



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

April 5, 2022

April Hamlin
Ballard Spahr LLP

Re: Qumu Corporation (the "Company")
Incoming letter dated January 21, 2022

Dear Ms. Hamlin:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by Dolphin Limited Partnership III, LP for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the board take all requisite steps to engage an independent, recognized investment bank (not previously engaged by the Company or affiliated with any director) to direct a sale of the Company to an independent, strategic buyer.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(3). We are unable to conclude that the Proposal, taken as a whole, is so vague or indefinite that it is rendered materially misleading.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal does not seek to micromanage the Company.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(10). Based on the information you have presented, it appears that the Company has not substantially implemented the Proposal.

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2021-2022-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Scott Wilson
Miles & Stockbridge

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April Hamlin
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Fax: 612.371.3207
hamlina@ballardspahr.com

January 21, 2022

Via Email: shareholderproposals@sec.gov

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission 100 F Street, NE
Washington, DC 20549

Re: Shareholder Proposal to Qumu Corporation by Dolphin Limited Partnership III, LP

Dear Counsel:

This letter is submitted on behalf of our client, Qumu Corporation, a Minnesota corporation (the “Company” or “Qumu”), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), to notify the Securities and Exchange Commission (the “Commission”) of the Company’s intention to exclude a shareholder proposal and related supporting statement (the “Proposal”) submitted by Dolphin Limited Partnership III, LP (the “Proponent”), from its proxy materials for its 2022 Annual Meeting of Shareholders (the “2022 Proxy Materials”). The Company received the Proposal on December 7, 2021.

For the reasons set forth below, we respectfully request that the staff of the Division of Corporation Finance (the “Staff”) will not recommend to the Commission that enforcement action be taken if the Company excludes the Proposal from its 2022 Proxy Materials in reliance on the provision of Rule 14a-8(i)(3), Rule 14a-8(i)(7) and Rule 14a-8(i)(10) under the Exchange Act, as described below.

In accordance with Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”), this letter and its attachments are being e-mailed to the Staff at shareholderproposals@sec.gov. As required by Rule 14a-8(j), this letter and its attachments are concurrently being sent to the Proponent as notice of the Company’s intent to omit the Proposal from its 2022 Proxy Materials no later than eighty (80) calendar days before the Company currently intends to file its definitive 2022 Proxy Materials with the Commission. Rule 14a-8(k) and SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or Staff. Accordingly, we take this opportunity to notify the Proponent that if the Proponent elects to submit additional correspondence to the Commission or Staff in response to this letter, a copy of that

correspondence should be concurrently provided to the undersigned on behalf of the Company.

The Proposal

The Proposal states:

Proposal

Shareholders of Qumu Corporation (“Qumu”) request the Board of Directors (the “Board”) take all requisite steps to engage an independent, recognized investment bank (not previously engaged by Qumu or affiliated with any director) to direct a sale of Qumu to an independent, strategic buyer.

Supporting Statement

Background

In March 2013, Dolphin Limited Partnership III, LP (“Dolphin”) disclosed Qumu shareholdings approximating 6.5% and additions of a Dolphin-sponsored Director and Board-observer. Then Qumu owned its enterprise video content software management business, acquired for \$52 million and Dolphin calculated Qumu had over \$80 million of cash and assets convertible to cash (approximately \$9.25 per share). On March 31, 2014, Qumu closed above \$16 per share. By July 2015, Qumu had burned approximately \$50 million, on its core business and a related acquisition, the value of which remains elusive. After negative amended guidance, by August 2015, Qumu’s share price was in the \$4 per share range. In July 2015, Qumu added a Director from Dolphin (until May 2018) with objectives of eliminating \$25 million of costs and achieving cash flow break-even, both accomplished. In February 2020, Qumu was merging with another public company; this was terminated in June 2020.

Recent Developments

On January 25, 2021, Qumu announced preliminary 2020 results (revenue of \$29.1 million) and 2021 guidance of “at least 20% revenue growth.” The share price closed at \$8.10. On January 29, 2021, Qumu closed an equity offering at \$6.75 per share, generating approximately \$23.1 million. The share price rose above \$10. On March 4, 2021, Qumu released 2020 actual results: revenue of \$29.1 million, an EBITDA loss of (\$2.3) million, and 2021 revenue guidance of \$35.0 million, a 20% increase. On April 29, 2021, Qumu reiterated this guidance.

61 days later, on June 29, 2021, Qumu announced second quarter results, strikingly lowered outlook, withdrew April 2021 guidance and pushed growth to early 2022.

Qumu closed at \$3.85. On August 30, 2021, Qumu announced its CFO was “stepping down.”

On October 28, 2021, Qumu announced a Q3 (\$3.5) million EBITDA loss and burning \$14 million for nine months. On October 27, 2021, Dolphin publicized its July 26, 2021 letter to Qumu outlining Dolphin’s 8-year involvement and belief Qumu had expended over \$150 million on its core business with continuing flat revenue, unsustainable EBITDA losses, and a revenue base and market capitalization likely too small to remain public (the “Dolphin Letter”). While requested, Qumu offered no corrections to Dolphin’s Letter.

Dolphin Seeks Strategic Sale

By the May 2022 regular Stockholders’ meeting, nine months from Dolphin’s Letter, if Qumu has not “made the grade in the public market,” Dolphin seeks shareholder support for its non-binding Proposal to end 8-years of failed operating performance, massive cash burn, a rollercoaster share price, and repeatedly missed guidance.

DOLPHIN URGES SHAREHOLDERS TO VOTE FOR THE PROPOSAL

A copy of the Proposal and related correspondence with the Proponent is attached to this letter as Exhibit A.

Bases for Exclusion

We hereby respectfully request that the Staff concur in the Company’s view that the Proposal may be excluded from the 2022 Proxy Materials pursuant to:

- Rule 14a-8(i)(3) because the Proposal is inherently vague and indefinite;
- Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company’s ordinary business operations; and
- Rule 14a-8(i)(10) because the Proposal has been substantially implemented.

Analysis

I. The Proposal May Be Excluded Under Rule 14a-8(i)(3) Because the Proposal Is Inherently Vague and Indefinite.

Rule 14a-8(i)(3) permits a company to omit a shareholder proposal from its proxy materials where the proposal violates the Commission’s proxy rules. These include rules that prohibit “materially false or misleading statements,” because the proposal is “so vague and indefinite

that neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires.” Staff Legal Bulletin No. 14B (Sept. 15, 2004).

When assessing proposals under Rule 14a-8(i)(7), the Staff considers “both the proposal and the supporting statement as a whole.” Staff Legal Bulletin No. 14C (June 28, 2005).

The Staff has consistently concurs in the exclusion of a proposal when, as with the Proposal, key terms of the proposal are indefinite, undefined or ambiguous such that a company and its shareholders may have divergent interpretations of such terms. *See, e.g., Verizon Communications Inc.* (avail. February 5, 2021) (concurring in exclusion of a proposal requiring the company to provide each director nominee’s “ideological perspectives” and “political/policy beliefs” where the proposal did not define or clarify these terms); *eBay Inc.* (avail. April 10, 2019) (concurring in exclusion of a proposal requesting that the company “reform” the compensation committee without providing guidance regarding meaning of the term); *AT&T Inc.* (avail. Feb. 21, 2014) (concurring in exclusion of a proposal requesting review of the company’s policies and procedures relating to the “directors’ moral, ethical and legal fiduciary duties and opportunities,” where the proposal did not describe or define such terms); *The Boeing Company* (avail. Mar. 2, 2011) (concurring in exclusion of a proposal requesting, among other things, that senior executives relinquish certain “executive pay rights” without clarifying the meaning of the term); and *The Coca Cola Company* (Jan. 30, 2002) (concurring in exclusion of a proposal regarding including “ordinary” persons on the board of directors where the proposal did not define or provide criteria as to what constitutes “ordinary”). A shareholder proposal can be excludable as misleading under Rule 14a-8(i)(3) when the proposal is ambiguous such that “any action ultimately taken by the [c]ompany upon implementation could be significantly different from the actions envisioned by the shareholders voting on the proposal.” *Fuqua Industries, Inc.* (March 12, 1991).

The Proposal contains many vague, unclear, indefinite and ambiguous words, phrases and concepts.

First, the Proposal refers to the engagement of an “independent, recognized investment bank.” It is not clear what “independent” means in this context or how Qumu would determine whether an investment bank is “independent” as contemplated by the proposal. “Independent” could refer to independence from the potential buyer counterparty, from Qumu management, from Qumu board or from Qumu as a company. Additionally, independence could capture many business, ownership, personal, family or other relationships or transactions between parties. From the language of the Proposal, it is not possible to determine what relationships or transactions among which persons the Proponent is contemplating Qumu examine in order to determine “independence.” The Proposal does not provide any interpretive guidance or direction regarding the information the Qumu board of directors should gather to determine the “independence” of the investment bank.

Similarly, the Proposal specifies that the investment bank may not be “affiliated with any director.” There is no commonly agreed-upon definition of “affiliated” and the Proposal does not offer one. Additionally, it is not clear whether or to what extent the terms “independent” and “not affiliated” are or may cover the same criteria. As is the case with the undefined term “independent,” neither Qumu nor any Qumu shareholder would have certainty regarding the relationships or the transactions the Proposal requires be examined to determine in the investment bank is “affiliated.”

The Proposal asks the Qumu board to direct a sale of Qumu to “...an independent, strategic buyer.” For the same reasons set forth above, the term “independent” as describing a buyer is vague, indefinite and unclear. In particular, it is unclear if “independent” would exclude Qumu’s customers, channel partners or other companies with business relationships with Qumu. Additionally, the Proposal provides no criteria for what constitutes a “strategic” buyer. Given that this would be a strategic transaction for Qumu, any buyer could be a “strategic” buyer from Qumu’s perspective. Likewise, a buyer very well may consider an acquisition of Qumu as part of its strategy and therefore, strategic to that buyer. The Proposal does not offer any rationale for limiting a sale transaction to this type of buyer or for excluding buyers that do not meet this undefined criteria. Accordingly, the Proposal does not offer any guidance for determining whether a buyer is “independent” or “strategic.”

Additionally, the last portion of the Proposal begins:

“By the May 2022 regular Stockholders’ meeting, nine months from Dolphin’s Letter, if Qumu has not ‘made the grade in the public market,’ Dolphin seeks shareholder support for its non-binding Proposal ...”

This language is particularly critical to the Proposal as a whole because it is the only portion of the supporting statement directly addressing the resolution the Proponent is urging Qumu shareholders to support. The clause “...if Qumu has not ‘made the grade in the public market’ ...” conditions the Proponent’s request for Qumu shareholder support of the Proposal on Qumu’s failure to achieve some undefined future “public market” criteria as of the time of the 2022 Annual Meeting of Shareholders. Reading the resolution together with this portion of the supporting statement, neither the Qumu board of directors nor the Qumu shareholders would have clarity on when, if ever, the Proposal should be approved by the Qumu shareholders or even if approved, when, if ever, the Proposal should be implemented. For example, if Qumu’s stock price significantly appreciates by the time of the 2022 Annual Meeting of Shareholders, is the Proponent no longer requesting Qumu shareholder approval for the Proposal? If adopted, would the Proponent expect the Proposal to be implemented if Qumu’s stock price significantly appreciates by the time of the 2022 Annual Meeting of Shareholders? By conditioning the Proponent’s own support for the Proposal and the request for Qumu shareholder support of the Proposal upon the happening of an undefined future event – “making the grade in the public market” – the Proposal is rendered inherently ambiguous.

Thus, the Proposal may be properly excluded from the 2022 Proxy Materials pursuant to Rule 14a-8(i)(3) because the Proposal is so vague and indefinite as to violate the Commission's proxy rules prohibiting materially false or misleading statements.

II. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because the Proposal Deals with Matters Relating to the Company's Ordinary Business Operations.

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a stockholder proposal that relates to the company's "ordinary business" operations. According to the Commission's release accompanying the 1998 amendments to Rule 14a-8, the term "ordinary business" "refers to matters that are not necessarily 'ordinary' in the common meaning of the word," but instead the term "is rooted in the corporate law concept providing management with flexibility in directing certain core matters involving the company's business and operations." Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"). In the 1998 Release, the Commission stated that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting," and identified two central considerations that underlie this policy. *Id.* As relevant here, one of these considerations was whether the proposal "seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *Id.*

Although the Staff recently issued guidance specifically relating to its approach to evaluating certain aspects of the ordinary business exclusion, we do not believe the recent guidance impacts the arguments made herein. *See* Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L"). Among other things, SLB 14L reverses prior Staff guidance regarding the company-specific approach to evaluating the significance of a policy issue that is the subject of a shareholder proposal for purposes of the ordinary business exclusion. The Proposal does not deal with a policy issue and this no-action request does not seek to exclude the Proposal upon that basis. Instead, the bases for our request relies on precedent preceding, or not involving, the reversed prior Staff guidance. Therefore, SLB 14L is not applicable to the Proposal.

While some portion of the Proposal relates to an extraordinary transaction, key portions of the Proposal seek to micromanage the Company in its conduct of an extraordinary transaction.

The Staff has consistently reiterated that, when considering arguments for exclusion based on micromanagement, the Staff looks "to whether the proposal seeks intricate detail or imposes a specific strategy, method, action, outcome or timeline for addressing an issue, thereby supplanting the judgment of management and the board." Staff Legal Bulletin No.

14K (Oct. 16, 2019)(“SLB 14K”). The Staff’s analysis of micromanagement arguments is based on “the manner in which a proposal seeks to address an issue,” regardless of whether that issue is an appropriate subject matter for shareholder vote. Staff Legal Bulletin No. 14J (Oct. 23, 2018)(“SLB 14J”). “If the method or strategy for implementing the action requested by the proposal is overly prescriptive, thereby potentially limiting the judgment and discretion of the board and management, the proposal may be viewed as micromanaging the company.” SLB 14K.

First, the Proposal inappropriately attempts to micromanage the Qumu board of directors in its selection of an investment bank by requiring that the investment bank be “an independent, recognized investment bank (not previously engaged by Qumu or affiliated with any director).” At its essence, the Proposal would prohibit the Qumu board of directors from selecting certain investment banks. The selection of an investment bank is a matter of complex judgment for the Qumu board of directors. This decision would take into account many factors such as the investment bank’s experience, industry depth, prior representative matters, relationships with potential counterparties, relationship with Qumu, fee arrangements and other engagement terms. Different members of the Qumu board of directors may give different weight to these factors or others. This decision typically also follows presentations by the potential investment banks to the board of directors and meetings between the board of directors and the potential investment banks. Shareholders, as such, will not receive these presentations nor participate in these meetings. Shareholders also are not generally aware of the investment banks that Qumu may have engaged in the past and accordingly, it is inappropriately constraining for the Qumu shareholders, as such, to exclude a class of investment banks from the Qumu board’s consideration. Accordingly, the Qumu shareholders, as a group, would not be in a position to make an informed judgment on the selection of an investment bank. The Proposal significantly limits the judgment and discretion of the Qumu board of directors in its selection of an investment bank by prescriptively excluding certain investment banks from consideration.

Second, the Proposal improperly attempts to micromanage the Qumu board of directors by requiring that a sale of Qumu be limited to “an independent, strategic buyer.” As noted above, this portion of the Proposal is inherently vague and indefinite. However, to the extent it purports to describe a specific identifiable class of buyer, the Proposal again seeks to micromanage the Qumu board of directors – in this case, by limiting its selection of a buyer. Given the highly variable process to identify an interested buyer, the highly complex decision-making involved in selecting a buyer, the myriad factors that one or more directors may consider in such decision, the Qumu shareholders, as a group, would not be in a position to make an informed judgment on the identity of a buyer in a Qumu sale transaction. The Proposal’s pre-emptive exclusion of buyers other than “an independent, strategic buyer” seeks to micromanage the Qumu board of directors by imposing a specific strategy for identification of a buyer and by prescriptively limiting the types of buyers that could be pursued in sale process.

Because the Proposal is overly prescriptive in limiting the investment banks the Qumu board of directors may engage and in limiting the buyers Qumu may select for a potential transaction, the Proposal seeks to unduly restrict the authority of the Qumu board of director to manage its advisors and the execution of a sale process in the performance of its fiduciary duties. Thus, the Proposal may be properly excluded from the 2022 Proxy Materials pursuant to Rule 14a-8(i)(7) as micromanaging the Company.

III. The Proposal May Be Excluded Under Rule 14a-8(i)(10) Because the Proposal Has Been Substantially Implemented.

Rule 14a-8(i)(10) permits a company to exclude shareholder proposal from its proxy materials if the company has substantially implemented the proposal. Where the company has already taken action to address the underlying concerns and essential objectives of a shareholder proposal, the proposal has been “substantially implemented” and may be excluded. *See, e.g., Exelon Corp.* (avail. Feb. 26, 2010) and *Exxon Mobil Corp.* (avail. Mar. 23, 2009).

The Staff has consistently concurred with the exclusion of shareholder proposals requesting that companies retain investment banks or advisors to perform specific services under Rule 14a-8(i)(10) where a company has already retained an investment bank to perform services that address the substance of the shareholder proposal. *See, e.g., InvenTrust Properties Corp.* (avail. February 7, 2020) (permitting exclusion of a proposal to engage investment bankers to develop a plan to provide liquidity because the company’s board had engaged investment banks to explore liquidity options over the prior years); *Alliance Bankshares Corp.* (avail. Apr. 30, 2009) (permitting exclusion of a proposal requesting that the company retain an investment advisor to solicit offers from potential acquirers and effectuate a sale of the company by a specific date because the company was already consulting with a brokerage firm to solicit interest for possible business combination transactions, including a sale or merger); *Angelica Corp.* (avail. Aug. 20, 2007) (permitting exclusion of a proposal requesting that the company engage an investment banking firm to explore all strategic alternatives to increase stockholder value, including a sale of the company, because the company was already engaging with an investment bank to explore the strategic alternatives contemplated by the proposal); *Financial Industries Corp.* (avail. Mar. 28, 2003) (permitting exclusion of a proposal requesting that the company engage an investment bank to explore, receive and evaluate alternatives and proposals to enhance the value of the company, including a sale of the company, because the company’s engagement with an investment banking firm already satisfied the objectives of the proposal); and *BostonFed Bancorp, Inc.* (avail. Mar. 17, 2000) (permitting exclusion of a proposal requesting that the company engage an investment banking firm to advise it on ways to maximize stockholder value, including a potential sale or merger, because the company had already substantially implemented the proposal through its engagement with an investment banking firm); *see also Longview Fibre Co.* (avail. Oct. 21, 1999) (permitting exclusion of a proposal requesting that the company engage an investment banker to explore all alternatives to

enhance the company's value, including a sale or merger, because the company had already engaged an investment bank in response to the proposal).

