UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE TO

Tender Offer Statement Under Section 14(d)(1) or 13(e)(1) of the Securities Exchange Act of 1934

(Amendment No. 1)

AVOCENT CORPORATION

(Name of Subject Company)

GLOBE ACQUISITION CORPORATION
EMERSON ELECTRIC CO.

(Names of Filing Persons – Offeror)

Common Stock, Par Value $0.001 Per Share
(Title of Class of Securities)

053893103
(Cusip Number of Class of Securities)

Frank L. Steeves
Senior Vice President, Secretary and General Counsel
Emerson Electric Co.
8000 West Florissant Avenue
St. Louis, Missouri 63136
Telephone: (314) 553-2000
(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications on Behalf of Filing Persons)

Copies to:
Phillip R. Mills, Esq.
Marc O. Williams, Esq.
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000

£ Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:
R third-party tender offer subject to Rule 14d-1.
£ issuer tender offer subject to Rule 13e-4.
£ going-private transaction subject to Rule 13e-3.
£ amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer. £

This Amendment No. 1 ("**Amendment No. 1**") amends and supplements the Tender Offer Statement on Schedule TO (the "**Schedule TO**") originally filed on October 15, 2009 by Emerson Electric Co., a Missouri corporation ("**Emerson**"), and Globe Acquisition Corporation, a Delaware corporation ("**Purchaser**") and an indirect wholly owned subsidiary of Emerson, relating to the offer by Purchaser to purchase all outstanding shares of common stock, par value $0.001 per share ("**Shares**"), of Avocent Corporation, a Delaware corporation ("**Avocent**"), for $25.00 per Share, in cash, without interest, less certain applicable taxes, upon the terms and subject to the conditions set forth in the Offer to Purchase dated October 15, 2009 (the "**Offer to Purchase**") and in the related Letter of Transmittal (which, together with any amendments or supplements thereto, collectively constitute the "**Offer**").

All capitalized terms used in this Amendment No. 1 without definition have the meanings ascribed to them in the Schedule TO.

The items of the Schedule TO set forth below are hereby amended and supplemented as follows:

Item 11. Additional Information.

Item 11 of the Schedule TO is hereby amended and supplemented by adding the following text thereto:

"On October 16, 2009, Emerson filed a Premerger Notification and Report Form with respect to the Offer with the Antitrust Division and the FTC. As a result, the waiting period applicable to the purchase of Shares pursuant to the Offer was set to expire at 11:59 p.m., New York City time, on November 2, 2009, unless earlier terminated by the Antitrust Division or the FTC. On October 23, 2009, the FTC granted early termination of the HSR waiting period. Accordingly, the condition to the Offer relating to the expiration or termination of the applicable waiting period under the HSR Act has been satisfied.

On October 20, 2009, New World Investors filed a class action complaint against Avocent, its directors Michael J. Borman, Harold D. Copperman, Francis A. Dramis Jr., Edwin L. Harper, William H. McAleer, David P. Vieau, and Doyle C. Weeks (collectively, the "**Avocent Directors**"), and Emerson in the Circuit Court of Madison

County, Alabama (a copy of the complaint is filed as Exhibit (a)(9) hereto). The complaint alleges, among other things, that (i) the Avocent Directors breached their fiduciary duties of good faith, loyalty, fair dealing and due care to Avocent's stockholders, (ii) Avocent and the Avocent Directors breached their fiduciary duties of disclosure and (iii) Emerson aided and abetted the Avocent Directors' alleged breaches of their fiduciary duties. Plaintiffs seek, among other relief, a declaratory judgment on the breach of duty claims, compensatory damages, and attorneys' fees and expenses. Plaintiffs have filed a motion for a temporary restraining order and to expedite the lawsuit in light of the scheduled expiration of the Offer on November 12, 2009. On October 26, 2009, defendants filed a motion to dismiss, a motion to stay, and an opposition to the plaintiff's motion for a temporary restraining order and expedited discovery. Also on October 26, 2009, the court held a hearing at which it did not rule on any of the pending motions. A hearing on the defendants' motion to dismiss has been scheduled for November 2, 2009.

On October 20, 2009, Annette Paluska filed a class action complaint against Avocent, the Avocent Directors, Emerson and Purchaser in the Court of Chancery, Delaware (a copy of the complaint is filed as Exhibit (a)(10) hereto). The complaint alleges, among other things, that (i) the Avocent Directors breached their fiduciary duties to Avocent's stockholders, including duties of loyalty and disclosure and (ii) Emerson, Purchaser and Avocent aided and abetted the Avocent Directors' alleged breaches of their fiduciary duties. Plaintiffs seek, among other relief, to enjoin the defendants from completing the transaction contemplated by the Merger Agreement or a rescission of the transaction in the event it is consummated, compensatory damages, and attorneys' fees and expenses. Plaintiffs have filed a motion to expedite the lawsuit in light of the scheduled expiration of the Offer on November 12, 2009 and a motion for a preliminary injunction to enjoin the consummation of the Merger. A hearing on plaintiff's motion for a preliminary injunction has been scheduled for November 6, 2009."

Item 12. Exhibits.

Item 12 of the Schedule TO is hereby amended and supplemented by adding the following exhibits:

"(a)(9) Complaint filed on October 20, 2009 in the Circuit Court of Madison County, Alabama.

(a)(10) Complaint filed on October 20, 2009 in the Court of Chancery, Delaware."

SIGNATURES

After due inquiry and to the best knowledge and belief of the undersigned, each of the undersigned certifies that the information set forth in this statement is true, complete and correct.

Date: October 28, 2009

GLOBE ACQUISITION CORPORATION

By: /s/ Alan Mielcuszny
Name: Alan Mielcuszny
Title: Vice President

EMERSON ELECTRIC CO.

By: /s/ Victor Lazzaretti
Name: Victor Lazzaretti
Title: Vice President, Deputy General Counsel & Assistant Secretary

EXHIBIT INDEX

Exhibit No.	Description
(a)(9)	Complaint filed on October 20, 2009 in the Circuit Court of Madison County, Alabama.
(a)(10)	Complaint filed on October 20, 2009 in the Court of Chancery, Delaware.

Exhibit (a)(9)

AlaFile E-Notice

47-CV-2009-901139.00

To: JOE ALTON KING JR.
jking@alinjurylaw.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF MADISON COUNTY, ALABAMA

NEW WORLD INVESTORS v. MICHAEL J. BORMAN ET AL
47-CV-2009-901139.00

The following complaint was FILED on 10/20/2009 4:26:14 PM

Notice Date: 10/20/2009 4:26:14 PM

JANE C. SMITH
CIRCUIT COURT CLERK
MADISON COUNTY, ALABAMA
MADISON COUNTY, ALABAMA
HUNTSVILLE, AL 35801

256-532-3390
jane.smith@alacourt.gov

State of Alabama Unified Judicial System Form ARCiv-93 Rev.5/99	**COVER SHEET** **CIRCUIT COURT – CIVIL CASE** (Not For Domestic Relations Cases)	Case Number: **47-CV-200** Date of Filing: 10/20/2009

GENERAL INFORMATION

IN THE CIRCUIT OF MADISON COUNTY, ALABAMA
NEW WORLD INVESTORS v. MICHAEL J. BORMAN ET AL

First Plaintiff:	R Business	o Individual	**First Defendant:**	o Business	R Individual
	o Government	o Other		o Government	o Other

NATURE OF SUIT:

TORTS: PERSONAL INJURY

- o WDEA - Wrongful Death
- o TONG - Negligence: General
- o TOMV - Negligence: Motor Vehicle
- o TOWA - Wantonnes
- o TOPL - Product Liability/AEMLD
- o TOMM - Malpractice-Medical
- o TOLM - Malpractice-Legal
- o TOOM - Malpractice-Other
- o TBFM - Fraud/Bath Faith/Misrepresentation
- o TOXX - Other: _____

TORTS: PERSONAL INJURY

- o TOPE - Personal Property
- o TORE - Real Property

OTHER CIVIL FILINGS

- o ABAN - Abandoned Automobile
- o ACCT - Account & Nonmortgage
- o APAA - Administrative Agency Appeal
- o ADPA - Administrative Procedure Act
- o ANPS - Adults in Need of Protective Services

OTHER CIVIL FILINGS (cont'd)

- o MSXX - Birth/Death Certificate Modification/Bond Forfeiture Appeal/Enforcement of Agency Subpoena/Petition to Preserve
- o CVRT - Civil Rights
- o COND - Condemnation/Eminent Domain/Right-of-Way
- o CTMP - Contempt of Court
- o CONT - Contract/Ejectment/Writ of Seizure
- o TOCN - Conversion
- o EQND - Equity Non-Damages Actions/Declaratory Judgment/Injunction Election Contest/Quiet Title/Sale For Division
- o CVUD - Eviction Appeal/Unlawful Detainer
- o FORJ - Foreign Judgment
- o FORF - Fruits of Crime Forfeiture
- o MSHC - Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition
- o PFAB - Protection From Abuse
- o FELA - Railroad/Seaman (FELA)
- o RPRO - Real Property
- o WTEG - Will/Trust/Estate/Guardianship/Conservatorship
- o COMP - Workers' Compensation
- þ CVXX - Miscellaneous Circuit Civil Case

ORIGIN: **F** o **INITIAL FILING** **R** o **REMANDED** **A** o **APPEAL FROM DISTRICT COURT** **T** o **TRANSFERRED FROM OTHER CIRCUIT COURT** **O** o **OTHER** _____

HAS JURY TRIAL BEEN DEMANDED? R**Yes** **No**

RELIEF REQUESTED: R**MONETARY AWARD REQUESTED** **NO MONETARY AWARD REQUESTED**

ATTORNEY CODE: KIN058 10/20/2009 4:09:18 PM /s JOE ALTON KING JR.

