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Case No. 8059-CS

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

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| IN RE JEFFERIES GROUP, INC. SHAREHOLDERS LITIGATION | ) ) ) ) | CONSOLIDATED C.A. No. 8059-CS |

**Public Version as E-filed on February 6, 2014**

**VERIFIED SECOND AMENDED CLASS ACTION COMPLAINT**

Plaintiffs Laborers' District Council Pension and Disability Trust Fund No. 2 ("Laborers"), Genesee County Employees' Retirement System ("Genesee"), Elizabeth Gelfand ("Gelfand"), and Oklahoma Firefighters Pension & Retirement System ("Oklahoma" and together with Laborers, Genesee, and Gelfand, "Plaintiffs"), on behalf of themselves and all other similarly situated public shareholders of Jefferies Group, Inc. ("Jefferies" or the "Company"), make the following allegations in their Verified Second Amended Class Action Complaint (the "Complaint") against certain members of the board of directors of Jefferies (the "Board" or "Jefferies Board"), Leucadia National Corporation and Limestone Merger Sub, LLC ("Merger Sub", and together with Leucadia National Corporation, "Leucadia") (collectively, the "Defendants"). The allegations herein are made in support of Plaintiffs' claims challenging Defendants' conduct in connection with the sale of Jefferies to Leucadia. The allegations herein are based on the knowledge of Plaintiffs as to themselves and their own actions, and on information and belief, including the investigation of counsel and review of publicly available information, as to all other matters.

## INTRODUCTION

1. This case is about four conflicted members of the Jefferies Board who breached their fiduciary duties to the Company while negotiating the sale of Jefferies to Leucadia. These four conflicted directors, Richard Handler ("Handler"), Brian Friedman ("Friedman"), Ian Cumming ("Cumming") and Joseph Steinberg ("Steinberg"), engaged in negotiations, which were primarily conducted in secret to keep all of the purportedly independent members of the Board out of the sales process. They did so because they wanted to secure terms as part of the deal, which favored their own interests to the detriment of their public shareholders. As a result, the sales process contained numerous flaws and, ultimately the Board approved a deal that failed to maximize value for their public shareholders.

2. The ability of these four directors to improperly manipulate the Jefferies' sales process for their own benefit began nearly two decades ago when Jefferies' Chairman and Chief Executive Officer ("CEO"), Handler, and Leucadia's co-founders, Cumming and Steinberg, developed a close professional and personal relationship that included, among other things, lucrative joint ventures, personal investment advice and support, numerous financing transactions, and off-market stock purchases in times of need. Over time, this professional relationship morphed into a close personal friendship in which Handler came to view Cumming and Steinberg as not only his friends, but also his "idols" and "mentors."

3. Leucadia, Handler, and Handler's long-time lieutenant Friedman, who served as Jefferies' Executive Committee Chairman, collectively controlled Jefferies. As a group, they owned over 30% of Jefferies' outstanding equity and dominated the Company's executive offices and boardroom. Indeed, Handler, Friedman, Cumming and Steinberg occupied four of the eight seats on the Jefferies Board.

4. By 2012, Cumming was looking to retire from Leucadia, and Steinberg, who was approaching 70 years of age, was approaching the end of his career. Leucadia, however, lacked any viable succession plan.

5. Handler sensed an opportunity to personally benefit from Leucadia's lack of a succession plan and his close personal and professional relationship with the company's co-founders. Starting in April 2012, Handler began aggressively pushing for a merger of Jefferies and Leucadia from which he would emerge as the CEO of the combined company.

6. For months, Handler, Friedman, Cumming and Steinberg secretly negotiated the terms of the merger. During this time, Handler and Friedman provided Cumming and Steinberg with confidential information concerning Jefferies without receiving the Board's approval. In fact, for more than three months, Handler, Friedman, Cumming and Steinberg kept the four purportedly independent members of the Jefferies Board completely in the dark about their negotiations.

7. Near the end of July 2012, Friedman finally gave the other members of the Jefferies Board some cursory information about the merger. Friedman, Handler,

Cumming and Steinberg, however, waited until mid-September 2012 to tell the remaining board members about how advanced the negotiations had become, and how Handler and Friedman planned to take the top two executive positions at the post-merger entity.

8. Taking a completely passive approach in response to Handler and Friedman's months of deception and their serious conflicts of interest, the Jefferies Board inexplicably allowed Handler and Friedman to serve as the Company's exclusive negotiators with Leucadia.

9. As a result of (a) the cozy relationship between Handler, Cumming and Steinberg and (b) the fact that Handler and Friedman were more focused on career advancement than obtaining the best possible deal for Jefferies' non-controlling shareholders, price negotiations between Jefferies and Leucadia were highly abbreviated and anything but arms-length.

10. On November 9, 2012, Handler, Friedman, Cumming and Steinberg met to discuss the merger's exchange ratio. The extent of price negotiations, which occurred at a single meeting, was as follows: Handler and Friedman proposed an exchange ratio of 0.8451 shares of Leucadia stock for each Jefferies share, Cumming and Steinberg countered with a proposed exchange ratio of 0.7552 and the four men split the difference with a fixed exchange ratio of 0.81.

11. By agreeing to a fixed exchange ratio, Handler, Friedman, Cumming and Steinberg locked in a price that guaranteed that Jefferies shareholders would not receive consideration that was rightfully theirs. In addition to, and separate from, the inadequacy

of the exchange ratio itself, at the time they agreed to the exchange ratio, Handler and Friedman knew that Jefferies had been retained by a third party, GETCO LLC ("GETCO"), a high frequency trading firm, to assist that company in making an offer to acquire Knight Capital, another trading firm in which Jefferies had a substantial equity investment. The public had no knowledge of GETCO's bid for Knight, and as a result, the publicly traded price of Jefferies's stock on the date that Handler, Friedman et al. agreed to the exchange ratio did not reflect the substantial additional value that Jefferies would realize through its equity stake in Knight and fees from the Knight transaction. In fact, after GETCO's offer for Knight became public just two weeks after Jefferies announced its deal with Leucadia, Jefferies and Leucadia's combined stock value jumped over $300 million (each stock jumped more than $150 million), documenting the value of the Knight deal to Jefferies, and, as of the merger announcement date, Jefferies's public shareholders lost much (more than $160 million) of the value from the Knight transaction by virtue of the inadequate fixed exchange ratio in the deal.

12. Handler and Friedman ensured that their preferred deal would not face any resistance in Jefferies' boardroom by negotiating for, and securing each Jefferies director a position as a director of the combined company. The Board, in turn, locked-up the merger by granting Leucadia a non-solicitation provision, unlimited recurring matching rights and a $90 million termination fee. The Jefferies Board never considered any alternatives and never informed themselves about who, other than Leucadia, might be interested in acquiring or merging with the Company. Handler and Friedman further

ensured consummation of the deal by agreeing to pledge 2.95% of their Jefferies equity in support of the deal. Combined with Leucadia's nearly 30% stake in the Company, only another 18.5% of Jefferies' shareholders needed to vote in favor of the deal for it to be approved.

13. On November 12, 2012, Jefferies and Leucadia formally announced the merger in which Leucadia would acquire the remainder of Jefferies common stock that it did not already own in exchange for providing Jefferies shareholders with 0.81 Leucadia shares for each of their Jefferies shares (the "Merger"). As explained *infra*, the exchange ratio was unfair and provided Jefferies' shareholders with an inadequate percentage of the combined company.

14. In connection with the Merger's announcement, Jefferies and Leucadia also announced that upon consummation of the Merger, Handler and Friedman would respectively serve as Leucadia's CEO and President. Put simply, while Handler realized his "personal dream" of running Leucadia following the Merger, Jefferies' public shareholders were short-changed.

15. In light of the unfairness of the Merger, which closed on March 1, 2013, the breaches of fiduciary duty on the part of the Company's and Leucadia's senior most executives, the inexplicably passive conduct of the Jefferies Board, and the acts of aiding and abetting on the part of Leucadia, Plaintiffs are entitled to recover damages for Jefferies' outside shareholders.

## THE PARTIES

16. Plaintiff Laborers was a shareholder of Jefferies at all material times alleged in this Complaint.

17. Plaintiff Genesee was a shareholder of Jefferies at all material times alleged in this Complaint.

18. Plaintiff Gelfand was a shareholder of Jefferies at all material times alleged in this Complaint.

19. Plaintiff Oklahoma was a shareholder of Jefferies at all material times alleged in this Complaint.

20. Defendant Richard B. Handler was the Company's Chairman of the Board since February 2002, and Jefferies' CEO since January 2001. Handler also served as CEO of Jefferies & Company, Jefferies' principal operating subsidiary since January 2001, as President of Jefferies & Company since May 2006, and as Co-President and Co-Chief Operating Officer of both Jefferies and Jefferies & Company during 2000. Handler was first elected to the Jefferies Board in May 1998. Handler was Managing Director of High Yield Capital Markets at Jefferies & Company from May 1993 until February 2000, after co-founding that group as an Executive Vice President in April 1990. Handler has also been the President and CEO of the Jefferies Partners Opportunity family of funds and is CEO of their successor entities, Jefferies High Yield Trading, LLC ("Jefferies High Yield Trading") and Jefferies High Yield Holdings, LLC ("Jefferies High Yield Holdings"). As of January 28, 2013, Handler was the beneficial owner of and entitled to

vote 3,126,423 shares of Jefferies common stock, or approximately 1.54% of the Company's total outstanding common stock. Upon consummation of the Merger, Handler became the CEO of Leucadia, as well as one of Leucadia's directors.

