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

DIVISION OF
CORPORATION FINANCE

February 5, 2019

Alana L. Griffin
King & Spalding LLP
agriffin@kslaw.com

Re: Hanesbrands Inc.

Dear Ms. Griffin:

This letter is in regard to your correspondence dated February 4, 2019 concerning the shareholder proposal (the "Proposal") submitted to Hanesbrands Inc. (the "Company") by Amalgamated Bank, trustee of LongView LargeCap 500 Index Fund, LongView LargeCap 500 VEBA Fund, and LongView Broad Market 3000 Fund (the "Proponents") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. Your letter indicates that the Proponents have withdrawn the Proposal and that the Company therefore withdraws its December 19, 2018 request for a no-action letter from the Division. Because the matter is now moot, we will have no further comment.

Copies of all of the correspondence related to this matter 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,

Kasey L. Robinson
Special Counsel

cc: Shelley Alpern
As You Sow
salpern@asyousow.org

KING & SPALDING

King & Spalding LLP
1180 Peachtree Street N.E.
Atlanta, GA 30309-3521
Tel: +1 404 572 4600
Fax: +1 404 572 5100
www.kslaw.com

Alana L. Griffin
Direct Dial: +1 404 572 2450
Direct Fax: +1 404 572 5100
agriffin@kslaw.com

February 4, 2019

By Electronic Mail (shareholderproposals@sec.gov)

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

Re: Hanesbrands Inc. 2019 Annual Meeting
Omission of Shareholder Proposal of As You Sow

Ladies and Gentlemen:

In a letter dated December 19, 2018, we, on behalf of our client Hanesbrands Inc. (the "Company"), requested that the Staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission confirm that, pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended, the Company could exclude the shareholder proposal, dated November 9, 2018 (the "Proposal"), submitted by As You Sow on behalf of Amalgamated Bank, trustee of LongView LargeCap 500 Index Fund, LongView LargeCap 500 VEBA Fund, and LongView Broad Market 3000 Fund (collectively, the "Proponents") from the proxy materials to be distributed in connection with the Company's annual meeting for fiscal 2019.

Enclosed as Exhibit A is a letter from As You Sow on behalf of the Proponents, dated February 1, 2019, stating that they are withdrawing the Proposal. In reliance upon the letter, the Company hereby withdraws its December 19, 2018 no-action request relating to the Proposal.

Please do not hesitate to contact me at (404) 572-2450 if you require any additional information relating to this matter.

Sincerely,

Alana L. Griffin

Enclosures

cc: Joia Johnson – Hanesbrands Inc.
Keith M. Townsend – King & Spalding LLP
Shelley Alpern – As You Sow, on behalf of Amalgamated Bank, trustee of LongView LargeCap 500 Index Fund, LongView LargeCap 500 VEBA Fund, and LongView Broad Market 3000 Fund

Exhibit A

AS YOU SOW

1611 Telegraph Ave, Suite 1450
Oakland, CA 94612

www.asyousow.org
BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1992

February 1, 2019

Joia M. Johnson
Chief Administrative Officer, General Counsel and Corporate Secretary
Hanesbrands Inc.
1000 East Hanes Mill Road
Winston-Salem, NC 27105

Re: Withdrawal of Stockholder Proposal for 2019 Annual Meeting

Dear Ms. Johnson:

In our letter to you dated November 9, 2018, *As You Sow* submitted a stockholder proposal (the "Proposal") on behalf of Amalgamated Bank, trustee of LongView LargeCap 500 Index Fund, LongView LargeCap 500 VEBA Fund, and LongView Broad Market 3000 Fund for consideration and action by the stockholders of Hanesbrands Inc. (the "Company"), to be included in the Company's proxy statement and form of proxy for its 2019 Annual Meeting of Stockholders (collectively, the "2019 Proxy Materials").

Based on our discussions with Hanesbrands on the issue, and the Company's commitment to undertake specific actions, *As You Sow* is withdrawing its Proposal for inclusion in the Company's 2019 Proxy Materials. *As You Sow* also supports the Company's request to withdraw its letter to the Securities and Exchange Commission regarding no-action relief in connection with the Proposal.

Sincerely,

Danielle Fugere
President

KING & SPALDING

King & Spalding LLP
1180 Peachtree Street N.E.
Atlanta, GA 30309-3521
Tel: +1 404 572 4600
Fax: +1 404 572 5100
www.kslaw.com

Alana L. Griffin
Direct Dial: +1 404 572 2450
Direct Fax: +1 404 572 5100
agriffin@kslaw.com

December 19, 2018

By Electronic Mail (shareholderproposals@sec.gov)

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

Re: Hanesbrands Inc. 2019 Annual Meeting
Omission of Shareholder Proposal of As You Sow

Ladies and Gentlemen:

Pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), our client, Hanesbrands Inc. (the "Company"), requests confirmation that the Staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") will not recommend enforcement action if the Company omits the shareholder proposal (the "Proposal") described below submitted by As You Sow on behalf of Amalgamated Bank, trustee of LongView LargeCap 500 Index Fund, LongView LargeCap 500 VEBA Fund, and LongView Broad Market 3000 Fund (collectively, the "Proponents") from the proxy materials (the "2019 Proxy Materials") to be distributed in connection with the Company's annual meeting for fiscal 2019 (the "2019 Annual Meeting").

The Company intends to hold the 2019 Annual Meeting on or about April 23, 2019. The Company intends to begin printing the 2019 Proxy Materials on or about February 27, 2019, and to file its definitive 2019 Proxy Materials for the 2019 Annual Meeting with the Commission on or about March 11, 2019. In accordance with the requirements of Rule 14a-8(j), this letter has been filed not later than 80 calendar days before the Company intends to file the definitive 2019 Proxy Materials.

This request is being submitted by electronic mail. A copy of this letter and its exhibits are also being sent to As You Sow on behalf of the Proponents as notice of the Company's intent to omit the Proposal from the 2019 Proxy Materials. Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) provide that shareholder proponents are required to send companies a copy of any correspondence that the shareholder proponents elect to submit to the Commission or the Staff. Accordingly, if the Proponents elect to submit additional correspondence to the

Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to the undersigned on behalf of the Company.

The Proposal

The Proposal states:

> RESOLVED: Shareholders request Hanesbrands' Board of Directors to report, at reasonable cost and omitting proprietary information, on the Company's process for identifying and analyzing potential and actual human rights risks of its operations and supply chain.

A copy of the Proposal, the statements in support thereof and related correspondence from the Proponents is attached to this letter as Exhibit A.

Bases for Exclusion

We believe the Proposal may properly be excluded from the 2019 Proxy Materials pursuant to:

- Rule 14a-8(f) and Rule 14a-8(b) because the Proponents failed to establish the requisite eligibility to submit the Proposal;
- Rule 14a-8(i)(10) because the Proposal relates to matters that the Company has already substantially implemented; and
- Rule 14a-8(i)(7) because the Proposal relates to matters of the Company's ordinary business operations.

Analysis

I. Rule 14a-8(f) and Rule 14a-8(b) - the Proponents are not eligible to submit the Proposal since they have not demonstrated that they own at least $2,000 in market value of the Company's securities.

The Company may exclude the Proposal under Rule 14a-8(f)(1) because the Proponents failed to substantiate the Proponents' eligibility to submit the Proposal under Rule 14a-8(b).

A. Rule 14a-(8)(f) and Rule 14a-8(b) Background

Rule 14a-8(b)(1) provides, in part, that "[i]n order to be eligible to submit a proposal, [a shareholder] must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date [the shareholder] submit[s] the proposal." Staff Legal Bulletin No. 14 (July 13, 2001) ("SLB 14") specifies that when the shareholder is not the registered holder, the shareholder "is responsible for proving his or her eligibility to submit a proposal to the company," which the shareholder may do by one of the two ways provided in Rule 14a-8(b)(2). *See* Section C.1.c, SLB 14.

Rule 14a-8(f) provides that a company may exclude a shareholder proposal if the proponent fails to provide evidence of eligibility under Rule 14a-8, including the beneficial ownership requirements of Rule 14a-8(b), provided that the company timely notifies the

proponent of the deficiency and the proponent fails to correct the deficiency within the required 14-day time period. Thus, the Staff consistently has concurred in the exclusion of proposals when proponents have failed, following a timely and proper request by a company, to furnish evidence of eligibility to submit the shareholder proposal in a timely manner to properly satisfy Rule 14a-8(b). *See ITC Holdings Corp.* (avail. Feb. 9, 2016) (concurring with the exclusion of a proposal because the proponent failed to supply, in response to the company's deficiency notice, sufficient proof that the proponent satisfied the minimum ownership requirement as required by Rule 14a-8(b) where the proponent supplied proof of ownership thirty-five days after receiving the timely deficiency notice); *Prudential Financial, Inc.* (avail. Dec. 28, 2015) (concurring with the exclusion of a proposal because the proponent failed to supply, in response to the company's deficiency notice, sufficient proof that the proponent satisfied the minimum ownership requirement as required by Rule 14a-8(b) where the proponent supplied proof of ownership twenty-three days after receiving the timely deficiency notice); *Mondelēz International, Inc.* (avail. Feb. 27, 2015) (concurring with the exclusion of a proposal because the proponent failed to supply, in response to the company's deficiency notice, sufficient proof that the proponent satisfied the minimum ownership requirement as required by Rule 14a-8(b) where the proponent supplied proof of ownership sixteen days after receiving the timely deficiency notice); *Pitney Bowes Inc.* (avail. Jan. 13, 2012) (concurring with the exclusion of a proposal because the proponents failed to supply, in response to the company's deficiency notice, sufficient proof that the proponents satisfied the minimum ownership requirement as required by Rule 14a-8(b) where the proponents supplied proof of ownership thirty-four days after receiving the timely deficiency notice).

B. Application of Commission and Staff Precedent to the Proposal

On November 9, 2018, Danielle Fugere, President of As You Sow, on behalf of the Proponents, submitted the Proposal to the Company via Federal Express, which the Company received on November 12, 2018. Ms. Fugere's submission of the Proposal included a letter from Amalgamated Bank, as trustee for the Proponents, authorizing As You Sow to submit the Proposal on behalf of the Proponents. The correspondence from Ms. Fugere attaching the Proposal indicated that all communications regarding the Proposal should be sent to Shelley Alpern of As You Sow via email at salpern@asyousow.org. Neither Ms. Fugere's letter nor the letter from the Proponents included any other address (physical or electronic mail) for communications directly with the Proponents. The Proponents' letter accompanying the Proposal did not state the number of shares of the Company's stock owned by the Proponents or otherwise provide sufficient proof of the Proponents' ownership of Company securities. The Proponents did not include or separately provide any other evidence of the Proponents' ownership of Company securities. While Amalgamated Bank, the trustee, is a Depository Trust Company participant and is identified in the Company's securities position listing as holding shares of the Company's stock, the Company was unable to determine which, if any, of those shares are beneficially owned by the actual Proponents.