MEDIATION REQUESTED: o **Yes** o **No** R**Undecided**

IN THE CIRCUIT COURT OF MADISON COUNTY
MADISON COUNTY, ALABAMA

NEW WORLD INVESTORS, on Behalf of Itself and All Others Similarly Situated, Plaintiff, v. MICHAEL J. BORMAN, HAROLD D. COPPERMAN, FRANCIS A. DRAMIS JR., EDWIN L. HARPER, WILLIAM H. McALEER, DAVID P. VIEAU, DOYLE C. WEEKS, AVOCENT CORPORATION AND EMERSON ELECTRIC CO., Defendants.	)	**CASE NO. CV09-**

PLAINTIFF'S CLASS ACTION COMPLAINT

Plaintiff, by its attorneys, alleges as follows for its class action complaint, based upon personal knowledge as to itself and its own acts, and based upon information and belief derived from, *inter alia*, a review of documents filed with the Securities and Exchange Commission ("SEC") and publicly available news sources, such as newspaper articles, as to all other matters:

NATURE OF THE ACTION

1. This is a shareholder class action (the "Action") on behalf of plaintiff and the other public stockholders of Avocent Corporation ("Avocent" or the "Company") common stock against Avocent, its directors and Emerson Electric Co. The Action challenges defendants' actions in causing Avocent to enter into an agreement (the "Sale Agreement") pursuant to which Globe Acquisition Corporation, a wholly owned subsidiary of Emerson Electric Co. (collectively "Emerson"), will purchase, via a tender offer, all of the issued and outstanding shares of the

Company's common stock for $25.00 per share in cash (the "Tender Offer") in a transaction which protects and advances the interests of Avocent's directors to the detriment of plaintiff and Avocent's other public shareholders. Specifically, as further alleged below, all of Avocent's directors will receive personal compensation as a result of the Sale Agreement - compensation that they would not otherwise receive at this time absent the Sale Agreement. This conflict of interest caused these directors to be unable to fairly and thoroughly evaluate the Sale Agreement to ensure that it is in the best interest of Avocent's public shareholders. The Action also challenges defendants' efforts to conceal material information from plaintiff and Avocent's other public shareholders in conjunction with the Sale Agreement and the Tender Offer in the Recommendation Statement Avocent directors caused Avocent to file with the SEC and mail to Avocent shareholders on or about October 15, 2009 in connection with recommending that shareholders tender their shares.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action because Avocent is a corporation headquartered in this State and because the improper conduct alleged in this Complaint occurred in and/or was directed at this State. Additionally, this Court has jurisdiction over each of the defendants because their wrongful conduct challenged in this Complaint was directed at, and intended to have its primary effect in, this State.

3. Venue is proper in this Court pursuant to Code of Ala. § 6-3-7 and § 6-3-2 since Avocent's principal place of business is located in Madison County, and the defendants' wrongful acts were principally done or occurred in this County.

4. This action challenges the internal affairs or governance of Avocent and hence is not removable to Federal Court under the Class Action Fairness Act of 2005 or the Securities Litigation Uniform Standards Act ("SLUSA"), 15 U.S.C. § 78bb(f).

THE PARTIES

5. Plaintiff New World Investors is the owner of shares of Avocent common stock and has been the owner of such shares since prior to January 1, 2008.

6. Defendant Avocent is a publicly traded corporation with its executive offices at 4991 Corporate Drive, Huntsville, Alabama 35805. Avocent is a global provider of information technology infrastructure management solutions for enterprise data centers, small/medium businesses and branch offices. Avocent has more than 1,800 employees and sales, operations and research and development centers worldwide. The Company is listed on the NASDAQ Stock Market under the symbol AVCT.

7. Defendant Francis A. Dramis, Jr. ("Dramis") has served as a director of the Company since 2002. In connection with the Sale Agreement, Dramis is expected to receive payments of an undisclosed amount for his Avocent restricted stock units (the "RSUs") and will be granted a right to indemnification for acts or omissions occurring prior to the consummation of the Sale Agreement. This Court has jurisdiction over Dramis because Avocent is headquartered in Alabama and many of Dramis's actions challenged in this Complaint occurred in substantial part, were directed at, and/or intended to have their primary effect in, Alabama.

8. Defendant Edwin L. Harper ("Harper") has served as a director of the Company since 2000 and was selected as the "lead independent director" of the Company's board in April 2003 and as the Chairman of the Company's Board of Directors in January 2008. In connection

with the Sale Agreement, Harper is expected to receive payments of an undisclosed amount for his RSUs and will be granted a right to indemnification for acts or omissions occurring prior to the consummation of the Sale Agreement. This Court has jurisdiction over Harper because Avocent is headquartered in Alabama and many of Harper's actions challenged in this Complaint occurred in substantial part, were directed at, and/or intended to have their primary effect in, Alabama.

9. Defendant Harold D. Cooperman ("Cooperman") has served as a director of the Company since 2002. In connection with the Sale Agreement, Cooperman is expected to receive payments of an undisclosed amount for his RSUs and will be granted a right to indemnification for acts or omissions occurring prior to the consummation of the Sale Agreement. This Court has jurisdiction over Cooperman because Avocent is headquartered in Alabama and many of Cooperman's actions challenged in this Complaint occurred in substantial part, were directed at, and/or intended to have their primary effect in, Alabama.

10. Defendant Michael J. Borman ("Borman") has served as a director of the Company and as the Chief Executive officer since 2008. In connection with the Sale Agreement, Borman is expected to receive payments change in control payments, including payments for his Avocent performance shares, as set forth at paragraph 32 and will be granted a right to indemnification for acts or omissions occurring prior to the consummation of the Sale Agreement. This Court has jurisdiction over Borman because Avocent is headquartered in Alabama and many of Borman's actions challenged in this Complaint occurred in substantial part, were directed at, and/or intended to have their primary effect in, Alabama.

11. Defendant Doyle C. Weeks ("Weeks") has served as a director of the Company since 2008 and as President and Chief Operating Officer since 2005. In connection with the Sale Agreement, Weeks is expected to receive change in control payments, including payments for his Avocent performance shares, as set forth at paragraph 32 and will be granted a right to indemnification for acts or omissions occurring prior to the consummation of the Sale Agreement. This Court has jurisdiction over Weeks because Avocent is headquartered in Alabama and many of Weeks' actions challenged in this Complaint occurred in substantial part, were directed at, and/or intended to have their primary effect in, Alabama.

12. Defendant David P. Vieau ("Vieau") has served as a director of the Company since 2001. In connection with the Sale Agreement, Vieau is expected to receive payments of an undisclosed amount for his RSUs and will be granted a right to indemnification for acts or omissions occurring prior to the consummation of the Sale Agreement. This Court has jurisdiction over Vieau because Avocent is headquartered in Alabama and many of Vieau's actions challenged in this Complaint occurred in substantial part, were directed at, and/or intended to have their primary effect in, Alabama.

13. Defendant William H. McAleer ("McAleer") has served as a director of the Company since 2000. In connection with the Sale Agreement, McAleer is expected to receive payments of an undisclosed amount for his RSUs and will be granted a right to indemnification for acts or omissions occurring prior to the consummation of the Sale Agreement. This Court has jurisdiction over McAleer because Avocent is headquartered in Alabama and many of McAleer's actions challenged in this Complaint occurred in substantial part, were directed at, and/or intended to have their primary effect in, Alabama.

14. Defendant Emerson is a publicly traded NYSE company headquartered at 8000 West Florissant Avenue, St. Louis, Missouri 63136. Emerson is a diversified global manufacturing and technology company. Emerson offers a range of products and services in the areas of process management, climate technologies, network power, storage solutions, professional tools, appliance solutions, motor technologies, and industrial automation. Emerson has more than 140,000 employees and approximately 255 manufacturing locations worldwide. The affiliate of Emerson involved in the Tender Offer is Globe Acquisition Corporation, a Delaware corporation and a wholly-owned subsidiary of Emerson created for the purpose of making the Tender Offer.

