



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549-3010

February 17, 2009

Gregg M. Larson
Deputy General Counsel and Secretary
3M Company
P.O. Box 33428
St. Paul, MN 55133-3428

Re: 3M Company
Incoming letter dated January 6, 2009

Dear Mr. Larson:

This is in response to your letter dated January 6, 2009 concerning the shareholder proposal submitted to 3M by Nick Rossi. Our response is attached to the enclosed photocopy of your correspondence. By doing this, we avoid having to recite or summarize the facts set forth in the correspondence. Copies of all of the correspondence also will be provided to the proponent.

In connection with this matter, your attention is directed to the enclosure, which sets forth a brief discussion of the Division's informal procedures regarding shareholder proposals.

Sincerely,

Heather L. Maples
Senior Special Counsel

Enclosures

cc: John Chevedden

FISMA & OMB Memorandum M-07-16

February 17, 2009

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: 3M Company
Incoming letter dated January 6, 2009

The proposal asks the board to take the steps necessary to amend the bylaws and each appropriate governing document to give holders of 10% of 3M's outstanding common stock (or the lowest percentage allowed by law above 10%) the power to call special shareowner meetings and further provides that such bylaw and/or charter text shall not have any exception or exclusion conditions (to the fullest extent permitted by state law) that apply only to shareowners but not to management and/or the board.

We are unable to concur in your view that 3M may exclude the proposal under rule 14a-8(i)(2). Accordingly, we do not believe that 3M may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(2).

We are unable to concur in your view that 3M may exclude the proposal under rule 14a-8(i)(3). Accordingly, we do not believe that 3M may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(3).

We are unable to concur in your view that 3M may exclude the proposal under rule 14a-8(i)(6). Accordingly, we do not believe that 3M may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(6).

We are unable to concur in your view that 3M may exclude the proposal under rule 14a-8(i)(10). Accordingly, we do not believe that 3M may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(10).

Sincerely,

Julie F. Bell
Attorney-Adviser

**DIVISION OF CORPORATION FINANCE
INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS**

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matters under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the Company in support of its intention to exclude the proposals from the Company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes administered by the Commission, including argument as to whether or not activities proposed to be taken would be violative of the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversary procedure.

It is important to note that the staff's and Commission's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholder proposals in its proxy materials. Accordingly a discretionary determination not to recommend or take Commission enforcement action, does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the management omit the proposal from the company's proxy material.

Gregg M. Larson
Deputy General Counsel and
Secretary

3M Legal Affairs
Office of General Counsel

P.O. Box 33428
St. Paul, MN 55133-3428 USA
Phone: (651) 733-2204
Fax: (651) 737-2553
Email: gmlarson@mmm.com



January 6, 2009

1934 Act/Rule 14a-8

Via Electronic Mail (shareholderproposals@sec.gov)

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: 3M Company Stockholder Proposal submitted by Nick Rossi

Ladies and Gentlemen:

This letter is submitted by 3M Company, a Delaware corporation (“3M” or the “Company”), pursuant to Rule 14a-8(j) of the Securities Exchange Act of 1934, as amended, to notify the Securities and Exchange Commission (the “Commission”) of 3M’s intention to exclude from its proxy materials for its 2009 Annual Meeting of Stockholders (the “Annual Meeting”) a stockholder proposal (the “Proposal”) submitted by Nick Rossi (the “Proponent”) and received by 3M on October 29, 2008. Mr. Rossi has appointed Mr. John Chevedden to act on his behalf. 3M requests confirmation that the staff of the Division of Corporation Finance (the “Staff”) will not recommend to the Commission that enforcement action be taken if 3M excludes the Proposal from its Annual Meeting proxy materials pursuant to Rule 14a-8(i)(2), Rule 14a-8(1)(3), Rule 14a-8(i)(6) and Rule 14a-8(i)(10) of the Securities Exchange Act of 1934.

The Proposal stipulates the following:

“Resolved, Shareowners ask our board to take the steps necessary to amend our bylaws and each appropriate governing document to give holders of 10% of our outstanding common stock (or the lowest percentage allowed by law above 10%) the power to call special shareowner meetings. This includes that such bylaw and/or charter text will not have any exception or exclusion conditions (to the fullest extent permitted by state law) that apply only to shareowners but not management and/or the board.”

A copy of the Proposal, including its supporting statement, is attached to this letter as Exhibit A.

3M intends to file its definitive proxy materials for the Annual Meeting on or about March 27, 2009. In accordance with Staff Legal Bulletin 14D, this letter and its exhibits

are being submitted via email. A copy of this letter and its exhibits will also be sent to the Proponent's agent.

The Proposal May Properly Be Excluded under Rule 14a-8(i)(10) Because It Has Been Substantially Implemented

A. Rule 14a-8(i)(10) Background

The Proposal may be excluded pursuant to Rule 14a-8(i)(10) because it has already been substantially implemented by the Company. In 1983, the Commission adopted the "substantially implemented" test. Exchange Act Release No. 34-20091 (August 23, 1983). Under that test, proposals are considered substantially implemented when a Company's current policies and practices reflect or are consistent with "the intent of the proposal." *Aluminum Company of America* (January 16, 1996). This exclusion "is designed to avoid the possibility of shareholders having to consider matters which have already been favorably acted upon by the management." Exchange Act Release No. 34-12598 (July 7, 1976). In applying this rule, the Commission has indicated that a proposal need not be "fully effected" by the company in order to be excluded as substantially implemented. Exchange Act Release No. 20091. The Staff noted that "a determination that the [c]ompany has substantially implemented the proposal depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal." *Texaco, Inc.* (March 28, 1991). Accordingly, substantial implementation under Rule 14a-8(1)(10) requires that a company's actions satisfactorily address the underlying concerns of the proposal and that the "essential objective" of the proposal has been addressed. *Borders Group Inc.* (March 11, 2008); *3M Company* (February 27, 2008); *Johnson & Johnson* (February 17, 2006); *AMR Corporation* (April 17, 2000).

B. 2007 Proposal and Subsequent Amendment to By-laws

In 2007, 3M received a shareholder proposal, also from an associate of Mr. Chevedden, proposing that the Board of Directors amend the Company bylaws and other appropriate governing documents to give "holders of a reasonable percentage of [Company] outstanding common stock the power to call a special shareholder meeting" (the "2007 Proposal"). The 2007 Proposal went on to state that it "favors 10% of [the Company] outstanding stock to call a special shareholder meeting." The Commission concurred with the Company's argument that this proposal could be excluded from the proxy materials under rule 14-8(i)(10) as being substantially implemented because the Company pledged it would "in the near future consider adoption of an amendment [to the bylaws] that substantially implements the proposal" by giving stockholders of 25% of outstanding shares the power to call a special meeting. *3M Company* (Feb. 27, 2008).

On February 11, 2008, the Board of Directors of 3M approved an amendment to the Company's Amended and Restated Bylaws (the "Bylaws") which allowed a special

meeting of stockholders to be called upon written request “of one or more record holders of shares of stock of the Corporation representing in the aggregate not less than twenty-five percent (25%) of the total number of shares of stock entitled to vote on the matter or matters to be brought before the proposed special meeting.” The Bylaw amendment imposed certain procedural requirements on a stockholder or stockholders attempting to call such a meeting. The amendment to the Bylaws was made public in the Company’s Form 8-K filing on February 11, 2008. A copy of the current version of the Bylaws is attached as Exhibit B.

C. *The Proposal Has Been Substantially Implemented by the Amendment to the Bylaws.*

The February 11, 2008 amendment to the Bylaws directly addresses the underlying concerns and implements the “essential objective” of the Proposal. As noted above, the Commission statements and Staff precedent confirm that a proposal need not be fully effected or correspond precisely to what the company has done as long as the “essential objective” has been achieved. The objective of the Proposal is to give stockholders the power to call special stockholder meetings. The Bylaws, as amended and restated on February 11, 2008, provide for that power and hence fulfill the “essential objective” of the Proposal. Therefore, the Proposal has been substantially implemented and need not be included in the proxy materials for the Annual Meeting.

Exclusion of the Proposal is consistent with the Staff’s position in *Borders Group, Inc.* (March 11, 2008). In *Borders*, the Board of Directors received a proposal requesting that the board amend the appropriate governing documents in order to have “no restriction” on the shareholder right to call a special meeting. In the prior year, and in response to a shareholder proposal that proposed an amendment to the bylaws to give shareholders owning 10% to 25% of outstanding shares the right to call a special shareholder meeting, the Borders board had amended the bylaws to give shareholders of 25% of the shares the right to call a special shareholder meeting. Borders therefore argued, and the Staff concurred, that the current proposal to amend the bylaws to have no restrictions on a shareholder’s right to call a special meeting was substantially implemented under Rule 14a-8(i)(10) by the prior year’s amendment. The amendment did not mirror the proposal exactly because the proposal demanded no restrictions at all and the amendment gave only those shareholders owning at least 25% of outstanding shares the right to call a special meeting. Nevertheless, the Staff concurred that in approving the amendment, Borders had already implemented the essential objective of the proposal which was to provide the opportunity of shareholders to call a special meeting.

