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

DIVISION OF
CORPORATION FINANCE

March 31, 2023

Gregory F. Parisi
Troutman Pepper Hamilton Sanders LLP

Re: Dollar General Corporation (the "Company")
Incoming letter dated January 20, 2023

Dear Gregory F. Parisi:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by Domini US Impact Equity Fund and co-filers for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the board of directors commission an independent third-party audit on the impact of the Company's policies and practices on the safety and well-being of workers.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal transcends ordinary business matters because it raises human capital management issues with a broad societal impact.

Copies of all of the correspondence on which this response is based will be made available on our website at https://www.sec.gov/corpfin/2022-2023-shareholder-proposals-no-action.

Sincerely,

Rule 14a-8 Review Team

cc: Mary Beth Gallagher
Domini Impact Investments LLC

Troutman Pepper Hamilton Sanders LLP
401 9th Street, N.W.
Suite 1000
Washington, D.C. 20004

troutman.com

Gregory F. Parisi
gregory.parisi@troutman.com
202.274.1933

January 20, 2023

Via E-Mail (shareholderproposals@sec.gov)

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

Re: Dollar General Corporation
Shareholder Proposal of Domini US Impact Equity Fund and Various Co-Filers
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, Dollar General Corporation (the "Company"), intends to exclude from its proxy statement and form of proxy for its 2023 Annual Meeting of Shareholders (collectively, the "2023 Proxy Materials") the enclosed shareholder proposal (the "Proposal") and statement in support thereof (the "Supporting Statement") submitted by Domini US Impact Equity Fund and 5 co-filers (together, the "Proponents") in accordance with Rule 14a-8(j) of the Securities Exchange Act of 1934, as amended (the "Exchange Act").

We respectfully request that the staff of the Division of Corporation Finance (the "Staff") of the U.S. Securities and Exchange Commission (the "Commission") confirm that it will not recommend any enforcement action to the Commission if the Company excludes the Proposal from its 2023 Proxy Materials in reliance upon Rule 14a-8(i)(7) of the Exchange Act as relating to the Company's ordinary business operations because the Proposal implicates or relates to the Company's litigation strategy and the conduct of ongoing litigation to which the Company is a party.

Pursuant to Rule 14a-8(j) of the Exchange Act and Staff Legal Bulletin No. 14D (November 7, 2008) ("SLB 14D"), the Company has:

- electronically submitted this letter, the Proposal, the Supporting Statement and related correspondence to the Commission no later than eighty calendar days before the Company intends to file its definitive 2023 Proxy Materials with the Commission; and

- concurrently sent a copy of such documents to the Proponents.

Rule 14a-8(k) and SLB14D provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to inform the Proponents that if the Proponents elect to submit additional correspondence to the Commission or the Staff with respect to this Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

THE PROPOSAL

The Proposal states, in relevant part:

> RESOLVED: Shareholders of Dollar General request that the Board of Directors commission an independent third-party audit on the impact of the company's policies and practices on the safety and well-being of workers. A report on the audit, prepared at reasonable cost and omitting proprietary information, should be made available on the company's website.

The Supporting Statement states that the Proponents recommend that the audit include:

- "Evaluation of management and business practices that contribute to an unsafe or violent environment, including staffing capacity;
- Meaningful consultation with workers and customers to inform appropriate solutions; and
- Recommendations for actions and regular reporting with progress on identified actions."

A copy of the Proposal and its Supporting Statement, as well as relevant correspondence with the Proponents, is attached to this letter as **Exhibit A**.

BASIS FOR EXCLUSION

For the reasons discussed below, we respectfully request that the Staff concur with our view that the Proposal may be excluded from the 2023 Proxy Materials pursuant to Rule 14a-8(i)(7) as relating to the Company's ordinary business operations because the Proposal involves the same subject matter as ongoing litigation and related regulatory matters to which the Company is a party and implicates and relates to the Company's legal strategy and the conduct of such ongoing litigation and regulatory matters.

The Company is presently involved in various litigation and other regulatory matters relating to the subject matter of the Proposal, some of which the Proponents explicitly reference in the Proposal as relevant to the requested report[1] (collectively, the "Pending Litigation"):

- the Company is defending through the administrative litigation process various contested citations pending with the Occupational Safety and Health Administration ("OSHA") and certain state agencies with respect to alleged violations of applicable federal and state workplace safety statutes;[2]

- the Company is defending against a petition filed by the Secretary of Labor for summary enforcement of a final order of the Occupational Safety and Health Review Commission, contending that such order, if entered, will ensure the Company satisfies its obligation under the settlement agreement to comply with the Occupational Safety and Health Act and the safety and health regulations issued thereunder[3]; and

- the Company is defending against two class action lawsuits that, among other things, challenge the health and safety practices of the Company by contending that the Company knew or should have known about a rodent infestation that allegedly posed a risk of contamination and illness.

As discussed more fully below, because the Proposal seeks an audit and publication of a report on the issues that are at the very crux of the Pending Litigation—the impact of the Company's policies and procedures on the safety and well-being of its employees—issuing the report would require the Company to take action that could interfere with and harm its legal defense and strategy in the Pending Litigation. As demonstrated in the precedent discussed below, Rule 14a-8(i)(7) permits the exclusion of shareholder proposals, such as the Proposal, that relate to or implicate the Company's legal strategy and thus interfere with the Company's ordinary business operations.

ANALYSIS

The proposal may be excluded under Rule 14a-8(i)(7) because it relates to the Company's "ordinary business" operations. *See, e.g.,* Staff Legal Bulletin No. 14L, Part B.2 (November 3, 2021) ("SLB 14L") (noting that the ordinary business exclusion recognizes "the board's authority over most day-to-day business matters"). According to the Commission's release accompanying the 1998 amendments to Rule 14a-8, the term "ordinary business" refers to matters that are not necessarily

[1] Specifically, the Proposal references 2022 OSHA citations "for blocked safety exits and unsafe storage areas, inaccessible fire extinguishers, storage of boxes in front of electrical panels, exposure of workers to electrocution risks, and failure to provide exit signs and required stair handrails."

[2] The Company currently has 22 contested citations pending through state and federal administrative litigation processes. *See, e.g.,* Occupational Safety and Health Review Commission Docket Nos: 22-1355, 22-1338, 22-1484, 22-1335, 22-1336, 22-1323, 22-0862, 22-1223, 22-1022, 22-1427, 22-1228, 22-1339, 22-1325, 22-1016, 22-1023, 23-0012, 22-1225, 22-1337, 22-1537, 22-1480; Kentucky Occupational Safety and Health Review Commission Docket Nos: 5911-22, 5912-22.

[3] United States Court of Appeals for the Seventh Circuit Docket No. 22-2499.

"ordinary" in the common meaning of the word, but instead the term "is rooted in the corporate law concept [of] providing management with flexibility in directing certain core matters involving the company's business and operations." Exchange Act Release No. 40018 (May 21, 1998) (the "1998 Release"). In the 1998 Release, the Commission stated that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting". The Commission applies two central considerations for determining whether the ordinary business exclusion applies: (1) whether the subject matter of the proposal relates to a task "so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight"; and (2) the "degree to which the proposal seeks to 'micromanage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *Id.* (citing Exchange Act Release No. 12999 (Nov. 22, 1976)).

Each of the two central considerations discussed above are implicated by the Proposal. By seeking to address subject matter that is the same as the Pending Litigation, the Proposal directly implicates the Company's litigation strategy and the conduct of the Pending Litigation, matters that are squarely with management's responsibilities and exercise of business judgment (including attorney client and work product privilege considerations).

In addition, framing a shareholder proposal in the form of a request for a report does not change the nature of the proposal. The Commission has stated that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the subject matter of the report is within the ordinary business of the issuer. *See* Exchange Act Release No. 20091 (Aug. 16, 1983). The Staff, likewise, has indicated that "[where] the subject matter of the additional disclosure sought in a particular proposal involves a matter of ordinary business . . . it may be excluded under rule 14a-8(i)(7)." *Johnson Controls, Inc.* (avail. Oct. 26, 1999).

The Proposal Involves The Same Subject Matter As The Pending Litigation.

We believe that the Proposal may be excluded from the 2023 Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal involves the same subject matter as the Pending Litigation and therefore implicates the Company's ordinary business operations.

The Staff regularly concurs with the exclusion under Rule 14a-8(i)(7) of shareholder proposals that implicate and seek to oversee a company's ordinary business operations, including when the subject matter of the proposal is the same as or similar to the subject matter of litigation in which a company is then involved. *See, e.g., Chevron Corp. (Sisters of St. Francis of Philadelphia et al.)* (avail. Mar. 30, 2021) (concurring with the exclusion of a proposal requesting a "third-party report . . . analyzing how Chevron's policies, practices, and the impacts of its business, perpetuate racial injustice and inflict harm on communities of color in the United States," while the company was involved in pending lawsuits seeking to hold the company liable for its alleged role in climate change and the alleged resulting injuries, including the alleged harmful impacts of climate change on communities of color); *Walmart Inc.* (avail. Apr. 13, 2018) (concurring with the exclusion of a proposal requesting a

report on risks associated with emerging public policies on the gender pay gap while the company was involved in pending lawsuits regarding gender-based pay discrimination and related claims before the U.S. Equal Employment Opportunity Commission, as "affect[ing] the conduct of ongoing litigation relating to the subject matter of the [p]roposal to which the [c]ompany is a party"); *General Electric Co.* (avail. Feb. 3, 2016) (concurring with the exclusion of a proposal requesting a report assessing all potential sources of liability related to PCB discharges in the Hudson River while the company was defending pending lawsuits related to its alleged past release of chemicals into the Hudson River); *Chevron Corp.* (avail. Mar. 19, 2013) (concurring with the exclusion of a proposal requesting that the company review its "legal initiatives against investors" because "[p]roposals that would affect the conduct of ongoing litigation to which the company is a party are generally excludable"); *Johnson & Johnson* (avail. Feb. 14, 2012) (concurring with the exclusion of a proposal where implementation would have required the company to report on any new initiatives instituted by management to address the health and social welfare concerns of people harmed by LEVAQUIN®, thereby taking a position contrary to the company's litigation strategy); *Reynolds American Inc.* (avail. Mar. 7, 2007) (concurring with the exclusion of a proposal requesting that the company provide information on the health hazards of secondhand smoke, including legal options available to minors to ensure their environments are smoke free, while the company was defending cases alleging injury as a result of exposure to secondhand smoke and a principal issue concerned the health hazards of secondhand smoke); *AT&T Inc.* (avail. Feb. 9, 2007) (concurring with the exclusion of a proposal requesting that the company issue a report containing specified information regarding the alleged disclosure of customer records to governmental agencies, while the company was defending pending lawsuits alleging unlawful acts related to such disclosures); *Reynolds American Inc.* (avail. Feb. 10, 2006) (concurring with the exclusion of a proposal requesting that the company notify African Americans of the unique health hazards to them associated with smoking menthol cigarettes, which would be inconsistent with the company's pending litigation position of denying such health hazards); *Exxon Mobil Corp.* (available Mar. 21, 2000) (concurring with the exclusion of a proposal requesting immediate payment of settlements associated with the Exxon Valdez oil spill as relating to litigation strategy); *Philip Morris Companies Inc.* (avail. Feb. 4, 1997) (concurring with the exclusion of a proposal where the Staff noted that although it "has taken the position that proposals directed at the manufacture and distribution of tobacco-related products by companies involved in making such products raise issues of significance that do not constitute matters of ordinary business," the proposal "primarily addresses the litigation strategy of the [c]ompany, which is viewed as inherently the ordinary business of management to direct").

Like the precedents set forth above, the Proposal involves the same subject matter as the Pending Litigation. The Proposal seeks an assessment of, and report on, "the impact of the [C]ompany's policies and practices on the safety and well-being of workers," each of which relates to the same subject matter and factual and legal questions at issue in, and relevant to, the Pending Litigation. Unquestionably, the effectiveness of the Company's safety and health policies and procedures is or will be at issue or will be a key factor in the resolution of the Pending Litigation, as the purported violations to which the contested citations and petitions relate and the allegations contained in the class action lawsuits all involve the same subject matter as the Proposal.

Disclosure Of The Kind Of Information Requested By The Proposal Could Directly Interfere With The Company's Litigation Strategy, The Conduct Of The Pending Litigation, And The Resolution Of The Pending Litigation (Including The Parties' Settlement Postures).

The Company's management has a responsibility to defend the Company's interests against what it believes to be unwarranted legal claims and liability, including litigation and regulatory activity and citations and related potential injunctions, penalties and damages. A shareholder proposal that interferes with this responsibility is inappropriate. In this case, the Pending Litigation matters remain ongoing and are at various stages of the litigation process, including discovery and conversations regarding their resolution. The implementation of a third-party audit and disclosure of the kind of information requested by the Proposal could have a significant negative impact on the Company's litigation strategy, legal and factual arguments, and settlement posture in the Pending Litigation. It could also inappropriately interfere with the conduct of the Pending Litigation by forcing one-sided disclosure with respect to matters that are more appropriately disclosed and determined through the litigation process.

The Staff has consistently concurred with exclusion under Rule 14a-8(i)(7) on the grounds that implementation of the proposal may prejudice a company in an ongoing legal proceeding or investigation. *See, e.g.*, *Baxter International Inc.* (Feb. 20, 1992) (allowing exclusion of a proposal on the grounds that "the [c]ompany [was] presently involved in litigation relating to the subject matter of the proposal[, and the] implementation of the proposal might prejudice the [c]ompany in an on-going government investigation of the matter"); *NetCurrents, Inc.* (May 8, 2001) (allowing exclusion of a proposal relating to the company's ordinary business operations (*i.e.*, litigation strategy) where the proposal required the company to file suit against certain of its officers for financial improprieties); *Benihana National Corp.* (Sept. 13, 1991) (permitting exclusion under Rule 14a-8(c)(7) of a proposal requesting the company to publish a report prepared by a board committee analyzing claims asserted in a pending lawsuit); and *CBS Corp.* (Jan. 21, 1983) (allowing exclusion of two proposals under Rule 14a-8(i)(7) because both related to a then-ongoing lawsuit for libel against the company). As discussed below, the Company reasonably can expect to be prejudiced in the Pending Litigation if the Proposal were approved. The Company will be placed in the untenable position of being forced to choose between compromising its legal position and strategy in the Pending Litigation and appearing unresponsive to its shareholders.

First, the Proposal seeks reporting that would directly interfere with, and potentially reveal to an opposing party, the Company's strategy in the Pending Litigation. Specifically, the Proposal would obligate the Company to take a public position in the form of a report outside the context of the Pending Litigation (including the discovery process and other timing and procedural considerations) on the impact of the Company's policies and practices on worker safety and well-being, key issues in Pending Litigation. Requiring the Company to make disclosures directly related to the subject matter of the Pending Litigation and without regard to the procedural posture of the Pending Litigation would be unfairly prejudicial and potentially harmful to the Company.

Moreover, requiring the Company to provide a public assessment of the very issues the Company is currently litigating could invade (and potentially waive) the Company's work product and

attorney client privileges. For example, in the Pending Litigation, based on the work product privilege, the Company generally may not be compelled to provide the assessment of a consulting (*i.e.*, not a testifying) expert if the Company chooses to retain such an expert to evaluate the effectiveness of the Company's policies and procedures regarding employee safety and wellness. However, implementation of the Proposal would essentially eliminate that work product protection.

Second, although the requested audit and report may appear neutral on their face, the Proposal clearly seeks only to find and disclose a predetermined conclusion—specifically the existence of an unsafe or violent environment. Anything less likely would be viewed by the Proponents as non-responsive. For example, the Proposal speculates, without back-up, that "[u]nderstaffing and poor security measures at Dollar General stores may also contribute to increase risk of gun violence to staff and communities." The Supporting Statement explicitly recommends that the report include "[e]valuation of management and business practices that *contribute to an unsafe or violent environment*" (emphasis added) and "recommendations for actions." The Proposal, therefore, assumes that there is, in fact, an "unsafe or violent environment" created by the Company's policies, procedures and practices that requires remediation. This assumption is directly contrary to the Company's positions in the Pending Litigation. For example, defending the various contested citations pending with OSHA and certain state agencies with respect to alleged violations of applicable federal and state workplace safety statutes is diametrically opposed to the assumption that there is an "unsafe or violent environment" created by the Company's policies, procedures and practices. In addition, in response to the petition filed by the Secretary of Labor discussed above, the Company asserts that it abated the citation as agreed in the settlement agreement; this assertion is inherently inconsistent with the Proposal's assumption. As demonstrated in precedent cited above, such as *Chevron Corp.*, *Walmart Inc.*, *General Electric Co.*, and *Johnson & Johnson*, Rule 14a-8 should not be used to require the Company to commission a report designed to harm its ability to defend pending litigation. Such a proposal harms the Company's legal strategy, positions and settlement posture and thus interferes with the Company's ordinary business operations.

For all of these reasons, the Proposal involves the same subject matter as the Pending Litigation and implicates and relates to the Company's litigation strategy and the conduct of such Pending Litigation and consequently should be excludable under Rule 14a-8(i)(7).

As The Proposal Relates To Ongoing Litigation, It Is Excludable Regardless Of Whether It Touches Upon A Significant Policy Issue.

As a final matter, we note that, consistent with SLB 14 and the policy considerations underlying the ordinary business exclusion, a proposal relating to ordinary business matters such as ongoing litigation is excludable under Rule 14a-8(i)(7) regardless of whether it touches upon a significant policy issue. Although the Commission has stated that "proposals relating to such [ordinary business] matters but focusing on sufficiently significant social policy issues (*e.g.*, significant discrimination matters) generally would not be considered to be excludable," the Staff has expressed the view that proposals relating to both ordinary business matters and significant social policy issues may be excluded in their entirety in reliance on Rule 14a-8(i)(7). As an example, although significant discrimination matters and climate change are often considered to be significant policy issues by the

Staff, as noted above, the Staff recently concurred with the exclusion of a proposal that requested a third-party report analyzing how the company's policies, practices and operations "perpetuate racial injustice and inflict harm on communities of color," because the subject matter of the report was the same as the subject matter at the heart of pending litigation matters to which the company was a party. *Chevron Corp. (Sisters of St. Francis of Philadelphia et al.)* (avail. Mar. 30, 2021). As a further example, although smoking is often considered a significant policy issue by the Staff, as noted above, the Staff has concurred with the exclusion of proposals that touched upon this issue where the subject matter of the proposal (*e.g.*, the health effects of smoking) was the same as or similar to that which was at the heart of litigation in which the company was then involved. *See, e.g., Philip Morris Companies Inc.* (avail. Feb. 4, 1997) (noting that although the Staff "has taken the position that proposals directed at the manufacture and distribution of tobacco-related products by companies involved in making such products raise issues of significance that do not constitute matters of ordinary business," the company could exclude a proposal that "primarily addresses the litigation strategy of the Company, which is viewed as inherently the ordinary business of management to direct"). Similarly, the subject matter of the Proposal (*e.g.*, the impact of the Company's policies and procedures on worker safety and well-being) encompasses the subject matter of litigation in which the Company is currently involved. Thus, because the Proposal implicates the Company's litigation strategy, which is an ordinary business matter, the Proposal is excludable under Rule 14a-8(i)(7).

CONCLUSION

In summary, the Proposal requests that the Company take action that could inappropriately and directly interfere with the Company's legal strategy and positions and settlement posture in the Pending Litigation, as well as the conduct of the Pending Litigation. In this regard, the Proposal seeks to substitute the judgment of shareholders for that of the Company on a matter squarely within management's exercise of its day-to-day business judgment with respect to pending litigation in the ordinary course of its business operations. Accordingly, we believe that the Proposal may be properly excluded from the Company's 2023 Proxy Materials under Rule 14a-8(i)(7) as relating to the Company's ordinary business operations regardless of whether it touches on a significant policy issue.

Based on the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2023 Proxy Materials. We would be happy to provide you with any additional information and answer any questions that you may have regarding this request. Correspondence regarding this letter should be sent to gregory.parisi@troutman.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 274-1933.

Sincerely,

Gregory F. Parisi

Enclosures

cc: Christine L. Connolly, Esq., Dollar General Corporation
Mary Beth Gallagher, Domini US Impact Equity Fund
Frances Nadolny, OP, Adrian Dominican Sisters
Erin Ripperger, Portico Benefit Services
Rob Fohr, Presbyterian Church U.S.A.
Catherine Rowan, Trinity Health
Matthew J. Illian, United Church Funds

EXHIBIT A

Domini.

