

IN THE CHANCERY COURT OF DAVIDSON COUNTY,  
STATE OF TENNESSEE

TWENTIETH JUDICIAL DISTRICT

CITY OF MIAMI GENERAL EMPLOYEES' :  
& SANITATION EMPLOYEES' RETIREMENT :  
TRUST and LOUISIANA SHERIFFS' PENSION :  
AND RELIEF FUND on behalf of themselves and :  
all other similarly situated shareholders of :  
Dollar General Corporation. :

Plaintiff,

-v.-

DAVID A. PURDUE; DAVID L. BERÉ; DENNIS :  
C. BOTTORFF; BARBARA L. BOWLES; :  
REGINALD D. DICKSON; E. GORDON GEE; :  
BARBARA M. KNUCKLES; J. NEAL PURCELL; :  
JAMES D. ROBBINS; RICHARD E. :  
THORNBURGH; DAVID M. WILDS, DOLLAR :  
GENERAL CORPORATION, BUCK :  
HOLDINGS, L.P.; BUCK ACQUISITION CORP., :  
and KOHLBERG KRAVIS ROBERTS, & Co., L.P. :

Defendants.

Civil Action No. 07-57-1

Chancellor \_\_\_\_\_

CLASS ACTION COMPLAINT

Plaintiffs City of Miami General Employees & Sanitation Employees Retirement Trust ("Miami Retirement Trust") and The Louisiana Sheriffs' Pension and Relief Fund ("Louisiana Sheriffs") (collectively, "Plaintiffs"), on behalf of themselves and all other similarly situated public shareholders (the "Class") of Dollar General Corporation (hereinafter, "Dollar General" or "the Company"), bring the following Complaint against Dollar General and individual members of its Board of Directors for their breaches of fiduciary duty in connection with the sale of control of Dollar General for the inadequate price of \$22 per share. The allegations of the

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Complaint are based on the personal knowledge of Plaintiffs as to themselves and on information and belief (including the investigation of counsel and review of publicly available information) as to all other matters.

### NATURE AND SUMMARY OF THE ACTION

1. This action, brought by Plaintiffs on behalf of a class of similarly situated Dollar General shareholders, seeks to hold the directors of Dollar General accountable for breaches of their fiduciary duties to the Class by putting their own personal interests ahead of those of the Class in the sale of control of Dollar General, by failing to maximize shareholder value in that sale, and by agreeing to a series of coercive and pernicious contractual lockup provisions that serve to ensure that Dollar General is sold without a full and fair auction or other bidding process at less than maximum value.

2. As a result of the breaches of duty discussed herein, on March 12, 2006, Dollar General publicly announced that it has agreed to be acquired by an affiliate of Kohlberg Kravis Roberts & Co. (“KKR”) for approximately \$7.3 billion in cash (the “KKR Buyout”). In an article entitled “KKR Hunts For a Bargain,” *The Wall Street Journal* observed the following about the KKR Buyout:

*The deal illustrates how private equity masterfully exploits the short-term preoccupations of public-market investors. Dollar General is in the midst of a turnaround that its investors have yet to fully appreciate.*

3. Because this transaction, if completed, will mark the end for Dollar General as a public company and its current public shareholders will be forced to give up their stock ownership for cash, the Dollar General board of directors has a fiduciary duty to seek out the highest price anyone is willing to pay and to maximize the value of the Company’s shares. Instead of doing their jobs and getting the best deal available for Dollar General shareholders, the

board of directors agreed to a deal that reflects a strong preference for KKR and for Dollar General management who will be given the chance to receive lucrative “change of control” payouts while potentially enjoying higher compensation for doing the same jobs they already perform.

4. Specifically, in order to make shareholder approval of the KKR Buyout a virtual certainty, Defendants included a series of improper provisions in the Agreement and Plan of Merger among Buck Holdings, L.P., Buck Acquisition Corp. and Dollar General Corporation, dated March 11, 2007 (the “Merger Agreement”) that heavily tilt the playing field in favor of this acquirer. These provisions – including a \$225 million termination fee, a strict “no-shop” provision that prevents the board from soliciting alternative bids, a “no-talk” restriction that effectively prohibits Dollar General’s board of directors from seeking information they would otherwise deem necessary to evaluate any competing proposals, a strict limitation on the board’s ability to change its recommendation to shareholders, and a promise to always give KKR the final bid even if a competitive bidding process were to finally emerge (collectively, the “Lockups”) – directly contravene the board’s fiduciary obligation to seek out and obtain the maximum amount of consideration available for Dollar General’s shareholders.

5. In addition, because Dollar General’s senior management (and potentially certain of its directors) will enjoy millions of dollars in “change of control” payouts resulting from the triggering of their “golden parachutes” and from the immediate vesting of their outstanding stock options (as well as of other increases to retirement and related benefit plans), this deal is subject to the requirements of entire fairness. The KKR Buyout fails to meet those rigorous standards because it is coercive, provides significant consideration to Dollar General senior executives that are not being made available to Dollar General’s public shareholders, and provides inadequate

consideration to the Company's public shareholders – that is, the KKR Buyout is fair neither in price nor process. Plaintiffs believe that further discovery will demonstrate that Dollar General's directors and senior management may stand to gain significantly greater consideration for the shares above the amount provided to the Company's minority shareholders, including a significant opportunity to participate in the surviving entity going forward.

6. As further detailed below, the Dollar General Directors breached their fiduciary duties to Plaintiffs and Dollar General's public shareholders by elevating their personal interests over those of the shareholders, and by failing to negotiate a sale of the Company that maximizes shareholder value. KKR, with full knowledge of the fiduciary obligations of the Dollar General Directors, induced those directors to breach their fiduciary duties.

#### **JURISDICTION**

7. This Court's jurisdiction over this Action is based on T.C.A. §§16-1-101, et seq. This Court has jurisdiction over each of the defendants because at all relevant times, they conducted business in, resided in and/or were citizens of Tennessee.

8. Venue is proper in this county pursuant to T.C.A. §§20-4-101 et seq., in that the actions complained of arose in and had an effect in this county.

