

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**  
**IN AND FOR NEW CASTLE COUNTY**

DAVID PORTNOY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 3142-VCS
	)	
CRYO-CELL INTERNATIONAL, INC., a	)	
Delaware corporation, MERCEDES WALTON,	)	
GABY W. GOUBRAN, JAGDISH SHETH,	)	
Ph.D, ANTHONY P. FINCH and SCOTT	)	
CHRISTIAN,	)	
	)	
Defendants.	)	

**ANSWER**

For their answer to Plaintiff’s Verified Complaint (the “Complaint”), defendants Cryo-Cell International, Inc., Mercedes Walton, Gaby W. Goubran, Jagdish Sheth, Ph.D., Anthony P. Finch and Scott Christian (collectively, “Defendants”) state as follows as to each of the respective paragraphs of the Complaint.

1. Denied, except admit and aver that this is purportedly an action for declaratory and injunctive relief, pursuant to Section 225 of the General Corporation Law of the State of Delaware, 8 *Del. C.* § 225.

2. Denied, except admit and aver that Plaintiff requests that this Court reverse the outcome of the shareholder vote on the Election of the Board at the Annual Meeting.

3. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first and third sentences of paragraph 3, and therefore deny those allegations. Defendants admit the allegations contained in the second sentence of

paragraph 3.

4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Paragraph 10 sets forth legal conclusions to which no response is required.

11. Denied.

12. Defendants refer to SEC filings for a fair and accurate portrayal of their contents, and otherwise deny each and every allegation set forth in paragraph 12.

13. Denied, except admit that the Company's directors and officers receive compensation as disclosed in annual proxy statements, to which Defendants refer for a fair and accurate portrayal of their contents; further admit that expenses and revenues varied over time as disclosed in periodic SEC filings.

14. Denied.

15. Denied, except admit and aver that the Bylaws of the Company were amended in December 2006 in accordance with Article IX, Section 2 of the Bylaws; further admit that a copy of the Bylaws is attached as Exhibit 1 to the Complaint and refer to them for a fair and accurate portrayal of their contents.

16. Denied, except admit and aver that some stockholders, at various times and for various reasons, have voiced dissatisfaction with the Board and/or management, as is the case in almost any publicly traded company.

17. Admit and aver that Messrs. Filipowski and Roszak wrote a letter to the Director Defendants dated January 9, 2007, which included the language identified in paragraph 17; further admit that a copy of that letter is attached as Exhibit 2 to the Complaint and refer to the letter for a fair and accurate portrayal of its contents; and otherwise deny each and every allegation set forth in paragraph 17.

18. Admit and aver that Plaintiff wrote a letter to the Director Defendants dated January 31, 2007; further admit that a copy of that letter is attached as Exhibit 3 to the Complaint and refer to the letter for a fair and accurate portrayal of its contents; and otherwise deny each and every allegation set forth in paragraph 18.

19. Denied.

20. Admit and aver that Plaintiff wrote a letter to the Director Defendants dated February 20, 2007; refer to the February 20, 2007 letter for a fair and accurate portrayal of its contents; and otherwise deny each and every allegation set forth in paragraph 20.

21. Denied.

22. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 22.

23. Admitted.

24. Admit and aver that the Portnoy Group filed a proxy statement on March 26, 2007; refer to the proxy statement for a fair and accurate portrayal of its contents; and otherwise deny each and every allegation set forth in paragraph 24.

25. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 25.

26. Admit and aver that a copy of the Bylaws is attached as Exhibit 1 to the

Complaint; refer to the Bylaws for a fair and accurate portrayal of their contents; and otherwise deny each and every allegation set forth in paragraph 26.

27. Admit and aver that the a copy of the Bylaws is attached as Exhibit 1 to the Complaint; refer to the Bylaws for a fair and accurate portrayal of their contents; and otherwise deny each and every allegation set forth in paragraph 27.

