

Dell Asked to Respect Rights of Former Co-Investors to Long Term Value

In a letter sent yesterday to Michael Dell (see [below](#)), the increasingly vocal supporter of capitalist and charitable interests was asked to consider instructing Dell Inc.'s attorneys to withdraw a court filing that was apparently designed to discourage his company's former shareholders from exercising their rights to appraisal.

The filing demanded copies of extensive records from each of the investors that have volunteered to act as "petitioners" to guide the appraisal proceedings, requiring copies of all documents since January 2011 relating to their consideration of Dell. This kind of record production can of course be especially burdensome for fund managers that may have had several researchers, analysts, portfolio managers, proxy voting officials and even board members involved in reviews of a company.

Although demands for a representative party's records of investment evaluation are common in securities class actions, in which the claims are based on a plaintiff's assertion that it was misled in its decisions, there is no reason to consider the past or present views of a petitioner in an appraisal proceeding. The appraisal is to be conducted by the court, which may consider expert views. Unless a petitioner plans to take the unusual action of presenting itself as an expert in testimony, its views would have no relevance in the proceeding.

The legal process of resolving this records demand, whether argued or conceded, would be costly to both Dell and the investors – petitioners as well as the more than hundred other former shareholders who may share in the allocation of expenses. While Dell's lawyers may have considered this cost justified to obstruct the appraisal proceeding, none of the parties can be expected to benefit from continuing this legal diversion.

Please let me know if you have any questions. I will of course report Mr. Dell's response to the letter.

GL – July 15, 2014

Gary Lutin
Chairman, The Shareholder Forum
575 Madison Avenue, New York, New York 10022
Tel: 212-605-0335
Email: gl@shareholderforum.com

THE SHAREHOLDER FORUM, INC.

WWW.SHAREHOLDERFORUM.COM
575 MADISON AVENUE – 10TH FLOOR, NEW YORK, NEW YORK 10022
TELEPHONE: (212) 605-0335

July 14, 2014

By email and postal service

Mr. Michael S. Dell
Dell Inc.
One Dell Way
Round Rock, Texas 78682

Dear Mr. Dell:

In the accompanying copy of a July 9, 2014 court filing, you will see that Dell Inc.'s attorneys are making extensive demands for records from the investors that have volunteered to serve as petitioners for the appraisal proceeding in which more than a hundred of your former shareholders are, like you, pursuing their rights to the long term value of your company. I believe you will want to consider withdrawing these document demands, since any response – whether the attorneys for petitioners decide to oppose or appease – will impose significant costs on your company as well as on all the investors required to bear expenses.

As a reasonably informed non-lawyer, my view of the records being demanded is that they could have no possible relevance to either an investor's rights to appraisal or the court's conduct of the appraisal. Especially in the context of an earlier round of legal demands requiring investor responses to dubious challenges of eligibility, the current demands seem to have no purpose other than to create burdens that discourage investors from pursuing their rights.

You may recall that during last year's attention to your buyout I consistently encouraged Forum participants to respect the interests of all investors, including you, in your company's long term enterprise value. When we initiated the project to support minority shareholders' use of appraisal rights to realize that long term value, I stated "Our objective is to support the interests of investors who want the same thing that Michael Dell and Silver Lake are seeking in their proposed acquisition: the long term value of the Dell enterprise, which everyone apparently agrees is greater than the price set by current market bids."* The viability of our capital markets depends on this respect of both buyers and minority shareholders for the interests of the other.

I must now ask you to consider your responsibility to your former Dell shareholders and to the marketplace, and to instruct your representatives to do what is right rather than what is legally arguable.

Sincerely yours,



Gary Lutin

* See the [June 14, 2013 Forum Report: Enabling Use of Appraisal Rights to Choose Dell's Long Term Value](#).



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE APPRAISAL OF DELL INC.) CONSOLIDATED
) C. A. NO. 9322-VCL
)

**RESPONDENT DELL INC.'S
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO ALL NAMED PETITIONERS**

Pursuant to Court of Chancery Rules 26 and 34, Respondent Dell Inc., through its undersigned counsel, hereby requests that each named Petitioner in each constituent action hereof produce the documents described below for inspection and copying at the offices of Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801, within the time provided by the Court of Chancery Rules, or as otherwise agreed to by the parties or ordered by the Court.

DEFINITIONS

1. “Communications” means any exchange of information by any means of transmission, including, but not limited to, face-to-face conversations, mail, electronic mail, instant messaging, text messaging, telegram, overnight delivery, telephone, facsimile or telex.