#### **PARTIES**

9. Plaintiff City of Miami General Employees & Sanitation Employees Retirement Trust ("Miami Retirement Trust") is a public pension fund established to provide benefits to employees of the City of Miami upon their retirement or disability. Miami Retirement Trust is a stockholder of Dollar General.

10. Plaintiff Louisiana Sheriffs' Pension and Relief Fund is a public pension fund established to provide benefits to the State of Louisiana's sheriffs upon their retirement or disability. Louisiana Sheriffs is a stockholder of Dollar General.

11. Defendant Dollar General Corporation ("Dollar General") is incorporated in Tennessee and has its headquarters and principal place of business located at 100 Mission Ridge, Goodlettsville, TN 37072. Founded in 1939, Dollar General operates stores that sell an array of household items, most of which are priced at \$10 or less. Dollar General had 8,260 stores nationwide as of March 2, 2007. Dollar General stores offer basic consumable items that are frequently used and replenished, such as food, snacks, health and beauty aids and cleaning supplies, as well as a selection of basic apparel, housewares and seasonal items at a discount.

12. David A. Perdue ("Perdue") is Chairman of the Board of Directors of Dollar General. He joined Dollar General on April 2, 2003 as Chief Executive Officer and as a member of the Board of Directors. He was elected Chairman on June 2, 2003.

13. David Beré ("Beré") is a member of the Board of Directors of Dollar General, a position he has held since 2002. Beré was appointed president and chief operating officer of Dollar General in December 2006.

14. Dennis C. Bottorf ("Bottorf") is a member of the Board of Directors of Dollar General, a position he has held since 1998.

15. Barbara L. Bowles ("Bowles") is a member of the Board of Directors of Dollar General, a position she has held since 2000.

16. Reginald D. Dickson ("Dickson") is a member of the Board of Directors of Dollar General, a position he has held since 1993.

17. E. Gordon Gee (“Gee”) is a member of the Board of Directors of Dollar General, a position he has held since 2000.

18. Barbara M. Knuckles (“Knuckles”) is a member of the Board of Directors of Dollar General, a position she has held since 1995.

19. J. Neal Purcell (“Purcell”) is a member of the Board of Directors of Dollar General, a position he has held since May 2004.

20. James D. Robbins (“Robbins”) is a member of the Board of Directors of Dollar General, a position he has held since 2002.

21. Richard E. Thornburgh (“Thornburgh”) is a member of the Board of Directors of Dollar General, a position he has held since 2006.

22. David M. Wilds (“Wilds”) is a member of the Board of Directors of Dollar General, a position he has held since 1991.

23. The defendants named above in paragraphs 12 to 22 are sometimes referred to herein as the “Dollar General Directors.” Each of the Dollar General Directors was a member of the Board of Directors at all pertinent times and participated in the decisions challenged below.

24. By reason of their positions, the Dollar General Directors owed fiduciary duties to Dollar General and its shareholders, including the obligations of loyalty, good faith, fair dealing, and due care. They were required to discharge their duties in a manner they reasonably believed to be in the best interests of Dollar General and all its shareholders, and not in furtherance of their own personal interests or to benefit any persons or entities other than the shareholders.

25. Defendants Buck Holdings, L.P. and Buck Acquisition Corp. (“Buck Holdings”) are parties to the Merger Agreement and are controlled affiliates of defendant Kohlberg Kravis

Roberts & Co., L.P. (“KKR”), which is a leading private equity firm specializing in management buyouts and going private transactions. KKR stands to enjoy lucrative financial benefits by virtue of its acquisition of Dollar General at a grossly inadequate and unfair price.

### **CLASS ACTION ALLEGATIONS**

26. Plaintiffs bring this action pursuant individually and on behalf of all other stockholders of the Company (except the 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’ actions, as more fully described herein (the “Class”).

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

28. The Class is so numerous that joinder of all members is impracticable. The number of shares of common stock of Dollar General outstanding on December 6, 2006 was 312,033,049. The number of shareholders of Dollar General is unknown, but likely numbers in the hundreds if not thousands, and includes investors spread across the country.

29. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual class member. The common questions include, inter alia, the following:

- a. Whether the Defendants have engaged and are continuing to engage in a plan and scheme to benefit themselves at the expense of the members of the Class;
- b. Whether the Dollar General Directors have fulfilled, and are capable of fulfilling, their fiduciary duties to Plaintiffs and the other members of the Class,

including their duties of loyalty, due care, and candor, which includes, in this instance, the duty to maximize share value;

c. Whether Defendants have unlawfully employed the Lockups in order to impede, thwart or prevent the successful emergence of any alternative bid for Dollar General's shares that offers greater value to Plaintiffs and the Class than does the KKR Buyout;

d. Whether the Dollar General Directors are engaging in self-dealing in connection with the KKR Buyout;

e. Whether the Dollar General Directors are unjustly enriching themselves and other insiders or affiliates of Dollar General;

f. Whether the KKR Buyout is entirely fair to the members of the Class;

g. Whether the Defendants have disclosed all material facts in connection with the challenged transaction; and

h. Whether Plaintiffs and the other members of the Class would be irreparably damaged if the Defendants are not enjoined from effectuating the conduct described herein;

30. Plaintiffs are committed to prosecuting this 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. Accordingly, Plaintiffs are adequate representatives of the Class and will fairly and adequately protect the interests of the Class.

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

32. To the extent Defendants take further steps to effectuate the KKR Buyout, preliminary and final injunctive relief on behalf of the Class as a whole will be entirely appropriate because Defendants have acted, or refused to act, on grounds generally applicable and causing injury to the Class.

#### **FIDUCIARY DUTIES OF THE DOLLAR GENERAL DIRECTORS**

33. When the officers and/or directors of a publicly traded corporation undertake a transaction that will result in either: (i) a change in corporate control; or (ii) a break up of the corporation's assets; or (iii) sale of the corporation, the directors have an affirmative fiduciary obligation to obtain the highest value reasonably available for the corporation's shareholders, and if such transaction will result in a change of corporate control, the shareholders are entitled to receive a significant premium.

