IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

CITY OF ROSEVILLE EMPLOYEES RETIREMENT SYSTEM, Plaintiff, v. DELL, INC., MICHAEL DELL, JAMES W. BREYER, DONALD J. CARTY, JANET F. CLARK, LAURA CONIGLIARO, KENNETH M. DUBERSTEIN, WILLIAM H. GRAY, III, GERARD J. KLEISTERLEE, KLAUS S. LUFT, ALEX J. MANDL, SHANTANU NARAYEN, ROSS PEROT, JR., DENALI HOLDING INC., DENALI INTERMEDIATE INC., DENALI ACQUIROR INC., SILVER LAKE PARTNERS, L.P., SILVER LAKE PARTNERS III, L.P., SILVER LAKE PARTNERS IV, L.P., SILVER LAKE TECHNOLOGY INVESTORS III, L.P., and MSDC MANAGEMENT, L.P., Defendants.	Civil Action No.

VERIFIED CLASS ACTION COMPLAINT

City of Roseville Employees' Retirement System ("Plaintiff"), by and through its undersigned counsel, upon knowledge as to itself and upon information and belief as to all other matters, alleges as follows:

NATURE OF THE ACTION

1. This action challenges Michael Dell's attempt to take Dell, Inc. ("Dell" or the "Company") private in a transaction (the "Going Private Transaction") that offers Dell's public shareholders an egregiously unfair price and threatens to foreclose them from sharing in any of the benefits to be obtained by the Company's unfolding turnaround plan. The Going Private

Transaction offers Dell's public shareholders $13.65 per share – a price so patently unfair that it prompted one shareholder to question whether company insiders are "***trying to steal the company*** because of current market conditions." The $13.65 per share purchase price is approximately ***3% less*** than the price at which the stock was trading just days prior to the Transaction's announcement, represents only a ***25% premium*** over the stock's trading price before news of a potential transaction was reported, and amounts to a ***34% discount*** from the prices at which Dell was trading a year ago. According to Barron's, ***"No major company has ever gone private so cheaply. Most leveraged buyouts are done for double the Dell transaction valuation."***

2. In the few days following the announcement of the Going Private Transaction, Dell's largest outside shareholders lambasted the deal. Dell's largest outside shareholder,[1] Southeastern Asset Management, Inc. ("Southeastern"), has taken the extraordinary step of publicly announcing its intent to vote against the Transaction and to "avail itself of all options at its disposal to oppose the proposed transaction." In a blistering letter to Dell's Board of Directors, Southeastern argued that the Going Private Transaction "***clearly represents an opportunistically timed bid to take the Company private at a valuation far below Dell's intrinsic value, and deprives public shareholders of the ability to participate in the Company's substantial future value***." Underscoring the patent inadequacy of the $13.65 price, Southeastern conservatively values Dell at ***$24 per share***.

3. Dell's second largest outside shareholder – T. Rowe Price, which owns 4.4% of the Company – has also publicly stated its intent to vote down the deal. In a February 12 statement, T. Rowe Price's Chief Investment Officer Brian C. Rogers stated, "***We believe the***

[1] Southeastern beneficially owns on behalf of its advisory clients over 147 million Dell shares, amounting to approximately 8.5% of the Company's outstanding shares.

proposed buyout does not reflect the value of Dell and we do not intend to support the offer as put forward."

4. Richard Pzena – whose firm Pzena Investment Management held 14 million shares of Dell as of September 30 – has also registered his outrage with the deal, calling it "***so compellingly unfair to shareholders that I don't know where to begin.***" Like Southeastern, Pzena values Dell at $25 per share – far in excess of the $13.65 offered under the Going Private Transaction.

5. With Southeastern, T. Rowe Price, Pzena Investment, and several smaller shareholders indicating resistance, ***roughly 19 percent of the shares that are independent are currently opposed to the buyout***. Nevertheless, the opportunity for shareholder-favored alternatives to selling the Company has been significantly impinged while the chance of a third party competing with a Michael Dell-led buyout group is not realistic under the circumstances.

6. While the Board formed a special committee of purportedly independent directors (the "Special Committee") to oversee the process, the Special Committee agreed to the Going Private Transaction following a flawed process. Given the opportunistic timing of the Going Private Transaction – proposed when the Company's stock was trading at depressed levels and while the Company is in the midst of a massive turnaround plan that promises to greatly increase the Company's value – and the fact that the Transaction would give control of the Company to its founder, Chief Executive Officer ("CEO"), and largest shareholder, the Board should have been particularly vigilant to the danger that the Transaction was not in the best interests of Dell's public shareholders. Instead, the Board agreed to a Going Private Transaction under circumstances that made the deal – regardless of its fairness to the Company's shareholders – a *fait accompli*. Michael Dell is financing the Going Private Transaction by rolling over his $3.4

billion equity stake and accessing billions of dollars in offshore cash that the Company stockpiled. Compounding this untenable situation, the Board failed to insist that Michael Dell pay a price that fully values either the significant potential for growth offered by the Company's turnaround plans or the future value of the $13.7 billion in acquisitions the Company's public shareholders have paid for during the past few years. In addition, the Board locked up the Going Private Transaction with an unduly restrictive "superior proposal" provision that prevents the Company from considering the most likely alternatives to the Transaction – namely, a tender offer or other recapitalization.

7. Plaintiff brings this action individually and as a class action on behalf of the public stockholders of Dell other than Defendants and their affiliates (the "Class"). Plaintiff seeks injunctive and other equitable relief to prevent the consummation of the Going Private Transaction. Injunctive relief is necessary to protect Dell's public stockholders from the irreparable harm that would result from the consummation of the Going Private Transaction.

PARTIES

8. Plaintiff City of Roseville Employees' Retirement System ("Roseville") is a retirement system for employees of the City of Roseville, Michigan, administered by a Board of Trustees established pursuant to the Roseville Code. Roseville owns shares of Dell common stock and has owned Dell common stock at all material times alleged herein.