15. The defendants identified in paragraphs 7 through 13 collectively constitute the entirety of the Company's board of directors. These seven individuals are hereinafter referred to collectively as the "Individual Defendants"

THE INDIVIDUAL DEFENDANTS' FIDUCIARY DUTIES

16. Under applicable common law, the directors of a publicly held company such as Avocent have fiduciary duties of care, loyalty, disclosure, good faith and fair dealing and are liable to shareholders for breaches thereof. They are required to exercise good faith and subordinate their own selfish interests to those of the corporation and its public stockholders where their interests conflict. Where it appears that a director has obtained any personal profit from dealing with the corporation, and the transaction is drawn into question as between him and the stockholders of the corporation, the burden is upon the director or officer to show that the transaction has been fair, open and in the utmost good faith.

17. As alleged in detail below, defendants have breached, and/or aided other defendants' breaches of, their fiduciary duties to Avocent's public shareholders by acting to cause or facilitate the Sale Agreement because it is not in the best interests of those shareholders, but is in the best interests of the Individual Defendants who will collectively receive significant personal profits as a result of the Sale Agreement, which they would not otherwise receive at this time.

18. Because defendants have knowingly or recklessly breached their fiduciary duties in connection with the Sale Agreement, and/or are personally profiting from the same, the burden of proving the inherent or entire fairness of the Sale Agreement, including all aspects of its negotiation, structure, and terms, is borne by Defendants as a matter of law.

19. Further, as alleged in detail *infra*, the Individual Defendants have breached their fiduciary duty of disclosure in that on October 15, 2009, the Individual Defendants caused Avocent to file a Solicitation/Recommendation Statement Under Section 14(d)(9) of the Securities Exchange Act of 1934 (the "Recommendation Statement") with the SEC and mail the same to Plaintiff and Avocent's other public shareholders, but concealed therein certain material information which a reasonable shareholder would find material in determining whether to tender their shares pursuant to the Tender Offer (as defined below). Among other things, the Defendants have failed to disclose material information including information about the self interests of the Individual Defendants' financial advisor, Morgan Stanley & Co. ("Morgan Stanley"), the financial basis for Morgan Stanley's fairness opinion that the price to be paid pursuant to the Sale Agreement is fair (the "Fairness Opinion"), and the purported "sale process"

that the Individual Defendants engaged in prior to entering into the Sale Agreement – all information which courts have repeatedly held ought to be disclosed to shareholders.

CLASS ACTION ALLEGATIONS

20. Plaintiff brings this action as a class action pursuant to Ala. R. Civ. P. 23, on behalf of itself and all other shareholders of the Company (except the defendants herein and any person(s), firm(s), trust(s), corporation(s), or other entit(ies) related to or affiliated with them), who are or will be threatened with injury arising from defendants' actions, as more fully described herein (the "Class").

21. This action is properly maintainable as a class action for the following reasons:

a. The Class is so numerous that joinder of all members is impracticable. Members of the Class are scattered throughout the United States and thus it would be impracticable to bring them all before this Court. As of October 1, 2009, the Company had more than 44 million shares outstanding.

b. There are questions of law and fact that are common to the Class and that predominate over any questions affecting individual class members. The common questions include, *inter alia*, the following:

(i) Whether defendants have engaged in and are continuing to engage in conduct which unfairly benefits the Individual Defendants at the expense of the members of the Class;

(ii) Whether the Individual Defendants, as officers and/or directors of the Company, are violating their fiduciary duties to plaintiff and the other members of the Class, and

(iii) Whether plaintiff and the other members of the Class have suffered damages and the proper measure of those damages.

c. The claims of plaintiff are typical of the claims of the other members of the Class in that all members of the Class will be damaged by Defendants' actions.

d. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature. Plaintiff is an adequate representative of the Class.

22. The prosecution of separate actions by or against individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the parties opposing the Class, as well as adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

23. The parties opposing the class have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

24. The questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. Plaintiff anticipates that there will be no difficulty in the management of this litigation as a class action.

SUBSTANTIVE ALLEGATIONS

A. The Individual Defendants Caused The Company To Enter Into An Agreement To Be Acquired Pursuant To An Inadequate Process And At An Inadequate Price

25. On June 25, 2008, in the midst of the financial downturn in the world's economy, a large financial sponsor ("Sponsor A") and a large software company ("Company A") indicated an interest in acquiring Avocent at prices ranging from $24.00 to $27.00 per share. The closing price of the Company's stock that day was $ 19.43. The Individual Defendants determined that they were not interested in selling the Company at that time.

26. Thereafter, in January 2009, the Company hired a strategic business consultant to assist it in evaluating the Company's long-term strategic plan. To this end, in early 2009, the Company contacted a large financial sponsor ("Sponsor B") regarding partnering with the Company in an acquisition strategy. However, in June 2009, Sponsor B informed the Company that its interest in Avocent had evolved from financing the Company's acquisition strategy to viewing the Company as a desirable acquisition target. Similarly, in July 2009, another financial buyer ("Sponsor C") indicated that it would be interested in assisting the Company's management in a buyout.

27. On August 5, 2009, Emerson indicated that it was interested in acquiring the Company at a price of $21.50 per share (the "August 5th Proposal"). The closing price of the Company's stock that day was $15.62.

28. In early August 2009, the Individual Defendants determined to engage Morgan Stanley to provide financial advice to the Board notwithstanding that Morgan Stanley had provided services to Emerson (which was actively seeking an acquisition of the Company) in the prior two years. The Individual Defendants also incentivized Morgan Stanley to favor a sale of the Company by agreeing (a) to pay it $16,200,000.00 for the approximately two months of work Morgan Stanley performed for the Company and ensured that a large portion of Morgan

Stanley's fee was contingent upon the consummation of the sale of the Company and (b) to reimburse it in an undisclosed amount, for the expenses it incurred in connection with the services it performed for the Company.

29. Thereafter, the Individual Defendants determined to solicit only a limited number of buyers because, *inter alia*, they were concerned that Emerson would discontinue transaction discussions if there was a delay in the Company's response to Emerson's August 5 th Proposal. Thus, the Individual Defendants authorized Morgan Stanley to contact only one potential strategic buyer and one financial sponsor ("Sponsor D") (in addition to Sponsors B and C). Both the strategic buyer and Sponsor D indicated that they were not interested in acquiring the Company, while Sponsors B and C indicated they would be interested at prices of $20 and $21 per share. However, neither the Individual Defendants nor their representatives sought to negotiate a higher price with either Sponsor B or C.

30. On October 6, 2009, Emerson and Avocent announced that they had entered into the Sale Agreement for Emerson to acquire Avocent via the Tender Offer at a price of $25 per share, or approximately $1.2 billion. Pursuant to the Sale Agreement, and notwithstanding their failure to maximize the value of the sale of the Company, the Individual Defendants also agreed to the following preclusive deal protection devices which effectively ensured the sale of the Company to Emerson and discouraged other buyers from offering a superior price for the Company:

- A "**Top-Up Option**" which grants Emerson the option to purchase from Avocent up to that number of additional shares sufficient to cause Emerson to own one share more than 90% of the total outstanding shares of the Company, thus

enabling Emerson to effect a short-form merger without a shareholder vote or any further action by the stockholders of Avocent.

- The **No Solicitation Clause** severely restricts the Company's ability to solicit and/or otherwise engage in discussions with other potential buyers for the Company.

- The **Matching Rights Provision** affords Emerson the opportunity to "top" any subsequent superior offer for the Company in the unlikely event that occurs.

- The **Termination Fee** obligates the Company to pay a termination fee of $35 million to Emerson in order to accept a superior proposal to acquire the Company.

- **No Appraisal Rights**. Avocent's shareholders do not have any appraisal rights in connection with the Tender Offer.

- The **Exclusivity Agreement** prohibits the Company from soliciting competing proposals for the Company.

31. On October 15, 2009, Emerson commenced the Tender Offer, which is scheduled to expire at midnight New York City time on November 12, 2009, unless extended.

B. All of Avocent's Directors Will Benefit Receive Personal Benefits That They Would Not Otherwise Receive At this Time Absent the Sale Agreement

32. Avocent's management and Board of Directors have interests in the Sale Agreement and Tender offer that are different from or in addition to the interests of the Company's stockholders, *inter alia*, as set forth below.

(a) Each Non-Employee Member of the Company's Board Will Receive Cash Consideration For Their Restricted Stock Units. As of October 1, 2009, the Company's directors and executive officers held outstanding Company restricted stock units ("RSUs")

constituting 416,542 Shares in the aggregate. In connection with the Sale Agreement, each outstanding RSU held by a non-employee member of the Company's Board whether or not vested, will be fully vested and will entitle the holder to receive cash. As a result, based on the number of Director RSUs held by directors on October 1, 2009, the non-employee directors will be entitled to receive a payment of $1,632,375 in the aggregate as a result of the Sale Agreement.