34. Because the KKR Buyout (as further detailed below) will result in the end of Dollar General's existence as a widely held public corporation and Dollar General's current public shareholders will be forced to give up their stakes in the Company going forward, the Dollar General Directors are obligated to explore all alternatives to maximize value paid to

Dollar General's shareholders. To satisfy this obligation, the Dollar General Directors have a fiduciary duty to:

- a. fully inform themselves of Dollar General's market value before taking, or agreeing to refrain from taking, action;
- b. to act solely in the interests of the Company's equity owners and not to pursue transaction that favor themselves or Dollar General's senior management at the expense of the shareholders;
- c. to maximize shareholder value by seeking the highest consideration available to Dollar General's shareholders;
- d. to obtain the best financial and other terms when the Company's independent existence will be materially altered by the transaction;
- e. to decline any contractual provisions that will discourage or inhibit alternative offers to purchase control of the corporation or its assets or that will otherwise limit the Dollar General Directors' freedom to solicit or respond to any alternative proposal that may provide greater shareholder value than the offer favored by the Company's management; and
- f. in all respects to act in accordance with the fundamental duties of loyalty, care and good faith.

35. Because of their respective positions with the Company, the Dollar General Directors also are required to:

- a. act independently to ensure that the best interest of the corporation and its shareholders takes precedence over any interest possessed by a director, officer, or controlling shareholder.
- b. ensure that if there are conflicts of interest between the Defendants' interest and their fiduciary obligations of loyalty, that they are resolved in the best interest of the Dollar General's public shareholders.
- c. provide the shareholders of Dollar General with their honest and fully informed judgment and recommendation with respect to any transaction brought to a shareholder vote, including the KKR Buyout or any alternative opportunity.
- d. ensure that the KKR Buyout is entirely fair to Dollar General's public shareholders.

36. In addition, when company insiders stand on both sides of a challenged transaction, the entire fairness standard is implicated, and the defendants bear the burden of demonstrating that the transaction was the result of fair dealing and is proposed at a fair price.

37. The concept of fair dealing embraces questions of when the transaction was timed, how it was initiated, structured, negotiated, disclosed to the directors, and how the approvals of the directors and the stockholders were obtained. The concept of fair price relates to the economic and financial considerations of the proposed merger, including all relevant factors: assets, market value, earnings, future prospects and any other elements that affect the intrinsic or inherent value of a company's stock.

38. The test for entire fairness is not bifurcated one as between fair dealing and fair price. Rather, all aspects of fairness must be examined as a whole since the question is one of entire fairness. To demonstrate entire fairness, the defendants must present evidence of the cumulative manner by which they discharged all of their fiduciary duties.

39. Because many of the Defendants do, in fact, stand on both sides of the KKR Buyout, the burden to prove the entire fairness of the KKR Buyout will remain with defendants.

40. For the reasons alleged below, the Dollar General Directors have breached, and will continue to breach, their fiduciary duties owed to the public shareholders of Dollar General, including by approving the KKR Buyout even though it provides benefits to insiders not shared with Dollar General's public shareholders and the Merger Agreement contains numerous provisions that serve to inhibit a fair bidding process intended to obtain for the shareholders the maximum price available for their shares.

### **FACTUAL ALLEGATIONS**

#### ***Dollar General Stock Hits a Low Point in the Fall of 2006 and Begins Its Rise***

41. After several years of rapid expansion, Dollar General announced at the end of August 2006 that it had missed internal financial projections and that it was pursuing various strategies to improve shareholder value. As stated in Dollar General's Form 10-Q for the second quarter of 2006, filed with the SEC on August 31, 2006, "We are disappointed with our second quarter and year-to-date financial results, which fell short of our internal expectations, but we are encouraged by the results of our recent efforts to improve same-store sales and by improvements we are seeing in sales of our seasonal merchandise."

42. Dollar General informed its investors that it was pursuing various strategies to improve long term financial performance, but that the benefit of these strategies may not be visible in the near term. As set forth in the second quarter Form 10-Q:

At our recent annual strategic planning session with our Board of Directors, we discussed, among other things, alternatives that may be available to us to improve our operations. Specifically, additional significant steps that may be taken to accelerate our new merchandising and real estate strategies were considered.

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As part of our effort to increase newer product offerings in our stores, ***we are currently evaluating the potential impact on fiscal 2006 and future periods*** if we were to seek to aggressively sell-through existing prior seasons' inventory and institute programs to minimize the carryover, or pack-away, practice in future periods.

In addition, over the last year we have made significant improvements to the policies, procedures and controls relating to our real estate practices.... We continue to analyze our real estate performance and to look for ways to further refine and improve our practices. At our strategic planning meeting we decided to take a fresh look at our existing store locations in light of our new practices and consider whether we should further refine our criteria for identifying stores as possible candidates for relocations, remodels and closings. ***If we do refine these criteria, the number of store closings, relocations or remodels may increase materially from historical levels.***

We expect to be in a position to update the investment community on the status of these alternatives before the end of the current fiscal year.

(emphases added).

43. Within days of these disclosures, Dollar General's stock price reached a low of \$12.22 per share on September 7, 2006, before beginning a steady rise that continued virtually unabated until the announcement of the KKR Buyout. Thus, Dollar General shareholders had already lived through the worst part of Dollar General's difficult times and were finally in a position to begin enjoying the Company's economic resurgence. Notably, Dollar General's disclosures of the exploration of strategies never mentioned or suggested to investors that a sale of the Company was being contemplated, much less solicited or sought.

