

IN THE SUPREME COURT OF THE STATE OF DELAWARE

VANTAGEPOINT VENTURE	§
PARTNERS 1996, a Delaware	§ No. 177, 2005
limited partnership,	§
	§
Defendant Below,	§ Court Below – Court of Chancery
Appellant,	§ of the State of Delaware,
	§ in and for New Castle County
v.	§ C.A. No. 1142-N
	§
EXAMEN, INC., a Delaware	§
corporation,	§
	§
Plaintiff Below,	§
Appellee.	§

Submitted: May 2, 2005

Decided: May 6, 2005

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices.

ORDER

This 6th day of May 2005, it appears to the Court that:

(1) This appeal seeks review of a Temporary Restraining Order (“TRO”) entered by the Court of Chancery on April 1, 2005. The TRO related to a final judgment entered by the Court of Chancery on March 31, 2005, and was affirmed by this Court yesterday, May 5, 2005.¹

(2) On April 29, 2005, the Court of Chancery ruled that it “lacks jurisdiction to lift the TRO and in effect release VantagePoint to relitigate in

¹ *VantagePoint Venture Partners 1996 v. Examen, Inc.*, Del. Supr., No. 127, 2005, Holland, J. (May 5, 2005).

the California Superior Court the issues that are currently before the Delaware Supreme Court.” It is unnecessary for this Court to review that ruling.

(3) When this Court released its opinion yesterday, the mandate was issued immediately under Supreme Court Rule 4(f).

(4) The Court of Chancery now has jurisdiction to act upon the application of any party relating to the TRO.

NOW, THEREFORE, IT IS HEREBY ORDERED that this appeal is dismissed as moot, without prejudice to future appeals by either party from any interlocutory or final action taken by the Court of Chancery on the TRO. The mandate will issue immediately.²

BY THE COURT:

/s/ Randy J. Holland
Justice

² Supr. Ct. R. 4(f).

No. 177, 2005

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