(b) Messrs. Borman And Weeks Will Receive Cash Consideration For Their Performance Shares. As of October 1, 2009, the Company's executive officers held outstanding Company performance share awards (the "Performance Shares") covering 549,735 shares in the aggregate. In connection with the Sale Agreement, each outstanding Performance Share granted under any equity or compensation plan or arrangement of the Company, whether or not vested, will become fully vested, entitling each holder to cash. As a result, Messrs. Borman and Weeks will receive payments for their Performance Shares units as set forth in (c) below.

(c) Potential Payments upon Termination In Connection with a Change of Control. In connection with the Sale Agreement, Messrs. Borman and Doyle will also be entitled to Change in Control payments as set forth below:

Name	Benefit Type	Payment Upon the Acceptance Date	Payment in the Case of Termination of Employment in Connection with the Offer
Michael Borman	Severance(1)	—	$ 1,800,000
	Estimated Value of Continued Employee Benefits(2)	—	$ 23,580
	Estimated Value of Temporary Housing Expenses	—	$ 15,000
	Value of Equity Award Acceleration	$ 5,273,438(3)	$ 3,250,000(4)
	Total Value:	$ 5,273,438	$ 5,088,580
Doyle Weeks	Severance(1)	—	$ 816,490
	Estimated Value of Continued Employee Benefits	—	$ 23,580
	Value of Equity Award Acceleration	$ 2,168,006(3)	$ 1,399,075(4)
	Estimated Excise Tax Gross-Up Payment(5)	—	—
	Total Value:	$ 2,168,006	$ 2,239,145

33. Further, each of the Individual Defendants will be granted rights to indemnification for acts or omissions occurring prior to the consummation of the Sale Agreement (the "Effective Time") for six years after the Effective Time – thereby insulating them from all liability arising from the Sale Agreement.

34. Notably, the Individual Defendants would not receive any of these payments now absent the Sale Agreement. Therefore, each of the Individual Defendants had and has a conflict of interest with regard to the Sale Agreement.

THE MATERIALLY MISLEADING AND/OR INCOMPLETE PROXY STATEMENT

35. In addition, the Individual Defendants are breaching their fiduciary duties of full disclosure to Plaintiff and Avocent's other public shareholders in connection with the Sale Agreement. In this regard, on October 15, 2009, the Individual Defendants filed the Recommendation Statement with the SEC and mailed the same to Plaintiff and Avocent's other public shareholders in connection with recommending that shareholders tender their shares pursuant to the Tender Offer. However, the Recommendation Statement is deficient in that it misrepresents and/or omits, *inter alia*, material information as set forth below:

(i) According to the Recommendation Statement, in the ordinary course of Morgan Stanley's trading and brokerage activities, Morgan Stanley or its affiliates may at any time hold long or short positions, and may trade or otherwise effect transactions, for its own account or for the account of customers in the equity and other securities of the Company, or any other parties, commodities or currencies involved in the Tender Offer and Sale Agreement. The Recommendation Statement is deficient because it fails to disclose the value of the investments and/or positions of Morgan Stanley and/or its affiliates in the Company and Emerson and any of their respective affiliates.

Information with regard to any conflict of interest that Morgan Stanley had is material to the public shareholders of Avocent Systems in determining how much weight to place on Morgan Stanley's fairness opinion and must therefore be disclosed. Specifically, the greater Morgan Stanley's interests in Emerson, the less reliable its opinion would be. For example, if Morgan Stanley held billions in Emerson's investments its opinion would be less reliable than if it held thousands.

(ii) According to the Recommendation Statement, in the two years prior to the date of its opinion, Morgan Stanley has provided

financial advisory and financing services for Emerson and has received fees in connection with such services. Further, Morgan Stanley may also seek to provide such services to the buyer in the future and would receive fees for the rendering of these services. The Recommendation Statement is deficient because it fails to disclose (a) the amount of fees that Morgan Stanley has received, and/or has an expectation of receiving, for services rendered to Morgan Stanley and (b) whether any of the services that Morgan Stanley provided to Emerson pertained to Avocent.

Information with regard to any conflict of interest that Morgan Stanley had is material to the public shareholders of Avocent in determining how much weight to place on Morgan Stanley's fairness opinion and must therefore be disclosed. Specifically, the greater Morgan Stanley's compensation and/or expectation of compensation from Emerson, the less reliable its opinion would be. For example, if Morgan Stanley has received or expect to receive millions in compensation, its opinion would be less reliable than if it expected to receive thousands.

(iii) According to the Recommendation Statement, Avocent has agreed to pay Morgan Stanley a fee of $16,200,000 for its services in connection with the transaction, a portion of which is payable upon consummation of the transaction, and to reimburse Morgan Stanley for certain of its expenses incurred in connection with its engagement. The Recommendation Statement is deficient because it fails to disclose the amount of Morgan Stanley' fee which is contingent upon the consummation of the transaction and the amount of expenses for which Avocent will reimburse Morgan Stanley.

Information with regard to any conflict of interest that Morgan Stanley had is material to the public shareholders of Avocent in determining how much weight to place on Morgan Stanley's fairness opinion and must therefore be disclosed. Specifically, the greater Morgan Stanley's compensation and/or expectation of compensation derived from consummation of the sale of Avocent, the less reliable its opinion would be.

(iv) According to the Recommendation Statement, each outstanding Restricted Stock Unit (the "RSU") held by a non-employee member of the Company's board will be cancelled and will entitle the holder to cash consideration in connection with the Sale Agreement. The Recommendation Statement is deficient because

it fails to disclose the amount of payment that each non-employee director will for their RSUs.

The conflicts of interest of the Company's directors are relevant and must be disclosed.

(v) According to the Recommendation Statement, in late January 2008, Emerson's CEO and President David N. Farr contacted Avocent's then-newly appointed Chairman, Edwin Harper, to congratulate him on his appointment and thereafter exchanged information regarding opportunities for Emerson and Avocent to work together. The Recommendation Statement is deficient because it fails to disclose (a) any prior relationship between Messrs. Farr and Harper, (b) the opportunities for the two companies to work together that were discussed and (c) the Company's efforts to implement these opportunities for Emerson and Avocent to work together.

Information regarding the fairness of the sale process is material and must be disclosed. Further, this information is material to Avocent's public shareholders in determining the extent to which the Individual Defendants complied with their duties of loyalty and care to protect the best interests of Avocent's public shareholders and to put the interests of these shareholders before their own.

(vi) According to the Recommendation Statement, in August 2009, the Company's board authorized Morgan Stanley to contact one potential strategic buyer for the Company and directed Mr. Harper to contact one additional potential financial sponsor. The Recommendation Statement is deficient because it fails to disclose the criteria used to select these buyers.

Information regarding the fairness of the sale process is material and must be disclosed. Further, this information is material to Avocent's public shareholders in determining the extent to which the Individual Defendants complied with their duties of loyalty and care to protect the best interests of Avocent's public shareholders and to put the interests of these shareholders before their own.

(vii) According to the Recommendation Statement, in late August 2009, Sponsor B and Sponsor C indicated proposals to acquire the Company for $20 and $21 respectively. The Recommendation Statement is deficient because it fails to disclose whether the Company further negotiated with Sponsors B and C regarding an increase in the price per share.

Information regarding the fairness of the sale process is material and must be disclosed. Further, this information is material to Avocent's public shareholders in determining the extent to which the Individual Defendants complied with their duties of loyalty and care to protect the best interests of Avocent's public shareholders and to put the interests of these shareholders before their own.

(viii) According to the Recommendation Statement, in early 2009, Mr. Borman contacted a large financial sponsor ("Sponsor B") to determine its interest in partnering with the Company. Thereafter, between March and April, members of the Company's management met and exchanged data with Sponsor B and Sponsor B gave a presentation to the Company regarding a potential buyout transaction. The Recommendation Statement is deficient because it fails to disclose (a) the criteria used to select Sponsor B, (b) whether any other companies were contacted as that time, and if no, the rationale for not contacting any other companies, and (c) the substance of Sponsor B's May 5, 2009 presentation regarding a potential buyout transaction.

Information regarding the fairness of the sale process is material and must be disclosed. Further, this information is material to Avocent's public shareholders in determining the extent to which the Individual Defendants complied with their duties of loyalty and care to protect the best interests of Avocent's public shareholders and to put the interests of these shareholders before their own.

(ix) According to the Recommendation Statement, for its *Analyst Price Targets*, Morgan Stanley discounted the price targets by an estimated cost of 11%. The Recommendation Statement is deficient because it fails to disclose the rationale for this discount and methodology used to arrive at this discount.