21. Defendant Brian P. Friedman was a member of the Jefferies Board and an executive officer of the Company since July 2005, and has been Chairman of the Executive Committee of Jefferies since 2002. Since 1997, Friedman also has been President of Jefferies Capital Partners. As of January 28, 2013, Friedman was the beneficial owner of and entitled to vote 2,866,750 shares of Jefferies common stock, or 1.41% of the Company's total outstanding common stock. Upon consummation of the Merger, Friedman became Leucadia's President and one of Leucadia's directors.

22. Defendant Ian M. Cumming was a member of the Jefferies Board from April 2008 until consummation of the Merger. Cumming has been a director of Jefferies High Yield Holdings since April 2007. Cumming was CEO and Chairman of the board of directors of Leucadia from June 1978 until consummation of the Merger. Upon consummation of the Merger, Cumming retired as Leucadia's CEO and Chairman of its board of directors. Cumming, however, remains a Leucadia director. Cumming is also an alternate director of Fortescue Metals Group Ltd ("Fortescue"), an Australian public company that is engaged in the mining of iron ore.

23. Defendant Joseph S. Steinberg was a member of the Jefferies Board from April 2008 until consummation of the Merger and has been a director of Jefferies High Yield Holdings since April 2007. Steinberg has served as a director of Leucadia since

December 1978 and as its President since January 1979. Upon consummation of the Merger, Steinberg became Leucadia's Chairman and continues to serve as a Leucadia executive. Steinberg is also an alternate director of Fortescue.

24. The defendants listed in paragraphs 20 to 23 above are collectively referred to herein as the "Director Defendants." Defendants Handler and Friedman (in their capacities as Jefferies' executive officers) are collectively referred to herein as the "Officer Defendants." The Director Defendants and the Officer Defendants are collectively referred to herein as the "Individual Defendants."

25. Defendant Leucadia is a diversified holding company, founded by defendants Cumming and Steinberg, which, through its subsidiaries, engages in beef processing (National Beef Packing Company LLC), manufacturing (Idaho Timber, LLC and Conwed Plastics, LLC), land based oil and gas drilling (Keen Energy Services, LLC), gaming entertainment (Premier Entertainment Biloxi LLC), real estate activities, medical product development (Sangart, Inc.) and winery operations (Pine Ridge Vineyards, Archery Summit, Chamisal Vineyards, and Seghesio Family Vineyards). Leucadia's common shares are listed on the NYSE under the ticker symbol "LUK." According to the Joint Proxy Statement regarding the proposed merger filed with the U.S. Securities and Exchange Commission on January 24, 2013, as of January 24, 2013, Leucadia owned 58,006,024 shares of Jefferies common stock, representing approximately 28.52% of Jefferies' outstanding shares.

26. Defendant Limestone Merger Sub, LLC is a Delaware limited liability company and a direct wholly-owned subsidiary of Leucadia.

## SIGNIFICANT NON-PARTIES

27. Jefferies is a global investment banking firm. The Company provides a full range of investment banking, sales, trading, research and strategy across the spectrum of equities, fixed income and commodities, in the U.S., Europe and Asia. Jefferies is headquartered in New York, New York. Until consummation of the Merger, the Company was incorporated under the laws of the State of Delaware and traded on the New York Stock Exchange ("NYSE") under the ticker symbol "JEF." Following the consummation of the Merger, Jefferies became a wholly-owned subsidiary of Leucadia.

28. W. Patrick Campbell ("Campbell") was a member of the Jefferies Board from January 2000 until consummation of the Merger. Upon consummation of the Merger, Campbell became a member of the Leucadia board of directors.

29. Richard G. Dooley ("Dooley") was a member of the Jefferies Board from November 1993 until consummation of the Merger. Upon consummation of the Merger, Dooley became a member of the Leucadia board of directors.

30. Robert E. Joyal ("Joyal") was a member of the Jefferies Board from January 2006 until consummation of the Merger. Upon consummation of the Merger, Joyal became a member of the Leucadia board of directors.

31. Michael T. O'Kane ("O'Kane") was a member of the Jefferies Board from May 2006 until consummation of the Merger. Upon consummation of the Merger, O'Kane became a member of the Leucadia board of directors.

## SUBSTANTIVE ALLEGATIONS

## I. HANDLER DEVELOPS A CLOSE RELATIONSHIP WITH LEUCADIA'S CO-FOUNDERS

### A. JEFFERIES HIGH YIELD HOLDINGS JOINT VENTURE

32. In the press release announcing the Merger, Handler highlighted that he has "know[n] Joe [Steinberg] and Ian [Cumming] for over two decades." JEFNY01588. Jefferies's financial relationship with Leucadia's co-founders commenced in 2000 when Jefferies entered into a joint venture ("JV") with Leucadia to operate Jefferies High Yield Trading, Jefferies' high-yield secondary market business.

33. In 2001, Leucadia invested $100 million of equity in a limited liability company, Jefferies Opportunity Fund II, LLC, and within two years, Leucadia recorded $17,300,000 of pre-tax income from the investment.

34. During 2007, Leucadia and Jefferies committed to invest $600 million into the newly-created Jefferies High Yield Holdings. Jefferies and Leucadia each own 50% of the voting securities of Jefferies High Yield Holdings ("Holdings"), which in turn owns Jefferies High Yield Trading.

35. In exchange for its investment, Leucadia received the right to nominate two of the four directors on Jefferies High Yield Holdings' board of directors, which was overseen by Handler. Leucadia nominated Cumming and Steinberg.

36. Jefferies High Yield Holdings, which remains in existence today, has been overseen by Handler, Cumming and Steinberg continuously since its inception. Leucadia's stake in this ongoing joint venture represents a value equal to 10% of Jefferies' market capitalization, giving Cumming and Steinberg leverage over Jefferies beyond that which they enjoy through their equity stake in the Company and their seats on the Jefferies Board.

### B. JEFFERIES ENRICHES LEUCADIA THROUGH LEUCADIA'S FORTESCUE INVESTMENT

37. In August 2006, Jefferies made an introduction that resulted in Leucadia investing $400 million in an Australian iron ore company named Fortescue. The investment turned out to be a "home run" for Leucadia. In exchange for its investment, Leucadia received 264 million shares of Fortescue common stock and a $100 million 13-year unsecured note (the "Note") that entitled Leucadia to 4% of the future revenue from certain of Fortescue's mine sites.

38. A year later, Leucadia invested another $44.2 million in Fortescue for approximately 14 million additional shares. In total, Leucadia invested $444.2 million in Fortescue.

39. By early 2012, this investment yielded Leucadia a profit in excess of $2 billion, consisting of $584 million royalty payments, $1.25 billion in stock sales and a $715 million payment to settle outstanding litigation related to the Note.

40. The $1.25 billion in stock sales was generated by Leucadia selling its Fortescue equity to Jefferies in five separate transactions over the course of 2011 and 2012.

| Trade Date | Shares | Seller | Total Purchase Price (US$) | Price per share (US$) | Closing Price (US$) |
|---|---|---|---|---|---|
| June 7, 2011 | 31,100,000 | LUK-Fortescue, LLC | $ 207,126,000 | $ 6.66 | $ 6.68 |
| June 14, 2011 | 61,300,000 | LUK-Fortescue, LLC | $ 408,258,000 | $ 6.66 | $ 6.69 |
| Dec 5, 2011 | 25,000,000 | Leucadia National Corp. | $ 123,750,000 | $ 4.95 | $ 4.98 |
| Jan 25, 2012 | 65,000,000 | LUK-Fortescue, LLC | $ 334,100,000 | $ 5.14 | $ 5.15 |
| Jan 25, 2012 | 35,000,000 | Leucadia National Corp. | $ 179,900,000 | $ 5.14 | $ 5.15 |

41. According to a March 28, 2012 proxy statement, the Jefferies Board delegated sole responsibility for reviewing the fairness of purchasing Leucadia's Fortescue stock to Handler. Handler used the Fortescue stock purchases to reinforce the relationship he had built with Cumming and Steinberg.

### C. HANDLER DIRECTS JEFFERIES TO PURCHASE TENS OF MILLIONS OF DOLLARS OF LEUCADIA SHARES FROM LEUCADIA'S CO-FOUNDERS

42. Jefferies, at Handler's direction, also purchased tens of millions of dollars of Leucadia stock that was personally held by Leucadia's co-founders.

43. These direct purchases allowed Cumming and Steinberg to monetize their shares while helping to buoy Leucadia's stock price. If Cumming and Steinberg were forced to sell their shares into the open market, a high likelihood existed that Leucadia's stock price would have been negatively affected by the large amount of insider sales.

