



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

**GEORGE GRAYSON, individually and
derivatively, in part, on behalf of
Imagination Station, Inc.**

Plaintiff

vs.

**IMAGINATION STATION, INC.,
AND RICHARD H. COLLINS**

Defendants

C.A. No. 5051-CC

VERIFIED AMENDED COMPLAINT

Plaintiff George Grayson, individually as a stockholder and director of Imagination Station, Inc., ("IStation" or the "Company") and, as to certain claims, derivatively on behalf of the Company files this amended complaint and alleges as follows:

NATURE OF THE ACTION

1. This action is brought by Grayson to void acts purportedly taken at a meeting of the Company's board of directors, which acts included approval of a series of self-interested transactions between the Company and the defendant, Richard Collins, who is also a stockholder, director and the CEO of IStation. To the extent the claims challenge acts that diluted and interfered with Grayson's equity and voting power in the Company, Grayson asserts such claims individually and directly. To the extent plaintiff's claims seek disgorgement of benefits by the individual defendant and recovery of costs incurred by the Company as a result of the individual defendant's breach of his fiduciary duties, the claims are asserted derivatively and demand upon the Company's board of directors is excused as is explained below.

2. Collins blatantly and wrongfully manipulated the composition of the Company's board to replace Grayson's designee with his romantic partner notwithstanding the prior approval of Grayson's designee by the full Board. Collins engaged in these actions so as to obtain approval of the interested transactions which, if allowed to stand will (i) permit Collins to increase the amount of stock owned by Collins (and correspondingly dilute the equity position of Grayson), (ii) saddle the company with \$3 million in debt owed to Collins or his affiliates at 9% interest, (iii) retroactively grant stock options to Collins, (iv) pay \$250,000 for past services rendered, and (v) grant Collins a pay raise to \$300,000 per year. In addition, Collins, despite acknowledging Grayson's and his designee's position as directors, wrongfully interfered with the ability of Grayson and his designee to participate in the meeting at which the Company's Board allegedly approved the interested transactions.

3. Collins engaged in these wrongful acts both because of his financial interests in the challenged transactions which, were they to stand, would have the effect of increasing Collins' ownership in IStation from approximately 42% to 52%, (and provided a platform for further dilution through the grant of options) and as a form of personal pique directed to Grayson who, while CEO of IStation, had terminated an employee of the Company who had been in a romantic relationship with Collins. Furthermore, Collins achieved retroactive and prospective increases in his salary and also disclosed the grant of a \$120,000 salary to his current romantic partner who also serves as the Chief Financial Officer of the Company.

4. Collins' actions violate his fiduciary obligations to Grayson and the Company and its other stockholders and also are in direct violation of terms of an Amended and Restated Voting Agreement dated December 15, 2006 between IStation, Grayson, Collins and Randall

Goss (another director and stockholder of the Company) (the "Voting Agreement"). A copy of the Voting Agreement is attached as **Exhibit A.**¹

5. By this action, Grayson (i) seeks to have the self-interested transactions declared void for lack of Board approval and appropriate equitable relief rescinding, reforming or amending the terms of those transaction, (ii) seeks declaratory and equitable relief to enforce Grayson's rights under the Voting Agreement, and (iii) seeks damages including his attorneys fees and expenses as provided for in the Voting Agreement.

THE PARTIES AND OTHER RELEVANT PERSONS

6. Plaintiff George Grayson is an individual residing in Collin County, Texas. He is an entrepreneur, inventor, engineer, educator, software executive, philanthropist, and the founder and creator of IStation. From July 1998 until October 2007, he was the Chairman and CEO. As a result of one of the transactions being challenged here, he holds approximately 23% of IStation's outstanding stock. Prior to that transaction, he and his interests held approximately 32% of IStation's stock. Pursuant to section 2(b) of the Voting Agreement, Grayson has the right to designate two (2) of IStation's five (5) board seats. Pursuant to that right, he has designated himself and Douglas C. Kittelson as his designees to the Company's Board of Directors.

7. Defendant IStation d/b/a ISTATION.COM, INC is a privately held Delaware corporation with its principal place of business at 800 E. Campbell Rd. Ste. 224, Richardson, TX 75081. IStation has approximately twenty million shares outstanding held by approximately fifty different persons. There is no public market for IStation's shares. IStation provides

¹ All Exhibits referenced herein are exhibits to and were filed with the original complaint on November 6, 2009. Plaintiff is not refilling the exhibits with this amended complaint, but incorporates them as Exhibits to this amended complaint as if they were attached hereto.