Information relied upon by the Company's financial advisors in creating their fairness opinion, particularly where a banker's endorsement of the fairness of a transaction is touted to shareholders, is relevant and must be disclosed. Further, once Defendants traveled down the road of partial disclosure, they had and have an obligation to provide the stockholders with accurate, full, and fair information.

(x) For Morgan Stanley's *Future Stock Price Analysis*, the Recommendation Statement is deficient because it fails to disclose the methodology used to select the multiples and cost of equity used for this analysis.

Information relied upon by the Company's financial advisors in creating their fairness opinion, particularly where a banker's endorsement of the fairness of a transaction is touted to shareholders, is relevant and must be disclosed. Further, once Defendants traveled down the road of partial disclosure, they had and have an obligation to provide the stockholders with accurate, full, and fair information.

(xi) For Morgan Stanley's *Discounted Cash Flow Analysis*, the Recommendation Statement is deficient because it fails to disclose the methodology used to select the perpetual growth rate and discount rate used for this analysis.

Information relied upon by the Company's financial advisors in creating their fairness opinion, particularly where a banker's endorsement of the fairness of a transaction is touted to shareholders, is relevant and must be disclosed. Further, once Defendants traveled down the road of partial disclosure, they had and have an obligation to provide the stockholders with accurate, full, and fair information.

(xii) For Morgan Stanley's *Premia Paid Analysis*, the Recommendation Statement is deficient because it fails to disclose the precedent merger and acquisition transactions reviewed for this analysis, including the value and year for each of these transactions.

Information relied upon by the Company's financial advisors in creating their fairness opinion, particularly where a banker's endorsement of the fairness of a transaction is touted to shareholders, is relevant and must be disclosed. Further, once Defendants traveled down the road of partial disclosure, they had and have an obligation to provide the stockholders with accurate, full, and fair information.

FIRST CAUSE OF ACTION

CLASS CLAIM FOR BREACH OF FIDUCIARY DUTIES OF GOOD FAITH, LOYALTY, FAIR DEALING, AND DUE CARE

(Against the Individual Defendants)

36. Plaintiff repeats and realleges all previous allegations as if set forth in full herein.

37. By reason of the foregoing, the Individual Defendants have breached their fiduciary duties of, *inter alia*, good faith, loyalty, fair dealing, and due care to Plaintiff and the Class and/or aided and abetted in the breach of those fiduciary duties.

38. As a result, Plaintiff and the Class have been and will be damaged.

SECOND CAUSE OF ACTION

CLASS CLAIM FOR FAILURE TO DISCLOSE

(Against the Individual Defendants and Avocent)

39. Plaintiff repeats and realleges all previous allegations as if set forth in full herein.

40. Under applicable law, the Individual Defendants have a fiduciary obligation to disclose all material facts in the Recommendation Statement in order that Avocent shareholders make an informed decision as to whether to tender their shares pursuant to the Tender Offer. As alleged in detail above, Individual Defendants have breached their fiduciary duty by making materially inadequate disclosures and material omissions in the Recommendation Statement.

41. As a result of these failures to disclose, Plaintiff and the Class have been and will be damaged.

THIRD CAUSE OF ACTION

CLASS CLAIM FOR AIDING AND ABETTING THE BREACHES OF FIDUCIARY DUTIES OF GOOD FAITH, LOYALTY, FAIR DEALING, AND DUE CARE

(Against Emerson)

42. Plaintiff repeats all previous allegations as if set forth in full herein.

43. The Individual Defendants owed plaintiff and Avocent's other shareholders duties of care, loyalty, good faith, fair dealing and disclosure. As earlier alleged, the Individual Defendants breached these fiduciary duties. Emerson has aided and abetted the Individual

Defendants in these breaches of their fiduciary duties to Avocent's shareholders by, among other things, (a) insisting that the Company enter into an exclusivity agreement with Emerson which prohibited the Company from negotiating with other potential buyers for the Company, (b) requiring that the Company grant it the right to top a superior offer, (c) requiring the Company to grant it the "Top-Up Option", (d) obligating the Company to pay a $35 million termination fee in the event it enters into a superior transaction to be acquired, (e) rejecting the company's proposal for a "go shop" provision in the Sale Agreement which would enable the Company to solicit competing acquisition proposals during the pendency of a sale to Emerson and (f) agreeing to indemnify the Individual Defendants for liability arising as a result of their wrongful conduct as alleged herein. These concessions insisted upon by Emerson effectively precluded the ability of any other potential buyer to make a superior offer for the Company. Further, the proposed sale of Avocent to Emerson could not take place without the knowing participation of Emerson.

44. As a result, Plaintiff, the Class and Avocent have been and will be damaged.

PRAYER

WHEREFORE, plaintiff demands judgment as follows:

1. determining that this action is a proper class action and that plaintiff is a proper class representative;

2. declaring that defendants have breached their fiduciary duties to plaintiff and the Class and/or aided and abetted such breaches;

3. declaring that defendants have breached their duty of full and fair disclosure to plaintiff and the Class;

4. awarding plaintiff and the Class compensatory damages as allowed by law;

5. awarding interest, attorneys' fees, expert fees, and other expenses and costs in an amount to be determined, to the extent allowable; and

6. granting such other relief as the Court may find just and proper.

TRIAL BY JURY

Plaintiff demands a trial by jury of all issues so triable.

/s/ Joe A. King
Joe A. King (KIN058)
Attorney for Plaintiff

OF COUNSEL:
MORRIS, CONCHIN & KING
200 Pratt Avenue, NE
Huntsville, Alabama 35801
Post Office Box 248
Huntsville, Alabama 35804-0248
(256) 536-0588
(256) 533-1504 - FAX

Richard Brualdi, Esq.
THE BRUALDI LAW FIRM, P.C.
29 Broadway, Suite 2400
New York, New York 10006
(212) 952-0602
(212) 952-0608 - FAX

SERVE DEFENDANTS:

Michael J. Borman
c/o Avocent Corporation
4991 Corporate Drive
Huntsville, Alabama 35805

Harold D. Copperman
c/o Avocent Corporation
4991 Corporate Drive
Huntsville, Alabama 35805

Francis A. Dramis, Jr.
c/o Avocent Corporation
4991 Corporate Drive
Huntsville, Alabama 35805

Edwin L. Harper
c/o Avocent Corporation
4991 Corporate Drive
Huntsville, Alabama 35805

William H. McAleer
c/o Avocent Corporation
4991 Corporate Drive
Huntsville, Alabama 35805

David P. Vieau
c/o Avocent Corporation
4991 Corporate Drive
Huntsville, Alabama 35805

Doyle C. Weeks
c/o Avocent Corporation
4991 Corporate Drive
Huntsville, Alabama 35805

Avocent Corporation
c/o National Registered Agents, Inc.
150 S. Perry Street
Montgomery, Alabama 36104

Emerson Electric Co.
8000 West Florissant Avenue
St. Louis, Missouri 63136

Exhibit (a)(10)

EFiled: Oct 20 2009 6:17PM
EDT Transaction ID 27651613
Case No. 5007-

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ANNETTE PALUSKA, Individually and on behalf of all others similarly situated, Plaintiff, v. AVOCENT CORPORATION, WILLIAM H. MCALEER, DAVID P. VIEAU, DOYLE C. WEEKS, MICHAEL J. BORMAN, HAROLD D. COPPERMAN, EDWIN L. HARPER, FRANCIS A. DRAMIS, JR., GLOBE ACQUISITION CORPORATION, and EMERSON ELECTRIC CO., Defendants.	)	Civil Action No._____

VERIFIED CLASS ACTION COMPLAINT

Plaintiff, by her undersigned attorneys, for her verified class action complaint against defendants, alleges upon personal knowledge with respect to herself, and upon information and belief based, *inter alia*, upon the investigation of counsel as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. This is a class action on behalf of the public shareholders of Avocent Corporation ("Avocent" or the "Company"), against the Company and its Board of Directors (the "Board"), to enjoin the proposed acquisition of Avocent by Emerson Electric Co., through its wholly owned subsidiary, Globe Acquisition Corporation (collectively, "Emerson"). On or around October 6, 2009, the defendants caused Avocent

to enter into a merger agreement to be acquired by Emerson in a cash transaction by means of an all-cash tender offer (the "Tender Offer") and second-step merger valued at as much as $1.2 billion (the "Proposed Transaction"). The Tender Offer is currently expected to close on November 12, 2009. As alleged herein, Emerson aided and abetted the Individual Defendants' breaches of fiduciary duty. Plaintiff seeks to enjoin the Proposed Transaction or, alternatively, rescind the Proposed Transaction in the event defendants are able to consummate it.

2. Compounding the unfairness of the Proposed Transaction is the Individual Defendants' attempt to obtain shareholder approval of the Proposed Transaction through materially incomplete and misleading disclosures contained in the Company's Solicitation/Recommendation Statement filed with the United States Securities and Exchange Commission ("SEC") on Form SC 14D-9 on October 15, 2009 (the "Solicitation Statement").

