PACIFIC COAST BUSINESS TIMES
Proudly serving Ventura, Santa Barbara and San Luis Obispo counties

MindBody sued over impending buyout by Vista Equity Partners

Staff Report January 29, 2019

A shareholder lawsuit filed Jan. 24 in San Luis Obispo County Court could shed some light on an impending $1.9 billion buyout of wellness software firm MindBody by private equity investor Vista Equity Partners.

The acquisition was announced Dec. 24, and the lawsuit was filed by investor Joseph Schmit as a 30-day "go-shop" period came to a close. The suit alleges that the SLO company's board of directors breached their fiduciary duty to shareholders, claiming that both the process and the $36.50 per share proposed price are unfair.

A shareholder inquiry is not unusual in acquisitions of this size, said **Steven Mintz, professor emeritus of business ethics at Cal Poly San Luis Obispo.**

"Clearly the stock price has gone up since the announcement, and I can see why shareholders would be concerned whether they're getting the best price," Mintz said, weighing MindBody's strong reputation in the community against an erratic stock market. "I think it's more a matter of what the board of directors did, whether they did their due diligence and if they had other options."

The acquisition is still subject to approval by regulators and by shareholders at a Feb. 14 meeting at the company's headquarters. A MindBody representative said the company was unable to comment on the lawsuit.

At $36.50 per share, the offer represented around a 68 percent premium for shareholders, but came after a long slide for the stock amid widespread market volatility in late 2018. Shares had fallen nearly 50 percent from prices above $41 in early October to a low of $21.72 on the Friday before the announcement.

Shares quickly made up the difference after the buyout offer and have hovered around $36 in the intervening month.

Filed as a class action on behalf of other stockholders, the suit claims that the directors and executives, including CEO Rick Stollmeyer, President Mike Mansbach and CFO Brett White, stand to benefit substantially from the deal. It estimates Stollmeyer's stock would be worth $58.1 million, Mansbach stands to make $4.3 million, and White would make $11.1 million, in addition to hefty severance packages should they be terminated after the deal closes.

Schmit also alleges that the board did not adequately entertain all interested buyers, including 52 interested parties that came forward during the go-shop period. The court document cites strong revenue growth in earnings releases by MindBody and notes by analysts at JP Morgan Chase and Imperial Capital that put price targets for the stock at $48 and $42 per share, respectively, more than 15 percent higher than the Vista offer.

The offer also includes a $57 million termination fee and other terms that would make it difficult for MindBody to entertain other buyers, the filing alleges.

No layoffs or office closures are planned as part of the deal, the company has said in Securities and Exchange Commission filings, and Vista has agreed not to cut salaries or benefits for the first year. *However, the specific provisions and time frame could throw up a red flag for investors, Mintz said.*

As large stockholders themselves, it's not unusual for the top officers to make out pretty well, he added.

"The whole issue of corporate governance is critical today, that companies be run for a variety of stakeholders, not just the top managers and investors, but the employees and even the creditors," he said. "It would be nice to get transparency on the whole deal. We may find out a lot more than we know right now."