The Staff has denied the exclusion of shareholder proposals requesting that companies retain investment banks or advisors to perform specific services under Rule 14a-8(i)(10) only under circumstances in which the scope of the investment bank's engagement did not satisfy the substance of the shareholder proposal's request. *See e.g., Capital Senior Living Corp.* (avail. Mar. 23, 2007) and *Gyrodyne Company of America* (avail. Sept. 26, 2005).

The Qumu board of directors, together with its management, regularly reviews and assesses the Company's performance, future growth prospects, business plans, competitive position, and overall strategic direction. As part of this review process, the Qumu board of directors considers a variety of strategic alternatives that may be available, including pursuing potential strategic transactions with third parties, with the goal of maximizing shareholder value. In connection with strategic planning and consideration of strategic alternatives, the Qumu board of directors has from time to time engaged investment banking firms and financial advisors.

In December 2018, Qumu engaged Mooreland Partners in connection with Qumu's consideration of strategic transactions, including a sale of Qumu or its business or an acquisition by Qumu of another company or its business. On July 1, 2019, Mooreland Partners was acquired by Stifel, Nicolaus & Company, Incorporated, a subsidiary of Stifel Financial Corp. (NYSE:SF), a globally recognized investment banking firm ("Stifel") and Stifel expressly assumed the engagement letter with the Company. The scope of the engagement clearly satisfies the substance of the Proposal's request.

Further, as the Proposal references and as is disclosed in the Company's filings with the Commission, Qumu entered into an Agreement and Plan of Merger and Reorganization on February 11, 2020 with Synacor, Inc. ("Synacor") for a business combination transaction in which Synacor would acquire Qumu in a share-for-share merger. As stated in the press release announcing the transaction, Stifel acted as the exclusive financial advisor to the Qumu board of directors in the transaction.

While the Synacor transaction was terminated by mutual agreement of Qumu and Synacor on June 29, 2020, Stifel continued to be engaged by the Company for consideration of other strategic transactions throughout all of 2020 until its engagement was terminated in January 2021. Qumu continued to have discussions with representatives of Stifel on an informal basis through the expiration of the tail period of the engagement letter in October 2021.

Additionally, as part of its continuing assessment of strategic alternatives, on January 17, 2022, the Qumu board of directors engaged a private investment bank with offices in New York and London that advises major companies worldwide on mergers, acquisitions, corporate finance and restructuring transactions across multiple industry sectors (the

“Financial Advisor”). The engagement letter with the Financial Advisor is for a strategic assessment and for a review of strategic and financial alternatives, including a potential sale of Qumu. Given that the scope of the engagement explicitly contemplates the action requested by the Proposal, the scope of the Company’s engagement of the Financial Advisor clearly satisfies the substance of the Proposal’s request.

Thus, the Proposal may be properly excluded from the 2022 Proxy Materials pursuant to Rule 14a-8(i)(10) as having been substantially implemented with the previous engagement of Stifel or the current engagement of the Financial Advisor.

Conclusion

For the reasons discussed above, we believe that the Company may properly omit the Proposal from its 2022 Proxy Materials in reliance on Rule 14a-8(i)(3), Rule 14a-8(i)(7) and Rule 14a-8(i)(10). As such, we respectfully request that the Staff concur with our view and not recommend enforcement action to the Commission if the Company omits the Proposal from its 2022 Proxy Materials. Should the Staff have any questions regarding this matter, please feel free to contact me at (612) 371-3522 or hamlina@ballardspahr.com.

Very truly yours,



April Hamlin

cc: Jason Karp
Chief Counsel
Qumu Corporation
jason.karp@qumu.com

Scott Wilson
Miles & Stockbridge
100 Light Street
Baltimore, MD 21202
swilson@milesstockbridge.com

EXHIBIT A

[see attached]

DOLPHIN LIMITED PARTNERSHIP III, LP
(P) 203.489.3833

December 6, 2021

VIA FEDERAL EXPRESS AND EMAIL

Qumu Corporation
400 S. 4th Street, Suite 401-412
Minneapolis, MN 55415
Attn: Corporate Secretary Jason Karp
Email: Jason.Karp@qumu.com

RE: Rule 14a-8 Shareholder Proposal for the 2022 Annual Meeting of Qumu Corporation

Ladies and Gentlemen:

Dolphin Limited Partnership III, LP (“Dolphin”) hereby submits a shareholder proposal (the “Proposal”) and supporting statement for inclusion in the proxy statement for Qumu’s 2022 annual meeting of shareholders (the “2022 Annual Meeting”) pursuant to Rule 14a-8 (defined below) and attached hereto as Exhibit A.

For more than three years, up to and including the date of the Proposal, Dolphin has complied with the beneficial owner requirements of Rule 14a-8 of the Securities Exchange Act of 1934 (“Rule 14a-8”) and is the owner of common shares of Qumu Corporation (“Qumu”) representing no less than \$2,000 in market value. Dolphin hereby represents to Qumu that (i) it has continuously held shares of common stock of Qumu representing no less than \$2,000 in market value entitled to vote on the Proposal; (ii) it has held such shares for no less than three years preceding, and as of, the date hereof; and (iii) it intends to continue to hold the requisite amount of shares through the date of the 2022 Annual Meeting. Please be advised that Dolphin holds common shares of Qumu representing no less than \$2,000 in market value entitled to vote on the Proposal in at least two forms: (1) in street name and, therefore, attached as Exhibit B please find a written statement on behalf of the record holder of a portion of the shares; and (2) as a holder of record (which Qumu may verify on its shareholder ledger or via its transfer agent).

The undersigned by being the Senior Managing Director of the Managing Member of the General Partner of Dolphin is an authorized representative to act on Dolphin’s behalf, as you are aware from previous board service and Dolphin’s Schedule 13D filings in relation to Qumu (the most recent Amendment No. 5 having been filed on or about November 12, 2019). Dolphin hereby confirms its intent to be represented at the 2022 Annual Meeting to present the Proposal.

As new requirement, Dolphin hereby notifies Qumu that Dolphin is available to meet via teleconference with respect to the Proposal on January 3 or 4, 2022 between 1:00pm and 3:00pm ET. At this meeting, Dolphin does not desire to receive any non-public information and, therefore, any such conference would include Dolphin’s counsel and should be focused on the Proposal. You may coordinate with Dolphin’s counsel, Scott R. Wilson, Esq., at 410.385.3590 or swilson@msslaw.com, should Qumu desire to arrange such a telephone call.

Qumu Corporation
December 6, 2021
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Dolphin requests that all future correspondence concerning Dolphin or the Proposal be made through counsel. **Dolphin requests that Qumu promptly acknowledge receipt of this correspondence , any difficulties with the Proposal or proof of ownership and whether Qumu would like to avail of the meeting times offered to Attorney Wilson.**

Very truly yours,

By: Dolphin Associates, III, LLC, its General Partner
By: Dolphin Holdings Corp., III, its Managing Member

By: _____/s/ Donald T. Netter
Name: Donald T. Netter
Title: Senior Managing Director

Enclosures

cc: Scott R. Wilson, Esq., Miles & Stockbridge P.C. (via email)

EXHIBIT A

Proposal

Shareholders of Qumu Corporation (“Qumu”) request the Board of Directors (the “Board”) take all requisite steps to engage an independent, recognized investment bank (not previously engaged by Qumu or affiliated with any director) to direct a sale of Qumu to an independent, strategic buyer.

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DOLPHIN URGES SHAREHOLDERS TO VOTE FOR THE PROPOSAL

EXHIBIT B

December 6th, 2021

Qumu Corporation
c/o Corporate Secretary
400 South 4th Street, Suite 401-412
Minneapolis, Minnesota 55415

Re: Dolphin Limited Partnership III, LP

To Whom It May Concern:

Please be advised that Dolphin Limited Partnership III, L.P. (the "Client") currently maintains the following brokerage account (the "Account") at Morgan Stanley Smith Barney LLC ("Morgan Stanley") which contains a long position in QUMU Corporation (QUMU) of at least 1,500 shares as of the close of business on 12/3/2021:

<u>A/C Number</u>	<u>A/C Title</u>
PII	Dolphin Limited Partnership III LP e

The Client has held the position in QUMU Corporation (QUMU) in the Account continuously since prior to 08/2018.

We are presenting the information contained herein pursuant to our Client's request. It is valid as of the date of issuance. Morgan Stanley does not warrant or guarantee that such identified securities, assets or monies will remain in the Client's account. The Client have the power to withdraw assets from this account at any time and no security interest or collateral rights are being granted to any party other than Morgan Stanley.

Thank you for your time and consideration in this matter.

Sincerely,



Don Boivin
Complex Risk Officer

cc: Dolphin Limited Partnership III, LP
Dolphin Associates, LLC its General Partner
Dolphin Holding Corp its Managing Member
Donald T Netter, Senior Managing Director

2000 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2119
TEL 612.371.3211
FAX 612.371.3207
www.ballardspahr.com

April Hamlin
Tel: 612.371.3522
Fax: 612.371.3207
hamlina@ballardspahr.com

February 1, 2022

Via Email: shareholderproposals@sec.gov

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission 100 F Street, NE
Washington, DC 20549

Re: Shareholder Proposal to Qumu Corporation by Dolphin Limited Partnership III, LP

Dear Counsel:

On January 21, 2022, I submitted a letter on behalf of Qumu Corporation (the "Company"), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended, to notify the Securities and Exchange Commission of the Company's intention to exclude a shareholder proposal and related supporting statement (the "Proposal") submitted by Dolphin Limited Partnership III, LP (the "Proponent"), from its proxy materials for its 2022 Annual Meeting of Shareholders.

The January 21, 2022 letter inadvertently omitted some of the correspondence relating to the Proposal from Exhibit A. By this letter, I am resubmitting the attached January 21, 2022 letter with an updated Exhibit A that includes the full correspondence relating to the Proposal. As required by Rule 14a-8(j), this letter and its attachments are concurrently being sent to the Proponent. I apologize for any inconvenience.

Should the staff of the Commission have any questions regarding this matter, please contact me at (612) 371-3522 or hamlina@ballardspahr.com.

Very truly yours,



April Hamlin

Office of Chief Counsel
February 1, 2022
Page 2

cc: Jason Karp
Chief Counsel
Qumu Corporation
jason.karp@qumu.com

Scott Wilson
Miles & Stockbridge
100 Light Street
Baltimore, MD 21202
swilson@milesstockbridge.com

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April Hamlin
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January 21, 2022

Via Email: shareholderproposals@sec.gov

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission 100 F Street, NE
Washington, DC 20549

Re: Shareholder Proposal to Qumu Corporation by Dolphin Limited Partnership III, LP

Dear Counsel:

This letter is submitted on behalf of our client, Qumu Corporation, a Minnesota corporation (the “Company” or “Qumu”), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), to notify the Securities and Exchange Commission (the “Commission”) of the Company’s intention to exclude a shareholder proposal and related supporting statement (the “Proposal”) submitted by Dolphin Limited Partnership III, LP (the “Proponent”), from its proxy materials for its 2022 Annual Meeting of Shareholders (the “2022 Proxy Materials”). The Company received the Proposal on December 7, 2021.

For the reasons set forth below, we respectfully request that the staff of the Division of Corporation Finance (the “Staff”) will not recommend to the Commission that enforcement action be taken if the Company excludes the Proposal from its 2022 Proxy Materials in reliance on the provision of Rule 14a-8(i)(3), Rule 14a-8(i)(7) and Rule 14a-8(i)(10) under the Exchange Act, as described below.

In accordance with Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”), this letter and its attachments are being e-mailed to the Staff at shareholderproposals@sec.gov. As required by Rule 14a-8(j), this letter and its attachments are concurrently being sent to the Proponent as notice of the Company’s intent to omit the Proposal from its 2022 Proxy Materials no later than eighty (80) calendar days before the Company currently intends to file its definitive 2022 Proxy Materials with the Commission. Rule 14a-8(k) and SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or Staff. Accordingly, we take this opportunity to notify the Proponent that if the Proponent elects to submit additional correspondence to the Commission or Staff in response to this letter, a copy of that

correspondence should be concurrently provided to the undersigned on behalf of the Company.

The Proposal

The Proposal states:

Proposal

Shareholders of Qumu Corporation (“Qumu”) request the Board of Directors (the “Board”) take all requisite steps to engage an independent, recognized investment bank (not previously engaged by Qumu or affiliated with any director) to direct a sale of Qumu to an independent, strategic buyer.

Supporting Statement

Background

In March 2013, Dolphin Limited Partnership III, LP (“Dolphin”) disclosed Qumu shareholdings approximating 6.5% and additions of a Dolphin-sponsored Director and Board-observer. Then Qumu owned its enterprise video content software management business, acquired for \$52 million and Dolphin calculated Qumu had over \$80 million of cash and assets convertible to cash (approximately \$9.25 per share). On March 31, 2014, Qumu closed above \$16 per share. By July 2015, Qumu had burned approximately \$50 million, on its core business and a related acquisition, the value of which remains elusive. After negative amended guidance, by August 2015, Qumu’s share price was in the \$4 per share range. In July 2015, Qumu added a Director from Dolphin (until May 2018) with objectives of eliminating \$25 million of costs and achieving cash flow break-even, both accomplished. In February 2020, Qumu was merging with another public company; this was terminated in June 2020.

Recent Developments

On January 25, 2021, Qumu announced preliminary 2020 results (revenue of \$29.1 million) and 2021 guidance of “at least 20% revenue growth.” The share price closed at \$8.10. On January 29, 2021, Qumu closed an equity offering at \$6.75 per share, generating approximately \$23.1 million. The share price rose above \$10. On March 4, 2021, Qumu released 2020 actual results: revenue of \$29.1 million, an EBITDA loss of (\$2.3) million, and 2021 revenue guidance of \$35.0 million, a 20% increase. On April 29, 2021, Qumu reiterated this guidance.

61 days later, on June 29, 2021, Qumu announced second quarter results, strikingly lowered outlook, withdrew April 2021 guidance and pushed growth to early 2022.

Qumu closed at \$3.85. On August 30, 2021, Qumu announced its CFO was “stepping down.”

On October 28, 2021, Qumu announced a Q3 (\$3.5) million EBITDA loss and burning \$14 million for nine months. On October 27, 2021, Dolphin publicized its July 26, 2021 letter to Qumu outlining Dolphin’s 8-year involvement and belief Qumu had expended over \$150 million on its core business with continuing flat revenue, unsustainable EBITDA losses, and a revenue base and market capitalization likely too small to remain public (the “Dolphin Letter”). While requested, Qumu offered no corrections to Dolphin’s Letter.

Dolphin Seeks Strategic Sale

By the May 2022 regular Stockholders’ meeting, nine months from Dolphin’s Letter, if Qumu has not “made the grade in the public market,” Dolphin seeks shareholder support for its non-binding Proposal to end 8-years of failed operating performance, massive cash burn, a rollercoaster share price, and repeatedly missed guidance.

DOLPHIN URGES SHAREHOLDERS TO VOTE FOR THE PROPOSAL

A copy of the Proposal and related correspondence with the Proponent is attached to this letter as Exhibit A.

Bases for Exclusion

We hereby respectfully request that the Staff concur in the Company’s view that the Proposal may be excluded from the 2022 Proxy Materials pursuant to:

- Rule 14a-8(i)(3) because the Proposal is inherently vague and indefinite;
- Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company’s ordinary business operations; and
- Rule 14a-8(i)(10) because the Proposal has been substantially implemented.

Analysis

I. The Proposal May Be Excluded Under Rule 14a-8(i)(3) Because the Proposal Is Inherently Vague and Indefinite.

Rule 14a-8(i)(3) permits a company to omit a shareholder proposal from its proxy materials where the proposal violates the Commission’s proxy rules. These include rules that prohibit “materially false or misleading statements,” because the proposal is “so vague and indefinite

that neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires.” Staff Legal Bulletin No. 14B (Sept. 15, 2004).

When assessing proposals under Rule 14a-8(i)(7), the Staff considers “both the proposal and the supporting statement as a whole.” Staff Legal Bulletin No. 14C (June 28, 2005).

The Staff has consistently concurs in the exclusion of a proposal when, as with the Proposal, key terms of the proposal are indefinite, undefined or ambiguous such that a company and its shareholders may have divergent interpretations of such terms. *See, e.g., Verizon Communications Inc.* (avail. February 5, 2021) (concurring in exclusion of a proposal requiring the company to provide each director nominee’s “ideological perspectives” and “political/policy beliefs” where the proposal did not define or clarify these terms); *eBay Inc.* (avail. April 10, 2019) (concurring in exclusion of a proposal requesting that the company “reform” the compensation committee without providing guidance regarding meaning of the term); *AT&T Inc.* (avail. Feb. 21, 2014) (concurring in exclusion of a proposal requesting review of the company’s policies and procedures relating to the “directors’ moral, ethical and legal fiduciary duties and opportunities,” where the proposal did not describe or define such terms); *The Boeing Company* (avail. Mar. 2, 2011) (concurring in exclusion of a proposal requesting, among other things, that senior executives relinquish certain “executive pay rights” without clarifying the meaning of the term); and *The Coca Cola Company* (Jan. 30, 2002) (concurring in exclusion of a proposal regarding including “ordinary” persons on the board of directors where the proposal did not define or provide criteria as to what constitutes “ordinary”). A shareholder proposal can be excludable as misleading under Rule 14a-8(i)(3) when the proposal is ambiguous such that “any action ultimately taken by the [c]ompany upon implementation could be significantly different from the actions envisioned by the shareholders voting on the proposal.” *Fuqua Industries, Inc.* (March 12, 1991).