44. By November 28, 2006, Dollar General's stock price closed at \$16.61, a 36% increase over the early September low. The next day, Dollar General provided a further "status" report on the alternative strategies disclosed in the second quarter Form 10-Q. Among other things, Dollar General disclosed:

Dollar General Corporation (NYSE: DG) today announced plans to focus on upgrading its existing store base and enhancing the store experience for customers by closing a number of stores that do not meet the Company's real estate criteria, ***decelerating its new store growth rate through fiscal 2008***, remodeling or relocating a number of stores to improve productivity, and by eliminating its "packaway" inventory management model by the end of fiscal 2007, allowing for newer and fresher merchandise.... The Company expects that these actions will drive better disciplined inventory management and a more productive store base and will enable stronger and more profitable growth in the future. ***In addition, the Company announced plans to invest up to \$500 million over the next two years in a share repurchase program.***

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"Fiscal 2007 will be a year of transition for us as our team will be highly focused on executing this plan. ***We expect these changes will ultimately strengthen our store base, improve our long-term profitability and create value for our shareholders.***"

45. Dollar General's disclosures reminded investors that the near term would likely involve earnings and growth reductions in connection with a slowed down pace of new store openings and the closing of 400 existing stores, but that successful execution of these plans would provide significant long-term benefits. As noted on *The New York Times* website on March 12, 2007, the Company's disclosure that "it had authorized a \$500 million program to buy back its own stock, [] seemed to damp speculation about a possible buyout at the time." In addition, by approving a \$500 million share repurchase plan, the Dollar General Directors signaled to the market their strong belief that the stock price was significantly undervalued.

46. Although shareholders were left in the dark about the possibility of a buyout of Dollar General, the Company's stock price continued to rise, reaching a closing price of \$17.96

per share by February 20, 2007. This share price increase was almost entirely the result of positive shareholder expectations arising from Dollar General's announced restructuring efforts, as well as the positive early returns on those efforts.

47. On March 8, 2007, Dollar General disclosed additional good news about its restructuring efforts:

Dollar General Corporation (NYSE: DG) today reported total retail sales for the four-week period ended March 2, 2007, equaled \$695.6 million compared to \$645.4 million last year, an increase of 7.8 percent. For the four-week period, same-store sales increased 4.9 percent compared to a 0.5 percent decrease in the four-week period ended March 3, 2006. Each of the Company's four major merchandise categories, including highly consumables, seasonal, basic apparel and home products, contributed to the sales increase. Markdowns incurred in connection with the Company's efforts to minimize the carryover of seasonal and other non-core merchandise and to liquidate merchandise in stores in the closing process contributed significantly to sales in the non-consumables categories. Excluding sales in 130 stores, which are in the process of closing as part of the Company's store revitalization efforts, same-store sales increased 4.2 percent in the fiscal 2007 February period.

48. Dollar General also disclosed that it would release its year end results in a conference call set for March 26, 2007. Upon information and belief, Dollar General's year end results would far exceed the projections provided to the market following the Company's disclosure of its restructuring plans. However, as described below, additional positive disclosures likely would have pushed Dollar General's stock price higher still, making it less likely that KKR could pull off its acquisition of the Company. If KKR did not buy the Company, Dollar General's senior management would be denied the opportunity to enjoy "change in control" benefits while keeping their jobs and being able to take advantage of the higher compensation levels paid to executives of formerly public companies purchased by major private equity funds.

### *The KKR Buyout Was a Surprise to the Market*

49. In light of prior disclosures of the long term restructuring plans of Dollar General's management, coupled with its silence on any effort to sell, market or otherwise effectuate a fundamental change in corporate structure or ownership, the March 12, 2007 disclosure of the KKR Buyout came as a surprise to many investors.

50. Specifically, on March 12, 2007, the Company issued a press release entitled "Dollar General Agrees to Be Acquired by KKR," which stated in relevant part:

Dollar General Corp. today announced that it has entered into an agreement to be acquired by affiliates of Kohlberg Kravis Roberts & Co. L.P. ("KKR") in a transaction with a total value of approximately \$7.3 billion, including approximately \$380 million of net debt.

Under the terms of the agreement, Dollar General shareholders will receive \$22 in cash for each share of Dollar General common stock they hold ....

Michael M. Calbert, a Member of KKR, said, "Dollar General is an outstanding company with a strong market presence and a rich legacy. We have worked closely with many retail companies in driving success and unlocking value, and we look forward to partnering with the Dollar General team to position the company for future growth."

The merger is subject to the approval of Dollar General shareholders, customary closing conditions and regulatory approvals. The transaction is expected to close in the third quarter of 2007.

51. With this press release, Dollar General also disclosed that it received supposed independent financial advice from a plainly conflicted investment bank. Specifically, Lehman Brothers, one of the co-financial advisors to Dollar General and its board of directors (whose advice the board may be relying upon in recommending the KKR Buyout) is also one of two lenders providing committed debt financing to support KKR in funding the purchase price. Thus, Lehman Brothers has a strong financial incentive to see Dollar General approve a deal



with KKR (regardless of the benefits to Dollar General's shareholders) in order to enjoy lucrative debt financing fees.

52. In addition to the press release, Dollar General issued a Form 8-K that shed further light on the terms of the KKR Buyout, which states in relevant part:

On March 11, 2007, Dollar General Corporation, a Tennessee corporation (the "Company"), entered into an Agreement and Plan of Merger (the "Merger Agreement") with Buck Holdings LP, a Delaware limited partnership ("Parent") and Buck Acquisition Corp., a Tennessee corporation and wholly owned subsidiary of Parent ("Merger Sub").