November 30, 2022

Via Fedex

Corporate Secretary
Dollar General Corporation
100 Mission Ridge
Goodlettsville, Tennessee 37072

Re: Shareholder proposal for 2023 Annual Shareholder Meeting

Dear Corporate Secretary:

I am writing to you on behalf of the Domini Impact Equity Fund ("the Fund"), a Dollar General Corporation shareholder. The attached shareholder proposal is submitted for inclusion in the next proxy statement in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934. The Fund is the lead filer for the Proposal, and there may be additional co-filers.

As of November 30, 2022, the Fund beneficially owned, and had beneficially owned continuously for at least one year, shares of Dollar General common stock worth at least $25,000. The Fund will maintain ownership of the required number of shares through the date of the next stockholders' annual meeting.

The Fund welcomes the opportunity to discuss this proposal with the Company. We are available to meet with the Company on December 8th at 11:00 EST or December 16th at 9:00 – 12:00 EST. I can be reached at [redacted] or at [redacted] to schedule a meeting.

A letter verifying our ownership of shares from our portfolio's custodian is enclosed. A representative of the filers will attend the stockholders' meeting to move the resolution as required by SEC Rules.

Domini

We strongly believe the attached proposal is in the best interests of our company and its shareholders and welcome the opportunity to discuss the issues raised by the proposal with you.

Sincerely,

Mary Beth Gallagher
Director of Engagement
Domini Impact Investments LLC

Encl.

WHEREAS: Dollar General operates more than 18,000 stores in 47 states and employs over 140,000 people,[1] providing access to affordable products in rural and remote areas across the United States.

Since 2017, Dollar General has received $12.3 million in Occupational Safety and Health Administration (OSHA) penalties for numerous willful, repeated, and serious workplace safety violations.[2] OSHA designated Dollar General as a "severe violator" in 2022, issuing citations for blocked safety exits and unsafe storage areas, inaccessible fire extinguishers, storage of boxes in front of electrical panels, exposure of workers to electrocution risks, and failure to provide exit signs and required stair handrails.[3] Regulators and employment experts state that the company "choos[es] to place profits over their employees' safety and well-being"[4] and that its business model leads to disregarding the law and "cutting corners when it comes to basic worker safety."[5]

As supply chain disruptions, increasing freight costs, and shipping delays impact dollar stores nationwide, it is not evident that there are adequate systems in place to address these dynamics and mitigate potential impacts on workers. Staffing levels appear to be insufficient to manage the workload, especially as it relates to unpredictable shipments and influxes of inventory, which may lead to blocked exits or increased fire hazards.[6] Staffing shortages and high turnover contribute to fatigue, high workload, and further exacerbate safety issues. This may also contribute to loss of new store development opportunities or poor worker retention.[7] In the midst of high economic inequality, Dollar General employees are among the most vulnerable workers, with 92 percent of Dollar General's hourly workers making less than $15 per hour. While the company states it engages employees through town hall meetings, DG voice, and "pulse" surveys to understand employee sentiment,[8] there is no disclosure on how this feedback informs actions to address workers' concerns and priorities.

---

[1] https://www.dollargeneral.com/about-us/locations.html

[2] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties.

[3] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties.
https://www.dol.gov/newsroom/releases/osha/osha20221017 ; https://www.osha.gov/enforcement/svep#v-nav-5 ; https://news.bloomberglaw.com/safety/dollar-general-makes-federal-severe-violator-worker-safety-list

[4] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties

[5] https://www.nbcnews.com/business/business-news/dollar-general-thriving-workers-say-they-pay-price-n1137096

[6] https://www.reuters.com/business/retail-consumer/dollar-general-beats-quarterly-estimates-same-store-sales-2021-08-26/

[7] https://investor.dollargeneral.com/websites/dollargeneral/English/310010/us-sec-filing.html?shortDesc=Annual%20Report&format=html&secFilingId=b365ead3-a988-4299-9d85-8bfa86ca3ca4

[8] https://www.dollargeneral.com/content/dam/webvisualassets/sitedownloads/Serving%20Others%20FY2021.pdf

Understaffing and poor security measures at Dollar General stores may also contribute to increased risk of gun violence to staff and communities. Dollar stores have become vulnerable targets for robberies, causing employees to lose their lives, according to past reports.[9]

RESOLVED: Shareholders of Dollar General request that the Board of Directors commission an independent third-party audit on the impact of the company's policies and practices on the safety and well-being of workers. A report on the audit, prepared at reasonable cost and omitting proprietary information, should be made available on the company's website.

SUPPORTING STATEMENT: At company discretion, the proponents recommend that an audit include:

- Evaluation of management and business practices that contribute to an unsafe or violent environment, including staffing capacity;
- Meaningful consultation with workers and customers to inform appropriate solutions; and
- Recommendations for actions and regular reporting with progress on identified actions.

[9] https://www.businessinsider.com/dollar-store-staff-danger-crime-hotspots-discount-chains-retail-2021-10; https://www.propublica.org/article/how-dollar-stores-became-magnets-for-crime-and-killing; https://www.cnn.com/2020/06/26/business/dollar-general-robberies/index.html

STATE STREET.

11/30/2022

Mary Beth Gallagher
Managing Director of Corporate Engagement
Domini Impact Investments LLC
180 Maiden Ln, Suite 1302
New York, NY 10038-4925

Re: Custodial Letter

Ms. Gallagher,

As your custodian, State Street confirms that as of 11/30/2022 the Domini US Impact Equity Fund beneficially owned, and had beneficially owned continuously for at least one year, shares of Dollar General Corp 256677105 worth at least $25,000.

If you have any questions, please feel free to call me at [redacted].

Regards,

Deborah Carter

Deborah Carter
Assistant Vice President

Trinity Health

Catherine M. Rowan
Director, Socially Responsible Investments
766 Brady Avenue, Apt. 635
Bronx, NY 10462
[redacted]

December 1, 2022

Christine L. Connolly
Corporate Secretary
Dollar General Corporation
100 Mission Ridge
Goodlettsville, TN 37072

Re: Shareholder proposal for 2023 Annual Shareholder Meeting

Dear Ms. Connolly

Trinity Health is submitting the attached proposal (the "Proposal") pursuant to the Securities and Exchange Commission's Rule 14a-8 to be included in the proxy statement of Dollar General Corporation (the "Company") for its 2023 annual meeting of shareholders. Trinity Health is co-filing the Proposal with lead filer Domini Impact Investments LLC ("Domini"). We authorize Domini to engage with the company on our behalf. The primary contact person for Domini is Mary Beth Gallagher, Director of Engagement[redacted].

In its submission letter, Domini will provide dates and times to meet during the post-filing period as required by Rule 14a-8(b)(iii). We designate the lead filer to meet initially with the Company but may join the meeting subject to our availability.

Trinity Health has continuously beneficially owned, for at least three years as of the date hereof, at least $2,000 worth of the Company's common stock. Verification of this ownership will follow in a separate letter. Trinity Health intends to continue to hold such shares through the date of the Company's 2023 annual meeting of shareholders.

If you have any questions or need additional information, I can be contacted at[redacted] or by email at[redacted]

Sincerely,

Catherine Rowan

Catherine Rowan

enc.

WHEREAS: Dollar General operates more than 18,000 stores in 47 states and employs over 140,000 people,[1] providing access to affordable products in rural and remote areas across the United States.

Since 2017, Dollar General has received $12.3 million in Occupational Safety and Health Administration (OSHA) penalties for numerous willful, repeated, and serious workplace safety violations.[2] OSHA designated Dollar General as a "severe violator" in 2022, issuing citations for blocked safety exits and unsafe storage areas, inaccessible fire extinguishers, storage of boxes in front of electrical panels, exposure of workers to electrocution risks, and failure to provide exit signs and required stair handrails.[3] Regulators and employment experts state that the company "choos[es] to place profits over their employees' safety and well-being"[4] and that its business model leads to disregarding the law and "cutting corners when it comes to basic worker safety."[5]

As supply chain disruptions, increasing freight costs, and shipping delays impact dollar stores nationwide, it is not evident that there are adequate systems in place to address these dynamics and mitigate potential impacts on workers. Staffing levels appear to be insufficient to manage the workload, especially as it relates to unpredictable shipments and influxes of inventory, which may lead to blocked exits or increased fire hazards.[6] Staffing shortages and high turnover contribute to fatigue, high workload, and further exacerbate safety issues. This may also contribute to loss of new store development opportunities or poor worker retention.[7] In the midst of high economic inequality, Dollar General employees are among the most vulnerable workers, with 92 percent of Dollar General's hourly workers making less than $15 per hour. While the company states it engages employees through town hall meetings, DG voice, and "pulse" surveys to understand employee sentiment,[8] there is no disclosure on how this feedback informs actions to address workers' concerns and priorities.

---

[1] https://www.dollargeneral.com/about-us/locations.html

[2] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties.

[3] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties.
https://www.dol.gov/newsroom/releases/osha/osha20221017 ; https://www.osha.gov/enforcement/svep#v-nav-5 ; https://news.bloomberglaw.com/safety/dollar-general-makes-federal-severe-violator-worker-safety-list

[4] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties

[5] https://www.nbcnews.com/business/business-news/dollar-general-thriving-workers-say-they-pay-price-n1137096

[6] https://www.reuters.com/business/retail-consumer/dollar-general-beats-quarterly-estimates-same-store-sales-2021-08-26/

[7] https://investor.dollargeneral.com/websites/dollargeneral/English/310010/us-sec-filing.html?shortDesc=Annual%20Report&format=html&secFilingId=b365ead3-a988-4299-9d85-8bfa86ca3ca4

[8] https://www.dollargeneral.com/content/dam/webvisualassets/sitedownloads/Serving%20Others%20FY2021.pdf

Understaffing and poor security measures at Dollar General stores may also contribute to increased risk of gun violence to staff and communities. Dollar stores have become vulnerable targets for robberies, causing employees to lose their lives, according to past reports.[9]

RESOLVED: Shareholders of Dollar General request that the Board of Directors commission an independent third-party audit on the impact of the company's policies and practices on the safety and well-being of workers. A report on the audit, prepared at reasonable cost and omitting proprietary information, should be made available on the company's website.

SUPPORTING STATEMENT: At company discretion, the proponents recommend that an audit include:

- Evaluation of management and business practices that contribute to an unsafe or violent environment, including staffing capacity;
- Meaningful consultation with workers and customers to inform appropriate solutions; and
- Recommendations for actions and regular reporting with progress on identified actions.

[9] https://www.businessinsider.com/dollar-store-staff-danger-crime-hotspots-discount-chains-retail-2021-10; https://www.propublica.org/article/how-dollar-stores-became-magnets-for-crime-and-killing; https://www.cnn.com/2020/06/26/business/dollar-general-robberies/index.html

Cassandra Allison

From: Cassandra Allison
Sent: Thursday, December 8, 2022 3:58 PM
To: [redacted]
Cc: [redacted] Cassandra Allison
Subject: Dollar General--Shareholder Proposal
Attachments: Dollar General- Shareholder Proposal .pdf

Ms. Rowan,
Good afternoon. Please see attached.

Thank you -
Casey Allison | Paralegal to Christine Connolly| Dollar General Corporation | 100 Mission Ridge Goodlettsville, TN 37072 | [redacted]

DOLLAR GENERAL

Dollar General Corporation
100 Mission Ridge
Goodlettsville, TN 37072
U.S.A.

December 8, 2022

Via Electronic Mail and Overnight Delivery

Ms. Catherine Rowan
Director, Socially Responsible Investments
Trinity Health
766 Brady Avenue, Apt. 635
Bronx, NY 10462
[redacted]

RE: Shareholder Proposal Submitted to Dollar General Corporation for 2023 Annual Meeting of Shareholders

Dear Ms. Rowan:

On December 2, 2022, Dollar General Corporation (the "Company") received by overnight delivery a letter from Trinity Health that was dated December 1, 2022. Included with such letter was a proposal (the "Proposal") submitted by Trinity Health as a co-filer with Domini Impact Investments LLC and intended for inclusion in the Company's proxy statement for its 2023 Annual Meeting of Shareholders.

Rule 14a-8 under the Securities Exchange Act of 1934 sets forth certain eligibility and procedural requirements that must be met in order to properly submit a shareholder proposal to the Company. Specifically, the shareholder must submit sufficient proof that it has continuously held either: (i) at least $2,000 in market value of the Company's shares entitled to vote on the proposal for at least three years preceding and including the date the Proposal was submitted; (ii) at least $15,000 in market value of the Company's shares entitled to vote on the proposal for at least two years preceding and including the date the Proposal was submitted; or (iii) at least $25,000 in market value of the Company's shares entitled to vote on the proposal for at least one year preceding and including the date the Proposal was submitted. If the eligibility requirements under Rule 14a-8 are not met, the company to which the proposal has been submitted may, pursuant to Rule 14a-8(f), exclude the proposal from its proxy statement. A copy of Rule 14a-8 is enclosed for your reference.

We believe you are aware of the proof of ownership requirement, as you mentioned in your December 1, 2022 letter that a proof of ownership letter would be forwarded to the Company under separate cover. However, this letter is to notify you that the Company has not yet received the requisite proof of ownership outlined above.

The Company's stock records do not indicate that Trinity Health has been a registered holder of the requisite amount of Company securities for the required amount of time. Under Rule

14a-8(b), Trinity Health must therefore prove its eligibility to submit the Proposal by submitting to the Company either:

(1) a written statement from the "record" holder of your shares (usually a broker or bank) verifying that, at the time you submitted the proposal, Trinity Health continuously held at least the requisite number of shares of the Company entitled to vote on the Proposal for at least the requisite time period prior to and including December 2, 2022, which is the date the Proposal was submitted; or

(2) a copy of a Schedule 13D, Schedule 13G, Form 3, Form 4 and/or Form 5, or amendments to those documents or updated forms, filed by Trinity Health with the Securities and Exchange Commission (the "SEC") demonstrating that Trinity Health meets at least one of the share ownership requirements outlined above as of or before the date on which the applicable eligibility period begins, along with a written statement from Trinity Health that it has continuously held such shares for the requisite time period as of the date of the statement.

With respect to the first method described above, please note that most large brokers and banks acting as "record" holders deposit the securities of their customers with the Depository Trust Company ("DTC"). In 2011, the staff of the SEC's Division of Corporate Finance (the "Staff") issued *Staff Legal Bulletin No. 14F* ("SLB 14F"), wherein the Staff stated "[W]e 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." In 2012, the Staff clarified in *Staff Legal Bulletin No. 14G* ("SLB 14G"), that a written statement establishing proof of ownership may also come from an affiliate of a DTC participant. Most recently, in 2021, the Staff, in order to reflect recent changes to the ownership thresholds due to the SEC's 2020 rulemaking, provided in *Staff Legal Bulletin No. 14L* ("SLB 14L") an updated suggested format for shareholders and their brokers or banks to follow when supplying the required verification of ownership. Copies of SLB 14F, SLB 14G and SLB 14L are also enclosed.

Trinity Health can confirm whether its broker or bank is a DTC participant or affiliate thereof by checking the DTC participant list, which is available on DTC's website (currently at http://www.dtcc.com/client-center/dtc-directories). If such broker or bank is, or is an affiliate of, a DTC participant, then a written statement from such broker or bank will need to be submitted verifying that, as of the date the Proposal was submitted, Trinity Health continuously held the requisite amount of shares for the applicable time period. If such broker or bank is not on, or is not an affiliate of a broker or bank that is on, the DTC participant list, Trinity Health will need to ask its broker or bank to identify the DTC participant through which the shares are held and have that DTC participant provide the verification detailed above. If the DTC participant or affiliate knows the broker's holdings but does not know Trinity Health's holdings, Trinity Health can satisfy the requirements of Rule 14a-8 by submitting two proof of ownership statements verifying that, at the time the Proposal was submitted, the required amount of shares was continuously held for the applicable time period: (i) one statement from the broker confirming Trinity Health's ownership and (ii) one statement from the DTC participant confirming the broker's ownership.

Please note that if you intend to submit the requisite proof of ownership, your response must be postmarked, or transmitted electronically, no later than 14 calendar days from the date you receive this letter. Your documentation and/or response may be sent to my attention at Dollar General Corporation, 100 Mission Ridge, Goodlettsville, TN 37072 or via electronic e-mail sent to [redacted] Pursuant to Rule 14a-8(f) under the Exchange Act, the Company will be entitled to exclude the Proposal from its proxy materials if the information outlined above is not timely received, or if such proof of ownership letter does not provide the proof of ownership information required by Rule 14a-8(b).

Please note that in addition to the eligibility deficiencies cited above, the Company reserves the right in the future to raise any further bases upon which the Proposal may be properly excluded under Rule 14a-8 of the Exchange Act. Lastly, we request that you please provide confirmation of receipt of this e-mail.

Sincerely,

Elizabeth S. Inman

Elizabeth S. Inman
Assistant Corporate Secretary

Enclosures

cc: Ms. Mary Beth Gallagher
Director of Engagement
Domini Impact Investments LLC
180 Maiden Lane, Suite 1302
New York, NY 10038
[redacted]

the Commission and furnished to the registrant, confirming such holder's beneficial ownership; and

(2) Provide the registrant with an affidavit, declaration, affirmation or other similar document provided for under applicable state law identifying the proposal or other corporate action that will be the subject of the security holder's solicitation or communication and attesting that:

(i) The security holder will not use the list information for any purpose other than to solicit security holders with respect to the same meeting or action by consent or authorization for which the registrant is soliciting or intends to solicit or to communicate with security holders with respect to a solicitation commenced by the registrant; and

(ii) The security holder will not disclose such information to any person other than a beneficial owner for whom the request was made and an employee or agent to the extent necessary to effectuate the communication or solicitation.

(d) The security holder shall not use the information furnished by the registrant pursuant to paragraph (a)(2)(ii) of this section for any purpose other than to solicit security holders with respect to the same meeting or action by consent or authorization for which the registrant is soliciting or intends to solicit or to communicate with security holders with respect to a solicitation commenced by the registrant; or disclose such information to any person other than an employee, agent, or beneficial owner for whom a request was made to the extent necessary to effectuate the communication or solicitation. The security holder shall return the information provided pursuant to paragraph (a)(2)(ii) of this section and shall not retain any copies thereof or of any information derived from such 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.

Rule 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.

---

*Effective January 4, 2021, Rule 14a-8 is amended by revising paragraphs (b)(1), (b)(2), (c), and (i)(12) as part of amendments to modernize the shareholder proposal rule, which governs the process for a shareholder to have its proposal included in a company's proxy statement for consideration by all of the company's shareholders. In addition, effective January 4, 2021, through January 1, 2023, Rule 14a-8 is amended by adding paragraph (b)(3). See SEC Release No. 34-89964; September 23, 2020. *Compliance Date*: The amendments will apply to any proposal submitted for an annual or special meeting to be held on or after January 1, 2022. The final rules also provide for a transition period with respect to the ownership thresholds that will allow shareholders meeting specified conditions to rely on the $2,000/one-year ownership threshold for proposals submitted for an annual or special meeting to be held prior to January 1, 2023.

(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.

*(1) To be eligible to submit a proposal, you must satisfy the following requirements:

(i) You must have continuously held:

(A) At least $2,000 in market value of the company's securities entitled to vote on the proposal for at least three years; or

(B) At least $15,000 in market value of the company's securities entitled to vote on the proposal for at least two years; or

(C) At least $25,000 in market value of the company's securities entitled to vote on the proposal for at least one year; or

(D) The amounts specified in paragraph (b)(3) of this section. This paragraph (b)(1)(i)(D) will expire on the same date that § 240.14a-8(b)(3) expires; and

(ii) You must provide the company with a written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the shareholders' meeting for which the proposal is submitted; and

(iii) You must provide the company with a written statement that you are able to meet with the company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal. You must include your contact information as well as business days and specific times that you are available to discuss the proposal with the company. You must identify times that are within the regular business hours of the company's principal executive offices. If these hours are not disclosed in the company's proxy statement for the prior year's annual meeting, you must identify times that are between 9 a.m. and 5:30 p.m. in the time zone of the company's principal executive offices. If you elect to co-file a proposal, all co-filers must either:

(A) Agree to the same dates and times of availability, or

*Effective January 4, 2021, Rule 14a-8 is amended by revising paragraph (b)(1) as part of amendments to modernize the shareholder proposal rule, which governs the process for a shareholder to have its proposal included in a company's proxy statement for consideration by all of the company's shareholders. The amended version of paragraph (b)(1) follows the unamended version. See SEC Release No. 34-89964; September 23, 2020. *Compliance Date:* The amendments will apply to any proposal submitted for an annual or special meeting to be held on or after January 1, 2022. The final rules also provide for a transition period with respect to the ownership thresholds that will allow shareholders meeting specified conditions to rely on the $2,000/one-year ownership threshold for proposals submitted for an annual or special meeting to be held prior to January 1, 2023.