The Proposal contains many vague, unclear, indefinite and ambiguous words, phrases and concepts.

First, the Proposal refers to the engagement of an “independent, recognized investment bank.” It is not clear what “independent” means in this context or how Qumu would determine whether an investment bank is “independent” as contemplated by the proposal. “Independent” could refer to independence from the potential buyer counterparty, from Qumu management, from Qumu board or from Qumu as a company. Additionally, independence could capture many business, ownership, personal, family or other relationships or transactions between parties. From the language of the Proposal, it is not possible to determine what relationships or transactions among which persons the Proponent is contemplating Qumu examine in order to determine “independence.” The Proposal does not provide any interpretive guidance or direction regarding the information the Qumu board of directors should gather to determine the “independence” of the investment bank.

Similarly, the Proposal specifies that the investment bank may not be “affiliated with any director.” There is no commonly agreed-upon definition of “affiliated” and the Proposal does not offer one. Additionally, it is not clear whether or to what extent the terms “independent” and “not affiliated” are or may cover the same criteria. As is the case with the undefined term “independent,” neither Qumu nor any Qumu shareholder would have certainty regarding the relationships or the transactions the Proposal requires be examined to determine in the investment bank is “affiliated.”

The Proposal asks the Qumu board to direct a sale of Qumu to “...an independent, strategic buyer.” For the same reasons set forth above, the term “independent” as describing a buyer is vague, indefinite and unclear. In particular, it is unclear if “independent” would exclude Qumu’s customers, channel partners or other companies with business relationships with Qumu. Additionally, the Proposal provides no criteria for what constitutes a “strategic” buyer. Given that this would be a strategic transaction for Qumu, any buyer could be a “strategic” buyer from Qumu’s perspective. Likewise, a buyer very well may consider an acquisition of Qumu as part of its strategy and therefore, strategic to that buyer. The Proposal does not offer any rationale for limiting a sale transaction to this type of buyer or for excluding buyers that do not meet this undefined criteria. Accordingly, the Proposal does not offer any guidance for determining whether a buyer is “independent” or “strategic.”

Additionally, the last portion of the Proposal begins:

“By the May 2022 regular Stockholders’ meeting, nine months from Dolphin’s Letter, if Qumu has not ‘made the grade in the public market,’ Dolphin seeks shareholder support for its non-binding Proposal ...”

This language is particularly critical to the Proposal as a whole because it is the only portion of the supporting statement directly addressing the resolution the Proponent is urging Qumu shareholders to support. The clause “...if Qumu has not ‘made the grade in the public market’ ...” conditions the Proponent’s request for Qumu shareholder support of the Proposal on Qumu’s failure to achieve some undefined future “public market” criteria as of the time of the 2022 Annual Meeting of Shareholders. Reading the resolution together with this portion of the supporting statement, neither the Qumu board of directors nor the Qumu shareholders would have clarity on when, if ever, the Proposal should be approved by the Qumu shareholders or even if approved, when, if ever, the Proposal should be implemented. For example, if Qumu’s stock price significantly appreciates by the time of the 2022 Annual Meeting of Shareholders, is the Proponent no longer requesting Qumu shareholder approval for the Proposal? If adopted, would the Proponent expect the Proposal to be implemented if Qumu’s stock price significantly appreciates by the time of the 2022 Annual Meeting of Shareholders? By conditioning the Proponent’s own support for the Proposal and the request for Qumu shareholder support of the Proposal upon the happening of an undefined future event – “making the grade in the public market” – the Proposal is rendered inherently ambiguous.

Thus, the Proposal may be properly excluded from the 2022 Proxy Materials pursuant to Rule 14a-8(i)(3) because the Proposal is so vague and indefinite as to violate the Commission's proxy rules prohibiting materially false or misleading statements.

II. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because the Proposal Deals with Matters Relating to the Company's Ordinary Business Operations.

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a stockholder proposal that relates to the company's "ordinary business" operations. According to the Commission's release accompanying the 1998 amendments to Rule 14a-8, the term "ordinary business" "refers to matters that are not necessarily 'ordinary' in the common meaning of the word," but instead the term "is rooted in the corporate law concept providing management with flexibility in directing certain core matters involving the company's business and operations." Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"). In the 1998 Release, the Commission stated that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting," and identified two central considerations that underlie this policy. *Id.* As relevant here, one of these considerations was whether the proposal "seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *Id.*

Although the Staff recently issued guidance specifically relating to its approach to evaluating certain aspects of the ordinary business exclusion, we do not believe the recent guidance impacts the arguments made herein. *See* Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L"). Among other things, SLB 14L reverses prior Staff guidance regarding the company-specific approach to evaluating the significance of a policy issue that is the subject of a shareholder proposal for purposes of the ordinary business exclusion. The Proposal does not deal with a policy issue and this no-action request does not seek to exclude the Proposal upon that basis. Instead, the bases for our request relies on precedent preceding, or not involving, the reversed prior Staff guidance. Therefore, SLB 14L is not applicable to the Proposal.

While some portion of the Proposal relates to an extraordinary transaction, key portions of the Proposal seek to micromanage the Company in its conduct of an extraordinary transaction.

The Staff has consistently reiterated that, when considering arguments for exclusion based on micromanagement, the Staff looks "to whether the proposal seeks intricate detail or imposes a specific strategy, method, action, outcome or timeline for addressing an issue, thereby supplanting the judgment of management and the board." Staff Legal Bulletin No.

14K (Oct. 16, 2019)(“SLB 14K”). The Staff’s analysis of micromanagement arguments is based on “the manner in which a proposal seeks to address an issue,” regardless of whether that issue is an appropriate subject matter for shareholder vote. Staff Legal Bulletin No. 14J (Oct. 23, 2018)(“SLB 14J”). “If the method or strategy for implementing the action requested by the proposal is overly prescriptive, thereby potentially limiting the judgment and discretion of the board and management, the proposal may be viewed as micromanaging the company.” SLB 14K.

First, the Proposal inappropriately attempts to micromanage the Qumu board of directors in its selection of an investment bank by requiring that the investment bank be “an independent, recognized investment bank (not previously engaged by Qumu or affiliated with any director).” At its essence, the Proposal would prohibit the Qumu board of directors from selecting certain investment banks. The selection of an investment bank is a matter of complex judgment for the Qumu board of directors. This decision would take into account many factors such as the investment bank’s experience, industry depth, prior representative matters, relationships with potential counterparties, relationship with Qumu, fee arrangements and other engagement terms. Different members of the Qumu board of directors may give different weight to these factors or others. This decision typically also follows presentations by the potential investment banks to the board of directors and meetings between the board of directors and the potential investment banks. Shareholders, as such, will not receive these presentations nor participate in these meetings. Shareholders also are not generally aware of the investment banks that Qumu may have engaged in the past and accordingly, it is inappropriately constraining for the Qumu shareholders, as such, to exclude a class of investment banks from the Qumu board’s consideration. Accordingly, the Qumu shareholders, as a group, would not be in a position to make an informed judgment on the selection of an investment bank. The Proposal significantly limits the judgment and discretion of the Qumu board of directors in its selection of an investment bank by prescriptively excluding certain investment banks from consideration.

Second, the Proposal improperly attempts to micromanage the Qumu board of directors by requiring that a sale of Qumu be limited to “an independent, strategic buyer.” As noted above, this portion of the Proposal is inherently vague and indefinite. However, to the extent it purports to describe a specific identifiable class of buyer, the Proposal again seeks to micromanage the Qumu board of directors – in this case, by limiting its selection of a buyer. Given the highly variable process to identify an interested buyer, the highly complex decision-making involved in selecting a buyer, the myriad factors that one or more directors may consider in such decision, the Qumu shareholders, as a group, would not be in a position to make an informed judgment on the identity of a buyer in a Qumu sale transaction. The Proposal’s pre-emptive exclusion of buyers other than “an independent, strategic buyer” seeks to micromanage the Qumu board of directors by imposing a specific strategy for identification of a buyer and by prescriptively limiting the types of buyers that could be pursued in sale process.

Because the Proposal is overly prescriptive in limiting the investment banks the Qumu board of directors may engage and in limiting the buyers Qumu may select for a potential transaction, the Proposal seeks to unduly restrict the authority of the Qumu board of director to manage its advisors and the execution of a sale process in the performance of its fiduciary duties. Thus, the Proposal may be properly excluded from the 2022 Proxy Materials pursuant to Rule 14a-8(i)(7) as micromanaging the Company.

III. The Proposal May Be Excluded Under Rule 14a-8(i)(10) Because the Proposal Has Been Substantially Implemented.

Rule 14a-8(i)(10) permits a company to exclude shareholder proposal from its proxy materials if the company has substantially implemented the proposal. Where the company has already taken action to address the underlying concerns and essential objectives of a shareholder proposal, the proposal has been “substantially implemented” and may be excluded. *See, e.g., Exelon Corp.* (avail. Feb. 26, 2010) and *Exxon Mobil Corp.* (avail. Mar. 23, 2009).

The Staff has consistently concurred with the exclusion of shareholder proposals requesting that companies retain investment banks or advisors to perform specific services under Rule 14a-8(i)(10) where a company has already retained an investment bank to perform services that address the substance of the shareholder proposal. *See, e.g., InvenTrust Properties Corp.* (avail. February 7, 2020) (permitting exclusion of a proposal to engage investment bankers to develop a plan to provide liquidity because the company’s board had engaged investment banks to explore liquidity options over the prior years); *Alliance Bankshares Corp.* (avail. Apr. 30, 2009) (permitting exclusion of a proposal requesting that the company retain an investment advisor to solicit offers from potential acquirers and effectuate a sale of the company by a specific date because the company was already consulting with a brokerage firm to solicit interest for possible business combination transactions, including a sale or merger); *Angelica Corp.* (avail. Aug. 20, 2007) (permitting exclusion of a proposal requesting that the company engage an investment banking firm to explore all strategic alternatives to increase stockholder value, including a sale of the company, because the company was already engaging with an investment bank to explore the strategic alternatives contemplated by the proposal); *Financial Industries Corp.* (avail. Mar. 28, 2003) (permitting exclusion of a proposal requesting that the company engage an investment bank to explore, receive and evaluate alternatives and proposals to enhance the value of the company, including a sale of the company, because the company’s engagement with an investment banking firm already satisfied the objectives of the proposal); and *BostonFed Bancorp, Inc.* (avail. Mar. 17, 2000) (permitting exclusion of a proposal requesting that the company engage an investment banking firm to advise it on ways to maximize stockholder value, including a potential sale or merger, because the company had already substantially implemented the proposal through its engagement with an investment banking firm); *see also Longview Fibre Co.* (avail. Oct. 21, 1999) (permitting exclusion of a proposal requesting that the company engage an investment banker to explore all alternatives to

enhance the company's value, including a sale or merger, because the company had already engaged an investment bank in response to the proposal).

The Staff has denied the exclusion of shareholder proposals requesting that companies retain investment banks or advisors to perform specific services under Rule 14a-8(i)(10) only under circumstances in which the scope of the investment bank's engagement did not satisfy the substance of the shareholder proposal's request. *See e.g., Capital Senior Living Corp.* (avail. Mar. 23, 2007) and *Gyrodyne Company of America* (avail. Sept. 26, 2005).

The Qumu board of directors, together with its management, regularly reviews and assesses the Company's performance, future growth prospects, business plans, competitive position, and overall strategic direction. As part of this review process, the Qumu board of directors considers a variety of strategic alternatives that may be available, including pursuing potential strategic transactions with third parties, with the goal of maximizing shareholder value. In connection with strategic planning and consideration of strategic alternatives, the Qumu board of directors has from time to time engaged investment banking firms and financial advisors.

In December 2018, Qumu engaged Mooreland Partners in connection with Qumu's consideration of strategic transactions, including a sale of Qumu or its business or an acquisition by Qumu of another company or its business. On July 1, 2019, Mooreland Partners was acquired by Stifel, Nicolaus & Company, Incorporated, a subsidiary of Stifel Financial Corp. (NYSE:SF), a globally recognized investment banking firm ("Stifel") and Stifel expressly assumed the engagement letter with the Company. The scope of the engagement clearly satisfies the substance of the Proposal's request.

Further, as the Proposal references and as is disclosed in the Company's filings with the Commission, Qumu entered into an Agreement and Plan of Merger and Reorganization on February 11, 2020 with Synacor, Inc. ("Synacor") for a business combination transaction in which Synacor would acquire Qumu in a share-for-share merger. As stated in the press release announcing the transaction, Stifel acted as the exclusive financial advisor to the Qumu board of directors in the transaction.

While the Synacor transaction was terminated by mutual agreement of Qumu and Synacor on June 29, 2020, Stifel continued to be engaged by the Company for consideration of other strategic transactions throughout all of 2020 until its engagement was terminated in January 2021. Qumu continued to have discussions with representatives of Stifel on an informal basis through the expiration of the tail period of the engagement letter in October 2021.

Additionally, as part of its continuing assessment of strategic alternatives, on January 17, 2022, the Qumu board of directors engaged a private investment bank with offices in New York and London that advises major companies worldwide on mergers, acquisitions, corporate finance and restructuring transactions across multiple industry sectors (the

“Financial Advisor”). The engagement letter with the Financial Advisor is for a strategic assessment and for a review of strategic and financial alternatives, including a potential sale of Qumu. Given that the scope of the engagement explicitly contemplates the action requested by the Proposal, the scope of the Company’s engagement of the Financial Advisor clearly satisfies the substance of the Proposal’s request.

Thus, the Proposal may be properly excluded from the 2022 Proxy Materials pursuant to Rule 14a-8(i)(10) as having been substantially implemented with the previous engagement of Stifel or the current engagement of the Financial Advisor.

Conclusion

For the reasons discussed above, we believe that the Company may properly omit the Proposal from its 2022 Proxy Materials in reliance on Rule 14a-8(i)(3), Rule 14a-8(i)(7) and Rule 14a-8(i)(10). As such, we respectfully request that the Staff concur with our view and not recommend enforcement action to the Commission if the Company omits the Proposal from its 2022 Proxy Materials. Should the Staff have any questions regarding this matter, please feel free to contact me at (612) 371-3522 or hamlina@ballardspahr.com.

Very truly yours,



April Hamlin

cc: Jason Karp
Chief Counsel
Qumu Corporation
jason.karp@qumu.com

Scott Wilson
Miles & Stockbridge
100 Light Street
Baltimore, MD 21202
swilson@milesstockbridge.com

EXHIBIT A

[see attached]

DOLPHIN LIMITED PARTNERSHIP III, LP
(P) 203.489.3833

December 6, 2021

VIA FEDERAL EXPRESS AND EMAIL

Qumu Corporation
400 S. 4th Street, Suite 401-412
Minneapolis, MN 55415
Attn: Corporate Secretary Jason Karp
Email: Jason.Karp@qumu.com

RE: Rule 14a-8 Shareholder Proposal for the 2022 Annual Meeting of Qumu Corporation

Ladies and Gentlemen:

Dolphin Limited Partnership III, LP (“Dolphin”) hereby submits a shareholder proposal (the “Proposal”) and supporting statement for inclusion in the proxy statement for Qumu’s 2022 annual meeting of shareholders (the “2022 Annual Meeting”) pursuant to Rule 14a-8 (defined below) and attached hereto as Exhibit A.

For more than three years, up to and including the date of the Proposal, Dolphin has complied with the beneficial owner requirements of Rule 14a-8 of the Securities Exchange Act of 1934 (“Rule 14a-8”) and is the owner of common shares of Qumu Corporation (“Qumu”) representing no less than \$2,000 in market value. Dolphin hereby represents to Qumu that (i) it has continuously held shares of common stock of Qumu representing no less than \$2,000 in market value entitled to vote on the Proposal; (ii) it has held such shares for no less than three years preceding, and as of, the date hereof; and (iii) it intends to continue to hold the requisite amount of shares through the date of the 2022 Annual Meeting. Please be advised that Dolphin holds common shares of Qumu representing no less than \$2,000 in market value entitled to vote on the Proposal in at least two forms: (1) in street name and, therefore, attached as Exhibit B please find a written statement on behalf of the record holder of a portion of the shares; and (2) as a holder of record (which Qumu may verify on its shareholder ledger or via its transfer agent).

The undersigned by being the Senior Managing Director of the Managing Member of the General Partner of Dolphin is an authorized representative to act on Dolphin’s behalf, as you are aware from previous board service and Dolphin’s Schedule 13D filings in relation to Qumu (the most recent Amendment No. 5 having been filed on or about November 12, 2019). Dolphin hereby confirms its intent to be represented at the 2022 Annual Meeting to present the Proposal.

As new requirement, Dolphin hereby notifies Qumu that Dolphin is available to meet via teleconference with respect to the Proposal on January 3 or 4, 2022 between 1:00pm and 3:00pm ET. At this meeting, Dolphin does not desire to receive any non-public information and, therefore, any such conference would include Dolphin’s counsel and should be focused on the Proposal. You may coordinate with Dolphin’s counsel, Scott R. Wilson, Esq., at 410.385.3590 or swilson@msslaw.com, should Qumu desire to arrange such a telephone call.

Qumu Corporation
December 6, 2021
Page 2

Dolphin requests that all future correspondence concerning Dolphin or the Proposal be made through counsel. **Dolphin requests that Qumu promptly acknowledge receipt of this correspondence , any difficulties with the Proposal or proof of ownership and whether Qumu would like to avail of the meeting times offered to Attorney Wilson.**

Very truly yours,

By: Dolphin Associates, III, LLC, its General Partner
By: Dolphin Holdings Corp., III, its Managing Member

By: _____/s/ Donald T. Netter
Name: Donald T. Netter
Title: Senior Managing Director

Enclosures

cc: Scott R. Wilson, Esq., Miles & Stockbridge P.C. (via email)

EXHIBIT A

Proposal

Shareholders of Qumu Corporation (“Qumu”) request the Board of Directors (the “Board”) take all requisite steps to engage an independent, recognized investment bank (not previously engaged by Qumu or affiliated with any director) to direct a sale of Qumu to an independent, strategic buyer.

