Summary of Litigations

Plaintiffs' claims against you arise from the leveraged buyout of Tribune Company that closed in two steps in 2007 (the "LBO"). In the LBO, Tribune transferred funds to shareholders and other parties in exchange for their shares on or about June 4, 2007 ("Step One" of the LBO) and again on or about December 20, 2007 ("Step Two" of the LBO). Less than a year after Tribune made the Step Two transfers (collectively with the Step One transfers, the "Shareholder Payments"), it filed for bankruptcy protection.

Due to the Shareholder Payments, each of which was an unlawful fraudulent conveyance, Tribune failed to repay billions of dollars it owed to its former employees, Tribune retirees, bondholders, and other creditors. Those former employees, retirees, bondholders, and creditors filed multiple litigations seeking to recover the billions that Tribune failed to repay. Marc S. Kirschner, appointed by the United States Bankruptcy Court for the District of Delaware to act as Litigation Trustee of the Tribune Litigation Trust, filed an action prosecuting claims on behalf of the Trust beneficiaries, *Kirschner v. FitzSimons, et al.*, 12-CV-2652 (RJS) (S.D.N.Y.) (the "FitzSimons Action"). Former Tribune employees and creditors with allowed, unpaid claims against Tribune also filed several actions, *Niese, et al. v. Alliance Bernstein L.P.*, 11-CV-04538 (S.D.N.Y.), and related cases (the "Retiree Actions"). Indenture trustees acting on behalf of former Tribune bondholders with allowed, unpaid claims against Tribune filed numerous actions, *Deutsche Bank Trust Co. Ams., et al. v. Adaly Opportunity Fund TD Secs. Inc., et al.*, 11-CV-04784 (S.D.N.Y.), and related cases (the "Noteholder Actions"). Collectively, these litigations seek to recover the payments Tribune failed to make on account of its fraudulent transfers to shareholders.

FitzSimons Action

In November 2010, the Official Committee of Unsecured Creditors of Tribune ("Unsecured Creditors Committee") commenced the FitzSimons Action on behalf of Tribune's creditors harmed by the LBO. That action is currently pending in the United States District Court for the Southern District of New York. The Unsecured Creditors Committee assigned the right to prosecute the FitzSimons Action to the Tribune Litigation Trust, which since filed the Fifth Amended Complaint on August 1, 2013.

Count One of the FitzSimons Action alleges that the Shareholder Payments were intentional fraudulent transfers under federal law because, among other things, Tribune made those payments with an actual intent to hinder, delay, or defraud its creditors. If Count One names you as a defendant, that is because the Trustee's records show that you received, directly or indirectly, at least $50,000 in Shareholder Payments. You previously have been served with the complaint and/or amended complaints. A copy of the Fifth Amended Complaint can be viewed at www.tribunetrustlitigation.com under the "Documents" tab.

On January 6, 2017, the District Court issued an opinion and order dismissing Count One (the "Count One Order"). *In re Tribune Co. Fraudulent Conveyance Litig.*, No. 11-MD-2296, 2017 WL 82391 (S.D.N.Y. Jan. 6, 2017). On February 23, 2017, the District Court stated that it would enter a final judgment on Count One, thereby permitting the Litigation Trustee to pursue an interlocutory appeal of the Count One Order, at such time as the Court issues its rulings on other

pending motions to dismiss. The Court has also permitted the Litigation Trustee to begin discovery concerning claims against defendants who have not moved to dismiss.

On May 1, 2017, the U.S. Supreme Court agreed to hear an appeal, entitled *Merit Mgmt. Grp., LP v. FTI Consulting, Inc.* ("*Merit Mgmt.*"), from a decision by the Seventh Circuit, in which the Seventh Circuit (joining one other circuit and contrary to Second Circuit law) narrowly interpreted the securities safe harbor embodied in 11 U.S.C. § 546(e), holding that the safe harbor did not prohibit a trustee from prosecuting fraudulent transfer claims to recover payments routed through financial institutions where the financial institutions were only conduits for the payments.