(B) Identify a single lead filer who will provide dates and times of the lead filer's availability to engage on behalf of all co-filers; and

(iv) If you use a representative to submit a shareholder proposal on your behalf, you must provide the company with written documentation that:

(A) Identifies the company to which the proposal is directed;

(B) Identifies the annual or special meeting for which the proposal is submitted;

(C) Identifies you as the proponent and identifies the person acting on your behalf as your representative;

(D) Includes your statement authorizing the designated representative to submit the proposal and otherwise act on your behalf;

(E) Identifies the specific topic of the proposal to be submitted;

(F) Includes your statement supporting the proposal; and

(G) Is signed and dated by you.

(v) The requirements of paragraph (b)(1)(iv) of this section shall not apply to shareholders that are entities so long as the representative's authority to act on the shareholder's behalf is apparent and self-evident such that a reasonable person would understand that the agent has authority to submit the proposal and otherwise act on the shareholder's behalf.

(vi) For purposes of paragraph (b)(1)(i) of this section, you may not aggregate your holdings with those of another shareholder or group of shareholders to meet the requisite amount of securities necessary to be eligible to submit a proposal.

*(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, Schedule 13G, Form 3, Form 4 and/or Form 5, 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:

---

*Effective January 4, 2021, Rule 14a-8 is amended by revising paragraph (b)(2) as part of amendments to modernize the shareholder proposal rule, which governs the process for a shareholder to have its proposal included in a company's proxy statement for consideration by all of the company's shareholders. The amended version of paragraph (b)(2) follows the unamended version. See SEC Release No. 34-89964; September 23, 2020. *Compliance Date:* The amendments will apply to any proposal submitted for an annual or special meeting to be held on or after January 1, 2022. The final rules also provide for a transition period with respect to the ownership thresholds that will allow shareholders meeting specified conditions to rely on the $2,000/one-year ownership threshold for proposals submitted for an annual or special meeting to be held prior to January 1, 2023.

(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.

*(2) One of the following methods must be used to demonstrate your eligibility to submit a proposal:

(i) 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 requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the meeting of shareholders.

(ii) 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:

(A) 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 at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively. You must also include your own written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the shareholders' meeting for which the proposal is submitted; or

(B) The second way to prove ownership applies only if you were required to file, and 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, demonstrating that you meet at least one of the share ownership requirements under paragraph (b)(1)(i)(A) through (C) of this section. If you have filed one or more of these documents with the SEC, you may demonstrate your eligibility to submit a proposal by submitting to the company:

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

(*2*) Your written statement that you continuously held at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively; and

(*3*) Your written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the company's annual or special meeting.

---

*Effective January 4, 2021, Rule 14a-8 is amended by revising paragraph (b)(2) as part of amendments to modernize the shareholder proposal rule, which governs the process for a shareholder to have its proposal included in a company's proxy statement for consideration by all of the company's shareholders. The amended version of paragraph (b)(2) follows the unamended version. See SEC Release No. 34-89964; September 23, 2020. *Compliance Date*: The amendments will apply to any proposal submitted for an annual or special meeting to be held on or after January 1, 2022. The final rules also provide for a transition period with respect to the ownership thresholds that will allow shareholders meeting specified conditions to rely on the $2,000/one-year ownership threshold for proposals submitted for an annual or special meeting to be held prior to January 1, 2023.

*(3) If you continuously held at least $2,000 of a company's securities entitled to vote on the proposal for at least one year as of January 4, 2021, and you have continuously maintained a minimum investment of at least $2,000 of such securities from January 4, 2021 through the date the proposal is submitted to the company, you will be eligible to submit a proposal to such company for an annual or special meeting to be held prior to January 1, 2023. If you rely on this provision, you must provide the company with your written statement that you intend to continue to hold at least $2,000 of such securities through the date of the shareholders' meeting for which the proposal is submitted. You must also follow the procedures set forth in paragraph (b)(2) of this section to demonstrate that:

(i) You continuously held at least $2,000 of the company's securities entitled to vote on the proposal for at least one year as of January 4, 2021; and

(ii) You have continuously maintained a minimum investment of at least $2,000 of such securities from January 4, 2021 through the date the proposal is submitted to the company.

(iii) This paragraph (b)(3) will expire on January 1, 2023.

(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.

(c) *Question 3:* **How many proposals may I submit?

Each person may submit no more than one proposal, directly or indirectly, to a company for a particular shareholders' meeting. A person may not rely on the securities holdings of another person for the purpose of meeting the eligibility requirements and submitting multiple proposals 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

---

*Effective January 4, 2021, through January 1, 2023, Rule 14a-8 is amended by adding paragraph (b)(3) as part of amendments to modernize the shareholder proposal rule, which governs the process for a shareholder to have its proposal included in a company's proxy statement for consideration by all of the company's shareholders. See SEC Release No. 34-89964; September 23, 2020. *Compliance Date*: The amendments will apply to any proposal submitted for an annual or special meeting to be held on or after January 1, 2022. The final rules also provide for a transition period with respect to the ownership thresholds that will allow shareholders meeting specified conditions to rely on the $2,000/one-year ownership threshold for proposals submitted for an annual or special meeting to be held prior to January 1, 2023.

**Effective January 4, 2021, Rule 14a-8 is amended by revising paragraph (c) as part of amendments to modernize the shareholder proposal rule, which governs the process for a shareholder to have its proposal included in a company's proxy statement for consideration by all of the company's shareholders. The amended version of paragraph (c) follows the unamended version. See SEC Release No. 34-89964; September 23, 2020. *Compliance Date*: The amendments will apply to any proposal submitted for an annual or special meeting to be held on or after January 1, 2022. The final rules also provide for a transition period with respect to the ownership thresholds that will allow shareholders meeting specified conditions to rely on the $2,000/one-year ownership threshold for proposals submitted for an annual or special meeting to be held prior to January 1, 2023.

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 Rule 14a-8?

(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 Rule 14a-8 and provide you with a copy under Question 10 below, Rule 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 Rule 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 Rule 14a-8 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

*(12) ***Resubmissions.*** If the proposal addresses substantially the same subject matter as a proposal, or proposals, previously included in the company's proxy materials within the preceding five calendar years if the most recent vote occurred within the preceding three calendar years and the most recent vote was:

(i) Less than 5 percent of the votes cast if previously voted on once;

(ii) Less than 15 percent of the votes cast if previously voted on twice; or

(iii) Less than 25 percent of the votes cast if previously voted on three or more times.

(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.

---

*Effective January 4, 2021, Rule 14a-8 is amended by revising paragraph (i)(12) as part of amendments to modernize the shareholder proposal rule, which governs the process for a shareholder to have its proposal included in a company's proxy statement for consideration by all of the company's shareholders. The amended version of paragraph (i)(12) follows the unamended version. See SEC Release No. 34-89964; September 23, 2020. *Compliance Date*: The amendments will apply to any proposal submitted for an annual or special meeting to be held on or after January 1, 2022. The final rules also provide for a transition period with respect to the ownership thresholds that will allow shareholders meeting specified conditions to rely on the $2,000/one-year ownership threshold for proposals submitted for an annual or special meeting to be held prior to January 1, 2023.

(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 anti-fraud rule, Rule 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 it files definitive copies of its proxy statement and form of proxy under Rule 14a-6.

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://www.sec.gov/forms/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.

Modified: Oct. 18, 2011

Shareholder Proposals

Staff Legal Bulletin No. 14G (CF)

Action: Publication of CF Staff Legal Bulletin

Date: October 16, 2012

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://www.sec.gov/forms/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:

- the parties that can provide proof of ownership 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;
- the manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1); and
- the use of website references in proposals and supporting statements.

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, SLB No. 14E and SLB No. 14F.

B. Parties that can provide proof of ownership 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. Sufficiency of proof of ownership letters provided by affiliates of DTC participants for purposes of Rule 14a-8(b)(2)(i)

To be eligible to submit a proposal under Rule 14a-8, a shareholder must, among other things, provide documentation evidencing that the shareholder 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 shareholder meeting for at least one year as of

the date the shareholder submits the proposal. If the shareholder is a beneficial owner of the securities, which means that the securities are held in book-entry form through a securities intermediary, Rule 14a-8(b)(2)(i) provides that this documentation can be in the form of a "written statement from the 'record' holder of your securities (usually a broker or bank)...."

In SLB No. 14F, the Division described its view that only securities intermediaries that are participants in the Depository Trust Company ("DTC") should be viewed as "record" holders of securities that are deposited at DTC for purposes of Rule 14a-8(b)(2)(i). Therefore, a beneficial owner must obtain a proof of ownership letter from the DTC participant through which its securities are held at DTC in order to satisfy the proof of ownership requirements in Rule 14a-8.

During the most recent proxy season, some companies questioned the sufficiency of proof of ownership letters from entities that were not themselves DTC participants, but were affiliates of DTC participants.[1] By virtue of the affiliate relationship, we believe that a securities intermediary holding shares through its affiliated DTC participant should be in a position to verify its customers' ownership of securities. Accordingly, we are of the view that, for purposes of Rule 14a-8(b)(2)(i), a proof of ownership letter from an affiliate of a DTC participant satisfies the requirement to provide a proof of ownership letter from a DTC participant.

2. Adequacy of proof of ownership letters from securities intermediaries that are not brokers or banks

We understand that there are circumstances in which securities intermediaries that are not brokers or banks maintain securities accounts in the ordinary course of their business. A shareholder who holds securities through a securities intermediary that is not a broker or bank can satisfy Rule 14a-8's documentation requirement by submitting a proof of ownership letter from that securities intermediary.[2] If the securities intermediary is not a DTC participant or an affiliate of a DTC participant, then the shareholder will also need to obtain a proof of ownership letter from the DTC participant or an affiliate of a DTC participant that can verify the holdings of the securities intermediary.

C. Manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1)

As discussed in Section C of SLB No. 14F, a common error in proof of ownership letters is that they do not verify a proponent's beneficial ownership for the entire one-year period preceding and including the date the proposal was submitted, as required by Rule 14a-8(b)(1). In some cases, the letter speaks as of a date *before* the date the proposal was submitted, thereby leaving a gap between the date of verification and the date the proposal was 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 proponent's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Under Rule 14a-8(f), if a proponent fails to follow one of the eligibility or procedural requirements of the rule, a company may exclude the proposal only if it notifies the proponent of the defect and the proponent fails to correct it. In SLB No. 14 and SLB No. 14B, we explained that companies should provide adequate detail about what a proponent must do to remedy all eligibility or procedural defects.

We are concerned that companies' notices of defect are not adequately describing the defects or explaining what a proponent must do to remedy defects in proof of ownership letters. For example, some companies' notices of defect make no mention of the gap in the period of ownership covered by the proponent's proof of ownership letter or other specific deficiencies that the company has identified. We do not believe that such notices of defect serve the purpose of Rule 14a-8(f).

Accordingly, going forward, we will not concur in the exclusion of a proposal under Rules 14a-8(b) and 14a-8(f) on the basis that a proponent's proof of ownership does not cover the one-year period preceding and including the date the proposal is submitted unless the company provides a notice of defect that identifies the specific date on which the proposal was submitted and explains that the proponent must obtain a new proof of ownership letter verifying continuous ownership of the requisite amount of securities for the one-year period preceding and including such date to cure the defect. We view the proposal's date of submission as the date the proposal is postmarked or transmitted electronically. Identifying in the notice of defect the specific date on which the proposal was submitted will help a proponent better understand how to remedy the defects described above and will be particularly helpful in those instances in which it may be difficult for a proponent to determine the date of submission, such as when the proposal is not postmarked on the same day it is placed in the mail. In addition, companies should include copies of the postmark or evidence of electronic transmission with their no-action requests.

D. Use of website addresses in proposals and supporting statements

Recently, a number of proponents have included in their proposals or in their supporting statements the addresses to websites that provide more information about their proposals. In some cases, companies have sought to exclude either the website address or the entire proposal due to the reference to the website address.

In SLB No. 14, we explained that a reference to a website address in a proposal does not raise the concerns addressed by the 500-word limitation in Rule 14a-8(d). We continue to be of this view and, accordingly, we will continue to count a website address as one word for purposes of Rule 14a-8(d). To the extent that the company seeks the exclusion of a website reference in a proposal, but not the proposal itself, we will continue to follow the guidance stated in SLB No. 14, which provides that references to website addresses in proposals or supporting statements could be subject to exclusion under Rule 14a-8(i)(3) if the information contained on the website is materially false or misleading, irrelevant to the subject matter of the proposal or otherwise in contravention of the proxy rules, including Rule 14a-9.[3]

In light of the growing interest in including references to website addresses in proposals and supporting statements, we are providing additional guidance on the appropriate use of website addresses in proposals and supporting statements.[4]

1. References to website addresses in a proposal or supporting statement and Rule 14a-8(i)(3)

References to websites in a proposal or supporting statement may raise concerns under Rule 14a-8(i)(3). In SLB No. 14B, we stated that the exclusion of a proposal under Rule 14a-8(i)(3) as vague and indefinite may be appropriate if neither the shareholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires. In evaluating whether a proposal may be excluded on this basis, we consider only the information contained in the proposal and supporting statement and determine whether, based on that information, shareholders and the company can determine what actions the proposal seeks.

If a proposal or supporting statement refers to a website that provides information necessary for shareholders and the company to understand with reasonable certainty exactly what actions or measures the proposal requires, and such information is not also contained in the proposal or in the supporting statement, then we believe the proposal would raise concerns under Rule 14a-9 and would be subject to exclusion under Rule 14a-8(i)(3) as vague and indefinite. By contrast, if shareholders and the company can understand with reasonable certainty exactly what actions or measures the proposal requires without reviewing the information provided on the website, then we believe that the proposal would not be subject to exclusion under Rule 14a-8(i)(3) on the basis of the reference to the website address. In this case, the information on the website only supplements the information contained in the proposal and in the supporting statement.

2. Providing the company with the materials that will be published on the referenced website

We recognize that if a proposal references a website that is not operational at the time the proposal is submitted, it will be impossible for a company or the staff to evaluate whether the website reference may be excluded. In our view, a reference to a non-operational website in a proposal or supporting statement could be excluded under Rule 14a-8(i)(3) as irrelevant to the subject matter of a proposal. We understand, however, that a proponent may wish to include a reference to a website containing information related to the proposal but wait to activate the website until it becomes clear that the proposal will be included in the company's proxy materials. Therefore, we will not concur that a reference to a website may be excluded as irrelevant under Rule 14a-8(i)(3) on the basis that it is not yet operational if the proponent, at the time the proposal is submitted, provides the company with the materials that are intended for publication on the website and a representation that the website will become operational at, or prior to, the time the company files its definitive proxy materials.

3. Potential issues that may arise if the content of a referenced website changes after the proposal is submitted

To the extent the information on a website changes after submission of a proposal and the company believes the revised information renders the website reference excludable under Rule 14a-8, a company seeking our concurrence that the website reference may be excluded must submit a letter presenting its reasons for doing so. While Rule 14a-8(j) requires a company to submit its reasons for exclusion with the Commission no later than 80 calendar days before it files its definitive proxy materials, we may concur that the changes to the referenced website constitute "good cause" for the company to file its reasons for excluding the website reference after the 80-day deadline and grant the company's request that the 80-day requirement be waived.

---

[1] An entity is an "affiliate" of a DTC participant if such entity directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the DTC participant.

[2] Rule 14a-8(b)(2)(i) itself acknowledges that the record holder is "usually," but not always, a broker or bank.

[3] Rule 14a-9 prohibits statements in proxy materials which, at the time and in the light of the circumstances under which they are made, are false or misleading with respect to any material fact, or which omit to state any material fact necessary in order to make the statements not false or misleading.

[4] A website that provides more information about a shareholder proposal may constitute a proxy solicitation under the proxy rules. Accordingly, we remind shareholders who elect to include website addresses in their proposals to comply with all applicable rules regarding proxy solicitations.

Modified: Oct. 16, 2012

Announcement

Shareholder Proposals: Staff Legal Bulletin No. 14L (CF)

Division of Corporation Finance
Securities and Exchange Commission

Action: Publication of CF Staff Legal Bulletin

Date: November 3, 2021

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. This bulletin, like all staff guidance, has no legal force or effect: it does not alter or amend applicable law, and it creates no new or additional obligations for any person.

Contacts: For further information, please contact the Division's Office of Chief Counsel by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The Purpose of This Bulletin

The Division is rescinding Staff Legal Bulletin Nos. 14I, 14J and 14K (the "rescinded SLBs") after a review of staff experience applying the guidance in them. In addition, to the extent the views expressed in any other prior Division staff legal bulletin could be viewed as contrary to those expressed herein, this staff legal bulletin controls.

This bulletin outlines the Division's views on Rule 14a-8(i)(7), the ordinary business exception, and Rule 14a-8(i)(5), the economic relevance exception. We are also republishing, with primarily technical, conforming changes, the guidance contained in SLB Nos. 14I and 14K relating to the use of graphics and images, and proof of ownership letters. In addition, we are providing new guidance on the use of e-mail for submission of proposals, delivery of notice of defects, and responses to those notices.

In Rule 14a-8, the Commission has provided a means by which shareholders can present proposals for the shareholders' consideration in the company's proxy statement. This process has become a cornerstone of shareholder engagement on important matters. Rule 14a-8 sets forth several bases for exclusion of such proposals. Companies often request assurance that the staff will not recommend enforcement action if they omit a proposal based on one of these exclusions ("no-action relief"). The Division is issuing this bulletin to streamline and simplify our process for reviewing no-action requests, and to clarify the standards staff will apply when evaluating these requests.

B. Rule 14a-8(i)(7)

1. Background

Rule 14a-8(i)(7), the ordinary business exception, is one of the substantive bases for exclusion of a shareholder proposal in Rule 14a-8. It permits a company to exclude a proposal that "deals with a matter relating to the company's ordinary business operations." The purpose of the exception 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."[1]

2. Significant Social Policy Exception

Based on a review of the rescinded SLBs and staff experience applying the guidance in them, we recognize that an undue emphasis was placed on evaluating the significance of a policy issue to a particular company at the expense of whether the proposal focuses on a significant social policy,[2] complicating the application of Commission policy to proposals. In particular, we have found that focusing on the significance of a policy issue to a particular company has drawn the staff into factual considerations that do not advance the policy objectives behind the ordinary business exception. We have also concluded that such analysis did not yield consistent, predictable results.

Going forward, the staff will realign its approach for determining whether a proposal relates to "ordinary business" with the standard the Commission initially articulated in 1976, which provided an exception for certain proposals that raise significant social policy issues,[3] and which the Commission subsequently reaffirmed in the 1998 Release. This exception is essential for preserving shareholders' right to bring important issues before other shareholders by means of the company's proxy statement, while also recognizing the board's authority over most day-to-day business matters. For these reasons, staff will no longer focus on determining the nexus between a policy issue and the company, but will instead focus on the social policy significance of the issue that is the subject of the shareholder proposal. In making this determination, the staff will consider whether the proposal raises issues with a broad societal impact, such that they transcend the ordinary business of the company.[4]

Under this realigned approach, proposals that the staff previously viewed as excludable because they did not appear to raise a policy issue of significance for the company may no longer be viewed as excludable under Rule 14a-8(i)(7). For example, proposals squarely raising human capital management issues with a broad societal impact would not be subject to exclusion solely because the proponent did not demonstrate that the human capital management issue was significant to the company.[5]

Because the staff is no longer taking a company-specific approach to evaluating the significance of a policy issue under Rule 14a-8(i)(7), it will no longer expect a board analysis as described in the rescinded SLBs as part of demonstrating that the proposal is excludable under the ordinary business exclusion. Based on our experience, we believe that board analysis may distract the company and the staff from the proper application of the exclusion. Additionally, the "delta" component of board analysis – demonstrating that the difference between the company's existing actions addressing the policy issue and the proposal's request is insignificant – sometimes confounded the application of Rule 14a-8(i)(10)'s substantial implementation standard.