Internet-based software and services that improve student performance and productivity for educators.

8. Defendant Richard H. Collins is an individual residing in Dallas County, Texas. He became an IStation shareholder in March 1999. Presently, Collins is the Chairman and CEO of IStation. Collins is entitled to one (1) board seat under Section 2(b)(iii) the Voting Agreement. Collins has designated himself to the Board pursuant to that right. As a result of the challenged transactions, Collins claims to hold approximately fifty-two percent (52%) of IStation's outstanding stock. Before the Dilutive Transaction, Collins held approximately forty-two percent (42%) of the Company's shares.

9. Randall Goss is the only other significant shareholder of the Company. He holds approximately five percent (5%) of IStation's outstanding shares. Goss became an IStation shareholder in March 2004. Under the Voting Agreement, Goss is entitled to designate one (1) board seat and he has designated himself to that seat.

10. Beyond Grayson, Collins and Goss, the Company's remaining shareholders, most of whom are employees, hold relatively small amounts of IStation's shares.

11. The fifth seat on the Board of Directors is Robert Blevins who is also the President of IStation. Blevins' wife and son also work for the Company. Collectively, the three family members earn approximately \$500,000 annually in salaries and compensation.

BACKGROUND

12. Historically, IStation had no debt, and grossed about \$4.5 million per year in revenues. As an educational software provider, IStation is capable of moderate, long-term growth, but its ability to generate short term, substantial growth is limited. As a result, it is important not to over leverage IStation as the Company cannot expect or sustain significant revenue increases through growth of its revenue streams.

13. It is these dynamics that have been the principal factor underlying the disputes between Grayson and Collins relating to the affairs of the Company. Collins has and is causing the Company to incur debt at levels that are unsustainable given the nature of the Company's business and the structural limitations on its ability to achieve growth. On information and belief, Collins has embarked on a plan to overspend on sales and production expenses, fund those deficits personally and use that funding as a way to increase his equity position in the Company and dilute other stockholders including Grayson. The end goal is to sell the Company to a larger participant in the educational software market. In that case, Collins will receive repayment of his loans first and then receive a greater portion of any proceeds that ultimately flow to stockholders.

14. Prior to December 2006, Plaintiff owned and controlled all of the voting stock of IStation.

15. In December 2006, IStation recapitalized (the "2006 Recapitalization"). As part of the 2006 Recapitalization, Collins and Goss agreed to make additional investments in IStation, and in return, Grayson agreed to create a five (5) member board with Grayson having the right to designate two directors, Collins and Goss each having the right to designate one director, and the fifth director to be elected by vote of all shareholders.

THE VOTING AGREEMENT

16. To effectuate the Recapitalization, IStation, Grayson, Collins and Goss entered into the Voting Agreement in December of 2006.

17. Grayson designated himself and Juana Daniels as his initial board representatives under the Voting Agreement.

18. Relevant provisions of the Voting Agreement provide as follows:

2. **Election of Directors.** Except as otherwise set forth below in subparagraph (c), at each annual meeting of the stockholders of the Company, or at each special meeting of the stockholders of the Company involving the election of directors of the Company, and at any other time at which stockholders of the Company will have the right to or will vote for or render consent in writing regarding the election of directors of the Company, then and in each event, each of the Representatives shall vote all of his respective Shares in favor of the following actions:

(a) to fix and maintain the number of directors at five (5); and

(b) to cause and maintain the election to the Board of (i) two (2) persons designated by the Grayson Representative, who shall initially be Grayson and Juana Daniels, (ii) one (1) person designated by the Goss Representative, who shall initially be Goss and (iii) one (1) person designated by the Collins Representative, who shall initially be Collins; and

(c) at the first meeting of the stockholders following the effective date of this Agreement that involves the election of directors of the Company, to cause the election to the Board of Robert Blevins as the fifth director; thereafter, the Representatives may vote, in their discretion, alone or together with each other, for any person to be the fifth director.