Supporting Statement

Background

In March 2013, Dolphin Limited Partnership III, LP (“Dolphin”) disclosed Qumu shareholdings approximating 6.5% and additions of a Dolphin-sponsored Director and Board-observer. Then Qumu owned its enterprise video content software management business, acquired for \$52 million and Dolphin calculated Qumu had over \$80 million of cash and assets convertible to cash (approximately \$9.25 per share). On March 31, 2014, Qumu closed above \$16 per share. By July 2015, Qumu had burned approximately \$50 million, on its core business and a related acquisition, the value of which remains elusive. After negative amended guidance, by August 2015, Qumu’s share price was in the \$4 per share range. In July 2015, Qumu added a Director from Dolphin (until May 2018) with objectives of eliminating \$25 million of costs and achieving cash flow break-even, both accomplished. In February 2020, Qumu was merging with another public company; this was terminated in June 2020.

Recent Developments

On January 25, 2021, Qumu announced preliminary 2020 results (revenue of \$29.1 million) and 2021 guidance of “at least 20% revenue growth.” The share price closed at \$8.10. On January 29, 2021, Qumu closed an equity offering at \$6.75 per share, generating approximately \$23.1 million. The share price rose above \$10. On March 4, 2021, Qumu released 2020 actual results: revenue of \$29.1 million, an EBITDA loss of (\$2.3) million, and 2021 revenue guidance of \$35.0 million, a 20% increase. On April 29, 2021, Qumu reiterated this guidance.

61 days later, on June 29, 2021, Qumu announced second quarter results, strikingly lowered outlook, withdrew April 2021 guidance and pushed growth to early 2022. Qumu closed at \$3.85. On August 30, 2021, Qumu announced its CFO was “stepping down.”

On October 28, 2021, Qumu announced a Q3 (\$3.5) million EBITDA loss and burning \$14 million for nine months. On October 27, 2021, Dolphin publicized its July 26, 2021 letter to Qumu outlining Dolphin’s 8-year involvement and belief Qumu had expended over \$150 million on its core business with continuing flat revenue, unsustainable EBITDA losses, and a revenue base and market capitalization likely too small to remain public (the “Dolphin Letter”). While requested, Qumu offered no corrections to Dolphin’s Letter.

Dolphin Seeks Strategic Sale

By the May 2022 regular Stockholders’ meeting, nine months from Dolphin’s Letter, if Qumu has not “made the grade in the public market,” Dolphin seeks shareholder support for its non-binding Proposal to end 8-years of failed operating performance, massive cash burn, a rollercoaster share price, and repeatedly missed guidance.

DOLPHIN URGES SHAREHOLDERS TO VOTE FOR THE PROPOSAL

EXHIBIT B

Morgan Stanley

WEALTH MANAGEMENT

777 South Flagler Dr.
Suite 700, East Tower
West Palm Beach, FL 33401

tel +1 561 650 7500
toll free +1 800 327 6322
fax +1 561 659 5168
fax +1 561 838 8970

December 6th, 2021

Qumu Corporation
c/o Corporate Secretary
400 South 4th Street, Suite 401-412
Minneapolis, Minnesota 55415

Re: Dolphin Limited Partnership III, LP

To Whom It May Concern:

Please be advised that Dolphin Limited Partnership III, L.P. (the "Client") currently maintains the following brokerage account (the "Account") at Morgan Stanley Smith Barney LLC ("Morgan Stanley") which contains a long position in QUMU Corporation (QUMU) of at least 1,500 shares as of the close of business on 12/3/2021:

<u>A/C Number</u>	<u>A/C Title</u>
PII	Dolphin Limited Partnership III LP e

The Client has held the position in QUMU Corporation (QUMU) in the Account continuously since prior to 08/2018.

We are presenting the information contained herein pursuant to our Client's request. It is valid as of the date of issuance. Morgan Stanley does not warrant or guarantee that such identified securities, assets or monies will remain in the Client's account. The Client have the power to withdraw assets from this account at any time and no security interest or collateral rights are being granted to any party other than Morgan Stanley.

Thank you for your time and consideration in this matter.

Sincerely,



Don Boivin
Complex Risk Officer

cc: Dolphin Limited Partnership III, LP
Dolphin Associates, LLC its General Partner
Dolphin Holding Corp its Managing Member
Donald T Netter, Senior Managing Director

From: Wilson, Scott R. <swilson@milesstockbridge.com>
Sent: Thursday, December 9, 2021 12:18 PM
To: 'Jason Karp'
Cc: Smallwood, Reginald L.; Hamlin, April (Minn)
Subject: RE: Qumu Corporation Shareholder Proposal Pursuant to Rule 14a-8

EXTERNAL

Thank you!



Scott Wilson | *Principal*
Miles & Stockbridge
direct: +1 (410) 385-3590

For COVID-19 information and resources, please visit our [Coronavirus Task Force page](#).

From: Jason Karp <jason.karp@qumu.com>
Sent: Wednesday, December 8, 2021 5:11 PM
To: Wilson, Scott R. <swilson@milesstockbridge.com>
Cc: Smallwood, Reginald L. <rsmallwood@MilesStockbridge.com>; April Hamlin <HAMLINA@ballardspahr.com>
Subject: [EXTERNAL] RE: Qumu Corporation Shareholder Proposal Pursuant to Rule 14a-8

EXTERNAL

Thank you, Scott. We had been under the impression that your client was seeking a meeting, which was the genesis of our offer. Given that is not the case, we agree there is no need for an immediate meeting at this time. As for the proposal and any technical concerns, we are reviewing internally and will reach back out if there is a need for any further discussion.

Thanks again for your response.

Best regards,
Jason

-



Jason Karp
Chief Commercial Officer / Chief Counsel
Desk: +1 612-638-9141 Mobile: +1 571-233-3829
[in](#) www.qumu.com

From: Wilson, Scott R. <swilson@milesstockbridge.com>
Sent: Wednesday, December 8, 2021 4:09 PM
To: Jason Karp <jason.karp@qumu.com>
Cc: Smallwood, Reginald L. <rsmallwood@MilesStockbridge.com>; April Hamlin <HAMLINA@ballardspahr.com>
Subject: RE: Qumu Corporation Shareholder Proposal Pursuant to Rule 14a-8

[EXTERNAL EMAIL]

Mr. Karp,

Thank you for your email. To clarify, we have provided availability and contact information in compliance with the amended Rule 14a-8 (during the required 10-30 day window), but we are not suggesting or requesting a meeting. We understand that our client has a long history with the company and that the company is generally familiar with our client's views. If the company would like to meet with our client on the substance of the proposal (we would not want to receive or discuss any material non-public information), I can get additional dates from our client if our proposed dates do not work for the company, but the below dates are unlikely to work due to some scheduling challenges that I've previously explored.

In terms of the company's response within 14 days, if there are the kind of technical concerns that would be typically raised in such a response, I'm happy to jump on with you and Ms. Hamlin. Our client speaks favorably of Ms. Hamlin and I look forward to working with both of you.

Best,

Scott



Scott Wilson | *Principal*
Miles & Stockbridge
direct: +1 (410) 385-3590

For COVID-19 information and resources, please visit our [Coronavirus Task Force page](#).

From: Jason Karp <jason.karp@qumu.com>

Sent: Tuesday, December 7, 2021 9:10 PM

To: Wilson, Scott R. <swilson@milesstockbridge.com>

Cc: Smallwood, Reginald L. <rsmallwood@MilesStockbridge.com>; April Hamlin <HAMLINA@ballardspahr.com>

Subject: [EXTERNAL] RE: Qumu Corporation Shareholder Proposal Pursuant to Rule 14a-8

EXTERNAL

Thank you. Yes, we are in receipt of your correspondence. Qumu would be willing to set up a meeting as your client has suggested, but availability is limited to next Monday 12/13 after 10:30am Eastern, or on Tuesday 12/14 from 9-10:30am or after 1:30pm Eastern. As you are aware, Qumu must determine its formal response to your request within 14 days of receipt, so your proposal for a meeting in January is not tenable. Please let me know which day and times work and we can set up a call to discuss.

Should you have any questions, please don't hesitate to contact me.

Regards
Jason Karp



Jason Karp
Chief Commercial Officer / Chief Counsel
Desk: +1 612-638-9141 Mobile: +1 571-233-3829
[Twitter](#) [LinkedIn](#) www.qumu.com

From: Wilson, Scott R. <swilson@milesstockbridge.com>
Sent: Tuesday, December 7, 2021 10:59 AM
To: Jason Karp <jason.karp@qumu.com>
Cc: Smallwood, Reginald L. <rsmallwood@MilesStockbridge.com>
Subject: RE: Qumu Corporation Shareholder Proposal Pursuant to Rule 14a-8

[EXTERNAL EMAIL]

Mr. Karp,

Good morning. As you are probably aware, the Staff recently advised:

Email delivery confirmations and company server logs may not be sufficient to prove receipt of emails as they only serve to prove that emails were sent. In addition, spam filters or incorrect email addresses can prevent an email from being delivered to the appropriate recipient. The staff therefore suggests that to prove delivery of an email for purposes of Rule 14a-8, the sender should seek a reply e-mail from the recipient in which the recipient acknowledges receipt of the e-mail. The staff also encourages both companies and shareholder proponents to acknowledge receipt of emails when requested. Email read receipts, if received by the sender, may also help to establish that emails were received.

<https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals> (emphasis added). We are following up in light of the foregoing. Please kindly acknowledge receipt of our email submission from yesterday at 4:53 pm ET.

Thank you,

Scott R. Wilson



Scott Wilson | *Principal*
Miles & Stockbridge
direct: +1 (410) 385-3590

For COVID-19 information and resources, please visit our [Coronavirus Task Force page](#).

From: Wilson, Scott R.
Sent: Monday, December 6, 2021 4:53 PM
To: 'Jason.Karp@qumu.com' <Jason.Karp@qumu.com>
Cc: Smallwood, Reginald L. <rsmallwood@milesstockbridge.com>
Subject: Qumu Corporation Shareholder Proposal Pursuant to Rule 14a-8
Importance: High

Mr. Karp,

Good afternoon. Attached please find a shareholder proposal on behalf of Dolphin Limited Partnership III, LP with regard to the 2022 annual meeting of Qumu Corporation. A hard copy will follow by Federal Express.

Please kindly confirm receipt of this proposal and please do not hesitate to contact us with any questions or concerns.

Sincerely,

Scott R. Wilson



Scott Wilson | *Principal*
Miles & Stockbridge
direct: +1 (410) 385-3590

For COVID-19 information and resources, please visit our [Coronavirus Task Force page](#).

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From: Hamlin, April (Minn)
Sent: Monday, December 20, 2021 4:23 PM
To: Wilson, Scott R.; Smallwood, Reginald L.
Cc: 'Jason Karp'
Subject: RE: Response to Dolphin Rule 14a-8 Proposal
Attachments: Qumu Letter Dolphin Proposal December 20, 2021 DMFIRM_401010947(1).PDF; Qumu Dolphin Letter July 26, 2021 DMFIRM_207660606(1).PDF

Good afternoon, Mr. Wilson,

Please see the attached letter in response to your client's proposal that is being sent via fedex also.

Also, in case you don't have it handy, here is the July 26, 2021 letter referred to at the bottom of the first page.

After you have had a chance to review, I would be happy to discuss the substance of the letter with you or facilitate a discussion between Qumu and Dolphin as offered in the letter.

Also, please call me April.

April

April Hamlin
(pronouns: she, her, hers)
2021 Pro Bono Honor Roll – Silver

Ballard Spahr
LLP

DIVERSITY
EQUITY + INCLUSION

2000 IDS Center, 80 South 8th Street
Minneapolis, MN 55402-2119
612.371.3522 DIRECT

MOBILE | hamlina@ballardspahr.com
COVID-19 Resource Center | VCARD

www.ballardspahr.com

DOLPHIN LIMITED PARTNERSHIP III, L.P.
(P) 203.489.3833

Via Federal Express—Signature Required

July 26, 2021

Mr. Neil E. Cox
Non-Executive Chairman of the Board
Qumu Corporation
400 South 4th Street
Suite 401-412
Minneapolis, MN 55415
612.638.9100

Dear Neil:

While we appreciated the July 14, 2021 discussion, Dolphin Limited Partnership III, LP (“**Dolphin**”), since its sponsored director exited the Board May 2018, wrote letters of September 24, 2019 (an exhibit to Dolphin’s Amendment No. 5 to its Schedule 13D, November 14, 2019), qualified in its entirety by letter of October 18, 2019 (an exhibit to Amendment No. 4 to the Schedule 13D, October 21, 2019). Now, we write to you and the Qumu Corporation (Nasdaq ticker symbol: **QUMU**) Board, as **Dolphin (and another entity)** is again a very sizable Qumu shareholder and what has transpired in 2021 is very unusual by itself and certainly for a public company. This letter, in much greater detail, outlines the discussion of July 14, 2021 and concerns raised by Dolphin and incorporates by reference in its entirety Dolphin’s letters filed as Amendment No.’s 4 and 5 to its prior Schedule 13D.

Dolphin’s Involvement

Dolphin filed a Schedule 13D in March 2013 holding approximately 6.5% of Qumu’s common stock. At the time of Dolphin’s initial filing, Qumu had acquired in 2011 its enterprise video content software management business for an announced \$52 million, cash and stock, and had near \$80 million of cash and assets later converted to cash (**about \$9.25 per share**). In connection with a private nominee notice, Dolphin sponsored a director from Dolphin and a non-affiliated observer to the Board in 2013. Qumu’s proxy indicated the Dolphin sponsored director was no longer affiliated with Dolphin at 2013 FYE. On March 31, 2014, the Qumu share price **closed above \$16.00 per share**—in July 2014, Qumu **closed** the sale of its disk publishing business. When Dolphin did not have a director on the Board and by July 2015, Qumu had expended approximately \$51 million in connection with its enterprise video platform and acquisition of Kulu Valley (requiring **\$11.6 million cash** and \$3.8 million stock), the value of which was and is elusive. By **August 2015, the share price was in the \$4.00 range**.

On July 22, 2015, I joined the Board and its corporate governance and compensation committees. Until May 2018, **\$25 million of run-rate costs were eliminated to achieve near cash flow break-even** and urgent debt financings with warrants were consummated to support an ailing capital structure required, in Dolphin’s view, from management’s repeatedly demonstrated unique inability to sell the Company’s offerings and make internal projections and public guidance. As a result, we believe prior management and Board also suffered from

C/O 1117 East Putnam Avenue, Riverside, CT 06878

Page 2 of 4
QUMU Corporation
Chairman of the Board
July 26, 2021

a lack of credibility with the investment community, its customers and sagging employee morale. We hope the new CEO and Board are not headed in similar direction. **As a renewed very sizable shareholder we, and we believe, other members of the investment community don't want a repeat of the prior adverse operating and financial experience to the extent the board waivers in its most recent investment.**

Qumu Background and Board Rotation

In October 2019, Qumu added two independent Board members, retained the former Non-executive Chairman of the Board (until April 6, 2020), Robert F. Olson, **a director since January 2012**, and Daniel R. Fishback, **a director since December 2013**. As contained in Qumu's proxy statements, both appear to have extensive software enterprise and technology experience. On April 6, 2020, you became the Non-executive Chairman of the Board. On November 7, 2019, 3,652,000 shares were sold at \$2.50 per share in a secondary offering for net proceeds approximating \$8.2 million. On **January 29, 2021**, 3,708,750 shares were sold at \$6.75 per share in a secondary offering for net proceeds approximating \$23.1 million. These two equity financings generated aggregate **net proceeds approximating \$31.3 million**. The 2021 prospectus indicates use of proceeds for "working capital and general corporate purposes". In addition, as of January 15, 2021, the Company closed a **\$10 million Loan and Security Agreement** with a major US commercial bank for a revolving line of credit with a borrowing base derived from the prior quarter's recurring revenue.

On January 25, 2021, Qumu announced preliminary financial results for 2020 Q1 and FYE and **preliminary 2021 revenue guidance**, including:

- 2020 revenue is **expected to be \$29.1 million, a 14.6% YOY increase.**
- “Our outlook for 2021 demonstrates our confidence that investments in our long term strategic roadmap **will accelerate the evolution of Qumu's SaaS-based business model...**”
- Adjusted EBITDA loss for Q4 2020 is expected to be between **\$(1.2) million and \$(1.0) million**. Adjusted EBITDA loss for 2020 is expected to be between **\$(2.5)million and \$(2.3)million**.
- Cash and cash equivalents totaled approximately **\$11.9 million at 2020 FYE** vs \$10.million at 2020 FYE, the increase derived **from positive operating cash flow**.
- “Based on the Company's fourth quarter 2020 financial results, pipeline of business and progress toward implementation of the Company's road-map, **Qumu's management expects at least 20% revenue growth in 2021...**”

The share price on this day closed at \$8.10; Qumu closed its January 29, 2021 secondary offering at \$6.75 per share and the share price rose above \$10 in February 2021.

36 days later, on March 4, 2021, Qumu publicly released its 2020 financial results and **2021 guidance including:**

- 2020 revenue **up 15% to \$29.1 million and an adjusted EBITDA loss of (\$2.3)million;**
2020 FYE cash and equivalents of \$11.9 million

Page 3 of 4
Qumu Corporation
Chairman of the Board
July 26, 2021

—2021 revenue guidance up “at least 20% or approximately \$35 million”

The share price on this day closed at \$7.87.

On April 29, 2021, Qumu issued its Q1 2021 financial and operating results and reiterated its FY 2021 prior strong guidance:

—“Based on the Company’s Q1 2021 financial results, business pipeline, and strategic road-map implementation progress, Qumu management reiterates its expectation for at least 20% revenue growth as compared to 2020, or total revenue of approximately \$35 million in 2021.”

The share price on this day closed at \$6.00, below the \$6.75 secondary offering price.

Qumu’s Complete 60—Day Reversal

Only 60 days later, on June 29, 2021, Qumu preannounced its second quarter results and strikingly changed its outlook and withdrew prior 2021 guidance:

—“...the Company expects revenue for Q2 2021 to range between \$5.7 million and \$5.9 million. This compares to revenue of \$9.3 million in Q2 2020 and \$5.8 million in Q1 2021.