Accordingly, in a letter dated and sent on November 16, 2018 via UPS and electronic mail, within fourteen calendar days of the date when the Company received the Proposal, the Company notified Ms. Alpern of the Proposal's procedural deficiencies as required by Rule 14a-8(f) (the "Deficiency Notice"). In the Deficiency Notice, attached hereto as Exhibit B along with related correspondence from the Company, the Company clearly informed Ms. Alpern, as the

designated point of contact for As You Sow and the Proponents, of the requirements of Rule 14a-8 and how the Proponents could cure the procedural deficiencies. Specifically, the Deficiency Notice stated:

- the ownership requirements of Rule 14a-8(b);
- the type of statement or documentation necessary to demonstrate beneficial ownership under Rule 14a-8(b), including "a written statement from the 'record' holder of [the Proponents'] shares (usually a broker or a bank) verifying that [the Proponents] continuously held the required number or amount of shares of the Company's common stock for the one-year period preceding and including November 9, 2018;" and
- that any response to the Deficiency Notice had to be postmarked or transmitted electronically no later than fourteen calendar days from the date Ms. Alpern received the Deficiency Notice.

The Deficiency Notice also included a copy of Rule 14a-8 and of Staff Legal Bulletin No. 14F (Oct. 18, 2011) ("SLB 14F"). The Deficiency Notice was sent via UPS Priority Overnight Delivery and via electronic mail to Ms. Alpern on November 16, 2018 and delivered to Ms. Alpern on November 20, 2018 (in the case of the mailed letter). *See* Exhibit C. As of the date of this letter, the Company has not received a response to the Deficiency Notice with the requested proof of ownership.

C. Conclusion

The Company satisfied its obligation under Rule 14a-8 by transmitting to Ms. Alpern, as the designated point of contact for As You Sow and the Proponents, in a timely manner the Deficiency Notice, which specifically set forth the information and instructions listed above, and attached a copy of both Rule 14a-8 and SLB 14F. However, neither Ms. Alpern nor the Proponents provided the proof of the Proponents' ownership required by Rule 14a-8(b)(2) within the required 14-day time period after she received the Company's timely Deficiency Notice, as described in the Deficiency Notice and in SLB 14F. As with the proposals cited above, the Proponents failed to substantiate their eligibility to submit the Proposal within the required 14-day time period after Ms. Alpern received the Company's timely Deficiency Notice, as required under Rule 14a-8. Accordingly, we ask that the Staff concur that the Company may exclude the Proposal under Rule 14a-8(b) and Rule 14a-8(f)(1).

II. Exclusion Pursuant to Rule 14a-8(i)(10) - the Proposal Relates to Matters that the Company has Already Substantially Implemented.

The Proposal is properly excludable from the 2019 Proxy Materials pursuant to Rule 14a-8(i)(10) because it relates to matters that the Company has already substantially implemented.

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

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company has substantially implemented the proposal. The Commission adopted the "substantially implemented" standard in 1983 after determining that the "previous formalistic

application" of the rule defeated its purpose, which is to "avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." *See* Exchange Act Release No. 34-20091 (Aug. 16, 1983) (the "1983 Release") and Exchange Act Release No. 34-12598 (July 7, 1976). The Commission codified this revised interpretation in Exchange Act Release No. 40018 at n.30 (May 21, 1998) (the "1998 Release"). Thus, when a company can demonstrate that it has already taken actions to address the underlying concerns and essential objectives of a shareholder proposal, the Staff has concurred that the proposal has been "substantially implemented" and may be excluded as moot. *See, e.g.*, *Dominion Resources, Inc.* (avail. Feb. 9, 2016); *General Electric Company* (avail. March 3, 2015); *Kohl's Corp. (UAW Retiree Med. Benefits Tr.)* (avail. Jan. 28, 2014); *Exxon Mobil Corp. (Burt)* (avail. March 23, 2009); *Anheuser-Busch Companies, Inc.* (avail. Jan. 17, 2007); *Conagra Foods, Inc.* (avail. July 3, 2006); *Johnson & Johnson* (avail. Feb. 17, 2006); *Talbots Inc.* (avail. Apr. 5, 2002); *Exxon Mobil Corp.* (avail. Jan. 24, 2001); *Masco Corp.* (avail. Mar. 29, 1999); *The Gap, Inc.* (avail. Mar. 8, 1996).

The Staff has stated that "[a] determination that [a] [c]ompany has substantially implemented [a] proposal depends upon whether [its] particular policies, practices and procedures compare favorably with the guidelines of the proposal." *Texaco, Inc.* (avail. Mar. 28, 1991). Differences between a company's actions and a shareholder proposal are permitted so long as the company's actions satisfactorily address the shareholder proposal's essential objective. *See, e.g.*, *The Boeing Co.* (avail. Feb. 17, 2011); *Exxon Mobil Corp. (Rossi)* (avail. March 19, 2010); and *Intel Corp.* (avail. Mar. 11, 2003). In other words, Rule 14a-8(i)(10) permits exclusion of a shareholder proposal when a company has substantially implemented the essential objective of the shareholder proposal even if by means other than those suggested by the shareholder proponent. *See, e.g., The Boeing Co.* (avail. Feb. 17, 2011) (permitting exclusion of a shareholder proposal requesting management review policies related to human rights to assess areas where the company needs to adopt and implement additional policies and report its findings when the company had already adopted its own policies, practices and procedures related to human rights); *The Procter & Gamble Co.* (avail. Aug. 4, 2010) (permitting exclusion of a shareholder proposal requesting a water policy based on United Nations principles when the company had already adopted its own water policy); *Wal-Mart Stores, Inc.* (avail. Mar. 30, 2010) (permitting exclusion of a shareholder proposal requesting adoption of global warming principles when the company had policies reflecting at least to some degree the proposed principles); *ConAgra Foods, Inc.* (avail. July 3, 2006) (permitting exclusion of a shareholder proposal seeking a sustainability report when the company was already providing information generally of the type proposed to be included in the report); *Johnson & Johnson* (avail. Feb. 17, 2006) (permitting exclusion of a shareholder proposal recommending verification of employment legitimacy when the company was already acting to address the concerns of the shareholder proposal); *Talbots Inc.* (avail. Apr. 5, 2002) (permitting exclusion of a shareholder proposal requesting implementation of a code of corporate conduct based on the United Nations International Labor Organization standards when the company had established its own business practice standards); and *The Gap, Inc.* (avail. Mar. 16, 2001) (permitting exclusion of a shareholder proposal requesting a report on child labor practices of suppliers when the company had established a code of vendor conduct, monitored compliance, published information relating thereto and discussed labor issues with shareholders). Furthermore, the Staff has taken the position that if a major portion of a shareholder's proposal may be omitted pursuant to Rule 14a-8(i)(10), the entire shareholder proposal may be omitted. *See The Limited* (avail. Mar. 15, 1996) and *American Brands, Inc.* (avail. Feb. 3, 1993).

B. Application of Commission and Staff Precedent to the Proposal

1. The Company has substantially implemented the Proposal by publicly disclosing its processes for identifying and analyzing the human rights risks of its operations and supply chain through a website dedicated in large part to this subject.

The Proposal's supporting statement claims that the Company "does not disclose its forced labor risk assessment process, nor does it have a policy addressing ethical recruitment of workers." The Company is dedicated to conducting its business around the world in a highly ethical and socially responsible manner, calling its corporate social responsibility ("CSR") program "Hanes for Good." The Company has an entire website (www.HanesForGood.com) which explains its policies, practices and procedures on the topic of human rights risk, including as it pertains to the Company's supply chain and operations. Under the "Social Responsibility" tab of the website, the Company lays out its commitment to ethical standards in depth, which is driven by its Global Code of Conduct, Global Standards for Suppliers (the "Suppliers Policy") and Global Human Rights Policy (the "Human Rights Policy").[1]

In the preamble to the Human Rights Policy, the Company expresses its commitment "to ensuring that all people are treated with dignity and respect, and […] to providing certain fundamental rights at work […]." The Human Rights Policy includes sections dedicated to "Forced Labor and Human Trafficking" and "Child Labor" among other topics. The Company states that it "prohibits the use of all forms of forced or compulsory labor, including prison labor, indentured labor, bonded labor, slave labor and any form of human trafficking." The Suppliers Policy expresses the Company's expectation that suppliers will "(1) comply with the law, (2) do the right thing, and (3) communicate concerns about inappropriate business practices promptly to [the Company]." In addition to various other topics, the Suppliers Policy covers employment practices with specific mentions of child labor and forced labor. The Suppliers Policy states that "suppliers will not employ individuals in violation of the local mandatory school age, or under the legal employment age in each country where they operate" and that "suppliers will not use forced or involuntary labor whether bonded, prison or indentured, including debt servitude."

On the website, the Company explains that its "finished-goods suppliers are required to sign a lengthy and comprehensive agreement which, among other things, requires them to comply with all applicable laws (which include those regarding slavery and human trafficking) and [the Suppliers Policy]."[2] Suppliers of component materials and parts are also required via the purchase order process to comply with the Suppliers Policy and all applicable laws (which include those regarding slavery and human trafficking).[3]

---

[1] The Global Standards for Suppliers can be accessed at https://hanesforgood.com/content/uploads/2013/07/GlobalStandardsforSuppliers-English.pdf and the Global Human Rights Policy can be accessed at https://hanesforgood.com/content/uploads/2018/03/HanesBrands-Human-Rights-Policy.pdf

[2] https://hanesforgood.com/social-responsibility/california-transparency-in-supply-chains-act/

[3] *Id.*

To say, as the Proposal does, that the Company does not disclose its process for identifying and analyzing potential human rights risks of its operations and supply chain, and that it does not have a policy in place addressing the ethical recruitment of workers is simply inaccurate.