None of the Parties entitled to designate directors hereunder shall vote to remove any director designated by any other Party pursuant hereto, except for bad faith or willful misconduct. *Each of the Parties shall vote or cause to be voted all shares owned by them or over which they have voting control (i) to remove from the Board any director designated by any Party pursuant hereto at the request of such Party, and (ii) to fill any vacancy in the membership of the Board with a designee of the Party whose designee's resignation or removal from the Board caused such vacancy.* (emphasis added).

19. The Company, as a party to the Voting Agreement, agreed to take all acts necessary to accomplish the objectives of the Voting Agreement:

4. **Covenants of the Company.** The Company agrees to use its best efforts to ensure that the rights granted hereunder are effective and that the Parties hereto enjoy the benefits thereof. The Company will not, by any voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be performed hereunder by the Company, but will at all times in good faith assist in the carrying out of all of the provisions of this Agreement and in the taking of all such actions as may be necessary, appropriate or reasonably requested by a Party in order to protect the rights of the Parties hereunder against impairment.

20. In section six of the Voting Agreement, the parties stipulate that any breach of the agreement cannot be adequately remedied by money damages and that specific enforcement or injunctive relief is the appropriate remedy for any breach or threatened breach.

6. Specific Enforcement. It is agreed and understood that monetary damages would not adequately compensate an injured Party for the breach of this Agreement by any Party, that this Agreement shall be specifically enforceable, and that any breach or threatened breach of this Agreement shall be the proper subject of a temporary or permanent injunction or restraining order. Further, each Party hereto waives any claim or defense that there is an adequate remedy at law for such breach or threatened breach.

21. The Voting Agreement specifies that Delaware law governs the agreement.

16. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Delaware as applied to agreements among Delaware residents entered into and to be performed entirely within Delaware.

22. Section 19 of the Voting Agreement is a loser pays provisions. It provides that if litigation is necessary to enforce the terms of the agreement, "... the prevailing Party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled."

23. After execution of the Voting Agreement and throughout 2007, significant disagreements arose between Grayson and Collins regarding the affairs of IStation.

THE 2008 SETTLEMENT AGREEMENT

24. In June of 2008, the parties resolved their difference by execution of a Settlement and General Release Agreement dated June 20, 2008, between IStation, Grayson, Collins and Goss (the "Settlement Agreement").

25. Among other things, the parties to the Settlement Agreement specifically affirmed the continuing validity of the Voting Agreement.

4. ... this Agreement shall not be construed as an amendment or waiver of the amended and restated voting agreement dated as of December 15, 2006

6. ... Grayson and the Company acknowledge and agree that the transactions consummated in connection with the Recapitalization, including ... the Voting Agreement, were valid and effective ...

THE SEPTEMBER 4, 2008 BOARD MEETING

26. An Annual Board meeting was held on Thursday, September 4, 2008 at Randall Goss's office (the "September 2008 Board Meeting").

27. At the September 2008 Board Meeting, Grayson advised the Board that his representative, Juana Daniels, had resigned, and Grayson moved that Doug Kittelson be appointed to the Board as Grayson's designee to replace Daniels. As is reflected in draft minutes prepared by Sandra K. Thomas, the secretary of IStation, that motion was seconded and unanimously approved by the Company's Board. A copy of those draft minutes are Exhibit B. Those draft minutes were not prepared and circulated until almost one year later in September of 2009.

28. Also at the September 2008 Board Meeting, Collins moved for approval of a self-interested transaction pursuant to which IStation would award additional stock to Collins in exchange for his making a \$150,000 gift to SMU in exchange for a study that would supposedly be favorable to the Company. Kittelson stated that such transaction should be approved by a vote of the majority of disinterested directors and that Collins should abstain from such vote. Thereafter, Collins did not pursue his motion and never called for a vote.

COLLINS ATTEMPTS TO THWART THE BOARD TO APPROVE SELF-INTERESTED TRANSACTIONS

29. After the September 4, 2008 board meeting Collins, notwithstanding the Voting Agreement and his and the Board's approval of Kittelson as a board member, embarked on a series of acts in blatant disregard of Grayson's rights under the Voting Agreement and in

contravention of the authority of the IStation Board of Directors and its role under 8 Del. C. §141.

