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To Our Clients

Highest Court in New York Rejects Equal
Opportunity Doctrine and Reaffirms Sale
of Control at a Premium

Zetlin v. Hanson Holdings, Inc., No. 407 (N.Y. Ct. App. Oct. 11, 1979) upholds the right of owners of 44% of a company (representing control) to sell their shares to a third party at a price representing a premium of approximately 100% without an equal opportunity for the remaining shareholders to sell at a premium.

The Court affirmed the prior law that "a controlling stockholder is free to sell, and a purchaser is free to buy, [a] controlling interest at a premium price".

The Court rejected the argument by the minority shareholders that they were entitled to an opportunity to share equally in any premium paid for a controlling interest in the corporation, reasoning that

[Such a] rule would profoundly affect the manner in which controlling stock interests are now transferred. It would require, essentially, that a controlling interest be transferred only by means of an offer to all stockholders, i.e., a tender offer. This would be contrary to existing law and if so radical a change is to be effected it would best be done by the Legislature.

M. Lipton
P. C. Hein