3. Micromanagement

Upon further consideration, the staff has determined that its recent application of the micromanagement concept, as outlined in SLB Nos. 14J and 14K, expanded the concept of micromanagement beyond the Commission's policy directives. Specifically, we believe that the rescinded guidance may have been taken to mean that any limit on company or board discretion constitutes micromanagement.

The Commission has stated that the policy underlying the ordinary business exception rests on two central considerations. The first relates to the proposal's subject matter; the second relates to the degree to which the

proposal "micromanages" 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."[6] The Commission clarified in the 1998 Release that specific methods, timelines, or detail do not necessarily amount to micromanagement and are not dispositive of excludability.

Consistent with Commission guidance, the staff will take a measured approach to evaluating companies' micromanagement arguments – recognizing that proposals seeking detail or seeking to promote timeframes or methods do not per se constitute micromanagement. Instead, we will focus on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management. We would expect the level of detail included in a shareholder proposal to be consistent with that needed to enable investors to assess an issuer's impacts, progress towards goals, risks or other strategic matters appropriate for shareholder input.

Our recent letter to ConocoPhillips Company[7] provides an example of our current approach to micromanagement. In that letter the staff denied no-action relief for a proposal requesting that the company set targets covering the greenhouse gas emissions of the company's operations and products. The proposal requested that the company set emission reduction targets and it did not impose a specific method for doing so. The staff concluded this proposal did not micromanage to such a degree to justify exclusion under Rule 14a-8(i)(7).

Additionally, in order to assess whether a proposal probes matters "too complex" for shareholders, as a group, to make an informed judgment,[8] we may consider the sophistication of investors generally on the matter, the availability of data, and the robustness of public discussion and analysis on the topic. The staff may also consider references to well-established national or international frameworks when assessing proposals related to disclosure, target setting, and timeframes as indicative of topics that shareholders are well-equipped to evaluate.

This approach is consistent with the Commission's views on the ordinary business exclusion, which is designed to preserve management's discretion on ordinary business matters but not prevent shareholders from providing high-level direction on large strategic corporate matters. As the Commission stated in its 1998 Release:

> [In] the Proposing Release we explained that one of the considerations in making the ordinary business determination was the degree to which the proposal seeks to micro-manage the company. We cited examples such as where the proposal seeks intricate detail, or seeks to impose specific time-frames or to impose specific methods for implementing complex policies. Some commenters thought that the examples cited seemed to imply that all proposals seeking detail, or seeking to promote time-frames or methods, necessarily amount to 'ordinary business.' We did not intend such an implication. Timing questions, for instance, could involve significant policy where large differences are at stake, and proposals may seek a reasonable level of detail without running afoul of these considerations.

While the analysis in this bulletin may apply to any subject matter, many of the proposals addressed in the rescinded SLBs requested companies adopt timeframes or targets to address climate change that the staff concurred were excludable on micromanagement grounds.[9] Going forward we would not concur in the exclusion of similar proposals that suggest targets or timelines so long as the proposals afford discretion to management as to how to achieve such goals.[10] We believe our current approach to micromanagement will help to avoid the dilemma many proponents faced when seeking to craft proposals with sufficient specificity and direction to avoid being excluded under Rule 14a-8(i)(10), substantial implementation, while being general enough to avoid exclusion for "micromanagement."[11]

C. Rule 14a-8(i)(5)

Rule 14a-8(i)(5), the "economic relevance" exception, permits a company to exclude a proposal that "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."

Based on a review of the rescinded SLBs and staff experience applying the guidance in them, we are returning to our longstanding approach, prior to SLB No. 14I, of analyzing Rule 14a-8(i)(5) in a manner we believe is consistent with Lovenheim v. Iroquois Brands, Ltd.[12] As a result, and consistent with our pre-SLB No. 14I approach and Lovenheim, proposals that raise issues of broad social or ethical concern related to the company's business may not be excluded, even if the relevant business falls below the economic thresholds of Rule 14a-8(i)(5). In light of this approach, the staff will no longer expect a board analysis for its consideration of a no-action request under Rule 14a-8(i)(5).

D. Rule 14a-8(d)[13]

1. Background

Rule 14a-8(d) is one of the procedural bases for exclusion of a shareholder proposal in Rule 14a-8. It provides that a "proposal, including any accompanying supporting statement, may not exceed 500 words."

2. The Use of Images in Shareholder Proposals

Questions have arisen concerning the application of Rule 14a-8(d) to proposals that include graphs and/or images.[14] The staff has expressed the view that the use of "500 words" and absence of express reference to graphics or images in Rule 14a-8(d) do not prohibit the inclusion of graphs and/or images in proposals.[15] Just as companies include graphics that are not expressly permitted under the disclosure rules, the Division is of the view that Rule 14a-8(d) does not preclude shareholders from using graphics to convey information about their proposals.[16]

The Division recognizes the potential for abuse in this area. The Division believes, however, that these potential abuses can be addressed through other provisions of Rule 14a-8. For example, exclusion of graphs and/or images would be appropriate under Rule 14a-8(i)(3) where they:

- make the proposal materially false or misleading;
- render the proposal so inherently vague or indefinite that neither the stockholders voting on the proposal, nor the company in implementing it, would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires;
- directly or indirectly impugn character, integrity or personal reputation, or directly or indirectly make charges concerning improper, illegal, or immoral conduct or association, without factual foundation; or
- are irrelevant to a consideration of the subject matter of the proposal, such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote.[17]

Exclusion would also be appropriate under Rule 14a-8(d) if the total number of words in a proposal, including words in the graphics, exceeds 500.

E. Proof of Ownership Letters[18]

In relevant part, Rule 14a-8(b) provides that a proponent must prove eligibility to submit a proposal by offering proof that it "continuously held" the required amount of securities for the required amount of time.[19]

In Section C of SLB No. 14F, we identified two common errors shareholders make when submitting proof of ownership for purposes of satisfying Rule 14a-8(b)(2).[20] In an effort to reduce such errors, we provided a suggested format for shareholders and their brokers or banks to follow when supplying the required verification of ownership.[21] Below, we have updated the suggested format to reflect recent changes to the ownership

thresholds due to the Commission's 2020 rulemaking.[22] We note that brokers and banks are not required to follow this format.

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

Some companies apply an overly technical reading of proof of ownership letters as a means to exclude a proposal. We generally do not find arguments along these lines to be persuasive. For example, we did not concur with the excludability of a proposal based on Rule 14a-8(b) where the proof of ownership letter deviated from the format set forth in SLB No. 14F.[23] In those cases, we concluded that the proponent nonetheless had supplied documentary support sufficiently evidencing the requisite minimum ownership requirements, as required by Rule 14a-8(b). We took a plain meaning approach to interpreting the text of the proof of ownership letter, and we expect companies to apply a similar approach in their review of such letters.

While we encourage shareholders and their brokers or banks to use the sample language provided above to avoid this issue, such formulation is neither mandatory nor the exclusive means of demonstrating the ownership requirements of Rule 14a-8(b).[24] We recognize that the requirements of Rule 14a-8(b) can be quite technical. Accordingly, companies should not seek to exclude a shareholder proposal based on drafting variances in the proof of ownership letter if the language used in such letter is clear and sufficiently evidences the requisite minimum ownership requirements.

We also do not interpret the recent amendments to Rule 14a-8(b)[25] to contemplate a change in how brokers or banks fulfill their role. In our view, they may continue to provide confirmation as to how many shares the proponent held continuously and need not separately calculate the share valuation, which may instead be done by the proponent and presented to the receiving issuer consistent with the Commission's 2020 rulemaking.[26] Finally, we believe that companies should identify any specific defects in the proof of ownership letter, even if the company previously sent a deficiency notice prior to receiving the proponent's proof of ownership if such deficiency notice did not identify the specific defect(s).

F. Use of E-mail

Over the past few years, and particularly during the pandemic, both proponents and companies have increasingly relied on the use of emails to submit proposals and make other communications. Some companies and proponents have expressed a preference for emails, particularly in cases where offices are closed. Unlike the use of third-party mail delivery that provides the sender with a proof of delivery, parties should keep in mind that methods for the confirmation of email delivery may differ. Email delivery confirmations and company server logs may not be sufficient to prove receipt of emails as they only serve to prove that emails were sent. In addition, spam filters or incorrect email addresses can prevent an email from being delivered to the appropriate recipient. The staff therefore suggests that to prove delivery of an email for purposes of Rule 14a-8, the sender should seek a reply e-mail from the recipient in which the recipient acknowledges receipt of the e-mail. The staff also encourages both companies and shareholder proponents to acknowledge receipt of emails when requested. Email read receipts, if received by the sender, may also help to establish that emails were received.

1. Submission of Proposals

Rule 14a-8(e)(1) provides that in order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery. Therefore, where a dispute arises regarding a proposal's timely delivery, shareholder proponents risk exclusion of their proposals if they do not receive a confirmation of receipt from the company in order to prove timely delivery with email submissions. Additionally, in those instances where the company does not disclose in its proxy statement an email address for submitting proposals, we encourage shareholder proponents to contact the company to obtain the correct email

address for submitting proposals before doing so and we encourage companies to provide such email addresses upon request.

2. Delivery of Notices of Defects

Similarly, if companies use email to deliver deficiency notices to proponents, we encourage them to seek a confirmation of receipt from the proponent or the representative in order to prove timely delivery. Rule 14a-8(f)(1) provides that the company must notify the shareholder of any defects within 14 calendar days of receipt of the proposal, and accordingly, the company has the burden to prove timely delivery of the notice.

3. Submitting Responses to Notices of Defects

Rule 14a-8(f)(1) also provides that a shareholder's response to a deficiency notice must be postmarked, or transmitted electronically, no later than 14 days from the date of receipt of the company's notification. If a shareholder uses email to respond to a company's deficiency notice, the burden is on the shareholder or representative to use an appropriate email address (e.g., an email address provided by the company, or the email address of the counsel who sent the deficiency notice), and we encourage them to seek confirmation of receipt.

---

[1] Release No. 34-40018 (May 21, 1998) (the "1998 Release"). Stated a bit differently, the Commission has explained that "[t]he 'ordinary business' exclusion is based in part on state corporate law establishing spheres of authority for the board of directors on one hand, and the company's shareholders on the other." Release No. 34-39093 (Sept. 18, 1997).

[2] For example, SLB No. 14K explained that the staff "takes a company-specific approach in evaluating significance, rather than recognizing particular issues or categories of issues as universally 'significant.'" Staff Legal Bulletin No. 14K (Oct. 16, 2019).

[3] Release No. 34-12999 (Nov. 22, 1976) (the "1976 Release") (stating, in part, "proposals of that nature [relating to the economic and safety considerations of a nuclear power plant], as well as others that have major implications, will in the future be considered beyond the realm of an issuer's ordinary business operations").

[4] 1998 Release ("[P]roposals . . . focusing on sufficiently significant social policy issues. . .generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote").

[5] *See, e.g., Dollar General Corporation* (Mar. 6, 2020) (granting no-action relief for exclusion of a proposal requesting the board to issue a report on the use of contractual provisions requiring employees to arbitrate employment-related claims because the proposal did not focus on specific policy implications of the use of arbitration at the company). We note that in the 1998 Release the Commission stated: "[P]roposals relating to [workforce management] but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote." Matters related to employment discrimination are but one example of the workforce management proposals that may rise to the level of transcending the company's ordinary business operations.

[6] 1998 Release.

[7] *ConocoPhillips Company* (Mar. 19, 2021).

[8] *See* 1998 Release and 1976 Release.

[9] *See, e.g., PayPal Holdings, Inc.* (Mar. 6, 2018) (granting no-action relief for exclusion of a proposal asking the company to prepare a report on the feasibility of achieving net-zero emissions by 2030 because the staff concluded it micromanaged the company); *Devon Energy Corporation* (Mar. 4, 2019) (granting no-action relief for

exclusion of a proposal requesting that the board in annual reporting include disclosure of short-, medium- and long-term greenhouse gas targets aligned with the Paris Climate Agreement because the staff viewed the proposal as requiring the adoption of time-bound targets).

[10] *See ConocoPhillips Company* (Mar. 19, 2021).

[11] To be more specific, shareholder proponents have expressed concerns that a proposal that was broadly worded might face exclusion under Rule 14a-8(i)(10). Conversely, if a proposal was too specific it risked exclusion under Rule 14a-8(i)(7) for micromanagement.

[12] 618 F. Supp. 554 (D.D.C. 1985).

[13] This section previously appeared in SLB No. 14I (Nov. 1, 2017) and is republished here with only minor, conforming changes.

[14] Rule 14a-8(d) is intended to limit the amount of space a shareholder proposal may occupy in a company's proxy statement. *See* 1976 Release.

[15] *See General Electric Co.* (Feb. 3, 2017, Feb. 23, 2017); *General Electric Co.* (Feb. 23, 2016). These decisions were consistent with a longstanding Division position. *See Ferrofluidics Corp.* (Sept. 18, 1992).

[16]Companies should not minimize or otherwise diminish the appearance of a shareholder's graphic. For example, if the company includes its own graphics in its proxy statement, it should give similar prominence to a shareholder's graphics. If a company's proxy statement appears in black and white, however, the shareholder proposal and accompanying graphics may also appear in black and white.

[17] *See General Electric Co.* (Feb. 23, 2017).

[18] This section previously appeared in SLB No. 14K (Oct.16, 2019) and is republished here with minor, conforming changes. Additional discussion is provided in the final paragraph.

[19] Rule 14a-8(b) requires proponents to have continuously held at least $2,000, $15,000, or $25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively.

[20]Staff Legal Bulletin No. 14F (Oct. 18, 2011).

[21]The Division suggested the following formulation: "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]."

[22] Release No. 34-89964 (Sept. 23, 2020) (the "2020 Release").

[23] *See Amazon.com, Inc.* (Apr. 3, 2019); *Gilead Sciences, Inc.* (Mar. 7, 2019).

[24] *See* Staff Legal Bulletin No.14F, n.11.

[25] *See* 2020 Release.

[26] 2020 Release at n.55 ("Due to market fluctuations, the value of a shareholder's investment in a company may vary throughout the applicable holding period before the shareholder submits the proposal. In order to determine whether the shareholder satisfies the relevant ownership threshold, the shareholder should look at whether, on any date within the 60 calendar days before the date the shareholder submits the proposal, the shareholder's investment is valued at the relevant threshold or greater. For these purposes, companies and shareholders should determine the market value by multiplying the number of securities the shareholder continuously held for the relevant period by the highest selling price during the 60 calendar days before the shareholder submitted the proposal. For purposes of this calculation, it is important to note that a security's highest selling price is not necessarily the same as its highest closing price.") (citations omitted).

Modified: Nov. 3, 2021

Trinity Health
Livonia, MI

Catherine M. Rowan
Director, Socially Responsible Investments
766 Brady Avenue, Apt. 635
Bronx, NY 10462
[redacted]

December 6, 2022

Christine L. Connolly
Corporate Secretary
Dollar General Corporation
100 Mission Ridge
Goodlettsville, TN 37072

Dear Ms. Connolly,

Attached please find a letter from The Northern Trust Company, which verifies that as of December 1, 2022, Trinity Health has held at least $2,000 worth of Dollar General Corporation shares continuously for over twelve months. The letter is intended to accompany the December 1, 2022 co-filing of a shareholder proposal by Trinity Health, which is attached for reference.

If you have any questions or need additional information, I can be contacted at [redacted] or by email at [redacted]

Sincerely,

Catherine Rowan

Catherine Rowan

enc.

NORTHERN TRUST

The Northern Trust Company
50 South LaSalle Street
Chicago, Illinois 60603

December 6, 2022

To Whom It May Concern:

Please accept this letter as verification that as of December 1, 2022, Northern Trust as custodian held for the beneficial interest of Trinity Health 10,379 shares of Dollar General Corporation.

As of December 1, 2022, Trinity Health beneficially owned, and has beneficially owned continuously for at least three years, shares of Dollar General Corporation common stock worth at least $2,000.

This letter is to confirm that the aforementioned shares of stock are registered with Northern Trust, Participant Number 2669, at the Depository Trust Company.

If you require any additional information, please do not hesitate to contact me at [redacted] or email address.

Sincerely,

Karson Wattles
2nd Vice President
The Northern Trust Company
50 South La Salle Street
Chicago, Illinois 60603

NTAC:2SE-18

PORTICO®
Benefit Services | A Ministry of the ELCA

December 1, 2022

Corporate Secretary
Christine Connolly
Dollar General Corporation
100 Mission Ridge
Goodlettsville, TN 37072

Dear Ms. Connolly,

As a faith-based retirement plan and institutional investor, Portico Benefit Services, a ministry of the Evangelical Lutheran Church in America (ELCA) believes it is possible to positively impact shareholder value while at the same time aligning with the mission of the ELCA.

Portico Benefit Services is beneficial owner of over 7,000 shares of Dollar General (the "Company") common stock. A letter of ownership verification from the custodian of our portfolio is attached. We have been a shareholder of more than $2,000 of common stock for over three years, as of the date hereof, and we intend to continue to hold such shares through the 2023 annual meeting of shareholders.

Portico Benefit Services is submitting the attached proposal (the "Proposal") pursuant to the Securities and Exchange Commission's Rule 14a-8 to be included in the proxy statement of the Company for its 2023 annual meeting of shareholders. Portico Benefit Services is co-filing the Proposal with lead filer Domini Impact Investments ("Domini"). In its submission letter, Domini will provide dates and times of ability to meet. We designate the lead filer to meet with the Company. As co-filers of the resolution, we authorize the lead filer to withdraw the resolution on our behalf if an agreement is reached.

Please be advised that we will hereafter be using a representative regarding the management of this proposal. Please send any correspondence regarding this proposal including deficiency notices, no action requests or engagement scheduling to Rob Fohr, Director of Faith-Based Investing and Corporate Engagement at The Presbyterian Church (USA) ("PCUSA"), at [redacted]. I authorize the representative to speak on my behalf regarding this proposal and engage with the company and its representatives. As Portico's shareholder engagement partner, PCUSA represents Portico specifically in engagement related to shareholder resolutions filed by Portico, as well as engagement activities with companies in which both PCUSA and Portico have an investment.

Sincerely,

Erin Ripperger
Manager, Socially Responsible Investing & Investor Advocacy
Portico Benefit Services
[redacted]

WHEREAS: Dollar General operates more than 18,000 stores in 47 states and employs over 140,000 people,[1] providing access to affordable products in rural and remote areas across the United States.

Since 2017, Dollar General has received $12.3 million in Occupational Safety and Health Administration (OSHA) penalties for numerous willful, repeated, and serious workplace safety violations.[2] OSHA designated Dollar General as a "severe violator" in 2022, issuing citations for blocked safety exits and unsafe storage areas, inaccessible fire extinguishers, storage of boxes in front of electrical panels, exposure of workers to electrocution risks, and failure to provide exit signs and required stair handrails.[3] Regulators and employment experts state that the company "choos[es] to place profits over their employees' safety and well-being"[4] and that its business model leads to disregarding the law and "cutting corners when it comes to basic worker safety."[5]

As supply chain disruptions, increasing freight costs, and shipping delays impact dollar stores nationwide, it is not evident that there are adequate systems in place to address these dynamics and mitigate potential impacts on workers. Staffing levels appear to be insufficient to manage the workload, especially as it relates to unpredictable shipments and influxes of inventory, which may lead to blocked exits or increased fire hazards.[6] Staffing shortages and high turnover contribute to fatigue, high workload, and further exacerbate safety issues. This may also contribute to loss of new store development opportunities or poor worker retention.[7] In the midst of high economic inequality, Dollar General employees are among the most vulnerable workers, with 92 percent of Dollar General's hourly workers making less than $15 per hour. While the company states it engages employees through town hall meetings, DG voice, and "pulse" surveys to understand employee sentiment,[8] there is no disclosure on how this feedback informs actions to address workers' concerns and priorities.

---

[1] https://www.dollargeneral.com/about-us/locations.html

[2] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties.

