IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

PAUL DENT, On Behalf of himself and All Others Similarly Situated,	:	
Plaintiff,	:	
vs.	:	Civil Action No. 7950-VCP
RAMTRON INTERNATIONAL CORPORATION, ERIC A. BALZER, THEODORE J. COBURN, JAMES E. DORAN, WILLIAM L. GEORGE, WILLIAM G. HOWARD, JR., ERIC KUO, CYPRESS SEMICONDUCTOR CORPORATION and RAIN ACQUISITION CORP.,	:	
Defendants.	:	

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Chancery Courtroom No. 12A
New Castle County Courthouse
500 North King Street
Wilmington, Delaware
Monday, November 19, 2012
9:08 a.m.

- - -

BEFORE: HON. DONALD F. PARSONS, JR., Vice Chancellor.

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PRELIMINARY INJUNCTION HEARING
AND THE COURT'S RULING

CHANCERY COURT REPORTERS
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Wilmington, Delaware 19801
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(Court resumed at 1:20 p.m.)

THE COURT: Be seated, please. All right. Thank you for your patience.

In this case, I address a stockholder's request that this Court issue the extraordinary remedy of a preliminary injunction against a stockholder vote on a merger between the company in which the stockholder owns stock and the company's would-be buyer. The stockholder alleges that the company and its directors have failed to provide sufficient disclosures to allow the company's stockholders to make an informed decision on whether to vote in favor of the merger or, instead, to seek appraisal. This is my ruling on plaintiff's motion for a preliminary injunction.

The plaintiff, Paul Dent, is an individual who brings this stockholder class action individually and on behalf of all other public stockholders of Ramtron International Corporation, which I'll refer to as "Ramtron" or the "company." Plaintiff is and at all times was an owner of Ramtron common stock.

Defendant Ramtron is a Delaware corporation headquartered in Colorado Springs,

Colorado. Ramtron designs, develops, and markets specialized semiconductor memory, microcontrollers, and integrated semiconductor solutions, used in many markets for a range of applications in metering, computing and information systems, automotive, communications, consumer and industrial, scientific, and medical markets.

Defendants Eric Balzer, Theodore Coburn, James Doran, Jack Saltich, William George, William Howard, and Eric Kuo, the individual defendants, are all members of Ramtron's board of directors. According to defendants' joint brief in opposition to plaintiff's motion, on October 10, 2012, all of the directors resigned from the board except Coburn, Howard, and George.

Defendant Cypress Semiconductor Corporation is a Delaware corporation headquartered in San Jose, California. Cypress is alleged to be a world leader in USB controllers, including the high-performance West Bridge solution that allegedly enhances conductivity and performance in multimedia handsets, PCs, and tablets. It also is a world leader in SRAM memories. Cypress serves numerous markets including consumer, mobile handsets, computation, data

communications, automotive, industrial, and military.

Defendant Rain Acquisition Corporation is a wholly owned subsidiary of Cypress formed to effectuate the proposed buyout.

I refer to Cypress, the individual defendants, and Rain collectively as "defendants."

This case arises from the following factual background, which, unless otherwise noted, is disclosed in Ramtron's definitive proxy statement filed on October 29, 2012. Again, I'll refer to that as the "proxy."

On March 8, 2011, Cypress made an unsolicited proposal to the board to acquire Ramtron for $3.01 per share in cash. This price represented a 37-percent premium over Ramtron's closing price that day. According to plaintiff, the board immediately rejected this proposal.

On March 11, 2011, the board convened a telephonic meeting during which it established a strategic transaction committee to assist the board in considering an acquisition by Cypress or another company. During this meeting, the board also authorized the retention of Shearman & Sterling LLP as Ramtron's special legal counsel and Needham & Company

as Ramtron's financial advisor.

The board rejected Cypress's offer in a March 22, 2011 letter. According to plaintiff's verified and amended class action complaint, which I'll refer to as the "complaint," and I am referring to the complaint in this Delaware action, Ramtron then sold nearly 20 percent of its stock at a net price of $1.79 per share.

On June 22, 2012, Cypress publicly announced a proposal to acquire all outstanding shares of the company for $2.48 per share.

On June 18, Ramtron filed a Recommendation Statement on Schedule 14D-9 recommending that its stockholders not tender their shares to Cypress. On the same day, Ramtron issued a press release rejecting Cypress's offer as inadequate and announced the board's decision to explore strategic alternatives. The proxy states that "in connection with this strategic alternative review process, Ramtron, with the assistance of its financial advisor, contacted 24 companies, entered into seven confidentiality agreements with interested parties (including Cypress) and provided due diligence materials to the interested parties."