THE PARTIES

3. Plaintiff is, and has been continuously throughout all times relevant hereto, the owner of Avocent common stock.

4. Defendant Avocent is a Delaware corporation and maintains its principal executive offices at 4991 Corporate Drive, Huntsville, Alabama, 35805. Avocent designs, manufactures, licenses, and sells software and hardware products and technologies that provide connectivity and centralized management of information technology (IT) infrastructure in the United States and internationally. Avocent has three divisions: Management Systems, LANDesk, and Connectivity and Control. The Management

Systems division offers products, such as keyboard, video, and mouse (KVM); LCD console trays; serial console; power control; digital extension; management appliances; management software; and embedded manageability technologies, such as intelligent platform management infrastructure and embedded KVM systems. The LANDesk division delivers systems, security, and service management software for desktops, servers, and mobile devices across an enterprise. The Connectivity and Control division provides managed audio visual infrastructure solutions for commercial digital signage, presentation, and rental and staging markets. Avocent's common stock trades on the NASDAQ under the ticker "AVCT." As of August 4, 2009, there were 44,351,911 shares of Avocent common stock outstanding.

5. Defendant William H. McAleer ("McAleer") has been an Avocent director since July 2000. According to the Company's Annual Proxy Statement filed with the SEC on Form DEF 14A on April 29, 2009 (the "2009 Proxy"), McAleer is chairperson of the Company's Audit Committee and is a member of the Compensation Committee and the Acquisition and Strategy Committee.

6. Defendant David P. Vieau ("Vieau") has been an Avocent director since April 2001. According to the 2009 Proxy, Vieau is chairperson of the Company's Compensation Committee and is a member of the Nominating and Governance Committee.

7. Defendant Doyle C. Weeks ("Weeks") has been an Avocent director since July 2000 and has served as the Company's President and Chief Operating Officer since February 2005. Prior to that time, Weeks served as the Company's Executive Vice

President of Group Operations and Business Development from July 2000 through January 2005.

8. Defendant Michael J. Borman ("Borman") has been an Avocent director since July 2008 and has also served as the Company's Chief Executive Officer since that time.

9. Defendant Harold D. Copperman ("Copperman") has been an Avocent director since November 2002. According to the 2009 Proxy, Copperman is chairperson of the Company's Acquisition and Strategy Committee and is a member of the Audit Committee, the Compensation Committee, and the Nominating and Governance Committee.

10. Defendant Edwin L. Harper ("Harper") has been an Avocent director since July 2000. In April 2003 he was elected as Lead Independent Director and was elected as Chairman of the Board in January 2008. According to the 2009 Proxy, Harper is a member of the Company's Acquisition and Strategy Committee.

11. Defendant Francis A. Dramis, Jr. ("Dramis") has been an Avocent director since November 2002. According to the 2009 Proxy, Dramis is chairperson of the Company's Nominating and Governance Committee and is a member of the Audit Committee and the Acquisition and Strategy Committee.

12. Defendant Emerson Electric Co. is a Missouri corporation and maintains its principal executive offices at 8000 West Florissant Avenue, St. Louis, Missouri, 63136. Emerson Electric Co. is a diversified global technology company, engages in

designing and supplying product technology and delivering engineering services to various industrial and commercial, and consumer markets worldwide.

13. Defendant Globe Acquisition Corporation is a Delaware corporation and is a wholly-owned subsidiary of Emerson Electric Co. that was created for the sole purpose of effecting the Proposed Transaction.

14. The defendants identified in ¶¶ 5-11 are collectively referred to herein as the "Individual Defendants." By reason of their positions as officers and/or directors of the Company, the Individual Defendants are in a fiduciary relationship with plaintiff and the other public shareholders of Avocent, and owe plaintiff and Avocent's other shareholders the highest obligations of loyalty, good faith, fair dealing, due care, and full and fair disclosure.

15. Each of the Individual Defendants at all times had the power to control and direct Avocent to engage in the misconduct alleged herein. The Individual Defendants' fiduciary obligations required them to act in the best interest of plaintiff and all Avocent shareholders.

16. Each of the Individual Defendants owes fiduciary duties of good faith, fair dealing, loyalty, candor, and due care to plaintiff and the other members of the Class. They are acting in concert with one another in violating their fiduciary duties as alleged herein, and, specifically, in connection with the Proposed Transaction.

CLASS ACTION ALLEGATIONS

17. Plaintiff brings this action on his own behalf and as a class action, pursuant to Court of Chancery Rule 23, on behalf of herself and the public shareholders

of Avocent (the "Class"). Excluded from the Class are defendants herein and any person, firm, trust, corporation, or other entity related to or affiliated with any defendant.

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

19. The Class is so numerous that joinder of all members is impracticable. As of August 4, 2009, there were 44,351,911 shares of Avocent common stock outstanding, held by scores, if not hundreds, of individuals and entities scattered throughout the country.

20. Questions of law and fact are common to the Class, including, among others:

a. Whether defendants have breached their fiduciary duties owed to plaintiff and the Class; and

b. Whether defendants will irreparably harm plaintiff and the other members of the Class if defendants' conduct complained of herein continues.

21. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature. Plaintiff's claims are typical of the claims of the other members of the Class and plaintiff has the same interests as the other members of the Class. Accordingly, plaintiff is an adequate representative of the Class and will fairly and adequately protect the interests of the Class.

22. The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class that would,

as a practical matter, be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

23. Defendants have acted, or refused to act, on grounds generally applicable, and causing injury to the Class and, therefore, final injunctive relief on behalf of the Class as a whole is appropriate.

SUBSTANTIVE ALLEGATIONS

24. On July 23, 2009, Avocent announced its second quarter 2009 earnings results. The Company reported sales growth compared to the first quarter of 2009 due to the contribution from Avocent's branded products that were up 10%. The Company also reported operating margin and operational net income improved over the first quarter of 2009 because margins and earnings benefited from an improved sales mix and lower operating costs following the Company's restructuring initiatives.

25. On October 6, 2009, Avocent issued a press release wherein it announced it had reached an agreement to be acquired by Emerson for $25.00 per share in an all-cash tender offer, an approximate aggregate value of $1.2 billion. The Tender Offer commenced on October 15, 2009 and is currently expected to close on November 12, 2009.

26. The consideration to be paid to plaintiff and the Class in the Proposed Transaction is also unfair and grossly inadequate because, among other things, the intrinsic value of Avocent is materially in excess of the amount offered in the Proposed Transaction, giving due consideration to the Company's anticipated operating results, net asset value, cash flow profitability, and established markets.

27. The Proposed Transaction will deny Class members their right to share proportionately and equitably in the true value of the Company's valuable and profitable business, as well as its future growth in profits and earnings, at a time when the Company is poised to increase its profitability.

28. As a result, defendants have breached the fiduciary duties they owe to the Company's public shareholders because the shareholders will not receive adequate or fair value for their Avocent common stock in the Proposed Transaction.

29. Moreover, to the detriment of Avocent's shareholders, the terms of the Agreement and Plan of Merger among Avocent and Emerson (the "Merger Agreement") substantially favor Emerson and are calculated to unreasonably dissuade potential suitors from making competing offers.

30. The Individual Defendants have agreed to a "No Solicitation" provision in Section 7.04 of the Merger Agreement that unfairly restricts the Board from soliciting alternative proposals by, among other things, constraining its ability to communicate with potential buyers, and in some circumstances, even consider competing proposals. This provision also prohibits the Individual Defendants from initiating contact with possible buyers, even if the Board believes that communicating with a potential bidder could reasonably lead to a superior offer or an offer more closely aligned with the interests of Avocent's shareholders. Section 7.04(a) of the Merger Agreement states, in relevant part:

> (a) General Prohibitions. Neither the Company nor any of its Subsidiaries shall, nor shall the Company or any of its ***Subsidiaries authorize or permit any of its or their officers, directors, employees, investment bankers, attorneys, accountants, consultants or other agents or advisors ("Representatives") to, directly or indirectly, (i) solicit, initiate or take any action to knowingly facilitate or encourage the submission of any***

Acquisition Proposal, (ii) enter into or participate in any discussions or negotiations with, furnish any information relating to the Company or any of its Subsidiaries or afford access to the business, properties, assets, books or records of the Company or any of its Subsidiaries to, otherwise cooperate in any way with, or knowingly assist, participate in, facilitate or encourage any effort by any Third Party that is seeking to make, or has made, an Acquisition Proposal, (iii) fail to make, withdraw or modify in a manner adverse to Parent the Company Board Recommendation (or recommend an Acquisition Proposal or take any action or make any statement inconsistent with the Company Board Recommendation) (any of the foregoing in this clause (iii), an "Adverse Recommendation Change"), (iv) grant any waiver or release under any standstill or similar agreement with respect to any class of equity securities of the Company or any of its Subsidiaries, (v) approve any transaction under, or any Person becoming an "interested stockholder" under, Section 203 of Delaware Law or (vi) enter into any agreement in principle, letter of intent, term sheet, merger agreement, acquisition agreement, option agreement or other similar instrument relating to an Acquisition Proposal. It is agreed that any violation of the restrictions on the Company set forth in this Section by any Representative of the Company or any of its Subsidiaries shall be a breach of this Section by the Company.