28. Admit and aver that the Company issued an announcement on or about May 18, 2007 that the annual meeting would be held on June 28, 2007, and otherwise deny each and every allegation set forth in paragraph 28.

29. Admit and aver that Plaintiff wrote a letter to the Director Defendants dated March 25, 2007; refer to the March 25, 2007 letter for a fair and accurate portrayal of its contents; and otherwise deny each and every allegation set forth in paragraph 29.

30. Denied

31. Denied, except admit and aver that the Filipowski Group communicated with the Board in early 2007, and the cited text in paragraph 31 is derived from that communication. Also admit and aver that as of May 25, 2007, the Filipowski Group held a beneficial interest in approximately 731,250 shares of the Company's common stock, which represented approximately 6.27% of the Company's outstanding shares.

32. Admit and aver that the Director Defendants announced the increase in Board size through the Company's proxy materials filed on June 5, 2007; refer to the proxy statement for a fair and accurate portrayal of its contents; and otherwise deny each and every allegation set forth in paragraph 32.

33. Admit and aver that the Agreement is attached as Exhibit 4 to the Complaint; refer to the Agreement for a fair and accurate portrayal of its contents; and otherwise deny each

and every allegation set forth in paragraph 33.

34. Admit and aver that the Agreement is attached as Exhibit 4 to the Complaint; refer to the Agreement for a fair and accurate portrayal of its contents; and otherwise deny each and every allegation set forth in paragraph 34.

35. Admit and aver that the Agreement is attached as Exhibit 4 to the Complaint; refer to the Agreement for a fair and accurate portrayal of its contents; and otherwise deny each and every allegation set forth in paragraph 35.

36. Denied.

37. Denied.

38. Admit and aver that on June 8, 2007, it was announced that the Annual Meeting would be postponed to July 16, 2007, and otherwise deny the each and every allegation set forth in paragraph 38.

39. Denied.

40. Defendants refer to the proxy statement for a fair and accurate portrayal of its contents, and otherwise deny each and every allegation set forth in paragraph 40.

41. Admit and aver that the meeting was postponed 18 calendar days, from June 28, 2007 to July 16, 2007, and otherwise deny each and every allegation set forth in paragraph 41.

42. Denied.

43. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 43 regarding data allegedly gathered by the Portnoy Proxy Solicitor. Defendants otherwise deny each and every allegation set forth in paragraph 43.

44. Admitted.

45. Admitted.

46. Admitted.

47. Denied, except admit and aver that Saneron requested that the legend be removed from the Saneron Stock Certificate.

48. Admit and aver that Saneron's board of directors met on or about July 12, 2007. Defendants otherwise lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 48.

49. Admit and aver that Saneron held a board meeting on July 12, 2007; that Jill Taymans attended; that the legend was discussed; and otherwise deny each and every allegation set forth in paragraph 49.

50. Denied.

51. Denied, except admit and aver that the Company agreed to remove the legend from the Saneron Stock Certificate because the terms necessary for removal had been satisfied.

52. Denied.

53. Admit and aver that the Portnoy Group and the Company agreed on the Rules of Conduct for the Meeting; further admit that the Rules of Conduct are attached as Exhibit 5 to the Complaint and refer to the Rules for a fair and accurate portrayal of their contents; and otherwise deny each and every allegation set forth in paragraph 53.

54. Admit and aver that the Portnoy Group and the Company agreed on the Rules of Conduct for the Meeting; further admit that the Rules of Conduct are attached as Exhibit 5 to the Complaint and refer to the Rules for a fair and accurate portrayal of their contents; and otherwise deny each and every allegation set forth in paragraph 54.

55. Admit and aver that counsel for the Portnoy Group sent an email to counsel for the Company containing the language quoted in paragraph 55, and otherwise deny each and

every allegation set forth in paragraph 55.

56. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 56, except that Defendants deny the claims of paragraph 56 to the extent they suggest the existence of an “illegal vote buying scheme.”

