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

AMALGAMATED BANK, as trustee for the LongView MidCap 400 Index Fund, derivatively, and on behalf of itself and all others similarly situated,

Plaintiff,

v.

DON TYSON, JOHN TYSON, LLOYD V. HACKLEY, JIM KEVER, DAVID A. JONES, RICHARD L. BOND, JO ANN R. SMITH, BARBARA A. TYSON, LELAND E. TOLLETT, JOE F. STARR, NEELY CASSADY, FRED VORSANGER, SHELBY D. MASSEY, DONALD E. WRAY, GERALD M. JOHNSTON, BARBARA ALLEN, ESTATE OF ROBERT L. PETERSON,

Defendants,

and

TYSON FOODS, INC.,

Nominal defendant.

C.A. No. __________

COMPLAINT

Plaintiff AMALGAMATED BANK ("Plaintiff" or "Amalgamated"), Trustee of the LongView MidCap 400 Index, a shareholder of Tyson Foods, Inc. ("Tyson" or the "Company") brings the following Complaint derivatively on behalf of Tyson, and as a class action on behalf of itself and all others similarly situated, and avers as follows:

SUMMARY OF THE ACTION

1. Amalgamated brings this derivative action on behalf of Tyson and class action on behalf of similarly situated shareholders against certain present and former members of Tyson's Board of Directors (the "Board") who, through a series of improper stock option grants and related party transactions, have demonstrated a wanton disregard for their fiduciary duties to the Company and its shareholders. Instead of acting in the best interests of the Company, the defendants have favored the personal interests of the controlling shareholders – members of the Tyson family (the "Tyson Family"). As set forth more fully below, defendants breached their fiduciary duties in three principle ways.

2. First, on no fewer than three occasions, defendants granted stock options to certain directors and officers of Tyson shortly before the Board made announcements that defendants *knew*, at the time of the options grants, would materially inflate the publicly traded price of Tyson's stock. Because the relevant stock option plans required the options to carry strike prices of at least the publicly traded price of the Company's stock at the time of the grant, defendants deliberately timed the grant of millions of stock options to occur shortly before public announcements that were certain to increase the stock price. As a result, these stock option grants (which total options on 2,789,400 shares of Company stock) gave the recipients the benefit of this inside information before it was disseminated to the investing public, representing a potential cost to the Company of at least $2.8 million.

3. Second, defendants have wasted Tyson's assets by causing the Company to enter into grossly excessive compensation and "consulting" contracts with members of the Tyson Family without regard to any legitimate business purpose. For example,

defendants caused the Company to enter into at least 4 contracts with members of the Tyson Family and their cronies, which provide for continued payments for "consulting" services following their retirement from the Company and *extend such consulting payments posthumously*. Just as dead men tell no tales, it is difficult to conceive what consulting services a deceased individual may provide to Tyson. Even Don Tyson, the retired Chairman and Chief Executive Officer (and son of the founder) who has enjoyed the benefit of one such contract that pays him $800,000 per year, plus life and health insurance, and travel and entertainment expenses, acknowledged the absurdity of the purported "consulting" justification, when he quipped that he "look[ed] forward to following [Tyson's] progress from my boat."

4. Third, defendants have allowed the Tyson Family to run roughshod over the Company's finances by causing the Company to enter into a series of unjustified related party transactions, some of which the Company was forced to cancel following an internal review spawned by an ongoing SEC investigation.

THE PARTIES

5. Plaintiff Amalgamated Bank ("Amalgamated") is an eighty-year-old banking institution that prides itself on providing financial services to working people. Amalgamated has locations in New Jersey, California, New York, and Washington D.C., with its main office located in Manhattan at 15 Union Square, New York, New York 10003. At present, Amalgamated's LongView MidCap 400 Index is the owner of 88,891 shares of Tyson stock. At all relevant times, Amalgamated's LongView MidCap 400 Index has been the owner of shares of Tyson stock, and commits to retaining an

ownership interest in Tyson throughout the course of this litigation. Amalgamated brings this action as trustee of the LongView MidCap 400 Index.

6. Nominal defendant Tyson is a Delaware corporation with its principal executive offices located at 210 West Oaklawn Drive, Springdale, Arkansas 72762-6999. Tyson was founded in the 1930s by John Tyson, who served as Chairman of the Board and Chief Executive Officer of the Company until his death in 1967. Tyson is the largest provider of protein products in the world, producing and marketing beef, pork, and chicken. As of June 26, 2004, Tyson had 251,360,294 shares of Class A Common Stock and 101,625,548 shares of Class B Common Stock outstanding.

7. Defendant Don Tyson, the son of the founder of the Company, has been a member of Tyson's Board of Directors since 1952, and was the Senior Chairman of the Board from 1995 to 2001 when he retired and became a "consultant" to the Company. Don Tyson also served as Chief Executive Officer of Tyson Foods until 1991. Currently, Don Tyson, personally and through his position as the managing general partner of the Tyson Limited Partnership, controls 99.9% of the outstanding Class B Common Stock, which carries more than eighty percent of Tyson's aggregate voting power. On October 19, 2001, Tyson Foods and Don Tyson entered into a consulting contract pursuant to which Tyson Foods committed to pay Don Tyson $800,000 per year for ten years (extending such benefits to his survivors in the event of his passing), granted him one million shares of Class A Common Stock, and agreed to cover his travel and entertainment costs, his estimated income tax liabilities, and the continuation of life and health insurance benefits.

8. Defendant John Tyson, Don Tyson's son, has been Tyson Foods' Chairman of the Board since 1998. He also serves as the Company's Chief Executive Officer, a position he has held since April 2000. John Tyson has been a Board member since 1984 and served as Tyson Foods' president from April 2000 to October 2001. He currently has an employment contract with Tyson for the next eight years at a minimum annual salary of $1 million. Tyson has granted John Tyson 1.6 million options worth over $4 million and 1,826,397 shares of restricted stock worth over $25.5 million since the Company's Stock Incentive Plan was approved in 2000. In addition, John Tyson is a general partner of the Tyson Limited Partnership, which controls approximately eighty percent of Tyson's voting power.