2. “Documents” or “document” shall have the broadest meaning permitted under Court of Chancery Rule 34(a) and include all writings of any nature whatsoever, whether originals or copies, including all non-identical copies (whether different from the original because of notes made on or attached to them

or otherwise), whether drafts, preliminary, proposed or final versions, whether printed, recorded, produced or reproduced by any other mechanical or electronic process, whether written or produced by hand, within Your possession, custody or control, including without limitation, contracts, agreements, arrangements, understandings, communications, including intra-bank communications, correspondence, telegrams, records, reports, studies, memoranda (including memoranda of telephone, personal or intra-office conversations and memoranda of conferences, notes, advertisements, notices, telex and facsimile communications), telephone bills and records, cables, books, diaries, appraisals, forecasts, statistical statements, accountants' work papers, graphs, summaries, lists, tabulations, calendars, charts, maps, diagrams, blueprints, tables, indices, pictures, recordings, tapes, microfilms, charges, accounts, minutes, brochures, pamphlets, circulars, trade letters, press releases, stenographic, handwritten or any other notes, projections, working papers, checks, check stubs, receipts, invoice vouchers, tape data sheets or data processing cards or disks, magnetic tapes, disks, drums, promotional devices, or any other document or writings of whatever description, including, without limitation, CD-ROMS, e-mails, instant messages, text messages and any information contained in any computer or memory system, although not yet printed out, or any material underlying, supporting or used in the preparation of any such documents. "Documents" or "document" includes ESI.

3. “Dell” or the “Company” means Dell Inc., and any of its officers, directors, employees, parents, subsidiaries, affiliates, business units, segments, or divisions, and any Person that You understand to be acting or purporting to act on behalf of Dell or any of the foregoing.

4. “ESI” means electronically stored information, electronically stored data or electronic data, and is to be interpreted broadly to include all types of information, regardless of the storage media (*e.g.*, hard drive, CD-ROM, DVD, disc, tape, thumb drive, etc.), that requires a computer or other machine to read or process it.

5. “Merger Agreement” means the Agreement and Plan of Merger by and among Denali Holding, Inc. Denali Intermediate, Inc., Denali Acquiror, Inc., and Dell Inc., dated as of February 5, 2013, as amended.

6. “Person” or “Persons” means natural persons, proprietorships, corporations, partnerships, trusts, joint ventures, groups, associations, organizations, and all other entities.

7. “Strategic Alternative Matters” means any actual, offered, proposed, planned or potential (i) alternative to the Transaction, (ii) merger, business combination, reorganization, or joint-venture involving Dell, (iii) tender offer for any securities of Dell, or (iv) sale, purchase or repurchase of any securities or assets of Dell.

8. “Transaction” means the transactions contemplated by the Merger Agreement.

9. “You” and “Your” refers to each named Petitioner responding to this Request, and any of its officers, directors, employees, affiliates, and any Person that is acting or purporting to act on behalf of it or any of the foregoing.

10. “Or” and “and” should be construed disjunctively and conjunctively as necessary to bring within the scope of the request all documents that might otherwise be construed to be outside of its scope, and “any” and “all” as used herein shall include “each” and “every.”

11. The use of the singular form of any word includes the plural and vice versa; and the use of the masculine gender shall include the feminine and neuter genders and vice versa.

INSTRUCTIONS

1. In producing documents and other materials, You are requested to furnish all documents or things in Your possession, custody or control.

2. If any requested document is not or cannot be produced in full, produce it to the extent possible, indicating which document, or portion of that document, is being withheld and the reason that document is being withheld.

3. In producing documents, You are requested to produce each document requested together with all non-identical copies and drafts of that

document.

4. Documents shall be produced as they are kept in the usual course of business or organized and labeled to correspond to the categories in this Request. In making production of ESI, including, without limitation, electronic data compilations, electronic email, or documents that are kept in electronic format (such as, without limitation, Microsoft Outlook, Microsoft Word, Microsoft Excel, Microsoft PowerPoint, or any similar program or platform), produce all documents as kept in the normal course of business and in their native format linked to single page tagged image file format. In making such production, also produce the “metadata” for any electronic documents.

5. All documents shall be produced in the file folder, envelope or other container in which the documents are kept or maintained by the producing party. If, for any reason, the container cannot be produced, produce copies of all labels or other identifying marks.

