CONFIDENTIAL - RESTRICTED

FILED UNDER SEAL

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

QVC NETWORK, INC., Plaintiff,	)	
v.	)	C.A. No. 13208
PARAMOUNT COMMUNICATIONS INC., VIACOM INC., MARTIN S. DAVIS, GRACE J. FIPPINGER, IRVING R. FISCHER, BENJAMIN L. HOOKS, FRANZ J. LUTOLF, JAMES A. PATTISON, IRWIN SCHLOSS, SAMUEL J. SILBERMAN, LAWRENCE M. SMALL, and GEORGE WEISSMAN, Defendants.	)	AFFIDAVIT OF <u>DONALD ORESMAN</u>

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

DONALD ORESMAN, being duly sworn, deposes and says:

1. I am Executive Vice President and General Counsel of defendant Paramount Communications Inc. ("Paramount" or the "Company"). I submit this affidavit in opposition to plaintiff's Motion for A Preliminary Injunction. This Affidavit is based on my own personal knowledge and on documents in the possession of Paramount, including its public SEC filings.

2. My employment with the Company began in 1983. Prior to that time I practiced law with the firm of Simpson Thacher & Bartlett, which I joined in 1957. In 1974, I became principal outside counsel to Paramount. I was elected a Director of Paramount in 1976, and am a member of

the Executive Committee. Along with our investment bankers, principally Felix Rohatyn, and our outside attorneys, I was one of the chief negotiators of Paramount's merger agreement with Viacom.

PARAMOUNT'S STRATEGIC OBJECTIVES AND VISION FOR THE FUTURE

3. Between 1983 and today, Gulf + Western Industries, Inc. has transformed itself from a highly diversified conglomerate with far-flung and unrelated operations into Paramount Communications Inc., a focused enterprise, concentrating its financial and human resources on global communications, specifically in entertainment and publishing.

4. Beginning in August of 1983, having determined that its entertainment and publishing businesses were buried among capital intensive manufacturing entities, unpredictable commodity-based operations and a number of other low-profit or no-profit activities, the Company embarked on a multi-phase restructuring, which involved:

- divestitures and plans to divest operations, mostly capital intensive, with revenues of approximately $6 billion;
- liquidation of a $900-million marketable securities portfolio;
- simplification and strengthening of the balance sheet and reduction of debt;
- stock buybacks that reduced the number of total common shares outstanding by more than 27%; and
- aggressive internal growth programs and acquisitions in areas of entertainment and publishing.

Divestitures

5. For example, the first phase of the restructuring in 1984-1985 entailed the sale of business units such as a building products company, two racetracks, a cigar manufacturer and a sugar-grower.

6. The second phase culminated in the sale of the Company's Consumer and Industrial Products Group for approximately $1 billion in September 1985.

7. The sale to Ford Motor Company in 1989 of The Associates, a financial services operation, for $3.35 billion completed the third phase of the Company's divestitures.[1] Overall, Paramount divested non-entertainment and non-publishing assets with combined revenues of almost $6.5 billion, yielding nearly $6 billion in gross proceeds.

Acquisitions

8. Subsequently, the Company redeployed approximately $4 billion to fund entertainment and publishing acquisitions, reduce debt, and buy back its own stock.

9. For example, in December 1984, the Company's purchase of Prentice-Hall Inc. propelled it into a leadership position in both the elementary-high school book business and in college textbook publishing, and also provided significant entree to professional and business publishing. In June 1985, the Company acquired Ginn & Company, a leading publisher of basic reading programs at the elementary school level, and in May 1986, it purchased the Silver Burdett Company, adding strong elementary textbook programs.

10. Paramount's bid for Time Inc. in 1989 reflected a recognition by Paramount of the need to increase its size and financial strength in order to compete successfully with other large, horizontally and vertically integrated entities in a rapidly evolving global marketplace. Despite the setback of not entering into a business combination with Time Inc., Paramount continued to explore

---

[1] Despite the strength and success of this operation, it was difficult for the Company to support effectively capital requirements of both communications operations and financial services; additionally, regulatory restraints inherent with ownership of a financial services operation placed the Company at a competitive disadvantage in exploring fully the global opportunities for its expanding communications operations.

opportunities to grow its asset base through suitable acquisitions,[2] joint ventures,[3] partnerships and mergers.