9. Defendant Dell is a corporation organized under the laws of the State of Delaware with its principal executive offices located at One Dell Way, Round Rock, Texas 78682. Started as a personal computer ("PC") company in Michael Dell's dorm room in 1984, Dell has grown to become a global information technology company that offers its customers a broad range of solutions and services delivered directly by Dell and through other distribution channels.

10. Defendant Michael Dell is the Company's founder, CEO and Chairman. As of February 8, 2013, Michael Dell owns approximately 14% of Dell's common stock, making him the Company's largest shareholder.

11. Defendant James W. Breyer ("Breyer") has served as a director of the Company since April 2009.

12. Defendant Donald J. Carty ("Carty") has served as a director of the Company since December 1992. Carty served as the Vice Chairman and Chief Financial Officer of Dell from January 2007 until June 2008, for which he received approximately $9.8 million in compensation. Defendant Carty was deemed non-independent pursuant to NASDAQ Stock Market rules as recently as the Company's 2011 Proxy Statement.

13. Defendant Janet F. Clark ("Clark") has served as a director of the Company since September 2011.

14. Defendant Laura Conigliaro ("Conigliaro") has served as a director of the Company since September 2011.

15. Defendant Kenneth M. Duberstein ("Duberstein") has served as a director of the Company since September 2011.

16. Defendant William H. Gray, III ("Gray") has served as a director of the Company since November 2000. Defendant Gray is also a director of J.P. Morgan Chase & Co., which is acting as the Special Committee's financial advisor in connection with the Going Private Transaction.

17. Defendant Gerard J. Kleisterlee ("Kleisterlee") has served as a director of the Company since December 2010.

18. Defendant Klaus S. Luft ("Luft") has served as a director of the Company since March 1995.

19. Defendant Alex J. Mandl ("Mandl") has served as a director of the Company since November 1997, and currently serves as Presiding Director of Dell.

20. Defendant Shantanu Narayen ("Narayen") has served as a director of the Company since September 2009.

21. Defendant Ross Perot Jr. ("Perot") has served as a director of the Company since December 2009, following the acquisition by Dell of Perot Systems Corporation ("Perot Systems") for approximately $3.9 billion in November 2009. Defendant Perot was appointed to the Board upon the recommendation of former Dell director Thomas W. Luce III and Michael Dell.

22. Defendant Silver Lake Partners ("Silver Lake") is a global technology-focused private investment firm with approximately $14 billion in assets under management. Defendants Silver Lake Partners III, L.P., Silver Lake Partners IV, L.P., and Silver Lake Technology Investors III, L.P are investment funds affiliated with Silver Lake and are parties to the Rollover Contribution Agreement, pursuant to which the parties to the Rollover Contribution Agreement will roll-over shares in exchange for equity interests in the newly-formed private entity. Silver Lake Partners III, L.P., Silver Lake Partners IV, L.P., and Silver Lake Technology Investors III, L.P. are sometimes collectively referred to herein as "Silver Lake." Silver Lake and Michael Dell are sometimes referred to collectively herein as the "Acquiring Group."

23. Defendants Denali Holding Inc., Denali Intermediate Inc., and Denali Acquiror Inc. (collectively, the "Denali Entities") are corporations that are incorporated under the laws of the State of Delaware and are wholly-owned subsidiaries of investment funds affiliated with

Silver Lake and Michael Dell. The Denali Entities were formed as merger vehicles for the Going Private Transaction.

24. Defendant MSDC Management, L.P. ("MSDC") is an investment adviser backed by MSD Capital LP, the private investment firm for Michael Dell and his family. According to the Merger Agreement, MSDC has committed to capitalize Denali with an aggregate equity contribution in an amount up to $250 million subject to the terms and conditions set forth in an equity financing commitment letter, dated as of February 5, 2013.

25. Defendants Michael Dell, Breyer, Carty, Clark, Conigliaro, Duberstein, Gray, Kleisterlee, Luft, Mandl, Narayen and Perot are collectively referred to herein as the "Individual Defendants" and together with the Company, Silver Lake, Denali, and MSDC, the "Defendants."

SUBSTANTIVE ALLEGATIONS

Dell Grows From A Dorm Room Start-Up To A Fortune 500 Company

26. Michael Dell founded his namesake Company in 1984 from his dorm room at the University of Texas, using $1,000 of start-up capital. To this day, Michael Dell dominates the computer giant through his role as Dell's CEO and Chairman. Indeed, Michael Dell is so integrally tied to the Company that the Board took the unusual step of convincing him to return as CEO in 2007 after he voluntarily left that position in 2004. Michael Dell remains the Company's largest single shareholder, owning approximately 14% of Dell's outstanding stock as of February 8, 2013.

27. Dell began as a PC manufacturer. Four years after its founding, Dell went public, raising $30 million and increasing the Company's market capitalization to $85 million. By 1991, Dell had secured a place in the Fortune 500 and Michael Dell had earned the distinction of being the youngest CEO ever to lead a company on this elite list.

28. Throughout the 1990s, Dell continued to gain market share from its competitors in the PC space. By the end of 1999, Dell had become the No. 1 seller of PCs in the United States, the No. 1 seller of PCs to large and medium businesses in the world, and the No. 1 shipper of work stations in the world.

29. During the 2000s, Dell continued to garner accolades. In 2000, sales on dell.com reached an astonishing ***$40 million per day***, making it one of the highest-volume e-commerce sites in the world. By 2001, Dell had become the No. 1 computer systems provider in the world and had become the No. 1 shipper of Intel-based servers in the United States. In 2003, Dell began to sell Dell-branded printers. By 2004, Dell had grown from a dorm-room start-up into the largest PC vendor in the world, netting annual revenues of over $40 billion and trading in excess of $30 per share.

30. Despite its history of success through organic growth, Dell has also grown its business in recent years through substantial acquisitions. Since 2008, Dell has spent $13 billion on acquisitions, $5 billion of which was spent in the last year alone. Dell's acquisition spree focused on companies in storage, systems management, and software and has enabled the Company to expand far beyond its PC roots. While all of Dell's shareholders have made the investments needed to acquire numerous future revenue producers, many of the synergies and other economic benefits of Dell's recent acquisitions have yet to be realized.