2. The Company's policies, practices and procedures compare favorably with the guidelines of the Proposal.

The supporting statement of the Proposal states that the report sought by the Proposal could consider "human rights principles used to frame the assessment, frequency of assessment, methodology used to track and measure performance on forced labor risks, and how results of the assessment are incorporated into company policies and decision making." The Company's public disclosures already address each of these specific components, therefore obviating the need for a separate report.

a. Human rights principles used to frame the assessment

The Human Rights Policy specifically mentions that the Company developed the policy in consultation with the International Bill of Human Rights, the International Labor Organization's Declaration on Fundamental Principles and Rights at Work, and the United Nations Guiding Principles on Business and Human Rights, which is mentioned in the Proposal's supporting statement. In addition to these principles, the Company also consulted the Fair Labor Association's Workplace Code of Conduct and Compliance Benchmarks to develop its Global Code of Conduct, Suppliers Policy and Human Rights Policy.

Furthermore, the Company discloses that it is "an accredited member of the Fair Labor Association, works with the U.N. International Labour Organization's Better Work program, and has scored among the best companies for social compliance and labor rights with advocacy organization As You Sow[4] and Free2Work, a compliance grading system."[5]

The Company already clearly articulates the principles used to frame it existing policies on its website.

b. Frequency of assessment

As publicly disclosed, the Company "regularly performs evaluations of its supply chain to evaluate the risk of slavery, human trafficking and other human rights violations and labor issues."[6] The Company also explains at length on its website that it frequently conducts various audits on its facilities (owned or contracted). The audit teams conduct "more than 600 audits each year, covering topics that range from health and safety, to compensation and working hours, to dormitory conditions, to child labor, to fire and emergency preparedness."[7] Each of the Company's facilities is audited two to three times a year.[8] The intensity and frequency of these

4 As You Sow sent the Proposal to the Company on behalf of the Proponents.

5 https://hanesforgood.com/social-responsibility/

6 https://hanesforgood.com/social-responsibility/california-transparency-in-supply-chains-act/

7 https://hanesforgood.com/featured-posts/hanesbrands-social-compliance-programs/

8 *Id.*

audits vary based on the Company's risk evaluations and also on the historical performance of a given factory in the Company's internal and external audits.[9]

The Company is transparent in its explanation of the frequency with which it conducts audits and assessments of its partners and facilities, and has worked consistently for many years to audit suppliers to ensure that slavery and human trafficking are not taking place in its supply chain.

c. Methodology used to track and measure performance on forced labor risks

The Company discusses the methodology that it uses to track and measure performance by suppliers on forced labor risks on its website. The Company sees itself as a pioneer in managing a worldwide supply chain for social compliance, having had a very in-depth and thorough facility auditing program for more than 20 years.[10] The Company describes its methodology for auditing third party contractor compliance with the Company's policies as laid out below:

> "For all owned and finished-goods contractors, an independent third-party audit team from an internationally recognized audit firm conducts an unannounced, comprehensive factory assessment before production begins. Thereafter, the audit process is repeated annually. These independent, third-party audits include an initial management interview; facility and dormitory (if applicable) tours; payroll analysis; confidential employee interviews that cover such issues as working hours, payment practices, freedom of association, forced labor, child labor and disciplinary practices; and a closing meeting with management. These audits use an objective, scored methodology that has over 260 separate questions."[11]

The Company further provides lengthy detail on the procedures for employees or contractors who fail to meet Company standards regarding slavery and trafficking:

> "With regard to any issues identified in compliance audits of foreign manufacturers, a formal corrective action plan is developed with specific timeframes in which to correct the problems. Our internal audit teams around the globe then visit these factories on an unannounced basis to confirm adherence to the corrective action requirements. While we will typically provide 30 to 90 days for factories to correct minor issues, we generally consider things such as forced/prison labor, slavery, human trafficking, child labor, physical/sexual abuse, and bribery of an auditor to be zero-tolerance issues requiring immediate remediation or withdrawal from the facility, depending on the circumstances.
>
> Those facilities that are 'disapproved' for zero-tolerance or other violations not remediated in a timely manner are noted on a companywide 'Disapproved List' that is routed to members of our senior management and sourcing teams. Such facilities remain 'disapproved' for a minimum of one year. We also closely track facilities on our internal 'Alarm List' that are not progressing adequately in the corrective-action process. The 'Alarm List' is also routed to appropriate members of our management team, so they can

9 https://hanesforgood.com/social-responsibility/california-transparency-in-supply-chains-act/

10 https://hanesforgood.com/featured-posts/hanesbrands-social-compliance-programs/

11 https://hanesforgood.com/social-responsibility/california-transparency-in-supply-chains-act/

exert the appropriate influence needed to spur timely corrective action" (emphasis added).[12]

The Company's internal auditing teams work directly with each facility on corrective action findings until completion. As items are corrected, the facility's score increases, and the Company is able to track those increases over time. These scores are then shared with the supply chain management teams who use them to help select facilities and make better buying decisions. The Company further explains that it manages all of its audits and scorecard data in a centralized, web-based piece of tracking software. By using a scored auditing tool, the Company can numerically track improvement (or lack thereof) over time and the effectiveness of its action plans.[13]

In discussing its social compliance programs on the Hanes for Good website, the Company explains that "over 80 percent of HanesBrands' total unit volume comes from production facilities that [it] own[s] and operate[s] or from fully dedicated contractors."[14] This means that the Company has far greater control over the working conditions in these facilities. The website also explains that the Company is an active and committed participant in the Fair Labor Association, working with its SCI factory evaluation process as another aspect of its methodology.

As described above, the Company provides ample detail on the methodology it uses to track and measure performance of its facilities in the area of human rights.

d. How results of the assessment are incorporated into company policies and decision making

The assessments that the Company frequently performs have a direct and sometimes immediate effect on the use of the facilities being audited. As disclosed on the website, last year over 70 facilities were disapproved for not meeting the Company's human rights directives and/or not complying with its processes, and those facilities are no longer used in the Company's production.[15] In short, human rights compliance directly, and in some cases immediately, effects the Company's initial and on-going buying decisions. The Company has learned through its ongoing process that it needs fewer, larger facilities to have the leverage to continue to sustainably effect positive change on a range of human rights issues, and this strategy is driving the Company's sourcing model and buying decisions.

As explained on its website, the Company's Global Code of Conduct, the Suppliers Policy, and the Fair Labor Association code of conduct drive the expectations the Company sets for all of its owned and contracted facilities. The Company's policies inform its decision making and ongoing assessment process. As laid out in the Company's disclosure and website, its commitment to corporate social responsibility begins at the very top. Oversight of the CSR program at the executive level rests with the Company's Chief Administrative Officer, as well as

---

12 *Id.*

13 https://www.corporatebenchmark.org/sites/default/files/2018-11/Hanesbrands%20CHRB%202018%20Results%20on%2020181026%20at%20172147.pdf

14 https://hanesforgood.com/featured-posts/hanesbrands-social-compliance-programs/

15 *Id.*

a CSR executive steering committee (the CEO and his direct reports) that meets four times a year to assess the program's effectiveness. Day-to-day responsibility for the CSR program rests with the Company's vice president of corporate social responsibility. The vice president of corporate social responsibility leads a department comprising a worldwide network of more than 25 internal CSR employees based in the United States, Latin America and Asia. This team is responsible for developing and overseeing the Global Ethics and Compliance program, facility compliance, product safety, environmental compliance and corporate philanthropy.[16]

The Company therefore already publicly discloses how its assessments are derived from the Company's policies and procedures, and how results of these assessments inform its decision making through its existing governance structure.

3. The Company is already required by law to disclose the information that the Proposal seeks to include in a separate report.

As explained on the Company's website (and as acknowledged in the Proponents' supporting statement), as of January 1, 2012, California's Civil Code section 1714.43 (California Transparency in Supply Chains Act of 2010) requires manufacturers and retailers (including the Company) to provide website information concerning their efforts to address the issues of forced labor, slavery, and human trafficking within the supply chain (the U.K. Modern Slavery Act of 2015 requires similar disclosures).[17] The purpose is to allow consumers to make better and more informed decisions about the products they buy and the companies they support. As part of the requirements of the California Transparency in Supply Chains Act of 2010, the Company is required to inform the public, at a minimum, to what extent, if any, the Company does each of the following:

1. Engages in verification of product supply chains to evaluate and address risks of human trafficking and slavery. The disclosure shall specify if the verification was not conducted by a third party.
2. Conducts audits of suppliers to evaluate supplier compliance with company standards for trafficking and slavery in supply chains. The disclosure shall specify if the verification was not an independent, unannounced audit.
3. Requires direct suppliers to certify that materials incorporated into the product comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business.
4. Maintains internal accountability standards and procedures for employees or contractors failing to meet company standards regarding slavery and trafficking.
5. Provides company employees and management, who have direct responsibility for supply chain management, training on human trafficking and slavery, particularly with respect to mitigating risks within the supply chains of products.[18]

Through its disclosure on the Hanes for Good website, the Company addresses each of the requirements of the California Transparency in Supply Chains Act of 2010, and in doing so

---

16 https://hanesforgood.com/governance/

17 https://hanesforgood.com/social-responsibility/california-transparency-in-supply-chains-act/

18 Cal. Civ. Code § 1714.43 (West 2018).

substantially implements the Proposal as well. The supporting statement of the Proposal claims that "investors have insufficient information to gauge if the company is sufficiently addressing [the serious risk of human rights violations] to the company and to workers." However, the very purpose of the California Transparency in Supply Chains Act of 2010 and the U.K. MSA is to allow consumers to make more informed decisions about the companies they support and the Company's extensive disclosure on this topic complies with the requirements set forth above.

C. Conclusion

The Company has publicly disclosed on its website the information that the Proposal requests. Further, as the Staff made clear in *The Gap*, the Proposal is still excludable as substantially implemented even though the Company has disclosed the information sought by the Proposal in several different locations on its website. Through these disclosures and its public disclosures through the Corporate Human Rights Benchmark, the Company has publicly disclosed its "process for identifying and analyzing potential and actual human rights risks of its operations and supply chain," including each of the four specific items listed in the supporting statement to the Proposal. Accordingly, the Company has substantially implemented the Proposal, and it may be excluded from the 2019 Proxy Materials in reliance on Rule 14a-8(i)(10).

III. Exclusion Pursuant to Rule 14a-8(i)(7) - the Proposal Relates to Matters of the Company's Ordinary Business Operations.