[3] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties. https://www.dol.gov/newsroom/releases/osha/osha20221017 ; https://www.osha.gov/enforcement/svep#v-nav-5 ; https://news.bloomberglaw.com/safety/dollar-general-makes-federal-severe-violator-worker-safety-list

[4] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties

[5] https://www.nbcnews.com/business/business-news/dollar-general-thriving-workers-say-they-pay-price-n1137096

[6] https://www.reuters.com/business/retail-consumer/dollar-general-beats-quarterly-estimates-same-store-sales-2021-08-26/

[7] https://investor.dollargeneral.com/websites/dollargeneral/English/310010/us-sec-filing.html?shortDesc=Annual%20Report&format=html&secFilingId=b365ead3-a988-4299-9d85-8bfa86ca3ca4

[8] https://www.dollargeneral.com/content/dam/webvisualassets/sitedownloads/Serving%20Others%20FY2021.pdf

Understaffing and poor security measures at Dollar General stores may also contribute to increased risk of gun violence to staff and communities. Dollar stores have become vulnerable targets for robberies, causing employees to lose their lives, according to past reports.[9]

RESOLVED: Shareholders of Dollar General request that the Board of Directors commission an independent third-party audit on the impact of the company's policies and practices on the safety and well-being of workers. A report on the audit, prepared at reasonable cost and omitting proprietary information, should be made available on the company's website.

SUPPORTING STATEMENT: At company discretion, the proponents recommend that an audit include:

- Evaluation of management and business practices that contribute to an unsafe or violent environment, including staffing capacity;
- Meaningful consultation with workers and customers to inform appropriate solutions; and
- Recommendations for actions and regular reporting with progress on identified actions.

[9] https://www.businessinsider.com/dollar-store-staff-danger-crime-hotspots-discount-chains-retail-2021-10; https://www.propublica.org/article/how-dollar-stores-became-magnets-for-crime-and-killing; https://www.cnn.com/2020/06/26/business/dollar-general-robberies/index.html

BNY MELLON
ASSET SERVICING

December 1, 2022

Corporate Secretary
Christine Connolly
Dollar General Corporation
100 Mission Ridge
Goodlettsville, TN 37072

With a copy to:
Erin Ripperger, Portico Benefit Services

Dear Ms. Connolly,

As of December 1, the day the filing letter was sent, and December 2, the day you received the filing letter, Portico Benefit Services, a ministry of the Evangelical Lutheran Church in America (ELCA) beneficially owned, and had beneficially owned continuously for at least three years, shares of the Company's common stock worth at least $2,000.

BNY Mellon has acted as the record holder and is a DTC participant.

If you have any questions, please call me at [redacted].

Sincerely,

James F. Mahoney, Jr.
Vice President

135 Santilli Highway, 026-0017
Everett, MA 02149
www.bnymellon.com

ADRIAN DOMINICAN SISTERS
1257 East Siena Heights Drive
Adrian, Michigan 49221-1793
[redacted]
Portfolio Advisory Board

By overnight delivery

December 1, 2022

Dollar General Corporation
Corporate Secretary
100 Mission Ridge
Goodlettsville, TN 37072

Re: Shareholder proposal for 2023 Annual Shareholder Meeting

Dear Corporate Secretary:

The Adrian Dominican Sisters is submitting the attached proposal (the "Proposal") pursuant to the Securities and Exchange Commission Rule 14a-8 to be included in the proxy statement of Dollar General Corporation (the "Company") for its 2023 annual meeting of shareholders. The Adrian Dominican Sisters is co-filing the proposal with the lead filer, Domini Impact Investments LLC. In its submission letter, the lead filer will provide dates and times of ability to meet. I designate the lead filer to meet initially with the Company but may join the meeting subject to my availability.

The Adrian Dominican Sisters have continuously beneficially owned, for at least three years as of the date hereof, at least $ 2000 worth of the Company's common stock. Verification of this ownership is attached. The Adrian Dominican Sisters intends to continue to hold such shares through the date of the Company's 2023 annual meeting of shareholders.

Please send future correspondence and communications regarding this proposal to Sister Judy Byron, OP who can be contacted at [redacted]

Sincerely,

Frances Nadolny, OP

Frances Nadolny, OP
Treasurer
Adrian Dominican Sisters

Encl: Shareholder Resolution
Verification of Ownership

WHEREAS: Dollar General operates more than 18,000 stores in 47 states and employs over 140,000 people,[1] providing access to affordable products in rural and remote areas across the United States.

Since 2017, Dollar General has received $12.3 million in Occupational Safety and Health Administration (OSHA) penalties for numerous willful, repeated, and serious workplace safety violations.[2] OSHA designated Dollar General as a "severe violator" in 2022, issuing citations for blocked safety exits and unsafe storage areas, inaccessible fire extinguishers, storage of boxes in front of electrical panels, exposure of workers to electrocution risks, and failure to provide exit signs and required stair handrails.[3] Regulators and employment experts state that the company "choos[es] to place profits over their employees' safety and well-being"[4] and that its business model leads to disregarding the law and "cutting corners when it comes to basic worker safety."[5]

As supply chain disruptions, increasing freight costs, and shipping delays impact dollar stores nationwide, it is not evident that there are adequate systems in place to address these dynamics and mitigate potential impacts on workers. Staffing levels appear to be insufficient to manage the workload, especially as it relates to unpredictable shipments and influxes of inventory, which may lead to blocked exits or increased fire hazards.[6] Staffing shortages and high turnover contribute to fatigue, high workload, and further exacerbate safety issues. This may also contribute to loss of new store development opportunities or poor worker retention.[7] In the midst of high economic inequality, Dollar General employees are among the most vulnerable workers, with 92 percent of Dollar General's hourly workers making less than $15 per hour. While the company states it engages employees through town hall meetings, DG voice, and "pulse" surveys to understand employee sentiment,[8] there is no disclosure on how this feedback informs actions to address workers' concerns and priorities.

---

[1] https://www.dollargeneral.com/about-us/locations.html

[2] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties.

[3] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties.
https://www.dol.gov/newsroom/releases/osha/osha20221017 ; https://www.osha.gov/enforcement/svep#y-nav-5 ; https://news.bloomberglaw.com/safety/dollar-general-makes-federal-severe-violator-worker-safety-list

[4] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties

[5] https://www.nbcnews.com/business/business-news/dollar-general-thriving-workers-say-they-pay-price-n1137096

[6] https://www.reuters.com/business/retail-consumer/dollar-general-beats-quarterly-estimates-same-store-sales-2021-08-26/

[7] https://investor.dollargeneral.com/websites/dollargeneral/English/310010/us-sec-filing.html?shortDesc=Annual%20Report&format=html&secFilingId=b365ead3-a988-4299-9d85-8bfa86ca3ca4

[8] https://www.dollargeneral.com/content/dam/webvisualassets/sitedownloads/Serving%20Others%20FY2021.pdf

Understaffing and poor security measures at Dollar General stores may also contribute to increased risk of gun violence to staff and communities. Dollar stores have become vulnerable targets for robberies, causing employees to lose their lives, according to past reports.[9]

RESOLVED: Shareholders of Dollar General request that the Board of Directors commission an independent third-party audit on the impact of the company's policies and practices on the safety and well-being of workers. A report on the audit, prepared at reasonable cost and omitting proprietary information, should be made available on the company's website.

SUPPORTING STATEMENT: At company discretion, the proponents recommend that an audit include:

- Evaluation of management and business practices that contribute to an unsafe or violent environment, including staffing capacity;
- Meaningful consultation with workers and customers to inform appropriate solutions; and
- Recommendations for actions and regular reporting with progress on identified actions.

[9] https://www.businessinsider.com/dollar-store-staff-danger-crime-hotspots-discount-chains-retail-2021-10; https://www.propublica.org/article/how-dollar-stores-became-magnets-for-crime-and-killing; https://www.cnn.com/2020/06/26/business/dollar-general-robberies/index.html

Comerica

December 1, 2022

Dollar General Corporation
Corporate Secretary
100 Mission Ridge
Goodlettsville, TN 37072

Re: Shareholder proposal submitted by the Adrian Dominican Sisters

Dear Corporate Secretary,

I write concerning a shareholder proposal (the "Proposal") submitted to Dollar General Corporation (the "Company") by the Adrian Dominican Sisters.

As of December 1, 2022, the Adrian Dominican Sisters beneficially owned, and had beneficially owned continuously for at least three years shares of the Company's common stock worth at least $2,000 (the "Shares").

Comerica has acted as record holder of the Shares and is a DTC participant. If you require any additional information, please do not hesitate to contact me at [redacted] or [redacted].

Sincerely,

Simon Jabiru
Senior Trust Analyst
Comerica Bank
411 W. Lafayette Boulevard
MC 3462
Detroit, Michigan 48226
[redacted]

UNITED CHURCH FUNDS

Via Fedex

Dec. 1 2022

Corporate Secretary
Dollar General Corporation
100 Mission Ridge
Goodlettsville, Tennessee 37072

Dear Ms. Connolly,

United Church Funds (UCF) is filing a shareholder proposal with Dollar General Corp, for action at the 2023 annual meeting of the Company, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934. Domini Impact Investments is the lead filer and we authorize Domini to negotiate withdrawal of this resolution if deemed appropriate.

UCF has continuously beneficially owned, for at least a year as of December 1, 2022, at least $25,000 worth of the Company's common stock. Verification of this ownership is attached. UCF intends to continue to hold such shares through the Company's 2023 annual meeting of shareholders.

We are available to meet at the times that Domini has offered in their letter. We look forward to having productive conversations with the company.

Sincerely,

Matthew J. Illian
Director of Responsible investing
[redacted]

WHEREAS: Dollar General operates more than 18,000 stores in 47 states and employs over 140,000 people,[1] providing access to affordable products in rural and remote areas across the United States.

Since 2017, Dollar General has received $12.3 million in Occupational Safety and Health Administration (OSHA) penalties for numerous willful, repeated, and serious workplace safety violations.[2] OSHA designated Dollar General as a "severe violator" in 2022, issuing citations for blocked safety exits and unsafe storage areas, inaccessible fire extinguishers, storage of boxes in front of electrical panels, exposure of workers to electrocution risks, and failure to provide exit signs and required stair handrails.[3] Regulators and employment experts state that the company "choos[es] to place profits over their employees' safety and well-being"[4] and that its business model leads to disregarding the law and "cutting corners when it comes to basic worker safety."[5]

As supply chain disruptions, increasing freight costs, and shipping delays impact dollar stores nationwide, it is not evident that there are adequate systems in place to address these dynamics and mitigate potential impacts on workers. Staffing levels appear to be insufficient to manage the workload, especially as it relates to unpredictable shipments and influxes of inventory, which may lead to blocked exits or increased fire hazards.[6] Staffing shortages and high turnover contribute to fatigue, high workload, and further exacerbate safety issues. This may also contribute to loss of new store development opportunities or poor worker retention.[7] In the midst of high economic inequality, Dollar General employees are among the most vulnerable workers, with 92 percent of Dollar General's hourly workers making less than $15 per hour. While the company states it engages employees through town hall meetings, DG voice, and "pulse" surveys to understand employee sentiment,[8] there is no disclosure on how this feedback informs actions to address workers' concerns and priorities.

---

[1] https://www.dollargeneral.com/about-us/locations.html

[2] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties.

[3] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties.
https://www.dol.gov/newsroom/releases/osha/osha20221017 ; https://www.osha.gov/enforcement/svep#v-nav-5 ; https://news.bloomberglaw.com/safety/dollar-general-makes-federal-severe-violator-worker-safety-list

[4] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties

[5] https://www.nbcnews.com/business/business-news/dollar-general-thriving-workers-say-they-pay-price-n1137096

[6] https://www.reuters.com/business/retail-consumer/dollar-general-beats-quarterly-estimates-same-store-sales-2021-08-26/

[7] https://investor.dollargeneral.com/websites/dollargeneral/English/310010/us-sec-filing.html?shortDesc=Annual%20Report&format=html&secFilingId=b365ead3-a988-4299-9d85-8bfa86ca3ca4

[8] https://www.dollargeneral.com/content/dam/webvisualassets/sitedownloads/Serving%20Others%20FY2021.pdf

Understaffing and poor security measures at Dollar General stores may also contribute to increased risk of gun violence to staff and communities. Dollar stores have become vulnerable targets for robberies, causing employees to lose their lives, according to past reports.[9]

RESOLVED: Shareholders of Dollar General request that the Board of Directors commission an independent third-party audit on the impact of the company's policies and practices on the safety and well-being of workers. A report on the audit, prepared at reasonable cost and omitting proprietary information, should be made available on the company's website.

SUPPORTING STATEMENT: At company discretion, the proponents recommend that an audit include:

- Evaluation of management and business practices that contribute to an unsafe or violent environment, including staffing capacity;
- Meaningful consultation with workers and customers to inform appropriate solutions; and
- Recommendations for actions and regular reporting with progress on identified actions.

[9] https://www.businessinsider.com/dollar-store-staff-danger-crime-hotspots-discount-chains-retail-2021-10; https://www.propublica.org/article/how-dollar-stores-became-magnets-for-crime-and-killing; https://www.cnn.com/2020/06/26/business/dollar-general-robberies/index.html

BNY MELLON

December 1, 2022

Re: United Church Funds Verification of Ownership

To whom it may concern,

This letter is to confirm that BNY Mellon as custodian for United Church Funds holds at least $25,000.00 worth of **Dollar General Corp** stock. Further, United Church Funds has continuously held this position for at least twelve months prior to **December 1, 2022** and intend to continue holding the requisite number of shares of common stock through the date of the next Annual Meeting of Shareholders.

If you have any questions regarding this information, please contact me at [redacted] or [redacted].

Sincerely,

Glen Metzger, Vice President Relationship Manager
The Bank of New York Mellon

Presbyterian Mission
Mission Responsibility
Through Investment

100 Witherspoon Street | Louisville, KY 40202 | presbyterianmission.org

December 1, 2022

VIA OVERNIGHT DELIVERY

Corporate Secretary
Christine Connolly
Dollar General Corporation
100 Mission Ridge
Goodlettsville, TN 37072

Re: Shareholder proposal for 2023 Annual Shareholder Meeting

Dear Ms. Connolly,

The Presbyterian Church (USA) through the Board of Pensions of the Presbyterian Church U.S.A. is submitting the attached proposal (the "Proposal") pursuant to the Securities and Exchange Commission's Rule 14a-8 to be included in the proxy statement of Dollar General Corporation (the "Company") for its 2023 annual meeting of shareholders. The Presbyterian Church (USA) is co-filing the Proposal with lead filer Domini Impact Investments (Domini). In its submission letter, Domini will provide dates and times for meeting availability. We designate the lead filer to meet initially with the Company but may join the meeting subject to our availability. As co-filers on this resolution, we authorize the lead filer, Domini, to withdraw the resolution on our behalf if an agreement is reached.

The Presbyterian Church (USA) through the Presbyterian Board of Pensions of the Presbyterian Church U.S.A. has continuously beneficially owned, for at least 3 years as of the date hereof, at least $2,000 worth of the Company's common stock. Verification of this ownership from the Bank of New York Mellon is attached. The Presbyterian Church (USA) through the Board of Pensions of the Presbyterian Church U.S.A. intends to continue to hold such shares through the date of the Company's 2023 annual meeting of shareholders.

If you have any questions or need additional information, I can be contacted via phone at [redacted] or via email at [redacted]

Presbyterian Mission
Mission Responsibility
Through Investment

100 Witherspoon Street | Louisville, KY 40202 | presbyterianmission.org

Sincerely,

Rob Fohr
Director of Faith-Based Investing and Corporate Engagement
Presbyterian Church U.S.A.
[redacted]

Enc: Shareholder resolution
Proof of ownership from BNY Mellon

Cc: Sandra Moon, chair, MRTI Healthcare and Human Rights committee
Mary Beth Gallagher, Domini Impact Investments

WHEREAS: Dollar General operates more than 18,000 stores in 47 states and employs over 140,000 people,[1] providing access to affordable products in rural and remote areas across the United States.

Since 2017, Dollar General has received $12.3 million in Occupational Safety and Health Administration (OSHA) penalties for numerous willful, repeated, and serious workplace safety violations.[2] OSHA designated Dollar General as a "severe violator" in 2022, issuing citations for blocked safety exits and unsafe storage areas, inaccessible fire extinguishers, storage of boxes in front of electrical panels, exposure of workers to electrocution risks, and failure to provide exit signs and required stair handrails.[3] Regulators and employment experts state that the company "choos[es] to place profits over their employees' safety and well-being"[4] and that its business model leads to disregarding the law and "cutting corners when it comes to basic worker safety."[5]

As supply chain disruptions, increasing freight costs, and shipping delays impact dollar stores nationwide, it is not evident that there are adequate systems in place to address these dynamics and mitigate potential impacts on workers. Staffing levels appear to be insufficient to manage the workload, especially as it relates to unpredictable shipments and influxes of inventory, which may lead to blocked exits or increased fire hazards.[6] Staffing shortages and high turnover contribute to fatigue, high workload, and further exacerbate safety issues. This may also contribute to loss of new store development opportunities or poor worker retention.[7] In the midst of high economic inequality, Dollar General employees are among the most vulnerable workers, with 92 percent of Dollar General's hourly workers making less than $15 per hour. While the company states it engages employees through town hall meetings, DG voice, and "pulse" surveys to understand employee sentiment,[8] there is no disclosure on how this feedback informs actions to address workers' concerns and priorities.

---

[1] https://www.dollargeneral.com/about-us/locations.html

[2] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties.

[3] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties. https://www.dol.gov/newsroom/releases/osha/osha20221017 ; https://www.osha.gov/enforcement/svep#v-nav-5 ; https://news.bloomberglaw.com/safety/dollar-general-makes-federal-severe-violator-worker-safety-list

[4] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties

[5] https://www.nbcnews.com/business/business-news/dollar-general-thriving-workers-say-they-pay-price-n1137096

[6] https://www.reuters.com/business/retail-consumer/dollar-general-beats-quarterly-estimates-same-store-sales-2021-08-26/

[7] https://investor.dollargeneral.com/websites/dollargeneral/English/310010/us-sec-filing.html?shortDesc=Annual%20Report&format=html&secFilingId=b365ead3-a988-4299-9d85-8bfa86ca3ca4

[8] https://www.dollargeneral.com/content/dam/webvisualassets/sitedownloads/Serving%20Others%20FY2021.pdf

Understaffing and poor security measures at Dollar General stores may also contribute to increased risk of gun violence to staff and communities. Dollar stores have become vulnerable targets for robberies, causing employees to lose their lives, according to past reports.[9]

RESOLVED: Shareholders of Dollar General request that the Board of Directors commission an independent third-party audit on the impact of the company's policies and practices on the safety and well-being of workers. A report on the audit, prepared at reasonable cost and omitting proprietary information, should be made available on the company's website.

SUPPORTING STATEMENT: At company discretion, the proponents recommend that an audit include:

- Evaluation of management and business practices that contribute to an unsafe or violent environment, including staffing capacity;
- Meaningful consultation with workers and customers to inform appropriate solutions; and
- Recommendations for actions and regular reporting with progress on identified actions.

[9] https://www.businessinsider.com/dollar-store-staff-danger-crime-hotspots-discount-chains-retail-2021-10; https://www.propublica.org/article/how-dollar-stores-became-magnets-for-crime-and-killing; https://www.cnn.com/2020/06/26/business/dollar-general-robberies/index.html

Corporate Secretary
Christine Connolly
Dollar General Corporation
100 Mission Ridge
Goodlettsville, TN 37072

Re: Shareholder proposal submitted by the Presbyterian Church (U.S.A.)

Dear Ms. Connolly,

I write concerning a shareholder proposal (the "Proposal") submitted to Dollar General Corporation. (the "Company") by the Presbyterian Church (U.S.A).

As of December 1, 2022, the day the filing letter was sent, and December 2, 2022, the day you received the filing letter, the Board of Pensions of the Presbyterian Church (U.S.A.) beneficially owned, and had beneficially owned continuously for at least three years, shares of the Company's common stock worth at least $2,000 (the "Shares").

The Bank of New York Mellon has acted as record holder of the Shares and is a DTC participant. If you require any additional information, please do not hesitate to contact me at the email listed below.

Please note that resolution is being filed by Rob Fohr under the name of the Presbyterian Church (U.S.A.), 100 Witherspoon Street, Louisville, Kentucky 40202.