Under the terms of the Merger Agreement, Merger Sub will be merged with and into the Company (the "Merger"), with the Company surviving the Merger as a wholly owned subsidiary of Parent. Merger Sub and Parent are affiliates of a private investment fund (the "Sponsor") affiliated with Kohlberg Kravis Roberts & Co., L.P. Pursuant to the Merger Agreement, at the effective time of the Merger, each outstanding share of common stock of the Company, other than any shares held by any wholly owned subsidiary of the Company and any shares owned by Parent or Merger Sub or held by the Company, will be cancelled and converted into the right to receive \$22.00 in cash, without interest (the "Merger Consideration"). *In addition, immediately prior to the effective time of the Merger, all shares of Company restricted stock and restricted stock units will, unless otherwise agreed by the holder and Parent, vest and will be converted into the right to receive the Merger Consideration. All options to acquire shares of Company common stock will vest immediately prior to the effective time of the Merger and holders of such options will, unless otherwise agreed by the holder and Parent, be entitled to receive an amount in cash equal to the excess, if any, of the Merger Consideration over the exercise price per share of Company common stock subject to the option for each share subject to the option.*

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The Company has made customary representations and warranties in the Agreement and agreed to customary covenants, including covenants regarding operation of the business of the Company and its subsidiaries prior to the closing and covenants *prohibiting the Company from soliciting, or providing information or entering into discussions concerning, proposals relating to alternative business combination transactions, except in limited circumstances relating to unsolicited proposals that constitute, or are reasonably expected to lead to a Superior Proposal (as defined in the Agreement).*

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The Agreement contains certain termination rights, *including if the Company's Board of Directors changes its recommendation to the shareholders* because it would be inconsistent with its fiduciary duties under applicable law and provides that, upon the termination of the Agreement, under specified circumstances, *the Company will be required to pay a termination fee of \$225 million....*

53. In light of the prior disclosures of the long term restructuring plans initiated by Dollar General's management, coupled with its silence on any effort to sell, market or otherwise effectuate a fundamental change in corporate structure or ownership, the March 12, 2007 disclosure of the KKR Buyout came as a surprise to many investors.

54. If the KKR Buyout is allowed to proceed, current shareholders will be giving up their ownership in the Company including all benefits of future improvements in operations, information exclusively within the possession of Defendants. In contrast, Defendants will immediately reap a windfall of benefits not shared by shareholders including the immediate vesting of their stock options and other change-of-control payments in exchange for conceding to the inadequate price of \$22 per share. Additionally, the Company's top executives will have the opportunity to remain with the Company even after KKR acquires its shares and may have an opportunity to purchase an equity interest in the new company, an opportunity not shared by the Company's shareholders.

***The KKR Buyout Did Not Result From An Open Bidding Process and Undervalues Dollar General's Shares***

55. Once they decided to take steps in furtherance of a change in corporate control from the public shareholders to a controlled corporation or a private corporation, the Dollar General Directors became obliged to seek out and obtain the highest price available to Dollar General's shareholders. This required the board to either conduct a public auction of the

Company to the highest bidder or to pursue alternative measures that were likely to achieve the same effect as a publicly disclosed auction process.

56. At no time before March 12, 2007 did Dollar General disclose that it retained financial advisors to solicit bids for Dollar General or to perform any services that could lead to a sale of the corporation. In connection with disclosing the KKR Buyout on March 12, 2007, Defendants did not issue any statement indicating that Dollar General reached agreement with KKR following any process that was intended to maximize the price paid to Dollar General shareholders.

57. Dollar General's CEO, defendant Purdue, has already made clear that the Board's focus in negotiating the deal was not on the shareholders (to whom they owed a singular duty to maximize immediate share consideration) but on the long-term benefits of Dollar General's employees by continuing to execute the same business plan already in place. As Purdue publicly stated, "Going forward, employees will benefit from the continuity of a solid business plan and new investments in the future of the business."

58. Nor are employee layoffs a core strategy for KKR to create value. As Purdue advised employees on March 12: "Beyond the strategic changes that the Company already has underway, there are no plans for layoffs." In other words, the main financial benefit of this deal is that KKR is performing a leveraged buyout and will enjoy outsized returns as Dollar General's continuity of its existing business plan results in strong cash flow used to pay down that debt. Shareholders are forced to ask why Dollar General could not have offered the benefits of such financial engineering by simply recapitalizing the Company while keeping it public. Of course, the answer is that keeping Dollar General public would deny for Company insiders the

opportunity to appropriate for themselves the lucrative benefits of taking a public company private and working for that privatized entity.

59. In addition, KKR and Dollar General have access to critical information not shared with Dollar General's shareholders. For example, the Company's disclosures to date obscure the substantial value of its real-estate portfolio and impair investors' ability to assess whether fair consideration has been offered. As set further above, Defendants also timed the public disclosure of this transaction shortly before Dollar General was set to report its 2006 year end results.

60. Most of the Company's stores 8,276 stores (as of November 24, 2006) are located in leased premises. According to the Company's 2005 10-K, "The majority of the Company's leases are relatively low-cost, short term leases (usually with initial or primary terms of three to five years) often with multiple renewal options." Of these stores, approximately 5,620 were opened before 2002, approximately 572 were opened in 2002, approximately 625 in 2003, approximately 677 in 2004, approximately 525 in 2005, and approximately 257 in 2006. In light of significant increases in the market value of commercial real-estate since 2002, substantially all of these leases are likely at significantly lower than market rates on comparable properties.

61. The value embedded in these leases is reflected in the Company's November 28, 2006 announcement of its real-estate enhancement plan. In that announcement, the Company disclosed that it estimated it would incur cash charges of \$38 million in connection with the closure of 400 underperforming stores – most likely representing some of the Company's poorest real-estate selections. That the amount to be charged represents less than \$100,000 per store for the remainder of the lease obligation strongly suggests that many of these real-estate selections were carried at below market rents and that many of the properties could be easily sublet for at

least their carrying cost or where not assignable, the landlord would facilitate an easy exit for the Company in order to secure a higher paying lessee.

62. To the extent that the Company's real-estate portfolio consists of owned and not leased property, the disclosures to date also obscure its fair value. Under GAAP, land and buildings are recorded at cost and not marked to market for increases in value. The Company's financial statements disclose land and land improvements valued at \$147 million in 2005, \$145 million in 2004, \$146 million in 2003, \$145 million in 2002, and \$144 million in 2001. In light of significant increases in the market value of commercial real-estate since 2001, this land is valued for accounting purposes at significantly less than its fair value. Moreover, because the owned parcels are not publicly disclosed, investors have not been able to readily determine to what extent these investments have appreciated in value.

63. KKR and Dollar General are in possession of this key information, which appears to be highly relevant to the shareholders' decision of whether the \$22 per share price is adequate, or whether KKR is being given the opportunity to buy the Company on the cheap and to take for itself (or share with Dollar General's managers) significant unappreciated value.