44. For example, Steinberg and Cumming, along with family members, made the following gains on the sale of Leucadia stock to Jefferies:

| Defendant | Date | Number of Shares Sold | Approximate Gain Realized |
|---|---|---|---|
| Steinberg | June 2004 | 600,000 at $33.33/share | $20 million |
| Cumming | September 2004 | 361,500 at $36.67/share | $13 million |
| Steinberg and Cumming | February 2011 | 261,599 at $32.24/share | $8 million |
| Steinberg and Cumming | April 2011 | 324,030 at $35.50/share | $11 million |
| Steinberg | April 2011 | 250,000 at $35.00/share | $8 million |

45. As consideration for these purchases, Leucadia, Steinberg and Cumming repeatedly selected Jefferies to serve as Leucadia's investment banker, executing securities transactions and acting as advisor or underwriter with respect to numerous acquisitions, divestures and capital raising transactions.

46. For example, according to Jefferies' 8-K filed January 26, 2012, Jefferies received $7,198,000 in commissions for conducting brokerage services on behalf of Leucadia and its affiliates in 2011.

47. Additionally, through Jefferies High Yield Trading, Jefferies purchased and sold certain of Leucadia's debt securities.

48. Further, as of November 30, 2012, Jefferies had commitments to purchase $411.6 million in mortgage-backed securities from Berkadia Commercial Mortgage, LLC, which is partially owned by Leucadia.

### D. HANDLER IS BEHOLDEN TO STEINBERG AND CUMMING AFTER THEY BAILED HIM OUT OF HIS PERSONAL FINANCIAL CRISIS

49. In September 2011, Handler turned to Steinberg and Cumming in a moment of personal crisis. As reported by Bloomberg on September 22, 2011, Handler needed cash to ensure he would be able to meet significant personal tax obligations.

With a majority of Handler's net worth tied-up in Jefferies common stock, Leucadia agreed to purchase 2,000,000 shares of Jefferies' stock from Handler for $25.2 million.

50. Just as Jefferies' stock purchases from Leucadia's co-founders shielded Leucadia's stock price from negative movements, so did Leucadia's massive stock purchase from Handler. Moreover, Leucadia's $25 million stock purchase from Handler inspired confidence in the market that fears about Jefferies' exposure to the European debt crisis were overblown.

51. Handler was appreciative of Cumming's and Steinberg's willingness to help him in his time of need. In a memo to Jefferies employees shortly after the stock sale, Handler stated that he was "gratified by [Leucadia's] belief and support in Jefferies" and that "being out of debt is the prudent thing for me and my family in a turbulent world."

## II. BUILDING ON THIS RELATIONSHIP, LEUCADIA BECOMES JEFFERIES' LARGEST SHAREHOLDER

52. In 2008, during the early stages of the financial crisis, Jefferies sought to solidify its capital base. To this end, Handler orchestrated a deal with Steinberg and Cumming pursuant to which Leucadia would make a substantial investment in Jefferies.

53. On April 21, 2008, Jefferies issued 26,585,310 shares of its common stock, representing 13.7% of Jefferies' then-outstanding shares, to Leucadia. In connection with Leucadia's investment, Jefferies agreed to increase the size of the Board by two members and provide Leucadia with the right to fill these two newly-created

vacancies. Leucadia designated Cumming and Steinberg to fill the vacancies, roles that Cumming and Steinberg occupied continuously until consummation of the Merger.

54. During the remainder of 2008, Leucadia substantially increased its investment in Jefferies, increasing its ownership stake to approximately 29%.

55. As of February 14, 2013, Leucadia owned 58,006,024 shares of Jefferies common stock or approximately 28% of the Company.

## III. HANDLER, FRIEDMAN AND LEUCADIA EXERCISE DE FACTO CONTROL OVER JEFFERIES

56. Leucadia alone owned approximately 28% of Jefferies common shares at the time of the Merger, and Handler and Steinberg together owned, and were entitled to vote, nearly 3%. Thus, Leucadia, Handler and Steinberg collectively controlled over 30% of the voting power of Jefferies common shares.

57. In addition, Handler, Friedman, and their Leucadia counterparts, Cumming and Steinberg, together comprised half of Jefferies' eight-member Board, with Handler serving as the Chairman.

58. Handler and Friedman exercised further control over Jefferies through their posts as Jefferies' top two executives – Handler as the Company's CEO, and Friedman as the Chairman of Jefferies' Executive Committee.

59. Accordingly, this combination of stock ownership, Board representations, and executive positions gave Handler, Friedman and Leucadia control over Jefferies.

## IV. CUMMING AND STEINBERG NEED A SUCCESSION PLAN AT LEUCADIA AND HANDLER DESPERATELY WANTS TO BE THE SUCCESSOR

60. In an April 2012 letter to Leucadia shareholders, Cumming announced he would not be renewing his employment contract that was scheduled to terminate in 2015. The letter also revealed that "[o]ver the next few years there will undoubtedly be more developments on the succession front [at Leucadia]." With Cumming's impending retirement and Steinberg approaching 70 years of age, Leucadia lacked a viable succession plan.

61. The lack of a clear succession plan raised concerns for the future of Leucadia, a company that relied heavily on the involvement of its two co-founders. For a company that was often referred to as "Baby Berkshire Hathaway," the importance of Steinberg and Cumming was akin to that of Warren Buffet for Berkshire Hathaway, and their imminent departure without successors in place was a source of unease.

62. The lack of a clear succession plan was explicitly acknowledged by Fitch as "significant" to Leucadia's credit rating.

63. Additionally, dissension between Cumming and Steinberg made the need for a long-term succession plan even more of a pressing concern. As described in an April 30, 2012 email from Handler to Steinberg, the relationship between Cumming and Steinberg was "dysfunctional." JEFNY00369.

64. With access to this information, Handler recognized an opportunity to exploit his relationship with Cumming and Steinberg to become CEO of the diversified

conglomerate, which for Handler would "represent[ ] the realization of a personal dream." JEFNY01588.

65. To further his "personal dream", Handler began discussions with Cumming and Steinberg regarding possible strategic combinations of their respective companies. In early April 2012, Handler met Cumming at Cumming's home in New Jersey to feel out whether Cumming was interested in doing a deal.

66. Handler's desire to run Leucadia was evident from an April 7, 2012 email to Cumming after their initial meeting, in which Handler noted that "the stars are finally aligned and either deal [*i.e.*, either a combination of the two companies or splitting up Leucadia and entering a smaller deal with Jefferies] has a decent chance of being smart." JEFNY01674. Handler further told Cumming that it would "kill" him to see Cumming and Steinberg sell their company and "sail off into the sunset," and assured him that a deal with Jefferies would "solve [Leucadia's] succession issue" and that Cumming and Steinberg would "both make more money [and] have more fun." *Id.*

67. After this meeting, Handler informed Friedman of his plans. He did not inform any other Jefferies' Board members about the discussions.

68. As a follow-up to Cumming and Handler's April 7, 2012 meeting, on April 14, 2012, Cumming and Steinberg instructed a Leucadia employee to send Handler and Friedman a list identifying Leucadia's assets. JEFNY00350. Shortly thereafter, on April 21, 2012, Cumming provided Handler with a presentation detailing a potential merger of the two companies. JEFNY01813.

69. Despite the progression of negotiations, Handler and Friedman again did not inform the Jefferies' Board about their discussions with Leucadia's co-founders, and instead, proceeded without input from the Board. Indeed, none of Jefferies' purportedly independent directors (Campbell, Dooley, Joyal, and O'Kane) were informed of the discussions about a possible combination of Jefferies and Leucadia until after Handler, Friedman, Cumming, and Steinberg had engaged in more than three months of negotiations.

70. Deal discussions between Cumming, Steinberg, Handler and Friedman intensified throughout April and May 2012. For example, on April 26, 2012 Handler requested that Steinberg send him and Friedman "a one pager…of exactly how you currently envision this happening and more importantly, functioning going forward: structure/roles/responsibilities/titles/mandates/entities." JEFNY00360. Steinberg quickly responded stating that it would be "[v]ery simple. If we issued LUK stock to acquire JEF I envision it working like this. 1. JEF is a wholly owned Sub. ***You keep your titles, etc. You operate completely independently. You run the company***…" (Emphasis added). JEFNY00359.

71. As negotiations continued and potential strategic transactions were considered, Handler remained focused on his desire for a merger of the two companies. Handler saw Steinberg's description (above) of Leucadia's purchase of Jefferies as unfortunate and as ultimately leaving Handler and Friedman as "a line item in the same LUK" that Cumming and Steinberg told him "need[ed] long term leadership."

JEFNY00369. Handler continued to make his pitch for a complete merger of Jefferies into Leucadia, telling Steinberg that it would "provide a final and real succession plan" at Leucadia with "a clear long term plan and leadership." *Id*.

72. Throughout Handler's negotiations with Steinberg and Cumming concerning the Merger, he made those feelings evident. For example, on May 1, 2012, Handler sent an email to Steinberg following negotiations regarding the Merger:

> "At the dinner, I fully blame myself for the confusion that seems to have compounded. Before I elaborate, ***you have to know how much I care, respect, worship, and yes even love you (and Ian). I consider you both two of the most important mentors in my professional life."***

JEFNY01887 (emphasis added).