9. Defendant Lloyd V. Hackley ("Hackley") has been a Tyson Board member since 1992. Mr. Hackley beneficially owns 12,630 shares of Tyson Class A Common Stock and serves as the Chairman for Tyson's Governance Committee and as a member of the Company's Compensation Committee. In 2003, Hackley received at least $50,000 for his service on the Board and its committees, plus an additional $15,000 worth of Class A stock upon his reelection at the 2003 annual meeting.

10. Defendant Jim Kever ("Kever") has been a member of Tyson Foods' Board of Directors since 1999. Kever owns 1,741 shares of Tyson Class A Common Stock, and serves as the Chairman of Tyson's Audit Committee and a member of Tyson's Governance Committee. In 2003, Kever received at least $56,000 for his service on the Board and its committees, plus an additional $15,000 worth of Class A stock upon his reelection at the 2003 annual meeting. Kever owns 12% of the outstanding stock of

DigiScript, Inc., a company in which Don Tyson made an indirect investment of $204,000.

11. Defendant David A. Jones ("Jones") has been a member of Tyson Foods' Board since 2000. As of September 2003, he is the beneficial owner of 1,612 shares of Tyson Foods Class A Common Stock. Additionally, Jones serves on Tyson Foods' Compensation Committee and Audit Committee. In 2003, Jones received at least $49,000 for his service on the Board and its committees, plus an additional $15,000 worth of Class A stock upon his reelection at the 2003 annual meeting.

12. Defendant Richard L. Bond ("Bond"), the Company's President and Chief Operating Officer, has been a Tyson Foods Board member since 2001. As of September 2003, Bond is the beneficial owner of 1,497,080 shares of Tyson Class A Common Stock and the owner of 864,764 shares of restricted stock valued at over $12 million. In 2003, Bond earned a salary of $943,615 and a bonus of $1.2 million. Tyson and Bond entered into an employment contract in July 2003, which provides for his active employment by Tyson through February 2008. Under this contract, Bond is guaranteed a minimum annual salary of $970,000 and a bonus to be determined by the Compensation Committee.

13. Defendant Jo Ann R. Smith ("Smith") has been a Tyson Board member since 2001 and is the beneficial owner of 6,012 shares of Tyson Class A Common Stock. Smith is the Chairperson of the Company's Compensation Committee and a member of both Tyson's Audit Committee and Governance Committee. In 2003, Smith received at least $56,000 for her service on the Board and its committees, plus an additional $15,000 worth of Class A stock upon her reelection at the 2003 annual meeting.

14. Defendant Barbara A. Tyson, the widow of Randall Tyson (brother of Don Tyson), has been a Tyson Board member since 1988. In 2002, after serving as the Company's Vice President, Ms. Tyson retired and became a consultant for the Company. As of September 2003, Ms. Tyson was the beneficial owner of 166,132 shares of Tyson Class A Common Stock. Additionally, in October 2002, Tyson and Barbara Tyson entered into a ten-year advisory contract whereby Ms. Tyson will continue to provide consulting services to Tyson for an annual salary of $7,200. Ms. Tyson is a general partner of the Tyson Limited Partnership, which controls approximately eighty percent of Tyson's voting power.

15. Defendant Leland E. Tollett ("Tollett") has been a Board member since 1984. Tollett served as the Company's Chairman of the Board and Chief Executive Officer from 1995 to 1998 when he retired and became a consultant for the Company. As of September 2003, Tollett was the beneficial owner of 3,396,365 shares of Tyson Class A Common Stock. Pursuant to his ten-year consulting contract entered into in 1999, Tyson pays Tollett $350,000 annually until 2004, when Tyson will reduce his annual compensation to $125,000. Under the contract, Tyson also provides health insurance and the continued vesting of Tollett's outstanding stock options. Tollett is also a general partner of the Tyson Limited Partnership, which controls approximately eighty percent of Tyson's voting power.

16. Defendant Joe F. Starr ("Starr") was a member of Tyson's Board from 1969 until 2002. He also served as the Company's Vice President until 1996. Starr is and has been involved in numerous transactions with the Company for many years.

17. Defendant Neely Cassady ("Cassady") served as a Tyson director from 1974 until 2000. He served as a member of Tyson's Audit Committee and Compensation Committee from at least 1994 to 2000, and as a member of a Special Committee appointed to review related party transactions from 1994 to 2000.

18. Defendant Fred Vorsanger ("Vorsanger") was a director of Tyson from 1977 until 2000. He served as a member of Tyson's Audit Committee and Compensation Committee from at least 1994 to 2000, and as a member of a Special Committee appointed to review related party transactions from 1994 to 2000.

19. Defendant Shelby D. Massey ("Massey") was a Tyson director from 1985 until 2002 and served as senior vice chairman of the board from 1985 to 1988. Massey was also a member of the Board's Compensation Committee (from at least 1994 to 2002), Special Committee (1997 to 2002), and Governance Committee (August 2002 to January 2003). In 2002, while Massey was on the Company's Governance Committee, Tyson bought cattle from Shelby Massey Farms, owned by Massey, for more than $10 million. In 2003, Tyson again bought cattle from Shelby Massey Farms for more than $10 million.

20. Defendant Donald E. Wray ("Wray"), a former president, chief operating officer, and senior vice president of the sales and marketing division at Tyson served as a Board member from 1994 until 2002. Wray is and has been involved in a number of transactions with the Company over the past ten years. In addition, Wray and Tyson entered into a Senior Executive Employment Agreement in 1998 whereby Tyson paid Wray $200,000 annually until 2003 and will pay him $100,000 annually until 2008 plus additional benefits and perquisites.

21. Defendant Gerald M. Johnston ("Johnston") is the former executive vice president of finance for Tyson and currently serves as a consultant for the Company. He served on Tyson's Board from 1996 until 2002. Johnston is and has been involved in numerous transactions with the Company for many years, which are referenced below in paragraphs 46-48, 51(f), and 54(i).

22. Defendant Barbara Allen ("Allen") served on Tyson's Board from 2000 until 2002. During her tenure on the Board, she served on the Company's Compensation Committee, Audit Committee and Compensation Subcommittee.

