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

DIVISION OF
CORPORATION FINANCE

March 15, 2019

F. Mitchell Walker, Jr.
Bass, Berry & Sims PLC
mwalker@bassberry.com

Re: CoreCivic, Inc.
Incoming letter dated January 4, 2019

Dear Mr. Walker:

This letter is in response to your correspondence dated January 4, 2019 concerning the shareholder proposal (the "Proposal") submitted to CoreCivic, Inc. (the "Company") by Alex Friedmann (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. We also have received correspondence on the Proponent's behalf dated January 31, 2019. Copies of all of the correspondence on which this response is based will be made available on our website at http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

M. Hughes Bates
Special Counsel

Enclosure

cc: Jeffrey S. Lowenthal
Stroock & Stroock & Lavan LLP
jlowenthal@stroock.com

March 15, 2019

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: CoreCivic, Inc.
Incoming letter dated January 4, 2019

The Proposal requests that the board adopt the following policy, to be implemented no later than December 31, 2019:

1. The Company shall adopt a policy of not accepting immigrant detainee children, who have been separated from their parent or parents by any U.S. government entity, for housing at any facility owned or operated by the Company.
2. The Company shall adopt a policy of not accepting adult immigrant detainees, who have been separated from their child or children by any U.S. government entity, for housing at any facility owned or operated by the Company.
3. If the Company houses at any of its facilities any immigrant detainee children or adults described in sections 1 or 2 above at the time the policies set forth in sections 1 and 2 are implemented, the Company shall: (a) immediately move to modify all such contracts to comply with the above policies or, if such modification is not possible within a six-month period, seek to withdraw from or terminate such contracts as soon as possible, including invoking any early termination options or clauses in such contracts, and (b) diligently work to make arrangements to safely house such immigrant detainees that do not involve housing them at any of the Company's facilities.

There appears to be some basis for your view that the Company may exclude the Proposal under rule 14a-8(i)(7), as relating to the Company's ordinary business operations. In our view, the Proposal micromanages the Company by seeking to impose specific methods for implementing complex policies. Specifically, the Proposal would dictate the terms of services to be provided by the Company and specify the manner in which the Company shall implement certain aspects of the policy requested by the Proposal. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on rule 14a-8(i)(7). In reaching this position, we have not found it necessary to address the alternative bases for omission upon which the Company relies.

Sincerely,

Frank Pigott
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 proposal 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 and rules administered by the Commission, including arguments as to whether or not activities proposed to be taken would violate 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 adversarial procedure.

It is important to note that the staff'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 company's management omit the proposal from the company's proxy materials.

STROOCK

January 31, 2019

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

Re: CoreCivic, Inc.'s January 4, 2019 Letter Seeking to Exclude Alex Friedmann's Shareholder Proposal

Ladies and Gentlemen:

I am writing on behalf of Alex Friedmann (the "Proponent") in response to the January 4, 2019 letter (the "No-Action Request") from Bass Berry & Sims PLC, counsel to CoreCivic, Inc. (the "Company" or "CXW"), to the Staff of the Division of Corporation Finance (the "Staff") of the U.S. Securities and Exchange Commission (the "SEC") requesting Staff concurrence with CXW's view that CXW may properly exclude a shareholder proposal and supporting statement (the "Proposal") submitted by the Proponent from CXW's proxy materials to be distributed in connection with its 2019 annual meeting of stockholders (the "Proxy Materials"). We respectfully request that the Staff not concur with CXW's view that it may exclude the Proposal from the Proxy Materials, as CXW has failed to meet its burden of persuasion to demonstrate that it may properly omit the Proposal. A copy of this letter has been sent to CXW.

In accordance with Rule 14a-8(k) under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and Staff Legal Bulletin No. 14D (November 7, 2008) ("SLB 14D"), we have submitted this letter to the Staff via electronic mail at shareholderproposals@sec.gov in addition to mailing paper copies.

In the No-Action Request, CXW's counsel requested that the Staff concur CSX's view that it may exclude the Proposal from its Proxy Materials on four grounds. First, the Company believes it may exclude the Proposal pursuant to Rule 14a-8(i)(7) because the Proposal involves "matters relating to the Company's ordinary business operations." Second, the Company seeks concurrence in its view that it may exclude the Proposal pursuant to Rule 14a-8(i)(6) because the Company "lacks the power or authority to implement the proposal as presented." Third, the Company seeks concurrence in its view that it may exclude the Proposal pursuant to Rule 14a-8(i)(3) because the Proposal "is impermissibly vague and indefinite so as to be inherently misleading." Lastly, the Company seeks concurrence in its view that it may exclude the Proposal pursuant to Rule 14a-8(i)(10) because it has been "substantially implemented." For the reasons set forth below, we submit that CXW has failed to meet its burden of persuasion under

Rules 14a-8(i)(7), 14a-8(i)(6), 14a-8(i)(3) or 14a-8(i)(10) and thus the Staff should conclude that the Company cannot exclude the Proposal from its Proxy Materials.

I. The Proposal

On November 26, 2018, Mr. Friedmann, a beneficial holder of no less than $2,000 in market value of CXW's common stock, submitted a shareholder proposal to the Company pursuant to Rule 14a-8 requesting that the Board of Directors of CXW (the "Board") adopt and implement policies aimed at addressing the issue of immigrant detainees being separated from their children. Specifically, the Proposal seeks for the Company to adopt a corporate policy stating that the Company will not house immigrant detainee children under the age of 18 who have been separated from their parents by the U.S. government, or immigrant detainee adults over the age of 18 who have been separated from their children by the U.S. government. The Proposal deals with any future contract the Company enters into to house immigrant detainees. With respect to existing contracts, in the event CXW houses at any of its facilities any separated immigrant detainee children or adults at the time the proposed policies are implemented, the Proposal provides that the Company would need to: (a) immediately move to modify all such contracts to comply with the above policies or, if such modification is not possible within a six month period, seek to withdraw from or terminate such contracts as soon as possible, including invoking any early termination options or clauses in such contracts, and (b) diligently work to make arrangements to safely house such immigrant detainees that do not involve housing them at any of the Company's facilities.

The Proposal reads as follows:

RESOLVED: That the stockholders of the Company request that the Board of Directors adopt the following policy, to be implemented no later than December 31, 2019:

> 1. CoreCivic shall adopt a policy of not accepting immigrant detainee children (persons under the age of 18), who have been separated from their parent or parents by any U.S. government entity, for housing at any facility owned or operated by the Company.
>
> 2. CoreCivic shall adopt a policy of not accepting adult immigrant detainees (persons over the age of 18), who have been separated from their child or children by any U.S. government entity, for housing at any facility owned or operated by the Company.
>
> 3. If CoreCivic houses at any of its facilities any immigrant detainee children or adults described in sections 1 or 2 above at the time the policies set forth in sections 1 and 2 are implemented, the Company shall: a) immediately move to modify all such contracts to comply with the above policies or, if such modification is not possible within a six-month

> period, seek to withdraw from or terminate such contracts as soon as possible, including invoking any early termination options or clauses in such contracts, and b) diligently work to make arrangements to safely house such immigrant detainees that do not involve housing them at any of the Company's facilities.

The Proponent's supporting statement points to the major public policy issue of family separation that is occurring today, and highlights the Company's controversial history with respect to the housing of immigrant detainees at its detention centers, including that an employee has been convicted of sexually assaulting female detainees, that there have been at least 32 deaths at the Company's immigrant detention facilities, including at least seven suicides, and that litigation was initiated against the Company for using immigrant detainees to perform work for wages as low as $1.00 per day. The supporting statement notes how this controversial history can lead to reputational harm and liability risks for the Company and reiterates the importance of enacting the policies contained in the Proposal in order to reduce further reputational harm and liability risk to the Company with respect to housing immigrant detainees in its facilities.

II. The Company May Not Exclude the Proposal Under Rule 14(a)-8(i)(7) Because the Proposal Raises Policy Issues that are Sufficiently Significant That They Transcend Ordinary Business Operations

A company may omit a shareholder proposal under Rule 14a-8(i)(7) if the proposal relates to the company's ordinary business operations. The Staff has stated that "the ordinary business exclusion rests on two central considerations." Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"). The first consideration relates to the subject matter of the proposal: "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." *Id.* The second consideration "relates to the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *Id.* In its recent updated guidance, the Staff reaffirmed, however, that a proposal that relates to ordinary business matters would nonetheless not be excludable if it focuses on policy issues that are "sufficiently significant" because such issues "transcend ordinary business and would be appropriate for a shareholder vote." Staff Legal Bulletin No. 14I (Nov. 1, 2017) ("SLB 14I"). The Staff further noted that a proposal would generally not be excludable "as long as a sufficient nexus exists between the nature of the proposal and the company" (*Id., citing to* Staff Legal Bulletin No. 14H (Oct. 22, 2015), *citing* Staff Legal Bulletin No. 14E (Oct. 27, 2009).

A. The Proposal Does Not Impede Upon a Fundamental Task

The subject matter of the Proposal is not so fundamental to management's ability to run the Company's ordinary operations that they could not, as a practical matter, be subject to shareholder oversight. (*See*, 1998 Release). The Company contends that the Proposal's request for implementation of a policy that blocks the ability to house immigrant children separated from

their parents, or immigrant adults separated from their children, is excludable under Rule 14(a)-8(i)(7) because the Proposal addresses decisions that are the "exact type of fundamental, day-to-day operational decisions" meant to be covered by the ordinary business operations exception. However, the fact that the Company does *not* currently engage in separation of immigrant children from their parents in its facilities - as it has expressly stated in its No-Action Request and has announced publicly - is compelling evidence that such activity and a policy to prohibit such separation, as called for by the Proposal, is not "fundamental" to management's ability to run the Company on a day-to-day basis, as the Company has managed to operate without the separation of immigrant families in its facilities up to this point in time.