73. The next day in an email from Handler to Cumming on May 2, 2012, Handler further professed his feelings for Cumming and Steinberg:

> … I don't think Joe fully understands/appreciates exactly where my head is and the constraints/limitations/fears/excitements/etc of the realities of my situation at Jefferies. This is more my fault than his, as the greatest personal strength I possess – pure honesty – is taking a rare back seat in these conversations since I so much want to do this major transaction with you both, but more importantly I don't ever want to upset, offend, or let either of you down. … Also know, that no matter which way these conversations go – deal or evaporate -, ***the most important thing in the world to me is that both of my friends/mentors/idols feel the same way about me as I do about them***.

JEFNY01897 (emphasis added).

74. Despite Steinberg's and Cumming's initial resistance to the idea of a merger of the two companies, Handler continued to push, invoking his long-standing business and personal relationship with Leucadia's co-founders.

75. In response to Handler's May 1, 2012 email, which clearly articulated his position on the potential merger, Steinberg noted that he was "ready to consider the deal as [Handler] would wish." JEFNY01887. Steinberg, however, cautioned Handler that completion of the Merger would ultimately come down to whether Cumming wanted to stick around, because if so he would likely "insist on the CEO title for three years." *Id*.

76. With the "social issues" of who would ultimately lead the merged companies still unresolved, Handler made a concerted effort to lock-down his leadership role months before the transaction was ever presented to the Jefferies Board. In early May 2012, Handler and Steinberg discussed whether Cumming knew Handler's true motivations in getting a deal done between Leucadia and Jefferies. Steinberg confirmed that "this conundrum is all about social issues, not fundamentals" and that though Cumming was aware Handler did not want to be a mere "line item" at Leucadia, Steinberg did not know whether Cumming would "stay with his stock or go." JEFNY01912.

## V. HANDLER, FRIEDMAN AND LEUCADIA'S CO-FOUNDERS SPEND MONTHS PLANNING A MERGER WITHOUT INFORMING THE REST OF THE JEFFERIES BOARD

77. From the beginning of negotiations in April 2012, Handler knew that the Merger would not ultimately benefit Jefferies' shareholders and would likely be a hard sell to the rest of the Jefferies Board without something to sweeten the deal for them, such as seats on the board of the post-Merger company. Indeed, Handler forwarded to Friedman a draft of an April 2012 email, in which he wrote to Steinberg: "I am at a loss

on how to present [the Merger] to our independent Board members." JEFDE006656. After receiving comments from Friedman, Handler changed some of the language and instead wrote to Steinberg: "Rather than a merger without a clear long plan and leadership, this would be a sale of JEF without a premium, and would cause both shareholders and employees to wonder what we were thinking." JEFNY01940.

78. Handler arranged a meeting on May 5, 2012 with Friedman, Cumming and Steinberg to further discuss the Leucadia-Jefferies merger. At the meeting, the executives discussed the general parameters and potential structure of the transaction. Handler emphasized that he and Friedman were in favor of a combination of the two companies in their entirety. All subsequent discussions of the transaction were based on the assumption that Handler and Friedman would assume control and leadership of Leucadia.

79. After this meeting, Handler told Cumming that he thought the "meeting and general conclusion was fantastic," and acknowledged that his dream of running Leucadia was that much closer to becoming reality. JEFNY02846. Even though four of the eight Jefferies Board members met to discuss a potential merger between the Company and Leucadia, these four Board members decided to keep the rest of the Board uninformed about their merger discussions.

80. After the May 5, 2012 meeting, at Handler and Friedman's direction and without receiving Board approval, Jefferies and Leucadia began to exchange confidential due diligence information concerning their respective businesses.

81. Handler also leaked Jefferies' financial results for the second quarter of 2012 to Leucadia before they were made available to the public. For example, on June 2, 2012, Handler sent an email to Steinberg with the subject line: "..........this is all premature and subject to revision, but given the volatility in the world, we wanted you to have the same current information we have." JEFNY00374.

82. Throughout the entire period that Leucadia received Jefferies' confidential, non-public information, neither Cumming nor Steinberg, who as Jefferies Board members were fiduciaries of Jefferies, ever asked the Board whether it was proper for them to receive and potentially use this information contrary to Jefferies' interests.

83. With the post-transaction leadership largely resolved and the general outline of the Merger taking shape, Handler and Friedman paid a visit to the rating agencies to assess Jefferies' current credit rating. Throughout the process, Handler and Friedman provided continuous updates to Cumming and Steinberg, in addition to seeking extensive input from the Leucadia co-founders as to the best way to present Jefferies to the rating agencies. Unlike Cumming and Steinberg, who were provided with continuous updates on this process, none of the independent Board members were informed about these visits to the rating agencies.

84. For example, in late June 2012, Handler forwarded correspondence between himself and Ken Frey, "the top guy at S and P" in charge of rating Jefferies, to Cumming and Steinberg. Handler wrote to Frey, "I hope this helps you and the team come to the right conclusion: Return to STABLE OUTLOOK!! Sorry, I couldn't resist."

JEFNY02251. Handler's attempt to inspire confidence in Cumming and Steinberg was successful as Cumming responded that he had "handled the S&P splendidly." *Id.*

85. In any event, Steinberg told Handler that "[r]ating agencies aside this is good for JEF which goes from being vulnerable to impenetrable." *Id*. Despite knowing that the rating agencies were unlikely to strongly endorse a Leucadia-Jefferies combination, Handler pushed ahead.

## VI. ONCE THE DEAL IS FULLY-BAKED, HANDLER AND FRIEDMAN FINALLY TELL THE PURPORTEDLY INDEPENDENT MEMBERS OF THE JEFFERIES BOARD

86. In mid-July 2012, over three months after Handler, Friedman, Cumming, and Steinberg first began discussing a combination of Jefferies and Leucadia, Friedman finally informed other members of the Board that they were engaged in ongoing deal discussions with Leucadia. According to Joyal, co-chair of the Jefferies' Transaction Committee, Friedman only provided "general information that discussions were underway." Joyal Tr. at 37. In reality, the Board had been left out of advanced merger discussions between Jefferies' CEO and Chairman, and the Company's largest stockholder, Leucadia. Indeed, Joyal acknowledged in his deposition that the Board should have been told if "Handler and Friedman were having discussions with Mr. Cumming and Steinberg about a possible strategic transaction between Jefferies and Leucadia." Tr. at 19.

87. When Handler and Friedman transmitted cursory information regarding the Merger to the Jefferies Board on July 20, the form of the Merger and the leadership roles had generally been decided without any input from the remainder of the Board.

88. In addition, Handler and Friedman continued to freely share confidential information with Steinberg and Cumming. Indeed, Steinberg expected that Friedman and Handler would immediately update him on the outcome of the discussion with the Board, and told Handler and Friedman that "[b]ased on the outcome" they would discuss the next steps. JEFNY00461. Thus, Leucadia, through its President Steinberg, ensured that negotiations related to a potential merger of the two companies were anything but arms-length.

89. Inexplicitly, upon learning of the merger discussions between Handler, Friedman and Leucadia's co-founders, the Jefferies Board took no action, instead sitting on their hands for months.

90. Handler and Friedman continued to negotiate with Leucadia and finalize the terms of the Merger without involvement from Jefferies' purportedly independent directors. Moreover, Leucadia participated in these negotiations despite the fact that it knew that Handler and Friedman were facilitating the Merger in breach of their fiduciary duties to Jefferies shareholders.

91. In a series of emails on August 10, 2012, Handler and Steinberg finalized the details of who would have which position at the combined company. Steinberg began with: "Rich [Handler] to become CEO. We have not agreed on other titles. I am not sure

what title I want. Who is Pres of Jef?" JEFNY02705. Handler quickly responded, making it clear that from his perspective there would be no more negotiating on positions, and played on the importance of Leucadia establishing a clear succession plan: "Me ceo, u pres, ian chair, joe vice chair. That was discussed and agreed to. This is succession." *Id.* Handler later clarified the importance of sticking to these positions: "Market needs to believe he [Friedman] and i are future of luk. If that isn't the case, we need to know now." *Id*.

92. A week later, Steinberg laid out the post-closing roles from Leucadia's perspective, which directly followed from Handler's insistence that he and Friedman would become the new leaders of Leucadia. Steinberg wrote:

> Ian has agreed that he will be non exec Chairman. He has a contract that will need to be settled with a one time cash payment and settlement of the bonus pool as realized. He will want to continue to use the airplanes for X hours. I intend to stay as an executive employee and will live with my existing contract…I am happy to report to Rich and give him the last say. I would want to be Vice Chairman and President of something like "Leucadia Merchant Bank" and Chairman of whichever top JEF committee that does something substantive related to risk and commitments. I want no management responsibilities...My one request is that you and Brian keep my [sic] on the inside and not hold me at arm's lengths. We will make better decisions that way.

JEFNY00512.

93. With leadership roles established, Handler and Friedman continued to push forward to get the deal done without any oversight from the purportedly independent Jefferies directors.

94. On August 22, 2012, certain officers from Jefferies, including Handler and Friedman, met with Standard & Poor's and Moody's to discuss an indicative rating to reflect the impact of a potential merger between Leucadia and Jefferies. On August 28, 2012, the same individuals met again with Standard & Poor's for a further discussion.