The facts in 3M’s case are analogous to, and even stronger than, those in *Borders* because, although the Bylaws do not already provide for the exact percentage of share ownership that the Proposal requests, they implement its essential objective in that they give shareholders the opportunity to call a special meeting. Moreover, the facts show that the 3M amendment aligns more closely with the Proposal and therefore is closer to more

fully effecting the Proposal than the amendment at issue in *Borders*. In *Borders*, the proposal called for no restriction (i.e., shareholders holding any amount of shares could call a meeting) and the bylaws provided for 25% of shares. In our case, the Proposal calls for 10% of shares and the Bylaws currently provide for 25% of shares. In *Borders* there was, therefore, a 25% difference between what the Proposal requested and what the company had implemented and the Staff nevertheless concluded the proposal was substantially implemented. In our case, the difference is only 15%.

The result in *Borders* is to be contrasted with the Staff's decision in *CSX Corporation* (March 13, 2008). In *CSX*, the Staff failed to grant no-action relief where the registrant received a similar proposal after approving an amendment to the bylaws. The difference between our case and *CSX* is that in *CSX*, the proposal requested that the bylaws be amended to give shareholders owning no less than 15% of the stock the right to call special shareholder meetings, but also stated that the current provision of the bylaws "be deleted and replaced in its entirety with the language set forth." The proposal then quoted specific language for the company to use in the amendment. This language included a statement that the provision could only be repealed or amended by the shareholders. The company was in the process of amending the bylaws to give shareholders owning 15% the power to call meetings (which was the requested percentage) and requested no-action relief based on this proposed amendment. The argument failed however because the proposed amendment did not use the exact language that the proposal requested. Further, it did not provide for a flat prohibition on repealing or amending the provision absent shareholder approval. Finally, the *CSX* amendment included additional procedural, informational and timing limitations which were not in the proposal and which added additional restrictions on the shareholders' ability to call special meetings. Unlike *CSX*, our Proposal does not set forth required language, nor does it demand a prohibition on amending the provision. The Proposal only asks we amend the appropriate governing documents to give shareholders the power to call special shareholder meetings. We have substantially implemented this essential objective of the Proposal.

The Proposal May Properly Be Excluded under Rule 14a-8(i)(3) Because It Is Inherently Vague and Indefinite

Rule 14a-8(i)(3) permits the exclusion of a proposal if the proposal or the supporting statement is contrary to the Commission's proxy rules, including Rule 14a-9. The staff has stated that under Rule 14a-8(i)(3), a company may exclude a proposal from its proxy materials where "the resolution contained in the proposal is so inherently vague or indefinite that neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires..." *Staff Legal Bulletin No. 14B* (September 15, 2004). Additionally, the Staff has concurred that a proposal may be excluded where "any action ultimately taken by the [c]ompany upon implementation [of the proposal] could be significantly different from the actions envisioned by the stockholders voting on the proposal." *Fuqua Industries, Inc.* (March 12, 1991).

Portions of the Proposal are so inherently vague that the shareholders voting on the Proposal will not know exactly what the Proposal is requesting, nor will the Company know how to implement the Proposal should it be passed. In 2008, the staff determined that several shareholder proposals requesting the Board of a company to “amend our by-laws and/or any other appropriate governing documents in order that there is no restriction on the shareholder right to call a special meeting, compared to the standard allowed by applicable law on calling a special meeting” could be excluded under Rule 14a-8(i)(3) as being vague and unclear. *See, e.g., CVS Caremark Corp.* (February 22, 2008); *Schering Plough Corp.* (February 22, 2008). While the Proposal is more clear in one respect than these proposals in that it would require a specific percentage of outstanding shares (i.e., 10%), the second sentence is so unclear that the Company would not know how to implement the Proposal.

The second sentence would require that the Bylaws and appropriate governing documents be amended so that they will not “have any exception or exclusion conditions (to the fullest extent permitted by state law) that apply only to shareowners but not management and/or the board.” The Bylaws currently include procedures that govern how a stockholder owning the requisite number of shares must go about calling a meeting, which include sending a request to the Secretary setting forth the matter of business desired to be brought before the special meeting and stating the class and number of the shares owned by the stockholder. It is unclear how, if at all, the second sentence of the Proposal would have an impact on our current Bylaws. Would implementation of that sentence require the Company to eliminate the procedural standards currently included in the Bylaws, as these apply only to stockholders requesting a meeting and not to management or the Board? Are these procedural standards an “exception or exclusion condition” within the meaning of the Proposal? Is the “exception or exclusion conditions” language instead aimed at restricting the ability of the Company to limit the subject matter of meetings that would be requested by stockholders under this provision of the Bylaws? Is it intended that neither procedural nor substantive restrictions be permitted? Is some other meaning intended? The Proposal is simply not clear. If stockholders were to approve the Proposal, there would be considerable uncertainty as to what the Company would have to do in order to implement it. This is precisely the type of situation, contemplated by Staff Legal Bulletin 14B, in which a Proposal may be excluded per Rule 14a-8(i)(3) on the ground that it is inherently vague or indefinite.

The Proposal May Properly Be Excluded under Rule 14a-8(i)(2) Because Its Implementation Would Violate State Law

As noted above, the Proposal is unclear in critical respects and may, for that reason, be excluded under Rule 14a-8(i)(3) because it is inherently vague and indefinite. One point that is clear about the Proposal, however, is that it is intended that at least one “exception or exclusion” condition will apply. The one “exception or exclusion condition”

that clearly applies, because it is described in the first sentence of the Proposal, is that shareholders must own at least 10% of the Company's outstanding common stock in order to call such a meeting. Pursuant to the second sentence of the Proposal, any exception or exclusion condition that applies to the stockholders must also apply to management and the Board. Accordingly, implementation of the Proposal would require that management and the Board not be permitted to call a special meeting unless they collectively hold more than 10% of the Company's common stock.

Implementation of the Proposal in this manner would, however, violate the law of Delaware, the state in which the Company is incorporated. The ability to call special meetings is a core power reserved to the Board and cannot be limited in the manner contemplated by the Proposal. The opinion of Richards, Layton & Finger, P.A. (the "Richards, Layton Opinion"), attached hereto as Exhibit C, provides an analysis of Delaware law in support of this position. In relevant part, the Richards, Layton Opinion states:

In considering whether implementation of the Proposal would violate Delaware law, the relevant question is whether a provision conditioning the Board's power to call special meetings on the directors' ownership of at least 10% of the outstanding common stock would be valid if included in the Certificate of Incorporation or Bylaws. In our opinion, such a provision, whether included in the Certificate of Incorporation or Bylaws, would be invalid.

As this issue is discussed further in the Richards, Layton Opinion, that discussion is hereby incorporated in this letter and will not be repeated here.

The Proposal May Properly Be Excluded under Rule 14a-8(i)(6) Because the Company Lacks the Power to Implement it

As described above and in the Richards, Layton Opinion, implementation of the Proposal would result in a violation of Delaware law. Accordingly, the Proposal may also be excluded pursuant to Rule 14a-8(i)(6) because the Company lacks the power or authority to implement it. The Staff has previously stated that a proposal may be excluded pursuant to Rule 14a-8(i)(6) if its implementation would result in a violation of law. *See, e.g., Burlington Resources Inc.*, (Feb. 7, 2003).

Conclusion

Based on the foregoing, I respectfully request your concurrence that the Proposal may be excluded from 3M's Annual Meeting proxy materials. If you have any questions

U.S. Securities and Exchange Commission
January 6, 2009
Page 7

regarding this request or desire additional information, please contact me at (651) 733-2204.

Sincerely,

/s/ Gregg M. Larson
Deputy General Counsel and Secretary

Attachments

cc: John Chevedden (Proponent's designated agent)

EXHIBIT A

PROPOSAL OF NICK ROSSI

**COMMUNICATIONS BETWEEN THE COMPANY AND
THE PROPONENT'S AGENT**



olmsted

*FISMA & OMB Memorandum M-07-16***

10/29/2008 07:40 PM

To Gregg Larson <gmlarson@mmm.com>

cc

bcc

Subject Rule 14a-8 Proposal (MMM) SPM

History: This message has been forwarded.

Please see the attachment.

Sincerely,
John Chevedden



CCE00004.pdf



Nick Ross

FISMA & OMB Memorandum M-07-16

Mr. George W. Buckley
Chairman
3M Company (MMM)
3M Center
St. Paul MN 55144

Rule 14a-8 Proposal

Dear Mr. Buckley,

This Rule 14a-8 proposal is respectfully submitted in support of the long-term performance of our company. This proposal is for the next annual shareholder meeting. Rule 14a-8 requirements are intended to be met including the continuous ownership of the required stock value until after the date of the respective shareholder meeting and the presentation of this proposal at the annual meeting. This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication. This is the proxy for John Chevedden and/or his designee to act on my behalf regarding this Rule 14a-8 proposal for the forthcoming shareholder meeting before, during and after the forthcoming shareholder meeting. Please direct all future communications to John Chevedden

FISMA & OMB Memorandum M-07-16

to facilitate prompt communications and in order that it will be verifiable that communications have been sent.