—“Net loss for Q2 2021 is expected to range between \$(4.9) million and \$(4.3) million as compared to \$(692,000) in Q2 2020 and \$(4.5) million in Q1 2021.”

—“...these transformation challenges have pushed our anticipated growth inflection point likely into early next year and impacted our ability to achieve the desired overall revenue growth in 2021.”

—“...we believe our overall revenue will be flat or decrease modestly over the next several quarters as we work to gain full sales traction in building the recurring SaaS revenue stream.”

—“We are rightsizing our burn rate, slowed our hiring and made other cost-cutting measures to ensure adequate working capital that supports our longer transition to SaaS.”

—“This new business outlook approach supersedes Qumu’s revenue guidance for 2021 issued on April 29, 2021, which was withdrawn, effective today.”

The share price on this day closed at \$3.85 and was preceded by relatively massive volume.

The Company’s underwriter and principal analyst coverage, as of June 11 and 29, 2021, lowered its target share price to \$6.00 from \$11.00 and now has Qumu at 2021 revenue of \$23.2 million and an adjusted EBITDA loss of —\$(15.9) million. They are also projecting 2022 revenue of \$24.8 million and an adjusted EBITDA loss of —\$(3.1) million. The above unfavorably compares to 2020 revenue and an adjusted EBITDA loss of \$29.1 million and —\$(2.3) million, respectively.

Page 4 of 4
Qumu Corporation
Chairman of the Board
July 26, 2021

Summary

If Qumu, **after expending near \$150 million purchasing and investing in the video conferencing platform, can't make the grade in the public markets, especially in a favorable demand environment and fresh equity capital than, in our view, Qumu must very quickly become part of a significantly larger company with a fully developed sales force and engineering and where there are public and other cost synergies.** Qumu's value must now approach \$300 million to generate a satisfactory risk adjusted IRR. Dolphin also does not believe a Rule 13e-3 transaction is appropriate or maximizes value.

At the end of Q1 2021, Qumu had **net cash of approximately \$25.2 million** and analyst coverage suggests a burn of over **\$5.0 million in Q2 2021.** **Given the prior eight years, how could the Board allow a six-month cash burn exceeding \$10 million of fresh equity capital with declining revenue and so adversely surprise new Qumu investors within 60 days of guidance?** Even if results materially improve, there was no need to expend so much newly raised equity capital and at the expense of the credibility of the CEO and Board. Given where the Company is and the financial environment, **the Board must not permit net cash to drop below \$18 million, or approximately \$1.00 per share,** without certainty of immediate economic reward. Qumu is neither a start-up nor suffered from under investment. It is currently operating in a favorable demand environment and having recently raised material equity capital and jeopardized the credibility of the new CEO and a reconfigured Board, what has transpired can't be acceptable—**the current share price is about \$2.60.**

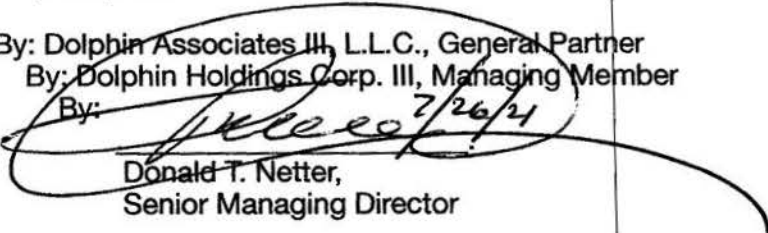
How long will the Board give its most recent relatively massive investment to generate meaningful recurring profitable revenue and how much more is the Board prepared expend? We believe these questions and others will need to be clearly answered in the next 100—days.

If Qumu believes any statement of fact made herein is materially inaccurate, please contact Dolphin or its counsel in writing within 10-business days of receipt of this letter, so correction can be made. If we don't hear from Qumu in writing, Dolphin shall assume no correction is required or offered. As a very large and growing shareholder, Dolphin and another entity hopes the Board's \$10 million + and apparently growing wager yields a near-term favorable result for all constituents. Accordingly, Dolphin looks forward to continuing the discussion. In the interim, the Board may consider replacing directors that have been on the board approaching a decade with one or more knowledgeable, independent and sizable shareholders. Dolphin requests that you distribute this letter promptly to all Board members.

Very Truly Yours,

By: Dolphin Associates III, L.L.C., General Partner
By: Dolphin Holdings Corp. III, Managing Member

By:


Donald T. Netter,
Senior Managing Director

CC: April Hamlin, Esq., Ballard Spahr, Lindquist and Venom

C/O 1117 East Putnam Avenue, Riverside, CT 06878

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April Hamlin
Tel: 612.371.3522
Fax: 612.371.3207
hamlina@ballardspahr.com

December 20, 2021

Via FedEx and Email

Scott R. Wilson, Esq.
Miles & Stockbridge P.C.
100 Light Street
Baltimore, MD 21202

Re: Dolphin Rule 14a-8 Shareholder Proposal

Dear Counsel:

This firm is legal counsel to Qumu Corporation (the “Company” or “Qumu”). We are writing in response to the shareholder proposal submitted by your client, Dolphin Limited Partnership III, LP (“Dolphin” or “Shareholder”), by letter dated December 6, 2021. In the letter, the Shareholder requested that all future correspondence concerning Dolphin or the Proposal be made through counsel and accordingly, our response is directed to you.

Consistent with Rule 14a-18, the term “Proposal” as used herein includes both the proposal and the supporting statement to the proposal attached as Exhibit A to the letter dated December 6, 2021.

Shareholder’s Proposal is Not Properly Brought

Section 2.10 of Qumu’s bylaws sets for the requirements for a proposal to be properly brought before a regular meeting of shareholders, which would include the Company’s 2022 annual meeting of shareholders. The Shareholder has not complied with the notice requirements of Section 2.10, in particular clause (ii) which requires that the notice set forth “...the class and number of shares of the corporation owned by the shareholder and beneficially owned by the beneficial owner, if any, on whose behalf the proposal will be made.” Further, the Shareholder has not complied with the notice requirements of clause (iv) of Section 2.10, which requires a statement of “any material interest in such business of the shareholder and the beneficial owner, if any, on whose behalf the proposal is made.” If the statement in response to clause (iv) is in the negative, the Shareholder must so state.

Additionally, in Dolphin’s July 26, 2021 letter to Neil E. Cox, Dolphin stated: “Now, we write to you and the Qumu Corporation (Nasdaq ticker symbol: **QUMU**) Board as **Dolphin (and another entity)** is again a very sizable Qumu shareholder...” (emphasis in original).

Scott R. Wilson, Esq.
December 20, 2021
Page 2

We remind the Shareholder that if the Proposal is made by Dolphin and any other person, that fact must be disclosed and information about such other person must be provided under the Company's bylaws and Rule 14a-8.

Please be advised that you have 14 days from the date you receive this letter to remedy the deficiencies stated herein. If you fail to adequately correct these deficiencies, Qumu intends to exclude the Proposal.

Shareholder's Proposal May Be Properly Excluded

Unless withdrawn, Qumu intends to seek to exclude the Proposal from the proxy statement for its 2022 annual meeting of shareholders under the following:

- Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company's ordinary business operations;
- Rule 14a-8(i)(10) because the Proposal has been substantially implemented; and
- Rule 14a-8(i)(3) because the Proposal is inherently vague and indefinite.

A summary of Qumu's analysis is set forth below. Qumu reserves the right to supplement the bases for exclusion in any submission it makes to the Staff of the Securities and Exchange Commission (SEC) under Rule 14a-8.

Exclusion As Ordinary Business Operations

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a stockholder proposal that relates to the company's "ordinary business" operations. According to the SEC release accompanying the 1998 amendments to Rule 14a-8, the term "ordinary business" "refers to matters that are not necessarily 'ordinary' in the common meaning of the word," but instead the term "is rooted in the corporate law concept providing management with flexibility in directing certain core matters involving the company's business and operations." In the 1998 release, the SEC stated that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting," and identified two central considerations that underlie this policy. As relevant here, one of these considerations was whether the proposal "seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment."

The Staff has consistently found proposals relating to a mix of extraordinary transactions and non-extraordinary matters excludable under Rule 14a-8(i)(7). While some portion of the

Proposal relates to an extraordinary transaction, key portions of the Proposal seek to micromanage the Company in its conduct of an extraordinary transaction.

Since the 1998 release, the Staff has consistently reiterated that, when considering arguments for exclusion based on micromanagement, the Staff looks “to whether the proposal seeks intricate detail or imposes a specific strategy, method, action, outcome or timeline for addressing an issue, thereby supplanting the judgment of management and the board.”

First, the Proposal inappropriately attempts to micro-manage the Qumu board of directors in its selection of an investment bank by requiring that the investment bank be “an independent, recognized investment bank (not previously engaged by Qumu or affiliated with any director).” The selection of an investment bank is a matter of complex judgment for the Qumu board of directors. This decision would take into account many factors such as the investment bank’s experience, industry depth, prior representative matters, relationships with potential counterparties, relationship with Qumu, fee arrangements and other engagement terms. Different members of the Qumu board of directors may give different weight to these factors or others. This decision typically also follows presentations by the potential investment banks to the board of directors and meetings between the board of directors and the potential investment banks. Shareholders, as such, will not receive these presentations or participate in these meetings. Accordingly, the Qumu shareholders, as a group, would not be in a position to make an informed judgment on the selection of an investment bank.

Second, the Proposal inappropriately attempts to micro-manage the Qumu board of directors by requesting that the Qumu board of directors direct a sale of Qumu to “an independent, strategic buyer.” As noted below, this portion of the Proposal is vague and indefinite. However, to the extent it purports to describe a specific identifiable class of buyer, the Proposal again seeks to micro-manage the Qumu board of directors – in this case, by limiting its selection of a buyer. Given the highly complex decision-making involved in selecting a buyer, the myriad factors that one or more directors may consider in such decision, the involvement of an investment bank and highly variable process to identify an interested buyer, the Qumu shareholders, as a group, would not be in a position to make an informed judgment on the selection of a buyer. The Proposal’s pre-emptive exclusion of buyers other than “an independent, strategic buyer” seeks to micro-manage the Qumu board of directors by imposing a specific strategy for identification of a buyer.

Exclusion As Substantially Implemented

Rule 14a-8(i)(10) permits a company to exclude a stockholder proposal from its proxy materials if the company has substantially implemented the proposal.

The Staff has consistently concurred with the exclusion of shareholder proposals requesting that companies retain investment banks to perform specific services under Rule 14a-8(i)(10)

where a company has already retained an investment bank to perform services that address the substance of the shareholder proposal.

As the Proposal references, Qumu signed an Agreement and Plan of Merger and Reorganization on February 11, 2020 with Synacor, Inc. As stated in the press release announcing the transaction, Stifel Financial acted as Qumu's financial advisor in the transaction. Stifel Financial (NYSE:SF) is a globally recognized investment banking firm. Stifel had not been engaged by Qumu prior to this time and Stifel was independent with respect to Qumu. Should the Company seek concurrence from the Staff to exclude the Proposal, the Company intends to offer additional detail regarding the scope of Stifel's engagement and the process that led to February 11, 2020 transaction with Synacor that the Company believes will compare favorably to the essence of the action requested by the Qumu board of directors in the Proposal.

While the Synacor transaction was terminated on June 29, 2020, Stifel continued to be engaged by the Company throughout all of 2020 until its engagement was terminated in January 2021. Qumu continued to have discussions with representatives of Stifel on an informal basis through the expiration of the tail period in October 2021.

Because the Company's recently terminated engagement with its investment bank satisfies the essential objectives of the Proposal, the Proposal has been substantially implemented.

Exclusion As Impermissibly Vague and Indefinite

Rule 14a-8(i)(3) permits a company to omit a proposal from its proxy materials where the proposal violates the SEC's proxy rules. These include rules that prohibit "materially false or misleading statements," because the proposal is "so vague and indefinite that neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires."

When assessing proposals under Rule 14a-8(i)(7), the Staff considers the terms of the resolution/proposal and its supporting statement as a whole. The Staff consistently concurs in excluding proposals in which the terms are unclear and the proponent fails to provide sufficient clarity for the company to implement the proposal.

The text of the proposal contains various vague and indefinite text and concepts. The proposal refers to the engagement of an "independent, recognized investment bank." It is not clear what "independent" means in this context or how Qumu would determine whether an investment bank is "independent" as contemplated by the proposal. "Independent" could refer to independence from the potential buyer counterparty, from Qumu management, from Qumu board or from Qumu as a company. Additionally, independence could capture many business, ownership, personal, family or other relationships between parties. From the

language of the proposal, it is not possible to determine what relationships among which persons the Shareholders is contemplating Qumu examine in order to determine “independence.” The supporting statement does not provide any interpretive guidance or direction regarding the information the Qumu board of directors should gather to determine independence.

Similarly, the proposal specifies that the investment bank may not be “affiliated with any director.” There is no commonly agreed-upon definition of “affiliated” and the Proposal does not offer one. Additionally, it is not clear whether or to what extent the terms “independent” and “not affiliated” are or may cover the same criteria.

The proposal asks the Qumu board to consider a sale of Qumu to “...an independent, strategic buyer.” For the same reasons set forth above, the term “independent” as describing buyer is vague and indefinite. Additionally, the Proposal provides no additional criteria for what constitutes a “strategic” buyer. Given that this would be a strategic transaction for Qumu, any buyer would be a “strategic” buyer. Likewise, any buyer would consider its acquisition of Qumu as part of its strategy and therefore, strategic.

The last portion of the supporting statement begins:

“By the May 2022 regular Stockholders’ meeting, nine months from Dolphin’s Letter, if Qumu has not ‘made the grade in the public market,’ Dolphin seeks shareholder support for its non-binding Proposal ...”

This language is particularly critical to the Proposal as a whole because it is the only portion of the supporting statement directly addressing the proposal the Shareholder is urging Qumu shareholders to support. The clause “...if Qumu has not ‘made the grade in the public market’ ...” conditions the Shareholder’s request for Qumu shareholder support on Qumu’s failure to achieve some undefined future “public market” criteria. Reading the proposal together with this portion of the supporting statement, neither the Qumu board of directors nor the Qumu shareholders would have clarity on when, if ever, the Proposal is to be implemented. The Staff has noted that a shareholder proposal is excludable when the company and its shareholders can interpret the proposal differently such that any action ultimately taken by the company upon implementation of the proposal could be significantly different from the actions envisioned by the shareholders voting on the proposal.

Accordingly, the Proposal may be omitted under Rule 14a-8(i)(3) because the Proposal is so vague and indefinite as to violate the SEC’s proxy rules prohibiting materially false or misleading statements.

Scott R. Wilson, Esq.
December 20, 2021
Page 6

Conclusion

Qumu welcomes open communication with shareholders and values their constructive input toward the goal of enhancing shareholder value, which is the paramount focus of the Qumu board of directors. Despite the deficiencies identified above and the Company's belief that the Proposal may be excluded, the Company would be interested to discuss with Dolphin Qumu's plans and strategies for enhancing shareholder value under an appropriate non-disclosure agreement. Qumu believes that Dolphin's concerns will be more effectively addressed through a dialogue. After you have had an opportunity to review this letter, please contact me should Dolphin wish to accept Qumu's invitation for a discussion.

Very truly yours,



April Hamlin

AH

cc: Jason Karp, Esq., Chief Counsel, Qumu Corporation (email only:
jason.karp@qumu.com)

From: Wilson, Scott R. <swilson@milesstockbridge.com>
Sent: Monday, January 3, 2022 2:19 PM
To: Hamlin, April (Minn)
Subject: RE: Another Idea

⚠ EXTERNAL

April,

Thank you for taking my call on Friday and your follow-up email. I wanted to get back to you in advance of a more formal response later today. Dolphin will have been a continuous sizable shareholder for nine (9) years at the time of the 2022 shareholder's meeting and had sponsored directors to the board between 2013 and 2018. As I shared, Dolphin has no desire to waist corporate assets on a proposal process that would not be beneficial to all shareholders, so I wanted to get back to you on two points. You are certainly welcome to share this with the Qumu board.

First, on the prior Stifel Financial Corp. process, I understand that Stifel was engaged and ran a process in late 2019 culminating with the February 2020 publicly announced Synacore merger. This process was prior to the global pandemic, after which demand for video conference technology expanded significantly. After the June 2020 Synacore merger termination, you indicated Stifel did not run a further process. By the time of the April 2022 regular stockholder's meeting, the Company will not have been shopped for approximately 26 months despite expanded demand for video conferencing technology. While your offer for additional information is appreciate, it's not going to change direction with regard to substantial implementation or the staleness of the Stifel process.

Second, given our client's prior experiences with Qumu, an industry or strategic buyer in the sector offering cost and revenue synergies is the only logical buyer to fulfill the board's obligations. A purely financial buyer would suggests the board's prior expenditures of approximately \$150 million on acquiring the business and subsequent investments, including 2021, did not yield any value to the public shareholders. I do appreciate your assurances that a take-private transaction has never been discussed at the board.

Finally, if there is a word or so, that your client believes would be more clarifying to the proposal, Dolphin is open to considering the request. We are always open to working reasonably and cooperatively. Give me a call if you have any questions, but I'll plan to send you a formal response on our client's 14a-8 proposal later today.



Scott Wilson | *Principal*
Miles & Stockbridge
direct: +1 (410) 385-3590

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From: Hamlin, April <HAMLINA@ballardspahr.com>
Sent: Friday, December 31, 2021 4:57 PM
To: Wilson, Scott R. <swilson@milesstockbridge.com>
Subject: [EXTERNAL] Another Idea

EXTERNAL

Scott,

Thinking more about our conversation today, another idea we could explore would be me providing you with more detailed information regarding the prior process than would be provided to Don Netter – identities of specific bidders, offers and terms, etc. You could then give him color on the robustness of the process without tainting him with specific

information that he may consider MNPI. Again, this could give Don comfort regarding the Qumu board's diligence in pursuing a strategic alternative.

Also, just in case it wasn't clear on the call – if Don wanted to engage in a philosophical discussion on strategic alternatives with the Qumu board, that could be with the full board, the independent directors (i.e. excluding TJ Kennedy, CEO) or whatever composition Don would prefer.