95. Later that same day, Handler gave Steinberg an update on the discussions, letting him know that the meeting had gone well and further explained that:

> Best guess is we stay the same and luk gets upgraded, but it is never over til its over. Tomorrow we have to go to moodys because the guys who cover us loved it originally, than spoke with the Luk analyst who scared the crap out of them about u. Now we have to go defend why we are ok on our own since they worry we r crazy thinking of hooking up w u.

JEFNY02606.

96. In discussions with Moody's, Handler learned that Leucadia's poor credit rating could negatively impact Jefferies' credit rating if the companies were to merge. He discussed this with Steinberg, noting that the Moody's rating committee had "taken it upon themselves to re-look at Jef in response to our conversation about them with LUK. Clearly they are not big fans of LUK, but we knew that going in." JEFNY02645.

## VII. HANDLER "PAPERS THE RECORD" BY FORMING A HAND-PICKED TRANSACTION COMMITTEE

97. Though Handler, Friedman, Cumming, and Steinberg had engaged in serious discussions regarding the potential merger of Jefferies and Leucadia since April 2012, the four purportedly "independent" members of the Jefferies' Board were not formally notified of these discussions until a Board meeting on September 19, 2012, some five months later.

98. Inexplicably, the so-called independent Board members expressed no apprehension that they had been left in the dark regarding the potential merger with the Company's largest shareholder. In fact, the opposite appears to be true. An email sent from Handler to Steinberg directly after the Board meeting on September 19, 2012 states, "All good with our directors." JEFNY02736.

99. In an effort to cloak the deal process in a veil of fairness, Handler and Friedman proposed the appointment of a transaction committee (the "Transaction Committee") at the September 19, 2012 Board meeting.

100. Handler and Friedman recommended that the Board select Joyal, O'Kane, Dooley, and Campbell as members of the perfunctorily-appointed Transaction Committee, with Joyal and O'Kane serving as co-chairs. As described below, the Transaction Committee performed none of the functions expected of such a committee, exercising no real bargaining power with Leucadia, allowing the controlling shareholders to dictate the terms of the Merger.

101. It was abundantly clear that by the September 19, 2012 Jefferies Board meeting at which the Transaction Committee was formed, the leadership roles of the combined company had largely been agreed to and any Board approval would be a mere formality.

## VIII. HANDLER BECOMES EXTREMELY UPSET WHEN PREVIOUSLY AGREED-UPON "SOCIAL ISSUES" APPEAR TO BE REOPENED

102. For several months during the deal negotiation process, Handler felt secure that he would be CEO of the post-closing company.

103. Handler's vision of the deal was thrown into disarray on October 18, 2012, as he wrote in an email to Steinberg:

> I am out of post op on my shoulder and brian just shared w[ith] me your desire to completely change the foundation of the deal. I am out of it now and will be in a bunch of pain soon. I suggest we talk this through on Monday. I went out of my way to make sure this was all crystal clear before we proceeded. What I am hearing now is the opposite of what I heard from u all along and the opposite of what I told our senior employees, independent board members, and rating agencies to get all their support. I am hoping this is a bad reaction to my meds and all of this will be fine when I awake. ***I was able to compartmentalize ian calling me nonstop so we can finally discuss all the "social issues" which I was clearly told were all done.*** Now I have it on two fronts and it doesn't seem right or fair. Just being honest in how I feel in my sedated frame of mind. Going to sleep now and will be out of contact for a while. As is my nature just being honest.

JEFNY02830 (emphasis added).

104. Leucadia, through Cumming and Steinberg, was intentionally injecting insecurity into Handler's vision of the deal in order to gain a stronger negotiating position. With the reopening of these "social issues," Handler realized that his position as CEO of the combined Jefferies-Leucadia was in danger. Desperate for a version of the deal that would maintain his role as CEO, Handler's subsequent negotiations with Cumming and Handler ultimately led to a deal price that was skewed heavily in favor of Leucadia. Thus, Handler's career advancement came at the expense of the Jefferies shareholders' interests. Moreover, the Transaction Committee was never informed that Cumming and Steinberg - fiduciaries of Jefferies - had reopened the negotiations about "social issues", which were of paramount importance to Handler and Friedman. In short,

Leucadia, through its top executives, knowingly manipulated Handler to secure a deal that was excellent for Leucadia but detrimental to Jefferies' shareholders.

## IX. HANDLER AND STEINBERG SCHEME TO SELL THEIR RESPECTIVE BOARDS ON THIS "DUMB" DEAL

105. Selling the Merger to the boards and shareholders of Leucadia and Jefferies was far from a slam dunk. Indeed, many of these constituents had strong reservations about the combination of Jefferies and Leucadia, as Steinberg acknowledged in an October 20, 2012 email to Handler and Friedman:

> . . . Previously I was satisfied that with Ian as Chairman and me with some undefined title our shareholders would stick around and not dump the stock. Things have changed. With Ian exiting I don't think so anymore. If there is the slightest perception that JEF is swallowing LUK our shareholders will bail or vote "no." I am sure of it. That is no small risk. Also, I'm the guy who has to advocate this deal to our Directors and shareholders. Mentally Ian is already out the door and I will be answering the calls. ***I need to believe and convince others there is upside in the holding company structure. The proxy has to read that way, too.*** ISS has to think so too. People own LUK because of Ian and me. There must be continuity. If this is solely seen as a takeover of LUK by JEF our Directors will want a premium. Two of them have already raised that point and I have been counter arguing that is equivalent to a merger of equals***. And one Director thinks this whole idea is dumb*** . . . . Let's don't try to get too far too soon or screw up a once in a lifetime opportunity. Contain your ambitions to do all at once. Everything will be fine. ***We will get thru the rating agencies, the Boards, and Shareholders and make money.***

JEFNY01464 (emphasis added).

106. With Leucadia's board skeptical of the Merger, the final structure of the deal would need to be seen by Leucadia's board as an excellent deal for Leucadia. In the

end, the Merger was exactly that: a great deal for Leucadia and a sub-optimal deal for Jefferies.

## X. DESPITE BEING KEPT IN THE DARK FOR MONTHS ABOUT A POTENTIAL RELATED-PARTY DEAL AND THE CLEAR CONFLICTS OF INTEREST, THE TRANSACTION COMMITTEE INEXPLICABLY ADOPTS A "HANDS-OFF" APPROACH

107. The Transaction Committee's true mandate was clear from the outset — rubberstamp Handler and Friedman's deal.

108. The Transaction Committee failed to operate in a manner consistent with establishing fairness and achieving arms-length bargaining. For example, after the formation of the Transaction Committee on September 19, 2012, the committee waited an entire month before conducting their first meeting, which took place on October 20, 2012. Amended Registration Statement at 56-57; JEF_TC0000001. Towards the end of the October 20, 2012 meeting, the Transaction Committee discussed retaining Citigroup as the Company's financial advisor. JEF_TC0000001-JEF_TC0000003. On October 21, 2012, the Transaction Committee ultimately engaged Citigroup as Jefferies' financial advisor and asked Citigroup to provide a fairness opinion on any potential transaction. Amended Registration Statement at 57.

109. Despite having retained Citigroup as the Company's financial advisor, the Board and Transaction Committee took a back seat to Handler and Friedman and allowed them to perform the Transaction Committee's most essential functions. The Transaction Committee attempted to justify the decision to leave the bulk of the work to Handler and Friedman claiming that "Handler and Friedman had over a decade of experience and

business relations with Messrs. Cumming and Steinberg [and] the members of the Jefferies transaction committee determined that it would be to Jefferies' strategic advantage for Messrs. Handler and Friedman to directly negotiate with Messrs. Cumming and Steinberg." (Amended Registration Statement at 58). However, this axiom caused the Transaction Committee to abandon their independence and rely solely on Handler and Friedman to handle an overwhelming majority of the negotiations with Leucadia. As indicated at the November 3, 2012 Transaction Committee meeting, "the members of the Transaction Committee instructed Messrs. Handler and Friedman to make a proposal to Leucadia and then directly negotiate on the Transaction Committee's behalf an exchange ratio with Leucadia in the range discussed." JEF_TC0000196. The Transaction Committee performed none of the actions that a properly operating, independent committee would be expected to perform in this setting, such as monitoring the negotiations or involving a financial advisor to assist in negotiations. By permitting Handler and Friedman to handle the negotiations, the Transaction Committee gave Handler and Friedman free reign to negotiate a deal that would satisfy their personal dreams of becoming Leucadia's new top executives.

110. After it became clear that the Merger would be consummated, both Handler and Friedman praised Steinberg and Cumming for the opportunity they had been provided through the terms of the Merger.

111. For example, on November 10, 2012 Handler sent Steinberg an email which stated, "Joe, I'm laying in bed and cannot believe the opportunity you have given

us. I am determined to do my very best so I never let you down. It won't be easy and it will be a long process, but we will make you proud." JEFNY03006.

112. Similarly on November 10, 2012, Friedman sent Steinberg an email which stated:

> Joe, Rich and I will give everything we have to succeed. Your support and guidance going forward will give us the chance to make it happen. The meaning of all this has not yet remotely fully sunk in, but I know this is our ultimate opportunity and a dream come true for me. Thank you for believing in us and trusting us. Brian

JEFNY01574.