The No-Action Request cites various no-action letters where shareholder proposals were excluded because they imposed broad requirements that impeded the company's preexisting core business operations. *See, e.g., EOG Resources, Inc.* (Feb. 26, 2018) (the proposal asked the energy company to adopt company-wide, quantitative, time-bound targets for reducing greenhouse gasses, where the company already balanced multiple factors in making drilling decisions); *Marriott International Inc.,* (Mar.17, 2010) (permitting exclusion of a proposal which required the installation of mechanical switches in 3,178 properties); *SeaWorld Entertainment, Inc.* (Mar. 30, 2017) (no action was granted for a proposal that sought to replace the live animals on display at the company's parks with virtual exhibits, effectively changing the entirety of the company's operations, infrastructure and personnel needs); and *Apple, Inc.* (Dec. 5, 2016) (allowing exclusion of a proposal requiring the company to reach a net-zero greenhouse gas emission status by 2030 for all aspects of its business). These letters are all inapposite, as the Proposal does not seek to fundamentally change the Company's preexisting business practices or relationships. In fact, as the Company has noted, it has a publicly announced position of not housing immigrant detainee children who have been separated from their parents. The Proposal would not require the Company to take any affirmative action with respect to its contracts, unless it becomes non-compliant with the proposed policy by the time such policy is implemented.

Further, according to the Company's 2017 annual report, it operates only *one* facility that houses (non-separated) immigrant children and their parents, the South Texas Family Residential Center, out of a total of 89 facilities nationwide (70 owned and managed by the Company, seven managed by the company and owned by government agencies, and 12 owned by the Company and leased to third parties).[1] Thus, the Company houses immigrant children and parents in just one of 89 facilities it owns or manages; clearly, if the Proposal is adopted, it would not impact business operations "so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight," and in fact would have a minimal impact on the Company.

Therefore, the Proposal does not implicate a task fundamental to management's ability to run the Company and should not be excluded from the Company's proxy materials.

[1] http://ir.corecivic.com/static-files/f242d017-6ce3-4bb5-ae33-f6888059dc9b (page 5)

B. The Proposal Focuses On a Policy Issue That Is Sufficiently Significant and Transcends Ordinary Business Operations

Even if the Proposal were found to relate to ordinary business matters, the No-Action Request disregards the fact that the Staff has a longstanding history of refusing to permit a company to exclude a shareholder proposal under Rule 14a-8(i)(7) when the proposal deals with significant social policy issues. *See, e.g., Exxon Mobil Corporation* (March 13, 2017) (proposal requesting company to report on its actions to minimize methane emissions not excludable under 14a-8(i)(7), with the Staff noting "the proposal transcends ordinary business matters and does not seek to micro-manage the company to such a degree that exclusion of the proposal would be appropriate"); *Revlon Inc.* (Mar. 18, 2014) (no-action request denied because the proposal focused on the significant policy issue of the humane treatment of animals); *McDonald's Corporation* (Mar. 14, 2012) (shareholder proposal that addressed the fast food industry's contribution to childhood obesity was not excludable because the proposal addressed a significant social policy issue); *Aqua America, Inc.* (Mar. 13, 2012) (proposal for water supply company to adopt a policy regarding the human right to water was not excludable because the proposal focused primarily on the significant policy issue of human rights); *Corrections Corp. of America* (Feb. 10, 2012) (no-action request denied for proposal seeking biannual reports to shareholders on Company's efforts to reduce incidents of rape and sexual abuse of prisoners housed in facilities operated by the Company); *Chevron Corp.* (Mar. 28, 2011) (proposal would amend the bylaws to establish a board committee on human rights).

The Proposal, which requests the Company to implement a policy forbidding the housing of separated children or separated adults within its detention centers, similarly raises significant social policy issues that have been widely discussed. Specifically, the Proposal focuses on the significant policy issue of separating immigrant children and parents. During 2018, 2,654 immigrant children, 103 aged four and younger, were separated from their parents. As of October 2018, at least 254 immigrant children remained separated.[2] On average, children held in detention centers similar to CXW's have spent five months in custody. Underscoring this public policy issue, two Guatemalan children passed away while in federal custody in December 2018.[3] Recently, news reports have indicated that thousands more immigrant children may have been separated than initially thought.[4]

The Staff has adopted the "widespread public debate" standard with respect to determining if a shareholder proposal focuses on a significant social policy issue. *See* Staff Legal Bulletin No. 14A (July 12, 2002) ("The Division has noted many times that the presence of widespread public

[2] "Nearly 250 migrant children still separated from parents, ACLU report says" *Washington Post*, https://www.washingtonpost.com/local/immigration/nearly-250-migrant-children-still-separated-from-parents-aclu-report-says/2018/10/18/d3fc2fd0-d222-11e8-b2d2-f397227b43f0_story.html?noredirect=on

[3] "Trump Politicizes deaths of two immigrant children to score points in border wall fight" *Washington Post*, https://www.washingtonpost.com/politics/trump-politicizes-deaths-of-two-immigrant-children-to-score-points-in-border-wall-fight/2018/12/29/e46dc884-0b9c-11e9-a3f0-71c95106d96a_story.html

[4] "Family Separation May Have Hit Thousands More Migrant Children Than Reported" *The New York Times*, https://www.nytimes.com/2019/01/17/us/family-separation-trump-administration-migrants.html

debate regarding an issue is among the factors to be considered in determining whether proposals concerning that issue "transcend the day-to-day business matters.""); *see also, Verizon Communications Inc.* (avail. Jan. 23, 2003) ("In view of the widespread public debate concerning the impact of non-audit services on auditor independence and the increasing recognition that this issue raises significant policy issues, we do not believe that Verizon may omit the proposal from its proxy materials in reliance on Rule 14a-8(i)(7)"); *Bank of America Corporation* (March 14, 2011 ("In view of the public debate concerning widespread deficiencies in the foreclosure and modification processes for real estate loans and the increasing recognition that these issues raise significant policy considerations, [the Staff does] not believe that Bank of America may omit the first proposal from its proxy materials in reliance on rule 14a-8(i)(7)"). It is clear that immigrant family separation constitutes a topic of "widespread public debate." Since the Trump Administration announced the "zero tolerance" policy, individuals, civil rights groups and corporations raised their collective voice in opposition. Dozens of federal lawsuits have been filed, including by the American Civil Liberties Union (see, *Ms. L, et al., v. U.S. Immigration and Customs Enforcement, et al. Case No. 18cv428 DMS MDD (S.D. Cal. 2018); and, Beata Mariana De Jesus Mejia-Mejia v. U.S. Immigration and Customs Enforcement, et. al.,* (D.D.C. 2018), raising multiple constitutional violations as the main point of concern. Further, there have been countless news articles detailing, not only the underlying moral dilemma presented by the separation of immigrant families, but also the public reaction to such separations, throughout the country and internationally. Throughout 2018, people "outraged over the separation of children from their parents at the border… [planned] protests throughout the country," CNN reported on June 19, 2018. (CNN recounting the details of a family separation vigil held at the ICE headquarters in Washington, D.C., a march in El Paso, Texas to the Processing Center, followed by a rally against family separation and a protest that occurred at Philadelphia's Rittenhouse Square, where participants brought children's shoes to line the street).[5]

Even more significant in demonstrating that family separation is an important public policy issue and a topic of "widespread public debate" is the intervention by federal district court judges. Beginning in June 2018, federal judges began issuing orders commenting on the immorality and illegality of the Trump administrations "zero-policy" directive. Specifically, in explaining the decision to halt family separations, U.S. District Court Judge Dana Sabraw stated that the "balance of the equities and the public interest" weigh in favor of those opposing family separation. [6]

Additionally, legislation was introduced in Congress to address the family separation issue,[7] and President Donald Trump signed an executive order to end the controversial practice of family separation in June 2018 – indicating that this is such a significant policy issue that it resulted in

[5] "Here are some of the protests against family separation happening today" *CNN,* https://www.cnn.com/2018/06/19/us/immigration-protests-family-separation/index.html

[6] https://www.cnn.com/2018/06/26/politics/federal-court-order-family-separations/index.html

[7] "Lawmakers Renew Efforts to Pass Family Separation Bill" *Roll Call*, https://www.rollcall.com/news/politics/lawmakers-renew-effort-pass-family-separation-bill

action by Congress and the President of the United States.[8] Despite that executive order, as noted above, immigrant children still remain separated from their parents, and the government has indicated that family separation may be reinstated in the future.[9] Because the social policy issue addressed by the Proposal is one that is clearly a matter of public debate, it should be found to amount to a social policy issue that may not be omitted from the Proxy Materials in reliance on Rule 14a-8(i)(7).

Importantly, as previously noted, the Staff has also stated that a proposal would generally not be excludable "as long as a sufficient nexus exists between the nature of the proposal and the company." (SLB 14I, *citing to* Staff Legal Bulletin No. 14H (Oct. 22, 2015), citing Staff Legal Bulletin No. 14E (Oct. 27, 2009)). In this instance, the nexus between the nature of the Proposal and the Company is clear. The Proposal addresses a policy regarding the detention of separated immigrant children and parents, and the Company's business is in operating detention centers. Specifically, the Company contracts with the federal government to operate immigrant detention facilities, and houses both immigrant children and parents at one of its facilities.

