

## Vote Mechanics: How Induced Votes Invalidate the Transaction

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**Executive Summary:** The Solstice asset sale appeared to pass with 54.02% stockholder approval. However, when properly excluding conflicted votes from stockholders who received undisclosed inducements, the transaction received only **32.80% approval**—falling far short of the 51% majority required under 8 Del. C. § 271. This means the transaction was **never validly approved** and may be subject to rescission under Delaware law.

### ▶ The Delaware Law Standard for Asset Sales

Under 8 Del. C. § 271, a corporation cannot sell "all or substantially all" of its assets without approval by:

1. The board of directors, and
2. A majority of the outstanding stock entitled to vote

**The Majority Requirement:** This means more than 50% of ALL outstanding shares must vote in favor. For Solrice, with 13,761,613 total outstanding shares, the transaction needed **at least 6,880,807 shares** voting "yes" to be valid.

### ▶ The Reported Vote Tally (Without Corwin Cleansing)

Defendants claim the transaction was approved with 54.02% of outstanding shares voting in favor. If taken at face value, this would exceed the 51% threshold:

Metric	Value
Total Outstanding Shares	13,761,613
Shares Voting "For" (Claimed)	7,434,765
Approval Percentage (Claimed)	54.02%

However, this tally includes votes from stockholders who received **undisclosed inducements** in exchange for their consent. Under Delaware law, such conflicted votes must be excluded when determining whether a transaction received "disinterested" stockholder approval.

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## ▶ The Two Conflicted Votes: Fabien Chraim and Scott

### Harvey

#### 1. Fabien Chraim: The "Outcome Determinative" Controlling Stockholder

##### **Fabien Chraim's Vote Must Be Excluded:**

**Shares Held:** 2,260,000 shares (16.42% of outstanding)

##### **Composition:**

- 1,460,000 Common shares
- 800,000 Founders Preferred shares

**Why Conflicted:** As documented in the affidavit and supporting exhibits, Fabien Chraim received undisclosed compensation and inducements in exchange for his affirmative vote. The voter tally exhibit specifically notes: *"Controlling Shareholder, outcome determinative vote, did not disclose inducements."*

**Legal Significance:** Fabien was the "controlling shareholder" whose vote was "outcome determinative"—meaning without his conflicted vote, the transaction would fail to achieve majority approval.

## 2. Scott Harvey: Director with Undisclosed Self-Dealing

**Scott Harvey's Vote Must Be Excluded:**

**Shares Held:** 660,000 shares (4.80% of outstanding)

**Position:** Director of Solstice Research Inc. with fiduciary duties to all stockholders

**Why Conflicted:** As documented in Section 7.2(e) of the Asset Purchase Agreement, Scott Harvey's employment agreement with Luminar was an explicit **closing condition** of the transaction. He received significant compensation (employment agreement, RSUs, release payments) that was directly tied to the transaction's completion. The voter tally exhibit notes: *"Director, did not disclose inducements for himself."*

**Legal Significance:** As a director with a fiduciary duty to disclose all material facts, Scott Harvey's failure to disclose his own compensation arrangements while soliciting stockholder votes is a clear breach of the duty of loyalty.

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## The Mathematical Proof: Vote Drops Below

51%

When we properly exclude the conflicted votes from Fabien Chraim and Scott Harvey, the math is devastating:

### Starting Point (Claimed Approval):

54.02% of outstanding shares voting "FOR"

### Step 1: Exclude Fabien Chraim (Conflicted):

$54.02\% - 16.42\% = 37.60\%$

### Step 2: Exclude Scott Harvey (Conflicted):

$37.60\% - 4.80\% = 32.80\%$

### FINAL RESULT WITH CORWIN CLEANSING:

Only **32.80%** of disinterested shares voted "FOR"

### Required for Valid Approval:

51.00% of outstanding shares

### SHORTFALL:

$32.80\% - 51.00\% = -18.20$  percentage points

THE TRANSACTION FAILED TO ACHIEVE MAJORITY APPROVAL

## Complete Voter Tally with Corwin Cleansing Analysis

The following table shows all stockholders who voted "FOR" the transaction, with conflicted votes highlighted:

