

Simplified Demand to Dell for Timely Access to Information

Dell's legal officer sent a very short, six-line letter last night rejecting my suggested collaborative discussions to establish efficient processes for responding to information requirements. The letter stated only that the company will continue to rely upon her previously stated views of legal "deficiencies" in my demand for records, without explaining which of the old arguments might remain relevant after the board's special committee declined to accept the unusual fiduciary duties on which the argued legal theories had been based.*

Rather than wait for a court to explain the company's obligations to answer legitimate investor questions, I have started over with a new, simplified demand that should eliminate the need to address any of the previously argued legal views. This new demand is for only transcripts and other records of the speech that Michael Dell reportedly made at the annual meeting of Silver Lake investors last month, as publicly reported in an article to Forum participants titled "[Dell in Rare Feat as PC Speech Gets Investor Cheers](#)." The required statement of purpose in the new demand is as follows:

The stockholder's purpose is to obtain information for which investment relevance has been indisputably established, so that the stockholder can reasonably consider (a) the Company's valuation, (b) whether to vote in support of the Company's buyout proposal, and (c) whether to elect the alternative of appraisal rights to receive fair value instead of the Company's proposed buyout price. Put simply, the stockholder needs to understand why the Company's chief executive officer and Silver Lake, the two leading principals of the proposed buyout, clearly believe that the Company is worth more than the \$13.65 price they have offered to pay.

Copies of both letters have been posted on the Forum website:

- [May 16, 2013 letter from Janet B. Wright, Vice President – Corporate, Securities & Finance Counsel of Dell Inc. to Gary Lutin](#) (1 page, 107 KB, in [PDF](#) format)
- [May 17, 2013 letter from Gary Lutin, as Delegate, to Michael S. Dell of Dell Inc. re: Demand for records](#) (6 pages, 161 KB, in [PDF](#) format)

It is assumed that Dell's lawyers will not have any legitimate arguments to delay a response to this very simple demand, so that we should be able to establish an understanding for

* For the special committee's decisions to adhere to conventional understandings of director duties, see [April 15, 2013 Forum Report: Dell Board Supports Investor Rights to Ask Questions](#) and [May 8, 2013 Forum Report: Proceeding with Dell Investor Information Requirements](#); for links to the legal officer's referenced three letters presenting 11 pages of argued "deficiencies," see [April 3, 2013 Forum Report: Do Dell Directors Want Responsibility for Investor Decisions?](#).

responding to investor information requirements before shareholders have to make decisions about the company's proposed buyout.

Please let me know what questions you have about this process, and any suggestions you can offer to support timely investor access to decision-making information.

GL – May 17, 2013

Gary Lutin
Chairman, The Shareholder Forum
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Round Rock, Texas 78682
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www.dell.com

May 16, 2013

BY EMAIL and FIRST CLASS MAIL

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

Re: Revised Demand for Records

Dear Mr. Lutin:

I am responding to your letter dated May 8, 2013. In my letters dated March 12, March 15 and March 28, I have explained, on behalf of the Company, the deficiencies in your demands purportedly made pursuant to DGCL Section 220. As counsel for the Company, I am not in a position to provide "editing suggestions" for your demands, and because you have not made a proper demand under the statute, there is nothing to discuss with respect to a confidentiality agreement or other "processes for timely responses."

Very truly yours,

A handwritten signature in blue ink, appearing to read "Janet Wright".

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.

THE SHAREHOLDER FORUM, INC.

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May 17, 2013

By email and postal service

Mr. Michael S. Dell
Chairman of the Board and Chief Executive Officer
Dell Inc.
One Dell Way
Round Rock, Texas 78682

Re: Demand for records

Dear Mr. Dell:

In a letter transmitted last night, a copy of which is enclosed, Janet Wright informed me “[a]s counsel for the Company” that Dell Inc. (the “Company”) continues to rely upon her previously stated views of legal “deficiencies” in my demand for records and that “there is nothing to discuss” in relation to my suggested establishment of efficient processes for the Company’s responses. Ms. Wright’s single paragraph provides no indication, however, of which of the arguments in her three previous letters’ 11 pages she considers to be of continuing relevance after the board’s special committee declined to accept the fiduciary duties on which her legal theory was based.

The most practical way to resolve this, considering the stockholder’s need for timely decision-making information, is to start over. I am therefore presenting a new, simplified demand for records that will allow us to progress immediately without any elements that might be inconsistent with Ms. Wright’s previously stated legal views.

First, to avoid any question about whether the specification is too broad, I demand the following records, to the extent that such records exist:

- a recording or transcript of the publicly reported speech given by Michael S. Dell at the annual meeting of Silver Lake Management LLC on or about Tuesday, April 23, 2013;
- a copy of any presentation material associated with the speech; and
- any script or notes used to prepare for the speech or present it.

A copy of an April 26, 2013 news report of the speech accompanies this letter for reference.

The stockholder’s purpose is to obtain information for which investment relevance has been indisputably established, so that the stockholder can reasonably consider (a) the Company’s valuation, (b) whether to vote in support of the Company’s buyout proposal, and (c) whether to elect the alternative of appraisal rights to receive fair value instead of the Company’s proposed buyout price. Put simply, the stockholder needs

to understand why the Company's chief executive officer and Silver Lake, the two leading principals of the proposed buyout, clearly believe that the Company is worth more than the \$13.65 price they have offered to pay.

It is assumed from the fact that the speech was made to an audience of professional investors that none of the demanded records will be confidential. However, if the Company does wish to protect the privacy of any information in these records, I will welcome the proposal of a conventional form of confidentiality agreement used for attorneys, auditors, consultants, financial advisors or others who routinely act as agents to review private information as a foundation for preparing reports that will not be considered private.