30. Shortly after the September 4, 2008 board meeting, Steve Good, counsel to the Company, sent an email to Kittelson contesting his appointment to the board. In relevant part, Good's email stated that:

Section 2 of the Voting Agreement among George, Dick and Randall provides that at a meeting involving the election of directors, Dick and Randall must vote their shares in favor of the director designated by George. The meeting last Thursday was not a shareholders' meeting and did not involve the election of directors. It is Dick's position that, in his capacity as Chairman of the Board, he has the right, in his capacity as Chairman and not as a shareholder, to fill the board position left open by Juana's resignation, and that person shall serve as a director until new directors are elected at a shareholder meeting, at which point Dick will vote in accordance with the Voting Agreement. Accordingly, pursuant to Article VI of the Bylaws, please be advised that Dick in his capacity as Chairman of the Board of IStation, hereby appoints Sandra Thomas to fill the Board of Directors' seat left vacant by the resignation of Juana Daniels, effective immediately.

A copy of Good's September 9, 2008 email is included in **Exhibit C**.

The September 9 email goes on to state that a stockholders' meeting would be scheduled sometime after October 15th at which time new directors could be elected.

31. There were no additional meetings of the Company's Board of Directors in 2008. In December of 2008, Collins sent out notice that the 2009 stockholders meeting would be held on March 25, 2009. **Exhibit D**.

32. Collins apparently based his authority to replace Kittelson with Thomas on Article VI, Section 1 of the Company's Bylaws which states, in relevant part:

Any vacancy occurring in any office of the corporation by death, resignation, removal or otherwise, shall be filled by the Chairman of the Board. Vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by the Chairman of the Board. ...

33. Notably, the Company's bylaws predated the Voting Agreement among the parties.

34. Thomas and Collins are business partners and share a romantic relationship.

35. On Sunday, September 6, 2009, Collins emailed Grayson notice for a board meeting to be held on Friday, September 11, 2009 at 11:00 a.m. by teleconference for the following purposes:

- a. Expansion of the stock option plan. We need to reward numerous employees for their hard work by giving the some ownership potential in the company.
- b. Approve the \$3 million loan terms From the Collins Interests.
- c. Sales report from Bob Blevins.
- d. New products in development and schedule for completion and delivery.
- e. Budget for the year 2009-10.
- f. Other business.

A copy of the September 11 Notice is **Exhibit E**.

36. The notice was not provided to Kittelson so Grayson forwarded the email to Kittelson and then advised Collins: "Dick, As you know, Doug is my other board representative. I have copied him on this notice so he is informed of the meeting. George"

37. The next day, September 7, 2009, Collins responded: "Doug is on the ballot for election to the board at our shareholders meeting. He is not currently a Director and is not eligible to attend or participate in this meeting. Dick" A copy of the above referenced email exchange is **Exhibit F**.

38. Collins' reference to the annual shareholders meeting was to a meeting scheduled to be held on September 14, 2009. Originally, the annual shareholders meeting was to be held sometime after October 15, 2008 and then in March of 2009 according to a December 16, 2008 email from Collins. **Exhibit G**. The meeting was rescheduled to September of 2009 without explanation. The meeting was rescheduled without Board action despite the requirement of Section 2 of the Company's Bylaws that "The annual meeting of stockholders shall be held

during March of each year.” That section goes on to state that if the meeting is not held on the designated date, “... the directors shall cause the meeting to be held on another date, at their convenience.” No Board action was ever requested to reschedule the meeting from March to September. Had the meeting been held in late 2008 or March 2009 as required under the Bylaws and originally scheduled, Kittelson would have been elected by the stockholders at that meeting and the machinations orchestrated by Collins would not have been possible. On information and belief, Collins and the other Board members delayed the stockholders meeting so as to intentionally prevent Grayson from appointing his other designee to the Board.

39. On September 8, 2009, Grayson emailed a letter to the board of directors with carbon copies to Sandra Thomas and Steve Good (the Company’s counsel) a copy of which is attached and marked as **Exhibit H**. The letter contested the denial of Kittelson as a director and requested information relating the matters on the Board Meeting agenda for the September 11 meeting and the September 14 stockholders meeting. In particular, Grayson sought information about the proposed \$3 million loan transaction with Collins:

What are the proposed terms of the "\$3 million loan terms From the Collins Interests" as identified in Dick Collins' Sunday, September 6th email? As you know, Mr. Collins' advances of \$1.777M have yet to be reviewed and approved by the board. When the matter is submitted to the board, we expect Dick Collins to abstain from voting as an interested director because of his material financial interest with respect to this related party transaction. We suspect that Dick Collins is unlawfully trying to block a deadlock by replacing my representative Mr. Kittelson with his partner Sandra Thomas. We expect full disclosure of each and every matter as it relates to the proposed transaction and the proposed loan must be fair to IStation to gain board approval by the disinterested directors.