The Proposal is properly excludable from the 2019 Proxy Materials pursuant to Rule 14a-8(i)(7) because the underlying subject matter is within the ordinary business operations of the Company.

A. Rule 14a-(8)(i)(7) Background

Under Rule 14a-8(i)(7), a shareholder proposal may be excluded from a company's proxy materials if the proposal "deals with matters relating to the company's ordinary business operations." According to the Commission, 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." 1998 Release. In the 1998 Release, the Commission stated that the policy underlying the ordinary business exclusion rests on two central considerations. The first recognizes that certain 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," unless a "significant policy exception" applies. 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." 1998 Release.

B. Application of Commission and Staff Precedent to the Proposal

1. The Proposal relates to the Company's adherence to ethical business practices and policies, which are addressed in the Company's Suppliers Policy.

The Proposal is excludable because the report it seeks must address, in part, "human rights risks of its operations and supply chain." The supporting statement of the Proposal refers to forced labor, debt bondage, migrant exploitation and human trafficking among other issues that are concerned with ethical business practices and policies. The supporting statement also refers to the United Nations Guiding Principles on Business and Human Rights, which states that "companies have the corporate responsibility to respect human rights within their operations and supply chains." These references clearly relate to the Company's ethical business practices and policies, and the Staff has consistently allowed for exclusion of similar proposals as relating to ordinary business operations.

Since the Company's inception as a stand-alone public company in 2006, control over the Company's supply chain has been a core tenet of the Company's strategy. As stated in the Company's Annual Report on Form 10-K for the fiscal year ended December 30, 2017, unlike most apparel companies, Hanesbrands primarily operates its own manufacturing facilities, and more than 70 percent of the apparel units that the Company sells are manufactured in its own plants or those of dedicated contractors.[19] The Company's focus on corporate social responsibility, including oversight of its supply chain, is intentional, deliberate and ingrained in the overall day-to-day operations of the Company. As summarized by Chris Fox, the Company's Vice President of Corporate Social Responsibility, in a June 2018 interview, "since the vast majority of our products are made in our own plants, how we think about environmental and social issues is fundamentally different. The interaction with our factories and communities is driven by the fact that they are made up of our people, and that is where they live, work and raise their kids."[20] The Company's compliance program and policies governing its relationships with its suppliers are continually reevaluated. In addition, the Company actively engages with investors and other stakeholders focused on supply chain human rights issues on the Company's policies and practices to oversee its suppliers, and also engages with peer-to-peer organizations such as the Sustainable Apparel Coalition, the Fair Labor Association and the Sustainability Consortium to discuss best practices relating to supply chain oversight. The Audit Committee of the Company's Board of Directors receives annual assessments of the Company's compliance program.

As described in the preceding section, the Company's commitment to ethical standards is explained at length on its Hanes for Good website and is captured and implemented through the Company's existing Human Rights Policy and Suppliers Policy. The underlying subject matter of the Proposal addresses the standards set forth in the Suppliers Policy, which involve the Company's managerial control over its facilities, workforce and third party suppliers. Accordingly, because the Proposal relates to the Company's general adherence to ethical

---

[19] https://www.sec.gov/Archives/edgar/data/1359841/000135984118000018/hbi-20171230x10k.htm#s11F9F271F30AB3CDF1076221DD24A468

[20] https://3blmedia.com/News/Ahead-His-Time-Chris-Fox-VP-Corporate-Responsibility-HanesBrands

business practices and policies, and therefore to the Company's ordinary business operations, it may be excluded on this basis.

2. The Proposal relates to the conduct of a legal compliance program.

The Proposal requests a report on how the Company identifies and analyzes a certain category of legal risks, and suggests that this report include details on the frequency of its assessment of the legal risks and how it manages and incorporates those risks into the Company's policies and decision making. These references demonstrate that the Proposal seeks greater oversight of the Company's legal compliance.

The Staff has consistently deemed proposals relating to a company's legal compliance program to infringe on management's core function of overseeing business practices. In *JPMorgan Chase & Co.* (avail Mar. 13, 2014), for example, the Staff allowed exclusion of a proposal requesting that the board evaluate opportunities for clarifying and enhancing implementation of board members' and officers' fiduciary, moral and legal obligations to shareholders and other stakeholders. The company argued that fiduciary obligations, legal obligations, and "standards for directors' and officers' conduct and company oversight" are governed by state law, federal law, and New York Stock Exchange Listing Standards. The Staff concurred with the company's omission of the proposal, noting that "[p]roposals that concern a company's legal compliance program are generally excludable under rule 14a-8(i)(7)." *See also Raytheon Co.* (avail Mar. 25, 2013) (finding that "[p]roposals that concern a company's legal compliance program are generally excludable under rule 14a-8(i)(7)"); *AES Corp.* (avail Jan. 9, 2007).

In the case of Hanesbrands—a company whose primary business is selling apparel—supply chain management and oversight is an important focus of its legal compliance function and subject to a myriad of external standards, laws and regulations. Because of the nature of its business and the fact that the Company operates most of its own manufacturing facilities, instituting and enforcing its Suppliers Policy is a vital part of management's core function. The Company prides itself for having an industry-leading compliance program, which helps to ensure that its business partners live up to the high standards that the Company sets for itself. Through this commitment, the Company has already addressed the concerns voiced by the Proponents, and imposing additional reporting obligations would impermissibly infringe on management's core function of overseeing the Company's business practices.

The Company has publicly disclosed its "process for identifying and analyzing potential and actual human rights risks of its operations and supply chain," and production of a report like the one requested by the Proposal would not provide additional information to investors beyond what has already been disclosed. The Proposal is excludable as relating to the Company's ordinary business operations because both the Proposal and its supporting statement focus on how the Company manages its legal compliance.

3. The Proposal focuses on matters that relate to workplace practices.

The Staff has deemed excludable under Rule 14a-8(i)(7) proposals relating to management of a company's workforce or workplace. In *Johnson & Johnson* (avail Feb. 22, 2010), the Staff allowed exclusion of a proposal relating to the procedures the company used to verify employment eligibility. The Staff also stated in *United Technologies* (avail Feb. 19, 1993)

that, "[a]s a general rule, the staff views proposals directed at a company's employment policies and practices with respect to its non-executive workforce to be uniquely matters relating to the conduct of the company's ordinary business operations. Examples of the categories of proposals that have been deemed to be excludable on this basis are: employee health benefits, general compensation issues not focused on senior executives, management of the workplace, employee supervision, labor-management relations, employee hiring and firing, conditions of the employment and employee training and motivation."

In the Proposal at issue here, the supporting statement makes clear that the Proponents are concerned at least in part with the Company's relationship with it suppliers, and with work place conditions. The supporting statement claims, for example, that "migrant workers globally are prime targets for exploitation including discrimination, retaliation, debt bondage, illegal wage deductions, and confiscated or restricted access to personal documents that limits workers' freedom of movement and lead to forced labor and human trafficking."

As explained above, the Company already includes significant explanations on its website about the compliance of its supplier with the Suppliers Policy, and how the Company assesses compliance on an ongoing basis. Because the Proposal relates to the management of the Company's workforce and workplace, it is properly excludable as relating to the Company's ordinary business operations.

4. The Proposal does not focus solely on a significant social policy issue.

Proposals raising matters fundamental to management's ability to run the company on a day-to-day basis may be excluded unless such a proposal focuses on policy issues that are sufficiently significant to transcend ordinary business operations and be appropriate for a shareholder vote. Staff Legal Bulletin No. 14I (Nov. 1, 2017) The Staff has consistently concurred that a proposal may be excluded when it focuses on ordinary business matters, even if it touches on significant policy issues. For instance, in *General Electric Co.* (avail Feb. 3, 2005), the Staff expressed the view that a proposal requesting that the company issue a statement providing information relating to the elimination of jobs within General Electric and/or the relocation of U.S.-based jobs by General Electric to foreign countries, as well as any planned job cuts or offshore relocation activities, could be omitted in reliance on Rule 14a-8(i)(7) as relating to General Electric's ordinary business operations (*i.e.*, management of the workforce) even though the Staff had previously concluded that certain employment-related proposals are significant social issues. *See also Wal-Mart Stores, Inc.* (avail Mar. 15, 1999) (permitting exclusion of a proposal requesting that the board of directors report on Wal-Mart's actions to ensure it does not purchase from suppliers who manufacture items using forced labor, convict labor, child labor or who fail to comply with laws protecting employees' rights because the proposal also requested that the report address ordinary business matters). The Staff has stated that it considers the proposal and supporting statement as a whole when determining whether the focus of a shareholder proposal is a significant policy issues. Staff Legal Bulletin No. 14C (June 28, 2015).

Although the Proposal touches on human rights, its focus is on the risks of the Company's operations and supply chain, and how the Company adheres with ethical business practices and policies, which fall within the Company's ordinary business operations. The supporting statement appears concerned with how these risks affect the Company and its

workforce, stating that "investors have insufficient information to gauge if the company is sufficiently addressing this serious risk to the company and to workers." If the Staff were to conclude that the Proposal, even in part, relates to a policy issue that transcends ordinary business and would otherwise be appropriate for a shareholder vote, the Proposal is nonetheless excludable pursuant to Rule 14a-8(i)(7) because it is not focused solely on such policy issue and clearly addresses matters related to the Company's ordinary business operations.

5. The Proposal seeks to micromanage the Company's ordinary business operations.

It is the Company's view that the Proposal may be properly omitted in reliance on Rule 14a-8(i)(7) because the Proposal seeks to micromanage the Company. As noted above, the Commission has stated that a proposal may be properly omitted under Rule 14a-8(i)(7) if "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." 1998 Release. The effect of human rights risks on a company's operations and supply chain is an extremely complex determination, such that shareholders as a group would not be in a position to make an informed judgment regarding the extent and implications of the risk.

As described above, the Company has in place various processes that it uses to track and measure performance on forced labor risks. These processes include complex protocols, various methodologies, and procedures to address failures to comply with the Company's policies. Although it is the Company's view that the various components of the Proposal have been substantially implemented through the Company's public disclosure, requiring the Company to further report on the Company's process for identifying and analyzing potential and actual human rights risks of its operations and supply chain would probe too deeply into this complex topic, and would not provide any additional information to help shareholders "gauge if the company is sufficiently addressing this serious risk to the company and to workers," as stated in the Proposal's supporting statement.