On June 21, 2012, Cypress publicly announced a revised proposal to acquire all outstanding shares of the company for $2.68 per share. Ramtron again recommended that the stockholders reject Cypress's offer.

Cypress renewed that offer on July 20, August 6 and August 20, 2012.

In an August 3, 2012 letter to the board, Cypress stated that it was willing to maintain its offer of $2.68 despite Ramtron's ongoing weak performance. The letter also expressed Cypress's willingness to proceed without access to Ramtron's confidential information, but stated that, at Ramtron's request, Cypress had marked up a proposed confidentiality agreement.

In that regard, Cypress further stated that: "we will not have our hands tied just so that you can provide us with management projections, which we do not need and believe are inherently unreliable given both the nature of the industry and Ramtron's record of missing three of the last four years of its own earnings guidance. "And that quote appears in the proxy that has been circulated in connection with the meeting scheduled for tomorrow.

The August 3 letter also stated that Cypress "share[d] the growing frustration of many of [Ramtron's] other stockholders," regarding several unanswered questions, including "Why hasn't the board given Ramtron's stockholders the opportunity to assess the reasonableness of the company's projections for themselves?" and "Did the board and its advisors rely upon projections last year when [Cypress's] prior acquisition proposal was rejected and, if so, how do they compare to Ramtron's actual results?"

Despite its expressed frustrations, Cypress raised its offer to $2.88 per share on August 27, 2012. As with Cypress's prior offers, this offer was not conditioned on financing, due diligence, or access to Ramtron's confidential information or financial projections.

On August 28, Ramtron filed a second amendment to its July 5, 2012 Recommendation Statement again recommending that its stockholders not tender their shares.

On September 8, the board rejected the offer of $2.88 per share.

According to the proxy, the board and Cypress began to negotiate on or after September 8,

2012.

On September 13, the board instructed Needham to present Cypress's financial advisor, Greenhill & Co., LLC, with a counter-proposal of $3.50 per share. Cypress rejected this proposal, however, and the board made another counter-proposal at $3.25 per share. Although Cypress again rejected that counter-proposal, it upped its offer to $3.01 per share. After further negotiations, Cypress finally agreed to an offer price of $3.10 per share conditioned on a termination fee of $5 million.

On September 18, 2012, the Ramtron board convened a meeting with Needham and Shearman & Sterling. At this meeting, Needham -- and this is a lengthy quote -- "discussed with [Ramtron's] [board] their financial analyses of the proposed offer price of $3.10 per share of common stock and indicated to [Ramtron's] [board] that, based on the current draft of the merger agreement, [Needham] was in a position to deliver an opinion as to the fairness, from a financial point of view, of the $3.10 per share of common stock consideration to be paid to holders of shares (other than Cypress, Purchaser and their respective affiliates) pursuant to the merger

agreement."

That same day, Needham delivered its written fairness opinion to the board. In it, Needham opined that "the offer and merger and the merger pursuant to the merger agreement was fair, from a financial point of view, to [Ramtron stockholders]." The board voted unanimously to recommend that Ramtron stockholders accept the $3.10 per share offer and tender their shares.

The next day, September 19, Cypress and Ramtron publicly announced that they had entered into a merger agreement.

Under the merger agreement, Cypress would acquire Ramtron through a two-step process. First, Cypress would make a tender offer for all outstanding shares of Ramtron's common stock at $3.10 per share. Second, Cypress, through its wholly owned subsidiary Rain, would merge with Ramtron. The remaining stockholders of Ramtron would receive $3.10 per share in cash.

Cypress's initial tender offer expired on October 9. After acquiring only approximately 72 percent of Ramtron's outstanding stock, Cypress commenced a subsequent offering that expired on

October 17.

Cypress currently holds approximately 78 percent of Ramtron's outstanding shares. This is enough to make the merger a foregone conclusion but not enough to exercise the merger agreement's top-up option, which requires that Cypress have secured more than 86 percent of Ramtron's outstanding shares.

Unable to exercise the top-up option in the tender offer, Cypress has decided to pursue a long-form merger under 8 Del. C., Section 251. The stockholder vote on the merger is scheduled to take place tomorrow, November 20, 2012, at 8:00 a.m. Pacific time.