The Company should not be permitted to hide behind the cloak of the ordinary business exclusion, given that the subject matter of the Proposal raises significant social policy issues as to the separation of immigrant children and parents, and the issue has a sufficient nexus to the Company. The Staff has found various types of issues to rise to the level of a significant policy issue. Cited above, for example, are issues such as childhood obesity (*McDonald*'s), treatment of the environment (*Exxon Mobil Corporation*) humane treatment of animals (*Revlon, Inc.*) and sexual abuse of prisoners (*Corrections Corp. of America)*. Certainly, if children's diets, treatment of the environment and animals, and how prisoners are treated are important social policy concerns, then the fundamental right of a *civilly detained* child to be with a parent and the emotional and physical health and well being of a child that has been forcibly taken away from his or her parent is undoubtedly significant as a policy concern.

C. The Proposal May Not be Excluded in Reliance on Rule 14a-8(i)(7) Because It Does Not Micro-manage the Company

The Proposal does not seek to "micro-manage" the Company because the Proposal only requests that a policy be established by year end, and it does not compel the Board to adopt a policy or dictate the specifics or language of the policy. Within the broad parameters of the requested policy, the exact timing of the policy being enacted (so long as it is before year-end), how it is applied and implemented, and its exact wording and formulation, is entirely up to the Board.

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[8] "Trump Signs Order to End Family Separation Policy, Calls on Congress to Act" *Roll Call*, https://www.rollcall.com/video/trump_signs_order_to_end_family_separation_policy_calls_on_congress_to_act

[9] "Trump Administration Weights New Family-Separation Effort at Border" *Washington Post*, https://www.washingtonpost.com/local/immigration/trump-administration-weighs-new-family-separation-effort-at-border/2018/10/12/45895cce-cd7b-11e8-920f-dd52e1ae4570_story.html, and "Trump Confirms Support for Renewing Family Separation" *Daily Beast*, https://www.thedailybeast.com/trump-confirms-support-for-renewing-family-separation

The Company, under the Proposal, is not required to make changes to all, or even a significant percentage, of its existing contacts, as the Company has admitted it does not engage in housing immigrant children separated from their parents. With respect to altering contracts, the Company would only need to modify or terminate contracts if any were in conflict with the policy sought by the Proposal at the time that policy is implemented. Notably, the Company has control over that process, as, pursuant to the Proposal, it has until December 31, 2019 to adopt the requested policy, and any non-compliance would be solely due to the Company's own inaction. The nature of any contract modifications and how any contract terminations are effectuated would be left up to the Company itself.

Previous shareholder proposals that have left open to management the method by which a company implements the proposal have been determined by the Staff not to micro-manage the companies at issue. *See, e.g., Wal-Mart Stores, Inc.* (Mar. 29, 2011) (no micro-management found where proposal mandated the issuance of sustainability reports but did not prescribe the process by which the reports were to be compiled or the consequences for supplier non-compliance). And, in fact, some proposals with significantly stricter demands have been upheld by the Staff. *See, e.g.*, *The Gap, Inc.* (Mar. 14, 2012) (proposal to bar The Gap entirely from using Sri Lankan labor not micromanaging); *Corrections Corp. of America* (Feb. 10, 2012) (proposal requesting bi-annual reports on the company's efforts to reduce prisoner rape and sexual abuse, specifying data to be included in reports, not micromanaging); *Amazon.com, Inc.* (Mar. 25, 2015) (proposal requesting a report on human rights risks within the company's entire operations and supply chain not excluded under Rule 14a-8(i)(7)).

CXW relies on various no-action letters where shareholder proposals were excluded for seeking to micro-manage the company. However, these letters dealt with broad, sweeping proposals that intruded far more invasively into the company's preexisting business operations. *See, e.g., EOG Resources, Inc.* (Feb. 26, 2018) (the proposal asked the energy company to adopt company-wide, quantitative, time-bound targets for reducing greenhouse gasses, where the company already balanced multiple factors in making drilling decisions); *Marriott International Inc.,* (Mar.17, 2010) (permitting exclusion of a proposal which required the installation of mechanical switches in 3,178 properties); *SeaWorld Entertainment, Inc.* (Mar. 30, 2017) (no action was granted for a proposal that sought to replace the live animals on display at the company's parks with virtual exhibits, effectively changing the entirety of the company's operations, infrastructure and personnel needs); and *Apple, Inc.* (Dec. 5, 2016) (allowing exclusion of a proposal requiring the company to reach a net-zero greenhouse gas emission status by 2030 for all aspects of its business). Unlike any of the foregoing examples, the Proposal does not require the Company to change its corporate purpose, infrastructure, processes or personnel. These letters are all inapplicable, as the proposals in question reached with far greater breadth into the management and operations of the respective companies than the Proposal does. In light of the broad discretion given to the Board on how to implement the policy and the timeline in which to do so, it cannot be said that the Proposal "micro-manages" the Company "by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *See* 1998 Release.

In summary, the Proposal does not impede on tasks fundamental to business operations. It does not seek to micro-manage the Company to an unreasonable degree. It also focuses on a significant social policy issue that is a matter of public debate related to the safety and well being of immigrant children and parents detained in detention facilities, and which issue has a direct nexus to the Company, which operates immigrant detention facilities. The Proponent therefore submits that the Company has failed to meet its burden of persuasion under Rule 14a-8(i)(7) and thus should not be allowed to exclude the Proposal from its Proxy Materials on this basis.

III. The Proposal May Not Be Excluded Under Rule 14a-8(i)(6) Because the Company Has the Power and Authority to Implement the Proposal

Under Rule 14a-8(i)(6), a shareholder proposal may be excluded where the company lacks the power or authority to implement the Proposal. The Company claims that implementation of the Proposal, should it receive a majority of votes from shareholders, would cause it to breach existing contracts to which the Company is a party. The Proposal, however, does not *compel* the Company to take any specific action, much less action that would breach a current contract or violate applicable law. By its terms, the Proposal merely requests that the Company implement a policy that disallows the housing of immigrant children and parents who have been separated by the U.S. government. *Only* if the Company were to be non-compliant with the proposed policy would it, as a last resort pursuant to Paragraph (3) of the Proposal, have to modify or terminate a contract. Significantly, any necessary termination or amendment of a future contract would depend entirely on the knowing violation of the proposed policy by the Company. Further, and as the Company stated in its No-Action Request to the Staff, the Company does not currently engage in the separation of immigrant children from their parents. Accordingly, CXW's argument that implementing the Proposal would force it to breach *existing* contracts is not congruent with its publicly announced position on this issue. The Company attempts to remedy its circular argument by proffering that, although it does not currently engage in the separation of immigrant children from their parents, the Proposal would require the Company to amend or seek third party consent "to comply with the policy sought by the Proposal." Yet, this argument is also incompatible with the Company's public stance on the subject matter. Specifically, if the Company does not currently engage in such activity, it would seem unlikely that any language mandating the Company to house immigrant children separated from their parents would be present in *any* existing contract between CXW and a governmental partner.

Even if the Company does not have the unilateral ability to modify its contracts absent the agreement of its contracting partner, it *does* have the ability to terminate its own contracts. The Proposal specifically provides for such termination if modification is not possible, in Section 3 of the Proposal: "If CoreCivic houses at any of its facilities any immigrant detainee children or adults described in sections 1 or 2 above at the time the policies set forth in sections 1 and 2 are implemented, the Company shall: a) immediately move to modify all such contracts to comply with the above policies *or, if such modification is not possible within a six-month period, seek to withdraw from or terminate such contracts as soon as possible*, including invoking any early termination options or clauses in such contracts, and b) diligently work to make arrangements to

safely house such immigrant detainees that do not involve housing them at any of the Company's facilities" (emphasis added).

Additionally, the Company argues that the Proposal, in the alternative, forces the Company to seek the intervention of independent third parties, as opposed to a proposal that "merely requires the company to ask for cooperation from a third party," which is not excludable under Rule 14(a-8(i)(6). However, the Proposal explicitly provides the Company the option to seek cooperation from a third party governmental partner. First, the Company's argument that it would have to seek third party consent is factually incorrect based on its own position that no current contract requires the Company to house immigrant children separated from their parents. If no such requirement exists, by default there would be no necessity to obtain consent from any existing governmental partner. Even assuming the Company does have contracts that would need to be amended or terminated by the terms of the Proposal, the Company still has the power and authority to implement the Proposal. As noted above, the Proposal gives the Company the option to either amend or terminate the contract, which is within the Company's power and authority. Also, while the Company claims there is no indication their contracting partners would agree to such a policy or contract amendments, it provides no proof that such contracting parties would *not* agree. That is, the Company has provided no statement, letter or opinion from Immigration and Customs Enforcement or other governmental agencies to support its suggestion that these parties would not agree to reasonable contract amendments. And even if such support did exist, then termination of any contracts in conflict with the policy requested by the Proposal would still be within the Company's power and authority. The Company does not deny that it has the power and authority to terminate contracts.

The Company relies on various no-action letters where proposals required the company to obtain consent from third parties, or required affirmative acts by independent third parties, but such proposals are distinguishable from the Proposal. *See, e.g., Ebay, Inc.* (Mar. 26, 2018) (exclusion of a proposal was allowed because it required the affirmative compliance of a joint venture, of which Ebay did not hold a majority interest); and *Twenty-First Century Fox, Inc.* (Aug. 27, 2018) (permitted the exclusion of a proposal because of an express provision, in an existing merger agreement, prohibiting the company from amending its organizational documents or reclassifying outstanding shares of capital stock). Unlike the no-action letters relied on by the Company, which all included instances of affirmative requirements placed on third parties *and* the existence of contrary contractual obligations, CXW points to no such requirements or the existence of similar contractual limitations. Further, the Proposal includes an option – termination of contracts in conflict when the requested policy goes into effect – that is entirely within the Company's power and authority. Thus, the Company has failed to meet its burden of showing that the Proposal should be excluded under Rule 14a-8(i)(6).