Furthermore, the supporting statement states that the report sought by the Proposal could consider "human rights principles used to frame the assessment, frequency of assessment, methodology used to track and measure performance on forced labor risks, and how results of the assessment are incorporated into company policies and decision making." Suggesting that the Company report on the human rights risks with this level of specificity when the Company already provides the information on its website as described above would micromanage the Company's ordinary business operations.

C. Conclusion

Because the Proposal addresses and seeks to manage several ordinary business matters, it should be excluded from the 2019 Proxy Materials in reliance on Rule 14a-8(i)(7).

Conclusion

On the basis of the foregoing, the Company respectfully requests the concurrence of the Staff that the Proposal may be excluded from the Company's 2019 Proxy Materials.

Should the Staff disagree with the conclusions set forth in this letter, or should any additional information be desired in support of the Company's position, we would appreciate the

opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response.

Please do not hesitate to contact me at (404) 572-2450 if you require any additional information relating to this matter.

Sincerely,

Alana L. Griffin

Enclosures

cc: Joia Johnson – Hanesbrands Inc.
Keith M. Townsend – King & Spalding LLP
Shelley Alpern – As You Sow, on behalf of Amalgamated Bank, trustee of LongView LargeCap 500 Index Fund, LongView LargeCap 500 VEBA Fund, and LongView Broad Market 3000 Fund

Exhibit A

AS YOU SOW
1611 Telegraph Avenue, Suite 1450
Oakland, CA 94612
www.asyousow.org
BUILDING A SAFE, JUST AND SUSTAINABLE WORLD SINCE 1992

November 9, 2018

Joia M. Johnson
Chief Administrative Officer,
General Counsel & Corporate Secretary
Hanesbrands, Inc.
1000 East Hanes Mill Road
Winston-Salem, NC 27105

Dear Ms. Johnson:

As You Sow is filing a shareholder proposal on behalf of Amalgamated Bank, trustee of LongView LargeCap 500 Index Fund, LongView LargeCap 500 VEBA Fund, and LongView Broad Market 3000 Fund ("Proponent"), a shareholder of Hanesbrands, Inc., for action at the next annual meeting of Hanesbrands. Proponent submits the enclosed shareholder proposal for inclusion in Hanesbrands' 2019 proxy statement, for consideration by shareholders, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934.

A letter from the Proponent authorizing As You Sow to act on its behalf is enclosed. A representative of the Proponent will attend the stockholders' meeting to move the resolution as required.

Our proposal is prompted by concern regarding a series of low ratings received by Hanesbrands in several recent reports regarding the Company's systems for identifying and managing the problem of forced labor in apparel industry supply chains. We look forward to discussing the content of this proposal with your management team and to understand more about your efforts to move forward on these critical areas. We remain open to the possibility of withdrawal if we can find common ground on addressing these important issues.

Please direct any communications to Shelley Alpern of *As You Sow* who can be reached at: salpern@asyousow.org or by telephone at (617) 970-8944.

We look forward to speaking with you.

Sincerely,

Danielle Fugere
President

Enclosures

- Shareholder Proposal
- Shareholder Authorization

Recruitment and Forced Labor Proposal

RESOLVED. Shareholders request Hanesbrands' Board of Directors to report, at reasonable cost and omitting proprietary information, on the Company's process for identifying and analyzing potential and actual human rights risks of its operations and supply chain.

SUPPORTING STATEMENT. In developing the report, the Company could consider:

- Human rights principles used to frame the assessment
- Frequency of assessment
- Methodology used to track and measure performance on forced labor risks, and
- How results of the assessment are incorporated into company policies and decision making.

WHEREAS, an estimated 16 million people[1] are trapped in conditions of forced labor in extended private sector supply chains, generating over $150 billion in profits for illegal labor recruiters and employers through underpayment of wages.[2] Over 70% of these workers are in debt bondage and forced to work in industries such as agriculture and food processing.[3]

In the apparel industry, forced labor occurs both in the production of raw materials and during manufacturing, especially at lower tier suppliers and in home-based or informal manufacturing.

Migrant workers globally are prime targets for exploitation[4] including discrimination, retaliation, debt bondage, illegal wage deductions, and confiscated or restricted access to personal documents that limits workers' freedom of movement and leads to forced labor and human trafficking.

According to the *UN Guiding Principles on Business and Human Rights*, companies have the corporate responsibility to respect human rights within their operations and supply chains. Any company directly or indirectly employing migrant workers must have a policy that assesses if workers are being recruited into debt bondage, forced labor and, ultimately, slavery. The State of California and the United Kingdom passed laws requiring companies to report on their actions to eradicate human trafficking and slavery.

While Hanesbrands' Global Human Rights Policy prohibits use of forced labor in the Company's supply chains, Hanesbrands does not disclose its forced labor risk assessment process, nor does

---

[1] https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf
[2] http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf
[3] http://www.alliance87.org/global_estimates_of_modern_slavery-forced_labour_and_forced_marriage.pdf
[4] https://www.ilo.org/global/topics/fair-recruitment/lang--en/index.htm

it have a policy addressing ethical recruitment of workers.

The 2018 Fashion Transparency Index assessed the company's Champion brand, giving it an overall score of 24%. The report indicates the company is not disclosing information on gender-based violence, living wage, or collective bargaining. Its sub-scores were particularly low in the areas of traceability, supplier assessments, and addressing problems.

Know The Chain's 2016 *Apparel & Footwear Benchmark Findings Report* gave Hanesbrands an overall score of only 54 out of 100, with particularly low sub-scores in the areas of ethical recruitment, traceability, risk assessment, and the ability of workers to exercise their rights and voice complaints.

Hanesbrands also received low scores in the *Corporate Human Rights Benchmark 2018 Progress Report* on human rights due diligence, embedding respect for human rights, and enabling factors and business.

Given the company's lack of risk mitigation and disclosure, investors have insufficient information to gauge if the company is sufficiently addressing this serious risk to the company and to workers.

amalgamated bank

November 8, 2018

Andrew Behar
CEO
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612

Re: Authorization to File Shareholder Resolution

Dear Andrew Behar,

The undersigned (the "Stockholder") authorizes *As You Sow* to file or co-file a shareholder resolution on Stockholder's behalf with Hanesbrands, Inc. (the "Company) for inclusion in the Company's 2019 proxy statement, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934. The resolution at issue relates to reporting on forced labor risks.

The Stockholder has continuously owned over $2,000 worth of Company stock, with voting rights, for over a year. The Stockholder intends to hold the required amount of stock through the date of the company's annual meeting in 2019.

The Stockholder gives As You Sow the authority to address on Stockholder's behalf any and all aspects of the shareholder resolution, including designating another entity as lead filer and representative of the shareholder. The Stockholder understands that the Stockholder's name may appear on the company's proxy statement as the filer of the aforementioned resolution and that the media may mention the Stockholder's name in relation to the resolution.

Sincerely,

Jim Lingbeek
Senior Vice President

Trustee for
LongView Funds, consisting of

LongView LargeCap 500 Index Fund
LongView LargeCap 500 VEBA Fund
LongView LargeCap 1000 Growth Fund
LongView LargeCap 1000 Value Fund
LongView Broad Market 3000 Fund

From: TrackingUpdates@fedex.com [mailto:TrackingUpdates@fedex.com]
Sent: Friday, November 16, 2018 3:17 PM
To: Johnson, Joia <Joia.Johnson@hanes.com>
Subject: Online FedEx Tracking - ***

Online FedEx Tracking

This tracking update has been requested by:

Name:	Daryl
E-mail:	daryl.watson@hanes.com

Tracking # ***

Ship date
11/09/2018
OAKLAND, CA, US

Delivered

Actual Delivery
11/12/2018 9:18 am
WINSTON SALEM, NC, US

Shipment Facts

Tracking number	***
Reference	Amalgamated - Human Rights
Ship date	11/09/2018
Delivery date	11/12/2018 9:18 am
Signed for by	B.REYNOLDS
Service type	FedEx Standard Overnight-Deliver Weekday
Standard transit date	11/12/2018 by 3:00 pm

Tracking results as of Nov 16, 2018 8:11p GMT

Date/Time	Activity/Location
11/12/2018 9:18 am	Delivered
	Winston-Salem, NC
11/12/2018 8:22 am	On FedEx vehicle for delivery
	WINSTON SALEM, NC
11/12/2018 7:06 am	At local FedEx facility
	WINSTON SALEM, NC
11/12/2018 4:05 am	At destination sort facility
	GREENSBORO, NC
11/10/2018 12:18 pm	Arrived at FedEx location
	MEMPHIS, TN
11/10/2018 6:49 am	Departed FedEx location
	OAKLAND, CA
11/10/2018 3:59 am	Arrived at FedEx location
	OAKLAND, CA
11/09/2018 9:40 pm	Departed FedEx location
	OAKLAND, CA
11/09/2018 8:21 pm	Arrived at FedEx location
	OAKLAND, CA
11/09/2018 7:55 pm	Left FedEx origin facility
	EMERYVILLE, CA
11/09/2018 7:07 pm	Picked up
	EMERYVILLE, CA
11/09/2018 4:49 pm	Picked up
	OAKLAND, CA
11/09/2018 5:21 pm	Shipment information sent to FedEx

Support representative.

To track the latest status of your shipment, click on the tracking number above.

This tracking update has been sent to you by FedEx on behalf of the Requestor daryl.watson@hanes.com. FedEx does not validate the authenticity of the requestor and does not validate, guarantee or warrant the authenticity of the request, the requestor's message, or the accuracy of this tracking update.

Thank you for your business.

Exhibit B

From: Johnson, Joia
Sent: Friday, November 16, 2018 5:15 PM
To: 'salpern@asyousow.org' <salpern@asyousow.org>
Subject: Response to November 9 letter

Ms. Alpern, we are in receipt of a letter from Danielle Fugere regarding our corporate social responsibility program. We are proud of our program and would be happy to discuss it with you; however I also provide the attached letter identifying some technical deficiencies in your proposal.

We believe we have a strong record of managing human rights risks in our supply chain, comprised in overwhelming part of our own facilities, and we believe we have strong publicly disclosed policies and practices in this area. We do not tolerate human rights violations in our own facilities or in those of our third party contractors, so we were quite surprised by your letter.

Because of the Thanksgiving holiday we have some scheduling issues next week, but we could certainly chat about this sometime thereafter.