Very truly yours,

Andrew Rawding
Service Director, VP
[redacted]

Sisters of Saint Joseph of Peace

1663 Killarney Way P.O. Box 248 Bellevue, WA 98009-0248 [redacted]

By overnight delivery

December 1, 2022

Dollar General Corporation
Corporate Secretary
100 Mission Ridge
Goodlettsville, TN 37072

Re: Shareholder proposal for 2023 Annual Shareholder Meeting

Dear Corporate Secretary:

The Sisters of St. Joseph of Peace is submitting the attached proposal (the "Proposal") pursuant to the Securities and Exchange Commission Rule 14a-8 to be included in the proxy statement of Dollar General Corporation (the "Company") for its 2023 annual meeting of shareholders. The Sisters of St. Joseph of Peace is co-filing the proposal with the lead filer, Domini Impact Investments LLC. In its submission letter, the lead filer will provide dates and times of ability to meet. I designate the lead filer to meet initially with the Company but may join the meeting subject to my availability.

The Sisters of St. Joseph of Peace has continuously beneficially owned, for at least three years as of the date hereof, at least $ 2000 worth of the Company's common stock. Verification of this ownership is attached. The Sisters of St. Joseph of Peace intends to continue to hold such shares through the date of the Company's 2023 annual meeting of shareholders.

If you have any questions or need additional information, I can be contacted by email at [redacted]

Sincerely,

A. Fleming

Alexis Fleming
Finance Manager
Sisters of St. Joseph of Peace

Encl.: Resolution
Verification of ownership

WHEREAS: Dollar General operates more than 18,000 stores in 47 states and employs over 140,000 people,[1] providing access to affordable products in rural and remote areas across the United States.

Since 2017, Dollar General has received $12.3 million in Occupational Safety and Health Administration (OSHA) penalties for numerous willful, repeated, and serious workplace safety violations.[2] OSHA designated Dollar General as a "severe violator" in 2022, issuing citations for blocked safety exits and unsafe storage areas, inaccessible fire extinguishers, storage of boxes in front of electrical panels, exposure of workers to electrocution risks, and failure to provide exit signs and required stair handrails.[3] Regulators and employment experts state that the company "choos[es] to place profits over their employees' safety and well-being"[4] and that its business model leads to disregarding the law and "cutting corners when it comes to basic worker safety."[5]

As supply chain disruptions, increasing freight costs, and shipping delays impact dollar stores nationwide, it is not evident that there are adequate systems in place to address these dynamics and mitigate potential impacts on workers. Staffing levels appear to be insufficient to manage the workload, especially as it relates to unpredictable shipments and influxes of inventory, which may lead to blocked exits or increased fire hazards.[6] Staffing shortages and high turnover contribute to fatigue, high workload, and further exacerbate safety issues. This may also contribute to loss of new store development opportunities or poor worker retention.[7] In the midst of high economic inequality, Dollar General employees are among the most vulnerable workers, with 92 percent of Dollar General's hourly workers making less than $15 per hour. While the company states it engages employees through town hall meetings, DG voice, and "pulse" surveys to understand employee sentiment,[8] there is no disclosure on how this feedback informs actions to address workers' concerns and priorities.

---

[1] https://www.dollargeneral.com/about-us/locations.html

[2] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties.

[3] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties. https://www.dol.gov/newsroom/releases/osha/osha20221017 ; https://www.osha.gov/enforcement/svep#v-nav-5 ; https://news.bloomberglaw.com/safety/dollar-general-makes-federal-severe-violator-worker-safety-list

[4] https://www.osha.gov/news/newsreleases/region4/11012022#:~:text=The%20violations%20found%20in%20these,to%20propose%20%241%2C682%2C302%20in%20penalties

[5] https://www.nbcnews.com/business/business-news/dollar-general-thriving-workers-say-they-pay-price-n1137096

[6] https://www.reuters.com/business/retail-consumer/dollar-general-beats-quarterly-estimates-same-store-sales-2021-08-26/

[7] https://investor.dollargeneral.com/websites/dollargeneral/English/310010/us-sec-filing.html?shortDesc=Annual%20Report&format=html&secFilingId=b365ead3-a988-4299-9d85-8bfa86ca3ca4

[8] https://www.dollargeneral.com/content/dam/webvisualassets/sitedownloads/Serving%20Others%20FY2021.pdf

Understaffing and poor security measures at Dollar General stores may also contribute to increased risk of gun violence to staff and communities. Dollar stores have become vulnerable targets for robberies, causing employees to lose their lives, according to past reports.[9]

RESOLVED: Shareholders of Dollar General request that the Board of Directors commission an independent third-party audit on the impact of the company's policies and practices on the safety and well-being of workers. A report on the audit, prepared at reasonable cost and omitting proprietary information, should be made available on the company's website.

SUPPORTING STATEMENT: At company discretion, the proponents recommend that an audit include:

- Evaluation of management and business practices that contribute to an unsafe or violent environment, including staffing capacity;
- Meaningful consultation with workers and customers to inform appropriate solutions; and
- Recommendations for actions and regular reporting with progress on identified actions.

[9] https://www.businessinsider.com/dollar-store-staff-danger-crime-hotspots-discount-chains-retail-2021-10; https://www.propublica.org/article/how-dollar-stores-became-magnets-for-crime-and-killing; https://www.cnn.com/2020/06/26/business/dollar-general-robberies/index.html

WILMINGTON
TRUST

1800 Washington Blvd
8th Floor
Baltimore, MD 21203

Proof of Ownership

December 1, 2022

Dollar General Corporation
Corporate Secretary
100 Mission Ridge
Goodlettsville, TN 37072

Re: Shareholder proposal submitted by St. Joseph Province - Sisters of St. Joseph of Peace

Dear Corporate Secretary,

At your direction, St. Joseph Province - Sisters of St. Joseph of Peace, we hereby confirm the following account details.

As of December 1, 2022, St. Joseph Province - Sisters of St. Joseph of Peace had continuously held shares of the Company's common stock with a value of at least $2,000 for at least three year, and St. Joseph Province - Sisters of St. Joseph of Peace continuously maintained a minimum investment of at least $2,000 of such securities (the "Shares") through December 1, 2022.

Wilmington Trust a Division of M&T Bank has acted as record holder of the Shares and is a DTC participant. If you require any additional information, please do not hesitate to contact me.

Very truly yours,

Brittaneé Bertty

Brittaneé Bertty
Wilmington Trust a Division of M&T Bank
Retirement and Institutional Custody Services | Relationship Manager 1
[redacted] I wilmingtontrust.com
1800 Washington Blvd, Baltimore, MD 21230
Mail Code: MD1-MP33

Cassandra Allison

From: Cassandra Allison
Sent: Wednesday, January 18, 2023 8:34 AM
To: Alexis Fleming; Judy Byron
Cc: Cassandra Allison
Subject: RE: from Judy Re Dollar General

Alexis,

Thank you. We appreciate the prompt attention to this matter. Have a wonderful day.

Casey Allison | Paralegal to Christine Connolly| Dollar General Corporation | 100 Mission Ridge Goodlettsville, TN 37072 | [redacted]

From: Alexis Fleming [redacted]
Sent: Tuesday, January 17, 2023 5:44 PM
To: Judy Byron [redacted]
Cc: Cassandra Allison [redacted]
Subject: Re: from Judy Re Dollar General

Dear Judy,

Thank you for looking into this and connect me with Cassandra.

Cassandra - I would like to voluntarily withdraw the Sisters of St. Joseph of Peace's filing. I apologize for the tardiness of the filing.

Please let me know if there is anything further you need from me and I will be happy to make it happen.

Thank you,
Alexis Fleming
Finance Manager
Sisters of St. Joseph of Peace

On Jan 17, 2023, at 14:21, Judy Byron [redacted] wrote:

Alexis,

Dollar General would like us to withdraw our proposal since it was late. They sent me the attached.

It looks like it was okay from your end, but FedEx dropped the ball. If you track your number and see the history, you should be able to get a refund.

I've copied Cassandra Allison (Dollar General) on this email so would you reply all to this email, and state that you are withdrawing the proposal submitted by the Sisters of St. Joseph of Peace?

Thanks,
Judy

Judy Byron, OP
Intercommunity Peace & Justice Center
Northwest Coalition for Responsible Investment
1216 NE 65th St • Seattle, WA 98115
[redacted] • www.ipjc.org

<Sisters of St. Joseph of Peace .pdf>

Align top of FedEx Express® shipping label here.

ORIGIN ID:8VUA [redacted]
SISTERS OF ST JOSEPH OF PEACE
1663 KILLARNEY WAY
BELLEVUE, WA 98009
UNITED STATES US

SHIP DATE: 01DEC22
ACTWGT: 0.05 LB
CAD: 6986180/SSF02322

BILL CREDIT CARD

Part # 156207-435 RRDS EXP 09/23

TO DOLLAR GENERAL CORPORATION
CORPORATE SECRETARY
100 MADISON RIDGE

GOODLETTSVILLE TN 37072

(000) 000-0000 REF:
INV:
PO: DEPT:

FedEx Express

REL# 3765346

TRK# 0201 [redacted]

FRI - 02 DEC 10:30A
PRIORITY OVERNIGHT

XN MQYA

37072
TN-US BNA

Envelope

FedEx

December 06, 2022

Dear Customer,

The following is the proof-of-delivery for tracking number: [redacted]

Delivery Information:

Status:	Delivered	**Delivered To:**	Shipping/Receiving
Signed for by:	W.WHITNEY	**Delivery Location:**	
Service type:	FedEx Priority Overnight		
Special Handling:	Deliver Weekday; No Signature Required		Goodlettsville, TN,
		Delivery date:	Dec 5, 2022 10:12

Shipping Information:

Tracking number:	[redacted]	**Ship Date:**	Dec 1, 2022
		Weight:	0.5 LB/0.23 KG

Recipient:	**Shipper:**
Goodlettsville, TN, US,	Bellevue, WA, US,

Signature image is available. In order to view image and detailed information, the shipper or payor account number of the shipment must be provided.

Thank you for choosing FedEx

ScheerCook, Adrianna C.

From: Cassandra Allison [redacted]
Sent: Thursday, January 19, 2023 5:57 PM
To: Christine Connolly; Elizabeth Inman
Subject: FW: Dollar General—Follow-Up
Attachments: Domini Dollar General withdrawal 2023.pdf

From: Mary Beth Gallagher [redacted]
Sent: Thursday, January 19, 2023 4:55 PM
To: Cassandra Allison [redacted]
Cc: [redacted]
Subject: RE: Dollar General—Follow-Up

Dear Casey,
On behalf of Domini Impact Investments and co-filers, I want to express that we appreciate the recent engagement and opportunity to discuss the company's efforts on worker safety. In the spirit of good faith engagement, we appreciate the suggestion offered during our call on January 11th that we can continue to engage in dialogue. We believe there is great potential for increased understanding and further progress through engagement, and we are open to continuing the engagement and withdrawing the proposal, if the company is able to make commitments in writing. The proposed withdraw is outlined in the attached document. If you agree to these terms, please sign and return the attached withdrawal agreement, and we will move forward with withdrawing the proposal.

Best,
Mary Beth

Mary Beth Gallagher
Director of Engagement
[redacted]

Domini Impact Investments LLC
180 Maiden Ln, Suite 1302, New York, NY 10038-4925
[redacted]

From: Cassandra Allison [redacted]
Sent: Wednesday, January 18, 2023 11:14 AM
To: Mary Beth Gallagher [redacted]
Cc: [redacted] Cassandra Allison [redacted]
Subject: RE: Dollar General—Follow-Up

[WARNING: This email is from an external source. Open with caution.]
Thank you, Mary Beth. The information has been shared with relevant individuals internally. We look forward to your decision with respect to a withdrawal of the proposal.

Best,
Casey
Casey Allison | Paralegal to Christine Connolly| Dollar General Corporation | 100 Mission Ridge Goodlettsville, TN 37072 | [redacted]

From: Mary Beth Gallagher [redacted]
Sent: Tuesday, January 17, 2023 5:29 PM
To: Cassandra Allison [redacted]
Cc: [redacted]
Subject: RE: Dollar General—Follow-Up

Dear Casey,
Thank you for your follow up note. We'll aim to be in touch with you with our conclusions, and if we determine we'd like to withdraw, a draft of withdrawal expectations and agreement, before Friday.

Can you confirm what kind of discussion there has been around the worker demands from Step Up Louisiana that I sent after the call, and if anyone from the company has reached out directly to the workers to discuss the demands?

It is my understanding that the Sisters of St. Joseph of Peace has reached out to you to confirm they will voluntarily withdraw their co-filing.

Best,
Mary Beth

Mary Beth Gallagher
Director of Engagement
[redacted]

Domini Impact Investments LLC
180 Maiden Ln, Suite 1302, New York, NY 10038-4925
[redacted]

From: Cassandra Allison [redacted]
Sent: Tuesday, January 17, 2023 4:46 PM
To: Mary Beth Gallagher [redacted]
Cc: [redacted]

[redacted] Cassandra Allison [redacted]
Subject: Dollar General—Follow-Up

[WARNING: This email is from an external source. Open with caution.]
Mary Beth,

Good afternoon. I hope that this email finds you doing well.

Our team really enjoyed speaking with you and certain of the co-filers last Wednesday afternoon – thank you again for your time. We wanted to follow-up with you on a few items related to the call. First, can you please coordinate with the Sisters of St. Joseph of Peace to determine whether they will voluntarily withdraw as a co-filer since, as we discussed on the call, their proposal submission was not timely received? I've attached the relevant FedEx label to this email in case helpful. Sister Judy Byron suggested that a voluntary withdrawal would not be a problem, but we have not received anything confirming their withdrawal.

Secondly, can you please let us know whether you and the co-filers have decided to withdraw the entire proposal based on last week's phone call? It was our understanding that the ball was in your court after the call, but we would love to reach an agreement before having to file our no-action request, if at all possible.

Our no-action filing deadline is this Friday, January 20. So, if you could please respond on both of the above at your earliest convenience, we would greatly appreciate it. Thank you in advance.

Best,
Casey

Casey Allison | Paralegal to Christine Connolly| Dollar General Corporation | 100 Mission Ridge Goodlettsville, TN 37072 | [redacted]

[This e-mail transmission may contain information that is proprietary, privileged and/or confidential and is intended exclusively for the person(s) to whom it is addressed. Any use, copying, retention or disclosure by any person other than the intended recipient or the intended recipient's designees is strictly prohibited. If you are not the intended recipient or their designee, please notify the sender immediately by return e-mail and delete all copies.]

Domini

January 19, 2023

Via email

Christine Connolly
Vice President, Corporate Secretary
Dollar General Corporation
100 Mission Ridge
Goodlettsville, Tennessee 37072

Re: Shareholder proposal withdrawal agreement

Dear Ms. Connolly:

Domini Impact Investments and co-filers appreciate the recent engagement with Dollar General on the proposal submitted for the 2023 Annual Meeting requesting an independent audit on the company's policies and practices on the safety and well-being of workers ("the Proposal"). These conversations, including the call with the EVP of Store Operations, provided some degree of increased insight into the efforts underway to address the persistent safety concerns, including those identified by the Occupational Safety and Health Administration (OSHA) in its issuance of fines.

In the spirit of good faith and constructive engagement, on behalf of Domini Impact Investments, and co-filers, we agree to withdraw the Proposal in exchange for Dollar General's commitments on the following items:

1. Publicly disclose the ongoing programs and practices to improve worker safety in the Dollar General stores. Conduct an evaluation of the management and business practices that contribute to an unsafe or violent work environment, including staffing capacity and delivery processes. Identify meaningful Key Performance Indicators of worker well-being and safety. Include worker consultation to evaluate the effectiveness of current processes and identify opportunities for improvement.

2. Commit to meaningful consultation with workers and to meet with at least three groups representing workers, including Step Up Louisiana, to hear perspectives which may inform appropriate solutions. Domini and co-filers can help identify two additional worker groups.

3. Clarify and publicly communicate the company's commitment to fully support workers who have experienced traumatic or violent events related to employment, including for example through providing paid time off and compensation for mental health resources, as applicable.

4. Ongoing engagement with proponents to discuss the status and progress on these matters.

Thank you for your time and attention to these important matters. If you agree with these terms, please sign the bottom of this letter, and send it back to me.

Sincerely,

Mary Beth Gallagher
Director of Engagement
Domini Impact Investments

AGREED,

_____ _____

Christine Connolly Date
Corporate Secretary
Dollar General

Domini

March 3, 2023

Via e-mail at shareholderproposals@sec.gov

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

Re: Request by Dollar General Corporation to omit proposal submitted by Domini US Impact Equity Fund and co-filers

Ladies and Gentlemen,

Pursuant to Rule 14a-8 under the Securities Exchange Act of 1934 (the "Shareholder Proposal Rule"), Domini US Impact Equity Fund and five co-filers (the "Proponents") submitted a shareholder proposal (the "Proposal") to Dollar General Corporation ("Dollar General" or the "Company"). The Proposal asks Dollar General's board to commission an independent third-party audit on the impact of the Company's policies and practices on the safety and well-being of workers and make a report on the audit available on Dollar General's website.

In a letter to the Division dated January 20, 2023 (the "No-Action Request"), Dollar General stated that it intends to omit the Proposal from its proxy materials to be distributed to shareholders in connection with the Company's 2023 annual meeting of shareholders. Dollar General argues that it is entitled to exclude the Proposal in reliance on Rule 14a-8(i)(7), on the ground that the Proposal deals with the Company's ordinary business operations. For the reasons set forth below, Dollar General has not met its burden of proving that it is entitled to exclude the Proposal on that basis. The Proponents thus respectfully request that the Company's request for relief be denied.

The Proposal

The Proposal states:

> RESOLVED: Shareholders of Dollar General request that the Board of Directors commission an independent third-party audit on the impact of the company's policies and practices on the safety and well-being of workers. A report on the audit, prepared at reasonable cost and omitting proprietary information, should be made available on the company's website.

Ordinary Business

Rule 14a-7(i)(7) allows exclusion of a proposal that "deals with a matter relating to the company's ordinary business operations." Dollar General invokes an interpretive doctrine adopted by the Staff that has allowed exclusion on ordinary business grounds of a proposal that, as the Company describes it, "involves the same subject matter as ongoing litigation and related regulatory matters to which the Company is a party."[1] That interpretive approach is referred to herein as the "Litigation Prejudice Doctrine."

Specifically, Dollar General claims that implementing the Proposal would prejudice its challenges to 20 Occupational Safety and Health Administration ("OSHA") citations it is currently contesting before the Occupational Safety and Health Review Commission ("OSHRC")[2] and two citations under review by the Kentucky Occupational Safety and Health Review Commission (together, the "Citations")[3]; its defense against two class action lawsuits (the "Litigation"); and its opposition to a petition filed in the 7th Circuit Court of Appeals by the Secretary of Labor for summary enforcement of a final order of the OSHRC (the "Petition").[4]

Proponents acknowledge that the Staff has invoked the Litigation Prejudice Doctrine to concur with companies' arguments that they are entitled to exclude proposals whose implementation could prejudice companies in pending litigation. However, Dollar General has not satisfied its burden of establishing that there is sufficient overlap between the Proposal, on the one hand, and the Citations, Petition and Litigation, on the other, to justify exclusion. Dollar General vaguely alludes in the No-Action Request to the existence of such overlap, stating, "Unquestionably, the effectiveness of the Company's safety and health policies and procedures is or will be at issue or will be a key factor in the resolution of the Pending Litigation, as the purported violations to which the contested citations and petitions relate and the allegations contained in the class action lawsuits all involve the same subject matter as the Proposal."[5] But Dollar General does not:

1. Describe the nature of the claims, in the case of the Litigation, or the underlying violations at issue in the Citations and Petition;
2. Explain the role of the Company's health policies and practices in its defenses against the Citations, Petition, and Litigation; or
3. Analyze the overlap, if any, between the disclosure the Company would make regarding the audit requested in the Proposal and the prejudice Dollar General would suffer in contesting the Citations, opposing the Petition, or defending against the claims in the Litigation.

Although the Proponents have not been able to review any materials provided in connection with Dollar General's contestation of the Citations, as well as at least one of the two Litigation

---

[1] No-Action Request, at 2.

[2] The OSHRC is an "independent, quasi-adjudicatory agency which resolves challenges to OSHA citations, proposed penalties, and abatement deadlines." (Randy S. Rabinowitz & Mark M. Hager, *Designing Health and Safety: Workplace Hazard Regulation in the United States and Canada*, 33 Cornell Int'l L.J. 373, 376 (2000))

[3] No-Action Request, at 3 fn.2.