Your consideration and the consideration of the Board of Directors is appreciated in support of the long-term performance of our company. Please acknowledge receipt of this proposal promptly by email.

Sincerely,

Nick Ross 10/6/08

cc: Gregg M. Larson <gmlarson@mmm.com>
Corporate Secretary
PH: 651 733-1110
FX: 651 733-9973
FX: 651-737-3061
FX: 651-737-2553

FILE COPY

[MMM: Rule 14a-8 Proposal, October 29, 2008]

3 – Special Shareowner Meetings

RESOLVED, Shareowners ask our board to take the steps necessary to amend our bylaws and each appropriate governing document to give holders of 10% of our outstanding common stock (or the lowest percentage allowed by law above 10%) the power to call special shareowner meetings. This includes that such bylaw and/or charter text will not have any exception or exclusion conditions (to the fullest extent permitted by state law) that apply only to shareowners but not to management and/or the board.

Statement of Nick Rossi

Special meetings allow shareowners to vote on important matters, such as electing new directors, that can arise between annual meetings. If shareowners cannot call special meetings, management may become insulated and investor returns may suffer. Shareowners should have the ability to call a special meeting when a matter is sufficiently important to merit prompt consideration.

In 2008 our company adopted a weak provision for 25% of shareholders to call a special meeting that put limits on calling such a meeting for the election of directors. Reference: *3M Company* (February 27, 2008) no action letter available through SECnet <http://secnet.cch.com>.

This proposal topic won impressive support (based on 2008 yes and no votes) at the following companies:

Occidental Petroleum (OXY)	66%	Emil Rossi (Sponsor)
FirstEnergy Corp. (FE)	67%	Chris Rossi
Marathon Oil (MRO)	69%	Nick Rossi

The merits of this Special Shareowner Meetings proposal should also be considered in the context of the need for further improvements in our company's corporate governance and in individual director performance. In 2008 the following governance and performance issues were identified:

- The Corporate Library (TCL) www.thecorporatelibrary.com, an independent investment research firm, rated our company:
 - “D” overall.
 - “High Governance Risk Assessment.”
 - “High Concern” in Executive Pay.
- Vance Coffman and James Farrell were each designated as “Problem Directors” by TCL:
 - Coffman due to involvement with Bristol-Myers and a SEC lawsuit charging substantial accounting fraud.
 - Farrell due to involvement with UAL Corporation prior to its bankruptcy.
- Five directors were designated “Accelerated Vesting” directors by TCL due to involvement with accelerating stock option vesting to avoid recognizing the related expense:
 - Aulana Peters
 - Linda Alvarado
 - Herbert Henkel
 - Robert Morison
 - George Buckley
- We had no shareholder right to:
 - Cumulative voting.
 - To act by written consent.
 - An Independent Chairman.
- Our directors also served on these boards rated “D” by The Corporate Library:

Aulana Peters	Merrill Lynch (MER)
Aulana Peters	Northrop Grumman (NOC)
Aulana Peters	Deere (DE)
Vance Coffman	Deere (DE)
Linda Alvarado	Lennox International (LII)
Herbert Henkel	Ingersoll-Rand (IR)
Michael Eskew	International Business Machines (IBM)
Michael Eskew	Eli Lilly (LLY)
James Farrell	Abbott Laboratories (ABT)
Robert Ulrich	Target (TGT)

- Aulana Peters was also on the Merrill Lynch executive pay committee as Merrill's Stanley O'Neal exited with \$161 million after he acquired subprime assets that contributed to \$40 billion in write-downs.

The above concerns shows there is need for improvement. Please encourage our board to respond positively to this proposal:

**Special Shareowner Meetings –
Yes on 3**

Notes:

Nick Rossi, ***FISMA & OMB Memorandum M-07-16***, sponsored this proposal.

The above format is requested for publication without re-editing, re-formatting or elimination of text, including beginning and concluding text, unless prior agreement is reached. It is respectfully requested that this proposal be proofread before it is published in the definitive proxy to ensure that the integrity of the submitted format is replicated in the proxy materials. Please advise if there is any typographical question.

Please note that the title of the proposal is part of the argument in favor of the proposal. In the interest of clarity and to avoid confusion the title of this and each other ballot item is requested to be consistent throughout all the proxy materials.

The company is requested to assign a proposal number (represented by "3" above) based on the chronological order in which proposals are submitted. The requested designation of "3" or higher number allows for ratification of auditors to be item 2.

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including:

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(i)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

See also: Sun Microsystems, Inc. (July 21, 2005).

Stock will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge this proposal promptly by email.



Karen Stanoch-Sawczuk/LA-Legal/3M/US

10/31/2008 03:48 PM

FISMA & OMB Memorandum M-07-16

cc Gregg M. Larson/LA-Legal/3M/US@3M-Corporate

bcc

Subject Correspondence from Gregg Larson - 3M Company

Mr. Chevedden: Please communicate with Gregg Larson directly if you have any questions regarding the attached correspondence. Thank you.

Karen Stanoch Sawczuk
Assistant to Gregg M. Larson

----- Forwarded by Karen Stanoch-Sawczuk/LA-Legal/3M/US on 10/31/2008 03:42 PM -----



"LJ9050mfp Printer at 3M"
<hp4345@mmm.com>

10/31/2008 02:23 PM

To "KSTANOCH-SAWCZUK@MMM.COM"
<Kstanoch-sawczuk@mmm.com>

cc

Subject

This document was digitally sent to you using an HP Digital Sending device.



Document.pdf

Gregg M. Larson
Associate General Counsel and
Secretary

3M Legal Affairs
Office of General Counsel

P.O. Box 33428
St. Paul, MN 55133-3428 USA
Phone: (651) 733-2204
Fax: (651) 737-2553
Email: gmlarson@mmm.com



October 31, 2008

John Chevedden

FISMA & OMB Memorandum M-07-16

Dear Mr. Chevedden:

I received your E-mail on October 29, 2008 containing Nick Rossi's letter to Mr. George W. Buckley regarding a proposal for inclusion in 3M's proxy statement in connection with the 2009 annual meeting. Please send all future shareholder communications directly to my attention at the above E-mail address.

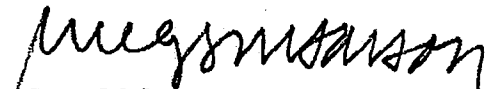
Under the rules of the Securities and Exchange Commission, in order to be eligible to submit a proposal for inclusion in 3M's proxy statement, Mr. Rossi must have continuously held at least \$2,000 in market value for at least one year by the date he submits his proposal, and he must continue to hold these securities through the date of the annual shareholders' meeting.

Since Mr. Rossi is not a registered shareholder, please submit a letter from the brokerage firm who is the record holder, verifying that at the time Mr. Rossi submitted his proposal he continuously held his 3M shares for at least one year. As of the date of this letter, we have not received the written statements from the record holder as required by the SEC rules. Your response correcting these deficiencies must be postmarked, or transmitted electronically, no later than 14 days from the date you receive this correspondence. Failure to provide the information required by the SEC rules within this 14-day time frame will allow 3M to exclude the proposal from its proxy statement.

After receiving proof of ownership, we will provide our position on the proposal.

Please contact me if you have any questions.

Sincerely,


Gregg M. Larson



olmsted

FISMA & OMB Memorandum M-07-16

11/06/2008 06:33 PM

To Gregg Larson <gmlarson@mmm.com>

cc

bcc

Subject Rule 14a-8 Broker Letter (MMM)

History: This message has been forwarded.

Mr. Larson,
Attached is the broker letter requested. Please advise within one business day whether there is any further rule 14a-8 requirement.
Sincerely,
John Chevedden



CCE00010.pdf

3558 Round Barn Blvd, #201
Santa Rosa, CA 95403

toll-free 800 827 2655
direct 707 524 1000
fax 707 524 1099

Morgan Stanley

November 5, 2008

Nick Rossi

FISMA & OMB Memorandum M-07-16

To: Nick Rossi

Post-It® Fax Note	7671	Date	11-6-08	# of pages	▶
To	Gregg Larson		From	John Cheveddon	
Co./Dept.			Co.		
Phone #			Phone #	***FISMA & OMB Memorandum M-07-16***	
Fax #	651-737-2553		Fax #		

All quantities continue to be held without interruption in Nick Rossi's account as of the date of this letter.