IV. The Company has Failed to Demonstrate that the Proposal is Impermissibly Vague and Inherently Misleading

Under Rule 14a-8(i)(3), a company may omit a proposal if it is "false or misleading with respect to any material fact." In a 2004 Staff Legal Bulletin, the Staff stated that there has been an

"unintended and unwarranted extension of Rule 14a-8(i)(3), as many companies have begun to assert deficiencies in virtually every line of a proposal's supporting statement as a means to justify exclusion of the proposal in its entirety." *Staff Legal Bulletin (CF)* No. 14B (Sept. 15, 2004). Calling this extension "inappropriate," the Staff reminded companies of Rule 14a-8(l)(2), which states that "the company is not responsible for the contents of the [shareholder's] proposal or supporting statement," and as such, the Staff will only concur in the company's reliance on Rule 14a-8(i)(3) where that company "has demonstrated objectively that the proposal or statement is *materially* false or misleading." *Id.*

The Proposal is narrow in scope, and limits any change in policies to apply only to those immigrants held in the Company's detention centers; it does not apply to the other hypothetical scenarios described by the Company in its No-Action Request. Further, the Proposal asks the Company to implement the policy, the essential and intended purpose of which is clear. The Company asserts that the terms of the Proposal are inherently vague because "there is no way for the Company… to determine what actions or measures the Proposal requires." The Company contends that the use of the terms "immigrant" and "separated", without accompanying definitions, is so vague as to render it unable to discern the scope of the Proposal. Yet, in its exhaustive No-Action Request, the Company argues that the Proposal is *so* detailed and specific that it curtails management from freely running daily operations. Further, CXW argues that the vagueness of the term "immigrant" does not allow the Company to comprehend to whom the Proposal applies. Yet, the Company's entire No-Action Request conveys a clear understanding by the Company of both the term "immigrant" and the scope of the Proposal. For example, on Page 7 of the Company's No-Action Request, an entire paragraph is dedicated to explaining CXW's current stance on family separation of immigrant detainees. Specifically, the Company explains that:

> While the Board has considered the issue of housing immigrant children separate from their families in the past, it reviewed the issues in light of the Proposal. The Board noted the Company's June 20, 2018 public statement that stated "[the Company] cares deeply about eve1y person in [the Company's] care. None of [the Company's] facilities provides housing for [illegal immigrant] children who aren't under the supervision of a parent. The Board also considered Executive Order 13841, signed on June 20, 2018, (the "Executive Order") which effectively ended the policy of separating immigrant children from their parents who were detained as they entered the United States without proper documentation or authority. The Board concluded that the Company's existing position of not detaining immigrant children who have entered the United States without proper documentation without the supervision of a parent is socially responsible and appropriate in light of the Company's core detention business and the Executive Order.

Further, on page 11 of its No-Action Request, the Company accurately states: "The essential objective of the Proposal is addressing the issue of separating immigrant children from their

parent (or parents) who were detained in connection with their entry into the United States without proper documentation or authority."

The assertion by the Company that it cannot comprehend the Proposal or what it aims to remedy, is directly disputed by its own No-Action Request, as CXW not only included the Company's "public announcement" on this specific issue, but further clarified its announcement as applying to "[illegal immigrant]" children who were "separated immigrant children… who were detained as they entered the United States without proper documentation or authority." Even putting aside the Company's clear appreciation and understanding of the Proposal, as set forth in its No-Action Request, words are given their ordinary meaning and should be construed in accordance therewith, unless otherwise defined. Further, it is impossible to define every common term in a proposal that has a 500-word limit.

Accordingly, we respectfully ask the Staff to find that the Company has failed to meet its burden of proof to demonstrate that the Proposal is materially misleading under Rule 14a-8(i)(3). Nonetheless, the Proponent would be amenable to modifying the portion of the supporting statement regarding the Proposal to which the Company objects.

V. The Company May Not Exclude the Proposal Under Rule 14a-8(i)(10) Because the Proposal Has Not Already Been Substantially Implemented By the Company

The Company also objects to the Proposal under Rule 14a-8(i)(10) on the grounds that it has already been substantially implemented. However, here, too, the Company is not correct. The Staff has stated that whether a shareholder proposal has been substantially implemented by a company under Rule 14a-8(i)(10) "depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal." *Texaco, Inc.* (Mar. 28, 1991). To show "substantial implementation", the Company must prove that its actions address the underlying concerns and the essential objective of the Proposal. *See, e.g.*, *Corrections Corp. of America* (Feb. 10, 2012) (no exclusion of proposal requesting bi-annual reports for each company facility on company's efforts to reduce prisoner rape and sexual abuse where company merely intended to release annual reports using aggregated data); *The J.M. Smucker Company* (May 9, 2011) (proposal to commit company to issue environmental report not substantially implemented despite company's existing commitment to issue a different report, where proposal would commit company to discussing additional issues); *Wal-Mart Stores, Inc.* (Mar. 29, 2011) (proposal to have company demand that suppliers deliver sustainability reports not substantially implemented where company's Supplier Code of Conduct exempted majority of suppliers from delivering such reports); *General Motors Corp.* (Mar. 5, 2004) (proposal sought a report on global warming, and company was set to release information on a website; shareholder successfully argued that "a website is not a report to stockholders"); *c.f. The Proctor & Gamble Company* (Aug. 4, 2010) (substantial implementation where existing updated policy addressed every one of the proposal's policy concerns); *3M Company* (March 2, 2005) (proposal seeking implementation on eleven principles relating to human and labor rights

in China not substantially implemented despite company's comprehensive policies and guidelines).

The Company argues that it has already substantially implemented the Proposal as evidenced by "the Company's June 20, 2018 statement on the subject." This is the only information proffered by CXW purporting to show that it is unnecessary for it to include the Proposal, based on having already substantially implemented a similar policy. While the Proposal asks the Company to implement a *policy* prohibiting the housing of separated immigrant detainee children and parents, the Company points to no such policy that it has developed or implemented. It has not provided a copy of any such policy to the Staff. It only cites its voluntary, non-binding, current position (its "publicly announced position") whereby it claims, while offering no proof, that it does not house separated immigrant children.

The Company's view that it has substantially implemented the policy "via public statements and actual practice," further ignores the fact that the Company can reverse its position (and practice) at any time, absent the formal policy that the Proposal seeks. However, even if the Company's public statement did constitute substantial implementation, the statement only addresses one part of the Proposal regarding housing separated *children* – the public statement does not address the Proposal's requested policy to prohibit housing immigrant *parents* who have been separated from their children, as stated in Section 2: "CoreCivic shall adopt a policy of not accepting adult immigrant detainees (persons over the age of 18), who have been separated from their child or children by any U.S. government entity, for housing at any facility owned or operated by the Company." Absent any action with respect to the part of the Proposal regarding housing adults over the age of 18 who have been separated from their children, or the part of the Proposal regarding amending or terminating contracts that are in conflict with the policy once it is implemented, the Company has, at best, addressed only one part of the Proposal. Such actions do not amount to "substantial implementation."

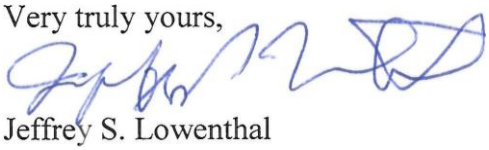
In short, the Company has failed to demonstrate that it has substantially implemented – or even partially implemented – the provisions specified in the clear language of the Proposal, as none of the policies currently in place by the Company conform to those requested by the Proposal. Therefore, the Proposal should not be excluded under Rule 14a-8(i)(10).

VI. **Conclusion**

For the foregoing reasons, and without addressing or waiving any other possible arguments we may have, we respectfully submit that the Company has failed to meet its burden of persuasion under Rules 14a-8(i)(3), (i)(7), (i)(6) and (i)(10), and thus the Staff should not concur that the Company may omit the Proponent's Proposal from its Proxy Materials.

If the Staff disagrees with our analysis, or if additional information is necessary in support of the Proponent's position, I would appreciate an opportunity to speak with you by telephone prior to the issuance of a written response. Please do not hesitate to contact either me at (212) 806-5509, or by fax at (212) 806-6006, or by e-mail at jlowenthal@stroock.com, or my colleague Shayna Philips at (212) 806-5561, or by fax at (212) 806-6006, or by e-mail at sphilips@stroock.com, if we can be of any further assistance in this matter.

Very truly yours,



Jeffrey S. Lowenthal

cc: Cole Carter, Esq.
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Alex Friedmann

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January 4, 2019

VIA E-MAIL

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

Re: *CoreCivic, Inc. Shareholder Proposal of Alex Friedmann in Accordance with Securities Exchange Act of 1934—Rule 14a-8*

Dear Ladies and Gentlemen:

This letter is to inform you that our client, CoreCivic, Inc. (the "***Company***"), intends to omit from its proxy statement and form of proxy for its 2019 Annual Meeting of Shareholders (collectively, the "***2019 Proxy Materials***") a shareholder proposal (the "***Proposal***") and statements in support thereof received from Alex Friedmann (the "***Proponent***"). Pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"), we are writing on behalf of our client to request that the Staff of the Division of Corporation Finance (the "***Staff***") of the Securities and Exchange Commission (the "***Commission***") concur with the Company's view that, for the reasons stated below, it may exclude the Proposal from the 2019 Proxy Materials to be distributed by the Company in connection with its 2019 annual meeting of stockholders. In accordance with Section C of Staff Legal Bulletin No. 14D (November 7, 2008) ("***SLB 14D***"), we are emailing this letter and its attachments to the Staff at shareholderproposals@sec.gov.

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Commission no later than eighty (80) calendar days before the Company intends to file its definitive 2019 Proxy Materials with the Commission; and

- concurrently sent a copy of this correspondence to the Proponent.

Rule 14a-8(k) and SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to this Proposal, a copy of that correspondence should be furnished concurrently to the Company pursuant to Rule 14a-8(k) and SLB 14D.

