d. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for defendants, or adjudications with respect to individual members of the Class, which would as a practical matter be dispositive of the

interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

### **SUBSTANTIVE ALLEGATIONS**

30. The Company is being sold at material discount to its true value regardless of whether the deal is billed as a “merger of equals” or an acquisition. In short, MWV stockholders are being short changed by MWV’s Board to thwart a looming proxy fight that would take the Company out of the hands of the Board and allow Starboard to orchestrate a sales process that would inure to its benefit to the detriment of the other MWV stockholders. Indeed, under the proposal, legacy MWV Board members will receive seats on TopCo’s board.

#### ***The Inadequate Merger Consideration***

31. As a threshold matter, the Proposed Consideration of approximately \$9.2 billion - equal to .78 share of TopCo, or approximately \$51, is in fact below the value Starboard assigned to the Company in June 2014, based on its quantitative analysis. Specifically, on June 2, 2014 Starboard articulated a series of issues each of which it contended depressed the Company’s value but could be readily addressed. Indeed, Starboard indicated the Company’s true per share value was between \$52.18 and \$69.34 “based on conservative growth assumptions” with

a “base case” price point of \$59.67 per share. At the time the letter was sent, the Company’s price was \$42.96 per share.<sup>1</sup>

32. The inadequacy of the Proposed Consideration is further evidenced by the fact that the Company is in the process of an extensive expense reduction program targeting between \$100 million and \$125 million in annual cost savings by the end of 2015. Also, its specialty chemicals unit has grown at a 15.4% annualized rate while EBITDA margins have expanded to 26.7%. Further, the Company has a very valuable pension asset on its balance sheet. In fact MWV maintained an overfunded pension for decades resulting in a \$1.5 billion pension asset and over \$120 million per year in pension income. In stark contrast, Rock-Tenn has a pension liability that exceeds \$1 billion.

33. Securities industry analysts are increasingly “bullish” on the Company. For example, on July 30, 2014, KeyBanc Capital Markets placed a \$46 price target on the Company citing a strong balance sheet, a low leverage ratio of 1.5x EBITDA and a health dividend yield of 2.3%. Moreover, KeyBanc reported the Company enjoyed substantial pension income.

34. KeyBanc’s positive report was predicated on the release of the Company’s Second Quarter Sales and Earnings Growth evident by the following highlights:

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<sup>1</sup> The unaffected price prior to the disclosure of the merger was \$45.04 per share on January 23, 2015.

## Second Quarter 2014 Highlights:

Earnings from continuing operations of \$0.43 per share, \$0.53 ex-items vs. \$0.28 on the same basis

Sales of \$1.47 billion were up 6% from gains across targeted packaging and specialty chemicals markets

EBITDA ex-items increased to \$257 million, up 26% driven by margin expansion in the Food & Beverage and Home, Health & Beauty segments

EBITDA margin expansion driven by broad volume, price/mix and productivity improvement, as well as cost savings benefits; company remains on track to deliver \$75 million of savings in 2014 (\$100 million run-rate savings)

Continued operational progress in Brazil despite soft economic conditions

Completed accelerated stock repurchase using forestland transaction proceeds; company has returned more than \$600 million to stockholders through repurchases and a special dividend

### 35. Mr. Luke delivered a very positive message when discussing earnings:

The profitable growth we generated this quarter is the result of continued strong execution of our strategy,” said John A. Luke, Jr., chairman and chief executive officer, MWV. “We are generating above-market growth and improving our bottom-line financial performance, even against the backdrop of a challenging global economy. Across the global packaging and specialty chemicals markets we have targeted, we are driving higher pricing, share gains and product mix improvement – and delivering returns from our major investments and cost reduction initiatives as well.”

The commercial successes and enhanced operating productivity we generated across the company in the

second quarter confirm we are on track to deliver earnings and cash flow growth this year. Our progress to date sets the stage for continued improvement, and we expect to build on this momentum throughout the second half of 2014 and achieve our goal of market-leading margins in 2015.

36. *Zack's Research* commented on the results in an article entitled "MeadWestvaco Beats Q2 Earnings on Specialty Chemicals." *Zack's* noted as follows:

MWV reported second-quarter 2014 adjusted earnings from continuing operations of 53 cents per share, which increased nearly twofold from the year-ago quarter's earnings per share of 28 cents. The reported figure came ahead of the Zacks Consensus Estimate of 50 cents per share of 28 cents. The reported figure came ahead of the Zacks Consensus Estimate of 50 cents.