[4] No-Action Request, at 3 fn.3.

[5] No-Action Request, at 5.

complaints, the information that is available suggests that the nexus between the Proposal and the Citations, Petition, and Litigation is not as tight as Dollar General suggests:

The Petition: The effectiveness of Dollar General's worker health and safety policies and practices do not appear to be relevant to the Company's defense against the Petition. The arguments Dollar General made in its Answer to the Petition[6] did not address whether the Company committed the violations in the underlying citations, which Dollar General conceded when it entered into the settlement agreement the Petition seeks to enforce. Nor did the Answer mention the Company's policies and practices related to worker health and safety, much less assert any such policy or practice as a defense to the Petition.

Instead, the Answer made a purely legal argument: that the Occupational Safety and Health Act does not authorize the court to enter an order enforcing all terms of the parties' settlement agreement. No evaluation of worker health and safety policies and practices is necessary for the court to rule on Dollar General's argument, and, contrary to Dollar General's claim in the No-Action Request,[7] there appears to be no dispute about whether the Company abated the violations whose settlement forms the basis for the Petition, only about whether the court has the power to enjoin future violations.

The Litigation: Dollar General did not identify the courts where the two class action litigations are pending, and the No-Action Request described them in vague terms as "lawsuits that, among other things, challenge the health and safety practices of the Company by contending that the Company knew or should have known about a rodent infestation that allegedly posed a risk of contamination and illness."[8] Dollar General does not even claim that the Litigation involves alleged harms to workers, the subject of the Proposal.

That lack of specificity serves to obfuscate the precise nature of the Litigation. The Proponents did locate a complaint (the "Complaint") filed in the Barbour County, Alabama circuit court[9] whose allegations relate to rodent infestation at a Dollar General facility. Those allegations, however, center solely on harm to consumers, not workers. The Complaint seeks to recover damages resulting from Dollar General's failure to notify consumers of potential health risks associated with consuming products sold from a rodent-infested Alabama warehouse. Dollar General employees are explicitly excluded from the plaintiff class.[10]

The Complaint's description of the damages that flowed from Dollar General's alleged negligence focuses exclusively on consumer harm. For example, the Complaint alleges that "Plaintiff and the Class purchased products of a lesser standard, grade and quality represented that do not meet ordinary and reasonable consumer expectations regarding the quality or value of the products and are unfit for their intended purpose"; "Alabama consumers paid thousands of dollars to Dollar General for products impacted by its rodent infestation, and because of the multitude of health hazards and dangers associated with these products, the commercial value of these products has

---

6 Dollar General's Answer to the Petition is attached hereto as Exhibit A.

7 See No-Action Request, at 7.

8 No-Action Request, at 3.

9 This case is captioned Linda Williams v. Dollar General Corporation, case no. 69-CV-2022-900051.00, and the Complaint is attached as Exhibit B.

10 Complaint, para. 34.

been stripped"; and "the contamination associated with the rodent infestation poses a significant health risk to consumers that used or handled the products."[11]

The Complaint only mentions workers when it describes how the warehouse's rodent infestation came to light as a result of worker complaints, including videos posted on social media by an anonymous worker depicting rodents in and around merchandise in the warehouse.[12] At no point does the Complaint address harms to workers stemming from rodent infestation—or any other dangerous condition--or the effectiveness of Dollar General's policies and practices in preventing such harms. Thus, there is no relationship between the Proposal and the claims asserted in the Complaint.

Dollar General should not be allowed to rely on vague descriptions, which may be misleadingly incomplete, to prevail on the No-Action Request. The Company should confirm whether the case initiated by the Complaint is one of the two to which the No-Action Request refers. If it is, Dollar General should provide the complaint in the other case, along with any other relevant filings, to permit the Proponents and the Staff to analyze the extent of any overlap with the Proposal. If the Complaint did not initiate one of the two Litigation cases, Dollar General should provide both complaints, and any other relevant filings, to facilitate the same analysis.

Citations: Dollar General could implement the Proposal without publicly reporting information that would prejudice its contestation of the Citations. It is important to bear in mind that the Proposal is non-binding, so Dollar General could decline to disclose material from the requested audit that it believes would impair its ability to contest the Citations. Even when a non-binding proposal receives majority support, a company has total discretion over whether and how to implement it.

Without access to materials filed on dockets of the OSHRC and its Kentucky equivalent,[13] it is not possible for the Proponents to determine the exact bases for Dollar General's contestation of the Citations. Certain kinds of arguments, such as those involving a dispute of the facts underlying the violation, would not implicate Dollar General's policies and practices and thus would not overlap with the Proposal. The Proponents and Staff should have the information necessary to determine whether overlap exists; to that end, Dollar General should either (a) provide the documents necessary for the Proponents and Staff to identify areas of overlap or (b) describe with specificity the violations involved in the Citations, the arguments it is making, and the ways in which implementation of the Proposal would prejudice Dollar General's efforts to contest the Citations.

More fundamentally, the Proponents submit that the Litigation Prejudice Doctrine is at odds with the purpose of the Shareholder Proposal Rule and should be revisited for non-binding proposals. Large companies, which receive the bulk of shareholder proposals, face a significant volume of litigation, enforcement actions, and administrative claims at any given time. In particular, employment-related matters, such as worker classification disputes, employment discrimination

---

[11] Complaint, paras. 11 and 25.

[12] Complaint, para. 18.

[13] The OSHRC's web page provides only basic information about contested citations (see https://www.conference-board.org/publications/pdf/index.cfm?brandingURL=human-capital-management-proposals-brief-2), and the Kentucky agency equivalent similarly does not make available materials filed in connection with contested citations (https://koshrc.ky.gov/Pages/index.aspx)

cases, and workers' compensation claims, are commonplace for larger companies.[14] In FY 2021, employers contested citations associated with 8.7% of federal OSHA inspections and 18.2% of state inspections.[15] Employment-related matters must qualify as significant social policy issues to avoid exclusion on ordinary business grounds.[16]

The purpose of the Shareholder Proposal Rule is to allow shareholders to communicate with the company and with one another about issues of concern. Communication facilitated by the Shareholder Proposal Rule has led to many value-enhancing reforms, including increased disclosure, more robust board oversight, and changes in company policies.[17] The Commission has recognized the importance of this communication, stating in a 1998 release that the $2,000 ownership threshold should not be raised "in light of Rule 14a-8's goal of providing an avenue of communication for small investors."[18] The shareholder proposal process has the benefit of clarity; in the words of one academic commentator, the communication of shareholder expectations to management via the Shareholder Proposal Rule is "harder to overlook or misinterpret than stock market performance."[19]

Preventing such communication on significant social policy issues related to a pending litigation claim or enforcement action allows the tail to wag the dog and interferes with shareholder communication at precisely the companies where issues are the most salient and most likely to affect the value of shareholders' investments.

Dollar General reported operating 18,190 stores in the U.S. in its most recent 10-K filing.[20] The Citations involve violations at a vanishingly small fraction of those stores. An inspection of a single store can yield multiple citations, so the Citations involve *at most* 22 stores, which is .12% of Dollar General's stores. Put another way, approximately one in every thousand Dollar General stores is implicated by the Citations. At another company, the existence of a single legal claim that a female employee was compensated less on account of her sex could serve as the basis for excluding a proposal seeking disclosure regarding gender pay equity across the whole company.

What's more, Dollar General has become a poster child for poor worker health and safety practices. Since August 2022, OSHA has issued seven news releases about Dollar General's violations, with headlines such as "Profit Over People: Alarming trend continues at Dollar General" and "Risky Business: Dollar General continues to expose employees to workplace dangers with fire, electrical hazards found, this time in Thomasville, Georgia."[21] According to the most recent news release, "failures to meet federal safety requirements prompted the agency to include Dollar General

---

[14] Norton Rose Fulbright's 2023 Litigation Trends Survey of over 430 general counsels and in-house heads of litigation at U.S. and Canadian companies reported that employment and labor disputes were the most common category of litigation for all industries surveyed, with 65% of respondents facing such litigation in 2022 and 51% characterizing it as among the most "concerning" for 2023. (https://www.nortonrosefulbright.com/-/media/files/nrf/nrfweb/knowledge-pdfs/2023-litigation-trends-survey.pdf, at 6, 9)

[15] https://aflcio.org/sites/default/files/2022-04/2214_DOTJ_Final_42622_nobug.pdf, at 76

[16] See, e.g., Staff Legal Bulletin 14L (Nov. 3, 2021).

[17] See, e.g., https://www.iccr.org/catalyzing-corporate-change-2022

[18] Exchange Act Release No. 40018 (May 21, 1998)

[19] Patrick J. Ryan, "Rule 14a-8, Institutional Shareholder Proposals, and Corporate Democracy," 23 Ga. L. Rev. 97, 112 (1988) (https://heinonline.org/HOL/LandingPage?handle=hein.journals/geolr23&div=10&id=&page=)

[20] Dollar General Corporation, Filing on Form 10-K filed on Mar. 18, 2022, at 4.

[21] See https://www.osha.gov/news/newsreleases/region4/11012022;
https://www.osha.gov/news/newsreleases/region4/12142022

Corp. and [subsidiary] Dolgencorp LLC in OSHA's Severe Violator Enforcement Program,"[22] which "concentrates resources on inspecting employers that have demonstrated indifference to their OSH Act obligations by committing willful, repeated, or failure-to-abate violations."[23]

Given that track record, it is unsurprising that shareholders like the Proponents would seek to mitigate the reputational, financial and human capital risks associated with Dollar General's worker health and safety policies and practices. But the persistent and widespread nature of Dollar General's violations means that the Company will almost always be contesting at least one OSHA citation. Continuing to apply the Litigation Prejudice Doctrine would thus prevent shareholders from communicating about this significant policy issue at Dollar General in perpetuity. That is a perverse outcome and one that is inconsistent with the Shareholder Proposal Rule's purpose.

The Litigation Prejudice Doctrine is not found in any Commission release; it is a creation of the Staff, and the Staff can abandon it if it no longer serves broader policy objectives. That is clearly the case for human capital proposals. Human capital issues have assumed increasing importance for shareholders over the past several years, as shown by an investor petition asking the Commission to adopt disclosure requirements on human capital matters,[24] the proliferation of voluntary reporting frameworks addressing human capital issues,[25] the Commission's intention to propose rules requiring human capital disclosure,[26] and the high levels of voting support for human-capital-related shareholder proposals,[27] to name a few.

The Division seemed to recognize this growing interest when it issued Staff Legal Bulletin 14L, which shifted the focus of the significant social policy issue analysis to the issue's societal impact and singled out human capital issues to illustrate the nature of that shift: "[P]roposals squarely raising human capital management issues with a broad societal impact would not be subject to exclusion solely because the proponent did not demonstrate that the human capital management issue was significant to the company." Last season, the Staff changed course and denied a request to exclude a proposal addressing worker health and safety on ordinary business grounds.[28]

Continuing to apply the Litigation Prejudice Doctrine defeats the purpose of broadening the range of permissible human capital proposal topics, given the ubiquity of employment-related litigation and enforcement actions involving public companies. It also impedes shareholder communication on human capital issues that are critical to long-term value creation. The Proponents respectfully request that the Staff re-examine the appropriateness of the Litigation Prejudice

---

22 https://www.osha.gov/news/newsreleases/region5/01232023

23 https://www.osha.gov/enforcement/svep

24 https://www.sec.gov/rules/petitions/2017/petn4-711.pdf

25 See https://corpgov.law.harvard.edu/2021/10/31/the-current-state-of-human-capital-disclosure/ (summarizing frameworks)

26 https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode&showStage=active&agencyCd=3235

27 See https://www.geekwire.com/2022/in-unusually-close-votes-amazon-shareholders-send-messages-on-exec-pay-labor-and-environment/; https://www.conference-board.org/publications/pdf/index.cfm?brandingURL=human-capital-management-proposals-brief-2

28 See Amazon.com, Inc. (Apr. 6, 2022) (denying request to exclude proposal seeking an independent audit of warehouse working conditions on ordinary business grounds).

Doctrine in light of both recent developments and the flexibility companies have to implement non-binding proposals.

* * *

For the reasons set forth above, Dollar General has not satisfied its burden of showing that it is entitled to omit the Proposal in reliance on Rule 14a-8(i)(7). Accordingly, the Proponents respectfully requests that Dollar General's request for relief be denied.

The Proponents appreciate the opportunity to be of assistance in this matter. If you have any questions or need additional information, please contact me at (212) 217-1027.

Sincerely,

Mary Beth Gallagher
Director of Engagement
Domini Impact Investments LLC

Encl: Exhibit A: Answer to the Petition
Exhibit B: Complaint, Linda Williams v. Dollar General Corporation, case no. 69-CV-2022-900051.00

cc: Gregory F. Parisi
Gregory.parisi@troutman.com

Exhibit A

In the United States Court of Appeals for the Seventh Circuit

Martin Walsh, Secretary of Labor, United States Department of Labor Petitioner v. Dolgencorp, LLC d/b/a Dollar General Store No. 13248, Respondent.	No. 22-2499

Dolgencorp, LLC's Answer to the Secretary of Labor's Petition for Summary Enforcement of a Final Order of the Occupational Safety and Health Review Commission

I. Background

A. Statement of the Case

1. On December 1, 2021, the U.S. Department of Labor's Occupational Safety and Health Administration ("OSHA") began an inspection of a Dolgencorp, LLC, store in Baldwin, Wisconsin. OSHA Exhibit B. On May 26, 2022, OSHA issued a citation to Dolgencorp alleging several "willful serious" violations. *Id.*

2. On June 20, 2022, OSHA and the company reached an informal settlement agreement that required Dolgencorp to abate the alleged violations. OSHA Exhibit A. Dolgencorp abated all cited conditions. Exhibit H (attached to this Answer). See page 2 below.

3. On August 25, 2022, the Secretary filed a Petition for Summary Enforcement.

B. Material Omissions from the Secretary's Statement of Statutory Background

1. On page 3 of the Secretary's petition, the Secretary paraphrases section 9(a) of the OSH Act, 29 U.S.C. § 658(a), as stating that, "Citations must describe the

nature of the violation(s) ….” The Secretary omits a crucial phrase—that the citation must “describe *with particularity* the nature of the violation….” (Emphasis added.) As shown beginning on page 5 below, that phrase is important here.

2. The petition omits mention of an enforcement avenue in the OSH Act that closely parallels the enforcement avenue in this Court provided by OSH Act § 11(b)—the notification of failure to abate a final order of the Occupational Safety and Health Review Commission (“Commission” or “OSHRC”) in OSH Act § 10(b). It also omits mention of the associated daily penalty provided by OSH Act § 17(d).

3. On page 4 of the petition, the Secretary cites the Third Circuit’s decision in *Brock v. Morysville Body Works, Inc.*, 829 F.2d 383, 386 (3d Cir. 1987), for the proposition that, under OSH Act 11(b), enforcement is “intended to be ‘automatic.’” The Sixth Circuit in *Brennan v. Winters Battery Mfg. Co.*, 531 F.2d 317, 321 (6th Cir. 1975), however, stated that entering an order of enforcement under OSH Act 11(b) “is a judicial, not ministerial, action” and that the court “will decide … whether summary enforcement should be granted.”

C. Material Omissions from and Misleading Terminology in the Secretary’s Statement of Factual Background

1. The Secretary does not inform the Court (and omitted from its exhibits) that, as required by 29 C.F.R. § 1903.19(c)(1),[1] Dolgencorp, LLC on June 21, 2022,

[1] OSHA’s abatement certification requirement states in part:

> § 1903.19 Abatement verification.
>
> * * *
>
> (c) *Abatement certification*. (1) Within 10 calendar days after the abatement date, the employer must certify to OSHA (the Agency) that each cited violation has been abated, except as provided in paragraph (c)(2) of this section.
>
> * * *

certified under penalty of criminal prosecution (specifically, under OSH Act § 17(g), 29 U.S.C. § 666(g) (quoted in n. 2 below)), that all violative conditions encompassed by the final order of the Commission were abated. A pre-printed "note" at the bottom of the certification form stated:

> NOTE: 29 USC 666(g) [states that] whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment of not more than 6 months or both.[2]

Attached as Exhibit H (continuing the Secretary's exhibit designations) is the Certification of Corrective Action Worksheet that Dolgencorp submitted.

2. The petition's terminology obscures the identity of the employer cited, evidently to subtly pierce a corporate veil. The cited employer in this case is Dolgencorp, LLC. It does business in Baldwin, Wisconsin, under the name Dollar General Store No. 13248. A different (albeit related) corporate entity, Dollar General Corp., has a one hundred percent ownership interest in Dolgencorp, LLC and is therefore often called its parent. The petition confusingly uses the term "Dollar General" to refer to both Dolgencorp, LLC and Dollar General Corp. Some

---

> (3) The employer's certification that abatement is complete must include, for each cited violation, in addition to the information required by paragraph (h) of this section, the date and method of abatement and a statement that affected employees and their representatives have been informed of the abatement.

[2] The form evidently intends to quote OSH Act 17(g), 29 U.S.C. § 666(g), which states: "Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both."

cases mentioned in Exhibit G involved Dolgencorp, LLC but others state that the cited employer was Dollar General Corporation. Dollar General Corporation should not have been cited or included in the Secretary's exhibit. *Isaacs v. Hill's Pet Nutrition, Inc.*, 485 F.3d 383 (7th Cir. 2007) (general principle that parent not liable), *citing United States v. Bestfoods*, 524 U.S. 51, 61 (1998).

3. On pages 4-5, the Secretary represents that Dolgencorp's parent "operates more than 18,000 retail stores in 46 states." On page 7, the Secretary states that, OSHA has issued "numerous" repeat and willful citations to Dollar General stores "nationwide." This is unfair, misleading, and legally irrelevant, even aside from the improper reference to Dolgencorp's parent. As this Court observed in *Caterpillar, Inc. v. Herman*, 154 F.3d 400, 403 (7th Cir. 1998), "The larger the company, the more likely is a violation to be repeated, even if the larger company is just as careful as the smaller one"; repeated violations may "reflect simply the scale of a company's operations." *See also Wal-Mart Stores, Inc. v. Sec'y of Labor*, 406 F.3d 731, 737 (D.C. Cir. 2005) (employer should not be "disadvantaged merely for being large").

II. Argument: The OSH Act's Plain Language Requires That the Petition be Denied

The plain language of the OSH Act requires that the petition be denied. We show below that, inasmuch as the violative conditions alleged in the citation have been abated, the only order that this Court could issue would apply to conditions *not* described "with particularity" in the final order, contrary to OSH Act §§ 9(a), 10(b) and 17(d). We show below that the petition therefore does *not* seek an order enforcing the "final order of the Commission" under OSH Act § 11(b), 29 U.S.C.

§ 660(b), but an order requiring compliance in perpetuity with the OSH Act standards that were cited in the final order. We show below that that is not the purpose of OSH Act § 11(b), and that construing OSH Act § 11(b) otherwise would require this Court, contrary to its precedent, to hold the "equivalent to a trial leading to a judgment." *Reich v. Sea Sprite Boat Co.*, 64 F.3d 332, 333 (7th Cir. 1995). In sum, we show below that granting the petition would upend the enforcement and adjudication structure of the OSH Act and hold a sanction over Dolgencorp to no purpose.

Despite what the petition says, it does not in reality seek an order enforcing the "final order of the Commission." Under the OSH Act a "final order of the Commission" evolves directly from an OSHA citation (either uncontested or affirmed[3]) that describes the violation "*with particularity.*" OSH Act § 9(a), 29 U.S.C. § 658(a) (emphasis added).[4] Dictionaries contemporaneous with the OSH Act define "particularity" as "[e]xactitude of detail, especially in description"[5] and "the detailed statement of particulars."[6] The analogous particularity requirement

[3] OSH Act §§ 10(a), (b), 17(d); 29 U.S.C. §§ 659(a), (b), 666(d).

[4] OSH Act § 9(a), 29 U.S.C. § 658(a), states in part: "Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation."

[5] *Particularity*, AMERICAN HERITAGE DICTIONARY 956 (1st ed. 1969) (sense 2, "Exactitude of detail, especially in description"). *See also Particularity*, WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1647 (1966) (sense 2.c, "attentiveness to detail **:** precise carefulness (as of description, statement, investigation) . . . ."; sense 2.d, "preciseness in . . . expression"); *Particularity*, RANDOM HOUSE DICTIONARY 1052 (1st ed. 1981) (sense 3, "detailed, minute, . . . as of description or statement").