***KKR Is Using Conflicted Interests To Purchase Dollar General on the Cheap***

64. Defendants have timed the KKR Buyout proposal in order to aggrandize their own positions and to capture for themselves (and those who assist them) Dollar General's future potential without a fair process and without paying an adequate or fair price to the Company's public shareholders.

65. Defendants have access to internal financial information about Dollar General, its true value, expected increase in true value and the benefits of continued ownership of Dollar

General to which plaintiff and the Class members are not privy. Defendants are using such inside information to benefit themselves in this transaction, to the detriment of the Dollar General's public stockholders.

66. The conflicts of interest and other unfairness that infect deals of this type were highlighted in a September 8, 2006, *Wall Street Journal* article entitled "In Some Deals, Executives Get A Double Payday – Managers Profit When Companies Are Sold to Private-Equity Firms, Then Stay on With Big Options." Among other things, that article stated:

Private-equity firms have notched seven of the 10 largest leveraged buyouts of all time this year. For the top executives of the target companies, such deals could be the difference between being rich and being very rich.

That is because in many cases the executives are both buying and selling the company. Consider a trio of massive deals: The bids for HCA Inc., Kinder Morgan Inc. and Aramark Corp., valued at more than \$40 billion combined, all have involved top executives teaming up with private-equity firms to buy their own companies and to continue running them.

As increasing numbers of executives heed the siren call of private-equity firms, the dynamic pitting shareholders against management is bound to intensify. (Private-equity firms buy companies or divisions using vast amounts of debt and later sell them or bring them public.)

In such cases, management, with all its detailed knowledge of the company, goes from being a seller striving for a high price to being a buyer looking for an attractive price. *Usually the sale of a public company involves an auction or a competitive-bidding process. But when management joins the private-equity buyers, there often isn't such an open procedure, and the process is especially fraught with potential conflicts of interest.*

"Every private-equity firm markets itself to its potential investors on the basis of its access to deals, preferably exclusive access to deals" without competitive bidding, says Douglas Cifu, a merger-and-acquisition lawyer with Paul, Weiss, Rifkind, Wharton & Garrison LLP. "But when you are a public company, you have a fiduciary obligation to maximize the value of the company."

"The strength of the private-equity firms is their high-powered compensation," says Josh Lerner, a professor at Harvard Business School. "Can it lead to the temptation of being bought out so management can get the pot of gold?"

67. The KKR Buyout is designed and intended to eliminate members of the Class as stockholders of the Company from continued equity participation in the Company for cash consideration, which the Dollar General Directors know or should know is grossly unfair and inadequate.

68. The Dollar General Directors have unique knowledge of the Company and have access to information denied or unavailable to the Class. Without all material information, Class members are unable to determine whether the price offered in the transaction is fair; and

69. The Dollar General Directors have violated their duty of fair dealing by manipulating the timing of the transaction to benefit themselves and/or other Company officers and directors at the expense of plaintiff and the Class.

70. Defendants are engaging in self-dealing and not acting in good faith toward plaintiff and the other members of the Class. By reason of the foregoing, Defendants have breached and are breaching their fiduciary duties to the members of the Class.

***The KKR Buyout and Merger Agreement Prevent the Dollar General Directors from Fulfilling Their Fiduciary Duties to Dollar General Shareholders***

71. As set forth below, although the KKR Buyout appears to precede, rather than follow, any bidding process conducted by the Dollar General Directors, the Lockup provisions embedded in the Merger Agreement significantly curtail, and may well impair, any opportunity for a full and fair bidding process to emerge that could maximize shareholder value.

72. The terms of the Merger Agreement deter competing bids and prevent the Dollar General Directors from exercising their fiduciary duties to obtain the best available price for Dollar General's shareholders. The defensive provisions erect barriers to competing offers and function to substantially increase the likelihood that the KKR Buyout will be consummated

without facing real competition, leaving Dollar General's shareholders with a price that does not reflect the maximum price any bidder may be willing to pay. When viewed collectively, these provisions, which are detailed below, further the personal interests of Dollar General's senior management and KKR and cannot be justified under the circumstances.

73. No-Shop/No-Talk Provision: The Merger Agreement contractually prohibits the Dollar General Directors from performing their duty to solicit alternative bids for the Company, and inform themselves of any potential bids that may emerge at this crucial time for the Company and its shareholders, thus preventing the Dollar General shareholders from receiving (or at least knowing whether they have already received) the highest bid available for their shares. Specifically, the Merger Agreement provides:

Section 5.2 No Solicitation.

(a) Subject to Section 5.2(c), the Company agrees that neither it nor any Subsidiary of the Company shall, and that it shall direct its and their respective officers, directors, employees, agents and representatives, including any investment banker, attorney or accountant retained by it or any of its Subsidiaries ("Representatives") not to, directly or indirectly, (i) initiate, solicit, knowingly encourage (including by providing information) or knowingly facilitate any inquiries, proposals or offers with respect to, or the making or completion of, an Alternative Proposal or any inquiry, proposal or offer that is reasonably likely to lead to an Alternative Proposal, (ii) engage, continue or participate in any negotiations concerning, or provide or cause to be provided any information or data relating to the Company or any of its Subsidiaries in connection with, or have any discussions (other than to state that they are not permitted to have discussions) with any person relating to, or that is reasonably likely to lead to, an actual or proposed Alternative Proposal ....

74. Section 5.2(c) of the Merger Agreement provides a limited exception under which the Dollar General Directors may consider an unsolicited bid or seek information from an unsolicited bidder *only* after the Dollar General Board has formally determined that the alternative bidder's proposal "constitutes or is reasonably expected to lead to a Superior



Proposal,” and even then the board is empowered to act only if, “after consultation with its outside counsel,” the Board determined that the “failure to take such action would be inconsistent with its fiduciary duties under the TBCA.”

