



Dell Inc.  
One Dell Way, RR1-33  
Round Rock, TX 78682  
Tel +1 512 723 0544  
Fax +1 512 283 0544  
www.dell.com

March 28, 2013

**BY EMAIL and FIRST CLASS MAIL**

Mr. Gary Lutin  
The Shareholder Forum, Inc.  
575 Madison Avenue 10<sup>th</sup> Floor  
New York, NY 10022

**Re: Revised Demand for Records**

Dear Mr. Lutin:

I write on behalf of Dell Inc. ("Dell" or the "Company") in reply to your March 21, 2013 "Revised demand for records" (the "Revised Demand") in which you seek information related to a proposed going private transaction between the Company and a group including Michael Dell (the "Proposed Merger"). Specifically, you demand information provided to the Special Committee (the "Special Committee") formed by the Company's Board of Directors (the "Board") to evaluate the Proposed Merger, and seek, among other things, copies of certain fairness opinions (the "Fairness Opinions") prepared by the Special Committee's financial advisers, J.P. Morgan Securities LLC and Evercore Group L.L.C. (the "Financial Advisers"), all information received by the Company from the Financial Advisers related to the Fairness Opinions or associated valuations of the Company, all information provided to the Financial Advisers related to the Fairness Opinions or associated valuations of the Company, and agreements establishing the conditions under which the Financial Advisers rendered the Fairness Opinions and other services to the Company. You state that the purpose of your Revised Demand is to, among other things, enable the stockholder whom you purport to represent—Cavan Partners, L.P. ("Cavan")—to value its stock and make informed decisions regarding (1) the price offered for its stock, (2) proposals recommended by the Board, and (3) whether it should reserve dissenter rights.

In its prior letters, dated March 12 and March 15, 2013, the Company advised you that a stockholder who demands books and records pursuant to 8 *Del. C.* § 220

("Section 220") bears the burden of demonstrating that the specific documents sought are "essential to [the] accomplishment of the stockholder's articulated purpose for the inspection." *Espinoza v. Hewlett-Packard Co.*, 32 A.3d 365, 371 (Del. 2011). Although you assert that the Revised Demand has "restated" your prior demands to "accommodate the views of demand requirements presented" in the Company's prior correspondence, you continue to fail to show that the information requested is essential to Cavan's stated purposes given that all material information will be made publicly available to the Company's stockholders in connection with the Proposed Merger.

As previously noted, the Proposed Merger is subject to state and federal disclosure requirements, and the Company will file a proxy statement containing all information material to the decision of its stockholders regarding how to vote on the Proposed Merger and whether to exercise appraisal rights under Delaware law. The Company's prior letters explained that the Delaware Court of Chancery has rejected Section 220 demands—like the Revised Demand—that demanded company information in anticipation of a going private transaction for valuation purposes and for determining whether or not to seek appraisal. *See Polygon v. Global Opportunities Master Fund v. W. Corp.*, 2006 WL 2947486, at \*4-\*5 (Del. Ch. Oct. 12, 2006). The Court in *Polygon* noted that the company there would be required to make publicly available "comprehensive" information regarding the going-private transaction, and explained that "through its preliminary and final proxy materials, and its Schedule 13E-3, and amendments," the Company would be required to "disclose ... all material information necessary" for stockholders to evaluate the transaction. *Id.* at \*4; *see also Q Funding III, L.P. v. Cedar Fair Mgmt., Inc.*, C.A. No. 5551-VCS, Tr. at 12 (Del. Ch. July 19, 2010) ("[Y]ou've got public disclosures about the deal, and that's what the SEC requires, and you can't allege that there's anything deficient. It's not clear that you need more than that."). Your Revised Demand provides no basis for requiring the disclosure of additional information which would not be material under Delaware or federal law. Similarly, the Court of Chancery requires the disclosure of material facts related to the retention of financial advisors when stockholders are asked to vote upon a significant transaction, like the Proposed Merger, *see Cnty. of York Emps. Ret. Plan v. Merrill Lynch & Co., Inc.*, 2008 WL 4824053, at \*11 (Del. Ch. Oct. 28, 2008), which also obviates your request for information related to compensation paid to the Financial Advisers in connection with the Fairness Opinions and similar valuation work.

Your Revised Demand also fails to establish that you are in fact acting for the purposes of the stockholder whom you purport to represent, *see 8 Del. C. § 220(b)*, rather than the unique business interests of the Shareholder Forum. *See Badger v. Tandy Corp.*, 1983 WL 404449, at \*2 (Del. Ch. Mar. 24, 1983) (denying stocklist demand where purpose related to "personal business," and was therefore not "reasonably related" to the plaintiff's interest . . . *as a stockholder*") (emphasis in original). You explained in your March 11, 2013 letter that the Shareholder Forum

"had initiated a project to arrange an independent, peer-reviewed valuation of [the Company] for the benefit of its shareholders" and made clear that you sought access to the Company's books and records for "distribution to and use by Forum participants." Indeed, you made clear that your "**essential purpose** [in] seeking the information is to make it publicly available for use in investment decisions." (emphasis added). The Company explained in its prior letters that your stated objectives were improper under Delaware law and unrelated to Cavan's interests as a stockholder, as required by Section 220.

Although your Revised Demand omits any reference to broader dissemination of the requested information, you continue to make clear that you seek a response to "[your] demands for records"—not Cavan's demand. While acknowledging that many of the requested documents are confidential, you expressly state that your "Appointment was carefully defined to provide for [your] independent review" of such information and that you will not "disclos[e] any non-public information to" Cavan. Indeed, you acknowledge that Cavan, which apparently wishes to remain free to trade in the Company's stock, affirmatively seeks "to avoid . . . exposure to inside information" that "would restrict [Cavan's] use or disclosure of any such information." The assertion that you seek this information on behalf of a stockholder that in fact does not want access to the requested information does not entitle you to inspection under Section 220. See *Pershing Square, L.P. v. Ceridian Corp.*, 923 A.2d 810, 817 (Del. Ch. May 11, 2007) (explaining that the "mere statement of a proper purpose" will not "automatically satisfy [Section 220]" and that a corporation "may resist demand where it shows that the stockholder's stated proper purpose is not the actual purpose for the demand"). Given the non-stockholder related objectives of the Shareholder Forum and the purposes set forth in your earlier correspondence, your Revised Demand is additionally rejected for lack of a proper stockholder purpose.

Finally, in addition to the infirmities identified above, and as with your prior demands, the broad scope of the documents requested far exceeds that permitted by the statute. Under Delaware law, a Section 220 demand must "tailor its request for documents carefully so as only to seek documents proportionate to [the stockholder's] legitimate needs." *Fairthorne Maint. Corp. v. Ramunno*, 2007 WL 2214318, at \*8 (Del. Ch. July 20, 2007). As in your prior correspondence, the Revised Demand effectively seeks full access to the Boardroom, requesting "**all**" information received by the Company from the Financial Advisers, as well as "the **same** information that was available to the agents of the Company's Board and its Special Committee." (emphasis added). Such breadth is not the "rifled precision" Delaware law requires.

In these and other respects, as to which the Company expressly reserves all rights and objections, the Revised Demand fails to meet the requirements of 8 *Del. C.* § 220 and Delaware law.

Very truly yours,



Janet Wright  
Vice President - Corporate, Securities &  
Finance Counsel and Assistant Secretary

cc: William D. Regner, Esq.  
Debevoise & Plimpton LLP

S. Mark Hurd, Esq.  
Morris, Nichols, Arsht & Tunnell LLP

Gregory P. Williams, Esq.  
Richards, Layton & Finger, P.A.