23. Robert L. Peterson ("Peterson") joined Tyson's Board in 2001 after Tyson acquired Iowa Beef Packers, Inc. ("IBP"), where Peterson had been chairman of the board and the chief executive officer. Peterson entered into a contract with Tyson on October 1, 2001 to provide advisory services to the Company. Pursuant to the agreement, Peterson would receive a salary of $400,000 per year plus bonus payments, annual country club dues, use of Tyson's aircraft, and health insurance – all of which would become payable to his wife in the event of his death. Peterson left the Board in November 2003 due to a "medical condition," and died in May 2004. The Estate of Robert L. Peterson is the named defendant in this action.

24. Non-defendant Albert C. Zapanta ("Zapanta") was elected to the Board in May 2004.

25. By virtue of the defendants' positions as present or former directors and/or officers of Tyson, they have been in a fiduciary relationship with Tyson and its public shareholders and owed to Tyson and its shareholders the highest obligations of good faith, fair dealing, due care and candor, and had an obligation to protect and preserve the

assets and interests of the Company. By failing to inquire about continuing related-party transactions, acting in a manner to further certain directors' and officers' own interests, and permitting waste of the Company's assets, the named defendants have breached their fiduciary duties.

JURISDICTION

26. This Court has jurisdiction over the instant action pursuant to 10 Del. C. §§ 341.

DERIVATIVE ALLEGATIONS

27. Plaintiff brings the derivative counts for the benefit of Tyson to redress injuries suffered by Tyson as a direct result of the breaches of fiduciary duty by the Individual Defendants.

28. Plaintiff has owned Tyson stock continuously during the wrongful course of conduct by the defendants alleged herein, continues to own Tyson stock, and will retain an equity interest in Tyson throughout the course of this litigation.

29. Plaintiff will fairly and adequately represent the interests of Tyson and its shareholders in enforcing and prosecuting its rights and has retained counsel competent and experienced in stockholder derivative litigation.

CLASS ACTION ALLEGATIONS

30. Plaintiff brings the first class action count (Count IV) pursuant to Rule 23 of the Rules of the Court of Chancery on behalf of itself and all others who owned Tyson Class A common stock ("2002") as of December 18, 2001 ("2002 Class"), the record date set for the vote at the 2002 annual meeting. Excluded from the 2002 Class are the defendants, as well as their affiliates and assigns.

31. Plaintiff brings the second class action count (Count V) pursuant to Rule 23 of the Rules of the Court of Chancery on behalf of itself and all others who owned Tyson Class A common stock as of December 24, 2002 ("2003 Class"), the record date set for the vote at the 2003 annual meeting. Excluded from the 2003 Class are the defendants, as well as their affiliates and assigns.

32. Plaintiff brings the third class action count (Count VI) pursuant to Rule 23 of the Rules of the Court of Chancery on behalf of itself and all others who owned Tyson Class A common stock as of December 23, 2003 ("2004 Class"), the record date set for the vote at the 2004 annual meeting. Excluded from the 2004 Class are the defendants, as well as their affiliates and assigns.

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

34. The Classes are so numerous that joinder of all members is impractical. As of June 26, 2004, the Company had outstanding 251,360,294 shares of its Class A common stock, held by individuals and entities too numerous to bring separate actions. During all times relevant to Counts IV through VI, Tyson had more than 100 million Class A shares outstanding. It is reasonable to assume that holders of the Class A common stock are geographically dispersed throughout the United States.

35. There are questions of law and fact which are common to each of the Classes and which predominate over questions affecting any individual class member. The common questions include, inter alia, whether defendants caused the 2002, 2003 and 2004 Proxy Statements to misrepresent the payment of perquisites to defendants Don Tyson, John Tyson and Bond.

36. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature. Plaintiff's claims are typical of the claims of the other members of each of the Classes. Accordingly, Plaintiff is an adequate representative of the Classes and will failure and adequately protect the interests of the Classes.

37. Plaintiff anticipates that there will be no difficulty in the management of this litigation as a class action.

38. Defendants have acted on grounds generally applicable to the Classes with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Classes as a whole.

39. The prosecution of separate actions would create the risk of:

(a) inconsistent or varying adjudications which would establish incompatible standards of conduct for the defendants; and/or

(b) adjudications which would as a practical matter be dispositive of the interests of other members of the Classes.

FACTUAL BACKGROUND

40. Tyson was founded in the 1930s by John Tyson. In 1963 the corporation went public and has since grown into the largest processor and marketer of protein products in the world. Tyson has throughout its existence been under the control of the Tyson family. In fact, three generations of Tysons have run the company – John Tyson, his son Don Tyson, and Don Tyson's son, John Tyson.

41. In 1998, John Tyson became Chairman of the Board at Tyson – following in his father's and grandfather's footsteps – and obtained control of the Tyson empire. Don Tyson, however, was not quite prepared to give up control and stayed on as Senior Chairman of the Board until 2001. With the king (Don Tyson) and the crown prince (John Tyson) of Tyson running the show, Tyson merged with IBP and formed the largest provider of protein products the world had ever seen. The Tyson family had more power than ever.

42. The Tyson family's power over the Company is cemented by Tyson's current equity structure. Unlike most corporations of Tyson's size, Tyson maintains a dual class stock structure, having both Class A and Class B voting stock. Tyson's Class A Stock receives one vote per share while the Class B stock receives ten votes per share. As stated above, the Tyson Limited Partnership owns 99.9% of Tyson's Class B Stock. By maintaining this dual class stock structure, even over shareholder opposition, the Tyson family maintains control over the Company's business with more than 80% of its voting power.

43. The Tyson family squelched the minority shareholders' attempts in both 1999 and 2003 to recapitalize the Company's equity structure. The Tyson family's absolute ability to defeat these shareholder proposals was not enough for the Board. They went the extra step of trying to prevent the 1999 proposal from ever making it onto the ballot. The Board went directly to the SEC and requested a "no action" letter that would permit the Company to leave the proposal off the proxy – a request which was denied by the SEC. Both recapitalization proposals were defeated by the Tyson's voting

power, but the 2003 proposal garnered support from nearly 50% of the non-Tyson family shares.

44. The saying "absolute power corrupts absolutely" could have been coined for the Tyson family. They have abused their power and have taken for themselves and their cronies on the Board millions of dollars straight out of the Company coffers. By acting in the interest of the Tyson family over all others, Tyson's Board of Directors has breached its fiduciary duties and violated the trust of its shareholders.