I hope you have a wonderful New Year's Eve.

April

April Hamlin

(pronouns: she, her, hers)

2021 Pro Bono Honor Roll – Silver



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Minneapolis, MN 55402-2119
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MOBILE | hamlina@ballardspahr.com

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From: Wilson, Scott R. <swilson@milesstockbridge.com>
Sent: Monday, January 3, 2022 4:15 PM
To: Hamlin, April (Minn)
Cc: Smallwood, Reginald L.
Subject: Dolphin Limited Partnership III, L.P. Shareholder Proposal Pursuant to Rule 14a-8 to Qumu Corporation
Attachments: 2022-01-03 Dolphin Response to Qumu Objection to 14a-8 Proposal 4883-2706-1768 v.2.pdf

△ EXTERNAL

Good afternoon. Attached please find Dolphin Limited Partnership III, L.P.'s response to Qumu Corporation's correspondence dated December 20, 2021. Thank you.



Scott Wilson | *Principal*
Miles & Stockbridge
direct: +1 (410) 385-3590

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January 3, 2022

SENT VIA EMAIL: hamlina@ballardspahr.com

April Hamlin, Esq.
Ballard Spahr LLP
2000 IDS Center, 80 South 8th Street
Minneapolis, MN 55402-2119

Re: Dolphin Limited Partnership III, L.P. Shareholder Proposal Pursuant to Rule 14a-8 to Qumu Corporation

Dear Ms. Hamlin:

As you are aware, we represent Dolphin Limited Partnership III, L.P. (“Dolphin”). I write in response to your December 20, 2021 correspondence pertaining to the shareholder proposal and supporting statement submitted by Dolphin pursuant to Rule 14a-8 (the “Dolphin Proposal”) to Qumu Corporation, a Minnesota corporation (“Qumu” or the “Corporation”).

Qumu Advance Notice Bylaws Are Not a Permissible Basis to Reject the Dolphin Proposal

Qumu asserts that the Dolphin Proposal failed to comply with Section 2.10 of the Amended and Restated Bylaws of the Corporation (as amended, the “Bylaws”), which purport to require that a shareholder submit certain information in advance of making a proposal attendant to a shareholder meeting. Dolphin has substantially complied with the Bylaws, but Qumu contends that Dolphin has not provided record and beneficial share information nor disclosed “any material interest in [the] business of the shareholder and the beneficial owner, if any, on whose behalf the proposal is made.” The additional hurdles imposed by advance notice bylaws on shareholders submitting an otherwise valid proposal pursuant to Rule 14a-8 are not a basis for excluding a proposal under Rule 14a-8. *Dollar Tree Store, Inc.*, SEC No-Action Letter (available Mar. 7, 2008). Nevertheless, while we believe the disclosure provided by Dolphin is sufficient, Dolphin now supplements as follows:

- As of the date of the Dolphin Proposal, Dolphin was (and remains) the record holder of that number of shares of Qumu common stock reflected on the stock ledger of the Corporation, which Dolphin believes to be 1,000 shares.¹
- As of the date of the Dolphin Proposal, Dolphin was (and remains) the beneficial owner of 444,500 shares of Qumu common stock for which Morgan Stanley Smith Barney LLC, 1585 Broadway New York City, New York 10036, is the record holder.

¹ The transfer agent of the Corporation, Equiniti Trust Company, observes a challenging process for a shareholder to obtain a statement of its holdings. Consequently, while having been engaged with Equiniti Trust Company for months, including through undersigned counsel, Dolphin still does not have a confirmatory statement from Qumu’s transfer agent.

- Dolphin does not have any “material interest” in the Dolphin Proposal other than consistent with the Dolphin Proposal and supporting statement.

The Dolphin Proposal Should Be Presented to the Qumu Shareholders

Despite favorable market conditions, the performance of Qumu and its common stock has been volatile following Qumu’s recent disclosures and the current price is unacceptable. Notably, since Qumu’s secondary offering on January 29, 2021, the market value of Qumu common stock has substantially decreased. Qumu has shown the market nine years of operating losses, having lost ~\$14m through the first nine months of 2021. The Dolphin Proposal seeks shareholder support for a renewed effort to sell the Corporation. Below we briefly address each of the grounds for exclusion under Rule 14a-8 raised in response to the Dolphin Proposal.

The Dolphin Proposal Does Not Micromanage the Board of Directors

Citing Rule 14a-8(i)(7) as a basis for exclusion, Qumu contends that the Dolphin Proposal deals with matters relating to the Company’s ordinary business operations because it would micromanage the board of directors of Qumu (the “Qumu Board”). Qumu provides two grounds for this contention: first, the Dolphin Proposal would require “an independent, recognized investment bank (not previously engaged by Qumu or affiliated with any director)” and, second, the Dolphin Proposal contemplates a sale to “an independent strategic buyer.”

In Staff Legal Bulletin No. 14L (CF)(November 2, 2021)(“SLB 14L”), the staff of the Division of Corporation Finance of the Securities and Exchange Commission (the “Staff”) rescinded prior guidance on Rule 14a-8(i)(7) pertaining to the concept of micromanagement. The Staff reiterated that the policy underlying the ordinary business exception rests on two central considerations: (1) the proposal’s subject matter and (2) the degree to which the proposal “micromanages” the company “by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.” SLB 14L *citing* Release No. 34-40018 (May 21, 1998). The Staff reiterated that “specific methods ... or detail do not necessarily amount to micromanagement and are not dispositive of excludability.”

The subject matter of the Dolphin Proposal, the sale of Qumu, is the kind of significant and strategic subject matter that the Rule 14a-8 facilitates. *Cerus Corp.* (available Apr. 13, 2018); *Allegheny Valley Bancorp. Inc.* (available Jan. 3, 2001). The Dolphin Proposal avoids the most common pitfall: involving extraordinary transactions and non-extraordinary transactions in the scope of the proposal, which provide a basis for companies to exclude similar proposals in the past. *Bank of America Corp.* (available Feb. 26, 2019).

As to the second consideration, the Dolphin Proposal seeks shareholder support for a sale of the Corporation led by an investment banker unaffiliated with a current member of the Qumu Board and untarnished by any prior, failed process. Far from micromanaging, the Qumu Board would

have a wide spectrum of qualified investment bankers and banking firms that it could interview and then select to implement the proposal. Similarly, the Dolphin Proposal contemplates a sale to an independent strategic buyer or industry buyer because of Qumu's \$25 million revenue basis and history of losses. Qumu's responses to Dolphin appear to indicate that the Qumu Board agrees. Dolphin's strategic detail is not only appropriate for a 14a-8 proposal, but sound.

In short, the Dolphin Proposal is consistent with the Staff's views on the ordinary business exception, preserves management's discretion, and offers high-level direction on a large, strategic corporate matter.

The Dolphin Proposal Has Not Been Substantially Implemented

Citing Rule 14a-8(i)(10) as a basis for exclusion, Qumu contends that the Dolphin Proposal may be excluded because it has been substantially implemented by the Corporation and cites a prior sale processes. The sale process initiated by Stifel Financial ("Stifel") in 2019 and culminating with the February 2021 merger agreement with Synacor is not substantial implementation of the Dolphin Proposal for the 2022 annual shareholder meeting.

Qumu asserts that "[t]he Staff has consistently concurred with the exclusion of shareholder proposals requesting that companies retain investment banks to perform specific services under Rule 14a-8(i)(10) where a company has already retained an investment bank to perform services that address the substance of the shareholder proposal." This statement is true when a company has an active engagement with an investment bank to perform the services contemplated by a shareholder proposal. *Alliance Bankshares Corp.* (available Apr. 30, 2009); *Angelica Corp.* (available Aug. 20, 2007). But the Stifel process culminated nearly two-years and a pandemic ago. That process is long-stale. Qumu has informed and educated us that Stifel did not run any further process after the termination of the Synacor merger, Stifel's engagement was terminated in January 2021 and, at present, no investment banker is engaged by Qumu.

The Staff has denied the exclusion of similar shareholder proposals even when an investment banker is actively engaged if the engagement did not satisfy the substance of the proposal. *Capital Senior Living Corp.* (available Mar. 23, 2007); *Gyrodyne Company of America* (available Sept. 26, 2005). Qumu does not have an investment banker engaged at all and, by the time the Dolphin Proposal is considered by the shareholders, will not have run a process for approximately 26 months. To our knowledge, the Staff has never concurred with the exclusion of a shareholder proposal to retain an investment bank to sell the company based upon similar facts. The Dolphin Proposal should not be excluded on this basis.

The Dolphin Proposal Is Neither Vague Nor Indefinite

Citing Rule 14a-8(i)(3) as a basis for exclusion, Qumu contends that the Dolphin Proposal is impermissibly vague and indefinite. Qumu argues that the concept of "independence" is too vague for the Qumu Board to implement and the Qumu Board could not determine what would constitute

April Hamlin, Esq.
Ballard Spahr LLP
January 3, 2022



a “strategic buyer.” Both of these arguments are belied by the fact that Qumu also cites these same two factors in support of its argument that the Dolphin Proposal would micromanage the Qumu Board. Indeed, the pairing of this exclusion with arguments under Rule 14a-8(i)(7), as Qumu does, is a practice that the Staff sought to prevent in SLB 14L (i.e. the argument that a shareholder proposal is either too detailed or not detailed enough such that a proposal is excludable in one direction or the other). Regardless, neither argument is availing.

Both elements of the proposal are sufficiently definite to provide the Qumu Board with the strategic direction to implement the proposal without micromanaging the Qumu Board. The Qumu Board may employ a common sense interpretation of the Dolphin Proposal and common sense definitions of these terms. Indeed, were the Dolphin proposal to define “independence” or further limit the scope of the process, Dolphin would simply be met with arguments from Qumu as to why such a definition is unduly limiting and invades the providence of the Qumu Board. The Staff recognized this Catch-22 strategy and implicitly sought to discourage its continued use in SLB 14L. Terms that require common sense and reasonableness do not render a proposal vague and indefinite under Rule 14a-8. The Dolphin Proposal should not be excluded on this basis.

Conclusion

The market for video conferencing software was enhanced by the pandemic. By the 2022 shareholder meeting, Qumu will not have been shopped for approximately 26 months. The Dolphin Proposal seeks, on a non-binding basis, shareholder support for a sale of Qumu to a logical, unaffiliated buyer. **Whether the Qumu Board agrees with Dolphin’s legal positions under 14a-8 or not, we would encourage the Qumu Board to place the Dolphin Proposal before the shareholders or engage an independent investment banker to sell the Corporation – thereby actually substantially implementing the proposal.** Expending Qumu’s scarce resources to attempt to exclude Dolphin’s non-binding proposal is not in the best interest of the Corporation or its shareholders.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Scott R. Wilson'.

Scott R. Wilson

cc: Donald T. Netter
Dolphin Limited Partnership III, L.P.

From: Hamlin, April (Minn)
Sent: Monday, January 10, 2022 8:03 PM
To: Wilson, Scott R.
Cc: Smallwood, Reginald L.
Subject: Letter to Dolphin
Attachments: Qumu Cox letter to Dolphin January 10, 2022 DMFIRM_401349133(1).PDF

Scott,

Please see the attached letter to Dolphin. I would ask that you forward this along to your client.

April

April Hamlin
(pronouns: she, her, hers)
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400 S. 4th Street, Suite 401-412
Minneapolis, MN 55415

January 10, 2022

Dolphin Limited Partnership III, LP
Donald T. Netter
1117 East Putnam Avenue, Suite 150
Riverside, CT 06878

Dear Don,

As you know, I am the chair of the board of directors of Qumu Corporation (the "Company" or "Qumu"). I am writing on behalf of the Qumu board regarding the shareholder proposal you submitted on behalf of Dolphin Limited Partnership III, LP ("Dolphin") on December 6, 2021.

We recognize that Dolphin has been a long-time shareholder of Qumu. We have welcomed the opportunity for constructive dialogue with Dolphin regarding the subject matter of its proposal, just as we have in the past welcomed the opportunity for constructive dialogue with Dolphin on the matters raised in Dolphin's previous letters to the board. In that spirit, the Qumu board has offered to Dolphin several opportunities over the last month to discuss the proposal and the Company's business, financial performance and strategic direction generally. We offered meetings and discussions with Qumu management and/or with any or all of the members of the Qumu board at Dolphin's election. We offered to have these discussions under a non-disclosure agreement or, with appropriate limits on the information to be shared, without a non-disclosure agreement.

To date, Dolphin has rebuffed all of the offers from the Qumu board and has refused to discuss the proposal or any of Dolphin's concerns with the Qumu board, whether with or without a non-disclosure agreement. Had Dolphin's representatives met with any of the Qumu board, they would realize that Dolphin and the Qumu board are absolutely aligned in their mutual goal of delivering value to the Qumu shareholders. We are disappointed that our offers to Dolphin have been rejected, particularly since the Qumu board is on the verge of implementing Dolphin's shareholder proposal. In contrast to these significant efforts and actions over the last month by the Qumu board, Dolphin has not put forth any effort toward actual resolution of its shareholder proposal or Dolphin's underlying concerns.

Given Dolphin's refusal to engage in good faith with the Qumu board and refusal to withdraw its proposal in favor of the constructive dialogue we have offered, we expect to seek no-action relief from the SEC on Dolphin's shareholder proposal. We have high confidence that the SEC will conclude the shareholder proposal can be excluded. Accordingly, the approach Dolphin has taken is an unfortunate waste of the Qumu board's attention and Qumu's resources.

Again, the Qumu board welcomes the opportunity for constructive dialogue with Dolphin on the subject matter of its shareholder proposal should the proposal be withdrawn.

Very Truly Yours,

DocuSigned by:

A handwritten signature in black ink that reads "Neil E. Cox".

766CD0DF1E854AD...
Neil E. Cox

Chairman of the Board of Directors
Qumu Corporation

From: Wilson, Scott R. <swilson@milesstockbridge.com>
Sent: Thursday, January 13, 2022 5:23 PM
To: Hamlin, April (Minn)
Cc: Smallwood, Reginald L.
Subject: Qumu Corporation
Attachments: 2022-1-13 Qumu Proposal-- Response to N Cox Letter 4866-1072-4873 v.6.pdf

△ EXTERNAL

April,

Attached is our response to the Company's letter from Monday. Please feel free to share with the Company as appropriate.

Scott

Scott Wilson

Principal

100 Light Street | Baltimore, MD 21202
D: +1 410.385.3590 | O: +1 410.727.6464 | F: +1 410.698.4523



vCard | swilson@milesstockbridge.com

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January 13, 2022

SENT VIA EMAIL: hamlina@ballardspahr.com

Ballard Spahr LLP

Attn: April Hamlin, Esq.

2000 IDS Center

80 South 8th Street

Minneapolis, MN 55402-2119

Re: Dolphin Limited Partnership III, L.P. Shareholder Proposal Pursuant to Rule 14a-8 to Qumu Corporation

Dear Ms. Hamlin:

As you know, we represent Dolphin Limited Partnership III, L.P. I write with regard to Qumu Corporation (“Qumu” or the “Company”). Thank you for all our discussions, including Sunday, and the letter from the chair of the Qumu board of directors, dated January 10, 2022.

Rule 14a-8 newly requires a proponent to offer to discuss a proposal with the company. On December 6, 2020, Dolphin offered such opportunity in writing providing multiple dates in early January 2022. On December 8, 2020, following brief back and forth, Qumu declined a meeting with Dolphin in an email to Dolphin’s counsel.

We subsequently made every effort to engage in good faith in relation to the concerns raised in your December 23, 2020 letter. Based upon our discussions, however, we concluded that the sale process which led to the February 2020 Synacore transaction, which will have occurred 26 months before the 2022 annual meeting, does not meet the standard of substantial implementation -- particularly in an environment of expanded demand for video conferencing. It appears that the Company now agrees with Dolphin’s position given that the Company is now “on the verge” of implementing Dolphin’s proposal. Further, while we disagree with Qumu’s claim for no-action based on the wording of Dolphin’s Proposal, Dolphin constructively offered to revise the proposal; however, Qumu rejected the offer.

More recently, I shared that Dolphin would be willing to engage in discussions that would involve non-public information so long as it would only be restricted until the Company’s 2021 year-end earnings release.

The absence of the foregoing facts from Qumu’s January 10 letter, the claim that Dolphin has “not put forth any effort toward actual resolution of its shareholder proposal” and the contention that Dolphin refuses to engage in good faith discussions are misleading.

In terms of meeting and conferring, Dolphin understands that Qumu now would like to discuss strategy and why Dolphin should withdraw its proposal. But the time pressure imposed by Qumu’s deadline to seek no-action relief makes any such dialogue impractical. Further, any implementation of a sale process only now and in response to Dolphin’s proposal and supporting

statement appears reflexive and Dolphin questions the vigor of such a process. Qumu has had history and recent history of issuing favorable guidance only to adversely revise and withdraw:

- January 25, 2021 Qumu issued 2021 guidance of “at least 20% revenue growth”
- January 29, 2021 Qumu closed a \$23.1 million equity offering at \$6.75 per share
- March 4, 2021 Qumu issued 2021 revenue guidance of \$35 million, a 20% increase
- April 29, 2021 Qumu publicly reiterated this favorable guidance
- June 29, 2021 (61–days later) Qumu materially lowered outlook, withdrew April 2021 guidance and pushed growth to early 2022.

This sequence caused the share price to soar above \$10 in connection with the equity offering only to crash to \$2. Dolphin also believes that any suggested shift in strategy by the board of directors is belied by the events of the last year, including Qumu’s \$23.1 million January 2021 capital raise, subsequent guidance withdrawal, and the recent decision to drawdown on a line of credit (which was apparently not required). Dolphin remains concerned about (i) the timing and contents of Qumu public disclosures surrounding its January 2021 secondary offering; (ii) the Company having expended approximately \$17 million of capital in under a year; (iii) the up and down share price of the Qumu stock, rising on favorable guidance in advance of the offering and then trading lower following withdrawal of such guidance; (iv) Qumu’s nearly nine-year history of modest to flat revenues and operating losses; and (v) the Company’s history of near-crises dilutive capital and debt raises.