31. The following are among the Company's most notable acquisitions:

- On September 21, 2009, Dell announced that it would acquire Perot Systems for $3.9 billion. Perot Systems provided technology services in the industries of health care, government, manufacturing, banking, insurance, and others. Perot Systems was noted to be strong in the field of electronic health records.

- On February 11, 2010, the Company announced that it would acquire KACE Networks, a systems management company, for an undisclosed amount. According to a *CNET* article published on February 11, 2010, Dell was purchasing KACE Networks to expand its

systems management offerings to better address IT administrators in midsize organizations.

- On February 19, 2010, Dell announced that it completed the acquisition of Exanet Ltd., a software company which provides scalable network-attached storage software solutions to original equipment manufacturer ("OEM") partners, for $12 million.

- On July 1, 2010, Dell announced that it would acquire Scalent Systems, Inc. a data center management vendor, for an undisclosed amount. According to a press release, issued by Dell on July 1, 2010, Dell intended to integrate Scalent technology into Dell's advanced infrastructure manager solution.

- On July 19, 2010, Dell announced that it would acquire Ocarina Networks, a company whose storage optimization technology, which includes compression and deduplication, helps customers reduce data management costs, for an undisclosed amount.

- On November 2, 2010, Dell announced that it would acquire Boomi, a Software-as-a-Service integration leader which provides cloud computing services, for an undisclosed amount.

- On January 4, 2011, Dell announced that it would acquire SecureWorks, Inc., a provider of informational security and cloud computing services, for $612 million. In a February 8, 2011 press release, Dell acknowledged that the acquisition of SecureWorks expanded Dell's IT as a Service offerings and gave the company industry-leading capabilities.

- On February 22, 2011, Dell completed the acquisition of Compellent Technologies, Inc., a global provider of enterprise storage systems and its featured product, StorageCenter, a storage area network system that combines standards-based hardware platform and a suite of virtualized storage management applications. The transaction was valued at approximately $960 million.

- On June 16, 2011, Dell acquired RNA Networks, a software networking solutions company, for an undisclosed price. Analysts noted that the acquisition of RNA Networks would enhance Dell's software services portfolio due to RNA Networks' memory virtualization technology and expertise.

- On August 26, 2011, Dell completed the acquisition of Force10 Networks, Inc., a company that develops and markets 10 Gigabit and 40 Gigabit Ethernet switches for computer networking to corporate, educational, and governmental customers, for approximately $700 million. According to an article in *ComputerWorld*, analysts commented that the Force10 Networks, Inc. acquisition would fill for Dell a critical networking hole as the company buys its way into building an integrated technology stack for data centers.

- On February 24, 2012, Dell announced that it had acquired AppAssure, a global leader in complete application protection for virtual, physical and cloud infrastructure, for an

undisclosed purchase price. According to a press release on Dell.com "[t]he acquisition of AppAssure, the nation's fastest growing backup software technology company, further extends Dell's comprehensive storage and software strategy."

- On March 13, 2012, Dell agreed to acquire SonicWall Inc., a company which sold internet appliances directed at content control and network security. The SonicWall acquisition was completed on May 9, 2012 for a price of $1.2 billion.

- On April 2, 2012, Dell announced that it would acquire Wyse Technology, a leading manufacturer of cloud computing and desktop virtualization technologies. The acquisition was completed on May 25, 2012. The transaction was valued at approximately $1 billion.

- On April 3, 2012, Dell announced that it had acquired Clerity Solutions, a leading global provider of application modernization and legacy system re-hosting solutions and software, for an undisclosed price. According to Dell.com, "Clerity capabilities will enable Dell Services to help customers reduce the cost of transitioning business-critical applications and data from legacy computing systems and onto more modern architectures, including cloud."

- On April 5, 2012, Dell announced that it would acquire Make Technologies for an undisclosed price, a leading global provider of application modernization software and services that reduce the cost, risk and time required to reengineer applications.

- On July 2, 2012, Dell announced a $2.4 billion acquisition of Quest Software, an IT management software provider. According to Dell.com "The acquisition provides critical components to expand Dell's software capabilities in systems management, security and business intelligence. In addition, Quest's software portfolio is highly complementary to Dell's scalable design approach to develop solutions that scale with customer needs."

32. Propelled by organic and acquisition-driven growth, Dell rose to No. 44 on the Fortune 500 list in 2012, earning revenues of $62.1 billion for the year. Having moved far beyond its roots as a PC company, a full 30% of Dell's 2012 revenue came from the Company's enterprise solutions services.

Faced With A Contracting PC Market, Dell Embarks On An Aggressive Five-Year Turnaround Plan

33. Despite its meteoric growth, Dell's share price has been slashed in half since 2007 due to a contracting PC market. With the rise in popularity of tablets and smart phones, the Company's core PC business has fallen sharply. Recognizing this fundamental change in the PC

market, the Company has embarked on a massive transformation. The Company has informed the investing public that it is in the midst of a five-year transformation from a "PC manufacturer" to a "single-source provider of corporate cloud and security solutions." The massive acquisitions discussed above are an integral part of Dell's transformation.

34. Although the true return on the Company's investments is still several years away, Dell's strategic shift is beginning to pay off. On February 21, 2012, the Company issued a press release announcing its fiscal year 2012 results. The press release noted that the Company's results represented "***[n]ew corporate highs***" and that "Dell's further expansion as an enterprise solutions and services provider highlighted ***the Company's most successful financial year ever***."

35. On August 21, 2012, in connection with the release of its second quarter fiscal year 2013 earnings, Michael Dell stated:

> "***We're transforming our business, not for a quarter or a fiscal year, but to deliver differentiated customer value for the long term***. We're clear on our strategy and we're building a leading portfolio of solutions to help our customers achieve their goals."