## XI. TO AVOID JEOPARDIZING THEIR SWEETHEART DEAL, HANDLER AND FRIEDMAN FAIL TO NEGOTIATE AGGRESSIVELY ON BEHALF OF JEFFERIES' PUBLIC SHAREHOLDERS

113. The Transaction Committee continued to turn a blind eye as Handler and Friedman proceeded to negotiate a tenuous exchange ratio despite their allegiance to Leucadia and their desire to become Leucadia's new top executives. Instead of focusing negotiations on getting the best deal available for Jefferies' public shareholders, Handler and Friedman negotiated a collarless 0.81 exchange ratio in a single day, which all but guaranteed their executive positions at Leucadia. As indicated in Leucadia's Amended S-4 Registration Statement, dated January 24, 2013, Handler, Friedman, Cumming and Steinberg held a meeting on November 9, 2012 and had discussions about, among other things, the exchange ratio. Handler and Friedman opened the meeting with a proposal for a 0.8451 exchange ratio that was quickly countered by Cumming and Steinberg's 0.7552 exchange ratio.

114. Within a matter of hours Handler and Friedman agreed to a 0.81 exchange ratio in a deal with Leucadia valued at approximately $2.9 billion at the time that the Merger was announced. Handler and Friedman's tactics of agreeing to a fixed exchange ratio over the course of several hours reflects their personal desire to ensure they remained in the good graces of Cumming and Steinberg. Moreover, Leucadia's knowing participation in this less-than-vigorous negotiation reflects the collusive nature of the deal process, resulting in an outstanding deal for Leucadia and a substandard deal for Jefferies' shareholders.

115. Indeed, the day after the foursome agreed to the exchange ratio, they confirmed in an email exchange that Jefferies' shareholders were receiving unfair compensation. Specifically, Handler wrote to Steinberg that "I think u owe us some shares versus what u originally thought…but we are nicer guys and just want to leave as is! :)" and that "[t]his is going to be fun, even for you! (And lucrative for LUK shareholders!)". JEFDE013469.

## XII. HANDLER AND FRIEDMAN LOCKED UP THE FIXED EXCHANGE RATIO DESPITE THEIR KNOWLEDGE OF AN IMPENDING DEAL THAT WOULD GREATLY ENHANCE THE VALUE OF JEFFERIES'S STOCK, THEREBY TRANSFERRING ENORMOUS VALUE AWAY FROM JEFFERIES'S PUBLIC SHAREHOLDERS.

116. At the time that Handler and Friedman "negotiated" the fixed 0.81 exchange ratio with Cumming and Steinberg, they knew (although the market did not) that Jefferies was about to realize substantial profits through its equity investment in Knight Capital ("Knight"), an electronic trading firm and fees for its services to GETCO

in its Knight acquisition. By locking in a fixed exchange ratio based on market prices that did not reflect the enormous additional value Jefferies was about to receive through its investment in Knight, as of the merger announcement date, Handler, Friedman, Cumming and Steinberg caused Jefferies' public shareholders to lose over $160 million in value from the Knight acquisition.

117. In August 2012, Jefferies made a $125 million investment in Knight after that company's stock plummeted following a software glitch that caused errant trades. As of September 2012, Jefferies owned 81,262,363 shares of Knight common stock, representing approximately 22% of that company's outstanding equity.

118. By September 2012, Jefferies had been retained by GETCO LLC ("GETCO"), a high frequency trading firm, to assist that company in making a bid to acquire Knight. Handler and Friedman knew of the details of this retention, and therefore knew financial benefit this deal would provide for Jefferies. Thus, at the time Handler and the Board agreed to the 0.81 exchange ratio, Jefferies' senior management, including Handler and Friedman, knew that the Company's investment in Knight was about to take off.

119. Indeed, on November 28, 2012, just two weeks after Jefferies announced the deal with Leucadia, GETCO disclosed a $1.4 billion bid for Knight. On November 30, another announcement indicated that the bid could be as high as $1.8 billion. Based on its 22% equity stake in Knight, therefore, Jefferies stood realize over $300 million in connection with GETCO's offer. But by locking in a fixed exchange ratio with Leucadia

prior to the public announcement of GETCO's offer, and not including the known value that was to accrue to Jefferies from a Knight transaction, Handler and Friedman ensured that substantial value – that should have been realized by all Jefferies shareholders – would be transferred to Leucadia. In fact, while Jefferies and Leucadia's stock both jumped approximately 6% on the news of GETCO's bid for Knight, Jefferies' shareholders lost in excess of $160 million from the Knight transaction because of the fixed exchange ratio used to acquire Jefferies.

## XIII. JEFFERIES AND LEUCADIA ANNOUNCE THE TRANSACTION

120. On November 12, 2012, Jefferies and Leucadia jointly issued a press release announcing they had entered into the definitive Merger Agreement whereby Leucadia would acquire all of Jefferies' outstanding shares, not already owned by Leucadia, in exchange for 0.81 of a share of Leucadia common stock. In connection with the deal, Leucadia, Handler, Friedman, Cumming and Steinberg each entered voting agreements to support the Merger. These voting agreements covered approximately 31.47% of Jefferies outstanding common stock.

121. The press release also announced that upon closing of the Merger, Handler would become CEO of Leucadia, as well as a director, and remain Jefferies' CEO and Chairman. Friedman would become Leucadia's President and a Director, and remain Chairman of Jefferies' Executive Committee. Steinberg would become Chairman of Leucadia's board and continue to work at Leucadia as an executive. Cumming would retire as CEO and Chairman of Leucadia's board and remain a director. Finally, the four

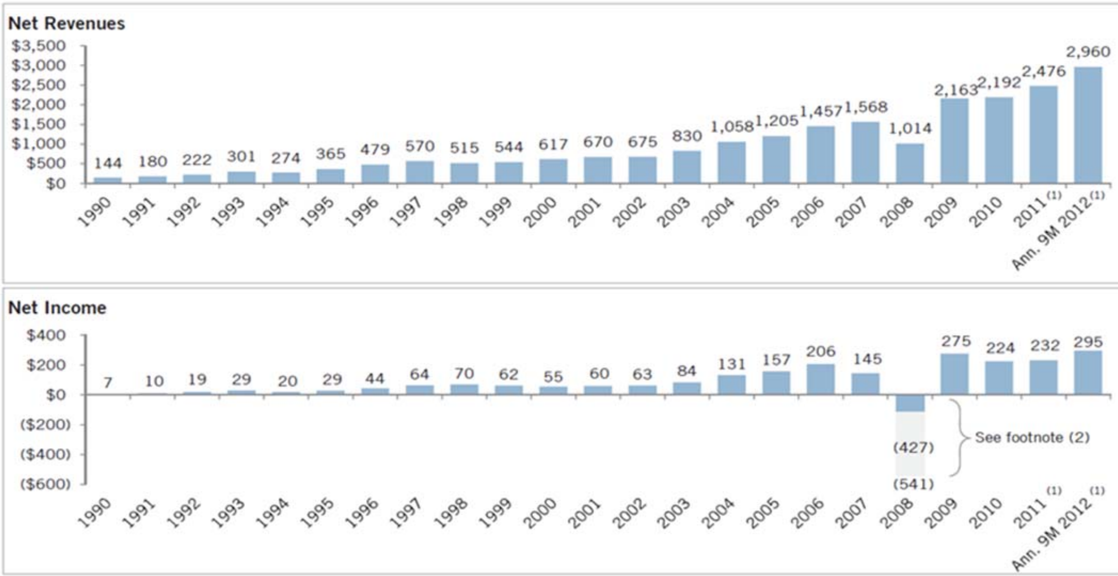
purportedly independent members of Jefferies Board would join Leucadia's board, which would increase in size.

## XIV. THE TRANSACTION FAILS TO PROVIDE JEFFERIES SHAREHOLDERS WITH A FAIR PRICE

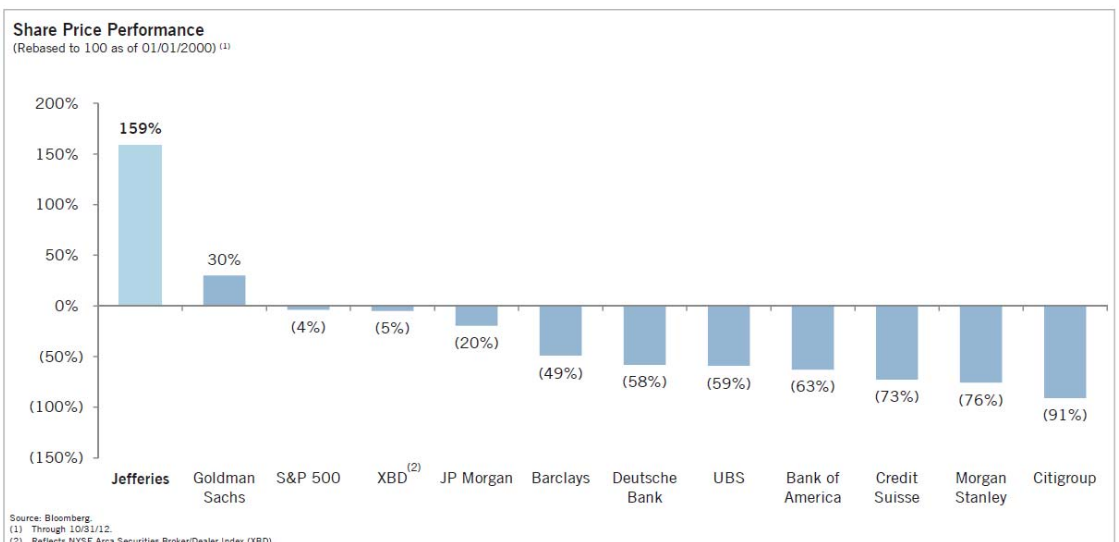
122. The consideration of 0.81 shares of Leucadia common stock per share of Jefferies common stock, an implied value of approximately $17.66 per Jefferies share (or $2.9 billion in the aggregate), represents a modest premium of about 24% to Jefferies' closing stock price on the last trading day immediately preceding the announcement of the Merger, and is grossly inadequate. Jefferies has significantly outperformed its peers, has been among the fastest-growing firms on Wall Street and is well positioned for significant growth in the future.