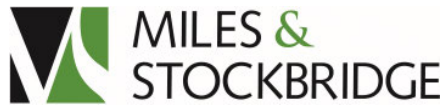
Dolphin does not want to see Qumu get into trouble again and require a punitive capital raise or an opportunistic going-private (Rule 13e-3) transaction. Dolphin hopes the board would not consider these observations as “micromanagement” rather, with approximately \$15 million of remaining equity capital, an obvious pitfall for fiduciaries to avoid. Those are the topics that Dolphin is emphasizing in addition to how and when the board of directors now proposes to implement Dolphin’s proposal.

Dolphin looks forward to Qumu creating long-promised shareholder value and, as always offered, if you or the board believes any statement of fact made herein or made in any of Dolphin’s communications, is materially inaccurate, please so advise.

Very truly yours,



Scott R. Wilson



February 8, 2022

SENT VIA EMAIL (shareholderproposals@sec.gov)

U.S. Securities and Exchange Commission
Office of Chief Counsel
Division of Corporation Finance
100 F Street, NE
Washington, DC 20549-8626

Re: Qumu Corporation

Ladies and Gentlemen:

We represent Dolphin Limited Partnership III, L.P. (“Dolphin”). I write in response the January 21, 2022 request for no-action relief submitted by Qumu Corporation, a Minnesota corporation (“Qumu” or the “Corporation”), as supplemented by the Corporation on January 31, 2022 (the “No-Action Request”), pertaining to the shareholder proposal and supporting statement submitted by Dolphin pursuant to Rule 14a-8 (the “Dolphin Proposal”) for the 2022 annual shareholder meeting of the Corporation.

The Dolphin Proposal is as follows:

Shareholders of Qumu Corporation (“Qumu”) request the Board of Directors (the “Board”) take all requisite steps to engage an independent, recognized investment bank (not previously engaged by Qumu or affiliated with any director) to direct a sale of Qumu to an independent, strategic buyer.

The Dolphin Proposal seeks shareholder support for a renewed 2022 effort to sell the Corporation following a failed February 2020 sale process and the inability of Qumu to develop a profitable business despite years of opportunity and a favorable environment for video conferencing products and software.

In the No-Action Request, Qumu requests that the Staff concur in the view that the Proposal may be excluded based upon (i) Rule 14a-8(i)(10) claiming the Dolphin Proposal has been substantially implemented by the Corporation; (ii) Rule 14a-8(i)(7) claiming that the Dolphin Proposal deals with matters relating to ordinary business operations; and (iii) Rule 14a-8(i)(3) asserting that the Dolphin Proposal is inherently vague and indefinite. Qumu does not cite any viable basis for the relief that it seeks and the Staff should reject the relief sought in the No-Action Request.

Below we address each of the grounds for exclusion under Rule 14a-8 raised in response to the Dolphin Proposal.

The Dolphin Proposal Has Not Been Substantially Implemented

Citing Rule 14a-8(i)(10) as a basis for exclusion, Qumu makes two arguments: (i) the 2019-2020 sale process led by Stifel Financial (“Stifel”) that resulted in a failed February 2020 transaction constitutes substantial implementation of the Dolphin Proposal; and/or (ii) the engagement of a “private investment bank” on January 17, 2022 (apparently only in response to the Dolphin Proposal)

to conduct a “review of strategic and financial alternatives” constitutes substantial implementation of the Dolphin Proposal. Neither argument is correct.

The sale process initiated by Stifel in 2019 culminating with the February 2020 merger agreement with Synacor is not substantial implementation of the Dolphin Proposal for the 2022 annual shareholder meeting. While the Staff may consider exclusion of shareholder proposals requesting that companies retain investment banks to perform specific services under Rule 14a-8(i)(10) where a company has already retained an investment bank to perform services that address the substance of the shareholder proposal, the Stifel-led process will have concluded 26 months prior to the (April) 2022 annual shareholder meeting. Far from an active engagement with an investment bank to perform the services contemplated by a shareholder proposal (e.g., *Alliance Bankshares Corp.* (available Apr. 30, 2009); *Angelica Corp.* (available Aug. 20, 2007)), the Stifel process ended two-years and a pandemic ago. That process is long-stale. The Dolphin Proposal was submitted, at least in part, because of the unsuccessful conclusion of the Stifel process; the current, more favorable environment for video conferencing; and the failed operating performance including Qumu having burned approximately \$17 million of recently raised equity capital. The Staff has denied the exclusion of similar shareholder proposals even when an investment banker is *actively* engaged if the engagement did not satisfy the substance of the proposal. *Capital Senior Living Corp.* (avail. Mar. 23, 2007); *Gyrodyne Company of America* (avail. Sept. 26, 2005). Plainly, the Stifel-led process is stale and irrelevant to the Dolphin Proposal.

Following the submission of the Dolphin Proposal and Dolphin’s January 3, 2022 correspondence, Qumu newly discloses in the No-Action Request that “on January 17, 2022, the Qumu board of directors engaged a private investment bank with offices in New York and London that advises major companies worldwide on mergers, acquisitions, corporate finance and restructuring transactions across multiple industry sectors (the ‘Financial Advisor’).” Qumu further provides that “[t]he engagement letter with the Financial Advisor is for a strategic assessment and for a review of strategic and financial alternatives, including a potential sale of Qumu.”¹

As a preliminary policy matter, Qumu should publicly disclose the terms of the engagement letter of the Financial Advisor if it intends to rely upon Rule 14a-8(i)(10) and argue substantial implementation.² Without the terms of the engagement letter, the Staff and Dolphin can only address Qumu’s self-serving characterization of this engagement rather than the actual facts pertaining to the representation. Neither Dolphin nor the Staff is in a position to fully-evaluate Qumu’s second substantial implementation argument without the actual terms of the engagement and Qumu should be denied relief on this basis alone under Rule 14a-8(i)(10).

But Qumu’s own characterization of the scope of the Financial Advisor’s engagement differs significantly from the clear Dolphin Proposal and relief should also be denied on this basis. *Capital Senior Living Corp.* (avail. Mar. 23, 2007); *Gyrodyne Company of America* (avail. Sept. 26, 2005). *Alliance Bankshares Corp.* (available Apr. 30, 2009) provides a relatively straight-forward path to

¹ As discussed below, the Corporation uses “strategic” twice in its description of this engagement. “Strategic” is a well-recognized term in exploratory processes (e.g. “exploration of strategic alternatives”) and a “strategic buyer” is noted in contrast to a “financial” buyer.

² Dolphin submitted a books and records request pursuant to Minnesota law to obtain, among other things, a copy of the engagement letter with the Financial Advisor. That correspondence is not relevant to the No-Action Request, so we do not append it here.

substantial implementation of the Dolphin Proposal – Qumu simply choose otherwise. The Dolphin Proposal is to engage an investment banker to “direct a sale of Qumu” and not to perform a nebulous “review of *strategic* and financial alternatives.” (emphasis added) The Dolphin Proposal seeks the kind of extraordinary transaction that the Staff has routinely stated to be at the heart of Rule 14a-8 – a sale to a strategic buyer. Conversely, the terms of the engagement of the Financial Advisor extend to the sort of routine or non-extraordinary matters that the Staff has found excludable when advanced by a shareholder proponent. *Analysts International Corp.* (avail. Mar. 11, 2013). The Dolphin Proposal and the engagement of the Financial Advisor do not cover identical subject matter. Given how the Corporation’s January 17, 2022 engagement was apparently only in response to the Dolphin Proposal, the nebulous wording and mandate of the assignment and lack of disclosure regarding the engagement, the Staff should refuse relief on this basis.

Neither the stale Stifel sale process nor the engagement of an unnamed Financial Advisor to “review of strategic and financial alternatives” is substantial implementation of the Dolphin Proposal and relief should be denied on this basis.

The Dolphin Proposal Does Not Micromanage the Board of Directors

Citing Rule 14a-8(i)(7) as a basis for exclusion, Qumu contends that the Dolphin Proposal deals with matters relating to the Company’s ordinary business operations because it would micromanage the board of directors of Qumu (the “Qumu Board”). Qumu provides two grounds for this contention: first, the Dolphin Proposal would require “an independent, recognized investment bank (not previously engaged by Qumu or affiliated with any director)” and, second, the Dolphin Proposal contemplates a sale to “an independent strategic buyer.”

In Staff Legal Bulletin No. 14L (CF)(November 2, 2021)(“SLB 14L”), the Staff rescinded prior guidance on Rule 14a-8(i)(7) pertaining to the concept of micromanagement. The Staff reiterated that the policy underlying the ordinary business exception rests on two central considerations: (1) the proposal’s subject matter and (2) the degree to which the proposal “micromanages” the company “by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.” SLB 14L *citing* Release No. 34-40018 (May 21, 1998). The Staff reiterated that “specific methods ... or detail do not necessarily amount to micromanagement and are not dispositive of excludability.”

The subject matter of the Dolphin Proposal, the sale of Qumu, is the kind of significant and strategic subject matter that the Rule 14a-8 facilitates. *Cerus Corp.* (avail. Apr. 13, 2018); *Allegheny Valley Bancorp. Inc.* (avail. Jan. 3, 2001). There is no question that the subject matter of the proposal satisfies the first consideration.

As to the second consideration, the Dolphin Proposal seeks shareholder support for a sale of the Corporation led by an investment banker unaffiliated with a current member of the Qumu Board and untarnished by any prior, failed process. Reference to “independent,” a well-recognized term in the investment community, informs of the avoidance of conflicts with board members and officers of the Corporation, as would be customary. Far from micromanaging, the Qumu Board would have a wide spectrum of qualified investment bankers and banking firms that it could interview and then select to implement the proposal. Indeed, it’s very possible that the engagement of the Financial Advisor (whom Qumu fails to identify in the No-Action Request) satisfies this requirement, although the articulated engagement fails to satisfy or substantially implement the Dolphin Proposal. Similarly,

the Dolphin Proposal contemplates a sale to an independent strategic buyer or industry buyer because of Qumu's \$25 million revenue basis and history of losses. Notably, Qumu does not seriously dispute that such a target purchaser is the most viable acquirer of the Corporation. In fact, the prior Stifel-led process resulted in a merger agreement with an independent strategic buyer. While Qumu argues that the inclusion of this term in the Dolphin Proposal is overly restrictive and would micromanage the Board of Directors, the nature of the generic universe of prospective buyers is a specific method or detail that takes into consideration the time and cost involved in any sale process.

The Dolphin Proposal is consistent with the Staff's views on the ordinary business exception, preserves management's discretion, and offers high-level direction on a large, strategic corporate matter. The correspondence between the parties clearly indicates Dolphin's desires to exclude a "going private" type transaction where Qumu has invested over \$150 million in its video conferencing technology business, has consistently generated sizable cash flow losses and where there is a sizable shareholder on the board affiliated with a large fund. No-Action relief on this basis should not be extended to the Corporation by the Staff.

The Dolphin Proposal Is Neither Vague Nor Indefinite

Citing Rule 14a-8(i)(3) as a basis for exclusion, Qumu contends that the Dolphin Proposal is impermissibly vague and indefinite. Qumu argues that the concept of "independence" is too vague for the Qumu Board to implement, the Qumu Board could not determine what would constitute a "strategic buyer" and feigns confusion concerning Dolphin's rhetoric pertaining to the supporting statement. As the Staff described in SLB 14B, a proposal will only be excluded on the basis of vagueness under Rule 14a-8(i)(3) where "the resolution contained in the proposal is so inherently vague or indefinite that neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." The Staff has explained that the above test for determining if a proposal is inherently vague or indefinite asks whether the stockholders and the company can determine with any reasonable certainty exactly what actions or measures the proposal require? See SLB 14B. This is a holistic inquiry. Taken on the whole, the Dolphin Proposal is to engage a new, independent investment banker to run a process and sell the Corporation to a strategic acquirer. Both the Dolphin Proposal and its supporting statement make those facts abundantly clear. Here again, Dolphin's inclusion of "strategic" and "independent" do not muddy the water, rather they are customary terms with defined meanings in the context of a board-implemented sale process and, as noted above, in describing the engagement of the Financial Advisor, the Corporation similarly uses "strategic" twice in its description.

Qumu's arguments are further belied by the fact that Qumu also cites several of these factors in support of its argument that the Dolphin Proposal would micromanage the Qumu Board. Indeed, the pairing of this exclusion with arguments under Rule 14a-8(i)(7), as Qumu does, is a practice that the Staff implicitly criticized in SLB 14L (i.e. the argument that a shareholder proposal is either too detailed or not detailed enough such that a proposal is excludable in one direction or the other). The No-Action Request also presents an unusual pairing (14a-8(i)(3) and 14a-8(i)(10)) arguing both substantial implementation of the Dolphin Proposal and that the Dolphin Proposal is so inherently vague and indefinite that it cannot be implemented. Both arguments cannot be true – in this case, neither is true.

Finally, in isolation, Qumu's 14a-8(i)(3) arguments are unavailing. First, the concept of "independence" is a familiar, common sense term and both shareholders and the Qumu Board may employ a common sense definition. Similarly, a strategic or industry buyer is a common and customary term that refers to a person other than a financial buyer. Finally, Dolphin's supporting statement simply acknowledges the fact that Dolphin Proposal is required to be submitted more than half a year prior to the actually shareholder vote and, at the heart of the Dolphin Proposal, is a substantive shareholder concern related to a capital raise on strong guidance, the subsequent withdrawal of this guidance, the unfavorable performance of the Corporation and the resulting need to sell the Corporation. The relief requested pursuant to Rule 14a-8(i)(3) in the No-Action Request should be denied.

Conclusion

The market for video conferencing software was enhanced by the pandemic. By the 2022 shareholder meeting, Qumu will not have been shopped for approximately 26 months. The Dolphin Proposal seeks, on a non-binding basis, shareholder support for a sale of Qumu to a logical, unaffiliated buyer. Dolphin respectfully requests that the Staff reject the Corporation's request for No-Action Relief should Qumu omit the Dolphin Proposal from its 2022 proxy statement attendant to the annual shareholder meeting.

Dolphin also refers the Staff to its prior correspondence of January 31, 2022, but notes that, in response thereto, the Corporation supplemented its response with all relevant correspondence among the parties. Should the Staff have any questions regarding this matter or be unable to concur with Dolphin's positions, please feel free to contact me at (410) 385-3590.

Sincerely,



Scott R. Wilson

cc: Donald T. Netter (by email)
April Hamlin, Esq. (by email)
Jason Karp (by email)



February 18, 2022

SENT VIA EMAIL (shareholderproposals@sec.gov)

U.S. Securities and Exchange Commission
Office of Chief Counsel
Division of Corporation Finance
100 F Street, NE
Washington, DC 20549-8626

Re: Qumu Corporation

Ladies and Gentlemen:

We represent Dolphin Limited Partnership III, L.P. (“Dolphin”). I write to supplement our prior response to the January 21, 2022 request for no-action relief submitted by Qumu Corporation, a Minnesota corporation (“Qumu” or the “Company”), as supplemented by the Company on January 31, 2022 (the “No-Action Request”), pertaining to the shareholder proposal and supporting statement submitted by Dolphin pursuant to Rule 14a-8 (the “Dolphin Proposal”) for the 2022 annual shareholder meeting of the Company.

Providing All Relevant Correspondence

As the Staff is aware, Staff Legal Bulletin No. 14 (July 13, 2001), requires that a party requesting no-action relief from the Staff submit with the request all relevant correspondence. In Dolphin’s February 8, 2022 correspondence, we provided the following footnote 2:

Dolphin submitted a books and records request pursuant to Minnesota law to obtain, among other things, a copy of the engagement letter with the Financial Advisor. That correspondence is not relevant to the No-Action Request, so we do not append it here.

While the information sought in the Dolphin books and records demand is critical to investigating possible mismanagement or wrongdoing in relation to the January 2021 offering and the Company’s favorable guidance and press releases (which was quickly withdrawn), the intention of the above footnote was to explain that, while Dolphin had submitted a books and records demand to Qumu, the contents of that demand were not relevant to whether Qumu was entitled to the No-Action Relief sought in this proceeding.

Recent Issuer-Dolphin Correspondence

On February 16, 2022, the Company wrote to Dolphin “[c]ontrary to [Dolphin’s] assertion that the requested records are necessary to support its engagement in the Rule 14a-8 process, [Dolphin] advised the SEC in the February 8, 2022 letter that [the] books and records ‘correspondence is not relevant to the No-Action Request.’ ” A request to the Staff for No-Action relief (the instant matter) is limited in scope and different than the presentation of the underlying proposal. While counsel to the Company conflates the two, out of an abundance of caution we now provide context for the prior inclusion of the footnote and substitute the footnote with Dolphin’s February 3, 2022 request for books and records from the Company to among, other things, investigate possible mismanagement or

wrongdoing in relation to the Company's January 2021 offering and the Company's favorable guidance and press releases (including false and misleading statements from January 25, 2021 until June 29, 2021). We also submit the Company's February 16, 2022 response obstructing Dolphin's request for inspection of its books and records and attempting to prevent or delay Dolphin from obtaining books and records from the Company, including the original engagement letter of the unnamed financial advisor. The Company's refusal to provide the actual engagement letter undermines its argument in favor of substantial implementation.

Substantial Implementation and Regulation FD

Finally, while the Company has **intentionally** disclosed the existence of the unnamed financial advisory and engagement letter in **this proceeding**, the Company failed to make simultaneous (or even prompt) disclosure to the stockholders outside of this proceeding. *See* Regulation FD. Requests for no-action relief are not widely disseminated in the same manner as a press release or a current report on Form 8-K. The only reasonable conclusion is that the Company either violated Regulation FD or that the engagement of the financial advisor is **not material**, further obviating the Company's argument in favor of substantial implementation.