6. Documents attached to each other should not be separated.

7. If You claim the attorney-client privilege, or any other privilege or work-product protection for all or any portion of any document, produce so much of the document that is not subject to privilege or work-product protection and provide the following information with respect to each such document:

a. date;

- b. author(s) of the document and each and every other person who prepared or participated in the preparation of the document;
- c. a description of its subject matter;
- d. all addresses or recipients of the original or a copy thereof, together with the date or approximate date on which said recipients received said documents;
- e. all other persons to whom the contents of the document have been disclosed, the date such disclosure took place, the means of such disclosure, the present location of the document and all copies thereof;
- f. each and every person having custody or control of the document and all copies thereof; and
- g. the nature of the privilege or other rule of law relied upon and any facts supporting your position.

8. Whenever a document is not produced in full or is produced in redacted form, so indicate on the document and state with particularity the reason or reasons it is not being produced in full.

RELEVANT TIME PERIOD

Unless otherwise indicated, this Request includes the time period from January 1, 2011, to May 10, 2014 (the “Relevant Time Period”). All information and documents concerning this Relevant Time Period, whether prepared or

collected before, during or afterward, are to be produced.

DOCUMENTS REQUESTED

1. All documents and communications concerning any analysis, valuation, financial modeling, estimate, or appraisal, conducted by any Person, of Dell, Dell's market, or any assets, liabilities or securities of Dell. This Request includes, without limitation, all documents and communications concerning any of the following:

a. Analyses of possible prices that any Person might pay to acquire some or all of Dell's assets or securities;

b. Any precedent transaction, discounted stock price, historical stock trading, publicly traded companies, or discounted cash flow analyses conducted in connection with any estimation of the value of Dell;

c. Analyses concerning Dell's financials, business or prospects;
and

d. Financial projections or plans concerning Dell, or any financial projections or plans concerning any business units of Dell.

2. All documents and communications provided or made available to, summarized for, prepared or considered by, or received from any advisors, accountants, appraisers, experts or consultants actually or potentially retained by or on behalf of You or any advisor to You concerning Dell.

3. All documents and communications concerning any financial or revenue projections, forecasts, budgets, or plans for Dell prepared for any purpose.

4. All documents and communications from You to actual or potential partners, investors, owners, members, equity holders, lenders, banks, investment banks, accountants or other third parties concerning the value of Dell or Your investment in Dell at any time.

5. All documents and communications prepared by or provided by You or Your advisors to any Person concerning the Transaction, Dell or Dell's long-term business strategy.

6. All presentations made to You by any Person concerning Dell or the Transaction.

7. Documents sufficient to identify the individual or individuals responsible for making decisions for You relating to: (a) any investment in Dell; (b) whether or not You would vote in favor of the Merger; (c) any internal valuations of Dell; and (d) whether or not You would seek appraisal of any shares of Dell stock.

8. All documents and communications reflecting the purchase, sale, short selling, trading and/or other disposition of any debt, preferred stock, common stock or other security of Dell by any Person.

9. All documents and communications relating to Your investment strategies for trading in Dell securities.

10. All documents constituting reports, opinions, articles, newsletters or publications of analysts concerning Dell, any Dell competitor or peer, any assets, liabilities or securities of Dell, the Transaction, or any Strategic Alternatives Matters.

11. All documents and communications relating to any discussion between You and any other stockholder of Dell concerning: (a) the Transaction; (b) the value of any stock of Dell; (c) whether or not to vote in favor of the Transaction; or (d) any appraisal proceeding regarding shares of Dell stock.

12. All documents and communications concerning or reflecting Your decision to seek an appraisal of Your Dell shares.

13. Without limitation to any Relevant Time Period, all documents which You intend to use or rely upon at any deposition, hearing or trial in connection with this litigation or any related litigation or proceedings, including any appeal thereof.

14. Subject to the Stipulation and Order Governing Expert Discovery, and without limitation to any Relevant Time Period, all documents reviewed by, made available to, shown to, provided to, considered or relied upon by, or prepared by any expert whom You have retained or who has been retained on Your behalf, or with whom You have consulted in connection with this litigation or any related litigation or proceedings, including any appeal thereof.

/s/ John D. Hendershot

Gregory P. Williams (No. 2168)

John D. Hendershot (No. 4178)

Richards, Layton & Finger, P.A.

One Rodney Square

920 North King Street

Wilmington, Delaware 19801

Tel: (302) 651-7700

Dated: July 9, 2014

Attorneys for Respondent Dell Inc.