40. On September 10, 2009, Sandra Thomas emailed the draft minutes of the September 2008 Board Meeting to Grayson. As indicated above, those minutes reflect that the board had unanimously approved Doug Kittelson as a board member to replace Daniels back in September 2008.

THE SEPTEMBER 11, 2009 BOARD MEETING.

41. Grayson and Kittelson attempted to attend the September 11, 2009 Board meeting by telephone. Early in the meeting, their telephone line was disconnected. Collins instructed that the line be disconnected because Kittelson refused to acquiesce to Collins' demand that Kittelson remain silent during the meeting based on Collins' assertion that Kittelson was not a member of the Board. Collins claims that he attempted to reconnect Grayson and Kittelson, but on information and belief Grayson and Kittelson believe that they were deliberately excluded from the meeting.

42. At that meeting, the remaining directors purported to take various actions including approval of a the \$3 million loan transaction between the Company and Collins, which transaction, if valid, would result in an increase in Collins share ownership from approximately 44% to 52% making him an outright majority stockholder.

43. A stockholders meeting was held on September 14, 2009 at which Grayson and Kittelson were elected to the IStation Board in accordance with the terms of the Voting Agreement.

44. Grayson emailed the board of directors on September 17, 2009 requesting that a new Board meeting be scheduled to reconsider the matters allegedly approved at the September 11 meeting. **Exhibit I.** Grayson noted that he considered all acts taken at the September 11 meeting to be invalid.

... I was thereby deprived of offering my advice and counsel to the board and my two board votes. As you know, there was also no regular board meeting following the annual shareholder meeting on Monday, September 14, 2009.

The inconvenience to the board in reconvening is inconsequential compared to me and my designee's right to participate and vote. Moreover, the company should not take any action on matters approved at the September 11th meeting because it was improperly conducted.

45. Collins responded to Grayson's request to schedule a Board meeting in a September 21, 2009 email as follows:

... I respectfully decline. Pursuant to the By-laws of Imagination Station, I am unaware of any authority of any Board Member to unilaterally call a Board of Directors meeting. Furthermore, to the extent any meeting can be called, the By-laws require a minimum of three days notice.

46. As to Grayson's disconnection from the September 11 telephonic meeting, Collins claimed that:

Mr. Kittelson was asked multiple times to refrain from interrupting the proceedings of September 11, 2009, as he was not a current Board Member. He did not allow the Board of Directors to conduct its business and insisted on interfering and acting contrary to the by-laws of Imagination Station, and the best interests of the company. Accordingly, after being asked repeatedly to refrain from interrupting, he was disconnected from the call. Unbeknownst to the Board, you were sharing a line with Mr. Kittelson and were inadvertently dropped as well.

47. In short, Collins admits that he hung up on Grayson and Kittelson. Collins' assertion that he did not realize that Grayson and Kittelson were on the same line is a post event fabrication intended to legitimize his actions. A copy of Collins' September 21, 2009 email and Grayson's response is **Exhibit J**.

48. To date, Defendants have refused and failed and continue to refuse and to fail to call a board meeting as requested by Plaintiff.

49. On October 5, 2009, Grayson delivered a demand pursuant to 8 Del. C. §220 to the Company seeking information relating primarily to the matters that occurred at the September 11, 2009 Board meeting.

50. The Company responded through its counsel by letter dated October 13, 2009. The materials provided confirm that the Company is acting as if the actions taken at the September 11, 2009 meeting constitute valid acts of the Company's Board of Directors, which they do not.

DERIVATIVE AND DEMAND EXCUSED ALLEGATIONS

51. Plaintiff made no demand on the Company's board of directors because the claims asserted in this action are primarily direct claims. The actions challenged herein had the effect of diluting and impairing the voting rights of Grayson both because of the terms of the Voting Agreement and because of the increase in Collins' ownership percentage from 42% to 52% as a result of the interested transactions allegedly approved at the September 2009 board meeting. As such, they support individual, direct claims by Grayson.