Nick Rossi deposited the following certificates to his Morgan Stanley transfer on death account

on the respective dates:
FISMA & OMB Memorandum M-07-16

November 3, 2008

16.00 1 oz coins Platinum American Eagle

April 2, 2008

1000 shares HSBC HOLDINGS PLC SPON ADR NEW 8.125%

May 16, 2002

1,000 shares Hubbell Inc A
1,000 shares Genuine Parts Co.
525 shares General Motors Corp.
500 shares Bethlehem Steel Corp. (Journal out)
1,000 Baker Hughes Inc.
1,652 shares Fortune Brands Inc., received 388 ACCO Brands Corp. – spun off from Fortune Brands on 8-16-2005
1,652 shares Gallaher Group PLC ADR, company bought out, eliminated this holding
452 shares Bank of America Corp. bought an additional 248 shares on 11-25-2003
-2 for 1 split 8-27-2004 now owns 1,400 shares

May 22, 2002

2,000 shares Cedar Fair LP Dep Units
1,883 shares Daimler-Chrysler AG

July 9, 2002

1,000 shares UST Inc.
1,000 shares Teppco Partners LP
2,000 shares Service Corp. Intl
800 shares Maytag Corp, bought by Whirlpool Corp. 4-4-2006, now owns 95 shares Whirlpool Corp
1,000 shares UIL Holdings Corp., 5 for 3 split on 7-3-2006
-Now owns 1,666 shares
1,000 shares Plum Creek Timber Co. Inc. REI
600 shares 3M Company (split 9-29-2003)
500 shares Terra Nitrogen Co LP Com Unit
1,000 shares UGI Corp. New, 3 for 2 split 4-1-2003, received 1,500 shares UGI 5-24-2005 for 2 for 1 split

-Now owns 3,000 shares
580 shares Scottish Power PLC ADR, reorganization received .793 for 1, owned 460 shares
Scottish Power PLC, purchased by Iberdrola, now owns 347 Iberdrola SA Spon ADR
600 shares PG&E Corp.
1,000 shares Unilever PLC (New) ADS, 5-24-2006 9 for 5 split
-Now owns 1,800 shares Unilever PLC (New) ADS
7,593 shares ServiceMaster Co., company was purchased for cash, eliminating position
1,054 shares SBC communications, renamed AT&T
90 shares Neenan Paper Inc. Spun off from Kimberly Clark 11-30-2004

August 15, 2002

300 shares Marathon Oil Co. 6/18/07 stock split 2 for 1 split, now owns 600 shares.

On May 23, 2002 Nick journal into the same account the following:

200 shares Safeway Inc. Com. New
10,000 par value USG Bond 8.50% due 8-1-2005, sold 6-10-2004, eliminated this holding
1,000 shares Bristol Myers Squibb Co., 500 shares Bristol Myers Squibb Co. was purchased on
May 21, 2003. 500 shares Bristol Myers Squibb Co. was purchased April 21, 2004.
1000 shares of Bristol Myers Squibb Co. purchased 8/2/07, sold 1000 shares of Bristol Myers
Squibb Co sold 9/19/07, now owns 2,000 shares of Bristol Myers Squibb Co.

The following deposits and/or purchases as noted were made:

Aegon NV ADR

Deposited 5-16-2002: 1,438 shares
Reinvested Dividends 5-13-2003: 57 shares
Reinvested Dividends 9-23-2005: 29 shares
Reinvested Dividends 9-21-2006: 24 shares
Reinvested Dividends 5-4-2007: 24 shares
Reinvested Dividends 9-14-2007: 33 shares
Reinvested Dividends 5-23-2008: 48 shares
-Now owns 1,656 shares
500 shares of Merck & Co. purchased 10-5-2004
1,000 shares Schering Plough, 500 shares purchased 10-4-2002 and 500 shares purchased 3-6-
2003
1,000 shares Dynegy Inc. (Holding Co.) Class A purchased 12-10-2004, Now Dynegy Inc Del
Class A
800 shares Safeway Inc. Com. New purchased 1-6-2006
500 shares Pfizer Inc. purchased 1-18-2005
500 shares HSBC Holdings PLC Spon ADR New purchased 3-28-2005, additional 500 shares
purchased on 4-21-2005
-Now owns 1,000 shares

All quantities continue to be held in Nick's account as of the date of this letter.

Sincerely,



Mark S Christensen
Financial Advisor

EXHIBIT B

**AMENDED AND RESTATED BYLAWS OF THE
COMPANY**

(as adopted on November 10, 2008)

3M COMPANY

AMENDED AND RESTATED BYLAWS

As Adopted November 10, 2008

SEAL

1. The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization, and shall be in such form as may be approved from time to time by the Board of Directors. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or otherwise reproduced.

MEETINGS OF STOCKHOLDERS

2. All meetings of the stockholders shall be held at such date, time, and place either within or without the State of Delaware as may be designated by the Board of Directors from time to time in the notice of the meeting. An annual meeting shall be held for the election of directors, and any other proper business may be transacted thereat.

3. The holders of a majority of each class of stock issued and outstanding, and entitled to vote thereat, present in person, or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by law, by the Restated Certificate of Incorporation, or by these Bylaws. For purposes of the foregoing, two or more classes or series of stock shall be considered a single class if the holders thereof are entitled to vote together as a single class at the meeting. In the absence of a quorum the stockholders so present may, by majority vote, adjourn the meeting from time to time in the manner provided by Section 4 of these Bylaws until a quorum shall attend.

4. At any meeting of stockholders, annual or special, the Chairman of the meeting, or the holders of a majority of the voting power of the voting stock of the Corporation represented in person or by proxy at the meeting, may adjourn the meeting from time to time, to reconvene at the same or some other place, whether or not there is a quorum. Notice need not be given of any such adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

5. At any meeting of the stockholders every stockholder having the right to vote shall be entitled to vote in person, or by proxy appointed by an instrument in writing subscribed by such stockholder and bearing a date not more than three (3) years prior to said meeting, unless said instrument provides for a longer period. Unless otherwise provided in the Restated Certificate of

Incorporation or as otherwise determined by the Board of Directors pursuant to the powers conferred by the Restated Certificate of Incorporation, each stockholder shall have one vote for each share of stock having voting power, registered in his or her name on the books of the Corporation.

6. Written notice of the annual meeting which shall state the place, date, and hour of the meeting shall be mailed to each stockholder entitled to vote thereat at such address as appears on the stock book of the Corporation, at least ten (10) days prior to the meeting. Any previously scheduled meeting of the stockholders may be postponed, and (unless the Restated Certificate of Incorporation otherwise provides) any special meeting of the stockholders holders may be canceled, by resolution of the Board of Directors upon public notice given prior to the date previously scheduled for such meeting of stockholders.

7. A complete list of the stockholders entitled to vote at each meeting of stockholders, arranged in alphabetical order, with the record address of each, and the number of voting shares held by each, shall be prepared by the Secretary and made available for examination by any stockholder either at a place within the city where the meeting is to be held, which place shall be so specified in the notice of the meeting, or, if not specified, at the place where the meeting is to be held, at least ten (10) days before every meeting, and shall at all times, during the usual hours for business, and during the whole time of said meeting, continue to be open to the examination of any stockholder, for any purpose germane to the meeting.

8. Special Meetings of the Stockholders

(a) *General.* A special meeting of the stockholders may be called at any time by the Board of Directors, or by any of the following persons with the concurrence of a majority of the Board of Directors: the Chairman of the Board of Directors, or the chief executive officer or the Secretary, but such special meetings may not be called by any other person or persons.

(b) *Stockholder Requested Special Meeting.*

(1) A special meeting of stockholders shall be called by the Board of Directors upon written request to the Secretary of one or more record holders of shares of stock of the Corporation representing in the aggregate not less than twenty-five percent (25%) of the total number of shares of stock entitled to vote on the matter or matters to be brought before the proposed special meeting. A request to the Secretary shall be signed by each stockholder, or a duly authorized agent of such stockholder, requesting the special meeting and shall set forth: (i) a brief description of each matter of business desired to be brought before the special meeting and the reasons for conducting such business at the special meeting, (ii) the name and address, as they appear on the Corporation's books, of each stockholder requesting the special meeting, (iii) the class and number of shares of the Corporation which are owned by each stockholder requesting the special meeting, including shares beneficially owned and shares held of record, (iv) any material interest of each stockholder in the business desired to be brought before the special meeting, and (v) any other information that is required to be set forth in a stockholder's notice required pursuant to Bylaw 10A.

(2) A special meeting requested by stockholders shall be held at such date, time and place within or without the state of Delaware as may be fixed by the Board of Directors; provided, however, that the date of any such special meeting shall be not more than ninety (90) days after the request to call the special meeting is received by the Secretary. Notwithstanding the foregoing, a special meeting requested by

stockholders shall not be held if the Board of Directors has called or calls for an annual meeting of stockholders to be held within ninety (90) days after the Secretary receives the request for the special meeting and the Board of Directors determines in good faith that the business of such annual meeting includes (among any other matters properly brought before the annual meeting) the business specified in the request. A stockholder may revoke a request for a special meeting at any time by written revocation delivered to the Secretary, and if, following such revocation, there are un-revoked requests from stockholders holding in the aggregate less than the requisite number of shares entitling the stockholders to request the calling of a special meeting, the Board of Directors, in its discretion, may cancel the special meeting.

(3) Business transacted at a special meeting requested by stockholders shall be limited to the purposes stated in the request for the special meeting; provided, however, that nothing herein shall prohibit the Board from submitting additional matters to stockholders at any such special meeting.