Dell's Chief Financial Officer Brian Gladden echoed Michael Dell's sentiments, noting:

> "***Our performance in the second quarter provided another proof-point that our long-term strategy is right***. We continued our progress in shifting the mix of our business to higher-margin enterprise solutions, led by solid growth in our server, networking, services, and Dell IP storage business."

36. Beyond Dell's own optimism for its future prospects, analysts have responded favorably to Dell's transformation plans. On November 8, 2012, RBC Capital Markets analyst Amit Daryanani praised Dell's plans, stating, "We fundamentally believe Dell is taking the right steps in investing its strategy away from being a PC vendor to becoming an end-to-end enterprise solution provider." BMO Capital Markets analyst Keith Bachman echoed these sentiments, stating on November 16, 2012 that "[we] think Dell is engaging in the right long-term strategy of

buying enterprise revs and diluting its PC business." That same day, JP Morgan pointedly noted that Dell's transformation has "set the stage for decent earnings growth beyond the mid-term."

37. The very day the Going Private Transaction was announced, the Company trumpeted its promising future. That day, Dell stated in a Form 8-K filed with the SEC that "***[o]ur strategy to transform Dell into a leading, global end-to-end solutions provider has driven all of the key steps we've taken over the past four years*** . . . . In the third quarter, our Enterprise Solutions and Services business revenue was $4.8 billion, up 3%, led by 11% growth in our server and networking business." Dell further stated that "[t]he Enterprise Solutions and Services businesses—which generated approximately $14 billion of revenue in FY08—are now achieving an annual run-rate approaching $20 billion, year-to-date are up 4% and have generated more than 50% of our non-GAAP gross margin over that time."

38. With Dell in the midst of a major strategic overhaul that promises to greatly increase shareholder value and return the Company's stock to its pre-2007 levels, the Board agreed to let Michael Dell take the Company private. The Going Private Transaction threatens to prevent Dell's shareholders from realizing the value of the Company's substantial recent acquisitions and to freeze them out of the post-transformation entity.

In The Midst Of The Turnaround Plan, The Board Agrees To Let Michael Dell Take The Company Private

39. In August 2012, Michael Dell approached the Board about a plan to take the Company private. The Board set up a Special Committee to evaluate any offer Michael Dell might make and to weigh the Company's strategic alternatives. The Special Committee was led by lead director Alex Mandl and included board members Laura Conigliaro, Ken Duberstein, and Janet Clark.

40. On February 5, 2013, the Board, acting on the Special Committee's recommendation, unanimously approved a definitive merger agreement (the "Merger Agreement") whereby Michael Dell and Silver Lake would cash out the Company's public shareholders for $13.65. The $24.4 billion Going Private Transaction will leave Michael Dell with roughly 75% of the remaining company and Silver Lake with approximately 25%. The Going Private Transaction will be funded by a combination of (i) cash and rollover equity of Michael Dell; (ii) equity contributed by other members of Dell management; (iii) cash funded by investment funds affiliated with Silver Lake; (iv) cash invested by the Michael Dell-controlled MSD Capital; (v) a $2 billion loan from Microsoft; (vi) the rollover of existing debt; (vii) debt financing committed by Bank of America, Barclays, Credit Suisse, and RBC Capital Markets; and (viii) cash-on-hand.

41. Notably, the Acquiring Group does not plan to make ***any*** radical changes to the Company's management structure or operations, but, rather, simply intends to capitalize on Dell's existing turnaround plan. As Michael Dell stated upon the Transaction's announcement:

> Dell is a relatively young company and I'm a (relatively) young CEO. I am eager to continue to serve as chairman and CEO, and excited to work with our existing senior leadership team. There is much more we can accomplish together and I am committed to this journey and our long-term strategy.

42. The Going Private Transaction is expected to close before the end of the second quarter of Dell's fiscal year 2014, which ends August 31, 2013.

The Board Agreed To The Going Private Transaction Following An Inadequate Process

43. While the Special Committee has gone to great lengths to paint the picture of a pristine sales process, the egregiously low price of the Going Private Transaction has forced Plaintiff to take a closer look. This closer examination undermines the patina of normalcy

surrounding the process, making clear that the process by which the Board agreed to the Going Private Transaction was flawed.