Related-Party Transactions

45. The Tyson family and certain of Tyson's executives and directors earn millions of dollars through their involvement in numerous related-party transactions with the Company. The terms of these contracts have consistently been kept from Tyson's minority shareholders. Rather, defendants simply disclosed in each year's proxy the aggregate amount of payments made to the related entities in the previous fiscal year and the most cursory of descriptions of the nature of the transactions. The payments which were disclosed totaled a staggering $51,368,061 for the period 2001 through 2003. Predictably, these contracts are with members of the Tyson family and their cronies (past and present) on the Tyson Board.

46. These lucrative related-party transactions with members of the Tyson family and with past and present members of the Board of Directors were consummated on financial terms that were unfair to the corporation and served to enrich corporate insiders to the detriment of Tyson.

The Grow-Out Operations

47. Perhaps one of the most absurd categories of related-party transactions is the poultry and swine grow-out operations. Under these arrangements related-parties would purchase from Tyson – purportedly at fair market value – baby chicks and swine, feed, veterinary and technical services, supplies, and other related items necessary to grow livestock to market age. Once the livestock reached market age, the related-parties would sell them either to Tyson or to unaffiliated companies. Notably absent from Tyson's disclosures are what it paid these related-parties in the buy-back of the livestock it originally sold to these related-parties.

48. The true end result of these cozy arrangements is that the Company is allowing Don Tyson, Barbara Tyson, Don Tyson's daughters (Carla and Cheryl), John Tyson, Starr and Johnston to capture profit that rightfully belongs to the Company. There is no valid business reason for selling these insiders the Company's raw product and everything needed to develop it, and then turning around and buying the finished product back from them at a higher price. What is even more offensive is that the arrangements also allow these insiders to sell the livestock to Tyson's competitors – so that livestock from Tyson's farms could end up in a competitor's breeding program, or, at the very least, the competitor's packaging for sale to consumers.

49. According to the Company's Proxy Statement dated December 31, 2003, all of the following parties were involved in these poultry grow-out operations: Don Tyson; Starr; John Tyson; Carla Tyson and Cheryl Tyson, the daughters of Don Tyson and sisters of John Tyson; entities in which Starr and Don Tyson's children, including John Tyson, are partners or owners; an entity owned by Johnston; a partnership in which

Johnston and Wray are partners; and a partnership in which Joe Starr's children are partners.

50. Don Tyson captured the lion's share of these grow-out operations with roughly 60% of all such operations. In 2003, the Company received a meager $11 million from the insiders, and roughly $10 million in each of fiscal 2002 and 2001.

51. It seems that the SEC's turning its attention to Tyson has made the Board nervous about these grow-out deals because they were terminated in late 2003.

Farm Leases

52. A major category of related-party transactions is farm leasing. Tyson leases farms from:

(a) a partnership of which John Tyson and the Randal W. Tyson Testamentary Trust, are partners (aggregate lease payments of $211,056 in 2003);

(b) entities in which Starr and Don Tyson's children, including John Tyson, are partners or owners (aggregate lease payments of $327,456 in 2003);

(c) the Tyson Children Partnership, of which John Tyson is a partner (aggregate lease payments of $450,000);

(d) JHT, LLC, of which Don Tyson and the Randal W. Tyson Testamentary Trust are members (aggregate lease payments of $30,000 in 2003);

(e) Tollett (aggregate lease payments of $9,480 in 2003); and

(f) Johnston (aggregate lease payments of $218,177 in 2003).

53. In addition to the above named farm leases, Tyson had other leases with related parties that were terminated in 2003. The terminated farm leases existed between Tyson and:

(a) Don Tyson (aggregate lease payments of $229,047 in 2003);

(b) entities in which Starr and Don Tyson's children, including John Tyson, are partners or owners (aggregate lease payments of $202,769 in 2003);

(c) the Randal W. Tyson Testamentary trust (aggregate lease payments of $50,504 in 2003);

(d) certain entities controlled by Starr (aggregate lease payments of $37, 548 in 2003); and

(e) Tollett (aggregate lease payments of $76,530 in 2003).

54. Farm lease payments to related-parties totaled $1,842,387 in 2003. Of those payments, $1,246,169 was attributable to leases that are still in effect and only $596,218 was attributable to canceled leases.

55. The farm lease payments in 2002 ($2,288,179 total) and 2001 ($2,451,264 total) to related-parties break down as follows:

(a) $394,567 in 2002 and $392,652 in 2001 to Don Tyson;

(b) $211,056 in each of 2002 and 2001 to a partnership of which John Tyson and the Randal W. Tyson Testamentary Trust are partners;

(c) $675,060 in each of 2002 and 2001 to entities in which Starr and Don Tyson's children, including John Tyson, are partners or owners;

(d) $450,000 in 2002 and $615,000 to the Tyson Children Partnership, of which John Tyson is a partner;

(e) $75,756 in each of 2002 and 2001 to the Randal W. Tyson Testamentary Trust;

(f) $30,000 in each of 2002 and 2001 to JHT, LLC, of which Don Tyson and the Randal W. Tyson Testamentary Trust are members;

(g) $140,640 in each of 2002 and 2001 to Tollet;

(h) $64,368 in each of 2002 and 2001 to entities controlled by Starr; and

(i) $246,732 in each of 2002 and 2002 to Johnston.

<u>Other Transactions With The Tyson Family</u>

56. Tyson has an aircraft lease agreement with Tyson Family Aviation, LLC, of which Don Tyson, John Tyson, the Randal W. Tyson Testamentary Trust, and Starr are members. In each of 2003 and 2002, Tyson made over $2 million in aggregate lease payments to Tyson Family Aviation. In 2001, Tyson paid in excess of $1.5 million in airplane lease payments to Tyson Family Aviation.

57. Tyson also had two agreements with Tyson family entities for the operation of two wastewater treatment plants in Arkansas. The first wastewater agreement covers a plant in Nashville, Arkansas and is between Tyson and entities in which Don Tyson is a principal. The second wastewater agreement covers a plant in Springdale, Arkansas and is between the Tyson Limited Partnership and another entity in which Don Tyson is a principal. Tyson made combined aggregate payments to the two plants totaling over $5.3 million in 2003, $5.5 million in 2002, and $6.1 million in 2001.