Joia M. Johnson
Chief Administrative Officer, General Counsel and Corporate Secretary
Hanesbrands Inc.
1000 East Hanes Mill Rd.
Winston-Salem, NC 27105
Phone: (336) 519-3515

Joia M. Johnson
1000 East Hanes Mill Road
Winston-Salem, NC 27105
Telephone: (336) 519-3515
Email: joia.johnson@hanes.com

HANESbrandsINC

November 16, 2018

By UPS and E-mail

Amalgamated Bank, as Trustee
of Longview LargeCap 500 Index Fund,
LongView LargeCap 500 VEBA Fund
and LongView Broad Market 3000 Fund

c/o As You Sow
Attn: Shelley Alpern
1611 Telegraph Avenue
Suite 1450
Oakland, CA 94612

Re: Notice of Deficiency – Stockholder Proposal for 2019 Annual Meeting

Dear Ms. Alpern:

I am writing to acknowledge receipt on November 12, 2018 of the stockholder proposal (the "Proposal") submitted by you on behalf of Amalgamated Bank, trustee of LongView LargeCap 500 Index Fund, LongView LargeCap 500 VEBA Fund and LongView Broad Market 3000 Fund (collectively, the "Proponents") to Hanesbrands Inc. (the "Company") for inclusion in the Company's proxy statement for its 2019 Annual Meeting of Stockholders. In order to properly consider your request, and in accordance with Rule 14a-8 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), I am writing to inform you of a deficiency in your submission, as described below.

Absence of Sufficient Proof of Beneficial Ownership

Rule 14a-8(b) under the Exchange Act provides that, in order to be eligible to submit a shareholder proposal for inclusion in a company's proxy statement, a shareholder must submit sufficient proof that the shareholder has continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to vote on the proposal for at least one year as of the date the shareholder submits its proposal. I noted that the Proponents acknowledged in the authorization letter accompanying the Proposal the requirement to have held shares of the Company's common stock for over a year. While Amalgamated Bank is a Depository Trust Company ("DTC") participant and is identified in the Company's securities position listing as holding shares of the Company's stock, we are unable to determine which, if any, of those shares are beneficially owned by the actual Proponents, and you did not submit adequate proof along with the Proposal that the Proponents have satisfied Rule 14a-8's ownership requirements as of November 9, 2018, the date that the Proposal was submitted to the Company, and continuously throughout the one-year period preceding and including November 9, 2018.

To remedy this defect, you must submit sufficient proof of the Proponents' continuous ownership of the required number or amount of shares of the Company's common stock for the one-year period preceding and including November 9, 2018, the date the Proposal was submitted to the Company. As explained in Rule 14a-8(b) and in guidance issued by the staff of the Securities and Exchange Commission ("SEC"), sufficient proof must be in the form of:

(1) a written statement from the "record" holder of your shares (usually a broker or a bank) verifying that you continuously held the required number or amount of shares of the Company's common stock for the one-year period preceding and including November 9, 2018; or

(2) if you have filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting your ownership of the required number or amount of shares of the Company's common stock as of or before the date on which the one-year eligibility period begins, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that you continuously held the required number or amount of shares of the Company's common stock for the one-year period.

If you intend to demonstrate ownership by submitting a written statement from the "record" holder of your shares as set forth in (1) above, please note that most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, DTC, a registered clearing agency that acts as a securities depository (DTC is also known through the account name of Cede & Co.). Under SEC Staff Legal Bulletin No. 14F, only DTC participants are viewed as record holders of securities that are deposited at DTC.[1] As a result, you will need to obtain proof of ownership from the DTC participant through which the securities are held, as follows:

(1) If your broker or bank is a DTC participant, then you need to submit a written statement from your broker or bank verifying that you continuously held the required number or amount of Company shares for the one-year period preceding and including November 9, 2018; or

(2) If your broker or bank is not a DTC participant, then you need to submit proof of ownership from the DTC participant through which the shares are held verifying that you continuously held the required number or amount of Company shares for the one-year period preceding and including November 9, 2018. You should be able to find out the identity of the DTC participant by asking your broker or bank. If the DTC participant that holds your shares is not able to confirm your individual holdings but is

[1] You can confirm whether the Proponents' broker or bank is a DTC participant by asking their broker or bank or by checking DTC's participant list, which is available at http://www.dtcc.com/~/media/Files/Downloads/client-center/DTC/alpha.ashx.

able to confirm the holdings of your broker or bank, then you need to satisfy the proof of ownership requirements by obtaining and submitting two proof of ownership statements verifying that, for the one-year period preceding and including November 9, 2018, the required number or amount of shares of the Company's common stock were continuously held: (i) one from your broker or bank confirming your ownership, and (ii) the other from the DTC participant confirming the broker or bank's ownership.

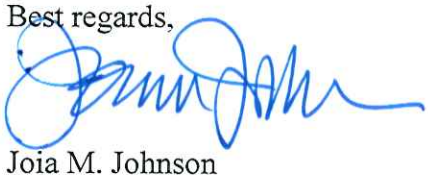
Please review SEC Staff Legal Bulletin No. 14F carefully before submitting proof of ownership to ensure that it is compliant. For your reference, I enclose a copy of Rule 14a-8 and Staff Legal Bulletin No. 14F.

* * * *

Under Rule 14a-8(f)(1), your response must be postmarked, or transmitted electronically within 14 calendar days of your receipt of this letter. Please send the requested documentation to my attention at the address indicated in the letterhead. Alternatively, you may transmit any response by email to me at: joia.johnson@hanes.com.

If you have any questions or would like to speak with a representative from the Company about your proposal, please contact me at (336) 519-3515.

Best regards,



Joia M. Johnson
Chief Administrative Officer,
General Counsel and Corporate Secretary

Attachments

information after the termination of the solicitation.

(e) The security holder shall reimburse the reasonable expenses incurred by the registrant in performing the acts requested pursuant to paragraph (a) of this section.

NOTE 1 TO §240.14A–7. Reasonably prompt methods of distribution to security holders may be used instead of mailing. If an alternative distribution method is chosen, the costs of that method should be considered where necessary rather than the costs of mailing.

NOTE 2 TO §240.14A–7 When providing the information required by §240.14a–7(a)(1)(ii), if the registrant has received affirmative written or implied consent to delivery of a single copy of proxy materials to a shared address in accordance with §240.14a–3(e)(1), it shall exclude from the number of record holders those to whom it does not have to deliver a separate proxy statement.

[57 FR 48292, Oct. 22, 1992, as amended at 59 FR 63684, Dec. 8, 1994; 61 FR 24657, May 15, 1996; 65 FR 65750, Nov. 2, 2000; 72 FR 4167, Jan. 29, 2007; 72 FR 42238, Aug. 1, 2007]

§240.14a–8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

(a) *Question 1:* What is a proposal? A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) *Question 2:* Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible? (1) In order to be eligible to submit a proposal, you must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (§240.13d–101), Schedule 13G (§240.13d–102), Form 3 (§249.103 of this chapter), Form 4 (§249.104 of this chapter) and/or Form 5 (§249.105 of this

chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

(A) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

(c) *Question 3:* How many proposals may I submit? Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(d) *Question 4:* How long can my proposal be? The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) *Question 5:* What is the deadline for submitting a proposal? (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10–Q (§ 249.308a of this chapter), or in shareholder reports of investment companies under § 270.30d–1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) *Question 6:* What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section? (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under § 240.14a–8 and provide you with a copy under Question 10 below, § 240.14a–8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) *Question 7:* Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) *Question 8:* Must I appear personally at the shareholders' meeting to present the proposal? (1) Either you, or your representative who is qualified

under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9:* If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal? (1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

NOTE TO PARAGRAPH (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law:* If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

NOTE TO PARAGRAPH (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules:* If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including §240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest:* If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance:* If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority:* If the company would lack the power or authority to implement the proposal;

(7) *Management functions:* If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Director elections:* If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

(9) *Conflicts with company's proposal:* If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

NOTE TO PARAGRAPH (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented:* If the company has already substantially implemented the proposal;

NOTE TO PARAGRAPH (i)(10): A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant

to Item 402 of Regulation S–K (§ 229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by § 240.14a–21(b) of this chapter a single year (*i.e.*, one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by § 240.14a–21(b) of this chapter.

(11) *Duplication:* If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions:* If the proposal deals with substantially the same subject matter as another proposal or proposals that has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

(i) Less than 3% of the vote if proposed once within the preceding 5 calendar years;

(ii) Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or

(iii) Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and

(13) *Specific amount of dividends:* If the proposal relates to specific amounts of cash or stock dividends.

(j) *Question 10:* What procedures must the company follow if it intends to exclude my proposal? (1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) *Question 11:* May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) *Question 12:* If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) *Question 13:* What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may

express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our antifraud rule, §240.14a–9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under §240.14a–6.

[63 FR 29119, May 28, 1998; 63 FR 50622, 50623, Sept. 22, 1998, as amended at 72 FR 4168, Jan. 29, 2007; 72 FR 70456, Dec. 11, 2007; 73 FR 977, Jan. 4, 2008; 76 FR 6045, Feb. 2, 2011; 75 FR 56782, Sept. 16, 2010]

§240.14a–9 False or misleading statements.

(a) No solicitation subject to this regulation shall be made by means of any proxy statement, form of proxy, notice of meeting or other communication, written or oral, containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading.

(b) The fact that a proxy statement, form of proxy or other soliciting material has been filed with or examined by the Commission shall not be deemed a finding by the Commission that such material is accurate or complete or not false or misleading, or that the Commission has passed upon the merits of or approved any statement contained therein or any matter to be acted upon by security holders. No representation contrary to the foregoing shall be made.

(c) No nominee, nominating shareholder or nominating shareholder group, or any member thereof, shall cause to be included in a registrant's proxy materials, either pursuant to the Federal proxy rules, an applicable state or foreign law provision, or a registrant's governing documents as they relate to including shareholder nominees for director in a registrant's proxy materials, include in a notice on Schedule 14N (§240.14n–101), or include in any other related communication, any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to a solicitation for the same meeting or subject matter which has become false or misleading.

NOTE: The following are some examples of what, depending upon particular facts and circumstances, may be misleading within the meaning of this section.

a. Predictions as to specific future market values.

b. Material which directly or indirectly impugns character, integrity or personal reputation, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation.