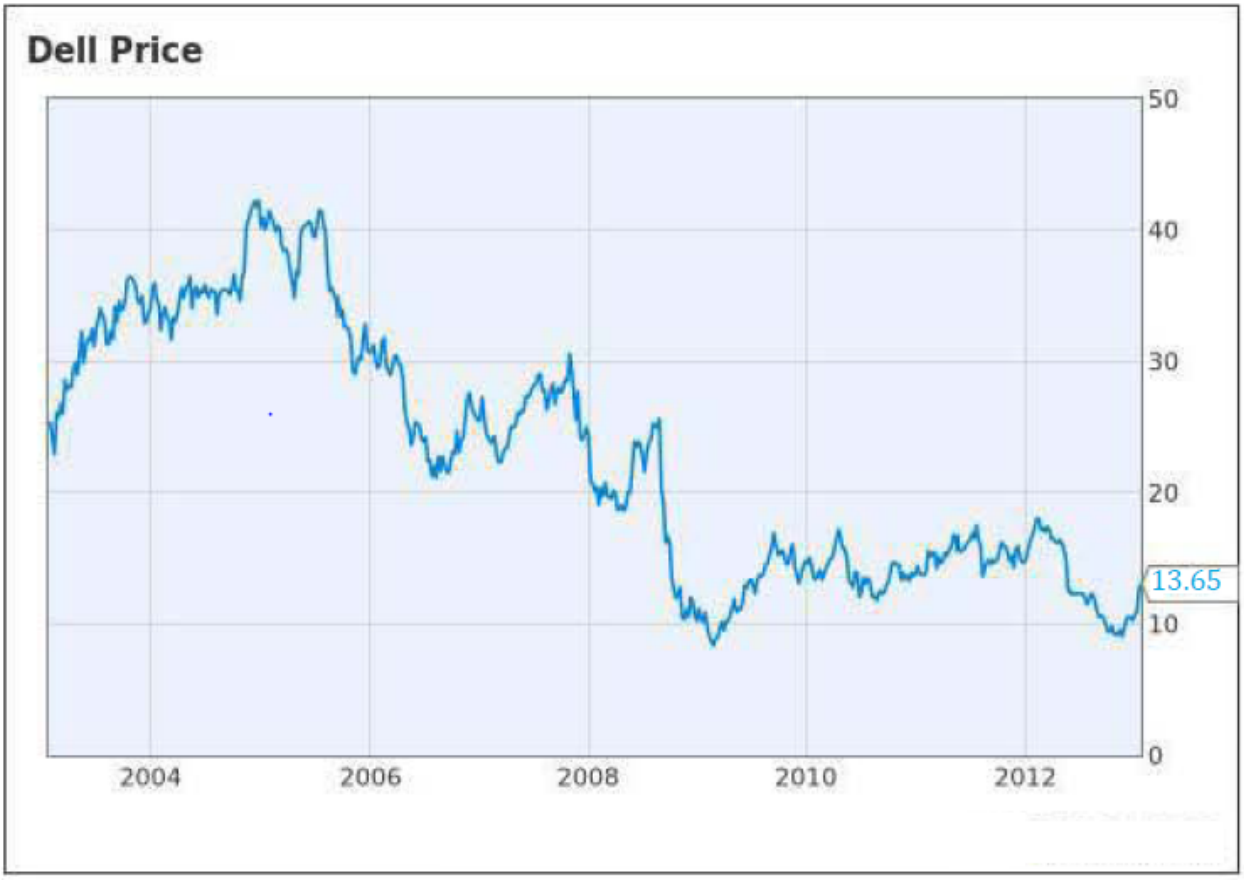
44. The Board's process was not flawed for the reasons "typically" advanced by shareholders opposing a change in control transaction (*i.e.*, lack of go shop, high termination fee, banker conflicts, or the like). Instead, the process leading to the Going Private Transaction was hopeless tainted by the Board's decision to negotiate a deal with Michael Dell that will allow him to use the Company's massive offshore cash stockpile – cash that could have been used to benefit the Company or its shareholders but that, under Michael Dell's leadership, was allowed to languish offshore – to buy the Company on the cheap. The process is also flawed because the Board agreed – despite the clear failure to obtain an attractive offer from Dell or other hypothetical bidders – to contract provisions that completely foreclose the Board's ability to withdraw its recommendation in favor of the precise stock repurchase and recapitalization proposals that must have been anticipated as the most likely and attractive alternatives to a Michael Dell-led buyout.

1. The Board Failed To Proceed With Extreme Caution In Light Of The Opportunistic Timing Of A Going Private Transaction Led By A Company Insider

45. In the months preceding the announcement of the Going Private Transaction, Michael Dell acted to ensure that he acquired his namesake company for as little as possible. Michael Dell's actions will enable him to realize substantial benefits after the Going Private Transaction closes that will not be shared with Dell's public stockholders, with whom his fiduciary duties lie.

46. As discussed above, Dell's stock price has declined in recent years due to the contraction of the PC market. The stock – which once traded in excess of $40 a share – had

fallen to $9 by November 2012, as illustrated in the stock chart below:



The Company's substantial stock price drop created the perfect opportunity for Michael Dell to take the Company private at a price below its fair market value. Further, the Going Private Transaction threatens to strip the public shareholders of their chance to reap the benefits of Dell's turnaround plan and to permanently lock in the massive losses suffered by Dell's long-time public stockholders in recent years.

47. Beyond the opportunistic timing of the Going Private Transaction, the mere fact that the Transaction was proposed by the man whose name the Company bears should have placed the Board on heightened alert. A recent DealBook article aptly titled "Reasons To Be Suspicious Of Buyouts Led By Management" explains the difficult dynamic a board faces when

a controlling insider – let alone the founder of a company that bears his name – decides he wants to take the company private:

> The first issue is price. In such a buyout, a company's executives have an incentive to pay the lowest price possible, yet they are also supposed to represent the interests of shareholders. That's a fundamental conflict.
>
> As a result, ***there is almost always a lingering suspicion that the top executives are timing the buyout to pay a discounted price or are otherwise taking advantage of their unique knowledge to underpay***.
>
> * * *
>
> Why do boards allow this to happen? Directors often feel there is no choice and that if the board says no they will be left not only without a deal but with very unhappy management. And many times other bidders are not willing to jump in because they do not have management on their side.
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> * * *
>
> ***In other words, the transaction is preferred because it is the best of bad choices. And at least one study found that when management preannounced a deal it results in lower premiums presumably because it scares off other bidders.***

(emphasis added).

48. While Dell's Board attempted to mitigate this "fundamental conflict" by appointing a Special Committee, such a step is ineffective in the face of a proposed MBO. While a special committee might seek to mitigate problems or check the proverbial boxes of effective procedure, the management buyout transaction is the ultimate managerial conflict of interest. One can insert as many protections as one can think up, but it does nothing to solve the ultimate conflict. The closest and deepest judicial scrutiny is required.

49. Further, as the Board is undoubtedly aware, even conducting a rigorous go-shop may not be sufficient to ensure a fair, value-maximizing price in the context of an MBO. In a highly publicized analysis of the effect of "go shop" provisions in private equity buyouts, noted Professor of Business and Law at Harvard University Guhan Subramanian found that no MBO

has ***ever*** been "jumped" during a go-shop period. As a result of his analysis, Professor Subramanian concluded:

> [T]here is cause for concern in the subset of go-shops in which current management is part of the buyout group. ***The fact that no high bidder has emerged in an MBO go-shop to date (after nearly two years of experience with go-shops, in a frenzied deal environment) suggests that third parties may be wary of entering a bidding contest, or that bankers might not conduct as thorough and energetic a search, when management has already picked a preferred buyout partner.*** A management team with difficult-to-acquire firm specific skills and knowledge ***can use its inherent advantage to buy the company from public shareholders at a lower price*** by effectively committing to its favored buyout group and making clear its unwillingness to work with any other buyout group that might emerge during the go-shop process.