Shareholder Name	Total Shares	% of Outstanding	Cumulative %	Corwin Status
25E LLC	116,877	0.85%	0.85%	Unknown
AME Cloud Ventures, LLC	199,195	1.45%	2.30%	Unknown
Berkeley Skydeck Fund 1, LP	17,521	0.13%	2.42%	Unknown
CRCM Opportunity Fund II LP	402,869	2.93%	5.35%	Unknown
Elevate Civilmaps Pte. Ltd	105,130	0.76%	6.12%	Unknown
Era Lead Limited	438,046	3.18%	9.30%	Unknown

Shareholder Name	Total Shares	% of Outstanding	Cumulative %	Corwin Status
<b>Fabien Chraim</b> Controlling Shareholder, outcome determinative vote, did not disclose inducements	<b>2,260,000</b>	<b>16.42%</b>	25.72% → 9.30%	<b>CONFLICTED</b>
Ford Motor Company	225,754	1.64%	10.94%	Unknown
Founder.org, Inc	26,559	0.19%	11.13%	Unknown
Longest Rising Limited	87,609	0.64%	11.77%	Unknown
Motus - VGO Autonomous IOT Fund, LP	305,340	2.22%	13.99%	Unknown
Ronjon Nag	136,591	0.99%	14.98%	Unknown
SAIC TECHNOLOGIES FUND I, LLC	353,770	2.57%	17.55%	Unknown
Sandy Cass	3,504	0.03%	17.58%	Unknown
<b>Scott Harvey</b> Director, did not disclose inducements for himself	<b>660,000</b>	<b>4.80%</b>	38.79% → 17.58%	<b>CONFLICTED</b>
Scrum Ventures Fund II, LP	140,727	1.02%	18.60%	Unknown

Shareholder Name	Total Shares	% of Outstanding	Cumulative %	Corwin Status
Stanford-StartX Fund, LLC	402,301	2.92%	21.52%	Unknown
TEEC Angel Fund III, LP	290,867	2.11%	23.64%	Unknown
Transportation Technology Ventures IX LP	574,820	4.18%	27.81%	Unknown
Transportation Technology Ventures LLC	138,600	1.01%	28.82%	Unknown
Transportation Technology Ventures XIII LP	219,115	1.59%	30.41%	Unknown
Transportation Technology Ventures XIV LP	81,467	0.59%	31.00%	Unknown
Transportation Technology Ventures XIX LP	24,091	0.18%	31.18%	Unknown
Trillest Venture Limited	21,902	0.16%	31.34%	Unknown
Venture Lending & Leasing VII, LLC	86,814	0.63%	31.97%	Unknown
Venture Lending & Leasing VIII, LLC	86,814	0.63%	32.60%	Unknown
Wang-Yu Family Trust	27,794	0.20%	32.80%	Unknown



### Final Tally After Corwin Cleansing:

- Total "FOR" votes (claimed): 54.02%
- Less: Fabien Chraim (conflicted): -16.42%
- Less: Scott Harvey (conflicted): -4.80%
- DISINTERESTED APPROVAL: 32.80%
- Required for validity: 51.00%
- SHORTEFALL: -18.20%

 [View Complete Voter Tally Exhibit \(PDF\)](#)

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## Legal Implications Under Delaware

### Law

#### 1. The Transaction Was Never Validly Approved

**Conclusion:** Because only 32.80% of disinterested stockholders voted in favor of the asset sale, the transaction **failed to achieve the statutory majority** required under 8 Del. C. § 271. Under Delaware law, a transaction that lacks proper stockholder approval is **void ab initio** (void from the beginning) and subject to rescission.

#### 2. Fabien Chraim's Vote Was "Outcome Determinative"

The voter tally document explicitly identifies Fabien Chraim as holding an "outcome determinative vote." This is legally significant because:

- **Controlling Stockholder Status:** With 16.42% of outstanding shares, Fabien held sufficient voting power to swing the outcome of the vote
- **Fiduciary-Like Duties:** Delaware law recognizes that controlling stockholders owe fiduciary-like duties when their vote is outcome determinative in a transaction

- **Entire Fairness Review:** Transactions where a controlling stockholder's conflicted vote is outcome determinative are subject to "entire fairness" review, with the burden on defendants to prove both fair dealing and fair price
- **No Business Judgment Protection:** The transaction cannot benefit from business judgment rule protection when the controlling vote was obtained through undisclosed inducements

### 3. Scott Harvey's Self-Dealing as a Director

**Heightened Scrutiny for Director Self-Dealing:** Scott Harvey's dual role as both (1) a director with fiduciary duties to all stockholders, and (2) a recipient of transaction-contingent compensation creates a classic Fliegler conflict requiring:

- Full disclosure to all stockholders before the vote
- Approval by a majority of disinterested stockholders
- Entire fairness review if proper procedures not followed

The fact that Harvey's employment agreement was a closing condition under APA §7.2(e) proves his compensation was integral to the transaction, not merely incidental.