U.S. Securities and Exchange Commission

Division of Corporation Finance
Securities and Exchange Commission

Shareholder Proposals

Staff Legal Bulletin No. 14F (CF)

Action: Publication of CF Staff Legal Bulletin

Date: October 18, 2011

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://tts.sec.gov/cgi-bin/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- Common errors shareholders can avoid when submitting proof of ownership to companies;
- The submission of revised proposals;
- Procedures for withdrawing no-action requests regarding proposals submitted by multiple proponents; and
- The Division's new process for transmitting Rule 14a-8 no-action responses by email.

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: SLB No. 14, SLB No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D and SLB No. 14E.

B. The types of brokers and banks that constitute "record" holders

under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Eligibility to submit a proposal under Rule 14a-8

To be eligible to submit a shareholder proposal, a shareholder must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. The shareholder must also continue to hold the required amount of securities through the date of the meeting and must provide the company with a written statement of intent to do so.[1]

The steps that a shareholder must take to verify his or her eligibility to submit a proposal depend on how the shareholder owns the securities. There are two types of security holders in the U.S.: registered owners and beneficial owners.[2] Registered owners have a direct relationship with the issuer because their ownership of shares is listed on the records maintained by the issuer or its transfer agent. If a shareholder is a registered owner, the company can independently confirm that the shareholder's holdings satisfy Rule 14a-8(b)'s eligibility requirement.

The vast majority of investors in shares issued by U.S. companies, however, are beneficial owners, which means that they hold their securities in book-entry form through a securities intermediary, such as a broker or a bank. Beneficial owners are sometimes referred to as "street name" holders. Rule 14a-8(b)(2)(i) provides that a beneficial owner can provide proof of ownership to support his or her eligibility to submit a proposal by submitting a written statement "from the 'record' holder of [the] securities (usually a broker or bank)," verifying that, at the time the proposal was submitted, the shareholder held the required amount of securities continuously for at least one year.[3]

2. The role of the Depository Trust Company

Most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency acting as a securities depository. Such brokers and banks are often referred to as "participants" in DTC.[4] The names of these DTC participants, however, do not appear as the registered owners of the securities deposited with DTC on the list of shareholders maintained by the company or, more typically, by its transfer agent. Rather, DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants. A company can request from DTC a "securities position listing" as of a specified date, which identifies the DTC participants having a position in the company's securities and the number of securities held by each DTC participant on that date.[5]

3. Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

In *The Hain Celestial Group, Inc.* (Oct. 1, 2008), we took the position that an introducing broker could be considered a "record" holder for purposes of Rule 14a-8(b)(2)(i). An introducing broker is a broker that engages in sales and other activities involving customer contact, such as opening customer

accounts and accepting customer orders, but is not permitted to maintain custody of customer funds and securities.[6] Instead, an introducing broker engages another broker, known as a "clearing broker," to hold custody of client funds and securities, to clear and execute customer trades, and to handle other functions such as issuing confirmations of customer trades and customer account statements. Clearing brokers generally are DTC participants; introducing brokers generally are not. As introducing brokers generally are not DTC participants, and therefore typically do not appear on DTC's securities position listing, *Hain Celestial* has required companies to accept proof of ownership letters from brokers in cases where, unlike the positions of registered owners and brokers and banks that are DTC participants, the company is unable to verify the positions against its own or its transfer agent's records or against DTC's securities position listing.

In light of questions we have received following two recent court cases relating to proof of ownership under Rule 14a-8[7] and in light of the Commission's discussion of registered and beneficial owners in the Proxy Mechanics Concept Release, we have reconsidered our views as to what types of brokers and banks should be considered "record" holders under Rule 14a-8(b)(2)(i). Because of the transparency of DTC participants' positions in a company's securities, we will take the view going forward that, for Rule 14a-8(b)(2)(i) purposes, only DTC participants should be viewed as "record" holders of securities that are deposited at DTC. As a result, we will no longer follow *Hain Celestial*.

We believe that taking this approach as to who constitutes a "record" holder for purposes of Rule 14a-8(b)(2)(i) will provide greater certainty to beneficial owners and companies. We also note that this approach is consistent with Exchange Act Rule 12g5-1 and a 1988 staff no-action letter addressing that rule,[8] under which brokers and banks that are DTC participants are considered to be the record holders of securities on deposit with DTC when calculating the number of record holders for purposes of Sections 12(g) and 15(d) of the Exchange Act.

Companies have occasionally expressed the view that, because DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants, only DTC or Cede & Co. should be viewed as the "record" holder of the securities held on deposit at DTC for purposes of Rule 14a-8(b)(2)(i). We have never interpreted the rule to require a shareholder to obtain a proof of ownership letter from DTC or Cede & Co., and nothing in this guidance should be construed as changing that view.

How can a shareholder determine whether his or her broker or bank is a DTC participant?

Shareholders and companies can confirm whether a particular broker or bank is a DTC participant by checking DTC's participant list, which is currently available on the Internet at http://www.dtcc.com/~/media/Files/Downloads/client-center/DTC/alpha.ashx.

What if a shareholder's broker or bank is not on DTC's participant list?

The shareholder will need to obtain proof of ownership from the DTC participant through which the securities are held. The shareholder should be able to find out who this DTC participant is by asking the

shareholder's broker or bank.[9]

If the DTC participant knows the shareholder's broker or bank's holdings, but does not know the shareholder's holdings, a shareholder could satisfy Rule 14a-8(b)(2)(i) by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required amount of securities were continuously held for at least one year – one from the shareholder's broker or bank confirming the shareholder's ownership, and the other from the DTC participant confirming the broker or bank's ownership.

How will the staff process no-action requests that argue for exclusion on the basis that the shareholder's proof of ownership is not from a DTC participant?

The staff will grant no-action relief to a company on the basis that the shareholder's proof of ownership is not from a DTC participant only if the company's notice of defect describes the required proof of ownership in a manner that is consistent with the guidance contained in this bulletin. Under Rule 14a-8(f)(1), the shareholder will have an opportunity to obtain the requisite proof of ownership after receiving the notice of defect.

C. Common errors shareholders can avoid when submitting proof of ownership to companies

In this section, we describe two common errors shareholders make when submitting proof of ownership for purposes of Rule 14a-8(b)(2), and we provide guidance on how to avoid these errors.

First, Rule 14a-8(b) requires a shareholder to provide proof of ownership that he or she has "continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal" (emphasis added).[10] We note that many proof of ownership letters do not satisfy this requirement because they do not verify the shareholder's beneficial ownership for the entire one-year period preceding and including the date the proposal is submitted. In some cases, the letter speaks as of a date *before* the date the proposal is submitted, thereby leaving a gap between the date of the verification and the date the proposal is submitted. In other cases, the letter speaks as of a date *after* the date the proposal was submitted but covers a period of only one year, thus failing to verify the shareholder's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Second, many letters fail to confirm continuous ownership of the securities. This can occur when a broker or bank submits a letter that confirms the shareholder's beneficial ownership only as of a specified date but omits any reference to continuous ownership for a one-year period.

We recognize that the requirements of Rule 14a-8(b) are highly prescriptive and can cause inconvenience for shareholders when submitting proposals. Although our administration of Rule 14a-8(b) is constrained by the terms of the rule, we believe that shareholders can avoid the two errors highlighted above by arranging to have their broker or bank provide the required verification of ownership as of the date they plan to submit the proposal using the following format:

"As of [date the proposal is submitted], [name of shareholder] held, and has held continuously for at least one year, [number of securities] shares of [company name] [class of securities]."[11]

As discussed above, a shareholder may also need to provide a separate written statement from the DTC participant through which the shareholder's securities are held if the shareholder's broker or bank is not a DTC participant.

D. The submission of revised proposals

On occasion, a shareholder will revise a proposal after submitting it to a company. This section addresses questions we have received regarding revisions to a proposal or supporting statement.

1. A shareholder submits a timely proposal. The shareholder then submits a revised proposal before the company's deadline for receiving proposals. Must the company accept the revisions?

Yes. In this situation, we believe the revised proposal serves as a replacement of the initial proposal. By submitting a revised proposal, the shareholder has effectively withdrawn the initial proposal. Therefore, the shareholder is not in violation of the one-proposal limitation in Rule 14a-8(c).[12] If the company intends to submit a no-action request, it must do so with respect to the revised proposal.

We recognize that in Question and Answer E.2 of SLB No. 14, we indicated that if a shareholder makes revisions to a proposal before the company submits its no-action request, the company can choose whether to accept the revisions. However, this guidance has led some companies to believe that, in cases where shareholders attempt to make changes to an initial proposal, the company is free to ignore such revisions even if the revised proposal is submitted before the company's deadline for receiving shareholder proposals. We are revising our guidance on this issue to make clear that a company may not ignore a revised proposal in this situation.[13]

2. A shareholder submits a timely proposal. After the deadline for receiving proposals, the shareholder submits a revised proposal. Must the company accept the revisions?

No. If a shareholder submits revisions to a proposal after the deadline for receiving proposals under Rule 14a-8(e), the company is not required to accept the revisions. However, if the company does not accept the revisions, it must treat the revised proposal as a second proposal and submit a notice stating its intention to exclude the revised proposal, as required by Rule 14a-8(j). The company's notice may cite Rule 14a-8(e) as the reason for excluding the revised proposal. If the company does not accept the revisions and intends to exclude the initial proposal, it would also need to submit its reasons for excluding the initial proposal.

3. If a shareholder submits a revised proposal, as of which date must the shareholder prove his or her share ownership?

A shareholder must prove ownership as of the date the original proposal is submitted. When the Commission has discussed revisions to proposals,[14] it has not suggested that a revision triggers a requirement to provide proof of ownership a second time. As outlined in Rule 14a-8(b), proving ownership

includes providing a written statement that the shareholder intends to continue to hold the securities through the date of the shareholder meeting. Rule 14a-8(f)(2) provides that if the shareholder "fails in [his or her] promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of [the same shareholder's] proposals from its proxy materials for any meeting held in the following two calendar years." With these provisions in mind, we do not interpret Rule 14a-8 as requiring additional proof of ownership when a shareholder submits a revised proposal.[15]

E. Procedures for withdrawing no-action requests for proposals submitted by multiple proponents

We have previously addressed the requirements for withdrawing a Rule 14a-8 no-action request in SLB Nos. 14 and 14C. SLB No. 14 notes that a company should include with a withdrawal letter documentation demonstrating that a shareholder has withdrawn the proposal. In cases where a proposal submitted by multiple shareholders is withdrawn, SLB No. 14C states that, if each shareholder has designated a lead individual to act on its behalf and the company is able to demonstrate that the individual is authorized to act on behalf of all of the proponents, the company need only provide a letter from that lead individual indicating that the lead individual is withdrawing the proposal on behalf of all of the proponents.