57. Admitted.

58. Denied, except admit and aver that among the items up for consideration were the ratification of appointment of independent registered public accountants, the Portnoy Group’s shareholder proposal, and the election of directors.

59. Admit and aver that the Portnoy Group and the Company agreed on the Rules of Conduct for the Meeting; further admit that the Rules of Conduct are attached as Exhibit 5 to the Complaint and refer to the Rules for a fair and accurate portrayal of their contents; and otherwise deny each and every allegation set forth in paragraph 59.

60. Denied, except admit and aver that while the polls remained open, the Meeting included presentations regarding, among other things, the Company’s business, strategies, and technologies.

61. Admit and aver that the Company’s second-quarter results were disclosed in the Company’s 10-Q and were not selectively disclosed prior to the filing of the 10-Q in accordance with SEC regulations; refer to the 10-Q for a fair and accurate portrayal of its contents; and otherwise deny each and every allegation set forth in paragraph 61.

62. Denied, except admit and aver that certain shareholders at various times called for a vote on the Agenda items and moved to close the polls.

63. Denied, except admit and aver that the polls closed at or about 4:46 p.m.

64. Admit and aver that Cryo-Cell’s Vice President of Laboratory Operations and

R&D, Julie G. Allickson, delivered a presentation that provided additional information to shareholders during the Annual Meeting while the polls remained open, and otherwise deny each and every allegation set forth in paragraph 64.

65. Admit and aver that certain shareholders at various times called for a vote on the Agenda items and moved to close the polls, and otherwise deny each and every allegation set forth in paragraph 65.

66. Denied, except admit and aver that the polls closed at or about 4:46 p.m.

67. Denied.

68. Denied.

69. Denied, except admit that in response to a stockholder question, Walton stated that she was not aware that the Filipowski Group was out buying shares of the Company.

70. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 70, which allegations rely on what Plaintiff allegedly saw.

71. Admit and aver that certain shareholders at various times called for a vote on the Agenda items and moved to close the polls, and otherwise deny each and every allegation set forth in paragraph 71.

72. Admit and aver that a copy of the Bylaws is attached as Exhibit 1 to the Complaint; refer to the Bylaws for a fair and accurate portrayal of their contents; and otherwise deny each and every allegation set forth in paragraph 72.

73. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 73, except denied as to Plaintiff's characterization of the break as an adjournment.



74. Denied.

75. Denied.

76. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding a third party as set forth in paragraph 76, and otherwise deny each and every allegation set forth in paragraph 76.

77. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding a third party as set forth in paragraph 77, and otherwise deny each and every allegation set forth in paragraph 77.

78. Admit and aver that Apollo submitted a proxy in favor of the Management Slate nominees at or about 3:41 p.m. Defendants otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations regarding a third party as set forth in paragraph 78, and therefore deny those allegations.

79. Admit and aver that the break ended at or about 4:45 p.m. and that defendant Walton, as Chairman of the Annual Meeting, then called for the vote and closed the polls. Defendants otherwise deny each and every allegation set forth in paragraph 79.

80. Admit and aver that the polls were closed about 4:46 p.m., at which time the Management Slate held a lead of more than 600,000 votes over the Portnoy Slate, and otherwise deny each and every allegation set forth in paragraph 80.

81. Admit and aver that at the time the break ended, more votes had been cast for the Management Slate than for the Portnoy Group slate, and otherwise deny each and every allegation set forth in paragraph 81.

82. Admit and aver that defendant Walton, as Chairman of the Annual Meeting, closed the Annual Meeting at or about 4:46 p.m., after asking if any shareholder had not yet

voted and receiving no response, and otherwise deny each and every allegation set forth in paragraph 82.

83. Admit and aver that Cryo-Cell filed its 10-Q at or about 5:14 p.m. on July 16, 2007; refer to the 10-Q for a fair and accurate portrayal of its contents; and otherwise deny each and every allegation set forth in paragraph 83.