(emphasis added).

50. Given these circumstances, the Board was duty-bound to proceed with extreme caution in evaluating any deal with Michael Dell. Instead, as described below, the Board permitted Dell to buy the Company with a stockpile of house money that was amassed through the shareholders' own investment in the Company's growth, making the already tough situation of negotiating a fair deal with an interested insider virtually impossible.

2. The Board Is Allowing Michael Dell To Use The Company's Enormous Offshore Cash Holdings To Finance The Going Private Transaction, Positioning Him To Acquire The Company On The Cheap

51. Given the clear conflicts of interest inherent in negotiating an MBO, the Board was required to be particularly vigilant to the possibility that Michael Dell might have been taking advantage of his unique position to buy Dell on the cheap. During Michael Dell's leadership, Dell accumulated massive amounts of cash in offshore accounts. The Company reportedly holds as much $14.2 billion in cash and bonds outside of the United States. Under Michael Dell's leadership, the Company chose not to invest this cash to fund the Company's turn-around efforts or for any other purpose that would benefit Dell's public shareholders but,

rather, let it languish offshore. Now that Michael Dell proposes to take the Company private, he and Silver Lake will be able to use the cash he caused the Company to stockpile during this tenure as CEO to effectively reduce the equity contribution they need to make to close the Going Private Transaction. Because no taxes will be assessed on offshore cash repatriated for the purpose of paying interest on the debt used to finance the Going Private Transaction, the Michael Dell-controlled post-closing private company will enjoy an essentially tax-free repatriation of its offshore cash, and Michael Dell will be able to use this money to pay himself and his co-investors a substantial dividend. As a Seeking Alpha analyst noted, Michael Dell and his buyout partners "could take the entire company private for virtually free *AND* fund a ***$1B dividend to themselves*** rather quickly." Henry Blodget likewise predicted that, even if offshore cash is repatriated and taxed, there is so much cash on hand that, after closing, "Silver Lake and Dell will pay themselves a big dividend to cover their cash investment. ***After that point, they'll be playing with house money***."

52. Leaving the cash offshore for Michael Dell's use to fund the Going Private transaction is particularly egregious here. Notably, Southeastern has suggested a variety of ways the Board could have used this cash (even if taxed) to benefit the Company's shareholders, including (1) paying a one-time cash dividend (which, according to Southeastern's analysis, could have reached as high as ***$12 per share*** will still allowing the Company to realize annual free cash flows of up to $1.34 per share); or (2) launching a "Dutch auction" tender offer for a portion of Dell's stock, thereby allowing investors who want to continue to own Dell stock to do so.

53. The Board could have – but failed to – insist that this offshore cash be distributed to the public shareholders as a condition of allowing anyone (let alone largest shareholder

Michael Dell) to take the Company private. Instead, the Board let the cash sit unused and has essentially agreed to transfer it to Michael Dell upon closing.

3. The Board Agreed To An Unduly Restrictive "Superior Proposal" Provision

54. While the Merger Agreement permits Dell to terminate the Going Private Transaction if the Company receives a "superior proposal," the Merger Agreement defines "superior proposal" in an unduly restrictive manner. Under the Merger Agreement, a "superior proposal" is as follows:

> " Superior Proposal " means a bona fide written Acquisition Proposal (with the percentages set forth in clauses (ii) and (iii) of the definition of such term changed from 20% to 50% and it being understood that any transaction that would constitute an Acquisition Proposal pursuant to clause (ii) or (iii) of the definition thereof cannot constitute a Superior Proposal under clause (i) under the definition thereof unless it also constitutes a Superior Proposal pursuant to clause (ii) or (iii), as applicable, after giving effect to this parenthetical) that the Company Board has determined in its good faith judgment (after consultation with outside legal counsel and its financial advisor) is more favorable to the Company's stockholders than the Merger and the other transactions contemplated by this Agreement, taking into account all of the terms and conditions of such Acquisition Proposal (including the financing, likelihood and timing of consummation thereof) and this Agreement (including any changes to the terms of this Agreement committed to by Parent to the Company in writing in response to such Acquisition Proposal under the provisions of Section 5.3(f) or otherwise), provided that ***notwithstanding the foregoing, an extra-ordinary dividend or share repurchase (or any merger or consolidation that is the economic equivalent of an extra-ordinary dividend or share repurchase) shall not constitute a Superior Proposal unless it constitutes a Superior Proposal by virtue of clause (iii) of the definition of Acquisition Proposal and the first parenthetical above, and the Person acquiring such shares is not the Company or any of its Subsidiaries***.

Merger Agreement at Section 5.3, Acquisition Proposals, Subsection (j) (emphasis added).

55. Critically, paying a large a dividend or launching a Dutch auction tender offer in lieu of the Going Private Transaction is not considered a "superior proposal" under the Merger

Agreement. And thus, the Board is precluded from considering the most likely to be proffered alternatives to the Going Private Transaction. The Merger Agreement prohibits the Board from deeming a recapitalization a "Superior Proposal," no matter how lucrative the transaction would be for Dell's public shareholders.

56. In addition to foreclosing the Company from pursuing what might prove to be the best means to maximize shareholder value, because a recapitalization is likely the only alternative transaction that could cause Michael Dell to exercise his match right and increase his offer, the "superior proposal" provision eliminates any pressure on Michael Dell to make a fair offer in his efforts to take the Company private.

4. The Board Unjustifiably Failed To Insist That Any Prospective Purchaser Pay A Premium Reflective Of Dell's Ongoing Turn-Around Efforts

57. In addition to allowing Michael Dell to use the offshore cash to finance the Going Private Transaction, the Board failed to insist that any prospective purchaser pay a premium reflective of Dell's massive turnaround efforts. As set forth above, Dell is in the midst of a massive turnaround effort that promises to bring the Company back from its PC-contraction slump. In agreeing to sell the Company, the Board should have required any potential acquirer to value these substantial turnaround efforts and to give the shareholders a price reflective of the post-transformation value of the Company. Where, as here, a company is in the midst of a massive turnaround strategy, a Board cannot act consistently with its fiduciary duties by signing a deal with a buyer that offers a "standard" 25% premium to the Company's unaffected share price. The Board should have insisted on a process designed to yield a price reflective of Dell's post-turnaround value.