Including one-time items, earnings in the quarter came in at 43 cents per share, improving 53.6% year over year.

#### Operational Updates

Total revenue rose 5.8% year over year to \$1.47 billion also surpassing the Zacks Consensus Estimate of \$1.44 billion. The year over year growth was driven by gains across targeted packaging and specialty chemicals markets.

Cost of sales remained flat at \$1.15 billion compared with the year-ago quarter. Gross profit grew 34% to \$318 million from \$237 million in the year-ago quarter and gross margin increased 470 basis points (bps) to 21.7%.

Selling, general and administrative expenses in the reported quarter went up 0.6% year over year to \$160 million. Adjusted operating profit increased twofold to \$158 million from \$78 million in the year-ago quarter.

Consequently, operating margin expanded 520 bps to 10.8%.

37. *Zack's* further commented on the Company's efforts to return capital to investors:

MeadWestvaco completed its previously announced accelerated stock repurchase program. Approximately 7.9 million shares were retired throughout the duration of the program using a portion of the proceeds from forestland sales. The company has returned more than \$600 million to stockholders through repurchases and special dividend.

38. Finally, *Zack's* portrayed the Company in a very positive light going-forward:

Though MeadWestvaco did not provide any specific guidance for fiscal 2014, it expects enhanced operating productivity and continued improvement to drive the second half of 2014 results and to assist in attaining the goal of market-leading margins in 2015.

For the third quarter of 2014, earnings excluding special items are expected to be above year-ago levels on a continuing operations basis, led by benefits from commercial and operational excellence strategies, as well as continued contributions from growth and productivity improvements and cost savings initiatives. The company had reported earnings per share of 49 cents in the third quarter of 2013.

Further, improvement in third-quarter results are expected to be driven by increase in packaging volumes, ongoing value-based pricing initiatives across all packaging businesses, continued positive operating leverage from increased mill and plant utilization rates and cost reduction efforts. However, continued soft economic conditions in Brazil, demand challenges in

frozen food markets and increased cost of raw materials remain matters of concern.

39. On October 28, 2014, the Company again reported strong third quarter sales and earnings growth. Commenting on the quarter, Mr. Luke stated as follows:

We executed well and made excellent progress improving our margins during the third quarter,” said John A. Luke, Jr., chairman and chief executive officer, MWV. “Despite a low- to no-growth global economic environment, we increased volumes of our valuable, differentiated products in many of our targeted end markets. We also greatly improved profitability from outstanding operational performance and reductions in our cost structure. We are executing our strategy with discipline and generating results each day that move us closer to our goal of sustained industry-leading margins.

40. Commenting on the earnings, KeyBanc wrote on October 28, 2014 that the Company’s results “topped consensus” estimates. Specifically, KeyBanc reported:

MeadWestvaco Corp. (MWV-NYSE) reported 3Q14 EBITDA and EPS that comfortably topped consensus, despite what the Company termed “an increasingly challenging global economic environment.” Our belief has been that MWV has a number of internal levers to pull to post continued solid results in the face of weak conditions, and this quarter played out even better than we expected along those lines. The company is facing a number of obstacles in the 4Q, including ongoing wood cost inflation, a negative impact from foreign currency exchange, weakening demand in Europe, continued weakness in packaged food and liquid packaging, and continued economic weakness in Brazil, but nonetheless

expects its earnings to be up significantly from a year ago. In addition, the Company indicated that it continues to determine the right path to maximizing the value of its growing, high-margin Specialty Chemicals business. MWV said it continues to evaluate the possibility of putting some of its assets into a master limited partnership (MLP) structure, but that its priority remains assessing strategic alternatives to maximize the value of its chemicals business.

41. KeyBanc further stated it viewed as “appealing to us are MWV’s strong balance sheet (we expect the Company to exit 2014 at a leverage ratio of 1.4x EBITDA, well below some of its peers) and healthy dividend yield of 2.3%.”

42. KeyBanc further noted that while it was “not expecting much improvement in economic conditions for the foreseeable future, and we believe MWV is among our covered companies best suited to generate meaningful growth and attractive stockholder returns in such an environment. We are increasing our 2014 and 2015 EPS estimates on account of a lower tax rate.”