THE PROPOSAL

The Proposal states:

> **RESOLVED**: That the stockholders of the Company request that the Board of Directors adopt the following policy, to be implemented no later than December 31, 2019:
>
> 1. CoreCivic shall adopt a policy of not accepting immigrant detainee children (persons under the age of 18), who have been separated from their parent or parents by any United States government entity, for housing at any facility owned or operated by the Company.
>
> 2. CoreCivic shall adopt a policy of not accepting adult immigrant detainees (persons over the age of 18), who have been separated from their child or children by any United States government entity, for housing at any facility owned or operated by the Company.
>
> 3. If CoreCivic houses at any of its facilities any immigrant detainee children or adults described in sections 1 or 2 above at the time the policies set forth in sections 1 and 2 are implemented, the Company shall: a) immediately move to modify all such contracts to comply with the above policies or, if such modification is not possible within a six-month period, seek to withdraw from or terminate such contracts as soon as possible, including invoking any early termination options or clauses in such contracts, and b) diligently work to make arrangements to safely house such immigrant detainees that do not involve housing them at any of the Company's facilities.

The supporting statement accompanying the Proposal consists of five paragraphs, which, among other things, acknowledges the Company's publicly announced statement that the Company does not, nor does it have a current intention to, house immigrant detainee children who have been separated from their parents, and presents some anecdotal information regarding the Company's immigration detention operations.

A copy of the Proposal is attached to this letter as Exhibit A.

BASES FOR EXCLUSION

I. **The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because The Proposal Involves Matters Relating to The Company's Ordinary Business Operations.**

A. Background On the Ordinary Business Standard Under Rule 14a-8(i)(7)

Pursuant to Rule 14a-8(i)(7), a shareholder proposal may be excluded if it "deals with a matter relating to the company's ordinary business operations." According to the Commission's release accompanying the 1998 amendments to Rule 14a-8, the term "ordinary business" "refers to matters that are not necessarily 'ordinary' in the common meaning of the word," but instead the term "is rooted in the corporate law concept providing management with flexibility in directing certain core matters involving the company's business and operations." Exchange Act Release No. 40018 (May 21, 1998) (the "***1998 Release***").

In the 1998 Release, the Commission stated that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting," and identified two central considerations that underlie this policy. The first is that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as

a practical matter, be subject to direct shareholder oversight." The second consideration is related to "the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *Id.* (citing Exchange Act Release No. 12999 (Nov. 22, 1976)). The mere fact that a proposal touches upon a significant policy issue is not alone sufficient to avoid the application of Rule 14a-8(i)(7) when a proposal implicates ordinary business matters. Although the Commission has stated that "proposals relating to such [ordinary business] matters but focusing on sufficiently significant social policy issues...generally would not be considered to be excludable," the Staff has expressed the view that proposals relating to both ordinary business matters and significant social policy issues may be excluded in their entirety in reliance on Rule 14a-8(i)(7). 1998 Release. The Staff recently updated its views on Rule 14a-8(i)(7) in Staff Legal Bulletin No. 14I (Nov. 1, 2017) ("***SLB 14I***"). Now, similar to the analysis under Rule 14a-8(i)(5), a proposal that raises ordinary business operations matters may be excluded, unless such proposal focuses on policy issues that are sufficiently significant because they transcend ordinary business and would be appropriate for a shareholder vote. The Staff further stated in SLB 14I that "[w]hether the significant policy exception applies depends, in part, on the connection between the significant policy issue and the company's business operations" and that a company's board of directors "is well situated to analyze, determine and explain whether a particular issue is sufficiently significant because the matter transcends ordinary business and would be appropriate for a shareholder vote." When assessing proposals under Rule 14a-8(i)(7), the Staff considers the terms of the resolution and its supporting statement as a whole. *See* Staff Legal Bulletin No. 14C ("***SLB 14C***"), part D.2 (June 28, 2005) ("In determining whether the focus of these proposals is a significant social policy issue, we consider both the proposal and the supporting statement as a whole").

B. The Proposal May Be Excluded in Reliance on Rule 14-a(8)(i)(7) Because It Seeks to Micromanage the Company

The Staff has repeatedly allowed for the exclusion of proposals touching on significant policy issues where the proposal seeks to micro-manage the company by specifying the manner in which the company should address the policy issue. *See e.g., EOG Resources, Inc.* (Feb. 26, 2018) (shareholder proposal that asked the energy company to adopt company-wide, quantitative, time-bound targets for reducing greenhouse gasses was considered "micro-managing" the company because the company already carefully balances a host of factors in making drilling decisions, and there are many environmental factors that are outside the company's control that impact emissions); *Marriott International Inc.* (Mar. 17, 2010) (allowing exclusion of a proposal limiting showerhead flow to no more than 1.6 gallons per minute and requiring mechanical switches to control the level of water flow); and *Apple, Inc.* (Dec. 5, 2016) (allowing exclusion of a proposal requiring the company reach a net-zero greenhouse gas emissions status by 2030 for all aspects of its business, including major suppliers).

The Company's core business is providing a broad range of solutions to government partners that better the public good through corrections and detention management, which includes the Company's operation and management of detention and residential reentry facilities. As such, the Company's management decisions regarding which governmental entities with whom to contract and the terms of services to be provided under any such contract is an essential management function that is paramount to the Company's ability to run its business. The Company's Board of Directors (the "***Board***") and management expend significant resources determining which governmental contracts are compatible with the Company's mission and strategic vision. The Company's policies and procedures for providing services to governmental entities are routinely discussed at the management and Board level. A multitude of economic, social, logistical, environmental and political factors are considered and balanced when evaluating Company business opportunities. The Company has publically stated, "None of our facilities provides housing for children who aren't under the supervision of a parent." The Proposal is directive and attempts to constrain the

Company's choices regarding negotiations of the terms of services to be provided to government entities like Immigration and Customs Enforcement ("**ICE**"). These negotiations and decisions to contract with a government entity make up the core of the Company's ordinary business matters and are not appropriate for shareholder oversight because they require a deep understanding of the Company's operations, and shareholders lack the information necessary to make informed decisions on the matter.

In *SeaWorld Entertainment, Inc.* (Mar. 30, 2017), no-action was granted for a shareholder proposal that sought to replace the captive orcas on display at the company's parks with virtual, non-animal related exhibits. Despite the social issue of the treatment of captive animals, the Staff granted no-action and allowed the proposal to be excluded because it sought to "micromanage the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." Specifically, the *SeaWorld Entertainment, Inc.* proposal micromanaged the company because it related to management decisions that were central to the company's ability to run its business on a day-to-day basis, and those management decisions required complex analysis of a myriad of factors and information that shareholders did not have access to. Similarly, in *JPMorgan Chase & Co.* (Mar. 30, 2018), a shareholder proposal that attempted to restrict the company from lending to customers based on the customer's practices regarding tar sands production and transportation was excluded because it sought to micromanage the company. The proposals in *SeaWorld Entertainment, Inc.* and *JPMorgan Chase & Co.* both involved fundamental management decisions that required complex analysis of information and factors that could only be properly understood with an intimate understanding of company operations.

As in *SeaWorld Entertainment, Inc.* and *JPMorgan Chase & Co.*, the Proposal impermissibly seeks to micromanage the Company's detention services provided to the Company's government partners. Similar to the decision in *SeaWorld Entertainment, Inc.* regarding which services the company should provide, decisions regarding which governmental entities with whom to contract requires extensive knowledge of the Company's operations and strategic goals, as well as an expansive understanding of evolving regulatory and political factors. The Company has 35 years of experience in the field of detention services. In addition, the Company engages directly with policy makers and retains expert consultants and employees in order to digest and process the extraordinarily complex data signaling a need for a shift in strategy or service offering. A decision made based on today's understanding of migrant policy and regulatory needs must not therefore foreclose a future decision based on needs arising from unforeseeable changes in the political, economic, and social environment. The Proposal seeks to broadly dictate which services the Company may offer to existing and future governmental partners. The Proposal would drastically affect how the Company evaluates its opportunities to procure government contracts, and restrict its services to many of its existing governmental partners, including ICE, because it seeks to categorically exclude the Company's housing of persons based on their family relationships. Further, the Proposal attempts to micromanage the Company by specifying how the Proposal would be implemented if adopted. Specifically, the Proposal calls for the Company to modify or terminate its current contracts that would violate the policy requested by the Proposal. Because the Proposal seeks to impose a specific policy that would directly impact day-to-day management decisions, and because the Proposal specifies the manner in which the Company should address the ramifications of the policy, the Company believes that the Proposal seeks to micromanage the Company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgement. Therefore, the Proposal should be excluded from the 2019 Proxy Materials pursuant to Rule 14a-8(i)(7) as it seeks to micromanage the Company.

C. The Proposal May Be Excluded Because It Relates to Ordinary Business Matters

1. The Company's Determinations Regarding the Offering of Particular Services Are Ordinary Business Matters

The Proposal may be properly excluded under Rule 14a-8(i)(7) because the Staff has repeatedly held that a proposal regarding a company's decision to offer a particular service to its clients and the manner in which the company provides said services are the exact type of fundamental, day-to-day operational decisions meant to be covered by the ordinary business operations exception. *See e.g., JPMorgan Chase & Co.*; *H&R Block, Inc.* (Aug. 1, 2006) (proposal asking for company to adopt policy on issuing a particular type of loan properly excluded under Rule 14a-8(i)(7)); and *Banc One Corp.* (Feb. 25, 1993) (proposal for company to adopt procedures regarding credit applicants properly excluded under Rule 14a-8(i)(7)). Moreover, in the retail context, shareholder proposals regarding animal rights are consistently excluded under Rule 14a-8(i)(7) because they concern which products or services a company offers to its customers. *TJX Companies, Inc.* (Apr. 16, 2018) (proposal asking the company to ban the sale of fur products in its store was properly excludable, even though the company already had a policy against knowingly selling items containing fur, and even though despite this policy, some fur products inadvertently were available on store shelves, because the decision on which goods and services to provide is an ordinary business matter).