11. Most recently, Paramount reached agreement on November 10, 1993 to acquire Macmillan Publishing Company and certain publishing assets of Macmillan Inc.

12. Since January 1990, Paramount had explored a substantial number of business combinations, investments or acquisitions in excess of $500 million, including Viacom, NBC, Chris-Craft Industries, Inc., Polygram, Thorn/EMI, Turner Broadcasting Systems, The David Geffen Company, MCA, and Bertelsmann Music Group.[4]

13. Until our initial agreement with Viacom was reached in September of 1993, none of these transactions ever came to fruition for a variety of reasons.

THE NEGOTIATIONS WITH VIACOM LEADING TO THE MERGER AGREEMENT

14. For years it has been my opinion, as well as Martin Davis's, that a merger between Paramount and Viacom would be most advantageous to both companies. Not only would such a combination further the long-term business plans of each company, but it would also represent an excellent strategic fit in both the present and the future. In pursuit of this goal, over the past four

---

2/ In March 1990, for example, the Company further expanded its educational publishing capabilities with the acquisition of Computer Curriculum, one of the leading developers and marketers of state-of-the-art computer-based learning systems. With the 1991 acquisition of Macmillan Computer Publishing, Paramount became the leading publisher of personal computer and related technical books.

3/ For example, since 1983, in addition to adding seven broadcast television stations, Paramount has increased ownership to 50% in USA Networks, a leading advertiser-supported basic cable television network; formed Premier Advertiser Sales, a joint venture in television syndication barter advertising (now fully owned), and invested in overseas joint theater ventures through United Cinemas International, which includes 345 screens in nine countries.

4/ In connection with discovery in this case, Paramount sent plaintiff's counsel a letter identifying acquisitions that we had looked at representing investments of $500 million or more.

years, as documented in our securities filings, Mr. Davis has periodically engaged in discussions with Sumner M. Redstone. For a variety of reasons, however, these discussions never resulted in a transaction.

15. On April 20, 1993, Robert Greenhill, then an investment banker with Morgan Stanley & Co. Inc. and currently Chief Executive Officer of Smith Barney Shearson, arranged a meeting among himself, Mr. Redstone and Mr. Davis at which Messrs. Redstone and Davis agreed preliminarily to explore once again the possibility of combining the two companies. From April to late June 1993, the two companies engaged in preliminary discussions concerning a business combination.

16. On July 1, 1993, Viacom and Paramount executed and exchanged confidentiality agreements in anticipation of exchanging confidential information and conducting due diligence.[5] Discussions between the two companies continued.

17. On July 6, 1993, a meeting was held among various representatives of the parties and their financial and legal advisors to discuss the terms of a potential business combination transaction between Viacom and Paramount. On that day, Paramount's shares closed on the New York Stock Exchange at $54.75 per share.

18. Viacom's representatives at this meeting expressed a willingness to negotiate a transaction based upon consideration payable to Paramount's stockholders -- a mix of cash and stock in the combined enterprises -- valued at approximately $63 per share. Viacom conditioned this proposal upon Paramount's willingness to grant Viacom (1) an option to acquire from Paramount shares representing up to 20% of Paramount's then outstanding shares at an exercise price equal to the market price of Paramount's Common Stock and (2) a termination fee in an amount to be negotiated,

---

[5] No such information was exchanged, however, until the week of September 6, 1993.

plus expenses, all payable only if the transaction did not close, and (3) an asset option, such as possible joint venture arrangements with Paramount, which Viacom proposed could be entered into simultaneously with a merger agreement.

19. Discussions between Viacom and Paramount terminated on July 7 after the Executive Committee of Paramount's Board of Directors met and rejected Viacom's offer, most particularly with regard to price. This decision by the Executive Committee reflected a constant theme throughout our discussions that the consideration offered by Viacom had to begin with "7", i.e., $70.

20. On July 15, 1993, I met with my counterpart at Viacom, Philippe Dauman, to revisit the termination of the discussions between Viacom and Paramount the week before. On July 20, Paramount's senior managers met with our investment advisors from Lazard Freres to continue discussions about a possible merger with Viacom.

