

# EMPIRE

VALUATION CONSULTANTS, LLC

**PRIVATE & CONFIDENTIAL**

April 28, 2016

Alan Halperin, Esq.  
Paul, Weiss, Rifkind, Wharton & Garrison LLP  
1285 Avenue of the Americas  
New York, NY 10019-6064

Dear Mr. Halperin:

You have requested that Empire Valuation Consultants, LLC ("Empire") provide a response to the IRS's request for an explanation of the lack of control and marketability discount applied in Empire's valuations of: (1) a 37.75% interest in Black Family Partners, LP ("BFP") as of October 25, 2013; and (2) a 34.53% interest in BFP as of December 4, 2013. Since the IRS's request for information regarding each valuation is reasonably consistent and a similar response would be prepared for each, a single response that is applicable to both inquiries is presented.

We understand the IRS is seeking an explanation as to why Empire selected lack of control and marketability discounts that appear lower than benchmark information regarding lack of control and marketability discounts presented in Empire's valuation reports.

Empire considered information presented by Mergerstat Review 2013, Mergerstat's 3<sup>rd</sup> Quarter Control Premium Study, Closed End Investments Companies, and the FMV Restricted Stock Study as guidance for selecting an applicable lack of control and marketability discount. While these items are referenced separately in our report, Empire determined that it was reasonable to select a combined lack of control and marketability discount that was below a combined level of the low end of the ranges of these sources. This was done because of a number of factors, the primary ones being:

- On one hand, as discussed in the valuations prepared by Empire, Article 3.4 of the BFP Agreement states that BFP's partners may withdraw any portion of their capital account at any time. Further, upon such withdrawal the Partnership shall distribute assets of the Partnership to the withdrawing partner.
- However, the value of assets, other than cash or small blocks of marketable securities that are to be distributed to a withdrawing partner, are subject to

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valuation by a qualified appraiser selected by the general partner. The general partner may choose what assets to give the withdrawing partner. These facts lend material risk to the “value” of the assets to be transferred and can lead to disagreements related to the assets.

- The BFP Agreement does not specify the timing of the distribution of the assets upon withdrawal. The composition and size of the blocks of assets that would be distributed in kind could take a significant amount of time to transfer.
- Disagreements on value may arise, leaving open a potentially expensive and time consuming litigation pathway.
- As discussed in the valuations prepared by Empire, Article 9.1 of the BFP Agreement states that transfers of a partner’s economic interest is permitted without the consent of any partner. However, the admission of the transferee of an economic interest as a partner requires consent of the general partner. Therefore, there is no guaranty that transferee will be admitted as a limited partner and may not receive rights as a limited partner other than the economic rights.

Based on these, and other factors, it was considered reasonable to select lack of control and marketability discounts applicable to the interests in BFP that were at the low end of the range of the sources cited in the Empire reports.

Sincerely,

Scott A. Nammacher, ASA, CFA  
Managing Director

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