Turning to the procedural history of this dispute, plaintiff first challenged Ramtron's dealings with Cypress in a Colorado state court. Plaintiff filed its first complaint there on June 19, 2012. In that complaint, plaintiff claimed that the individual defendants breached their fiduciary duties by refusing to engage in negotiations with Cypress.

After Cypress and Ramtron's public announcement of the proposed buyout on September 19, and Ramtron's filing of its Recommendation Statement on September 25, plaintiff amended his complaint in

Colorado on September 28 to challenge the proposed buyout. Plaintiff also moved for a temporary restraining order on October 4.

On October 5, 2012, the Colorado court denied plaintiff's motion in a one-paragraph ruling which stated, among other things, that plaintiff "has waited over three months' time to make this request to the Court when plaintiff has had knowledge of the circumstances regarding the tender offer and merger agreement well in advance of today's date."

Plaintiff Dent filed this class action complaint in Delaware on October 15, 2012, ten days after losing the preliminary injunction application in Colorado. On October 22, plaintiff filed an amended complaint. Plaintiff moved to expedite these proceedings on October 23, and sought a preliminary injunction on November 5.

On the afternoon of November 5, I heard oral argument on, and granted, plaintiff's motion for expedited proceedings. Since then, the parties have engaged in discovery. Ramtron and Needham have produced documents to plaintiff including board minutes, bankers' books, projections, and financial analyses. Plaintiff has taken depositions

of Gery Richards, Ramtron's chief financial officer and of John Prior, Needham's president and chief executive officer. Defendants have taken plaintiff's deposition.

This morning, November 19, 2012, I heard oral argument on plaintiff's motion for a preliminary injunction, and on the basis of all of these materials, make the ruling that follows:

The complaint states two causes of action. The first claim is for breach of fiduciary duties against the individual defendants and the second claim is for aiding and abetting a breach of fiduciary duties against defendants Cypress and Rain. Defendant Ramtron is named as a necessary party.

The complaint contains several allegations, such as that the board utterly failed to negotiate with Cypress and to shop the company in an adequate sales process, and that the terms of the merger agreement contained preclusive deal protection devices.

Plaintiff's main claim, however, is that defendants breached the fiduciary duty of candor by failing to disclose Ramtron's management's financial projections that covered the second half of

2012 and the years 2013 through 2016.

Ramtron provided these financial projections to Needham and the projections formed the basis for Needham's discounted cash flow or DCF analysis which yielded an implied per share value of Ramtron's common stock equity in a range of $3.57 to $5.01. Defendants, however, have not shared these projections with stockholders.

Plaintiff asks this Court to enjoin the stockholder vote on the merger between Ramtron and Cypress until defendants have disclosed all material information concerning the proposed merger, including, specifically, management's financial projections.

Defendants counter that management's projections are neither accurate nor reliable. Defendants claim that they are not required to disclose these projections because the projections are not material and disclosure of the projections would create a greater risk of confusing Ramtron's stockholders than informing them on whether to accept the $3.10 offer price or to seek appraisal.

To support their contention that these projections are not material, defendants make several points. First, they emphasize that Cypress did not

have access to Ramtron's financial projections when it decided to enter the merger agreement. Indeed, as disclosed in the proxy, Cypress noted at least once in an August 3 letter that it found management's projections to be "inherently unreliable."

Second, defendants argue that approximately 75 percent of Ramtron's stockholders did not find the lack of projections in the proxy to be significant because they tendered their shares to Cypress without those projections.

Third, defendants note that they disclosed Needham's financial analyses, the summary of which fills six single-spaced pages in the proxy and conspicuously provides that the DCF analysis yielded an equity value between $3.57 and $5.01 per share as compared to the merger consideration of $3.10 per share.

Fourth, defendants assert that plaintiff does not need the projections to decide whether to tender his shares because he admits that he has already determined that the $3.10 offer price is too low.

Defendants also emphasize that approval of the merger is not in doubt because after

the two tender offers, Cypress owns 78 percent of Ramtron's outstanding stock. They further stress that no other bidder ever materialized, even though the board engaged in a lengthy exploration of strategic alternatives and contacted 24 companies.

Defendants further contend that, in any case, plaintiff lacks standing to bring this class action. Plaintiff, defendants assert, already has decided to vote against the proposed merger and to pursue an appraisal. Because the additional disclosures plaintiff seeks will have no impact on his decision, defendants apparently contend that plaintiff will suffer no injury from the alleged disclosure violation.