The Proponent asks for the implementation of a policy that relates directly to the ordinary business matter of determining which services the Company should offer, and to which entities the Company can provide services. For example, if the Proposal were adopted: (1) the Company could not house any immigrant detainees who were separated from a parent or child on even a temporary, emergency basis such as a relocation during a natural disaster; (2) the Company could not house a dangerous immigrant felon near the location of such persons adjudicatory proceedings for the benefit of the government if such person had a child or children; and (3) the Company could not temporarily house an immigrant child who had been separated from a parent on an emergency basis due to suspected abuse or neglect. These are just a few examples of needs the Company's existing and future governmental partners might have that would be frustrated by the Proposal as management would be precluded from exercising its business judgment by the Proposal. The fundamental business decision to enter into government contracts, and the subsequent performance under such binding agreements are well within the range of day-to-day business operations. Additionally, day-to-day operational decision-making involves the evaluation of whether a given immigrant detainee can be housed appropriately in a Company facility. These decisions, as described above in Section I.B. are complex and appropriate for determination by management and the Board.

Like the proposals in *H&R Block, Inc.* and *Banc One Corp.*, the Proposal seeks to impose a specific policy on the Company that restricts its ability to provide services to its customers. Further, the Company's position is similar to that in *TJX Companies, Inc.* (Apr. 16, 2018). Both companies have announced their respective positions against a certain action (i.e., the Company does not seek to separately house children from their parents, and *TJX Companies, Inc.* ("**TJX**") had a policy against knowingly selling fur), yet both companies, for reasons outside of their respective control, could not guarantee strict compliance when considering the sourcing of such products to be sold, in the case of TJX, or the performance of the Company's obligations under any binding government contract, in the case of the Company. Just as in *TJX Companies, Inc.*, the Proposal is an impermissible interference with ordinary business decisions regarding the provision of services and the manner in which the services are provided.

2. *The Proposal Does Not Focus Solely on a Significant Policy Issue; It Focuses, at Least in Part, on Ordinary Business Matters*

If a proposal touches upon a policy issue that is so significant that the matter transcends ordinary business and is appropriate for a shareholder vote, the proposal can nonetheless be properly excluded under Rule 14a-8(i)(7) if the proposal does not focus solely on a significant policy issue or if it addresses, even in part, matters of ordinary business in addition to a significant policy issue. *See e.g., JP Morgan Chase and Co.* (even if the topic of tar sands production were so important that it transcends ordinary business, the proposal would be excluded because it touches on the ordinary business matter of generating loans); *McKesson Corp.*

(June 1, 2017) (proposal seeking report on company's process to safeguard against improper distribution of restricted medicines was properly excluded despite the transcending nature of the issue because it related to the company's sale and distribution of products); *Amazon, Inc.* (Feb. 3, 2015) (proposal asking company to disclose the reputational risk of supplying inhumane animal products was excluded because it related to "the products and services offered for sale by the company"); and *Dominion Resources, Inc.* (Feb. 14, 2014) (excluding proposal relating to use of alternative energy sources because the company's choice of technology is an ordinary business operation).

As noted above, SLB 14C states that "[i]n determining whether the focus of these proposals is a significant social policy issue, we consider both the proposal and the supporting statement as a whole." Although the Board does not believe that the Proposal involves a policy that transcends the Company's ordinary business, assuming *arguendo* that it does, the Proposal should be excluded under Rule 14a-8(i)(7) because it does not focus solely on the underlying social issue and instead focuses, at least in part, on ordinary business matters of the Company. As stated throughout, the Company takes the position that the Proposal relates to the ordinary business decision of determining who to provide services to, and how to provide such services. The supporting statement of the Proposal further evidences this interpretation as it plainly acknowledges the Proposal's relation to the Company's ordinary business operations, stating that "[w]hile [the Company] has said it does not house immigrant detainee children who have been separated from their parents, the Company may change that policy in the future or may enter into future contracts to house separated immigrant children and/or parents." These activities fall squarely within ordinary business matters. Specifically, decisions and practices related to the provision of services, and the entry into future contracts with government entities are ordinary business matters. Such a policy would dictate how the Company evaluates its contract procurement process and performance of its agreements, which is a day-to-day operational determination of management and/or the Board. Further, the decision the Company has made to refrain from housing children separate from a parent is also a fundamental business decision, as it directly relates to the Company's provision of services. Therefore, even if the Staff disagrees with the Company and finds that the Proposal transcends the Company's ordinary business, the Proposal should nonetheless be excluded under Rule 14a-8(i)(7) because it does not exclusively relate to the policy issue.

D. Any Policy Issue Raised by the Proposal Does Not Transcend the Company's Ordinary Business Operations

In accordance with the established precedent discussed above, the Company believes that the Proposal deals, at least in part, with matters relating to its ordinary business operations. If the Staff were to disagree with the Company's belief, the Company still takes the position, after careful consideration by the Board, that the Proposal may be excluded because any policy issue raised by the Proposal does not transcend the Company's ordinary business matters and would not be appropriate for a shareholder vote.

In SLB 14I, the Staff stated that a board of directors, acting pursuant to its fiduciary duties and with the knowledge of the company's business and the implications for a particular proposal on that company's business, is well situated to "analyze, determine and explain whether a particular issue is sufficiently significant [to the company] because the matter transcends ordinary business and would be appropriate for a shareholder vote."

In Staff Legal Bulletin No. 14H (Oct. 22, 2015) ("***SLB 14H***"), the Staff noted that "to transcend a company's ordinary business, the significant policy issue must be 'divorced from how a company approaches the nitty-gritty of its core business.'" As stated throughout, the Proposal relates directly to the Company's provision of services. The Proposal does not transcend the Company's ordinary business, because the provision of services to the Company's governmental partners, specifically the operation and

management of detention facilities pursuant to contracts with governmental agencies, is the Company's ordinary business.

In *EOG Resources, Inc.*, the shareholder proposal that sought to require the energy company to adopt new environmental sustainability policies did not transcend the company's ordinary business because the company was constantly evaluating how energy use and sustainability impacted its business. Specifically, energy efficiency had an impact on *EOG Resources, Inc.*'s bottom line, the company had an energy policy, and considered current and evolving energy policies when making business decisions. In *JP Morgan Chase and Co.*, a shareholder proposal that asked for the company to cease giving loans to customers that did not have a particular policy regarding tar sands did not transcend the company's business. There, the Staff deferred to the board's conclusion that the proposal did not transcend the company's business because the board's decision was based on the manner in which the policy would impact the company's day-to-day operations, the proposal's implications to the company, the company's existing policies and procedures regarding the proposal, investor feedback regarding the proposal, and the fact that the company regularly evaluates how social polices impact its business. Exactly like *EOG Resources, Inc.*, the Company is constantly evaluating how social and political issues impact its operations and its ability to enter into and honor contracts. The Board and management also considers the current and future political landscape when determining which governmental partners the Company contracts with for its provision of services. Similar to the board analysis in *JP Morgan Chase and Co.,* the Board undertook a thorough analysis of the Proposal, which included a discussion of the relationship of the Proposal to the Company's operations and how the Proposal would impact day-to-day operations. Additionally, the Board considered its current stance on not housing immigrant children separately from a parent, how the Proposal would impact the Company's current contracts, and how the Proposal would impact future contracts. The Board noted management's view that adopting the Proposal would effectively prohibit it from providing services to many of its existing governmental partners and impair its ability to pursue other opportunities. It also noted management's view that, given the Company's line of business, it is necessary to maintain flexibility to quickly adapt operational strategies and priorities in response to, among other factors, shifting policies and regulations and the resulting needs of governmental agencies. Further, the Board noted that adopting the Proposal would interfere with the daily management of its core business by requiring the Company to limit the services it provides to clients.

While the Board has considered the issue of housing immigrant children separate from their families in the past, it reviewed the issues in light of the Proposal. The Board noted the Company's June 20, 2018 public statement that stated "[the Company] cares deeply about every person in [the Company's] care. None of [the Company's] facilities provides housing for [illegal immigrant] children who aren't under the supervision of a parent." The Board also considered Executive Order 13841, signed on June 20, 2018, (the "**Executive Order**") which effectively ended the policy of separating immigrant children from their parents who were detained as they entered the United States without proper documentation or authority. The Board concluded that the Company's existing position of not detaining immigrant children who have entered the United States without proper documentation without the supervision of a parent is socially responsible and appropriate in light of the Company's core detention business and the Executive Order.

The Board also took into consideration the actions of the Company's shareholders when determining whether or not the Proposal transcends the Company's business. The Company values shareholder input, and seeks out such input through its shareholder engagement program. To address shareholder questions and concerns, the Company has regular communication with shareholders through quarterly earnings calls, investment community conferences, road shows, and other communication channels. The Board took notice that throughout all of the shareholder engagement events, only a handful of shareholders asked for a clarification of the Company's stance on housing immigrant children, and such clarification was provided

by the public statement made June 20, 2018. Moreover, the Company has not received any similar proposal for inclusion in previous proxy materials.

After due consideration of the Company's business and the implications of the Proposal on the Company's business, the Board, acting in accordance with its fiduciary duties, determined that it had analyzed a sufficient amount of information to render a conclusion regarding the Proposal and its significance to the Company. Based on the foregoing and other considerations the Board deemed relevant, the Board determined that the Proposal does not transcend the Company's ordinary business operations, and further determined that the Proposal is not in the best interest of the Company and its stockholders. For all of the above reasons, the Proposal should be excluded from the 2019 Proxy Materials because it deals with a matter relating to the Company's ordinary business operations, does not transcend the Company's day-to-day business matters, and concerns the Company's provision of services.