21. Notwithstanding the termination of these discussions between the parties, Mr. Greenhill persisted in encouraging both sides to continue talking. As a result, Paramount reviewed the status of the proposed transaction with Viacom and again considered possible resumption of negotiations.

22. On August 20, 1993, Mr. Greenhill contacted M. Redstone and Mr. Davis and arranged for them to meet that afternoon to discuss once again whether it would be feasible to reach agreement on the terms of a business combination. At the end of this meeting they agreed to authorize their respective senior managements and advisors again to explore terms upon which the parties might reach agreement.

23. Paramount consulted with our investment advisors at Lazard Freres and continued negotiating with Viacom and its investment advisors regarding the amount of consideration to be paid to Paramount shareholders, whether the stock option insisted upon by Viacom would be obtained by them at the deal price or the market price, and the amount of the termination fee.

24. No longer on the table, however, was an asset option originally sought by Viacom for Paramount's motion picture studio or other assets of company, a request which Paramount had flatly rejected. Viacom therefore ultimately withdrew its request for an asset option.

25. On August 25, 1993, discussions between Viacom and Paramount were again suspended following a series of conversations involving the parties' lawyers and financial advisors.

26. Once discussions between Viacom and Paramount were discontinued at the end of August, I was convinced that the proposed transaction would not go forward and departed for a vacation in Montana with my family.

27. Notwithstanding the lapse in discussions, the persistence of Mr. Greenhill resulted in another series of discussions involving the parties' respective advisors in early September. After my return from Montana, I met on September 7 with Mr. Dauman, as well as with our respective financial and legal advisors, to discuss the principal terms of a possible business combination.

28. Following this meeting, Mr. Redstone and Mr. Davis met to review the status of the discussions between the companies. On the basis of that review, Mr. Redstone and Mr. Davis agreed to direct their respective senior managements and advisors to conduct due diligence, exchange and negotiate transaction documentation, and otherwise seek to reach agreement on all terms, including price, options, termination fee, and fiduciary out, for a business combination between the parties.

RUMORS

29. At all times since I have been at Paramount, a period of time spanning a decade, Paramount has been the subject of continuous gossip and inquiries concerning, for example, whether it is for sale, ready to be sold, considering a sale of its assets, or a target for acquisition, friendly or otherwise.

30. In addition to the continuous, informal verbal buzz about Paramount, the Company has been the subject of a plethora of analysts reports and newspaper and magazine articles.

31. Thus, for the past ten years, Paramount has been named as a potential target for acquisition by numerous unnamed foreign and domestic entities as well as by dozens of specifically identified persons or companies.

32. Many of these specifically identified persons' or companies' names appear in a separate appendix submitted along with this affidavit, which contains photocopies of 44 analysts reports from the files at Paramount. Each of the reports reproduced in the accompanying appendix include the cover page and the page containing relevant speculation about the Company.

33. The names of the same or additional specifically identified persons or companies appear also in the separate appendix referred to above, which contains approximately 60 newspaper articles, some of which are from Paramount's files, others of which have been obtained from information databases. Each of these articles or press reports describes speculation about possible acquisitions, takeovers, or other unsubstantiated transactions involving Paramount and various entities or persons.

34. Paramount has conducted its business in this atmosphere of rumor and speculation for many years. It is nothing new. The Company must ignore this phenomenon in order to conduct its business operations in an orderly manner, and it does.

35. As I testified at my deposition, both Mr. Davis and I (and our Board) were aware of rumors in the Spring and Summer of 1993, but none of us expected a proposal from Mr. Diller or any one of his various associates. I was certainly surprised when QVC sent us its letter on September 20.

<u>CONTACTS WITH QVC</u>

36. On November 1, 1993, I met with two outside lawyers representing QVC. However, rather than discussing QVC's proposal or providing information, QVC's lawyers wanted only to talk about "leveling the playing field." They presented us with a list of certain mandatory auction bidding procedures, an informational request, and a form of merger agreement that was not conditioned upon invalidating the stock option and termination fee. The meeting lasted roughly ten minutes.

Donald Oresman

Sworn to before me this

13th day of November, 1993

Notary Public

PETER J. BESHAR
NOTARY PUBLIC, State of New York
No. 31-4986530
Qualified in New York County
Certificate Filed in New York County
Commission Expires September 16, 1995