9. Written notice of a special meeting of stockholders, stating the time and place and object thereof, shall be mailed postage prepaid, at least ten (10) days before such meeting, to each stockholder entitled to vote thereat at such address as appears on the books of the Corporation.

10. The Board of Directors shall appoint three persons as inspectors of election, to serve for one year or until their successors are chosen. The inspectors shall act at meetings of stockholders on elections of Directors and on all other matters voted upon by ballot.

Any two of the inspectors in the absence of the third shall have power to act. If at the time of any meeting inspectors have not been appointed or if none, or only one, of the inspectors is present and willing to act, the Chairman of the Board shall appoint the required number of inspectors so that three inspectors shall be present and acting.

10A. Notice of Stockholder Business and Nominations.

(a) Annual Meetings of Stockholders.

(1) Nominations of persons for election to the Board of Directors of the Corporation and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders only (i) pursuant to the Corporation's notice of meeting (or any supplement thereto), (ii) by or at the direction of the Board of Directors or any committee thereof or (iii) by any stockholder of the Corporation who was a stockholder of record at the time the notice provided for in this Section 10A(a) is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 10A(a).

(2) For any nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of paragraph (a)(1) of this Section 10A, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and any such proposed business (other than the nominations of persons for election to the Board of Directors) must constitute a proper matter for stockholder action.

(3) To be timely, a stockholder's notice shall be delivered to and received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the ninetieth (90th) day, nor earlier than the close of business on the one hundred twentieth (120th) day, prior to the first anniversary of the preceding year's annual meeting (provided, however, that in the event that the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the one hundred twentieth (120th) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made by the Corporation). In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(4) Such stockholder's notice shall set forth:

(i) as to each person whom the stockholder proposes to nominate for election as a director (A) all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to and in accordance with Section 14(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and the rules and regulations promulgated thereunder, and (B) such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected;

(ii) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and

(iii) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (A) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (B) the class or series and number of shares of capital stock of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner, (C) a description of any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing, (D) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the stockholder's notice by, or on behalf of, such stockholder and such beneficial owners, whether or not such instrument or right shall be subject to settlement in

underlying shares of capital stock of the Corporation, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of stock of the Corporation, (E) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business or nomination, (F) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (2) otherwise to solicit proxies from stockholders in support of such proposal or nomination, and (G) any other information relating to such stockholder and beneficial owner, if any, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in an election contest pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder. The foregoing notice requirements of this Section 10A(a) shall be deemed satisfied by a stockholder with respect to business other than a nomination if the stockholder has notified the Corporation of his, her or its intention to present a proposal at an annual meeting in compliance with applicable rules and regulations promulgated under the Exchange Act and such stockholder's proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such annual meeting. The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation.

(5) Notwithstanding anything in paragraph (a)(3) of this Section 10A to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation is increased effective at the annual meeting and there is no public announcement by the Corporation naming the nominees for the additional directorships at least one hundred (100) days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 10A(a) shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be delivered to and received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Corporation.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (A) by or at the direction of the Board of Directors or any committee thereof (or stockholders pursuant to Section 8(b) hereof) or (B) provided that the Board of Directors (or stockholders pursuant to Section 8(b) hereof) has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this Section 10A(a) is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and upon such election and who complies with the notice procedures set forth in this Section 10A(a). In the event the

Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder entitled to vote in such election of directors may nominate a person or persons (as the case may be), for election to such position(s) as are specified in the Corporation's notice of meeting, if the stockholder's notice required by paragraph (a) of this Section 10A shall be delivered to and received by the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) day prior to such special meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such special meeting or the tenth (10th) day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall the public announcement of an adjournment or postponement of a special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(c) General.

(1) Only such persons who are nominated in accordance with the procedures set forth in this Section 10A shall be eligible to be elected at an annual or special meeting of stockholders of the Corporation to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 10A. Except as otherwise provided by law, the Chairman of the meeting shall have the power and duty (a) to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Section 10A (including whether the stockholder or beneficial owner, if any, on whose behalf the nomination or proposal is made solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in support of such stockholder's nominee or proposal in compliance with such stockholder's representation as required by clause (a)(4)(F) of this Section 10A) and (b) if any proposed nomination or business was not made or proposed in compliance with this Section 10A, to declare that such nomination shall be disregarded or that such proposed business shall not be transacted. Notwithstanding the foregoing provisions of this Section 10A, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination or proposed business, such nomination shall be disregarded and such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this Section 10A, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

(2) For purposes of this Section 10A, "public announcement" shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press or other national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder.

(3) Notwithstanding the foregoing provisions of this Section 10A, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations promulgated thereunder with respect to the matters set forth in this Section 10A; provided however, that any references in these Bylaws to the Exchange Act or the rules and regulations promulgated thereunder are not intended to and shall not limit any requirements applicable to nominations or proposals as to any other business to be considered pursuant to this Section 10A (including paragraphs a(1)(iii) and b hereof), and compliance with paragraphs a(1)(iii) and b of this Section 10A shall be the exclusive means for a stockholder to make nominations or submit other business (other than, as provided in the penultimate paragraph of (a)(4)(iii), matters brought properly under and in compliance with Rule 14a-8 of the Exchange Act, as may be amended from time to time). Nothing in this Section 10A shall be deemed to affect any rights (i) of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to applicable rules and regulations promulgated under the Exchange Act or (ii) of the holders of any series of preferred stock to elect directors pursuant to any applicable provisions of the certificate of incorporation.

DIRECTORS

11. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors, except as may be otherwise provided by law or in the Restated Certificate of Incorporation.

12. Except as otherwise fixed by or pursuant to the provisions of Article FOURTH of the Restated Certificate of Incorporation (as it may be duly amended from time to time) relating to the rights of the holders of any class or series of stock having a preference over the common stock as to dividends or upon liquidation to elect, by separate class vote, additional directors, the number of directors of the Corporation shall be the number fixed from time to time by the affirmative vote of a majority of the total number of directors which the Corporation would have, prior to any increase or decrease, if there were no vacancies. Until otherwise fixed by the directors, the number of directors constituting the entire Board shall be 16. The persons receiving the votes of plurality in amount of holders of the shares of capital stock of the Corporation, considered as a single class, entitled to vote generally in the election of directors present at the meeting in person or by proxy shall be directors for the term prescribed by Article TENTH of the Restated Certificate of Incorporation or until their successors shall be elected and qualified.

13. Newly created directorships resulting from an increase in the number of directors of the Corporation and vacancies occurring in the Board of Directors resulting from death, resignation, retirement, removal, or any other reason shall be filled by the affirmative vote of a majority of the directors, although less than a quorum, then remaining in office and elected by the holders of the capital stock of the Corporation entitled to vote generally in the election of directors or, in the event that there is only one such director, by such sole remaining director. Any director elected in accordance with the preceding sentence shall hold office for the full term of the class of directors in which the new directorship was created or the vacancy occurred and until such director's successor shall have been elected and qualified.

14. In addition to the powers and authorities by these Bylaws expressly conferred upon them, the Board of Directors may exercise all such powers of the Corporation and do all such lawful

acts and things as are not by statute or by the Restated Certificate of Incorporation or by these Bylaws directed or required to be exercised or done by the stockholders.

COMMITTEES OF DIRECTORS

15. The Board of Directors may, by resolution or resolutions passed by a majority of the whole Board, designate an Executive Committee and one or more committees, each committee to consist of one (1) or more Directors of the Corporation, which, to the extent provided in said resolution or resolutions or in these Bylaws, or unless otherwise prescribed by statute, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Corporation, and may have power to authorize the seal of the Corporation to be affixed to all papers which may require it. Such committee or committees shall have such name or names as may be stated in these Bylaws or as may be determined from time to time by resolution adopted by the Board.

16. The committees of the Board of Directors shall keep regular minutes of their proceedings and report the same to the Board when required. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in place of any absent or disqualified member.

COMPENSATION OF DIRECTORS

17. The compensation of the Directors of the Corporation shall be fixed by resolution of the Board of Directors.

MEETINGS OF THE BOARD

18. Regular meetings of the Board of Directors may be held at such places within or without the State of Delaware and at such times as the Board may from time to time determine, and if so determined notice thereof need not be given.

19. Special meetings of the Board may be held at any time or place within or without the State of Delaware whenever called by the Chairman of the Board, if any, or by any two directors. Reasonable notice thereof shall be given by the person or persons calling the meeting.

20. Unless otherwise restricted by the Restated Certificate of Incorporation or these Bylaws, members of the Board of Directors, or any committee designated by the Board, may participate in a meeting of the Board or of such committee, as the case may be, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Bylaw shall constitute presence in person at such meeting.

21. Meetings of the Board of Directors shall be presided over by the Chairman of the Board, if any, or in the absence of the Chairman of the Board, by a chairman chosen at the meeting. The Secretary, or in the absence of the Secretary an Assistant Secretary, shall act as secretary of the meeting, but in the absence of the Secretary and any Assistant Secretary, the chairman of the meeting may appoint any person to act as secretary of the meeting.