On July 18, 2017, the Litigation Trustee requested the District Court's permission to move to amend the Fifth Amended Complaint to add a new Count One - B, which would assert that the Shareholder Payments received by the vast preponderance of the shareholder defendants were *constructive* fraudulent transfers. To succeed on a claim for constructive fraudulent conveyance, the Litigation Trustee need only prove that the LBO left Tribune insolvent, without regard to the intent of any parties making or receiving the Shareholder Payments. At the time Tribune completed the LBO, it was highly criticized, with the *New York Times* calling it "the most absurd deal ever." Moreover, after Tribune's bankruptcy filing, an independent, court-appointed Examiner in the bankruptcy proceedings found that "it is highly likely that a court would conclude that Tribune was rendered insolvent and left without adequate capital after giving effect to the Step Two Transactions." The Litigation Trustee's request to move to amend the Fifth Amended Complaint to add Count One - B also proposed that the effect of the new constructive fraudulent transfer claim would be stayed pending the U.S. Supreme Court's ruling in *Merit Mgmt.* Six letters were filed opposing the Trustee's request, arguing that no amendment should be allowed for various reasons.

On August 24, 2017, the District Court denied without prejudice the Trustee's request to amend the Fifth Amended Complaint to add a constructive fraudulent conveyance claim. In its order, the District Court stated that "[i]f, and when, the Supreme Court affirms the Seventh Circuit in [*Merit Mgmt.*], *the Trustee would have a strong argument in support of amending his complaint to include a constructive fraudulent conveyance claim.*" No. 11-MD-2296 [Dkt. No. 7019] (emphasis added).

On February 27, 2018, the Supreme Court issued a unanimous decision in *Merit Mgmt.*, affirming the Seventh Circuit's interpretation of the Section § 546(e) safe harbor, holding that to determine whether the safe harbor applies, the relevant transfer to examine is "the same transfer that the trustee seeks to avoid," and not "the component transactions by which that overarching transfer was executed." *See* 138 S. Ct. 883, 893 (2018). The Litigation Trustee believes that the Supreme Court's decision in *Merit Mgmt.* will permit the prosecution of the shareholder clawback claims against the vast preponderance of shareholder defendants under a constructive fraud theory. On March 8, 2018, the Trustee renewed his request to the District Court for permission to amend the Fifth Amended Complaint in the FitzSimons Action to, among other things, assert a constructive fraud claim. Within hours of that renewed request, the District Court ordered that any responses be filed by March 13, 2018, and, on March 23, 2018, the Trustee submitted a reply to the responses filed.

Noteholder and Retiree Actions

In June 2011, the plaintiffs in the Noteholder Actions and Retiree Actions commenced cases in various courts around the country against a group of defendants that included many defendants named in the FitzSimons Action, as well as against a defendant class of former Tribune shareholders. The Noteholder Actions and Retiree Actions are based solely on state law.

On September 23, 2013, the District Court issued an opinion and order dismissing the Noteholder Actions and the Retiree Actions for lack of standing. *In re Tribune Co. Fraudulent Conveyance Litig.*, 499 B.R. 310 (S.D.N.Y. 2013), *aff'd*, 818 F.3d 98 (2d Cir. 2016), *pet. for cert. filed sub nom. Deutsche Bank Trust Co. Ams. v. Robert R. McCormick Found.*, No. 16-317 (U.S. Sept. 9, 2016). Subsequently, on March 29, 2016, the Second Circuit affirmed the District Court's Order on alternative grounds.

The Noteholder Plaintiffs petitioned the U.S. Supreme Court for a writ of certiorari, and the petition remains pending. That petition raises, among other bases for reversal, the same Section 546(e) safe harbor interpretation at issue in *Merit Mgmt.*, as well as the state-law preemption ruling of the Second Circuit. Because the Supreme Court has determined that the Section 546(e) safe harbor does *not* shelter fraudulent transfers received by parties that are not themselves a "financial institution" or other covered entity, the Noteholder Plaintiffs believe, *inter alia*, that the Second Circuit's preemption ruling will be vacated and that their claims against the vast preponderance of defendants will ultimately be reinstated.

* * *

Plaintiffs intend to litigate their claims against all defendants to judgment, at which time Plaintiffs intend to seek the recovery of the full value of defendants' Shareholder Payments, plus prejudgment interest at the maximum amount permitted by law. Potentially applicable state law prejudgment interest rates range from 5% (Illinois) to 9% (New York) to 12% (Massachusetts). Due to the length of time that has passed since the LBO, this prejudgment interest could exceed the value of the Shareholder Payments themselves, resulting in a total judgment for more than double the amounts received as Shareholder Payments.