Sincerely,



Scott R. Wilson

Enclosures

cc: Donald T. Netter (by email)
April Hamlin, Esq. (by email)
Timothy D. Katsiff, Esq. (by email)
Jason Karp (by email)



February 3, 2022

SENT VIA FEDERAL EXPRESS AND EMAIL

Qumu Corporation
1010 Dale N Street
St. Paul, MN 55117

Qumu Corporation
400 S. 4th Street, Suite 401-412
Minneapolis, MN 55415

Re: Qumu Corporation, a Minnesota corporation (the “Company”)

Ladies and Gentleman:

Pursuant to Section 302A.461 of the Minnesota Business Corporation Act (the “Act”), Dolphin Limited Partnership III, LP (“Dolphin” or “Shareholder”), a shareholder and beneficial owner of shares of common stock of the Company, par value \$0.01 per share (the “Company Common Stock”), hereby demands to examine, copy and inspect the categories of documents described below for the proper purposes set forth below (the “Demand”).

1. Dolphin is concerned about facts and circumstances surrounding the secondary offering described in the Final Prospectus Supplement dated January 26, 2021 (the “Prospectus”), underwritten by Craig-Hallum (the “Underwriter”), and further described in that certain press release dated January 25, 2021, which closure was announced (the “Offering”). The Offering contained guidance, which the Company affirmed on March 4, 2021 and April 29, 2021, which 61 days later was withdrawn and materially revised downward on June 29, 2021. The following requests for inspection are made for the purpose of investigating possible mismanagement or wrongdoing in relation to the Offering and the Company’s favorable guidance and press releases including false and misleading statements from January 25, 2021 until June 29, 2021. Having benefited from a higher price in the Offering based (in part) on its early 2021 guidance, the Shareholder observes that the market price of the Company Common Stock is now a fraction of the \$6.75 price in the Offering. In furtherance of the foregoing, Shareholder hereby demands copies of each of the following corporate records:

a. Records of all proceedings of the board and its committees since January 1, 2017 (including all materials referenced therein including, but not limited to, all agendas, exhibits, annexes and resolutions provided to the board or attached to any meeting minutes or actions by written consent enacted thereby) pertaining to (i) the Offering and (ii) the Company’s guidance provided on January 25, 2021; March 4, 2021; April 29, 2021; or June 29, 2021.

b. From January 1, 2017 to compliance with the Demand, all documents and communications with the Underwriter or its counsel related to the underwriting of the Offering or any prior offering including, but not limited to, all drafts of the Prospectus (all preliminary prospectus shared with the Underwriter) and financial projections.

c. From January 1, 2017 to compliance with the Demand, all documents and communications with the Underwriter or its counsel or any previous underwriter of related to the

underwriting of the Offering or any prior offering including, but not limited to, all drafts of the Prospectus (all preliminary prospectus shared with the Underwriter) and financial projections.

d. From January 1, 2017 to compliance with the Demand, any and all documents provided to any sell-side analyst related to the Company Common Stock and any communications by the Company with any such analyst.

e. All communications to or from any shareholder or prospective shareholder concerning the Offering, including, but not limited to, any communication from the Underwriters to any prospective shareholder.

f. All communications with the Company's Directors and officers and insurance broker and/or insurer pertaining to any circumstance or claim or notice in relation to the Offering.

g. All documents relating to the guidance provided by the Company on January 25, 2021.

h. All documents relating to the guidance provided by the Company on March 4, 2021.

i. All documents relating to the guidance provided by the Company on April 29, 2021.

j. All documents relating to the departure of former Chief Financial Officer Dave Ristow and any non-public communications relating to his compensation provided to Mr. Ristow in accordance with his departure.

k. All documents or communications concerning the withdrawal of the Company's prior guidance as announced on June 29, 2021.

2. As you are aware, Shareholder submitted a proposal dated December 6, 2021 to the Company pursuant to Rule 14a-8 (the "Proposal"). The Company has indicated that it intends to oppose the Proposal and submitted a request for No-Action Relief dated January 21, 2022 to the Staff of the Securities and Exchange Commission for its concurrence. Among other things, the Company asserts that its prior engagement of Stifel Financial (culminating in the February 2020 Synacore Transaction; terminated June 2020) and its January 17, 2022 engagement in response to the Proposal of an unspecified investment bank engaged for a strategic assessment and review of strategic and financial alternatives, including a potential sale of Qumu, reflect substantial implementation of the Proposal. In furtherance of the Proposal, and for the purposes of (i) properly advocating on its own behalf in relation to the Proposal with complete information pertaining to the prior processes asserted by the Company, (ii) fully and completely responding to the Company's request for No-Action Relief and (iii) properly communicating with

Shareholders and advocating for the Proposal at the annual stockholder meeting, Shareholder hereby demands copies of each of the following corporate records:

a. The share register of the Company, including any share register in the possession of the transfer agent of the Company and all records of beneficial ownership including, but not limited to, the most recent Non-Objecting Beneficial Owner (NOBO) list in the possession of the Company. Please currently provide this request and update this information as of the record date for the 2022 shareholder meeting for the Proposal.

b. Records of all proceedings of shareholders for the last three years.

c. Records of all proceedings of the board and its committees since January 1, 2017 (including all materials referenced therein including, but not limited to, all agendas, exhibits, annexes and resolutions provided to the board or attached to any meeting minutes or actions by written consent enacted thereby) pertaining to the sale of the Company or its assets.

d. From January 1, 2017 to the date of your compliance with the Demand, any independent engagement letter, documents or communications with or from any financial advisor for the purpose of pursuing a sale of the Company or its assets, in whole or in part, or otherwise pursuing “strategic alternatives” (or any similar process) on behalf of the Company.

e. From January 1, 2017 to the date of your compliance with the Demand, any and all documents reflecting offering memorandum, confidential information memorandum or similar document prepared by the Company or on its behalf (including by any financial advisor) for the purposes described in Section 1(d) of this letter.

f. From January 1, 2017 to the date of your compliance with the Demand, any and all documents reflecting indications of interest, expressions of interest or letters of intent received by the Company, or by any financial adviser, officer or director on behalf of the Company, relating to a proposal to acquire the Company or its assets, in whole or in part, or third party offers.

g. From January 1, 2017 to compliance with the Demand, any communication or document reflecting or pertaining to the financing or acquisition of the Company or its assets, in whole or in part, by any director or officer of the Company or their respective affiliates.

h. All documents and communications pertaining to Dolphin’s letter to the Company dated July 26, 2021 and the Company’s response dated July 28, 2021.

i. All documents and communications pertaining to Dolphin’s October 28, 2021 press release concerning the Company.

j. All documents and communications pertaining to the Proposal.

Dolphin hereby demands that the copies of the corporate records described in this letter be provided only to its counsel c/o Scott R. Wilson, Miles & Stockbridge P.C., 100 Light Street, Baltimore, Maryland 21202 or swilson@msslaw.com as soon as possible and in no event later than the amount of time provided in the Act.

In furtherance of the foregoing, and to establish Dolphin's record and beneficial ownership of shares of Company Common Stock, Dolphin directs the Company to its prior correspondence and the Company's share ledger reflecting Dolphin's record ownership position. Dolphin is willing to enter into a customary and appropriate confidentiality agreement as to matters covered by this demand that remain (truly) confidential and considering the passage of time.

For the avoidance of doubt, Dolphin acknowledges that the Company may withhold certain attorney-client privileged communications and Dolphin does not seek inspection or copying of such documents. Please do not hesitate to contact the undersigned with any questions or concerns.

Sincerely,



Scott R. Wilson

VERIFICATION AND ATTESTATION:

As to all matters requiring verification or attestation pursuant to Section 302A.461 of the Act, the foregoing Demand letter was signed by counsel to Dolphin, and as Senior Managing Director on behalf of Dolphin Holdings Corporation III, the managing member of Dolphin Associates III, LLC, the general partner of Dolphin, ~~declare~~declares under penalty of perjury that everything stated in this document and requiring verification or attestation is true and correct in all material respects to the best of knowledge and belief.

DOLPHIN LIMITED PARTNERSHIP III, LP

By: Dolphin Associates III, LLC, its General Partner

By: Dolphin Holdings Corp. III, its Managing Member

By:

Name: Donald T. Netter

Title: Senior Managing Director



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katsiff@ballardspahr.com

February 16, 2022

Via E-mail

Scott R. Wilson
Miles & Stockbridge
100 Light Street
Baltimore, MD 21202

Re: Books and Records Demand for Qumu Corporation

Dear Scott:

I write on behalf of Qumu Corporation (the “Company”) in response to a demand letter dated February 3, 2022, from your client, Dolphin Limited Partnership III, LP (the “Shareholder”), for an inspection of the books and records of the Company pursuant to Section 302A.461 of the Minnesota Business Corporation Act (the “Demand”). The Demand Letter is improper for numerous reasons outlined below. Nonetheless, the Company would consider providing certain materials responsive to a narrowed set of the requests, subject to the Shareholder correcting the deficiencies in its Demand and agreement on certain conditions regarding confidentiality, use, and reimbursement of costs.

First, the Demand is improper because it failed to comply with the form and manner requirements of Section 302A.461(4)(c) which requires the demand be “acknowledged or verified in the manner provided in chapter 358” of the Act. This requires the verification of stock ownership in Qumu to be notarized. *See* Chapter 358, Minn. Stat. §§358.01-358.76 (defining acknowledgment and verification, both requiring the affirmation be made before a notarial officer). Instead, the Shareholder relied solely on an unsworn statement regarding its ownership. This is insufficient under Minnesota law.

Second, the Demand fails to state a proper purpose in support of its requests. Pursuant to the Act, “shareholders of publicly held corporations” do not have “access as of right to the share register and documents listed in subdivision 2,” but rather the Section 302A.461(4)(c) “mandates that the shareholder’s purpose must be considered before any corporate records may be examined.” *Bergmann v. Lee Data Corp.*, 467 N.W.2d 636, 640 (Minn. Ct. Appeals 1991). While the Demand purports to have two purposes, neither carry the Shareholder’s burden to establish a right to the corporate records.

The Shareholder states its first purpose is “investigating mismanagement or wrongdoing in relation to the Offering and the Company’s” earnings guidance.¹ The Company rejects the Demand’s purported purpose to investigate “mismanagement, waste or wrongdoing” as insufficient and unsupported. As the Court of Appeals in Minnesota has ruled “the mere incantation of a proper purpose by a requesting shareholder” is insufficient to establish an inspection right. *Bergmann*, 467 N.W.2d at 640. To state a proper purpose under Delaware law, which Minnesota courts often consider as persuasive, the Shareholder must show a “credible basis” from which the Company or Court “can infer there is possible mismanagement that would warrant further investigation.” *Seinfeld v. Verizon Commc’n Inc.*, 909 A.2d 117, 123 (Del. 2006).² Here, the Demand fails to make a “credible showing, through documents, logic, testimony or otherwise, that there are any legitimate issues of wrongdoing” by the Company. *Seinfeld*, 909 A.2d at 123.

The Demand attempts to support its alleged investigative purpose by highlighting that following the Offering the Company affirmed guidance that was revised downward two months later. Based solely on these facts, the Shareholder claims it is “concerned about the facts and circumstances surrounding the offering.” Nothing in the Demand suggests any breach of fiduciary duties and a downward revision of guidance alone is insufficient to support a disclosure claim. *Williams v. Globus Med., Inc.*, 869 F.3d 235, 244 (3d Cir. 2017) (downward revision of revenue guidance “insufficient” to state claim under Section 10b and Rule 10b-5 where “plaintiffs rely on conjecture based on subsequent events”); *Makor Issues & Rights, Ltd. v. Tellabs, Inc.*, 735 F. Supp. 2d 856, 915 (N.D. Ill. 2010) (downward revision of guidance insufficient to sustain claim under Rule 10b-5 as it was based on “mere speculation” regarding the weight that should have been afforded to conflicting internal forecasts). The Shareholder’s unfounded “concern[]” is insufficient to warrant an investigation. *See, e.g., High River Ltd. P’ship v. Occidental Petroleum Corp.*, 2019 Del. Ch. LEXIS 1355, at *11 (Del. Ch. Nov. 14, 2019) (no credible basis where plaintiffs “have not alleged, much less proven, that the [board] was conflicted, disloyal or in some way interested in the transactions at issue.”); *Durham v. Grapetree, LLC*, 2019 WL 413589, at *3 (Del. Ch. Jan. 31, 2019) (no credible basis for investigation where mismanagement allegations “appear[ed] to be wholly conclusory”); *Bizzari v. Suburban Waste Servs., Inc.*, 2016 WL 4540292, at *5 (Del. Ch. Aug. 30, 2016) (no credible basis because “mere indication” expenses

¹ Unless otherwise noted, capitalized terms have the same definition contained in the Demand.

² “Minnesota courts often look to Delaware law for assistance in developing rules of corporate law.” *Reimel v. MacFarlane*, 9 F. Supp. 2d 1062, 1067 n. 7 (D. Minn. June 23, 1998); *Kokocinski v. Medtronic, Inc.*, 2013 Minn. Dist. LEXIS 18, at *15 (Minn. Dist. Ct. Dec. 13, 2013) (parties may rely on “Delaware case law as suggested in the Reporter's Notes to Minn. Stat. § 302A.461.”).

“increased is not evidence from which mismanagement or wrongdoing may be inferred.”). Courts recognize that where, as here, the demand “cannot present a credible basis from which the court can infer wrongdoing or mismanagement, it is likely that the stockholder’s demand is an ‘indiscriminate fishing expedition.’” *AmerisourceBergen Corp. v. Lebanon Cty. Employees’ Ret. Fund*, 243 A.3d 417, 426 (Del. 2020).

The Shareholder’s second purported purpose is to obtain documents “[i]n furtherance of the Proposal, and for the purposes of (i) properly advocating on its own behalf in relation to the Proposal with complete information ...; (ii) fully and completely responding to the Company’s request for No-Action Relief and (iii) properly communicating with Shareholders and advocating for the Proposal at the annual stockholder meeting.” The Delaware Court of Chancery rejected a similar attempt to compel an inspection of books and records when the stockholder’s stated purpose was “a desire to communicate with other stockholders in furtherance of a potential proxy contest.” *High River Ltd. P’ship*, 2019 Del. Ch. LEXIS 1355, at *10. In *High River Ltd. P’ship*, a group activist shareholders mounted a proxy fight to replace the incumbent board of directors following a merger. The Delaware Chancery Court characterized the demand as seeking “the journal of the Board’s decision-making with respect to all aspects of the [merger] transaction,” which they intended to use “to sway the votes of stockholders” and “to win the proxy contest.” *Id.* at *16-17. The Court rejected the demand stating “[w]here, as here, the documents sought by Plaintiffs relate to a dispute with management about substantive business decisions, pleading an imminent proxy contest is not enough to earn access to broad sets of books and records relating to the details of questionable transactions.” *Id.* at *18 (finding no credible basis of wrongdoing in various transactions because plaintiffs “have not alleged, much less proven, that the [defendant’s] board was conflicted, disloyal or in some way interested in the transactions at issue”). Here, the Demand similarly submits expansive requests for documents delving into the decision-making of the board with respect to strategic transactions. It is plain the Demand is an attempt to engage in a fishing expedition to support second-guessing the board’s business judgment with respect to engaging in strategic transactions. The dispute between the Shareholder and the Company signifies the type of “‘mere disagreement with a business decision’ will fail to establish a proper purpose.” *Leb. Cty. Employees’ Ret. Fund*, 243 A.3d at 425-426 (quoting *High River Ltd. P’ship*, 2019 Del. Ch. LEXIS 1355, at *11).

Neither does Rule 14a of the Securities Exchange Act of 1934 provide a mechanism for a shareholder to engage in discovery to support its Proposal. Moreover, Shareholder’s recent actions belie its claim that the requested information is necessary to engage meaningfully in the Rule 14a-8(i) process. In a letter to the Securities and Exchange Commission (“SEC”) dated February 8, 2022, the Shareholder provided a detailed opposition to the Company’s request for no-action relief relating to the Proposal. Contrary to the Shareholder’s assertion that the requested records are necessary to support its engagement in the Rule 14a-8 process, the Shareholder advised the SEC in the February 8, 2022 letter that

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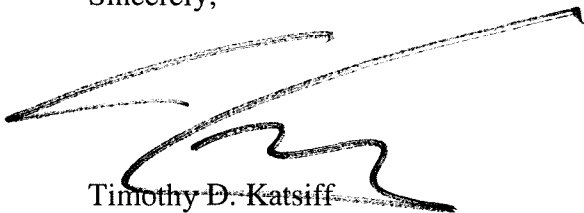
this books and records “correspondence is not relevant to the No-Action Request.” Moreover, the Shareholder would not be entitled to use any of the books and records in respect of its Proposal. Section 302A.461, subd. 4(b) prohibits a shareholder from using any of the corporate records for any purpose other than a demonstrated proper purpose. The Shareholder has not articulated any such proper purpose with respect to its Proposal.

Third, even if the Demand was supported by a proper purpose, the majority of the requests are impermissibly overly broad. Section 302A.461(4)(c)(shareholder requests must be “reasonably related to the stated purpose” and “described with particularity”); *Thomas & Betts Corp.*, 681 A.2d 1026, 1035 (Del. 1996) (stockholder’s burden “to establish that each category of the books and records requested is essential and sufficient to the stockholder’s stated purpose.”). The Demand’s requests are more indicative of requests that would be served as part as of a plenary action. However, a shareholder inspection demand is not a doorway to the full panoply of discovery. *Kokocinski*, 2013 Minn. Dist. LEXIS 18, at *23 (limiting “broad” shareholder inspection request to documents consistent with those enumerated in § 302A.462(2)); also *Saito v. McKesson HBOC, Inc.*, 806 A.2d 113, 114-15 (Del. 2002) (a stockholder’s right to inspect corporate books and records “does not open the door to the wide ranging discovery that would be available in support of litigation . . .”).

Should the Shareholder submit a demand that corrects the foregoing deficiencies and overcomes the forgoing objections, the Company will provide corporate records that are reasonably related to a demonstrated proper purpose, again subject to agreement on certain conditions regarding confidentiality, use, and reimbursement of costs.

The Company expressly reserves all rights and defenses it may have with respect to the Demand and any further requests or actions by the Shareholder. Nothing herein is an admission regarding the Demand’s compliance with Minnesota law.

Sincerely,



Timothy D. Katsiff

TDK

cc: Jessica C. Watt, Esq.