### 4. Corwin Cleansing Cannot Apply

Defendants cannot invoke *Corwin v. KKR Financial Holdings LLC* to shield the transaction from scrutiny because:

### Corwin's Requirements Are Not Met:

1. **Not Fully Informed:** Stockholders were not provided full disclosure of:
  - Inducements paid to Fabien Chraim
  - Scott Harvey's employment agreement as a closing condition
  - The \$20M to \$10M valuation manipulation by Luminar
  - The \$800K inducement offer to Puttagunta
2. **Not Uncoerced:** The vote was obtained through:
  - Threats of reduced valuation for non-cooperation
  - Selective inducements to key stockholders
  - Demands for proxy signatures without documentation
3. **Not Disinterested Majority:** When conflicted votes are properly excluded, only 32.80% approval—**below the required 51% threshold**

## 5. Available Remedies for Minority Stockholders

Because the transaction was not validly approved by a disinterested majority, minority stockholders may seek:

- **Rescission:** Voiding the transaction and returning all assets to Solfice
- **Rescissory Damages:** If rescission is impractical, monetary damages equal to the difference between fair value and consideration received
- **Constructive Trust:** Imposing a trust on the transferred assets for the benefit of minority stockholders
- **Disgorgement:** Requiring conflicted fiduciaries to disgorge all compensation received in connection with the transaction
- **Entire Fairness Review:** Shifting burden to defendants to prove both fair dealing and fair price
- **Attorneys' Fees:** Recovery of legal fees under Delaware's "common fund" doctrine and bad faith exceptions

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### ▶ The "Unknown" Status of Other Stockholders

The voter tally document marks most stockholders' Corwin cleansing status as "Unknown." This is significant because:

**Burden Should Shift to Defendants:**

Under Delaware law, once plaintiffs establish a credible basis to believe the vote was tainted by conflicts and non-disclosure, the burden shifts to defendants to prove that the remaining votes were truly disinterested and fully informed.

**Questions Requiring Discovery:**

- Did any "Unknown" stockholders receive undisclosed inducements?
- Were all stockholders provided with identical disclosure materials?
- Did any stockholders sign release waivers as a condition of receiving consideration?
- Were employment agreements or RSU grants offered to any stockholder representatives?
- Were there any side letters or supplemental agreements not disclosed to all stockholders?

The §220 books and records demand seeks to answer precisely these questions. Defendants' refusal to produce the requested documents creates adverse inferences that additional conflicts exist.

## ▶ Comparison to Other Failed Transactions

Delaware courts have invalidated transactions that failed to achieve proper stockholder approval in analogous circumstances:

- **Schnell v. Chris-Craft Industries:** Invalidated board action that manipulated voting process through inequitable conduct
- **Blasius Industries v. Atlas Corp.:** Applied "compelling justification" standard when board actions interfered with stockholder voting rights
- **In re VAALCO Energy, Inc. Stockholder Litigation:** Addressed controlling stockholder conflicts in vote outcomes
- **Fliegler v. Lawrence:** Established framework for analyzing director self-dealing in transactions requiring stockholder approval

**Precedent Supports Invalidation:** When a transaction's claimed majority approval depends entirely on conflicted votes from insiders who received undisclosed compensation, and when removing those votes causes approval to fall below 51%, Delaware courts have consistently held such transactions invalid and subject to entire fairness review or rescission.

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## Conclusion: The Numbers Don't

▶ Lie

### The Inescapable Conclusion:

The mathematics are simple and devastating:

- Defendants claim 54.02% approval
- Fabien Chraim (16.42%) received undisclosed inducements → **conflicted vote**
- Scott Harvey (4.80%) received undisclosed compensation as closing condition → **conflicted vote**
- $54.02\% - 16.42\% - 4.80\% = 32.80\%$  **disinterested approval**
- $32.80\% < 51\%$  → **TRANSACTION FAILED TO ACHIEVE STATUTORY MAJORITY**

Unless defendants can prove with documentary evidence that Fabien Chraim and Scott Harvey did NOT receive undisclosed inducements (which contradicts their own APA and the contemporaneous communications), the transaction is invalid under 8 Del. C. § 271 and subject to rescission.