II. The Proposal May Be Excluded Under Rule 14a-8(i)(6) Because the Company Lacks the Power or Authority to Implement the Proposal as Presented

Rule 14a-8(i)(6) allows a company to exclude a shareholder proposal from its proxy material if the company "lack[s] the power or authority to implement the proposal." In Staff Legal Bulletin No. 14B (Sept. 15, 2005) ("**SLB 14B**"), the Staff stated that proposals which resulted in a company breaching its existing contractual obligations could be excluded under Rule 14a-(8)(i)(6) "because implementing the proposal . . . would not be within the power or authority of the company to implement." The Staff has reinforced this position by consistently ruling that shareholder proposals should be excluded when, if implemented, would result in a company breaching its existing contractual obligations. *See e.g., Cigna Corp.* (Jan. 24, 2017) (shareholder proposal requiring company to amend its bylaws in a manner that would cause it to breach a contractual obligation was properly excluded under Rule 14a-8(i)(6); *Comcast Corporation* (Mar. 17, 2010) (shareholder proposal that directed the company to adopt a policy requiring executives to maintain shares acquired through an equity compensation program was excluded under Rule 14a-8(i)(6) because the proposal conflicted with existing contracts with company executives); *Monsanto Company* (November 29, 2017) (shareholder proposal excluded under Rule 14a-8(i)(6) because its implementation would require a breach of the company's current merger agreement, and the company had no reason to believe the other party would consent to the action necessary for implementation); and *Twenty-First Century Fox, Inc.* (Aug. 27, 2018) (shareholder proposal excluded under Rule 14a-8(i)(6) because its implementation would be a breach of a current contract, and the company had no reason to believe the other party to the contract would consent to amend the contract).

Additionally, in Exchange Act Release No. 34-40019 (May 21, 2998), the Commission took the position that, under Rule 14a-8(i)(6), "exclusion may be justified where implementing the proposal would require intervening actions by independent third parties," in contrast to a proposal that "merely requires the company to ask for cooperation from a third party," which would not be excludable under Rule14a-8(i)(6). Accordingly, a proposal may be excluded under Rule 14a-8(i)(6) if its implementation would give rise to a third party consent right, or would require an amendment to an existing contractual obligation that could not be unilaterally amended. *eBay Inc.* (Mar. 26, 2008). In *eBay Inc.*, a shareholder proposal directed the company to adopt a policy of not selling dogs or cats on an affiliated Chinese website, which was owned by a joint venture to which *eBay Inc.* was a minority party. The proposal was excluded because eBay could not implement the proposal without the consent of the majority partner pursuant to the joint venture agreement. Similarly, the proposal in *Twenty-First Century Fox, Inc.* was excluded because the company could not implement the proposal without consent from the other party to its pending merger agreement, and the company had no reason to believe the other party would give such consent.

The Proposal requires the Company to "immediately move to modify all such contracts to comply with the [terms of the policy in the Proposal] or, if such modification is not possible within a six-month period, seek to withdraw from or terminate such contracts as soon as possible, including invoking any early termination options or clauses in such contracts." The Company has numerous contracts with various governmental entities, many of which would require amendment or consent to comply with the policy sought by the Proposal. The Company's contracts with its governmental partners generally do not provide the Company with the authority to effectuate a unilateral amendment. As a result of the general restriction on the Company's authority to unilaterally amend the Company's existing contracts with its governmental partners, action by a third party would be required for the Company to implement the Proposal without breaching its existing contractual obligations. The Company has no reason to believe that its governmental partners would consent to the modification required for compliance with the policy sought by the Proponent.

The Proposal should be excluded from the Company's 2019 Proxy Materials under Rule 14a-8(i)(6) because implementing the Proposal would (i) give rise to a third party consent right or would otherwise require an amendment to an existing contractual obligation, and therefore cannot be implemented without the action of independent third parties beyond the control of the Company and (ii) cause the Company to breach its current contractual obligations absent the actions by independent third parties described in (i) to this paragraph.

III. The Proposal May Be Excluded Under Rule 14a-8(i)(3) Because The Proposal Is Impermissibly Vague and Indefinite So as to Be Inherently Misleading.

A shareholder proposal may be excluded under Rule 14a-8(i)(3) if the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in proxy solicitation materials. The Staff consistently excludes proposals 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." SLB 14B. Further, a shareholder proposal may be properly excluded as inherently vague where the "meaning and application of terms and conditions . . . in the proposal would have to be made without guidance from the proposal and would be subject to differing interpretations" such that "any action ultimately taken by the [c]ompany upon implementation [of the proposal] could be significantly different from the actions envisioned by the shareholders voting on the proposal." *Fuqua Industries, Inc.* (Mar. 12, 1991); *See also Dyer v. SEC*, 287 F.2d 773, 781 (8th Cir. 1961) ("[I]t appears to us that the proposal, as drafted and submitted to the company, is so vague and indefinite as to make it impossible for either the board of directors or the stockholders at large to comprehend precisely what the proposal would entail"). The Staff has repeatedly allowed for the omission of proposals that fail to define key terms. *See e.g., Newell Rubbermaid Inc.* (Jan. 11, 2013) (proposal properly excluded as too vague because it failed to define the key concepts of "change-in-control" and "pro rata"); *Berkshire Hathaway Inc.* (Jan. 31, 2012) (proposal requiring the company's CEO and other top officials to sign off by means of an electronic key that they had observed and approved or disapproved of figures and policies that showed a high risk for the company was inherently vague and indefinite because the terms "electronic key" and "figures and policies" were undefined such that the actions required to implement the proposal were unclear); *Citigroup Inc.* (Feb. 22, 2010) (proposal seeking to amend the company's bylaws to establish a board committee on "US Economic Security" was inherently vague and indefinite because the term "US Economic Security" was undefined); and *Wendy's International, Inc.* (Feb. 24, 2006) (proposal properly excluded that requested a report on the progress made toward "accelerating development" of controlled atmosphere-killing, but failed to define the critical terms "accelerating" and "development").

Here, the terms of the Proposal are inherently vague because there is no way for the Company or the stockholders voting on the Proposal to determine what actions or measures the Proposal requires. First, the Proponent asks for a policy of not accepting "*immigrant* detainee children (or adults) . . . who have been separated from their parent (or child) or parents (or children) by any United States government entity . . ." (emphasis added). However, the Proponent fails to define the term "immigrant" in either the Proposal or the supporting statement. The absence of guardrails to the term "immigrant" renders the Proponent's request ambiguous as the Company and its stockholders cannot be certain as to the scope of the Proposal (i.e., does it apply to legal immigrants, illegal immigrants, or both). Recent studies estimate that there are nearly 35 million legal immigrants in the United States, and 11 million illegal immigrants in the United States.[1] The vagueness in the scope of the Proposal puts the Company and its stockholders in a position of not knowing if they are voting on a measure that relates to 13.5% of the United States' total population, or 3.3% of the United States' population. If the Proposal were to be adopted, the Company would be forced to guess between three different scopes of implementation (i.e., does the Proposal cover illegal immigrants only, legal immigrants only, or both?). Any action that would be taken by the Company in the implementation of the Proposal may fail to satisfy the intent of the Proponent and/or shareholders voting on the Proposal. Because the term "immigrant" is not defined, the Proposal is inherently vague and misleading and should be excluded under Rule 14a-8(i)(3).

Additionally, the Proposal is inherently vague because it asks the Company to adopt a policy of not accepting detainees "who have been *separated* from their parent (or child) or parents (or children) *by any United States government entity* . . ." (emphasis added). The vagueness of this statement presents the same ambiguous scope as was mentioned above. There are countless scenarios that could implicate a policy that involves an immigrant family being separated by any United States government entity. For example, any of the following scenarios could be implicated under the Proposal: (1) a family could be crossing the border without proper documentation or authority together, and a United States entity could apprehend them and inadvertently cause them to be detained separately; (2) one parent could stay in their native country with a child, while the other parent attempts to cross the border without proper documentation or authority and is detained in the process; (3) there could be an immigrant family living legally in the United States, and one of the parents could be detained for the suspected commission of a crime wholly unrelated to immigration; or (4) a family that has immigrated to the United States could be separated by the application of family law (i.e., divorce, abuse, protective order, etc.). Because of the Proposal's vagueness, it is impossible for the stockholders or the Company to determine with any reasonable certainty what actions or measures the Proposal requires. Further, any action taken by the Company to implement the Proposal could be drastically different from what the stockholders of the Company envision when voting on the Proposal. The scope of the Proposal is unknown as currently articulated to the Company and therefore should be excluded under Rule 14a-8(i)(3).

Finally, in addition to the Proposal being excluded because it is impermissibly vague, it should also not be revised, because further revisions would not be minor in nature. In Staff Legal Bulletin No. 14 (CF) (July 13, 2001) ("**SLB 14**"), the Staff highlighted its "long-standing practice of issuing no-action responses that permit stockholders to make revisions that are minor in nature and do not alter the substance of the proposal," in order to deal with proposals that "generally comply with the substantive requirements of the rule, but contain some relatively minor defects that are easily corrected." However, as stated throughout, the defects contained in the Proposal are neither "relatively minor" nor "easily corrected." The vagueness imposed by the lack of a definition for the term "immigrant" and the phrase "separated by any United States government entity" cannot be corrected by minor changes that "do not alter the substance of the proposal." To the contrary, the ambiguities are the substance of the Proposal, and any revisions addressing the

[1] http://www.pewresearch.org/fact-tank/2018/11/30/key-findings-about-u-s-immigrants/.

vagueness would effectively create a new proposal. Therefore, corrective revisions are impermissible under the terms of SLB 14.