Turning to my analysis, this Court has broad discretion in granting or denying a preliminary injunction. The moving party must demonstrate each of the following three elements: First, a reasonable probability of success on the merits at a final hearing; second, an imminent threat of irreparable harm; and third, a balance of the equities that tips in favor of the issuance of the requested relief.

The moving party bears a considerable burden in establishing each of these necessary

elements. Plaintiffs may not merely show that a dispute exists and that the plaintiffs might be injured; rather, plaintiffs must establish clearly each element because injunctive relief will never be granted unless earned. However, there is no steadfast formula for the relative weight each deserves. Accordingly, a strong demonstration as to one element may serve to overcome a marginal demonstration of another.

Moreover, preliminary injunctive relief should not be granted if the injury may be adequately compensated for after a full trial on the merits, either by an award of damages or by some other form of equitable relief. The injury must be of such a nature that no fair and reasonable redress may be had in a court of law and that to refuse the injunction would be a denial of justice.

Preliminarily, I briefly address defendants' arguments that plaintiff lacks standing to bring this claim. Defendants argue based on the discovery taken that plaintiff lacks standing because he stated that he believes the $3.10 per share price is too low, even without access to management's projections, and that he already has decided not to

seek appraisal. Defendants refer the Court to the following language from Dent's deposition. And here, I'm quoting:

"Question: Is it fair to say that given that you believe that the $3.10 price is unfair that you intend to seek appraisal of your shares?

"Answer: I don't.

"Question: You don't intend to seek appraisal?

"Answer: I don't intend to seek appraisal, no, not at this point. I leave it to my legal counsel to decide if that makes sense.

"Question: So the only way you're going to decide whether to seek appraisal or not is through discussions ... with your legal counsel?

"Answer: That is correct.

"Question: And are you aware that there's a shareholder vote that's currently set for the merger for November 20?

"Answer: Yes.

"Question: Do you intend to vote for or against the merger?

"Answer: Against."

Dent's testimony regarding his intent

to seek appraisal is inconclusive in my view. Dent specifically states that he "leave[s] it to his legal counsel" to decide if not seeking appraisal makes sense.

At this preliminary stage, I am not persuaded that Dent will suffer no harm or that he is an inadequate class representative under the applicable case law. Accordingly, I do not base my ruling on a finding that Dent lacks standing.

Turning to the requirements for preliminary injunction, the first is a reasonable probability of success on the merits. Plaintiff's main contention is that the board reached its duty of complete candor by failing to include in the proxy Ramtron's management-prepared projections upon which the financial advisors relied. Accordingly, the first element that plaintiff must prove is that he has a reasonable probability of success in demonstrating that the failure to disclose these projections constitutes a breach of the board's duty of disclosure.

The duty of disclosure is a specific application of a corporate directors' fiduciary duties of care and loyalty. This duty requires directors to

disclose fully and fairly all material information within the board's control when it seeks shareholder action. In duty of disclosure cases, the issue is whether shareholders have been provided with appropriate information upon which an informed choice on a matter of fundamental corporate importance may be made.

Because the considerations to which the business judgment rule originally responded are not present in the shareholder voting context, this Court does not defer to directors' judgment about what information is material, or at least ordinarily it does not, but determines materiality for itself from the record at the particular stage of a case when the issue arises.

An omitted fact is material if there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote. Moreover, an omitted fact that otherwise might not be material may become material where the omission renders the partially disclosed information materially misleading.

Once defendants travel down the road of partial disclosure, they have an obligation to

provide stockholders with an accurate, full, and fair characterization of whatever they disclose. As defendants point out, Delaware law does not require the disclosure of inherently unreliable or speculative information which would tend to confuse stockholders or inundate them with an overload of information.

The omitted disclosure at issue in this case is Ramtron management's financial projections. "There is no per se duty to disclose financial projections furnished to and relied upon by an investment banker. To be a subject of mandated disclosure, the projections must be material in the context of the specific case." That statement of the law comes from McMillan v. Intercargo Corp. from the Delaware Court of Chancery in May of 1999.

In this case, the evidence demonstrates that the projections are not material. Here, as in the Delaware Supreme Court case Skeen v. Jo-Ann Stores, Inc., there are no facts suggesting that the undisclosed information is inconsistent with, or otherwise significantly differs from, the disclosed information.