52. To the extent that plaintiff seeks disgorgement of benefits received by Collins and reimbursement of all fees and expenses incurred by the Company as a result of Collins breaches, plaintiff asserts such claims derivatively, however no demand on the board was required as to those claims (or any other claims that may be deemed derivative) because demand is excused.

53. Plaintiff has held shares of the Company continuously from at least 1998 through the present. Prior to the actions allegedly approved at September 2009 board meeting, Grayson held approximately 32% of the Company's stock. Even if the acts at the meeting are assumed to be valid, Grayson holds at least 23% of the Company's outstanding stock.

54. Grayson will adequately and fairly represent the interests of the Company in enforcing and prosecuting its rights. Other than Collins, Grayson is the only other stockholder of the Company who holds more than 5% of the Company's outstanding stock. Therefore, he has a significant economic interest in maximizing the Company's economic performance.

55. Demand on the board of directors would be a futile and is therefore excused.

56. As alleged above, Collins is directly interested in the transactions approved at the September 2009 Board meeting because those transactions increase his stock ownership in and salary at the Company.

57. Collins as the largest stockholder and CEO controls the Company. Each of Goss and Blevins, the remaining members of the Board, are beholden to Collins and subject to his control. As alleged above, Blevins and two other members of this family are employed by the Company and receive aggregate annual compensation of approximately \$500,000. Accordingly, Blevins has a direct personal financial interest in accommodating Collins.

58. The other director, Goss also has close financial ties with Collins. In October 2007, a special meeting of the Company's Board was called, without a purpose or agenda. At that meeting, Collins announced that he agreed to purchase one half of Goss' stock in IStation for \$1 million. By that sale, Collins afforded to Goss the opportunity to liquidate an otherwise illiquid investment which opportunity was not available to other stockholders of the Company. At the same meeting, Goss and Collins announced that Grayson had been terminated as CEO. On information and belief, Goss's vote in favor of Grayson's termination was a *quid pro quo* for Collins' purchase of Goss' shares.

59. On information and belief, Collins and Goss participate together in various political, community and charitable events and otherwise generally have a social and professional relationship with each other.

60. Both Goss and Blevins approved the Dilutive Transaction at the September 2009 Board Meeting despite the absence of Grayson and Kittelson from the Board meeting and despite their prior votes in favor of Kittelson's appointment to the Board at the September 2008 Board meeting.

61. Finally, the directors have already refused a request by Grayson that a board meeting be scheduled to reconsider the actions taken at the September 2009 Board meeting. Exhibit I. On September 17, 2009, Grayson sent an email to Collins, Goss and Blevins asking

that a board meeting be scheduled to re-consider the actions taken on September 11, 2009. That request was directly refused by Collins (*see* Exhibit J) not based on the substance of Grayson's request, but rather, as with the alleged appointment of Thomas to the Board, because the bylaws did not authorize "any Board Member to unilaterally call a Board of Directors meeting." and ignored by Goss and Blevins. In short, Collins, with the acquiescence of Goss and Blevins, continues to place form over substance and manipulate the corporate machinery so as to serve his individual goals and agendas. Collins knows that were the Dilutive Transaction presented to the properly constituted Board, Collins would need to recuse himself from any vote to approve the transaction, leaving four board members to vote on the proposal, thereby creating a significant risk that the vote could be deadlocked 2 to 2 if Grayson and Kittelson oppose the transaction.

62. As a result of the foregoing facts, any formal demand on the Board would be futile and demand is excused.

COUNT I – BREACH OF CONTRACT

63. Plaintiff realleges all the foregoing allegations as if set forth herein and incorporates them by reference.

64. The Voting Agreement gives Grayson the unconditional right to appoint two members of IStation's Board of Directors.

65. Collins, by failing to recognize Kittelson as Grayson's designee breached his obligations under the Voting Agreement to, among other things, "...cause and maintain the election to the Board of (i) two (2) persons designated by the Grayson Representative ..."

66. Moreover, both Collins and Goss were obligated to vote or cause to be voted their shares " ... to fill any vacancy in the membership of the Board with a designee of the Party whose designee's resignation or removal from the Board caused such vacancy."