5. The Board Unjustifiably Failed To Insist That Any Prospective Purchaser "Reimburse" The Company's Shareholders For The Value Of Dell's Substantial Acquisitions

58. In addition to failing to insist that any prospective purchaser offer a premium reflective of the Company's ongoing turnaround, the Board failed to insist upon a price that fully reflects the substantial, but as-yet-unrealized, value of the Company's myriad acquisitions.

59. The Company paid an aggregate of ***at least $7.58 per share*** for its post-2007 acquisitions. Dell has not written down *any* of its investments in these deals.

60. In agreeing to sell the Company, the Board should have followed a process that would have required any potential acquirer to "reimburse" the Company's public shareholders for these substantial acquisitions, the full value of which they will never be around to realize.

The Going Private Transaction Offers An Inadequate Price To Dell's Public Shareholders

61. Having followed an inadequate process in negotiating the Going Private Transaction, the Board arrived at a price that is fundamentally unfair to Dell's public shareholders and that amounts to a breach of the Board's duty to sell the Company for a value-maximizing price.

62. The $13.65 per share price offered to the Company's public shareholders in connection with the Going Private Transaction is grossly inadequate and fundamentally unfair. Indeed, the $13.65 per share purchase price represents a meager 25% premium to the Company's unaffected stock price on January 11, 2013, before news of a potential transaction was reported. Moreover, the offered consideration represents a steep discount to Dell's stock price less than one year ago. On February 21, 2012, Dell stock traded at $18.36 – ***34% higher*** than the $13.65 offered in the Going Private Transaction. This $18.36 was not a short-term anomaly; in fact, Dell traded above $16 for the next two and a half months.

63. Prior to the announcement of the Going Private Transaction, several Wall Street analysts and investment advisors had publicly expressed their views that Dell was worth significantly more than $13.65 per share. For example, Richard Pzena, CEO of Pzena Investment Management – which held 14 million Dell shares at the end of the third quarter – stated that his firm's valuation work suggests Dell is worth $25 per share. Pzena added that while he "might think about supporting an LBO at $20," "***at $15, we think an LBO would amount to insiders trying to steal the company because of current market conditions***."

64. Similarly, on February 3, 2013, investment advisor Shayne Heffernan stated that the $13 to $14 per share price being quoted in news report undervalued the Company and should be rejected by shareholders. Heffernan argued that:

> ***[A]ny buyout offer under $20 a share should be immediately dismissed by shareholders***, further more [sic] any and all groups associated with Michael Dell should be prohibited from voting on the sale at such a low valuation. They should also be now raising questions about the amount of influence Michael Dell exerts over the company remembering his current shareholding is fairly low.

Leaving no doubts about his opinion of the deal, Heffernan stressed that a $13 to $14 per share offer price would amount "to a ***deception of shareholders*** who would be left short changed by the offer."

65. Additionally, Barron's pegged the Company's stock value at $25 per share. Barron's points out that Dell's low price/earnings multiple is one of the lowest in the S&P 500 and the Company ended its most recent quarter with $15 billion in total cash and approximately $5 billion of net cash after debt. Thus, the Going Private Transaction price is "***a steal*** since [the] price [is] less than 10 times forward earnings."

66. The $13.65 price fails to adequately value Dell's other business lines. According to Southeastern's analysis, Dell's remaining business lines should be valued as follows:

- Small to medium business $4.44 per share
- Support and deployment $3.89 per share
- Personal computer $2.78 per share
- Software and Peripherals $1.67 per share

Taking into account all of these factors, Southeastern conservatively values Dell's shares at approximately $24 per share. As Southeastern pointedly concluded, "***In short, the evidence is overwhelming that shareholders are being deprived of their proportionate share of the Company's true value, which is much more than $13.65 per share."*** (emphasis added).

67. The $13.65 price also fails to adequately value one of the Company's most valuable assets – the billions of dollars Dell is holding in offshore accounts and the opportunity being given to Michael Dell to repatriate this cash tax-free.

68. The Going Private Transaction is the result of an unfair process and offers an unfair, non-value maximizing price.

The Going Private Transaction Must Be Entirely Fair To Dell's Public Shareholders

69. Management-led buyouts like the Going Private Transaction are fraught with inherent conflicts of interest. In a corporate sale, management has a duty to secure the best price reasonably available for shareholders. At the same time, too rich an offer makes it harder for management to pay down debt and see a meaningful return on their investment.

70. To ensure that the public shareholders of Delaware corporations are treated fairly in transactions – like the Going Private Transaction – where corporate fiduciaries stand on both sides, Delaware law imposes heightened requirements on corporate directors. *See Mills Acquisition Co. v. Macmillan, Inc.*, 559 A.2d 1261, 1280 (Del. 1988) ("Corporate directors must demonstrate their utmost good faith and the most scrupulous and inherent fairness of any

transactions in which they possess financial, business or other personal interest which does not devolve upon the corporation or all stockholders generally.").

71. This exacting standard of "entire fairness" involves a two part inquiry into whether a corporate transaction is the result of a fair process and results in a fair price. The initial burden of establishing a fair process and fair price rests with the directors defending the transaction. As set forth above, the Dell directors cannot meet their burden under either prong of entire fairness review.

The Board Has A Fiduciary Duty To Sell The Company At A Value-Maximizing Price

72. Even if a court were to conclude that entire fairness does not apply to the Going Private Transaction, it is beyond peradventure that the Board was required to sell Dell at a value-maximizing price. When a target company's board of directors undertakes the process of selling the corporation or entering into a change-of-control transaction, the directors are obligated by their fiduciary duties under the *Revlon* line of cases to secure the highest price reasonably available. *See Revlon v. MacAndrews & Forbes Holdings, Inc.*, 506 A.2d 173, 182 (Del. 1986); *see also In re Toys "R" Us, Inc. S'Holder Litig.*, 877 A.2d 975, 1000-1001 (Del. Ch. 2005) (the court "examine[s] whether the directors have undertaken reasonable efforts to fulfill their obligation to secure the best available price."). Under this standard, the Board is not entitled to the automatic presumptions of the "business judgment rule," but, rather, has the burden of showing that it employed a process reasonably designed to lead to – and which did lead to – the best price available to shareholders.