43. KeyBanc further upped its estimates:

EPS estimate going from \$1.75 to \$1.84 in 2014 and \$2.17 to \$2.33 in 2015. We are also introducing a 2016 EPS estimate of \$2.50. Our 2014 EBITDA estimate is \$974 million, below the Company’s guidance range of \$1.0 billion-\$1.25 billion; we think we are being appropriately conservative by being modestly below the low end of the range. On our revised estimates, we continue to find the stock attractive, and maintain our BUY rating and \$46 target.

44. RBC Capital Markets similarly wrote on October 28, 2014 that “Q314 results [were] better than expected.” Specifically, RBC reported as follows:

MWV reported normalized EPS of \$0.63 in Q314 compared to our estimate of \$0.54 and consensus of the same. MWV’s adjusted gross margin of 22.8% was up 210 bps y/y due net productivity gains (+2.3%), price/mix improvement (+1.8%) and FX/other tailwinds (+0.3%), partially offset by input cost inflation (-1.5%) and other inflation (-0.8%).

Revising EBITDA estimates – Q414E from \$209MM to \$233MM, maintaining FY15 at \$988MM and revising FY16 from \$1,047MM to \$1,070MM (we adjust our EBITDA calculation to exclude pension surpluses). Maintaining Trend EBITDA at \$1,050MM.

45. On January 8, 2015, again bowing to pressure from Starboard, the Company announced that it would spinoff its specialty chemicals business from the rest of the Company. The separation was expected to be executed by means of a tax-free spinoff of the specialty chemicals business to MWV stockholders, resulting in two independent, publicly traded companies. The spinoff was expected to be completed by the end of 2015 and the Company states it remains open to other value-creating alternatives for the specialty chemicals business throughout the process.

46. With the announcement of the Proposed Transaction though, the benefit of spin-off will instead benefit the combined stockholders of the newly formed TopCo, including the stockholders of RockTenn. This will provide an

immediate wind-fall opportunity that the stockholders of MWV will not fully realize due to the Proposed Transaction, despite bearing the costs of the specialty chemical business to date.

47. Commenting on the spinoff, Mr. Luke stated as follows:

Following a thorough strategic review process, MWV's board and leadership team determined that a tax-free spinoff of Specialty Chemicals presents the best opportunity to create the greatest value for our stockholders. The separation of Specialty Chemicals will establish two strong companies that are better positioned to compete and profitably grow in their targeted markets. This action continues our strong record of returning value to our stockholders, which has exceeded \$4 billion over the last 10 years.

48. Mr. Luke continued:

This is an opportunity we have created by executing on a deliberate strategy of building MWV's businesses into packaging and specialty chemicals leaders globally. We are in a strong position to take this next step to maximize value for our stockholders. Our strong commercial progress and improved execution have put our packaging business on a sustainable path toward market-leading margins and growing cash returns. The separation of our Specialty Chemicals business, along with the organizational redesign work we are undertaking, reflects the strong commitment of our management team and board of directors to creating value for our stockholders and establishing a business model that will significantly improve the profitability and

49. MWV further reported that it expected to receive cash from the spinoff that will be used primarily to pay down debt to maintain MWV's

investment grade credit rating and “expects to continue to pay a strong dividend, with the final rate to be determined post-separation. The company also will continue to look for opportunities to return capital to stockholders.”

50. The separation was further touted by the Company when it stated it would be in:

excellent position to accelerate its strategy as a global leader in packaging and packaging solutions, optimally positioned to create long-term value through its market-focused strategy. Through this strategy, the company has improved its growth and profitability profile by enhancing its product mix and focusing on the most attractive opportunities in growing global packaging markets while reducing structural costs.

51. Further, the Company stated:

In conjunction with the separation of the Specialty Chemicals business, MWV is undertaking a comprehensive organization redesign to accelerate its market-focused packaging strategy and achieve market-leading margins. The actions will ensure the company has the capabilities to execute on its profitable growth strategy with an appropriately sized support structure and business model that will provide attractive total returns to stockholders.

52. On January 22, 2015, MWV, announced it has signed a definitive agreement to sell its European-based tobacco folding carton business to AR Packaging Group AB. The business reportedly had annual revenue of approximately \$190 million (€146 million), which is included in MWV’s Food & Beverage segment.