58. Tyson leases offices and warehouses from entities in which Starr and Don Tyson's children, including John Tyson, are partners or owners. The lease payments totaled $558,000 for the period of 2001 through 2003.

59. On May 21, 2004, Tyson purchased a parcel of land for approximately $356,000 from JHT, LLC, a company of which Don Tyson and the Randall W. Tyson Testamentary Trust, are members.

Other Transactions With Board Members Massey and Tollett

60. In each of 2002 and 2003, Tyson paid over $10 million to Shelby Massey Farms, owned by Massey, for cattle.

61. In each of 2003, 2002 and 2001, a Tyson subsidiary paid Tollett $624,077 for breeder hen research and development.

The Consulting Contracts

62. Upon retirement, Tyson provides many of its executives with lucrative consulting deals. These deals vary in compensation and can require former Tyson executives to work *up to* a grueling twenty hours per month.

63. According to Don Tyson's consulting agreement entered into on October 19, 2001, he receives $800,000 annually, life and health insurance, travel and entertainment expenses, and other perks for a period of 10 years. The contract *may* require Don Tyson to work "up to twenty (20) hours per month....," in providing advisory services to the Company. Amazingly, Don Tyson's value to the Company appears to have gone up with his retirement, because he was never paid higher than $600,000 for full-time work. Moreover, the agreement survives Don Tyson, requiring all payments to go to his "survivors" (one of whom undoubtedly is John Tyson) in the event of his death before the expiration of the agreement.

64. Tollett received his consulting contract in 1999. He is entitled to $350,000 annually until 2004, and $125,000 annually until the expiration of the agreement in 2009.

Tollett also receives health insurance and continued vesting of his stock options throughout the term of the agreement.

65. Wray got his consulting agreement in 1998. From that time until 2003, Wray received $200,000 annually, and starting in 2004, he receives $100,000 annually until the expiration of the agreement in 2008. Wray also receives health insurance and continued vesting of his stock options throughout the term of the agreement.

66. Peterson's consulting contract came right on the heels of Tyson's merger with IBP in October 2001. Peterson is entitled to $400,000 per year plus bonus payments, annual country club dues, use of the "Tyson" aircraft and health insurance. When Peterson died in May 2004, his widow became entitled to all of these payments and perks.

Tyson's Misuse of Corporate Assets

67. Several of the Board members and other executives have been enjoying a disguised form of compensation that was grouped under the rubric of "other annual compensation" in the footnotes of Tyson's proxy statements. The 2004 Proxy Statement described this category of compensation as travel and entertainment costs, insurance premiums, reimbursements for income tax liability related to the travel and entertainment costs and other items.

68. The "other annual compensation" category has appeared on Tyson's proxy statements since at least 1992, when Don Tyson was the sole beneficiary of this category of income. In 1998, when John Tyson became Chairman of the Board, he began benefiting from the "other annual compensation" category as well. Bond started receiving "other annual compensation" in 2001.

69. John Tyson and Bond had "other annual compensation" for the 2003 fiscal year totaling $325,286 and $183,548, respectively.

70. In 2002, John Tyson and Bond received payment of $172,463 and $73,685, respectively, for "other annual compensation."

71. In 2001, Don Tyson, John Tyson, and Bond received payment of $275,822, $125,146, and $61,566, respectively, for "other annual compensation."

72. In March 2004 the SEC conducted a formal, non-public investigation into these annual perquisites provided under the category "other annual compensation" for each of John Tyson, Bond, and Greg Lee.

73. The SEC's non-public investigation culminated in the SEC's recommended formal action against the Company. On August 16, 2004, the SEC notified Tyson that that it intended to recommend a civil enforcement action against the Company and a separate action against Don Tyson and was considering seeking a monetary penalty based on the Company's noncompliance with SEC regulations for the years 1997 through 2003. The SEC alleged that Tyson failed to fully comply with regulations with respect to the descriptions and disclosure of perquisites totaling approximately $1.7 million to Don Tyson. Further, the SEC alleged that the Company failed to maintain an adequate system of internal controls regarding the personal use of Company assets and the disclosure of perquisites and personal benefits.

74. Apparently realizing the implications of this SEC action, the Company announced, on the same day that it revealed the SEC's recommendation for an enforcement proceeding, that its "independent" Board members (unnamed in the release) had conducted a "review of this matter." The press release also stated that Don Tyson

had voluntarily paid $1.516 million to the Company "for certain items identified by independent members of the Board for the fiscal years 1997 through 2003."

75. The SEC's action should not have come as a surprise to the Tyson Board because other governmental agencies have taken the Company to task for similar violations. The IRS demanded that Tyson pay an additional $12 million in taxes after Tyson took illegal deductions for certain travel and entertainment expenses, including lake homes, aircraft, yachts, and compensation for executives during the fiscal years 1995 through 1997.

Fortuitously Timed Stock Option Grants

76. Since as early as 1999, Tyson's Board of Directors has had incredibly fortunate timing with respect to granting stock options to directors and executives. Tyson's Stock Incentive Plan, which replaced the Company's Nonstatutory Stock Option Plan in 2001, granted the Board permission to award Class A shares, stock options, or other incentives to employees, officers, directors, and others at the Company. The Board's Compensation Committee awards these options and has full discretion as to when and to whom to distribute the awards.

77. The one variable over which the Compensation Committee had no control was the price of the options. The Plan required that the price be no lower than the fair market value of the Company's stock on the day of the grant. The measure of fair market value employed is the closing price of Tyson's Class A stock.

78. The Compensation Committee found a way around the restriction of their discretion on the price of the options. They just issued the options days before the Company issued press releases that were very likely to drive the stock price up. The

close proximity in time of the options issuances and the press releases leaves no doubt that the Compensation Committee was well aware of the undisclosed information at the time it was issuing the options.