For example, the proxy discloses that in addition to a DCF analysis, the financial advisor,

Needham, performed a selected company analysis, a selected transaction analysis, and a stock price premium analysis. These three analyses indicate that a merger at $3.10 is within a reasonable range, if not on the high side of a reasonable range of merger prices. The DCF, by contrast, values the company at between $3.57 and $5.01 per share. The proxy expressly states that the DCF analysis was "based on Ramtron's management's forecasts."

A reasonable inference from these disclosed data points is that management's projections are relatively optimistic, but were considered by the individual defendants, that is, the board, and Needham.

Furthermore, the board continuously rejected Cypress's offers and attempted to obtain a price of $3.50 per share, which is roughly at the low end of the price range supported by the Ramtron DCF that was performed by Needham. The proxy further discloses that the only bidder, Cypress, rejected that offer as well as a later Ramtron proposal of $3.25 per share.

The two cases cited and primarily relied upon by plaintiff for a contrary conclusion and

to demonstrate that management projections are material are Maric Capital Master Fund, Ltd. v. PLATO Learning, Inc. and In Re Netsmart-Technologies Inc. Shareholders Litigation.

These cases in my view, however, do not compel a different result in the circumstances of this case. I have looked at each of those cases carefully and believe that there are factual distinctions between those cases and the situation before me, and that when this case and the proxy disclosures are viewed in context of all the circumstances, that there has not been a showing here that the management projections are material and that it is necessary that they be disclosed in some form of supplemental proxy in this case.

Accordingly, plaintiff has not shown that the class is reasonably likely to succeed in proving the merits of its disclosure claim. The stockholders have received sufficient information from which they can deduce that management's forecasts support a price higher than $3.10 per share. The record nevertheless demonstrates that, notwithstanding management's relatively bullish forecasts, the other metrics that were studied by the investment advisor

make the $3.10 per share price supportable.

For example, Needham performed three other financial analyses that place $3.10 in a reasonable range; no other company expressed interest in buying Ramtron at any price; and others in the industry, including Cypress, Ramtron management, and one of the few analysts covering Ramtron, recently have expressed -- recently, when I say that, I mean back in the time period that's relevant to the proxy statement -- have expressed skepticism about the accuracy of forecasts in this industry, the industry that's before me, generally, semiconductors, and by Ramtron's management in particular.

Defendants further contend that Ramtron management's projections are immaterial because they are unreliable. To support this contention, they note that Cypress considered the projections to be "inherently unreliable" and did not care to use them to support its continued offers to buy Ramtron.

In addition, defendant's expert, Professor John Coates from Harvard, explains in his expert report that between October 2011 and June 2012, Ramtron repeatedly failed to achieve its public

guidance and also its internal projections.

On July 24, 2012, Ramtron publicly announced that because of "limited near-term visibility," the company no longer would provide annual guidance but would give guidance only for the next reported quarter. And by the end of the second quarter of 2012, there was not a single firm providing guidance for or forecasting the company's future results.

There is evidence, however, that management's projections were not necessarily unreliable. In preparing its fairness opinion, Needham accepted the projections and used them in its analyses of the company. Additionally, during negotiations with Cypress, management attempted to obtain a price of $3.50 per share, presumably based in part on management's projections. The board's negotiations with Cypress indicate, again, consistent with management's projections and the DCF performed by Needham, that the board believed a higher price than $3.10 was justified.

In this case, however, the materiality of management's projections does not turn on whether those projections were reliable or unreliable.

Rather, the question is whether there is a -- and this is taken from the Supreme Court's decision in Skeen v. Jo-Ann Stores, Inc. -- the question is whether there is "a substantial likelihood that the undisclosed information would significantly alter the total mix of information already provided."

I find that plaintiff has not demonstrated a reasonable likelihood of success in proving that that is the case here. Stated another way, it is unlikely that a reasonable stockholder would find the projections to be important as opposed to merely helpful in deciding how to vote on the merger or whether to seek appraisal.

Turning very briefly to irreparable harm, under Delaware law, the threat of an uninformed stockholder vote constitutes irreparable harm. It is appropriate for the Court to address material disclosure problems through the issuance of a preliminary injunction that persists until the problems are corrected. An example of that is the ODS Technologies v. Marshall case.

According to plaintiff, the stockholder vote scheduled to take place tomorrow will be uninformed because stockholders do not have all

material information necessary to make an informed decision. This harm can be remedied, plaintiff argues, by a preliminary injunction that briefly defers the stockholder vote until an appropriate supplemental disclosure can be made.