22. Unless otherwise restricted by the Restated Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board or of such committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board or committee.

23. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the vote of a majority of the Directors present at any meeting at which there is a quorum, shall be the act of the Board, except as may be otherwise specifically provided by statute or by the Restated Certificate of Incorporation or by these Bylaws. In case at any meeting of the Board a quorum shall not be present, the members of the Board present may adjourn the meeting from time to time until a quorum shall attend.

OFFICERS

24. The officers of the Corporation shall be elected by the Board of Directors at its annual meeting, or if the case requires, at any other regular or special meeting; and shall be a Chairman of the Board of Directors and a Secretary, and, if it so determines, one or more vice presidents, a Treasurer, one or more assistant secretaries, one or more assistant treasurers, and such other officers as the Board shall deem desirable. The same person may hold any two offices at the same time.

25. The Board of Directors may appoint such other officers and agents as it shall deem desirable with such further designations and titles as it considers desirable, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

26. The compensation of the officers of the Corporation shall be fixed by or under the direction of the Board of Directors.

27. Except as otherwise provided in the resolution of the Board of Directors electing any officer, each officer shall hold office until the first meeting of the Board after the annual meeting of stockholders next succeeding his or her election, and until his or her successor is elected and qualified or until his or her earlier resignation or removal. Any officer may resign at any time upon written notice to the Board or to the Chairman or the Secretary of the Corporation. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein, no acceptance of such resignation shall be necessary to make it effective. The Board may remove any officer with or without cause at any time. Any such removal shall be without prejudice to the contractual rights of such officer, if any, with the Corporation, but the election of an officer shall not of itself create contractual rights. Any vacancy occurring in any office of the Corporation by death, resignation, removal, or otherwise may be filled for the unexpired portion of the term by the Board at any regular or special meeting.

28. The officers of the Corporation shall have such powers and duties in the management of the Corporation as shall be stated in these Bylaws or in a resolution of the Board of Directors which is not inconsistent with these Bylaws, and, to the extent not so stated, as generally pertain to their respective offices, subject to the control of the Board. The Board may require any officer, agent, or employee to give security for the faithful performance of his or her duties.

SHARES OF STOCK

29. The certificates of stock of the Corporation shall be in such form as is consistent with applicable law. The shares of stock of the Corporation shall be represented by certificates, or some or all of any or all classes or series of its stock shall be uncertificated shares. Every holder of stock in the Corporation, upon request, shall be entitled to have a certificate signed by, or in the name of the Corporation by, the Chairman of the Board, or a vice president, and the Treasurer or an assistant treasurer, or the Secretary or an assistant secretary, certifying the number of shares owned by the holder in the Corporation. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued with the same effect as if he or she were such officer, transfer agent, or registrar at the date of issue. Transfers of stock shall be made on the books of the Corporation only by the record holder of such stock, or by attorney lawfully constituted in writing, and, in case of stock represented by a certificate, upon surrender of the certificate.

LOST, STOLEN, OR DESTROYED STOCK CERTIFICATE

30. The Corporation may issue a new certificate of stock in the place of any certificate theretofore issued by it, alleged to have been lost, stolen, or destroyed, and the Corporation may require the owner of the lost, stolen, or destroyed certificate, or such owner's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft, or destruction of any such certificate or the issuance of such new certificate.

FISCAL YEAR

31. The fiscal year shall begin on the first day of January in each year.

NOTICES

32. Whenever under the provisions of these Bylaws notice is required to be given to any Director, officer, or stockholder, it shall not be construed to mean personal notice, unless expressly so stated, but such notice may be given by any means or instrumentality reasonably designed for such purpose and permitted by law.

33. Whenever notice is required to be given by law or under any provision of the Restated Certificate of Incorporation or these Bylaws, a written waiver thereof, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors, or members of a committee of directors need be specified in any written waiver of notice unless so required by the Restated Certificate of Incorporation or these Bylaws.

INDEMNIFICATION OF DIRECTORS AND OFFICERS

34. The Corporation shall indemnify, to the full extent authorized or permitted by law, any person made or threatened to be made a party to any action, suit, or proceeding, whether criminal, civil, administrative, or investigative, by reason of the fact that such person or such person's testator or

intestate is or was a Director, officer, or employee of the Corporation or serves or served at the request of the Corporation any other enterprise as a Director, officer, or employee.

Expenses incurred by any such person in defending any such action, suit, or proceeding shall be paid or reimbursed by the Corporation promptly upon receipt by it of an undertaking of such person to repay such expenses if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation. The rights provided to any person by this Bylaw shall be enforceable against the Corporation by such person who shall be presumed to have relied upon it in serving or continuing to serve as a Director, officer, or employee. No amendment of this Bylaw shall impair the rights of any person arising at any time with respect to events occurring prior to such amendment.

For purposes of this Bylaw 34, the term "Corporation" shall include any predecessor of the Corporation and any constituent corporation (including any constituent of a constituent) absorbed by the Corporation in a consolidation or merger; the term "other enterprise" shall include any corporation, partnership, joint venture, trust, or employee benefit plan; service "at the request of the Corporation" shall include service as a Director, officer, or employee of the Corporation which imposes duties on, or involves services by, such Director, officer, or employee with respect to an employee benefit plan, its participants or beneficiaries; any excise taxes assessed on a person with respect to an employee benefit plan shall be deemed to be indemnifiable expenses; and action by a person with respect to an employee benefit plan which such person reasonably believes to be in the interest of the participants and beneficiaries of such plan shall be deemed to be action not opposed to the best interest of the Corporation.

35. The indemnification provided by these Bylaws shall not be deemed exclusive of any other rights to which those indemnified may be entitled by any Bylaw, agreement, vote of stockholders or disinterested Directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, or employee and shall inure to the benefit of the heirs, executors, and administrators of such a person.

36. The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a Director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of these Bylaws.

INTERESTED DIRECTORS

37. No contract or transaction between the Corporation and one or more of its Directors or officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of its Directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the Director or officer is present at or participates in the meeting of the Board of Directors or committee thereof which authorizes the contract or transaction, or solely because his or her or their votes are counted for such purpose, if: (i) the material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the Board or the committee, and the Board or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the

disinterested Directors, even though the disinterested Directors be less than a quorum; or (ii) the material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (iii) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved, or ratified by the Board, a committee thereof, or the stockholders. Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or of a committee which authorizes the contract or transaction.

FORM OF RECORDS

38. Any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or be in the form of, punch cards, magnetic tape, photographs, microphotographs, or any other information storage device, provided that the records so kept can be converted into clearly legible form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect the same.

AMENDMENTS

39. Subject to any limitations imposed by the Restated Certificate of Incorporation, the Board of Directors shall have power to adopt, amend, or repeal these Bylaws. Any Bylaws made by the directors under the powers conferred by the Restated Certificate of Incorporation may be amended or repealed by the directors or by the stockholders.

EXHIBIT C

OPINION OF RICHARDS, LAYTON & FINGER, P.A.



January 6, 2009

3M Company
3M Center
St. Paul, MN 55144

Re: Stockholder Proposal Submitted by Nick Rossi

Ladies and Gentlemen:

We have acted as special Delaware counsel to 3M Company, a Delaware corporation (the "Company"), in connection with a proposal (the "Proposal") submitted by Nick Rossi (the "Proponent") that the Proponent intends to present at the Company's 2009 annual meeting of stockholders (the "Annual Meeting"). In this connection, you have requested our opinion as to a certain matter under the General Corporation Law of the State of Delaware (the "General Corporation Law").

For the purpose of rendering our opinion as expressed herein, we have been furnished and have reviewed the following documents:

(i) the Restated Certificate of Incorporation of the Company, attached as Exhibit 3.1 to the Form 8-K filed with the Securities and Exchange Commission (the "SEC") on May 14, 2007 (the "Certificate of Incorporation");

(ii) the Amended and Restated Bylaws of the Company, as adopted on November 10, 2008 (the "Bylaws"); and

(iii) the Proposal and the supporting statement thereto.

With respect to the foregoing documents, we have assumed: (a) the genuineness of all signatures, and the incumbency, authority, legal right and power and legal capacity under all applicable laws and regulations, of each of the officers and other persons and entities signing or whose signatures appear upon each of said documents as or on behalf of the parties thereto; (b) the conformity to authentic originals of all documents submitted to us as certified, conformed, photostatic, electronic or other copies; and (c) that the foregoing documents, in the forms submitted to us for our review, have not been and will not be altered or amended in any respect material to our opinion as expressed herein. For the purpose of rendering our opinion as expressed herein, we have not reviewed any document other than the documents set forth above, and, except as set forth in this opinion, we assume there exists no provision of any such other

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document that bears upon or is inconsistent with our opinion as expressed herein. We have conducted no independent factual investigation of our own, but rather have relied solely upon the foregoing documents, the statements and information set forth therein, and the additional matters recited or assumed herein, all of which we assume to be true, complete and accurate in all material respects.