79. In the first of these timely stock option grants, on September 28, 1999, the Compensation Committee (then comprised of Vorsanger, Massey, and Cassady) granted 150,000 options to John Tyson, 125,000 options to Wayne Britt (a former Tyson CEO), and 80,000 options to Greg W. Lee, Tyson's then chief operating officer. Tyson granted the options at $15, nine cents over the closing price for that day. The very next day, Tyson announced that Smithfield Foods, Inc. agreed to acquire Tyson's Pork Group, Inc. in a transaction valued at approximately $80 million. Tyson's stock rose so rapidly on that it topped the Associated Press's "Big Movers in the Stock Market List." Just days later on October 4, 1999, the stock closed at $16.53. By December 1, 1999, Tyson stock closed at $17.50 per share. Thus, had the issuance of these options not been manipulated to occur just before the stock price was driven up, the aggregate strike price of the options would have been at least $887,500 higher.

80. On March 29, 2001, the Compensation Committee (comprised of Massey, Hackley and Allen) granted 200,000 stock options to John Tyson, 100,000 stock options to Greg Lee, and 50,000 stock options to Steven Hankins, Tyson's then Chief Financial Officer, at $11.50 per share, the closing price of the stock for that day. The next day, March 30, 2001, Tyson publicly cancelled its $3.2 billion deal to acquire IBP, Inc. As the news hit the streets, Tyson's stock price rose to $13.47 by close on March 30, 2001. Had the issuance of these options not been manipulated to occur just before the stock

price was driven up, the aggregate strike price of the options would have been at least $689,500 higher.

81. In mid-October of 2001, the Compensation Committee (comprised of Hackley, Allen and Massey) granted 200,000 options to John Tyson, 60,000 options to Greg Lee and 15,000 options to Steven Hankins in two separate option grants. Within two weeks of awarding these options, Tyson publicly announced that its 2001 fourth quarter earnings would be more than double the Company's expected earnings. This unexpected (by the public) good news drove Tyson's stock price to $11.90 by the end of November – even with the stock going ex-dividend on November 28. Had the issuance of these options not been manipulated to occur just before the stock price was driven up, the aggregate strike price of the options would have been at least $709,500 higher.

82. Lastly, On September 19, 2003, the Compensation Committee (comprised of Smith, Jones and Hackley) granted stock options to a number of executives and directors including 500,000 options to John Tyson, 280,000 options to Bond, and 160,000 options to Greg Lee at a price of $13.33, the September 18, 2003 closing price. Within days of these transactions, Tyson publicly announced that earnings were expected to exceed analysts' expectations and the stock price rose to $14.25, increasing the value of the options by approximately seven percent. By February 5, 2004, less than 5 months after the options were awarded, Tyson stock closed at $17.10. Had the issuance of these options not been manipulated to occur just before the stock price was driven up, the aggregate strike price of the options would have been at least $3,543,800 higher.

DEMAND ON THE TYSON BOARD IS EXCUSED AS FUTILE

83. Plaintiff did not make a demand on Tyson's Board of Directors to rectify the wrongs complained of herein because there is not a majority of independent directors on Tyson's Board to appropriately consider such a demand. Because at least five members of the ten-member Board are not independent, demand on the Board would be futile.[1] Further, a majority of Tyson's Board suffers from conflicts of interest and divided loyalties that preclude them from exercising independent business judgment. Among other things, the clear pattern of deferring, without question, to Tyson family interests precludes this Board from exercising business judgment and objectively considering a demand to initiate this suit.

84. Tyson's current Board members are Don Tyson, John Tyson, Barbara Tyson, Tollett, Hackley, Kever, Jones, Bond, Smith, and Zapanta.

85. Tyson openly admits that Bond, Tollett, and the members of the Tyson family, Don, John and Barbara, are not independent directors. Demand is therefore excused because these five Board members, representing half the Board, cannot independently consider a demand.

86. Demand is further excused because a majority of the remaining five directors have demonstrated their consistent and unvaried pattern of deferring to anything the Tyson family wants. The Company deems defendants Hackley, Kever, Jones, Smith and Zapanta to be "independent" under the NYSE rules. However, Hackley, Kever, Jones and Smith not only permitted harmful related-party transactions (described in detail

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[1] Beneville v. York, 769 A.2d 80, 85-86 (Del. Ch. 2000) (holding that demand is excused where a board is evenly divided between interested and disinterested directors).

herein) to continue uninterrupted, they also approved at least two new ones in 2003 with two of Don Tyson's daughters.

87. Some examples of the Tyson Board's pattern and practice of failing to exercise any business judgment include:

a. Permitting Massey to serve on the Company's Corporate Governance Committee and Compensation Committee while involved in a $10 million transaction with Tyson;

b. The Compensation Committee, made up of purportedly *independent* directors, provided John Tyson with a 175 percent raise from 2002 to 2003;

c. In 2003, the Governance Committee permitted additional Tyson family members to cash in on Tyson's grow-out operations, further explained below, before shutting them down at the end of the year;

d. Tyson's Audit Committee allowed potentially illegal accounting treatment of additional compensation to Don Tyson and failed to accurately report that additional compensation in certain SEC filings; and

e. The Compensation Committee (which included current Board member Hackley) recommended that Tyson pay Don Tyson $800,000 per year pursuant to a Senior Executive Employment Agreement after he retired in 2001 -- $200,000 more per year than Tyson had ever received as a full-time employee of Tyson. Don Tyson openly admitted that he would not be devoting anything close to full-time hours to Tyson when he said that he would watch Tyson's progress "from my boat."

88. The pattern of the Board exhibiting unquestioned loyalty to the Tyson family is created in large part by the overwhelming voting power of the Tyson family

under Tyson's current equity structure. The Tyson family maintains control of over 80% of the voting power. The Tyson Board also has no nominating committee. Therefore, the Tyson family controls the Board in a very direct sense: they control not only the composition of the Board but also all of the benefits that Tyson Board members receive.

89. Tyson's current non-executive Board members have reaped substantial benefits on account of their Board membership. For instance, (i) Defendant Hackley has been a Board member since 1992 and he has received at least $508,000 in cash compensation, $60,000 worth of Tyson Class A stock, and options on an additional 12,000 shares of Tyson Class A stock; (ii) Defendant Kever has been a Board member since 1999 and he has received at least $273,000 in cash compensation, $60,000 worth of Tyson Class A stock, and options on an additional 12,000 shares of Tyson Class A stock; (iii) Defendant Jones has been a Board member since 2000 and he has received at least $212,000 in cash compensation, $60,000 worth of Tyson Class A stock, and options on an additional 12,000 shares of Tyson Class A stock; (iv) Defendant Smith has been a Board member since 2001 and she has received at least $193,000, $60,000 worth of Tyson Class A stock, and options on an additional 12,000 shares of Tyson Class A stock; and (v) Defendant Zapanta has been a Board member since May 2004, and has received at least $39,500 in cash compensation, $30,000 worth of Tyson Class A stock, and options on an additional 6,000 shares of Tyson Class A stock.