### A. JEFFERIES HAS SIGNIFICANTLY OUTPERFORMED ITS PEERS

123. The consideration paid in the Merger is inadequate in light of Jefferies' impressive historic performance and future outlook. For example, Jefferies was profitable for every quarter for over 20 years, with the exception of the financial crisis in 2007-2008 when the Company incurred operating losses, which were more than mitigated by a $434 million cash equity raise.




124. Jefferies significantly outperformed its peers since 2000. Since 1990, Jefferies' shares returned 15.9% annually, crushing the S&P 500's 8.5% return.




125. Jefferies was one of the fastest growing firms on Wall Street even through the financial crisis. In this regard, Jefferies' earnings increased from $206 million in

2006 (the year in which aggregate bank profits across Wall Street peaked) to $232 million in 2011. Also, while other investment banks were conducting massive layoffs, Jefferies boosted headcount by over 60% during the years leading up to the Merger.

126. Jefferies remained solidly profitable despite the volatile trading environment in the global markets since 2009.

127. JMP Securities LLC analyst David Trone succinctly summarized the unfairness of the deal stating that Leucadia was acquiring an "undervalued asset on the cheap." Trone added, the acquisition of Jefferies will serve as "investment sourcing" for the rest of the conglomerate. Moreover, Trone noted that "[g]iven the savvy of the two [management] teams, we suspect this is really just a financial transaction, and that Jefferies will be spun back out publicly in a couple of years when the environment has shown sustainable improvement and valuations for brokers/dealers are higher."

128. Indeed, a little over one month after the Merger was announced, on December 18, 2012, Jefferies reported fourth quarter earnings up 48% from the same time the year before, beating analyst estimates, with significant revenue increases at its core investment banking and fixed income divisions.

129. As revealed on December 18, Jefferies experienced a fourth quarter profit of nearly $72 million. As Jefferies' top two executives, Handler and Friedman knew that the Company's earnings would exceed analysts' expectations as they negotiated the terms of the Merger. In spite of the strength of Jefferies' performance, Handler and Friedman failed to negotiate for an exchange ratio that would provide fair value to Jefferies'

shareholders. Indeed, the exchange ratio ultimately agreed upon neglects to properly account for Jefferies' continued strong performance.

## B. THE EXCHANGE RATIO SIGNIFICANTLY UNDERVALUED JEFFERIES

### 1. Jefferies Did Not Provide the Transaction Committee's Financial Advisor With Management's Financial Projections

130. The Jefferies Transaction Committee retained investment bank Citigroup Global Markets Inc. ("Citi") as its financial advisor in connection with the Merger. Citi provided the Transaction Committee with a fairness opinion, concluding that the exchange ratio was fair, from a financial standpoint, to Jefferies. The basis for this fairness opinion, however, was Citi's ***own financial forecasts for Jefferies, and not Jefferies managements' forecasts.*** Leucadia's Amended Form S-4 filed in connection with the Merger makes the rather astonishing revelation that Citi was not provided with forecasts because Jefferies, a sophisticated global investment bank, "had not yet completed its fiscal year 2013 budget process." Leucadia Amended Form S-4, filed with the SEC on January 24, 2013.

131. Nowhere does Jefferies represent that its management was not in possession of a management forecast, such as a typical 3-year or 5-year operating plan or something similar, as would be expected of any management team of a publicly traded global company, and there is no explanation of why such forecasts were not provided to Citi.

132. Leucadia's Amended S-4 goes on to state that:

> Citi was not provided with internal financial forecasts relating to Jefferies prepared by Jefferies' management and Jefferies' management advised Citi that it had not yet completed its fiscal year 2013 budget process. However, Citi discussed with Jefferies' management the view of Jefferies' management as to the expected performance of Jefferies in fiscal years 2012 and 2013 and Jefferies' prospects beyond fiscal year 2013 and, based upon those discussions, at the request of the Jefferies transaction committee, Citi prepared certain assumptions as to Jefferies' performance in fiscal years 2012 and 2013 and future performance beyond fiscal year 2013. Jefferies' management advised Citi and the Jefferies transaction committee that it considered those assumptions to be reasonable. Accordingly, and as directed by the Jefferies transaction committee, Citi utilized those assumptions for purposes of its analysis.

133. Citi was therefore inexplicably asked to evaluate the fairness of the Merger to Jefferies' shareholders by using Citi's own forecasts, and not those of the individuals who best knew and understood the Company and were best-positioned to forecast its future financial performance – *Jefferies' own management team.* Because Citi's fairness opinion did not include Jefferies management's forecasts, the Transaction Committee could not possibly evaluate the fairness of the exchange ratio in a meaningful way.

134. In addition, over the last 10 years, including the financial crisis, Jefferies has achieved growth of net revenues averaging in excess of 20% each year. Yet the projections created by Citi and relied upon the by the Jefferies Board in approving the 0.81 exchange ratio forecasted steadily declining growth, well below the Company's historical average. There are substantial grounds to believe, therefore, that Citi's financial model did not reflect the fair value of the Company.

### 2. The Jefferies Board Rushed To Approve The Deal With Leucadia Prior To The Announcement Of Material Information That Greatly Enhanced The Value Of Jefferies Further Demonstrating The Unfairness Of The Exchange Ratio.

135. At the time the Jefferies Board approved the 0.81 exchange ratio with Leucadia, it knew that the Company's fourth quarter earnings would beat expectations. In fact, as noted above, Jefferies' 4Q12 performance was 48% better than the same quarter in 2011, and exceeded analyst estimates.

136. The consideration offered by Leucadia in the 0.81 exchange ratio implied a value of Jefferies based on a multiple of Jefferies' trailing 12-month income of under 14 times earnings, including Jefferies' 4Q12 performance. Yet Jefferies' own financial advisors acknowledged that comparable historical transactions involving brokerage firms acquired between 2008 and 2012 revealed that acquired firms commanded valuations based on a multiple equaling a median of over 17 times their trailing 12-month income. Given that Jefferies had historically out-performed the industry, one would expect that a sale of Jefferies would command a higher-than-average multiple, not a lower one.

## XV. THE JEFFERIES BOARD IMPERMISSIBLY LOCKS UP THE MERGER

137. The Jefferies Board agreed to provisions in the Merger Agreement that all but ensured consummation of the Merger.

138. First, the Board failed to negotiate for a provision in the Merger Agreement that would have conditioned the Merger's approval on the support of a

majority of the Company's public shareholders other than Handler, Friedman, and Leucadia, who each had their own selfish reasons for supporting the underpriced deal. Instead, the Merger was only subject to the approval of the holders of a majority of the outstanding shares of Jefferies. With Leucadia pledging its 28.5% equity stake in Jefferies in support of the Merger, and Handler and Friedman collectively pledging another 11% in support of the deal,[1] less than 17% of the Company's other shareholders needed to support the deal in order for it to close.

139. Second, the Board failed to negotiate for a "Go-Shop" or even a "Window Shop" provision. Instead, the Board agreed to a prohibitive "No-Shop" provision. Thus, the Board was prohibited from even encouraging competing bids for the Company, the antithesis of maximizing shareholder value.

140. While there was a limited "fiduciary-out" to the No-Shop provision, several factors dramatically reduced the likelihood of the emergence of a topping bid. Not only did third parties have a strong reason to distrust any diligence materials that Handler and Friedman turned over if such third party submitted a superior proposal, but potential suitors would also have had serious concerns as to whether the conflicted Jefferies Board would fairly evaluate their topping bid.

141. Third, the Jefferies Board provided Leucadia with unlimited Matching Rights, granting Leucadia the luxury of five business days to revise its proposal or

[1] Handler and Friedman executed voting agreements pledging 1.54% and 1.41% of their Jefferies equity, respectively, in support of the Merger. In addition to the common shares over which Handler and Friedman had voting control, these individuals in fact had beneficial ownership over more than 11% of the outstanding equity of the Company.

persuade the Board not to change its recommendation for the Merger if an alternative bidder submitted a superior proposal. This grace period for Leucadia to "match" any offer created a significant advantage for Leucadia to formulate a revised bid and "chill" further competing bids from emerging in the first place.