The Proposal

The Proposal reads as follows:

RESOLVED, Shareowners ask our board to take the steps necessary to amend our bylaws and each appropriate governing document to give holders of 10% of our outstanding common stock (or the lowest percentage allowed by law above 10%) the power to call special shareowner meetings. This includes that such bylaw and/or charter text will not have any exception or exclusion conditions (to the fullest extent permitted by state law) that apply only to shareowners but not to management and/or the board.

Discussion

You have asked our opinion as to whether implementation of the Proposal would violate Delaware law. For the reasons set forth below, in our opinion, implementation of the Proposal by the Company would violate the General Corporation Law.

The first sentence of the Proposal requests that the Board of Directors of the Company (the "Board") "take the steps necessary" to amend the Bylaws and/or Certificate of Incorporation to provide the holders of 10% of the Company's outstanding common stock with the power to call special meetings of stockholders.¹ The second sentence of the Proposal provides that any "exception or exclusion conditions" applying to the stockholders' power to call a special meeting must also be applied to the Company's "management" and/or the Board. One "exception or exclusion condition" imposed on the stockholders' power to call special meetings under the Proposal is their holding 10% or more of the Company's outstanding common stock.

¹ Presently, Section 8(b)(1) of the Company's Bylaws provides that "[a] special meeting of stockholders shall be called by the Board of Directors upon written request to the Secretary of one or more record holders of shares of stock of the Corporation representing in the aggregate not less than twenty-five percent (25%) of the total number of shares of stock entitled to vote on the matter or matters to be brought before the proposed special meeting." Section 8(b)(2) of the Bylaws further provides that "a special meeting requested by stockholders shall not be held if the Board of Directors has called or calls for an annual meeting of stockholders to be held within ninety (90) days after the Secretary receives the request for the special meeting and the Board of Directors determines in good faith that the business of such annual meeting includes (among any other matters properly brought before the annual meeting) the business specified in the request."

As applied to the Board pursuant to the language of the Proposal, this condition would require the directors to hold at least 10% of the Company's outstanding common stock to call a special meeting of stockholders. For purposes of this opinion, we have assumed that the Proposal would be read to have this effect. Notably, the Proposal does not seek to impose a process-oriented limitation on the Board's power to call special meetings (e.g., requiring unanimous Board approval to call special meetings), but instead purports to preclude the Board from calling special meetings unless the directors have satisfied an external condition—namely, the ownership of 10% of the Company's outstanding common stock—that is unrelated to the process through which the Board makes decisions. As a result of this restriction, for the reasons set forth below, in our opinion, the Proposal, if implemented, would violate the General Corporation Law.

Section 211(d) of the General Corporation Law governs the calling of special meetings of stockholders. That subsection provides: "Special meetings of the stockholders may be called by the board of directors or by such person or persons as may be authorized by the certificate of incorporation or by the bylaws." 8 Del. C. § 211(d). Thus, Section 211(d) vests the board of directors with the power to call special meetings, and it gives the corporation the authority, through its certificate of incorporation or bylaws, to grant other parties (in addition to the board of directors) the power to call special meetings. In considering whether implementation of the Proposal would violate Delaware law, the relevant question is whether a provision conditioning the Board's power to call special meetings on the directors' ownership of at least 10% of the outstanding common stock would be valid if included in the Certificate of Incorporation or Bylaws. In our opinion, such a provision, whether included in the Certificate of Incorporation or Bylaws, would be invalid.

A. The Provision Contemplated by the Proposal May Not Be Validly Included in the Certificate of Incorporation.

Because the Proposal seeks to modify or eliminate a "core" power of the Board, the Proposal may not be implemented through the Certificate of Incorporation. Section 102(b)(1) of the General Corporation Law provides that a certificate of incorporation may contain:

Any provision for the management of the business and for the conduct of the affairs of the corporation, and any provision creating, defining, limiting and regulating the powers of the corporation, the directors, and the stockholders, or any class of the stockholders . . . ; if such provisions are not contrary to the laws of [the State of Delaware].

8 Del. C. § 102(b)(1) (emphasis added). Thus, a corporation's ability to curtail the directors' powers through the certificate of incorporation is not without limitation. Any provision adopted pursuant to Section 102(b)(1) that is otherwise contrary to Delaware law would be invalid. See Lions Gate Entm't Corp. v. Image Entm't Inc., 2006 WL 1668051, at *7 (Del. Ch. June 5, 2006) (footnote omitted) (noting that a charter provision "purport[ing] to give the Image board the power to amend the charter unilaterally without a shareholder vote" after the corporation had

received payment for its stock "contravenes Delaware law [i.e., Section 242 of the General Corporation Law] and is invalid."). In Sterling v. Mayflower Hotel Corp., 93 A.2d 107, 118 (Del. 1952), the Court found that a charter provision is "contrary to the laws of [Delaware]" if it transgresses "a statutory enactment or a public policy settled by the common law or implicit in the General Corporation Law itself."

The Court in Loew's Theatres, Inc. v. Commercial Credit Co., 243 A.2d 78, 81 (Del. Ch. 1968), adopted this view, noting that "a charter provision which seeks to waive a statutory right or requirement is unenforceable." More recently, the Court in Jones Apparel Group, Inc. v. Maxwell Shoe Co., 883 A.2d 837 (Del. Ch. 2004), suggested that certain statutory rights involving "core" director duties may not be modified or eliminated through the certificate of incorporation. The Jones Apparel Court observed:

[Sections] 242(b)(1) and 251 do not contain the magic words ["unless otherwise provided in the certificate of incorporation"] and they deal respectively with the fundamental subjects of certificate amendments and mergers. Can a certificate provision divest a board of its statutory power to approve a merger? Or to approve a certificate amendment? Without answering those questions, I think it fair to say that those questions inarguably involve far more serious intrusions on core director duties than does [the record date provision at issue]. I also think that the use by our judiciary of a more context- and statute-specific approach to police "horribles" is preferable to a sweeping rule that denudes § 102(b)(1) of its utility and thereby greatly restricts the room for private ordering under the DGCL.

Id. at 852. While the Court in Jones Apparel recognized that certain provisions for the regulation of the internal affairs of the corporation may be made subject to modification or elimination through the private ordering system of the certificate of incorporation and bylaws, it indicated that other powers vested in the board—particularly those touching upon the directors' discharge of their fiduciary duties—are so fundamental to the proper functioning of the corporation that they cannot be so modified or eliminated. Id.

The structure of, and legislative history surrounding, Section 211(d) confirm that the board's statutory power to call special meetings, without limitation or restriction, is a "core" power reserved to the board. Consequently, any provision of the certificate of incorporation purporting to infringe upon that fundamental power (other than an ordinary process-oriented limitation)² would be invalid. As noted above, Section 211(d) provides that "[s]pecial meetings of the stockholders may be called by the board of directors or by such person or persons as may be authorized by the certificate of incorporation or by the bylaws." 8 Del. C. § 211(d). Section 211(d) was adopted in 1967 as part of the wholesale revision of the General Corporation Law. In

² For a discussion of process-oriented limitations, see infra, n. 6 and surrounding text.

the review of Delaware's corporate law prepared for the committee tasked with submitting the revisions, it was noted, in respect of then-proposed Section 211(d), "[m]any states specify in greater or less detail who may call special stockholder meetings," and it was "suggested that the common understanding be codified by providing that special meetings may be called by the board of directors or by any other person authorized by the by-laws or the certificate of incorporation." Ernest L. Folk, III, Review of the Delaware Corporation Law for the Delaware Corporation Law Revision Committee, at 112 (1968). It was further noted that "it is unnecessary (and for Delaware, undesirable) to vest named officers, or specified percentages of shareholders (usually 10%), with statutory, as distinguished from by-law, authority to call special meetings . . ." Id. The language of the statute, along with the gloss provided by the legislative history, clearly suggests that the power to call special meetings is vested by statute in the board, without limitation, and that other parties may be granted such power through the certificate of incorporation and bylaws. While the certificate of incorporation and/or bylaws may expand the statutory default with regard to the calling of special meetings (*i.e.*, parties in addition to the board of directors may be authorized to call special meetings), the certificate of incorporation and/or bylaws may not limit the express power of the board of directors to call special meetings, except through ordinary process-oriented limitations:

That the board of directors' power to call special meetings must remain unfettered (other than through ordinary process-oriented limitations)³ is consistent with the most fundamental precept of the General Corporation Law: the board of directors is charged with a fiduciary duty to manage the business and affairs of the corporation. That duty may require the board of directors to call a special meeting at any time (regardless of the directors' ownership of the corporation's then-outstanding stock) to present a significant matter to a vote of the stockholders. Indeed, the Delaware courts have indicated that the calling of special meetings is one of the principal acts falling within the board's duty to manage the business and affairs of the corporation. See Campbell v. Loew's, Inc., 134 A.2d 852, 856 (Del. Ch. 1957) (upholding a bylaw granting the corporation's president (in addition to the board) the power to call special meetings and noting that the grant of such power did "not impinge upon the statutory right and duty of the board to manage the business of the corporation"). "[T]he fiduciary duty of a Delaware director is unremitting," Malone v. Brincat, 722 A.2d 5, 10 (Del. 1998). It does not abate during those times when the directors fail to meet a specified stock-ownership threshold. As the Delaware Supreme Court has stated, "[a] cardinal precept of the General Corporation Law of the State of Delaware is that directors, rather than shareholders, manage the business and affairs of the corporation." Aronson v. Lewis, 473 A.2d 805, 811 (Del. 1984). See also Quickturn Design Sys., Inc. v. Shapiro, 721 A.2d 1281, 1291 (Del. 1998). The provision contemplated by the Proposal would impermissibly infringe upon the Board's fiduciary duty to manage the business and affairs of the Company and would therefore be invalid under the General Corporation Law.