73. As set forth above, the Board followed a defective process that was not designed to – and did not – lead to a value maximizing price. Under these circumstances, the Board's conduct cannot withstand scrutiny under *Revlon*.

74. The Going Private Transaction threatens to forever deprive Dell's public shareholders of a fair price for the Company. The conduct of Dell's Board cannot withstand scrutiny, viewed under either the "entire fairness" or *Revlon* standard. Accordingly, the Transaction must be enjoined.

CLASS ACTION ALLEGATIONS

75. Plaintiff brings this action for itself and as a class action, pursuant to Court of Chancery Rule 23, on behalf of the Class. Excluded from the Class are Defendants herein and any person, firm, trust, corporation, or other entity related to or affiliated with any of the Defendants.

76. This action is properly maintainable as a class action.

77. The Class is so numerous that joinder of all members is impracticable. As of February 11, 2013, there were approximately 1,738,600,597 shares of Dell common stock outstanding.

78. There are questions of law and fact which are common to the Class including, *inter alia*, the following:

a. whether the Going Private Transaction is entirely fair to Dell's public stockholders;

b. whether the Individual Defendants have breached their fiduciary duties to Plaintiff and the other members of the Class in connection with the Going Private Transaction;

c. whether Plaintiff and the other members of the Class will be irreparably harmed by the wrongs complained of herein; and

d. whether Plaintiff and the Class are entitled to injunctive relief or damages.

79. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature. Plaintiff's claims are typical of claims of the

other members of the Class and Plaintiff has the same interests as the other members of the Class. Accordingly, Plaintiff is an adequate representative of the Class and will fairly and adequately protect the interests of the Class.

80. The prosecution of separate actions by individual Class members would create the risk of inconsistent or varying adjudications with respect to individual Class members that would establish incompatible standards of conduct for Defendants, or adjudications with respect to individual Class members that would as a practical matter be dispositive of the interests of the other members not party to the adjudications or substantially impair or impede their ability to protect their interests.

81. Defendants have acted, or refused to act, on grounds generally applicable to, and causing injury to, the Class and, therefore, preliminary and final injunctive relief on behalf of the Class, as a whole, is appropriate.

COUNT I

AGAINST MICHAEL DELL FOR
BREACH OF FIDUCIARY DUTY

82. Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth herein.

83. Michael Dell has breached his fiduciary duty of loyalty by pursuing his conflicting interests as both a buyer and a seller in the Going Private Transaction. Michael Dell has utilized his position as the Company's founder, Chief Executive Officer and Chairman to extract benefits for himself in breach of his duty of loyalty.

84. As discussed above, Michael Dell has failed to discharge his obligation of entire fairness to Plaintiff and Dell's public stockholders.

85. Plaintiff has no adequate remedy at law.

COUNT II

AGAINST THE INDIVIDUAL DEFENDANTS FOR BREACH OF FIDUCIARY DUTY

86. Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth herein.

87. The Individual Defendants have violated their fiduciary duties of due care and loyalty owed to Dell's stockholders by agreeing to the Going Private Transaction, which does not provide a fair or value maximizing price to the Company's public shareholders and which was agreed to following an unfair process.

88. As shown above, the Individual Defendants have failed to exercise ordinary care and diligence in the exercise of their fiduciary obligations toward Plaintiff and the other Dell public stockholders.

89. As a result of the actions of the Individual Defendants, Plaintiff and the other members of the Class have been and will be damaged in that they will be forced to sell their shares of Dell common stock following an unfair sale process and for an unfair price.

90. Unless enjoined by this Court, the Individual Defendants will continue to breach their fiduciary duties owed to Plaintiff and the other members of the Class and will cause irreparable harm to the Class.

91. Plaintiff and the Class have no adequate remedy at law.

COUNT III

AGAINST SILVER LAKE AND THE DENALI ENTITIES FOR AIDING AND ABETTING BREACH OF FIDUCIARY DUTY

92. Plaintiff repeats and realleges the foregoing paragraphs as if full set forth herein.

93. As alleged in detail herein, the Individual Defendants have breached their fiduciary duties to Plaintiff and the other members of the Class.

94. Silver Lake and the Denali Entities have aided and abetted the Individual Defendants in their breaches of fiduciary duty. As participants in the Merger Agreement, Silver Lake and the Denali Entities were aware of the Individual Defendants' breaches of fiduciary duties and in fact actively and knowingly encouraged and participated in said breaches in order to obtain substantial financial benefits to the detriment of Dell's common stockholders. Indeed, the terms of the transaction, particularly Michael Dell's involvement and obtaining of a majority control in the Company after Dell goes private, are so suspect as to create an inference that Silver Lake and the Denali Entities had knowledge of the Individual Defendants' intended breach of duty.

95. Plaintiff and the Class have no adequate remedy at law.

WHEREFORE, Plaintiff demands judgment and preliminary and permanent relief, including injunctive and other equitable relief, in its favor and in favor of the Class and against Defendants, as follows:

A. Declaring that this action is properly maintainable as a class action;

B. Declaring that Defendants have breached their fiduciary duties to Dell's public stockholders;

C. Preliminarily and permanently enjoining the consummation of the Going Private Transaction;

D. Awarding rescissory relief to Plaintiff and the Class;

E. Awarding compensatory damages to Plaintiff and the Class;

F. Awarding Plaintiff the costs and disbursements of this action, including reasonable attorneys' and experts' fees; and

G. Granting such other and further relief as this Court deems just and proper.

Dated: February 18, 2013

/s/ Stuart M. Grant
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