Because there is no relief granted by the staff in cases where a no-action request is withdrawn following the withdrawal of the related proposal, we recognize that the threshold for withdrawing a no-action request need not be overly burdensome. Going forward, we will process a withdrawal request if the company provides a letter from the lead filer that includes a representation that the lead filer is authorized to withdraw the proposal on behalf of each proponent identified in the company's no-action request.[16]

F. Use of email to transmit our Rule 14a-8 no-action responses to companies and proponents

To date, the Division has transmitted copies of our Rule 14a-8 no-action responses, including copies of the correspondence we have received in connection with such requests, by U.S. mail to companies and proponents. We also post our response and the related correspondence to the Commission's website shortly after issuance of our response.

In order to accelerate delivery of staff responses to companies and proponents, and to reduce our copying and postage costs, going forward, we intend to transmit our Rule 14a-8 no-action responses by email to companies and proponents. We therefore encourage both companies and proponents to include email contact information in any correspondence to each other and to us. We will use U.S. mail to transmit our no-action response to any company or proponent for which we do not have email contact information.

Given the availability of our responses and the related correspondence on the Commission's website and the requirement under Rule 14a-8 for companies and proponents to copy each other on correspondence submitted to the Commission, we believe it is unnecessary to transmit copies of the related correspondence along with our no-action response. Therefore, we intend to transmit only our staff response and not the correspondence we receive from the parties. We will continue to post to the Commission's website copies of this correspondence at the same time that we post our

staff no-action response.

---

[1] *See* Rule 14a-8(b).

[2] For an explanation of the types of share ownership in the U.S., see Concept Release on U.S. Proxy System, Release No. 34-62495 (July 14, 2010) [75 FR 42982] ("Proxy Mechanics Concept Release"), at Section II.A. The term "beneficial owner" does not have a uniform meaning under the federal securities laws. It has a different meaning in this bulletin as compared to "beneficial owner" and "beneficial ownership" in Sections 13 and 16 of the Exchange Act. Our use of the term in this bulletin is not intended to suggest that registered owners are not beneficial owners for purposes of those Exchange Act provisions. *See* Proposed Amendments to Rule 14a-8 under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Release No. 34-12598 (July 7, 1976) [41 FR 29982], at n.2 ("The term 'beneficial owner' when used in the context of the proxy rules, and in light of the purposes of those rules, may be interpreted to have a broader meaning than it would for certain other purpose[s] under the federal securities laws, such as reporting pursuant to the Williams Act.").

[3] If a shareholder has filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5 reflecting ownership of the required amount of shares, the shareholder may instead prove ownership by submitting a copy of such filings and providing the additional information that is described in Rule 14a-8(b)(2)(ii).

[4] DTC holds the deposited securities in "fungible bulk," meaning that there are no specifically identifiable shares directly owned by the DTC participants. Rather, each DTC participant holds a pro rata interest or position in the aggregate number of shares of a particular issuer held at DTC. Correspondingly, each customer of a DTC participant – such as an individual investor – owns a pro rata interest in the shares in which the DTC participant has a pro rata interest. *See* Proxy Mechanics Concept Release, at Section II.B.2.a.

[5] *See* Exchange Act Rule 17Ad-8.

[6] *See* Net Capital Rule, Release No. 34-31511 (Nov. 24, 1992) [57 FR 56973] ("Net Capital Rule Release"), at Section II.C.

[7] *See KBR Inc. v. Chevedden*, Civil Action No. H-11-0196, 2011 U.S. Dist. LEXIS 36431, 2011 WL 1463611 (S.D. Tex. Apr. 4, 2011); *Apache Corp. v. Chevedden,* 696 F. Supp. 2d 723 (S.D. Tex. 2010). In both cases, the court concluded that a securities intermediary was not a record holder for purposes of Rule 14a-8(b) because it did not appear on a list of the company's non-objecting beneficial owners or on any DTC securities position listing, nor was the intermediary a DTC participant.

[8] *Techne Corp.* (Sept. 20, 1988).

[9] In addition, if the shareholder's broker is an introducing broker, the shareholder's account statements should include the clearing broker's identity and telephone number. *See* Net Capital Rule Release, at Section II.C.(iii). The clearing broker will generally be a DTC participant.

[10] For purposes of Rule 14a-8(b), the submission date of a proposal will generally precede the company's receipt date of the proposal, absent the use of electronic or other means of same-day delivery.

[11] This format is acceptable for purposes of Rule 14a-8(b), but it is not mandatory or exclusive.

[12] As such, it is not appropriate for a company to send a notice of defect for multiple proposals under Rule 14a-8(c) upon receiving a revised proposal.

[13] This position will apply to all proposals submitted after an initial proposal but before the company's deadline for receiving proposals, regardless of whether they are explicitly labeled as "revisions" to an initial proposal, unless the shareholder affirmatively indicates an intent to submit a second, *additional* proposal for inclusion in the company's proxy materials. In that case, the company must send the shareholder a notice of defect pursuant to Rule 14a-8(f)(1) if it intends to exclude either proposal from its proxy materials in reliance on Rule 14a-8(c). In light of this guidance, with respect to proposals or revisions received before a company's deadline for submission, we will no longer follow *Layne Christensen Co.* (Mar. 21, 2011) and other prior staff no-action letters in which we took the view that a proposal would violate the Rule 14a-8(c) one-proposal limitation if such proposal is submitted to a company after the company has either submitted a Rule 14a-8 no-action request to exclude an earlier proposal submitted by the same proponent or notified the proponent that the earlier proposal was excludable under the rule.

[14] *See, e.g.*, Adoption of Amendments Relating to Proposals by Security Holders, Release No. 34-12999 (Nov. 22, 1976) [41 FR 52994].

[15] Because the relevant date for proving ownership under Rule 14a-8(b) is the date the proposal is submitted, a proponent who does not adequately prove ownership in connection with a proposal is not permitted to submit another proposal for the same meeting on a later date.

[16] Nothing in this staff position has any effect on the status of any shareholder proposal that is not withdrawn by the proponent or its authorized representative.

http://www.sec.gov/interps/legal/cfslb14f.htm

Exhibit C

UPS CampusShip: View/Print Label

1. **Ensure there are no other shipping or tracking labels attached to your package.** Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.

2. **Fold the printed label at the solid line below.** Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.

3. **GETTING YOUR SHIPMENT TO UPS**
   Customers with a Daily Pickup
   Your driver will pickup your shipment(s) as usual.

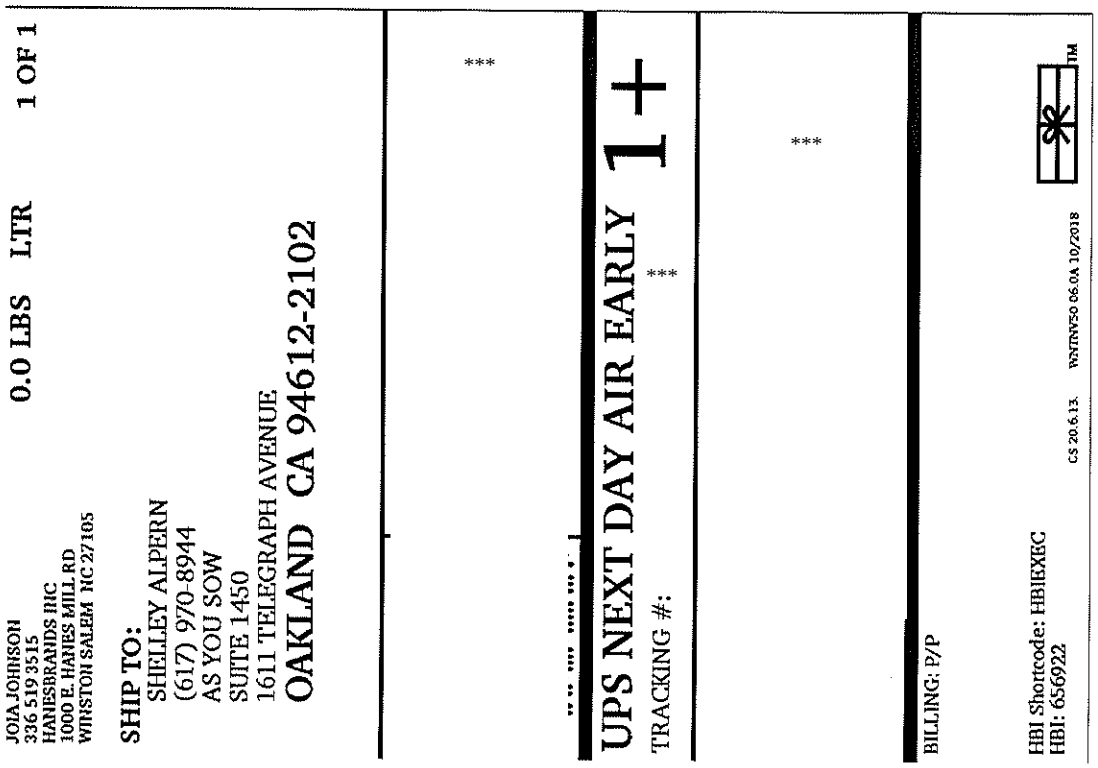
   Customers without a Daily Pickup
   Take your package to any location of The UPS Store®, UPS Access Point(TM) location, UPS Drop Box, UPS Customer Center, Staples® or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.
   Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages.
   Hand the package to any UPS driver in your area.

UPS Access Point™
NCBBR-CIRCLE K #4489
4001 BROWNSBORO RD
WINSTON SALEM ,NC 27106

UPS Access Point™
THE UPS STORE
2806 REYNOLDA RD
WINSTON SALEM ,NC 27106

UPS Access Point™
THE UPS STORE
1959 N PEACE HAVEN RD
WINSTON-SALEM ,NC 27106

FOLD HERE



Proof of Delivery

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number

***

Weight

0.00 LBS

Service

UPS Next Day Air® Early

Shipped / Billed On

11/16/2018

Delivered On

11/20/2018 12:32 P.M.

Delivered To

OAKLAND, CA, US

Received By

MCMAN

Left At

Reception

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

Sincerely,

UPS

Tracking results provided by UPS: 12/12/2018 2:59 P.M. EST