³ See infra, n. 6 and surrounding text.

B. The Provision Contemplated by the Proposal May Not Be Validly Included in the Bylaws.

As with the charter provision contemplated by the Proposal, the bylaw provision contemplated thereby would impermissibly infringe upon the Board's power under Section 211(d) of the General Corporation Law to call special meetings. In that respect, such provision would violate the General Corporation Law and could not be validly implemented through the Bylaws. See 8 Del. C. § 109(b) ("The bylaws may contain any provision, not inconsistent with law or with the certificate of incorporation, relating to the business of the corporation, the conduct of its affairs, and its rights or powers or the rights or powers of its stockholders, directors, officers or employees.") (emphasis added).

Moreover, the Proposal could not be implemented through the Bylaws since it would restrict the Board's power to call special meetings (other than through an ordinary process-oriented bylaw)⁴ as part of its power and duty to manage the business and affairs of the Company. Under Section 141(a) of the General Corporation Law, the directors of a Delaware corporation are vested with the power and authority to manage the business and affairs of the corporation. Section 141(a) provides, in relevant part, as follows:

The business and affairs of every corporation organized under this chapter shall be managed by or under the direction of a board of directors, except as may be otherwise provided in this chapter or in its certificate of incorporation.

8 Del. C. § 141(a) (emphasis added). Section 141(a) expressly provides that if there is to be any deviation from the general mandate that the board of directors manage the business and affairs of the corporation, such deviation must be provided in the General Corporation Law or the certificate of incorporation. Id.; see, e.g., Lehrman v. Cohen, 222 A.2d 800, 808 (Del. 1966). The Certificate of Incorporation does not (and, as explained above, could not) provide for any substantive limitations on the Board's power to call special meetings, and, unlike other provisions of the General Corporation Law that allow the Board's statutory authority to be modified through the bylaws,⁵ Section 211(d) does not provide that the board's power to call special meetings may be modified through the bylaws. See 8 Del. C. § 211(d). Moreover, the phrase "except as otherwise provided in this chapter" set forth in Section 141(a) does not include bylaws adopted pursuant to Section 109(b) of the General Corporation Law that could disable the board entirely from exercising its statutory power. In CA, Inc. v. AFSCME Employees Pension Plan, 953 A.2d 227, 234-35 (Del. 2008), the Court, when attempting to determine "the scope of shareholder action that Section 109(b) permits yet does not improperly intrude upon the directors' power to manage [the] corporation's business and affairs under Section 141(a),"

⁴ See infra, n. 6 and surrounding text.

⁵ For example, Section 141(f) authorizes the board to act by unanimous written consent "[u]nless otherwise restricted by the certificate of incorporation or bylaws." See 8 Del. C. § 141(f).

indicated that while reasonable bylaws governing the board's decision-making process are generally valid, those purporting to divest the board entirely of its substantive decision-making power and authority are not.⁶

The Court's observations in CA are consistent with the long line of Delaware cases highlighting the distinction implicit in Section 141(a) of the General Corporation Law between the role of stockholders and the role of the board of directors. As the Delaware Supreme Court has stated, "[a] cardinal precept of the General Corporation Law of the State of Delaware is that directors, rather than shareholders, manage the business and affairs of the corporation." Aronson, 473 A.2d at 811. See also McMullin v. Beran, 765 A.2d 910, 916 (Del. 2000) ("One of the fundamental principles of the Delaware General Corporation Law statute is that the business affairs of a corporation are managed by or under the direction of its board of directors.") (citing 8 Del. C. § 141(a)); Quickturn, 721 A.2d at 1291 ("One of the most basic tenets of Delaware corporate law is that the board of directors has the ultimate responsibility for managing the business and affairs of a corporation.") (footnote omitted). The rationale for these statements is as follows:

Stockholders are the equitable owners of the corporation's assets. However, the corporation is the legal owner of its property and the stockholders do not have any specific interest in the assets of the corporation. Instead, they have the right to share in the profits of the company and in the distribution of its assets on liquidation. Consistent with this division of interests, the directors rather than the stockholders manage the business and affairs of the corporation and the directors, in carrying out their duties, act as fiduciaries for the company and its stockholders.

Norte & Co. v. Manor Healthcare Corp., 1985 WL 44684, at *3 (Del. Ch. Nov. 21, 1985) (citations omitted); see also Paramount Commc'ns Inc. v. Time Inc., 1989 WL 79880, at *30 (Del. Ch. July 14, 1989), aff'd, 571 A.2d 1140 (Del. 1989) ("The corporation law does not operate on the theory that directors, in exercising their powers to manage the firm, are obligated to follow the wishes of a majority of shares.").⁷ Because the bylaw contemplated by the

⁶ The Court stated: "It is well-established Delaware law that a proper function of bylaws is not to mandate how the board should decide specific substantive business decisions, but rather, to define the process and procedures by which those decisions are made. . . . Examples of the procedural, process-oriented nature of bylaws are found in both the DGCL and the case law. For example, 8 Del. C. § 141(b) authorizes bylaws that fix the number of directors on the board, the number of directors required for a quorum (with certain limitations), and the vote requirements for board action. 8 Del. C. § 141(f) authorizes bylaws that preclude board action without a meeting." CA, 953 A.2d at 234-35 (footnotes omitted).

⁷ But see UniSuper Ltd. v. News Corp., 2005 WL 3529317 (Del. Ch. Dec. 20, 2005). In that case, the Court held that a board of directors could agree, by adopting a board policy and promising not to subsequently revoke the policy, to submit the final decision whether to adopt a

Proposal would go well beyond governing the process through which the Board determines whether to call special meetings – in fact, it would potentially have the effect of disabling the Board from exercising its statutorily-granted power to call special meetings – such bylaw would be invalid under the General Corporation Law.

Finally, the "savings clause" that purports to limit the mandates of the Proposal "to the fullest extent permitted by state law" does not resolve this conflict with Delaware law. On its face, such language addresses the extent to which the requested "bylaw and/or charter text will not have any exception or exclusion conditions" (i.e., there will be no exception or exclusion conditions unless they are required by state law). The language does not limit the exception and exclusion conditions that would apply "to management and/or the board," and were it to do so the entire second sentence of the Proposal would be a nullity because, as set forth above, the certificate of incorporation and/or bylaws may not limit the statutory power of the board of directors to call special meetings, except through ordinary process-oriented limitations. Thus, the "savings clause" does not resolve the conflict between the provision contemplated by the Proposal and the dictates of the General Corporation Law. As discussed above, Section 211(d), read together with Sections 102(b)(1) and 109(b), allows for no limitations on the board's power to call a special meeting (other than ordinary process-oriented limitations);⁸ accordingly, there is no "extent" to which the restriction on that power contemplated by the Proposal would otherwise be permitted by state law. The "savings clause" does not save the Proposal from being invalid under Delaware law if implemented.

Conclusion

Based upon and subject to the foregoing, and subject to the limitations stated herein, it is our opinion that the Proposal, if adopted by the stockholders and implemented by the Board, would be invalid under the General Corporation Law.

The foregoing opinion is limited to the General Corporation Law. We have not considered and express no opinion on any other laws or the laws of any other state or jurisdiction, including federal laws regulating securities or any other federal laws, or the rules and regulations of stock exchanges or of any other regulatory body.

The foregoing opinion is rendered solely for your benefit in connection with the matters addressed herein. We understand that you may furnish a copy of this opinion letter to the SEC in connection with the matters addressed herein and that you may refer to it in your proxy statement for the Annual Meeting, and we consent to your doing so. Except as stated in this

stockholder rights plan to a vote of the corporation's stockholders. The board's voluntary agreement to contractually limit its discretion in UniSuper, however, is distinguishable from the instant case. The bylaw contemplated by the Proposal, if adopted by the stockholders and implemented, would potentially result in stockholders divesting the Board of its statutory power to call special meetings.

⁸ See *supra*, n. 6 and surrounding text.

3M Company
January 6, 2009
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paragraph, this opinion letter may not be furnished or quoted to, nor may the foregoing opinion be relied upon by, any other person or entity for any purpose without our prior written consent.

Very truly yours,

Richards, Jay K. Esq. P.A.

CSB/TNP