75. The definition of “Superior Proposal” in Section 5.2(h) of the Merger Agreement illustrates that the Dollar General Directors have not attempted to and have no expectation that the terms of the KKR Buyout actually constitute the best offer KKR is willing to make. Specifically, since the Dollar General Directors did not bother to negotiate for the best terms available, the definition contemplates KKR improving the terms of the Merger Agreement if and only if a competing bidder emerges:

(h) As used in this Agreement, “Superior Proposal” shall mean any bona fide written Alternative Proposal (i) on terms which the Board of Directors of the Company determines in good faith, after consultation with the Company’s outside legal counsel and financial advisors, to be more favorable from a financial point of view to the holders of Company Common Stock than the Merger, taking into account all the terms and conditions of such proposal (including any regulatory aspects), and this Agreement (*including any changes to the terms of this Agreement proposed by Parent in good faith to the Company in response to such proposal or otherwise*) and (ii) that the Board of Directors believes is reasonably capable of being completed in accordance with its terms, taking into account all financial, regulatory, legal and other aspects of such proposal;

76. Accordingly, even when the Dollar General Directors are facing an intervening bid that appears on its face to be “superior” to the KKR Buyout, the individual Dollar General Directors may be prevented from even considering the proposal unless they first make a determination (based solely on the information that bidder has provided) that the alternative proposal is, in fact, “superior.” Consequently, this provision prevents the Dollar General Directors from exercising their fiduciary duties individually and precludes even an investigation into competing proposals unless, as a prerequisite, the majority of the Dollar General Board first determines (without such an inquiry) that the proposal is superior.

77. Just as importantly, before the Dollar General Directors can finally initiate a *bona fide* bidding process, KKR has the contractual ability to change the terms of the Agreement preemptively and thereby bar the Board from exercising their rights upon emergence of a “Superior Proposal.” Such a one-sided process plainly violates the concept of an open bidding process intended to maximize shareholder value.

78. \$225 Million Termination Fee: The Merger Agreement requires Dollar General to pay to KKR the sum of \$225 million in cash if Dollar General terminates the Merger Agreement, even if the agreement is terminated as a result of the Dollar General Directors’ recommendation in favor of a superior offer for Dollar General shares (or determination to simply withdraw their existing recommendation in favor of the KKR Buyout). Payment by Dollar General of the Termination Fee would have severe negative consequences. As Dollar General disclosed in its most recent Form 10-Q, it had about \$90 million in cash on its balance sheet as of November 3, 2006, while its net income for the 39 weeks ending on November 3, 2006, was only \$88 million. Because this \$225 million Termination Fee would wipe out Dollar General’s remaining cash balance as well as its earnings for 2006 and a significant part of the prior year, the Termination Fee deters the Dollar General Directors from freely and effectively exercising their fiduciary judgment in the interests of Dollar General shareholders and also discourages other potential bidders from emerging. Specifically, the Merger Agreement provides as follows:

Section 7.2 Termination Fees.

(a) In the event that:

(i) (A) a bona fide Alternative Proposal shall have been made known to the Company or shall have been made directly to its shareholders or any person shall have publicly announced an intention to make an Alternative Proposal, or an Alternative Proposal shall have otherwise become publicly known, and (B) following the occurrence of an event described in the preceding clause (A), this

Agreement is terminated by the Company or [KKR] pursuant to Section 7.1(b)(i) [*i.e.*, failure to close the KKR Buyout by October 31, 2007] or Section 7.1(b)(iii) [*i.e.*, a negative vote by Dollar General shareholders with respect to the KKR Buyout] ... and (C) the Company enters into, or submits to the shareholders of the Company for adoption, a definitive agreement with respect to any Alternative Proposal, or consummates any Alternative Proposal within twelve (12) months of the date this Agreement is terminated, which in each case, need not be the same Alternative Proposal that shall have been publicly announced or made known at or prior to termination of this Agreement ....; or

(ii) ....

(iii) this Agreement is terminated by [KKR] pursuant to Section 7.1(d)(ii) [*i.e.*, a change by the Dollar General Directors of their recommendation in favor of the KKR Buyout or failure by the Dollar General Directors to actively oppose an competing proposal] or 7.1(d)(iii) [*i.e.*, delivery by Dollar General to KKR of a notice that a competing proposal constitutes a “Superior Proposal”];

then in any such event under clause (i), (ii) or (iii) of this Section 7.2(a), the Company shall pay at the direction of Parent to any Person that is a U.S. person for U.S. federal income tax purposes, a termination fee of \$225 million in cash (the “Termination Fee”), it being understood that in no event shall the Company be required to pay the Termination Fee on more than one occasion.

79. In other words, if the Dollar General Directors simply change their recommendation to the shareholder with respect to the KKR Buyout or give notice to KKR that an alternative proposal remains a “Superior Proposal” after negotiations with KKR, then Dollar General may be forced to honor a massive \$225 million payout, *irrespective of whether anyone other than Dollar General has undertaken to pay that amount.* In addition, although the Dollar General shareholders are supposed to enjoy an unfettered and uncoerced opportunity to vote to approve or reject the KKR Buyout based solely on the economic merits of the proposed deal, they have to vote knowing that virtually any merger or acquisition transaction during the next twelve month period will trigger the payment of \$225 million to KKR.

80. Section 7.2(e) of the Merger Agreement openly admits that the Termination Fee constitutes a “liquidated damages” provision that must be viewed by reference to applicable

contractual limitations on the size and nature of such provisions, as well as being viewed with reference to the Directors' fiduciary obligations under the circumstances.

81. In sum, while the Dollar General Directors' sole and essential duty is to take all available steps to obtain the highest price available for Dollar General's shareholders *from any interested bidder*, Defendants have improperly structured the Merger Agreement to create every conceivable hurdle to the successful emergence of a competing bid that offers more than KKR has (or is willing in the future to) put on the table.