142. Under the Merger Agreement, not only did Leucadia have the unlimited ability to match any competing offers, but Leucadia was also granted broad information rights. Leucadia was entitled to know the identity of the bidder and all material terms and conditions of such a proposal before having to submit a matching bid. Jefferies was further obligated to provide Leucadia with copies of all written offers and/or information requests submitted to it by any third-party bidders. Any non-public information provided by Jefferies to a third party was also required to be promptly provided to Leucadia.

143. The Matching Right dissuaded interested parties from making an offer for the Company because a third-party bidder must: (a) make an offer that the Board deems superior before being allowed to conduct any due diligence, (b) acquiesce to having its bids undermined by the Board, relaying all material information about them to Leucadia, (c) in the event that Leucadia matches the third-party proposal, the third party must then formulate a superior proposal without having any material information about Leucadia's bid, and (d) the third party can only win the bidding war if Leucadia decides to give up. Due to the Merger's inadequate price, no justification existed for the inclusion of the Matching Right and other bid advantages in the Merger Agreement.

144. Finally, the Board further reduced the possibility of maximizing shareholder value by agreeing to a large termination fee. The Merger provided that, upon termination of the Merger Agreement by the Company, the Company would have been required to pay Leucadia a termination fee of $90 million, an outsized sum in light of the low risk transaction that was orchestrated with minimal Leucadia resources.

145. These deal protections deterred competing parties from making bids and prevented the Board from properly exercising its fiduciary duties to obtain the best deal possible for Jefferies shareholders. These deal protections erected barriers to competing offers and essentially guaranteed that the Merger would be consummated, leaving Jefferies shareholders with little, if any, opportunity to consider any superior offer known to exist. Leucadia, through its domination of Handler, Friedman, and the rest of the Board, facilitated the inclusion of these improper deal protection devices, to the benefit of Leucadia and to the detriment of Jefferies' shareholders.

## XVI. MISLEADING JOINT PROXY STATEMENT

146. On January 29, 2013, Leucadia and Jefferies filed a Joint Proxy statement soliciting support from shareholders for the proposed merger agreement. The Joint Proxy statement's description of the negotiation process that lead to agreements concerning leadership structure and the exchange ratio were materially false and misleading.

147. First, the Joint Proxy failed to disclose the apparent slavish devotion that Handler exhibited to his "mentors" Cummings and Steinberg.

148. The Joint Proxy statement failed to disclose that disagreements concerning the leadership structure existed up until at least October 18-20, 2013, right before the exchange ratio was negotiated. Jefferies shareholders should have been informed that Leucadia was leveraging Handler's position within the company while the purchase price was still being negotiated.

149. The Joint Proxy statement also fails to discuss the inherent conflicts that existed throughout the conception, negotiation, and ultimate consummation of the merger agreement. Jefferies represented through the Joint Proxy statement that one of the Jefferies' Board of Directors reasons for supporting the transaction was "the process followed by the Jefferies transaction committee." This is plainly inaccurate. For months, the four conflicted members of the Board hid the existence of merger discussions from the non-conflicted members of the Board while at the same time sharing Jefferies' financials with Leucadia executives. As Joyal acknowledged in his deposition, the Board should have been told about the merger discussions at the time they happened. Tr. at 19.

150. On February 28, 2013, Jefferies announced that the Company's shareholders had voted to approve the merger. Shareholder approval however was aided by the Joint Proxy statement which failed to fully and accurately disclose the negotiation process that lead to an undervalued exchange ratio for Jefferies' shareholders.

## CLASS ACTION ALLEGATIONS

151. Plaintiffs bring this action pursuant to Rule 23 of the Rules of the Court of Chancery, individually and on behalf of all other holders of Jefferies' common stock

(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.

152. This action is properly maintainable as a class action.

153. The Class is so numerous that joinder of all members is impracticable. The Company has thousands of shareholders who are scattered throughout the United States. As of January 28, 2013, there were 206,858,064 shares of Jefferies' common stock outstanding.

154. There are questions of law and fact common to the Class including, inter alia, whether:

a. The Director Defendants breached their fiduciary duties by agreeing to the Merger;

b. The Individual Defendants acted in furtherance of their own self-interests to the detriment of the Class;

c. Leucadia aided and abetted the wrongful conduct alleged herein; and

d. Plaintiffs and the other members of the Class have been injured by the wrongful conduct alleged herein and, if so, what is the proper remedy and/or measure of damages.

155. Plaintiffs and the other members of the Class have been damaged irreparably by Defendants' conduct.

156. Plaintiffs are committed to prosecuting the 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. Plaintiffs are an adequate representative of the Class.

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

158. Defendants have acted, or refused to act, on grounds generally applicable to, and causing injury to, the Class.

## COUNT I
## BREACH OF FIDUCIARY DUTY
## AGAINST THE DIRECTOR DEFENDANTS

159. Plaintiffs repeat and reallege each and every allegation above as if set forth in full herein.

160. The Director Defendants, as Jefferies directors, owe the Class the fiduciary duties of due care, good faith, candor and loyalty. By virtue of their positions as directors of Jefferies, the Director Defendants had the power to influence and/or cause, and did influence and/or cause, the Company to engage in the practices complained of

herein. Each Director Defendant was required to: (a) use their ability to manage Jefferies in a fair, just and equitable manner; (b) act in furtherance of the best interests of Jefferies and its shareholders and not their own; and (c) fully disclose the material circumstances, procedures, and terms of the Merger so that shareholders can make a fully informed decision.

161. The Director Defendants failed to fulfill their fiduciary duties in connection with the inadequate and unfair Merger, which resulted in an unfair price through an unfair process.

162. As a result of the Jefferies' directors' breaches of fiduciary duty in agreeing to the Merger, the Class has been harmed.

**COUNT II**
**BREACH OF FIDUCIARY DUTY**
**AGAINST THE OFFICER DEFENDANTS**

163. Plaintiffs repeat and reallege each and every allegation above as if set forth in full herein.

164. Defendants Handler and Friedman, in their capacities as Jefferies officers, owed the public shareholders of Jefferies the fiduciary duties of loyalty, due care and good faith. To fulfill these fiduciary duties, Defendants Handler and Friedman are obligated to act in the best interests of Jefferies' public shareholders and not sacrifice those interests in favor of their own interests.

165. In negotiating the unfair Merger with Leucadia, the Officer Defendants breached their fiduciary duties by placing their own interests ahead of those of Jefferies'

public shareholders. The Officer Defendants abused their position of trust by orchestrating a deal that guaranteed that Handler and Friedman would become the top two executives at Leucadia upon consummation of the Merger rather than seeking the best transaction available for Jefferies' public shareholders.

166. As a result of the Officer Defendants' breaches of fiduciary duty, Plaintiffs and the Class have been harmed.

## COUNT III
## BREACH OF FIDUCIARY DUTY
## AGAINST HANDLER, FRIEDMAN, CUMMING, AND STEINBERG

167. Plaintiffs repeat and reallege each and every allegation above as if set forth in full herein.

168. Handler, Friedman, Cumming, and Steinberg, as controlling shareholders of Jefferies, owed the Class the fiduciary duties of due care, good faith, candor and loyalty. By virtue of their positions as controlling shareholders (in addition to being directors and/or officers) of Jefferies and their exercise of control and ownership over the business and corporate affairs of the Company, they at all relevant times had the power to control and influence and did control and influence and cause the Company to engage in the practices complained of herein.

169. The Merger was inadequate and unfair, reflecting an unfair price and an unfair process.

170. Handler, Friedman, Cumming, and Steinberg failed to fulfill their fiduciary duties in connection with the unfair Merger.

171. As a result of the breaches of fiduciary duty by Handler, Friedman, Cumming, and Steinberg in connection with the Merger, the Class has been harmed.

**COUNT IV**
**AGAINST LEUCADIA FOR AIDING AND ABETTING**
**BREACHES OF FIDUCIARY DUTIES**

172. Plaintiffs repeat and reallege each and every allegation above as if set forth in full herein.

173. Leucadia knowingly assisted, by reason of its status as a party to the Merger Agreement, its possession of non-public information, and its influence and manipulation of Handler and Friedman throughout the deal negotiation process, and has aided and abetted the Director Defendants and the Officer Defendants in the aforesaid breach of their fiduciary duties. Such breaches of fiduciary duties could not and would not have occurred but for the conduct of Leucadia.

174. As a result of this conduct, Plaintiffs and the Class have been harmed.

175. Plaintiffs and the Class have no adequate remedy at law.

**RELIEF REQUESTED**

**WHEREFORE**, Plaintiffs demand judgment as follows:

a. Finding the Director Defendants liable for breaching their fiduciary duties to the Class;

b. Finding the Officer Defendants liable for breaching their fiduciary duties to the Class;

c. Finding that Leucadia aided and abetted the other breaches of fiduciary duty by the other Defendants;

d. Awarding the Class compensatory damages, together with pre- and post-judgment interest;

e. Awarding Plaintiffs the costs and disbursements of this action, including attorneys', accountants', and experts' fees; and

f. Awarding such other and further relief as is just and equitable.

Dated: January 30, 2014

Of Counsel:

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