67. Despite the requirements of the Voting Agreement and despite their explicit approval of Kittelson as a director at the September 2008 Board meeting, Collins and Goss both acted and/or acquiesced in the exclusion of Kittelson from the September 11, 2009 Board meeting and denial of his status as a director. Furthermore, Collins and Goss approved and have caused or allowed the Company to engage in transactions, including the Dilutive Transaction, with knowledge that such transaction have not been approved by the Company's legitimate Board of Directors.

68. Collins and Goss have further caused the Company to breach its obligations under the Voting Agreement. Section 4 of the Voting Agreement requires the Company to use its best efforts to

...ensure that the rights granted hereunder are effective and that the Parties hereto enjoy the benefits thereof. The Company will not, by any voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be performed hereunder by the Company, but will at all times in good faith assist in the carrying out of all of the provisions of this Agreement and in the taking of all such actions as may be necessary, appropriate or reasonably requested by a Party in order to protect the rights of the Parties hereunder against impairment.

69. By their failure to cause the Company to take acts to authorize and recognize Kittelson as a director and by causing the Company to take actions and enter into agreements without authorization from the legitimate Board of Directors as provided for under the Voting Agreement, Collins and Goss have caused IStation to breach its contractual obligations under the Voting Agreement..

COUNT II – BREACH OF FIDUCIARY DUTY

70. Plaintiff realleges all the foregoing allegations as if set forth herein and incorporates them by reference.

71. Collins' acts in denying Kittelson's status as a director and approving the interested transactions constitute a breach of his fiduciary duties as a director and/or officer of the Company.

72. Collins' actions violated his fiduciary duties to Grayson as a stockholder by, among other things:

a. Deliberately preventing the Company's legitimate Board of Directors from deliberating and acting on the matters considered at the September 11, 2009 meeting;

b. Manipulating the Board selection process based upon an alleged technical requirement in the By-laws to circumvent the clear rights of Grayson to designate two Board members;

c. Denying Grayson and Kittelson the ability to participate in the September 11 meeting in order to obtain approval of the self-interested transactions between Collins and the Company; and

d. Causing the Company to breach its contractual obligations under the Voting Agreement.

COUNT III – VIOLATION OF 8 DEL. C. §141

73. Plaintiff realleges all the foregoing allegations as if set forth herein and incorporates them by reference.

74. Section 141(a) of the Delaware General Corporation law provides that a corporation can only act through its board of directors.

75. By causing the Company to agree to and take acts in furtherance of the Dilutive Transaction without having obtained approval for that transaction from the properly authorized Board of Directors, defendants are acting in violation of the requirements of Section 141.

76. As a result, all actions taken at the September 11, 2009 meeting, and any other acts requiring Board approval that have been taken without the requisite approval by the properly constituted Board of IStation are void.

77. In addition, Section 141(a) provides that the business and affairs of a corporation shall be managed by or under the direction of its board of directors.

78. To comply with that requirement, all members of a company's board must be given an opportunity to participate meaningfully in meetings of the board. The exclusion of Grayson and Kittelson from participation in the discussions and vote on the transactions that were considered at the September 11, 2009 meeting constitutes a violation of Section 141(a). As a result, all actions taken at that meeting are void.

WHEREFORE, plaintiff respectfully requests that the Court:

A. Declare void all actions, including the Dilutive Transaction, approved at the September 11, 2009 meeting and enjoin defendants from taking any actions in furtherance of such transactions;

B. Order defendants to hold a board of directors meeting at which the matters presented at the September 11, 2009 meeting may be considered by the legitimate board of directors;

C. Specifically enforce the terms of the Voting Agreement and declare that Kittelson has been a director of the Company at all times from September 4, 2008 to the present;

D. Award damages incurred by plaintiff as a result of defendants' breaches of the Voting Agreement and Collins' breaches of his fiduciary duties in an amount to be determined at trial, and that include plaintiff's attorneys' fees and expenses pursuant to, among other reasons, Section 19 of the Voting Agreement;

E. Require Collins to disgorge any benefits received by Collins as a result of his breaches of fiduciary duties and reimburse the Company for all amounts it has incurred, including all legal fees and expenses, as a result of Collins' fiduciary breaches;

F. Award fees, expenses and costs to plaintiff and plaintiff's counsel; and

G. Grants such other and further relief as the Court deems just and proper.

PRICKETT, JONES & ELLIOTT, P.A.

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