[Emphasis added].

31. Section 7.04 of the Merger Agreement goes on to state that Avocent must notify Emerson of any proposals, offers, or any overtures of interest from other potential suitors and it must provide the identity of those potential suitors. Section 7.04(c) of the Merger Agreement states, in relevant part:

(c) Required Notices. The Board of Directors shall not take any of the actions referred to in Section 7.04 unless the Company shall have delivered to Parent a prior written notice advising Parent that it intends to take such action, and, after taking such action, the Company shall continue to advise Parent on a reasonably current basis of the status and material terms of any discussions and negotiations with the Third Party. In addition, ***the Company shall notify Parent promptly (but in no event later than 24 hours) after receipt by the Company (or any of its Representatives) of any Acquisition Proposal, any express indication that a Third Party is considering making an Acquisition Proposal, or any request for information relating to the Company or any of its***

Subsidiaries or for access to the business, properties, assets, books or records of the Company or any of its Subsidiaries by any Third Party that would reasonably be expected to lead to, result in or facilitate the making of an Acquisition Proposal. The Company shall provide such notice orally and in writing and shall identify the Third Party making, and the terms and conditions of, any such Acquisition Proposal, indication or request. The Company shall keep Parent reasonably informed, on a reasonably current basis, of the status and material terms of any such Acquisition Proposal, indication or request and shall promptly (but in no event later than 24 hours after receipt) provide to Parent copies of all correspondence and written materials sent or provided to the Company or any of its Subsidiaries that describe any terms or conditions of any Acquisition Proposal (as well as written summaries of any oral communications addressing such matters). Any material amendment to any Acquisition Proposal will be deemed to be a new Acquisition Proposal for purposes of the Company's compliance with this Section 7.04(c).

[Emphasis added].

32. Furthermore, Section 7.04 of the Merger Agreement gives Emerson the opportunity to counter any "Superior Proposal" that is made for Avocent. Section 7.04(d) of the Merger Agreement states, in relevant part:

(d) "Last Look." Further, the Board of Directors shall not make an Adverse Recommendation Change in response to an Acquisition Proposal unless (i) such Acquisition Proposal constitutes a Superior Proposal, (ii) ***the Company promptly notifies Parent in writing at least five (5) Business Days before taking that action of its intention to do so, which notice shall attach the most current version of the proposed agreement under which the transaction contemplated by such Superior Proposal is proposed to be consummated and the identity of the Third Party making the Acquisition Proposal, and (iii) Parent does not make, within the foregoing five (5) Business Day period, a binding offer capable of being accepted by the Company that in the good faith judgment of the Board of Directors is at least as favorable to the stockholders of the Company (in their capacity as such) as such Superior Proposal*** (it being understood and agreed that any amendment to the financial terms or other material terms of such Superior Proposal shall require a new written notification from the Company and a new five (5) Business Day period under this Section 7.04(d)).

[Emphasis added].

33. The Merger Agreement also grants Emerson an irrevocable one time option (the "Top-Up Option") to purchase an aggregate number of Avocent shares that, when added to the shares already beneficially owned by Emerson, constitutes one share more than 90% of the Avocent shares outstanding. The Top-Up Option is only exercisable after shares have been purchased pursuant to the Tender Offer and Emerson will pay the same offering price for each Avocent share acquired pursuant to the Top-Up Provision. Section 2.04 of the Merger Agreement states, in relevant part:

> *Top-Up Option.* (a) Subject to Sections 2.04(b) and 2.04(c), the Company grants to Merger Subsidiary, an irrevocable option, for so long as this Agreement has not been terminated pursuant to the provisions hereof (the "Top-Up Option"), ***to purchase from the Company, up to the number of authorized and unissued Shares equal to the number of Shares that, when added to the number of Shares owned by Merger Subsidiary at the time of the exercise of the Top-Up Option, constitutes at least one Share more than 90% of the Shares that would be outstanding immediately after the issuance of all Shares to be issued upon exercise of the Top-Up Option,*** calculated on a fully-diluted basis or, at Parent's election, on a primary basis at the Effective Time (such Shares to be issued upon exercise of the Top-Up Option, the "Top-Up Shares").

[Emphasis added].

34. Section 12.04 of the Merger Agreement contains a "Termination Fee" of $35 million, 2.9% of the $1.2 billion that will be paid to shareholders for their stock, as another deal protection device. Moreover, Avocent may be required to reimburse Emerson $7.5 million for out-of-pocket fees and expenses. Moreover, the Termination Fee is payable even in the event the Board terminates the Merger Agreement pursuant to the lawful exercise of its fiduciary duty, which reinforces the notion that the Termination Fee is an improper deterrent to the Board's seeking the best possible price for Avocent's shareholders.

35. These acts, combined with other defensive measures the Company has in place, effectively preclude any other bidders who might be interested in paying more than Emerson for the Company, and have the effect of limiting the ability of the Company's stockholders to obtain the best price for their shares.

36. On October 15, 2009, Avocent filed its Solicitation Statement with the SEC recommending the Proposed Transaction. As alleged below, the Solicitation Statement omits material information about the Proposed Transaction that must be disclosed to Avocent's shareholders to enable them to render an informed decision as to whether to tender their shares. This omitted information, if disclosed, would significantly alter the total mix of information available to the average holder of Acocent's stock.

37. The Solicitation Statement omits material information with respect to the process and events leading up to the Proposed Transaction, as well as the opinion and analyses of Avocent's financial advisors:

a. The Solicitation Statement is materially misleading in that it fails to explain the amount or nature of future investment banking or other financial services that Morgan Stanley & Co. Incorporated ("Morgan Stanley") is currently providing or expects to provide to Avocent, Emerson, or both. Moreover, the Solicitation Statement is materially misleading in that it fails, in any fashion, to quantify the anticipated fees and revenues to Morgan Stanley for the provision of these services. A reasonable shareholder would find this information material in assessing the ability of Morgan Stanley to render an impartial fairness opinion, as well as how much of Morgan Stanley's significant $16.5

million compensation is contingent upon the delivery of a fairness opinion in favor of a acquisitive transaction;

b. The Solicitation Statement is materially misleading in that it fails to disclose critical information concerning the Discounted Cash Flow Analysis conducted by Morgan Stanley. On one hand, the Solicitation Statement provides a set of financial forecasts prepared by management considered by Morgan Stanley in connection with the analyses underlying its fairness opinion. On the other hand, the Solicitation Statement provides that management adjusted those forecasts at least once during the process leading up to the Board's approval of the Merger Agreement. Nowhere in the Solicitation Statement, however, are any of the management's original forecasts disclosed. Likewise, the Solicitation Statement fails to disclose what effect these "adjustments" had on the forecast. If, in fact, the adjustments were negative in nature, this information is particularly material because the consideration being offered in the Proposed Transaction appears to be at the low end of the range of values resulting from Morgan Stanley's Discounted Cash Flow Analysis. Any downward adjustment in these forecasts would have had the effect of skewing the resulting range of values downward, thus making the deal price appear to fall within a range of fairness. Put another way, without these "adjustments," it is likely that the consideration being offered by Emerson and approved by the Avocent Board would not be fair based on the range of values indicated by the Discounted Cash Flow Analysis. The Solicitation Statement discloses projections of revenue, gross margin, and operating margin; however the level of disclosure is inadequate for an investor to calculate net cash flow. Without disclosing projections of

net cash flow, forecasts of tax rates, deferred taxes, working capital adjustments, and capital spending requirements are necessary for shareholders to better understand the discounted cash flow analysis performed by Morgan Stanley. The Solicitation Statement also is materially misleading in that it fails to disclose the key assumptions underlying Morgan Stanley's selection of discount rates and implied perpetuity growth rates. The Solicitation Statement also does not disclose whether Morgan Stanley considered, or management prepared, various cases or scenarios for the financial forecasts;

c. The Solicitation Statement discloses that during a meeting on October 4, 2009, the day before the Board approved the Proposed Transaction, the Board considered a new proposal regarding the treatment of certain Company equity awards. The Solicitation Statement, however, fails to disclose any details concerning this discussion, the proposal by Emerson, or the financial impact it would have upon the Company's management and directors. The Solicitation Statement is materially misleading in that regard, as a reasonable shareholder would find such information material, especially considering the fact that it could have a direct affect on the people negotiating and approving a deal with Emerson, and place their interests at odds with the Company's other shareholders;

d. The Solicitation Statement is materially misleading in that it fails to describe or quantify the synergies considered by Morgan Stanley and the Avocent Board in approving the Merger Agreement. This information is material to stockholders who wish to understand and confirm, among other things, the value to them of the