82. Taken together, these various provisions render it unreasonable to expect that the Dollar General Directors will fulfill, or are even capable of fulfilling, their fiduciary obligations to Dollar General shareholders. For example, even if it was appropriate when taken alone (and in this case it is not), the \$225 Termination Fee is more than sufficient "deal protection" to secure KKR's investment in negotiating and pursuing Dollar General. Having agreed to provide a \$225 million windfall to KKR should an intervenor bid emerge, any further limitation on the Dollar General Directors' ability to freely pursue alternative transactions (or to inform themselves about such transactions) is disproportionate, unfair and should be rejected as an unlawful abandonment of the Board's fiduciary obligations.

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **(Class Action Claim For Breach of Fiduciary Duty Against the Dollar General Directors)**

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

84. The individual defendants, as Dollar General directors, owe the Class the utmost fiduciary duties of due care, good faith, and loyalty. Because at the time of the negotiation of the

KKR Buyout, Dollar General was “up for sale” and because the KKR Buyout represents a “change-in-control” transaction, the Dollar General Directors are required to focus on one primary objective – to secure the transaction offering the best value reasonably available for the Dollar General shareholders – and they are required to exercise their fiduciary duties to further that end. They are required to employ all measures necessary to fully inform themselves about competing offers for the Company and to choose the offer that best maximizes shareholder value.

85. The individual defendants have failed to fulfill their fiduciary duties in the sale of control of Dollar General. They have failed to fully inform themselves about potential competing proposals.

86. The individual defendants also breached their fiduciary duty by favoring their own interests over those of the Dollar General shareholders. They caused the Company to enter into the Merger Agreement in order to perpetuate their own personal interests at the direct expense of Dollar General’s shareholders. The Dollar General Directors are engaging in self dealing, are not acting in good faith toward plaintiffs and the other members of the Class, and knowingly or recklessly have breached and are continuing to breach their fiduciary duties to the members of the Class.

87. Plaintiffs and the Class have been harmed by these breaches of fiduciary duty, as this transaction is their only chance to capture a control premium. The individual defendants have squandered that chance.

88. Plaintiffs and the Class have no adequate remedy at law. Unless enjoined by this Court, Defendants will continue to knowingly or recklessly and in bad faith breach their fiduciary duties owed to plaintiff and the Class, and may consummate the KKR Buyout which

will exclude the Class from its fair share of Dollar General's valuable assets and businesses, and/or benefit them in the unfair manner complained of herein, all to the irreparable harm of the Class.

## COUNT II

### **(Class Claim For Breach of Fiduciary Duty Against the Individual Defendants)**

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

90. The Dollar General Directors owe the Class the utmost fiduciary duties of due care, good faith, and loyalty. Defendants breached those fiduciary duties by favoring their own interests over those of the Class by erecting defensive measures to protect the KKR Buyout.

91. The Dollar General Directors agreed to the inclusion of, among other things, a \$225 million termination fee, a No-Shop/No-Talk Clause, and other barriers to the success of unsolicited competing offers for the Company. They did so in order to secure the benefits the KKR Buyout provides to them personally.

92. As a result of the Dollar General Directors' breaches of fiduciary duty in erecting these defensive measures, the Class will be harmed by being denied the opportunity to weigh and consider potentially more valuable alternative bids. The defensive measures erected by the Dollar General Directors in the Merger Agreement, however, impose excessive and disproportionate impediments to potential superior alternative offers.

93. If the KKR Buyout is allowed to proceed without the Dollar General Directors first conducting a full and thorough market check or other form of (or reasonable substitution

for) an auction process, Dollar General shareholders will be denied forever the opportunity to sell their shares to the highest bidder.

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

### **COUNT III**

#### **(Class Action Claim for Aiding and Abetting Breaches of Fiduciary Duties Against KKR)**

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

96. The Dollar General Directors owe the Class the fiduciary duties of care, good faith and loyalty. That the Dollar General Directors owe the Class these fiduciary duties is well known to KKR.

97. As is detailed in the preceding paragraphs, the Dollar General Directors have breached their fiduciary duties to the Class.

98. KKR aided and abetted the Dollar General Directors' breaches of fiduciary duty. KKR actively and knowingly induced the Dollar General Directors to breach their fiduciary duties to Dollar General by plying them with the promises of lucrative employment with the privatized entity.

99. KKR colluded in or aided and abetted the Individual Defendants' breaches of fiduciary duties, and were active and knowing participants in the Individual Defendants' breaches of fiduciary duties owed to plaintiff and the members of the Class.

100. KKR participated in the breach of the fiduciary duties by the Dollar General Directors for the purpose of advancing their own interests. KKR will obtain both direct and

indirect benefits from colluding in or aiding and abetting the Individual Defendants' breaches. KKR will benefit, *inter alia*, from the acquisition of the Company at a grossly inadequate and unfair price if the Proposed Buyout is consummated.

101. Plaintiffs and the members of the Class will be irreparably injured as a direct and proximate result of the aforementioned acts.

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

### **RELIEF REQUESTED**

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

- (a) Declaring this Action properly maintainable as a class action;
- (b) Preliminarily and permanently enjoining Dollar General and any of the Dollar General Directors and any and all other employees, agents, or representatives of the Company and persons acting in concert with any one or more of any of the foregoing, during the pendency of this action, from taking any action to consummate the KKR Buyout until such time as the Dollar General Directors have fully complied with their duties to fully and fairly consider all offers for the Company and to maximize shareholder value;
- (c) If the KKR Buyout is not enjoined pending the dissemination of full and truthful disclosures, invalidation of the Lockups and compliance by the Dollar General Directors with their fiduciary duties, awarding the Class compensatory damages, together with pre- and post-judgment interest;
- (d) Finding the Dollar General Directors liable for breaching their fiduciary duties to the Class;
- (e) Finding KKR liable for aiding and abetting the breaches of fiduciary duty by the Dollar General Directors;

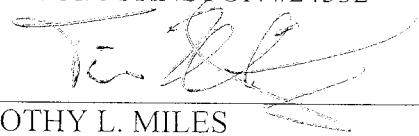


(f) Awarding Plaintiffs the costs and disbursements of this action, including attorneys', accountants', and experts' fees; and

(g) Awarding such other and further relief as is just and equitable.

DATED: March 13, 2007

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