53. Commenting on the transaction, Joe McNamara, president of MWV's Tobacco business, stated as follows:

This transaction gives us the opportunity to further focus our participation on our leadership position in high-quality paperboard for tobacco and other premium packaging markets around the world. Our strong teams and facilities in the folding carton space will flourish as part of AR Packaging, and MWV will continue to serve our global customers as the market for high-quality paperboard grows in many regions.

***The Proposed Transaction***

54. On January 26, 2015, the Company reported strong fourth quarter and full year sales and earnings growth right before announcing the Merger. According to the release, the Company reported adjusted earnings from continuing operations of 46 cents per share, which increased 59% year over year and came ahead of consensus estimate of 44 cents. Specifically, the Company reported gains across targeted, higher-value packaging and specialty chemicals end markets, while the bottom line grew on the back of strong operational performance, gains in productivity from major efficiency investments and cost reduction actions.

55. Tellingly, the solid earnings release was immediately followed by the disclosure of the Proposed Transaction.

56. The Proposed Consideration, however, significantly undervalues MWV. The stockholders of RockTenn will reap the benefits of the Company's current market position and foreclose the Plaintiffs and Class members from

singularly enjoying the growth through the consummation of the Proposed Transaction. Having failed to maximize the sale price for the Company, the Individual Defendants breached their fiduciary duties owed to the Company's public stockholders because the Company is improperly valued and the Company's public stockholders will not receive adequate or fair consideration for their MWV common stock.

### ***The Unfair Deal Protection Devices***

57. Additionally, and unfortunately for Plaintiffs and the other Class members, the terms of the Merger Agreement are calculated to unreasonably dissuade other potential bidders from making competing offers. The Merger Agreement contains deal protection devices that substantially increase the likelihood that the Proposed Transaction will be consummated, leaving MWV's stockholders with no meaningful change of control premium for their shares. When viewed collectively, these provisions, detailed below, further the personal interests of RockTenn to the detriment of MWV's stockholders and cannot represent a justified, appropriate, or proportionate response to any threat posed by a potential third party bidder.

58. First, the Individual Defendants agreed to a "No Solicitation" provision in Section 5.2 of the Merger Agreement. This provision ensures that no other entity will offer a competing proposal to purchase MWV, insofar as the "No

Solicitation” provision prohibits the Individual Defendants from soliciting alternative proposals and severely constrains their ability to communicate and negotiate with other potential buyers of MWV who wish to submit or have submitted unsolicited alternative proposals. Section 5.2 of the Merger Agreement states:

No Solicitation by MWV. (a) MWV shall not, shall not authorize or permit any of its controlled affiliates or any of its or their officers, directors or employees to, and shall use its reasonable best efforts to cause any investment banker, financial advisor, attorney, accountant or other representative (a “Representative”) retained by it or any of its controlled affiliates not to, directly or indirectly through another person,

(i) solicit, initiate or knowingly encourage (including by way of furnishing information), or take any other action designed to facilitate, any inquiries regarding, or the making of, any proposal the consummation of which would constitute a MWV Alternative Transaction or

(ii) participate in any substantive discussions or negotiations, or cooperate in any way with any person, with respect to any inquiries regarding, or the making of, any proposal the consummation of which would constitute a MWV Alternative Transaction; provided, however, that if, at any time prior to obtaining the MWV Stockholder Approval, the Board of Directors of MWV determines in good faith (after consultation with outside counsel and a financial advisor of nationally recognized reputation) that any such proposal that did not result from a material breach of this Section 5.2(a) constitutes or is reasonably likely to lead to a MWV Superior Proposal, subject to compliance

with Section 5.2(c), MWV and its Representatives may

(A) furnish information with respect to MWV and its subsidiaries to the person making such proposal (and its Representatives and financing sources) (provided that all such information has previously been provided to RockTenn or is provided to RockTenn prior to or substantially concurrent with the time it is provided to such person) pursuant to a customary confidentiality agreement containing terms as to confidentiality generally no less restrictive than the terms of the confidentiality agreement, dated October 4, 2014, entered into between MWV and RockTenn (the “Confidentiality Agreement”) and

(B) participate in discussions or negotiations regarding such proposal with the person making such proposal (and its Representatives and financing sources).