Defendants counter that plaintiff cannot demonstrate irreparable harm for three reasons: First, plaintiff has failed to establish a disclosure violation; second, plaintiff's alleged harm is speculative; and third, any harm may be addressed through the quasi-appraisal remedy.

As discussed above, I find that plaintiff has not demonstrated that he is likely to succeed in proving that defendants failed to disclose material information. The disclosure of management's financial projections may be helpful to plaintiff, but that alone is not sufficient.

Based on the entirety of the proxy, it appears that defendants have provided stockholders with the information they need to make an informed vote. Therefore, I conclude that plaintiff will not suffer irreparable harm if injunctive relief is denied in the sense that plaintiff supposedly would be required to make an uninformed stockholder vote.

Turning now to the balance of the equities, plaintiff has not demonstrated a likelihood of success on the merits of his disclosure claim, as I noted. Even if he had, however, the showing would be marginal at best. In these circumstances, plaintiff would not suffer irreparable harm even if this Court's evaluation of the disclosure claims is mistaken and he tenders his shares based on inadequate disclosures. That is because if plaintiff ultimately succeeds in demonstrating that the disclosures were materially deficient, plaintiff can pursue a quasi-appraisal remedy.

This Court has expressed a preference for addressing disclosure deficiencies in advance of a stockholder vote, and it is on that basis that I granted the motion to expedite in this instance and heard this preliminary injunction hearing today on very short notice to all involved.

For example, Chancellor Allen stated in Steiner v. Sizzler Restaurants, Inc., that "Where complete, corrected disclosure can be made before corporate action is taken, the cost and inherent risk of error that unavoidably accompanies ... 'quasi-appraisal' calculation is avoided. Thus

corrective disclosure ... is a favored remedy."

In Steiner, however, the Court noted that where, as in this case, plaintiff's disclosure claims were not strong, a preliminary injunction was not warranted based on the existence of an alternative, if in some respects less attractive, remedy.

In this case, where plaintiff's claims are weak or nonexistent on the merits, the availability of an alternative remedy means that the potential harm to plaintiff, if an injunction ends up being denied improvidently, would be relatively small, in my view.

Conversely, if this Court enjoined the stockholder vote, defendants as well as Ramtron and Cypress's respective customers, employees, and stockholders would face several potential harms. No other interested buyer for Ramtron has emerged. Cypress's offer represents a 71.3-percent premium over Ramtron's closing price on June 11, 2012. That was the last trading day before the first public announcement of Cypress's offer to acquire Ramtron. Although defendants do not argue that the deal is at risk if the stockholder vote is delayed, they do

contend that they will suffer harm from the uncertainty surrounding an announced but unconsummated merger.

At this time, Cypress has de jure but not de facto control over the company. Under the merger agreement, for example, Cypress is unable to cause Ramtron to make any changes outside of Ramtron's ordinary course of business. Furthermore, Ramtron's chief executive officer, Gery Richards, stated in his deposition that he was concerned that Cypress would walk away from the deal and that, if it had, then maybe Ramtron would not have been able to continue as a going concern.

Enjoining the stockholder vote, therefore, would delay Cypress's ability to exercise control over Ramtron's business and operations at a time when the company is performing below expectations and may face some level of distress.

Based on these facts, the balance of the equities weighs slightly in favor of this Court staying its hand and allowing the shareholders to be heard on the merits of this transaction, especially given the tempering power of the appraisal remedy, as was noted in the Louisiana Municipal Police Employees

Retirement System v. Crawford case from Chancery in 2007.

So for all of those reasons, I deny the plaintiff's motion for a preliminary injunction, and so order.

Thank you very much.

(Court adjourned at 2:00 p.m.)

CERTIFICATE

I, JEANNE CAHILL, Official Court Reporter for the Court of Chancery of the State of Delaware, do hereby certify that the foregoing pages numbered 3 through 79 contain a true and correct transcription of the proceedings as stenographically reported by me at the hearing in the above cause before the Vice Chancellor of the State of Delaware, on the date therein indicated.

IN WITNESS WHEREOF I have hereunto set my hand this 19th day of November, 2012.

/s/ Jeanne Cahill

Official Court Reporter
of the Chancery Court
State of Delaware

Certificate Number: 160-PS
Expiration: Permanent