

Borden Plan: A Case of Cat And Mouse

By Glenn Collins | 5 December 1994

Borden Inc. and Paul B. Kazarian, who wants to invest in and alter the company, have not yet held serious negotiations about the company's future, but their game of one-upsmanship continued through the weekend.

Borden said yesterday that its board members would meet tomorrow in its New York offices to discuss Mr. Kazarian's proposals to revamp the company with him as a minority shareholder. But Mr. Kazarian will not be there, he said.

Instead, he will be waiting in a Manhattan hotel room he has already booked for a meeting with Borden executives, shareholders and Wall Street analysts -- a meeting that Borden executives say they will not attend.

The intransigence about where and when to meet -- and the shape of the table has not been discussed yet -- can obscure just what is at stake: the fate of one of the best-known food companies in the country and Borden's 41,000 shareholders.

As the deadline for Kohlberg, Kravis, Roberts & Company's tender offer to Borden stockholders approaches on Dec. 20, the deal-related maneuvering has been escalating. As an alternative to Kohlberg, Kravis's \$2 billion bid for Borden, Mr. Kazarian's investment firm, Japonica Partners Inc., last week proposed a recovery plan in which it would invest \$430 million for a 20 percent stake in Borden. That offer is valued at \$17 a share in cash for the minority stake, while the Kohlberg, Kravis offer consists of \$14.25 a share, not in cash but in shares of its RJR Holdings Corporation.

Borden countered by inviting Mr. Kazarian to its lawyers' office yesterday, but before the meeting set out some important questions it wanted answered about financing and the revamping plan. Mr. Kazarian did not respond by Friday night, so Borden canceled the meeting.

Then, yesterday morning, Mr. Kazarian said he would be waiting in the Grand Hyatt Hotel tomorrow to meet with Borden's directors.

Is this just grandstanding, or does Mr. Kazarian have a calculated strategy to win control of Borden? The answer is being debated by investors and analysts.

In a letter yesterday sent to Frank J. Tasco, Borden's chairman, Japonica said the Borden board would "serve shareholders' best interests" by providing "business-knowledgeable directors" at a Tuesday meeting, and it requested that major shareholders and industry analysts be present as well.

Borden's response last night was to invite Mr. Kazarian to its headquarters at 277 Park Avenue, without analysts and large shareholders. Borden set a deadline of 4 P.M. today for Mr. Kazarian to respond.

In an interview, Mr. Kazarian said he hoped "that each board member will attend our meeting."

But a Borden spokesman, James Fingerroth, said Mr. Kazarian "is not in a position to dictate the means by which Borden will consider his proposal," adding that Mr. Kazarian had not demonstrated "that he has the capability" to execute the deal. "If he is acting in good faith we assume he will attend the meeting we have set," he added.

An industry executive with knowledge of Mr. Kazarian's plans said Mr. Kazarian would be able to present commitments to Borden demonstrating that he could raise the \$430 million, showing that this part of his proposal was at least theoretically feasible.

One Borden shareholder described Mr. Kazarian's proposed meeting as part of a carefully planned chess gambit to orchestrate shareholder opposition to the Kohlberg, Kravis tender offer.

This person said that ultimately Mr. Kazarian might be hoping that major shareholders would exercise their right to convene a Borden board meeting to question the board about his offer.

In September, after Borden agreed to be acquired for \$2 billion by Kohlberg, Kravis, some large Borden shareholders criticized the company's directors, saying they had failed to represent shareholders' interests in the negotiations with Kohlberg, Kravis, and questioned whether the board had been misled by its advisers.

After the deal passed regulatory inspection last month, some shareholders complained that in the Kohlberg, Kravis deal, they would be forced to swap their shares for shares in RJR Nabisco, a tobacco company exposed to possible smokers' litigation and government legislation.

The meeting invitations aside, shareholders were buzzing this weekend over an article in the Dec. 19 issue of Forbes magazine warning Borden stockholders not to tender their shares. Borden had no comment on the article.

The Forbes article, which cited no sources, said Kohlberg, Kravis has divested itself of six businesses with more than \$500 million in revenues to make it less attractive to suitors like Mr. Kazarian and also said Borden was close to selling its dairy division at a fraction of its value.

The article suggested that after selling off Borden's packaging and industrial businesses to pay off Borden's \$2 billion in debt, Kohlberg, Kravis would sell its grocery unit to a planned Nabisco foods company, using its Nabisco stock as currency. An RJR Nabisco proposal to spin off 19 percent of its food business is awaiting approval before the Securities and Exchange Commission.

Borden responded that it had announced the sale of its businesses months ago. A spokeswoman for Kohlberg, Kravis said yesterday, "K.K.R. has absolutely no current plans to sell any Borden operation to Nabisco," adding, "K.K.R. believes its offer is full and fair and by far the best alternative available to Borden shareholders."

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