Company being acquired by a synergistic buyer that can offer increased consideration, and whether such factors were considered by the Board under the circumstances;

e. The Solicitation Statement is materially misleading in that it does not disclose why the Board deemed it appropriate to approve a merger agreement with such a high, combined termination fee and expense provision after abandoning a provision that required a post-signing market check. A reasonable shareholder would find this information material because the excessive termination fee and expense provisions serve to deter potential third party buyers who otherwise may have pursued negotiations with the Company before the Merger Agreement was approved or as the result of a post-signing market check;

f. The Solicitation Statement is materially misleading in that it fails to disclose certain critical information concerning the Comparable Companies Analysis performed by Morgan Stanley in connection with its Fairness Opinion in support of the Proposed Transaction. Specifically, the Solicitation Statement is materially misleading in that it fails to disclose sufficient information concerning the selection criteria for the companies considered. The Solicitation Statement also critically fails to disclose which if any, companies Morgan Stanley excluded from this analysis and for what reason. The Solicitation Statement indicates that Morgan Stanley analyzed price per share ("P") divided by calendar year 2010 estimated earnings per share ("EPS") to derive the implied value of Avocent, but it does not indicate the rationale for the selection of this valuation metric or why pricing multiples of other operating measures such as revenue; earnings before interest, taxes, depreciation, and amortization ("EBITDA"); operating income; or

book value were not observed. Morgan Stanley also failed to disclose the individual multiples for each comparable company or its rationale in selecting a P / 2010 EPS range of 9.0x-11.0x to apply to Avocent's estimated EPS. This selected range does not provide an independent investor enough information to determine whether this multiple range is appropriate because Morgan Stanley fails to disclose summary statistics or any other information regarding the observed comparable company pricing multiples;

g. The Solicitation Statement discloses that Morgan Stanley performed a Leveraged Buyout ("LBO") Analysis based on forecasts of 2015 EBITDA and 2014 cash and debt balances, however the source or basis of these forecasts is not disclosed. The Solicitation Statement only discloses revenue and margin projections through 2012. If projections exist beyond 2012, it is important that these forecasts are made available to shareholders. The LBO analysis contains the selection of a 6.0x -7.0x multiple of 2015 EBITDA for a financial sponsor to monetize its investment in Avocent, yet Morgan Stanley fails to disclose the rationale behind this selected range;

h. The Solicitation Statement contains disclosure of Morgan Stanley's Premia Paid Analysis. However, this analysis is materially insufficient because it omits the inclusion of premia paid to acquire companies comparable to Avocent. Morgan Stanley selected a premium range of 25% to 50% based on all observed cash transactions since September 2007, but failed to disclose summary statistics or other information regarding the observed premia. It is material for shareholders to have knowledge of the detailed observations and/or summary statistics of these observed transactions to determine whether Morgan Stanley's selected range is appropriate. The

Solicitation Statement omits any mention of a precedent transaction analysis performed by Morgan Stanley to analyze pricing multiples paid in acquisitions of target companies deemed comparable to Avocent. Precedent transactions analyses are ordinarily and customarily included as part of a fairness opinion, and the absence of any such analysis in this instance is noteworthy. It is material for Morgan Stanley to disclose why it did not consider or review transactions of target companies in the information technology infrastructure space. Pricing indications from transactions involving comparable targets would provide shareholders material information to evaluate the tender offer and determine whether or not to tender their shares; and

i. The Solicitation Statement discloses generic projections concerning anticipated synergies to be realized in a potential acquisition of Avocent. In light of this speculation, the Solicitation Statement is materially misleading in that it fails to disclose the actual projected synergies to be gained by the proposed acquisition of the Company by Emerson. This information is material to a reasonable stockholder trying to determine whether Board obtained the best price reasonably available by understanding the potential cost savings that will be realized through the Proposed Transaction and whether those savings could have resulted in higher per share consideration for the Company.

COUNT I

(Breach of Fiduciary Duty against the Individual Defendants)

38. Plaintiff repeats and re-alleges the preceding allegations as if fully set forth herein.

39. As members of the Company's board of directors, the Individual Defendants have fiduciary obligations to: (a) undertake an appropriate evaluation of Avocent's net worth as a merger/acquisition candidate; (b) take all appropriate steps to enhance Avocent's value and attractiveness as a merger/acquisition candidate; (c) act independently to protect the interests of the Company's public shareholders; (d) adequately ensure that no conflicts of interest exist between the Individual Defendants' own interests and their fiduciary obligations, and, if such conflicts exist, to ensure that all conflicts are resolved in the best interests of Avocent's public shareholders; (e) actively evaluate the Proposed Transaction and engage in a meaningful auction with third parties in an attempt to obtain the best value on any sale of Avocent; and (f) disclose all material information in soliciting shareholder approval of the Proposed Transaction.

40. The Individual Defendants have breached their fiduciary duties to plaintiff and the Class.

41. As alleged herein, defendants have initiated a process to sell Avocent that undervalues the Company and vests them with benefits that are not shared equally by Avocent's public shareholders – a clear effort to take advantage of the temporary depression in Avocent's stock price caused by the current economic conditions. In addition, by agreeing to the Proposed Transaction, defendants have capped the price of Avocent at a price that does not adequately reflect the Company's true value. Defendants also failed to sufficiently inform themselves of Avocent's value, or disregarded the true value of the Company, in an effort to benefit themselves. Furthermore, any alternate

acquirer will be faced with engaging in discussions with a management team and board that is committed to the Proposed Transaction.

42. As such, unless the Individual Defendants' conduct is enjoined by the Court, they will continue to breach their fiduciary duties to plaintiff and the other members of the Class, and will further a process that inhibits the maximization of shareholder value.

43. Plaintiff and the members of the Class have no adequate remedy at law.

COUNT II

(Breach of the Fiduciary Duty of Disclosure against the Individual Defendants)

44. Plaintiff repeats and re-alleges the preceding allegations as if fully set forth herein.

45. Defendants have already caused materially misleading and incomplete information to be disseminated to the Company's public shareholders. Defendants have an obligation to be complete and accurate in their disclosures.

46. The Solicitation Statement fails to disclose material financial information, including financial information and information necessary to prevent the statements contained therein from being misleading.

47. The misleading omissions and disclosures by defendants concerning information and analyses presented to and considered by the Board and its advisors affirm the inadequacy of disclosures to the Company's shareholders. Because of defendants' failure to provide full and fair disclosure, plaintiffs and the Class will be

stripped of their ability to make an informed decision on whether to vote in favor of the Proposed Transaction, and thus are damaged thereby.

48. Plaintiff and the members of the Class have no adequate remedy at law.

COUNT III

(Aiding and Abetting the Board's Breaches of Fiduciary Duty against Avocent and Emerson)

49. Plaintiff repeats and re-alleges the preceding allegations as if fully set forth herein.

50. Defendants Avocent and Emerson knowingly assisted the Individual Defendants' breaches of fiduciary duty in connection with the Proposed Transaction, which, without such aid, would not have occurred. In connection with discussions regarding the Proposed Transaction, Avocent provided, and Emerson obtained, sensitive non-public information concerning Avocent's operations and thus had unfair advantages which enabled it to acquire the Company at an unfair and inadequate price.

51. As a result of this conduct, plaintiff and the other members of the Class have been and will be damaged in that they have been and will be prevented from obtaining a fair price for their Avocent shares.

52. Plaintiff and the members of the Class have no adequate remedy at law.

WHEREFORE, plaintiff prays for judgment and relief as follows:

A. Ordering that this action may be maintained as a class action and certifying plaintiff as the Class representative;

B. Preliminarily and permanently enjoining defendants and all persons acting in concert with them, from proceeding with, consummating, or closing the Proposed Transaction;

C. In the event defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding rescissory damages to plaintiff and the Class;

D. Directing defendants to account to plaintiff and the Class for their damages sustained because of the wrongs complained of herein;

E. Awarding plaintiff the costs of this action, including reasonable allowance for plaintiff's attorneys' and experts' fees; and

F. Granting such other and further relief as this Court may deem just and proper.

Dated: October 20, 2009

RIGRODSKY & LONG, P.A.

By: */s/ Brian D. Long*

Seth D. Rigrodsky (#3147)
Brian D. Long (#4347)
Timothy J. MacFall
919 N. Market Street, Suite 980
Wilmington, DE 19801
(302) 295-5310

Attorneys for Plaintiff

OF COUNSEL:

GLANCY BINKOW & GOLDBERG LLP
Lionel Z. Glancy
Richard A. Maniskas
1801 Avenue of the Stars, Suite 311
Los Angeles, CA 90067
(310) 201-9150