For purposes of this Agreement, “MWV Alternative Transaction” means any of

(i) a transaction or series of transactions pursuant to which any person (or group of persons) other than RockTenn and its subsidiaries (including TopCo, MWV Merger Sub and RockTenn Merger Sub) (a “MWV Third Party”), acquires or would acquire, directly or indirectly, beneficial ownership (as defined in Rule 13d-3 under the Exchange Act) of more than 20% of the outstanding shares of MWV Common Stock or securities (or options, rights or warrants to purchase, or securities convertible into or exchangeable for, such securities) representing 20% or more of the voting

power of MWV, whether from MWV or pursuant to a tender offer or exchange offer or otherwise,

(ii) a merger, consolidation, share exchange or similar transaction involving MWV or any of its subsidiaries,

(iii) any transaction pursuant to which any MWV Third Party acquires or would acquire, directly or indirectly, control of assets (including for this purpose the outstanding equity securities of subsidiaries of MWV and any entity surviving any merger or combination including any of them) of MWV or any of its subsidiaries representing 20% or more of the consolidated revenues, net income or assets of MWV and its subsidiaries taken as a whole or (iv) any disposition of assets representing 20% or more of the consolidated revenues, net income or assets of MWV and its subsidiaries, taken as a whole.

59. Moreover, Section 5.2 of the Merger Agreement requires the Individual Defendants to inform RockTenn of any competing proposal. Indeed, pursuant to Section 5.2(c) the Individual Defendants must notify RockTenn of any such competing proposal to purchase MWV, including the material terms and conditions of such a proposal, within twenty-four hours of receiving the proposal:

(c) In addition to the obligations of MWV set forth in Sections 5.2(a) and Section 5.2(b), MWV shall promptly, and in any event within 24 hours of receipt thereof, advise RockTenn orally and in writing of any request for information or of any proposal relating to a MWV Alternative Transaction, the material terms and conditions of such request or proposal (including any changes thereto) and the identity of the person making such request or proposal. MWV shall

(i) keep RockTenn reasonably informed of the status and details (including amendments or proposed amendments) of any such request or proposal on a current basis and

(ii) provide to RockTenn as soon as reasonably practicable after receipt or delivery thereof copies of all correspondence and other written materials exchanged between MWV or its subsidiaries or any of their Representatives, on the one hand, and any person making such request or proposal, on the other hand, that describes in any material respect any of the material terms or conditions of any such request or proposal.

60. In addition to strongly discouraging competing proposals to purchase or merge with MWV through the use of the “No Solicitation” provision set forth in Section 5.2 of the Merger Agreement, the Merger Agreement also further dissuades the Individual Defendants from seriously considering any such alternative proposal with the inclusion of a termination fee in the amount of \$230 million, payable by the Company to RockTenn in the event the Individual Defendants cause the Company to terminate the Merger Agreement pursuant to the lawful exercise of their fiduciary duties.

61. Under the terms of the Merger Agreement, the Individual Defendants tilted the playing field in favor of RockTenn by agreeing, in breach of their fiduciary duties owed to MWV stockholders, to a slew of deal protection provisions that unreasonably inhibit potential third party bidders from launching topping bids, including: (i) a strict “no-solicitation” provision that severely

constrains the Individual Defendants' ability to communicate and negotiate with potential buyers who wish to submit or have submitted unsolicited alternative proposals; (ii) an "information rights" provision that requires MWV to disclose to RockTenn, within twenty-four hours, the identity of any competing bidder for the Company, the material terms and conditions of the proposal, and copies of all correspondence and written materials exchanged; and (iii) a "termination fee" provision whereby the Individual Defendants agreed to pay up to \$230 million, under specified conditions. These unreasonable terms virtually foreclose on the possibility that a bidder would assume the significant time and expense required in order to engage in the sales process.

62. By agreeing to these unfair deal protection devices, the Individual Defendants have all but ensured that the Proposed Transaction will be consummated, and have precluded other potential bidders from making successful competing offers for the Company.

63. As such, the deal protection devices, which were approved by the Board as part of the Merger Agreement, represent an ongoing breach of fiduciary duties.

