



**H.S. Grace & Company, Inc.**

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## **HSG Helps Secure \$165 Million Settlement in Split-off Transaction**

### **LEGAL ISSUES**

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- Fiduciary responsibility of corporate officers
- Independence of public accountants
- Responsibilities of outside counsel to the corporation

### **SITUATION**

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#### *Alleged Facts:*

Management of a surviving corporation had “engineered” a split-off from a sister corporation to the detriment of the shareholders of the sister corporation.

#### *Background:*

- H. S. Grace & Company, Inc. (HSG) was hired by a Litigation Trust set up by the creditors of a corporation that had entered into bankruptcy soon after the corporation had been “split-off” from a sister company owned by management.
- Management of the surviving corporation had allegedly taken the proper steps in preparing for the split-off, which seemed to be “fair” to all concerned parties.

### **ANALYSIS**

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HSG confirmed the suspicions of the lenders and the counsel for the litigation trust. In part, they proved that:

- The management team, in directing the split-off transaction, committed numerous violations of customary and ordinary business practices.
- Outside counsel and the public accountants had conflicts of interest and did not appropriately disclose their roles to the board of directors.
- Management manipulated the relative valuation of the entities to be split-off by “rigging” the forecasts used by the independent investment bankers.
- Management of the surviving corporation hid significant problems in the sister company, prior to the split-off, which ultimately led to its demise.

HSG issued a report of its findings, including approximately 2,500 supporting documents, and was deposed.

## RESULT

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A Daubert challenge was defeated and, despite earlier concerns of Plaintiff's counsel that the defendants would never settle, the Defendants agreed to a \$165 million settlement for HSG's client.

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If you would like to know more...

If you would like to know more about this case, or about the kinds of business-based analysis of claims and damages that can be obtained from [H.S. Grace & Company](#), you are invited to contact members of our group, [Al Fenichel](#), [Steve Grace](#) and [H. Stephen Grace, Jr.](#), at (713) 572-6800. Follow, [H.S. Grace & Co., Inc.](#), on LinkedIn. [H. S. Grace & Company, Inc.](#) (HSG) is a litigation support and consulting firm established in 1993 that works with in-house counsel, outside counsel, insurance carriers and corporate attorneys, as well as company boards and senior management. HSG specializes in assisting clients both before and during [litigation](#) in analyzing and assessing the validity of claims involving representations and warranties, directors and officers responsibilities, financial reporting, business judgment, merger and acquisition disputes and other complex issues. The firm provides [expert testimony](#) from our detailed analyses of the business decisions and actions, issues reports of how the actions of all parties involved affect causation and evaluation of damages and provides guidance to support settlement strategies and negotiations. HSG has approximately [30 consultants](#), including experienced testifying experts, who have had significant experience as senior executives (e.g., CEOs, COOs, CFOs, SVPs, Treasurers, technical professionals and board members), many of whom hold advanced degrees and professional certifications. Our experienced team members look deeply into claims and allegations to determine not only what happened, but how and why, to speak authoritatively about appropriate business practices, and to assist clients in achieving favorable outcomes. HSG has represented banks and other financial institutions, real estate partnerships, energy companies, pharmaceutical firms, healthcare companies, insurance carriers, retailers, technology companies and others in a broad array of [complex commercial litigation](#).