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

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company "has already substantially implemented the proposal." As articulated by the Commission in 1976, the predecessor to Rule 14a-8(i)(10) was "designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." Commission Release No. 34-12598 (July 7, 1976). Acknowledging that a previously formalistic application defeated the provision's original purpose of avoiding shareholder votes on matters already addressed by management, the Commission proposed an interpretive change to "permit the omission of proposals that have been 'substantially implemented by the issuer.'" Commission Release No. 34-20091. The Commission subsequently reaffirmed this interpretive position in the 1998 amendments to the proxy rules. *See* the 1998 Release at n.30 and accompanying text.

The Commission has consistently concluded that a proposal may be excluded when a company has already addressed each element of the proposal; however, companies need not have implemented each element in the precise manner suggested by the proponent (SEC Release No. 34-20091, Aug. 16, 1983). Additionally, the Commission has allowed for the exclusion of proposals where a specific aspect of the proposal is not implemented, but the proposal's goal has otherwise been substantially achieved. *See e.g. Duke Energy* (Feb. 21, 2012). Ultimately, the actions taken by the company must have addressed the proposal's "essential objective." *See e.g. Freeport-McMoRan Copper & Gold, Inc.* (Mar. 5, 2003) (company had already implemented a human rights policy, even though the specific elements of the policy did not meet the shareholder proponent's objectives). The Staff has stated that a "determination that the company 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.* (Mar. 28, 1991).

The essential objective of the Proposal is addressing the issue of separating immigrant children from their parents (or parent) who were detained in connection with their entry into the United States without proper documentation or authority. The Company has substantially implemented the essential objective of the Proposal through its publicly announced position of not housing immigrant detainee children who have been separated from their parents (or parent) by any United States Government entity, as evidenced by the Company's June 20, 2018 statement on the subject. As a matter of practice, if a governmental entity detains an immigrant family for housing in one of the Company's facilities, the Company will house the parent and child together in the Company's family detention center. Accordingly, because the Company has already substantially implemented the Proposal via public statements and actual practice, it should be excluded under Rule 14a-8(i)(10).

Additionally, the Proposal has been substantially implemented because the Company's procedures, policies, guidelines, and actions all favorably address the Proposal's underlying concerns and essential objective as described in the paragraph above. Furthermore, the Proponent acknowledges the Company's publicly stated position on the issue of housing immigrant children separate from their parents in the Proponent's supporting statement, which squarely aligns with the Proposal's essential objective. Moreover, the Executive Order referenced in section I.D, effectively ended the policy of separating immigrant children from their parents who were detained as they entered the United States without proper documentation or authority. Engaging in the activity the Proposal addresses would be contra to the Company's above stated policies and practices, as well as the Executive Order. Therefore, the Company's policy and practices, as

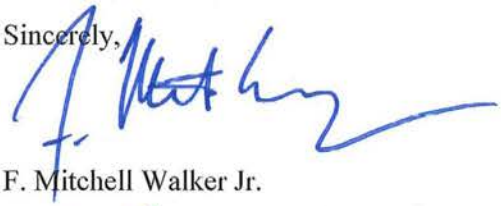
currently implemented, compares favorably with the Proposal's essential objective (i.e., preventing the separation of immigrant families in response to enforcement of the zero-tolerance policy) and is consistent with recent government action. Thus, the Proposal should be excluded under Rule 14a-8(i)(10).

CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2019 Proxy Materials.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to mwalker@bassberry.com and eknox@bassberry.com. If we can be of any further assistance in this matter, please do not hesitate to call Mitchell Walker, Jr. at 615-742-6275 or Eric J. Knox at 615-742-7807.

Sincerely,



F. Mitchell Walker Jr.

Eric J. Knox

Enclosures

cc: Cole Carter, CoreCivic, Inc., General Counsel
Jeffrey Lowenthal, Stroock & Stroock & Lavan LLP

Exhibit A

(See attached)

PRISON LEGAL NEWS

Dedicated to Protecting Human Rights

www.prisonlegalnews.org
Please Reply To:

afriedmann@prisonlegalnews.org
Direct Dial: 615-495-6568
5331 Mt. View Rd. #130
Antioch, TN 37013

November 26, 2018

SENT VIA EMAIL AND U.S. POSTAL MAIL

CoreCivic, Inc.
Attn: Secretary
10 Burton Hills Blvd.
Nashville, TN 37215

Re: Shareholder Proposal for 2019 Proxy Statement

Dear Secretary:

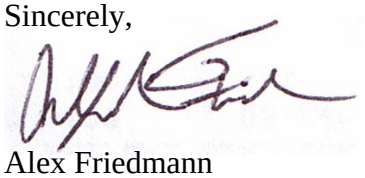
As a beneficial owner of common stock of CoreCivic, I am submitting the enclosed shareholder resolution for inclusion in the proxy statement for CoreCivic's 2019 annual meeting of shareholders, in accordance with Rule 14a-8 of the General Rules and Regulations under the Securities Exchange Act of 1934 (the "Act").

I am the beneficial owner of at least $2,000 in market value of CoreCivic common stock. I have held these securities for more than one year as of the date hereof and will continue to hold at least the requisite number of shares for a resolution through the date of the annual meeting of shareholders. I have enclosed a letter evidencing proof of stock ownership from TD Ameritrade.

I or a representative will attend the annual meeting to move the resolution as required.

Please communicate with my counsel, Jeffrey Lowenthal, Esq. of Stroock & Stroock & Lavan LLP, should you need any further information. If CoreCivic will attempt to exclude any portion of my proposal under Rule 14a-8, please advise my counsel of this intention within 14 days of your receipt of this proposal. Mr. Lowenthal may be reached at Stroock & Stroock & Lavan LLP, by telephone at 212-806-5509 or by e-mail at jlowenthal@stroock.com.

Sincerely,



Alex Friedmann

Enclosures

TD Ameritrade

11/24/2018

Alex Friedmann
5331 Mount View Rd Apt 130
Antioch, TN 37013

Re: Your TD Ameritrade Account Ending in ***

Dear Alex Friedmann,

Thank you for allowing me to assist you today. Pursuant to your request, this letter is to confirm that as of date of this letter, Alex Friedmann held, and has held continuously since February 7, 2015, 491 shares of CXW Corecivic Inc Com common stock (Cusip 21871N101) in his TD Ameritrade Account Ending in *** . The DTC clearing house number for TD Ameritrade is 0188.

If we can be of any further assistance, please let us know. Just log in to your account and go to the Message Center to write us. You can also call Client Services at 800-669-3900. We're available 24 hours a day, seven days a week.

Sincerely,

Daniel Bliss
Resource Specialist
TD Ameritrade

RESOLUTION

RESOLVED: That the stockholders of the Company request that the Board of Directors adopt the following policy, to be implemented no later than December 31, 2019:

1. CoreCivic shall adopt a policy of not accepting immigrant detainee children (persons under the age of 18), who have been separated from their parent or parents by any U.S. government entity, for housing at any facility owned or operated by the Company.

2. CoreCivic shall adopt a policy of not accepting adult immigrant detainees (persons over the age of 18), who have been separated from their child or children by any U.S. government entity, for housing at any facility owned or operated by the Company.

3. If CoreCivic houses at any of its facilities any immigrant detainee children or adults described in sections 1 or 2 above at the time the policies set forth in sections 1 and 2 are implemented, the Company shall: a) immediately move to modify all such contracts to comply with the above policies or, if such modification is not possible within a six-month period, seek to withdraw from or terminate such contracts as soon as possible, including invoking any early termination options or clauses in such contracts, and b) diligently work to make arrangements to safely house such immigrant detainees that do not involve housing them at any of the Company's facilities.

Supporting Statement

The controversial issue of separating immigrant detainee parents from their children in the United States has made headlines across the country.[1]

While CoreCivic has said it does not house immigrant detainee children who have been separated from their parents, the Company may change that policy in the future or may enter into future contracts to house separated immigrant children and/or parents.

The Company has had a controversial history with respect to housing immigrant detainees. A CoreCivic employee was convicted of sexually abusing multiple female detainees at the Company's T. Don Hutto Residential Center.[2] Immigrant detainees have staged protests and hunger strikes at CoreCivic detention centers.[3] There have been at least 32 deaths at Company-operated immigrant detention facilities, including at least

[1] www.npr.org/2018/06/19/621065383/what-we-know-family-separation-and-zero-tolerance-at-the-border
[2] www.texasprisonbidness.org/2011/09/former-hutto-supervisor-pleads-guilty-federal-charges-molesting-detained-women
[3] www.prisonlegalnews.org/news/2016/nov/7/hunger-strikes-immigrant-detainees-expose-abuses-ice-private-detention-centers; www.huffingtonpost.com/entry/force-feed-hunger-striking-immigrant-detainee_us_57325786e4b096e9f09314ca

seven suicides.[4] The Company is currently being sued for using immigrant detainees to perform work for wages as low as $1.00 per day.[5]

These incidents pose risks to CoreCivic's reputation and thus to shareholder value, and raise liability concerns. Should the Company decide in the future to house immigrant parents or children who have been separated, that also would create reputational harm.

Accordingly, this resolution requires CoreCivic to enact policies that prohibit the Company from housing immigrant detainee parents and/or children who have been separated in order to reduce reputational harm and liability risks to the Company, and to protect shareholder value.

[4] www.prisonlegalnews.org/news/2015/jul/7/32-deaths-cca-operated-immigration-detention-facilities-include-least-7-suicides/

[5] www.motherjones.com/politics/2018/04/immigrant-detainees-claim-they-were-forced-to-clean-bathrooms-to-pay-for-their-own-toilet-paper/