***The Individual Defendants Will Benefit Substantially More Than Stockholders***

64. Supplementing the harm to MWV's stockholders, the Individual Defendants, are reaping substantial benefits that are different than those of the

stockholders. Specifically, the Individual Defendants are able to avoid removal from the Board by Starboard.

65. The Merger Agreement provides for six of the current MWV directors, including Mr. Luke as Non-Executive Chairman, to have directorship positions on the TopCo board of directors, preserving their roles after the Proposed transaction consummated.

66. This form of consideration received by the Individual Defendants outstrips the consideration that stockholders will receive for their shares in the Merger.

## **CAUSES OF ACTION**

### **COUNT I**

#### **Claims for Breach of Fiduciary Duty Against the Individual Defendants**

67. Plaintiffs repeat and re-allege each allegation set forth herein.

68. The Individual Defendants have violated fiduciary duties of care, loyalty and good faith owed to the public stockholders of MWV.

69. By the acts, transactions and courses of conduct alleged herein, the Individual Defendants are acting as part of a common plan and are attempting to unfairly deprive Plaintiffs and other members of the Class of the true value of their investment in MWV.

70. As demonstrated by the allegations above, the Individual Defendants failed to and caused MWV to fail to exercise the care required, and breached their duties of loyalty, good faith and care owed to the stockholders of MWV because, among other reasons, they failed to take the necessary steps to maximize stockholder value.

71. The Individual Defendants dominate and control the business and corporate affairs of MWV, and are in possession of private corporate information concerning MWV assets, business and future prospects. Thus, there exists an imbalance and disparity of knowledge and economic power between them and the public stockholders of MWV that make it inherently unfair for them to benefit their own interests to the exclusion of maximizing stockholder value.

72. By reason of the foregoing acts, practices and course of conduct, the Individual Defendants have failed to and caused MWV to fail to exercise due care and diligence in the exercise of their fiduciary obligations toward Plaintiffs and the other members of the Class.

73. As a result of the actions of the Individual Defendants, Plaintiffs and the Class will suffer irreparable injury in that they have not and will not receive their fair portion of the value of MWV assets and businesses and have been and will be prevented from obtaining a fair price for their common stock.

74. Unless the Individual Defendants are enjoined by the Court, they will continue to breach their fiduciary duties owed to Plaintiffs and the members of the Class, all to the irreparable harm of the members of the Class.

75. Plaintiffs and the members of the Class have no adequate remedy at law. Only through the exercise of this Court's equitable powers can Plaintiffs and the Class be fully protected from the immediate and irreparable injury which Defendants' actions threaten to inflict.

## **COUNT II**

### **Claims for Aiding and Abetting Against RockTenn**

76. Plaintiffs incorporate by reference and re-allege each and every allegation contained above, as though fully set forth herein.

77. RTC knowingly aided and abetted the Individual Defendants' wrongdoing alleged herein. RTC is an active and necessary participant in the Individual Defendants' plan to complete the Proposed Transaction on terms that are unfair to MWV stockholders.

78. As a result of the conduct by RTC, Plaintiffs and the other members of the Class have and will be damaged by being denied the best opportunity to maximize the value of their investments in MWV.

79. Plaintiffs and the members of the Class have no adequate remedy at law. Only through the exercise of this Court's equitable powers can Plaintiffs and

the Class be fully protected from the immediate and irreparable injury which Defendants' actions threaten to inflict.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs demand injunctive relief in their favor of the Class and against Defendants as follows:

A. Declaring that this action is properly maintainable as a Class Action and certifying Plaintiffs as Co-Lead Plaintiffs and their Counsel as Lead Counsel;

B. Enjoining Defendants, their agents, counsel employees and all persons acting in concert with them from consummating the Proposed Transaction, unless and until the Company adopts and implements a procedure or process to obtain a merger agreement providing the best possible terms for stockholders;

C. Rescinding, to the extent already implemented, the Proposed Transaction or any of the terms thereof, or granting Plaintiffs and the Class rescissory damages;

D. Directing the Individual Defendants to exercise their fiduciary duties to commence a sale process that is reasonably designed to secure the best possibility consideration for MWV and obtain a transaction, which is in the best interests of MWV stockholders; and

E. Awarding Plaintiffs the costs and disbursements of this action, including reasonable attorneys' and experts' fees; and granting such other and further equitable relief as the Court may deem just and proper.

Dated: February 6, 2015

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