Dell CEO ups ante in buyout battle for PC maker (Update 2)

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Just when it looked as if he might be vanquished, Dell CEO Michael Dell has regained the advantage in the lengthy battle to buy the slumping personal computer maker that he founded nearly 30 years ago. He did it by persuading the company's board to accept a slightly better offer that adds a one-time dividend in exchange for a pivotal change in how shareholders will vote on the deal.

The latest twist in the six-month saga emerged Friday shortly before Dell Inc. was scheduled to hold a shareholder vote on the company's proposed sale to Michael Dell and investment firm Silver Lake Partners for $24.4 billion, or $13.65 per share.

Michael Dell wants to further diversify a company that has had trouble adapting to the growing use of smartphones and tablet computers over the desktops and laptops that Dell Inc. makes. He believes he has a better chance of turning the company around in the long term if it is in private hands, away from the quarter-to-quarter scrutiny of Wall Street.

But the deal to buy out the company appeared destined to fail at that price, which had been skewered as a rip-off by a throng of rebellious shareholders led by billionaire Carl Icahn and a long-time company shareholder, Southeastern Asset Management. The vote had already been delayed twice as Michael Dell's group tried to rally support.

In a Friday statement, Icahn said "the war regarding Dell is far from over." He vowed to keep fighting Michael Dell's takeover attempt.

Last week, Michael Dell and Silver Lake submitted a higher bid of $24.6 billion, or $13.75 per share, but conditioned that on the company's board revising the voting rules to make passage easier. The board rejected that.

Faced with almost certain defeat on the lower bid price, Michael Dell and Silver Lake struck a new agreement Friday that further sweetens the bid. The new offer was enough to get the board to reconsider and grant the buyers' request for a crucial revision in the voting rules.

Friday's offer will probably be enough to gain support from major mutual funds who hold Dell's stock, as well as recent investors "who are ready to take their dollars and move on," said University of Michigan law and business professor Erik Gordon, who has been following the buyout efforts.

In a sign that investors are confident the deal will get done, Dell's stock climbed 70 cents, or more than 5 percent, to $13.65 in afternoon trading Friday.

Dell Inc. called Friday's meeting to order and quickly adjourned it without a vote. With the third postponement, the vote is now scheduled for Sept. 12—five weeks before the company's regular, annual shareholder meeting on Oct. 17.

Icahn is suing in Delaware court to force the company to hold the annual meeting on the same day as the vote on the deal. Icahn wants to oust Dell's board and pursue a complex alternative plan that he says would be worth at least $15.50 per share. In his statement, Icahn blasted the current board for "putting its thumb on the scales in favor of Mr. Dell's offer."

The new arrangement with Michael Dell and Silver Lake pegs the sale price at $13.75 per share, the same offered last week, but stockholders will also receive a special dividend of 13 cents per share under the new arrangement. That would cost about $230 million, based on Dell's outstanding stock of 1.76 billion shares.

Friday's announcement didn't disclose whether the special dividend will be drawn from Dell Inc.'s bank account or be paid by Michael Dell, whose fortune is estimated at $15 billion by Forbes magazine.

Michael Dell and Silver Lake also are guaranteeing that existing shareholders will receive the company's regularly scheduled dividend of 8 cents per share for the fiscal third quarter, which ends in November. It was something that hadn't been a certainty if the deal closed before then. That dividend guarantee will distribute about $140 million more to shareholders, including about $20 million owed to Michael Dell as the company's largest shareholder.

Dell Inc. had nearly $11 billion in cash as of May 3.

Although the new deal improves Michael Dell's chances, Icahn could still complicate things, particularly if he can gain a court ruling that forces Dell to hold its annual meeting on Sept. 12 at the same time as the vote on the deal. That would give Icahn a chance to overthrow Dell's board, but there isn't any indication that he has enough votes to pull off the mutiny.

Icahn, who has a long history of challenging the decisions of corporate boards and management, sounded unbowed Friday.

"We are not satisfied," he said in a statement. "We believe that an increase of a mere 13 cents is an insult to shareholders. And promising shareholders an additional 8-cent dividend that we were already entitled to, and pretending that it is some sort of gift, is a further slap in the face."

Michael Dell is contributing about $4.5 billion in cash and stock toward the purchase price, according to regulatory filings. The rest of the money is coming from Silver Lake and lenders, including a $2 billion loan from longtime partner Microsoft Corp., the maker of the Windows operating system that powers most of Dell Inc.'s PCs.

In exchange for ensuring shareholders will receive the extra money, Michael Dell and Silver Lake received a key concession. Dell's board agreed that the deal can go through as long as it gains support from a majority of votes cast, excluding Michael Dell's nearly 16 percent stake in the company. The original bid required a majority of all outstanding stock excluding Michael Dell's stake, a provision that meant that abstentions counted as a part of the opposition. Last week, Michael Dell estimated that about 27 percent of the shares eligible to vote hadn't submitted ballots leading up to the previously scheduled meetings on the deal. Those would have been counted as "no" had the vote been formally recorded.

Dell's board also changed the voting eligibility. All shareholders holding company stock as of Aug. 13 can cast ballots. Before, the cutoff date was June 3. The change creates a new pool of voters, including many investors who bought the stock in the past few months and stand to profit from the sweetened offer.

Long-time shareholders, though, won't be as fortunate because they bought their stock during better times for Dell. The shares have plunged by more than 40 percent since Michael Dell returned for a second stint as CEO in 2007, largely because the company has had trouble adapting to a technological shift that has caused PC sales to fall as more people use smartphones and tablets to connect to the Internet and handle other common computing tasks.

Michael Dell is also betting that the company can bounce back, but he doesn't want to try to do it while the stock is being traded publicly. He foresees the company going through a painful transition likely to lower its earnings for several years, something that will be easier to endure if Dell Inc. doesn't have to cater to Wall Street's fixation on short-term results. If the proposed buyout goes through, the company will become privately held for the first time in 25 years.

The latest deal came about a week after Michael Dell described the $13.75 per share offer as his "best and final" proposal. Patrick Moorhead, an analyst at Moor Insights & Strategy, said Michael Dell's willingness to take things a step further shows how badly he wants a chance to revive the company.

"It's his name on the sign, a part of his legacy," Moorhead said. "So, he is going to put everything he has on the table to take control."

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