Finally, there should be no confusion of my position. I am acting on behalf of a stockholder to make this demand pursuant to Section 220 of the Delaware General Corporation Law, authorized to do so as the "Delegate" according to the accompanying copy of the March 5, 2013 powers of attorney ("Appointment") granted by Cavan Partners, LP ("Shareholder"), which is a record holder of the Company's common stock. (The Company's transfer agent, American Stock Transfer & Trust, has confirmed that their record of the Shareholder's holding of Company stock is available to you.) I have no notice or knowledge that those powers have been revoked.

Please let me know if there is any reason why you will not be able to produce the demanded records within the five day period allowed by law.

Sincerely yours,



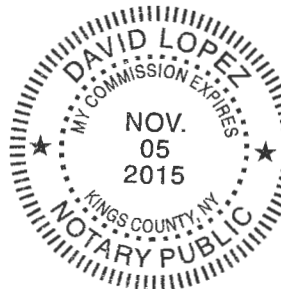
Gary Lutin,
as Delegate

Enclosures

cc: Mr. Alex J. Mandl
Ms. Janet B. Wright



STATE OF NEW YORK
COUNTY OF NEW YORK



#0160677079

Sworn to before me on this 17th day of May, 2013.



Dell Inc.
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May 16, 2013

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Very truly yours,

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Janet Wright
Vice President – Corporate Securities &
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Dell in Rare Feat as PC Speech Gets Investor Cheers

By Serena Saitto - Apr 26, 2013 12:00 AM ET

[Michael Dell](#) this week accomplished a rare feat in the era of the smartphone: He drew applause after a speech on the future of personal computers.

Dell spoke at the annual meeting of Silver Lake Management LLC, which joined with him to take private the PC maker he founded in 1984, according to attendees who declined to be identified because the event was private. Dell, 48, was the surprise speaker at the dinner hosted by the private-equity firm at the Mandarin Oriental Hotel in [Manhattan](#) on Tuesday, the first day of the firm's two-day meeting for investors, or limited partners.

Dell, who addressed about 300 investors on the condition that he not be asked about the \$24.4 billion leveraged buyout of his company, said PCs will remain critical for businesses around the world, according to attendees. The view undercuts reports of record declines in global industry sales, which in part prompted [Blackstone Group LP \(BX\)](#)'s April 18 decision to drop plans to bid for [Dell Inc. \(DELL\)](#) Blackstone also cited the company's "rapidly eroding [financial profile](#)" as a reason for pulling out.

[Silver Lake](#)'s leveraged buyout of Dell is an opportunity for investors to profit, said a limited partner who attended the dinner and asked not to be identified. The investor said he believes, like Michael Dell, that the world still needs personal computers because software runs on hardware.

Michael Dell teamed up with [Menlo Park](#), California-based Silver Lake to take the company private in the largest buyout of a technology company since the financial crisis. They offered

\$13.65 per share in a deal that would require founder Dell to roll over his stake in the company to help finance the transaction.

Blackstone Interest

Blackstone in March expressed interest in acquiring a controlling stake in Dell for \$14.25 a share, before dropping out a month later as global PC sales tumbled. Technology research firm IDC said in an April 10 report that PC sales sank 14 percent from a year earlier in the first quarter. Blackstone also cited other concerns. At the end of March, Dell lowered its forecast for [operating income](#) for the current year to \$3 billion, a 19 percent drop from the previous forecast made around the time of Blackstone's initial overture in March.

The founder, chief executive officer and largest shareholder of [Round Rock](#), Texas-based Dell, also spoke on Tuesday about the importance for its customer base of information-technology security, the promise of cloud computing and his firm's plans to develop more products to meet those needs. Dell has invested in some of these areas, with [acquisitions](#) last year such as network-security company SonicWall Inc., and Wyse Technology Inc., which makes desktop devices for cloud computing.

Employee Letter

A representative for Silver Lake declined to comment. [David Frink](#), a spokesman for Dell, said that "Dell's speech reflects the company's strategy," while declining to comment further because he wasn't at the dinner.

Michael Dell's speech at Silver Lake's dinner was echoed in a letter he sent to employees earlier that day after meeting the company's teams in Austin, Round Rock, [Oklahoma City](#) and Nashville.

"There is still opportunity in PCs," Dell wrote in the letter, which was disclosed in an April 23 filing with the U.S. Securities and Exchange Commission. "The global PC installed base is roughly a billion-and-a-half, and millions of people in [emerging markets](#) continue to come online every week. Overwhelmingly, PCs are still how business gets done around the world.

We are fine tuning and investing in our business to innovate and compete more aggressively where growth is happening.”

Company Executives

This was the first time Silver Lake held its annual meeting in [New York](#), which was also attended by executives of some of its portfolio companies. They include Alibaba Group Holding Ltd.'s Chief Financial Officer Joseph Tsai, and Hollywood talent agency William Morris Endeavor Entertainment LLC's co-CEOs Ari Emanuel and Patrick Whitesell.

Last year, Silver Lake convened its investors in [Pasadena, California](#), where Microsoft Corp. CEO [Steve Ballmer](#) was the guest speaker.

The fact that Silver Lake this month raised a \$10.3 billion fund, the largest ever dedicated to buyouts of technology companies, is a sign of investors' confidence in the firm, said David Fann, CEO of San Diego-based TorreyCove Capital Partners, which advises institutional investors on private equity.

Silver Lake gathered money for the fund “in a difficult fundraising environment,” Fann said. “This speaks volumes about the respect the firm commands from limited partners.”

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