90. At all times prior to 2004, moreover, although Tyson compensated their non-executive directors at $1,000 per day for work on board-related activities, Tyson did not report in their proxy statements the actual number of $1,000 per day payments were

made to their Board members. Thus, the cash compensation numbers listed above for non-executive Board members are likely to be significantly understated.

91. Because there is not a majority of independent directors on Tyson's Board and because all of Tyson's directors, independent or otherwise, are beholden to the Tyson family for their Board positions and benefits, demand is clearly futile.

TOLLING OF THE STATUTE OF LIMITATIONS

92. The related party contracts and transactions, and compensation arrangements, described more fully above, were unknown to Tyson's public shareholders until 2004. Defendants did not disclose the existence of these contracts until after the SEC had initiated an investigation into the Company's failure to disclose certain compensation arrangements. Defendants still have not disclosed the terms of these contracts to this day.

93. Plaintiff was also unable to determine that defendants were timing stock option issuances to manipulate the strike price of the options until a pattern of such behavior became clear. Afterall, the first such occurrence in 1999 – and even the second one in 2001 – could easily be explained as coincidence. By the third such well-timed issuance in 2003, the pattern of deliberate price manipulation had emerged. Thus, it was not until 2003 that plaintiff, or any other shareholder, could have discovered defendants' scheme.

94. For the foregoing reasons, plaintiff could not have known sufficient facts to allege causes of action for either the stock options issued in 1999 and 2001 or for the related-party transactions in 2001.

COUNT I

(For Breach of Fiduciary Duty In Approving
The Don Tyson and Peterson Consulting Contracts in 2001
and "Other Compensation" For Certain
Tyson Executives in 2001 through 2003)

95. Plaintiff realleges and incorporates by reference herein each and every preceding paragraph.

96. This count is brought against defendants John Tyson, Hackley, Kever, Jones, Tollett, Barbara Tyson, Starr, Massey, Wray, Johnston, and Allen as to the approval of the Don Tyson and Peterson consulting contracts and the approval of "other compensation" for certain Tyson executives in 2001. This count is brought against defendants John Tyson, Hackley, Kever, Jones, Bond, Smith, Tollett, Barbara Tyson, and Peterson as to the approval of "other compensation" for certain Tyson executives in 2002 and 2003.

97. Each of the defendants named in this count owed Tyson and its shareholders the duties of unflinching loyalty and due care. They were obligated to act in the best interests of Tyson, to the exclusion of all other interests and influences.

98. Defendants named herein breached their fiduciary duties to Tyson by approving the consulting agreements for Don Tyson and Peterson in 2001. These agreements were shams, requiring little to no "consultation" by Don Tyson or Peterson in return for extremely lucrative payments.

99. There can be no clearer proof that these agreements constituted nothing but gifts to Don Tyson and Peterson than the fact that the payments were required to continue after their death. Peterson died in May 2004 – clearly no more advisory services

are being provided to Tyson. Yet Tyson is contractually required to continue making payments under his agreement to his widow.

100. Defendants breached their fiduciary duties to Tyson by approving the "other compensation" payments to Don Tyson, John Tyson and Bond in 2001, and the "other compensation" payments to John Tyson and Bond in 2002 and 2003. These payments were reported to be reimbursement for business-related travel and entertainment expenses, but actually were for these individual's personal expenses.

101. The expenses totaled $462,534 in 2001, $246,148 in 2002 and $508,834 in 2003, but the damage to the Company does not end there. Due to the misrepresentation of the true purposes of this "compensation," the SEC has recommended a civil enforcement proceeding against the Company and a monetary fine.

102. Tyson has been damaged by the sham Don Tyson and Peterson consulting agreements in an amount that cannot be ascertained at this time due to the variable nature of the costs of certain of the perquisites granted thereunder.

103. Plaintiff has no adequate remedy at law.

COUNT II

(For Breach of Fiduciary Duty – The Option Issuances)

104. Plaintiff realleges and incorporates by reference herein each and every preceding paragraph.

105. This count is brought against defendants Vorsanger, Massey and Cassady as to the 1999 option issuances, against Hackley, Massey, and Allen as to the 2001 option issuances, and against Hackley, Jones and Smith as to the 2003 options issuances.

106. Each of the defendants named in this count owed Tyson and its shareholders the duties of unflinching loyalty and due care. They were obligated to act in the best interests of Tyson, to the exclusion of all other interests and influences.

107. Defendants named herein breached their fiduciary duties to Tyson by approving the issuance of stock options that were timed to cause a lower strike price than otherwise would have been required. Defendants deliberately issued the options knowing that the Company was on the verge of making announcements that would drive the stock price (and therefore the option strike price) up.

108. Tyson has been damaged by these options grants because it will receive a lower exercise price than it would have if the defendants had not manipulated the timing of the issuances.

109. Plaintiff has no adequate remedy at law.

COUNT III

(For Breach of Fiduciary Duty – The Related-Party Transactions)

110. Plaintiff realleges and incorporates by reference herein each and every preceding paragraph.

111. This count is brought against defendants Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, Tollett, Massey, and Peterson as to related-party transaction payments approved in 2003, and against defendants Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, Tollett, Peterson, Starr, Massey, Wray, Johnston, and Allen as to related-party transaction payments approved in 2001 and 2002. These related-party transactions are detailed above in paragraphs 45 through 61.

112. Each of the defendants named in this count owed Tyson and its shareholders the duties of unflinching loyalty and due care. They were obligated to act in the best interests of Tyson, to the exclusion of all other interests and influences.

113. Defendants named herein breached their fiduciary duties to Tyson by approving the payments made to related-parties for farm, office, warehouse and aircraft leases, cattle purchases, breeder hen development, wastewater treatment services, and grow-out operations. Defendants approved these payments without employing any procedures to ensure the fairness of these transactions to Tyson. These transactions have no valid business purpose and were, in fact, unfair to Tyson. The related-party transactions are simply a means of diverting to corporate insiders profits that rightfully belongs to Tyson.