84. Denied.

85. Admit and aver that the stock price at the market close on July 13, 2007 was \$2.45, and that the stock price at the market close on July 31, 2007 was \$1.48, and otherwise deny each and every allegation set forth in paragraph 85.

86. Admitted.

87. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 87.

88. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 88.

89. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 89.

90. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 90.

91. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 91.

92. Admitted.

93. Admitted.

94. Admit and aver that the Management Slate nominees won the election; further

admit that a copy of the Final Report is attached as Exhibit 6 to the Complaint and refer to it for a fair and accurate portrayal of its contents; and otherwise deny each and every allegation set forth in paragraph 94.

95. Denied.

96. Denied, except admit and aver that the legend was removed from the Saneron Stock Certificate because the terms necessary for removal had been satisfied.

97. Denied, except admit and aver that the Agreement is attached as Exhibit 4 to the Complaint and refer to the Agreement for a fair and accurate portrayal of its contents.

98. Denied.

99. Denied, except admit and aver that the Form 3 is attached as Exhibit 7 to the Complaint and refer to the Form 3 for a fair and accurate portrayal of its contents.

100. Denied.

101. Denied.

102. Denied.

103. Denied.

104. Denied.

105. Denied.

106. Admitted.

107. Admitted.

108. Admitted.

109. Denied.

110. Admitted, except denied as to Plaintiff's characterization of the break as an adjournment.

111. Admitted, except denied as to Plaintiff's characterization of the break as an adjournment.

112. Denied.

113. Denied.

114. Denied.

115. Admitted.

116. Admitted.

117. Admitted.

118. Denied, except admit and aver that a quorum of stockholders was present at the Annual Meeting.

119. Denied.

120. Denied.

121. Denied.

122. Denied.

123. Denied.

124. Denied.

125. Denied.

126. Admitted.

127. Admitted.

128. Denied, except admit and aver that each of the Director Defendants is a member of the Management Slate and a current director.

129. Denied.

130. Denied.

131. Denied, except admit and aver that a copy of the Bylaws is attached as Exhibit 1 to the Complaint and refer to them for a fair and accurate portrayal of their contents.

132. Admit and aver that a copy of the Bylaws is attached as Exhibit 1 to the Complaint and refer to them for a fair and accurate portrayal of their contents, and otherwise deny each and every allegation set forth in paragraph 132.

133. Denied, except admit and aver that no vote of the stockholders was taken, nor was a vote needed.

134. Denied.

135. Denied.

136. Denied.

137. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 137.

138. Paragraph 138 sets forth legal conclusions to which no response is required.

139. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 139.

140. Denied.

141. Deny each and every allegation in the Complaint not expressly admitted above in this Answer.

142. Deny that Plaintiff is entitled to any of the relief requested.

**First Affirmative Defense**

143. The Complaint fails to state a claim upon which relief can be granted.

**Second Affirmative Defense**

144. The actions challenged by Plaintiff were the result of a valid exercise of business

judgment.

**Third Affirmative Defense**

145. The relief requested by Plaintiff is barred by virtue of his unclean hands.

**Fourth Affirmative Defense**

146. The relief requested by Plaintiff is barred in whole, or in part, by 8 *Del. C.* § 141(a), which states that “[t]he business and affairs of every corporation . . . shall be managed by or under the direction of a board of directors.”

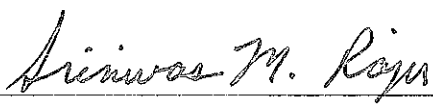
**Fifth Affirmative Defense**

147. Plaintiff’s claims are barred by the doctrines of laches, acquiescence, waiver, estoppel, and ratification.

WHEREFORE, Defendants pray that all claims asserted against them in the Complaint be dismissed with prejudice at Plaintiff’s cost and that the Defendants be awarded their costs herein, including their recoverable attorneys’ fees, and such other and further relief to which they may be entitled.

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Dated: August 24, 2007