114. Tyson has been damaged by these unfair related-party transactions.

115. Plaintiff has no adequate remedy at law.

COUNT IV

(Class Action Claim Based Upon Material
Misrepresentations In The 2002 Proxy Statement)

116. Plaintiff realleges and incorporates by reference herein each and every preceding paragraph.

117. This count is brought against defendants Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, Tollett, Peterson, Starr, Massey, Wray, Johnston, and Allen.

118. On January 2, 2002, defendants issued the 2002 Proxy Statement ("2002 Proxy") to solicit votes in anticipation of the annual meeting of Tyson shareholders, scheduled for February 1, 2002. The directors slated for re-election at the 2002 annual

meeting were Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, Tollett, Peterson, Starr, Massey, Wray, Johnston, and Allen.

119. In the 2002 Proxy, defendants misrepresented the nature of Don Tyson's and Bond's compensation by representing these individual's "Other Compensation" as payments for business related travel and other perquisites when, in fact, the expenses were not business-related.

120. The true nature of these payments was material to Tyson's Class A shareholders. If those shareholders had been told the true nature of these payments to Don Tyson and Bond, they might not have re-elected defendants Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, Tollett, Peterson, Starr, Massey, Wray, Johnston, and Allen.

121. As a result of the misrepresentations in the 2002 Proxy, defendants Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, Tollett, Peterson, Starr, Massey, Wray, Johnston, and Allen were re-elected at the 2002 annual meeting.

122. Plaintiff and the 2002 Class were thus deprived of their right under Delaware law to cast a fully informed vote at the 2002 annual meeting.

123. Plaintiff and the 2002 Class have no adequate remedy at law.

COUNT V

(Class Action Claim Based Upon Material
Misrepresentations In The 2003 Proxy Statement)

124. Plaintiff realleges and incorporates by reference herein each and every preceding paragraph.

125. This count is brought against defendants Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, Tollett, Peterson, Starr, Massey, Wray, Johnston, and Allen.

126. On January 2, 2003, defendants issued the 2003 Proxy Statement ("2003 Proxy") to solicit votes in anticipation of the annual meeting of Tyson shareholders, scheduled for February 7, 2003. The directors slated for re-election at the 2003 annual meeting were Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, Tollett, and Peterson.

127. In the 2003 Proxy, defendants misrepresented the nature of John Tyson's and Bond's compensation by representing these individual's "Other Compensation" as payments for business related travel and other perquisites when, in fact, the expenses were not business-related.

128. The true nature of these payments was material to Tyson's Class A shareholders. If those shareholders had been told the true nature of these payments to John Tyson and Bond, they might not have re-elected defendants Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, Tollett, and Peterson.

129. As a result of the misrepresentations in the 2003 Proxy, defendants Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, Tollett, and Peterson were re-elected at the 2003 annual meeting.

130. Plaintiff and the 2003 Class were thus deprived of their right under Delaware law to cast a fully informed vote at the 2003 annual meeting.

131. Plaintiff and the 2003 Class have no adequate remedy at law.

COUNT VI

(Class Action Claim Based Upon Material
Misrepresentations In The 2004 Proxy Statement)

132. Plaintiff realleges and incorporates by reference herein each and every preceding paragraph.

133. This count is brought against defendants Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, and Tollett.

134. On December 1, 2003, defendants issued the 2004 Proxy Statement ("2004 Proxy") to solicit votes in anticipation of the annual meeting of Tyson shareholders, scheduled for February 6, 2004. The directors slated for re-election at the 2004 annual meeting were Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, and Tollett.

135. In the 2004 Proxy, defendants misrepresented the nature of John Tyson's and Bond's compensation by representing these individual's "Other Compensation" as payments for business related travel and other perquisites when, in fact, the expenses were not business-related.

136. The true nature of these payments was material to Tyson's Class A shareholders. If those shareholders had been told the true nature of these payments to John Tyson and Bond, they might not have re-elected defendants Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, and Tollett.

137. As a result of the misrepresentations in the 2004 Proxy, defendants Don Tyson, John Tyson, Hackley, Jones, Smith, Kever, Bond, Barbara Tyson, and Tollett were re-elected at the 2004 annual meeting.

138. Plaintiff and the 2004 Class were thus deprived of their right under Delaware law to cast a fully informed vote at the 2004 annual meeting.

139. Plaintiff and the 2004 Class have no adequate remedy at law.

WHEREFORE, Plaintiff respectfully requests that the Court enter an Order as follows:

a. entering judgment against defendants and in favor of Plaintiff;

b. finding that defendants have breached their fiduciary duties to Tyson;

c. awarding compensatory and consequential damages to Tyson attributable to defendants' breaches of fiduciary duty, including pre- and post-judgment interest;

d. certifying the class of shareholders entitled to vote in the 2002 election and voiding the election of directors held on February 1, 2002;

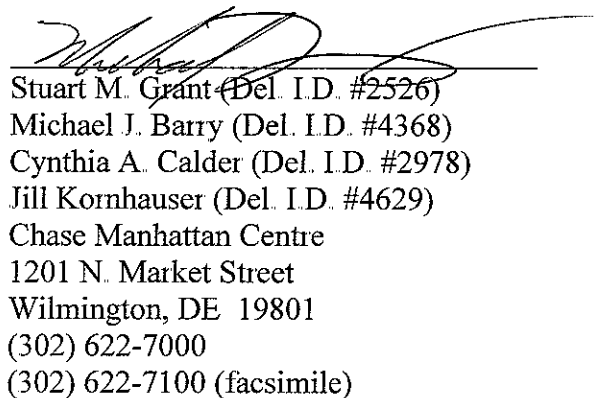
e. certifying the class of shareholders entitled to vote in the 2003 election and voiding the election of directors held on February 7, 2003;

f. certifying the class of shareholders entitled to vote in the 2004 election and voiding the election of directors held on February 6, 2004; and

g. granting Plaintiff such other relief, including an award of reasonable attorneys' fees and costs, as the Court shall deem appropriate.

GRANT & EISENHOFER, P.A.

Dated: February 16, 2005



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