[6] *Particularity,* BLACK'S LAW DICTIONARY (revised 4th ed. 1968).

in FED.R.CIV.P. 9(b)[7] requires such detail as "the time" of an allegedly violative communication. *Uni*Quality, Inc. v. Infotronx, Inc.*, 974 F.2d 918, 923 (7th Cir. 1992). The importance of particularity is especially great when an employer is accused or could be accused of a failure to abate a final order. *Marshall v. Harrison Lumber Co.*, 569 F.2d 1303 (5th Cir. 1978) (detailed discussion).[8]

It has thus been the rule since the earliest days of the OSH Act that, once abatement occurs, any substantially similar violation—or even a seemingly identical violation—of the same standard arising thereafter would not be the same condition described by the Commission's final order (and thus would not be subject to failure-to-abate penalties) but would be a new, "repeated" violation. MARK ROTHSTEIN, OCCUPATIONAL SAFETY AND HEALTH LAW p. 541 (2022 ed.) (cited condition that "was abated but recurred" not violation of final order; new "repeated" violation); AM. BAR ASS'N, OCCUPATIONAL SAFETY AND HEALTH LAW 283 (G. Dale and K. Tracy, eds., 2018) (same); *Braswell Motor Freight Lines*, 5 BNA OSHC 1469, 1471 (OSHRC 1977)[9]; OSHA, Field Operations Manual, CPL 02-00-164, Ch. 4, § VII.F (April 14, 2020), *available at* <www.osha.gov/enforcement/directives/cpl-02-

[7] FED.R.CIV.P. 9(b) states that, "[i]n alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake."

[8] Courts, including this one, have drawn a distinction between the particularity needed to support failure-to-abate penalties and the particularity needed if a citation is being litigated. In addition to *Harrison,* see *Brock v. Dow Chemical U.S.A.,* 801 F.2d 926, 930 (7th Cir. 1986). That distinction is not at issue here.

[9] *Braswell* states that a failure to abate "differs from a 'repeated' violation. The former applies if the violation continuously existed between the initial and follow-up inspections; the latter applies if the violation was corrected after the initial inspection but then recurred." The Commission there noted that OSHA stated this same view in its Field Operations Manual from the early 1970's.

00-164>.[10] "The Act itself distinguishes between citations for past violations and proceedings following the employer's failure to correct violations once it has been cited." *Diebold, Inc. v. Marshall*, 585 F.2d 1327, 1339 n.16 (6th Cir. 1978).

Inasmuch as the cited conditions no longer exist, what the petition in reality seeks is an obey-the-law injunction order (which is generally improper (*EEOC v. AutoZone Inc.*, 707 F.3d 824, 841-42 (7th Cir. 2013)) requiring compliance in perpetuity with those standards cited in the final order. And because the order could only enjoin future violations—that is, violations other than those described "with particularity" in the "final order of the Commission" (contrary to OSH Act §§ 9(a), 10(b) and 17(d))—it would not be authorized by OSH Act § 11(b), 29 U.S.C. § 660(b).

Worse, such an injunction would require this Court, contrary to its precedent, to assume a role far different from that contemplated by OSH Act § 11(b). Should an alleged new violation by Dolgencorp of a cited standard occur anywhere in the Seventh Circuit, from now until the end of time, this Court could not just impose additional penalties. It first would have to hold the "equivalent [of] a trial leading to a judgment." *Reich v. Sea Sprite Boat Co.*, 64 F.3d 332, 333 (7th Cir. 1995). Thus, should a store employee leave a box in the arguable vicinity of an exit door (Item 1), or arguably within an exit route (Item 2), or arguably in the vicinity of a

[10] OSHA's current Field Operations Manual states: "F. *Repeated v. Failure to Abate*. A failure to abate exists when a previously cited hazardous condition, practice or non-complying equipment has not been brought into compliance since the prior inspection (*i.e.*, the violation is continuously present) and is discovered at a later inspection. If, however, the violation was corrected, but later recurs, the subsequent occurrence is a repeated violation."

fire extinguisher (Item 3a) or electrical panel (Item 3b), this Court would have to hold a trial (presumably after discovery) and adjudicate the lawfulness of that new condition in the first instance. It would have to determine whether *that* box given *its* position at *that* time *in fact* prevented employees from "open[ing] an exit route door from the inside" (29 C.F.R. § 1910.36(d)(1)), or *in fact* prevented the exit route from being "free and unobstructed" (§ 1910.37(a)(3)), or *in fact* prevented the fire extinguisher from being "readily accessible" (§ 1910.157(c)(1)) or *in fact* prevented "[s]ufficient access and working space … to permit ready and safe operation" (§ 1910.303(g)(1)). And because the condition would not have been previously adjudicated to be violative, all normal defenses would presumably be available, such as whether the employer knew or could, with the exercise of reasonable diligence, have known of the violative condition, a common defense in OSHA cases.[11]

Under this petition, this Court would thus be performing the work of the Review Commissioners, the officials intended by Congress to provide "expert resolutions of the issues involved." *Atlas Roofing Co. v. OSHRC*, 430 U.S. 442, 461 (1977).[12] That is not what section 11(b) contemplates. "The proceedings in the court of appeals are not at all equivalent to a trial leading to a judgment; our role is

[11] This Court has noted that to prove an OSHA violation, OSHA "must demonstrate that the cited standard applies, that its terms were not complied with, that employees had access to the violative conditions, and that the employer knew or with reasonable diligence could have known of the violative conditions." *CH2M Hill, Inc. v. Herman*, 192 F.3d 711, 717 (7th Cir. 1999) (cleaned up).

[12] The Commission is an independent agency; it is not part of the U.S. Department of Labor. Its members are appointed by the President and confirmed by the Senate. OSH Act § 12(a); 29 U.S.C. § 661(a). It has a corps of administrative law judges. See OSH Act § 12(e); www.oshrc.gov/about/administrative-law-judges/).

one of enforcement…." *Reich v. Sea Sprite Boat Co.*, 64 F.3d 332, 333 (7th Cir. 1995). Granting the petition would therefore upend the penalty and adjudication structure of the OSH Act.

The Secretary may argue that the above arguments draw in part upon provisions and concepts that concern failures to abate under OSH Act §§ 10(b) and 17(d), and not an enforcement petition under OSH Act § 11(b). The argument would be wrong because the two enforcement avenues draw upon the same statutory provisions. Both require a Commission "final order." Both draw upon the same daily failure-to-abate penalty provision, OSH Act § 17(d), 29 U.S.C. § 666(d). *Reich v. Sea Sprite Boat Co.*, 50 F.3d 413, 416 (7th Cir. 1995) (looking to that provision for the appropriate penalty to be assessed when enforcing an unabated Commission final order under OSH Act 11(b)). What would be different—and more formidable—is that this Court, unlike the Occupational Safety and Health Review Commission, has contempt power. But that does not mean that this Court should be adjudicating first-instance allegations of violation. Section 11(b) contemplates that this Court will punish the *continuation* of those violations described with particularity by an uncontested or adjudicated citation, and thus encompassed by a final order of the Commission—not new violations.

The Secretary may also claim that compliance with a final agency order does not moot a petition for enforcement. The argument would be beside the point, for Dolgencorp is not arguing that this controversy is moot under case law pertaining to the Article III jurisdiction of federal courts or the power of equity courts, as in

Acosta v. Sunfield, Inc., No. 18-2465 (6th Cir. July 17, 2018), an unpublished Sixth Circuit case that the Secretary may cite. Dolgencorp's argument is different. It draws upon and is confined to the OSH Act. It also raises what appears to be a question of first impression in published OSH Act cases, as no such case involved a condition that had not been abated. *See Reich v. Sea Sprite Boat Co.*, 50 F.3d 413, 416 (7th Cir. 1995); *Brock v. Morysville Body Works, Inc.*, 829 F.2d 383, 386 (3d Cir. 1987); and *Brennan v. Winters Battery Mfg. Co.*, 531 F.2d 317, 320 (6th Cir. 1975) (noting the lack of abatement). The question posed by this case is therefore apparently one of first impression.

Moreover, the reasoning of the Sixth Circuit in the unpublished *Sunfield* case relied upon inapposite cases arising under the National Labor Relations Act, 29 U.S.C. §§ 151-169 ("NLRA"), such as *NLRB v. Mexia Textile Mills*, 339 U.S. 563, 567-68 (1950). Those cases are inapposite because, first, as shown above and as this Court has held, the structure of the OSH Act does not permit first-instance adjudication by a court of appeals of whether a condition is violative; it leaves that to the Commission. Under the NLRA, on the other hand, a court order of enforcement is the only means of enforcement; the NLRA grants the NLRB no authority to impose civil penalties, let alone for repeated violations. *That* is why the NLRB would have to "play hide-and-seek with those guilty of unfair labor practices." 339 U.S. at 568. By contrast, under the OSH Act, OSHA can seek and the Commission can impose ten-fold greater penalties for repeated violations without having to go back to a court.

The Secretary may also drag other red herrings across the Court's path. He may argue that the "OSH Act" does not require him to allege the continued existence of a cited condition to obtain an enforcement order. Whether that is true or not, it is irrelevant where the Secretary does not dispute that abatement of the cited condition has occurred, for it means that the petition seeks an order that can never have any consequence.

Despite the petition's repeated use of "summary" or "summarily," issuance of the requested decree is not a ministerial function. In *Brennan v. Winters Battery Mfg. Co.*, 531 F.2d 317, 321 (6th Cir. 1975), the Sixth Circuit stated that "[t]he panel will decide whether the proposed order is final and unreviewable and whether summary enforcement *should* be granted." (Emphasis added.)

* * *

Dolgencorp should not be subjected in perpetuity to a court order, enforceable by contempt, unless it is clearly authorized by the OSH Act. The order sought here is not authorized by the OSH Act—and certainly not clearly authorized. The requested order should, therefore, not be issued.

III. Request for Oral Argument

Dolgencorp respectfully requests the opportunity to present oral argument.

IV. Conclusion

Accordingly, the petition should be denied.

Respectfully submitted,

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C., by

Arthur G. Sapper, Esq.
Counsel of Record
Suite 1000
1909 K Street NW
Washington, D.C. 20006
(o) 202-263-0270; (c) 202-664-9644
Arthur.Sapper@ogletree.com

Eric E. Hobbs, Esq.
Suite 200, Pabst Boiler House
1243 North 10th Street
Milwaukee, WI 53205
Telephone: 414-239-6414
eric.hobbs@ogletree.com

Counsel for Dolgencorp, LLC, Respondent

CERTIFICATE OF SERVICE

Certificate of Service When All Case Participants Are CM/ECF Participants

I hereby certify that on September 15, 2022, I electronically filed the foregoing with the Clerk of this Court by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system. I further certify that on September 15, 2022, I served the foregoing through the service effected by the ECF filing system and by electronic mail upon:

Catherine L. Seidelman, Esq.
Senior Attorney
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210
(202) 693-0552
seidelman.catherine@dol.gov

and upon zzSOL-OSHCourt&OALJNotices@dol.gov .

☒ /s/ Arthur G. Sapper

Certificate of Compliance With FED.R.APP.P. 27(d)(2)(A) and 32(g)

I hereby certify that the foregoing complies with the type-volume limitation of FED. R. APP. P. 27(d)(2)(A) and 32(g) because it contains 3263 words (fewer than 5200 words).

☒ /s/ Arthur G. Sapper

Exhibit H

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1566292

Company Name: Dolgencorp, LLC, dba Dollar General Store #13248
Inspection Site: 880 Spruce Street, Baldwin, WI 54002
Issuance Date: 05/26/2022

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 1310 W. Clairemont Avenue, Eau Claire, WI 54701.**

Citation Number 1 and Item Number 1 was corrected on 12/2/21
By (Method of Abatement): Unauthorized devices were removed from the door

Citation Number 1 and Item Number 2 was corrected on 6/15/22
By (Method of Abatement): Please see attached exhibit

Citation Number 1 and Item Number 3a was corrected on 6/15/22
By (Method of Abatement): Please see attached exhibit

Citation Number 1 and Item Number 3b was corrected on 6/15/22
By (Method of Abatement): Please see attached exhibit

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

Signature

6/21/2022
Date

Adam Zager
Typed or Printed Name

Risk Management
Title

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review

Abatement Recap

Violations

- Citation 1 Item 1 Emergency Exit locked and obstructed
- Citation 1 Item 2 Emergency Exit routes obstructed
- Citation 1 Item 3a Fire extinguishers not mounted
- Citation 1 Item 3b Sufficient work space not allowed around electrical equipment and panels

Behavioral Changes to maintain

1. Store Manager to be replaced with high potential Store Manager
2. Storage container to remain on site to assist in overflow of freight
3. Move store to a dedicated early morning delivery
4. Maintenance issues to be immediately entered into respond and escalated for immediate repairs.
5. Evaluate Seasonal and NCI freight flow and place on correct allocations program.
6. Leadership Team to visit store weekly
7. Quality Store Visits, Store Compliance Visits to be completed per strategy
8. CBL required training and safety training to be complete by all existing associates immediately and all new associates within the training calendar
9. Purge Receiving Room of all old displays and fixtures
10. Hire and schedule appropriately for the needs of the business
11. RAPM to visit store every 30 days to review safety and compliance and complete audit

Exhibit B

Exhibit 1

AlaFile E-Notice

69-CV-2022-900051.00

To: DOLLAR GENERAL CORPORATION
CORPORATION SERVICE CO.
2908 POSTON AVENUE
NASHVILLE, TN, 37203

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF BARBOUR COUNTY, ALABAMA

LINDA WILLIAMS V. DOLLAR GENERAL CORPORATION
69-CV-2022-900051.00

The following complaint was FILED on 9/30/2022 3:27:56 PM

Notice Date: 9/30/2022 3:27:56 PM

PAIGE SMITH
CIRCUIT COURT CLERK
BARBOUR COUNTY, ALABAMA
405 EAST BARBOUR STREET
SUITE 3, ROOM 119
EUFAULA, AL, 36027

334-687-1500
paige.smith@alacourt.gov

State of Alabama Unified Judicial System Form C-34 Rev. 4/2017	**SUMMONS** **- CIVIL -**	**Court Case Number** 69-CV-2022-900051.00

IN THE CIRCUIT COURT OF BARBOUR COUNTY, ALABAMA
LINDA WILLIAMS V. DOLLAR GENERAL CORPORATION

NOTICE TO: DOLLAR GENERAL CORPORATION, CORPORATION SERVICE CO. 2908 POSTON AVENUE, NASHVILLE, TN 37203
(Name and Address of Defendant)

THE COMPLAINT OR OTHER DOCUMENT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT, AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT OR OTHER DOCUMENT, WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE PLAINTIFF(S) OR ATTORNEY(S) OF THE PLAINTIFF(S), JAMES MICHAEL TERRELL
[Name(s) of Attorney(s)]

WHOSE ADDRESS(ES) IS/ARE: 2201 ARLINGTON AVENUE SOUTH, BIRMINGHAM, AL 35205
[Address(es) of Plaintiff(s) or Attorney(s)]

THE ANSWER MUST BE MAILED OR DELIVERED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT OR OTHER DOCUMENT WERE SERVED ON YOU OR A JUDGMENT BY DEFAULT MAY BE RENDERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT OR OTHER DOCUMENT.

TO ANY SHERIFF OR ANY PERSON AUTHORIZED BY THE ALABAMA RULES OF CIVIL PROCEDURE TO SERVE PROCESS:

☐ You are hereby commanded to serve this Summons and a copy of the Complaint or other document in this action upon the above-named Defendant.

☑ Service by certified mail of this Summons is initiated upon the written request of LINDA WILLIAMS *[Name(s)]* pursuant to the Alabama Rules of the Civil Procedure.

09/30/2022 *(Date)* /s/ PAIGE SMITH *(Signature of Clerk)* By: _____ *(Name)*

☑ Certified Mail is hereby requested. /s/ JAMES MICHAEL TERRELL *(Plaintiff's/Attorney's Signature)*

RETURN ON SERVICE

☐ Return receipt of certified mail received in this office on _____ *(Date)*.

☐ I certify that I personally delivered a copy of this Summons and Complaint or other document to _____ *(Name of Person Served)* in _____ *(Name of County)* County, Alabama on _____ *(Date)*.

_____ *(Address of Server)*

_____ *(Type of Process Server)*

_____ *(Server's Signature)*

_____ *(Server's Printed Name)*

_____ *(Phone Number of Server)*

ELECTRONICALLY FILED
9/30/2022 3:27 PM
69-CV-2022-900051.00
CIRCUIT COURT OF
BARBOUR COUNTY, ALABAMA
PAIGE SMITH, CLERK

State of Alabama
Unified Judicial System
Form ARCiv-93 Rev. 9/18

COVER SHEET
CIRCUIT COURT - CIVIL CASE
(Not For Domestic Relations Cases)

Cas
69
Date of Filing: 09/30/2022
Judge Code:

GENERAL INFORMATION

IN THE CIRCUIT COURT OF BARBOUR COUNTY, ALABAMA
LINDA WILLIAMS v. DOLLAR GENERAL CORPORATION

First Plaintiff: ☐ Business ☑ Individual ☐ Government ☐ Other

First Defendant: ☑ Business ☐ Individual ☐ Government ☐ Other

NATURE OF SUIT: Select primary cause of action, by checking box (check only one) that best characterizes your action:

TORTS: PERSONAL INJURY
- ☐ WDEA - Wrongful Death
- ☑ TONG - Negligence: General
- ☐ TOMV - Negligence: Motor Vehicle
- ☐ TOWA - Wantonness
- ☐ TOPL - Product Liability/AEMLD
- ☐ TOMM - Malpractice-Medical
- ☐ TOLM - Malpractice-Legal
- ☐ TOOM - Malpractice-Other
- ☐ TBFM - Fraud/Bad Faith/Misrepresentation
- ☐ TOXX - Other: _____

TORTS: PERSONAL INJURY
- ☐ TOPE - Personal Property
- ☐ TORE - Real Property

OTHER CIVIL FILINGS
- ☐ ABAN - Abandoned Automobile
- ☐ ACCT - Account & Nonmortgage
- ☐ APAA - Administrative Agency Appeal
- ☐ ADPA - Administrative Procedure Act
- ☐ ANPS - Adults in Need of Protective Service

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

ORIGIN: F ☑ INITIAL FILING; A ☐ APPEAL FROM DISTRICT COURT; O ☐ OTHER; R ☐ REMANDED; T ☐ TRANSFERRED FROM OTHER CIRCUIT COURT

HAS JURY TRIAL BEEN DEMANDED? ☑ YES ☐ NO

Note: Checking "Yes" does not constitute a demand for a jury trial. (See Rules 38 and 39, Ala.R.Civ.P, for procedure)

RELIEF REQUESTED: ☑ MONETARY AWARD REQUESTED ☐ NO MONETARY AWARD REQUESTED

ATTORNEY CODE: TER015

9/30/2022 3:27:51 PM
Date

/s/ JAMES MICHAEL TERRELL
Signature of Attorney/Party filing this form

MEDIATION REQUESTED: ☐ YES ☑ NO ☐ UNDECIDED

Election to Proceed under the Alabama Rules for Expedited Civil Actions: ☐ YES ☐ NO

IN THE CIRCUIT COURT OF BARBOUR COUNTY,
(Eufaula Division)

LINDA WILLIAMS,

Plaintiff, **CIVIL ACTION NO. _____**

v.

DOLLAR GENERAL CORPORATION,

Defendant.

CLASS ACTION COMPLAINT

Plaintiff Linda Williams ("Plaintiff"), individually and on behalf of all others similarly situated, by and through her undersigned attorneys, brings this Class Action Complaint against Defendant Dollar General Corporation ("Dollar General") for its negligent, reckless, and/or intentional practice of selling products that may be contaminated by virtue of rodent infestation and other unsanitary conditions in stores throughout Alabama and other southern states. Plaintiff seeks both injunctive and monetary relief on behalf of the proposed Class (as defined herein), including requiring full and accurate disclosure of the rodent infestation and other unsanitary conditions, as well as restoring monies to the members of the proposed Class. Plaintiff alleges the following based upon personal knowledge, investigation by counsel, and facts that are a matter of public record and, as to all other matters, upon information and belief:

I. INTRODUCTION

1. Dollar General Corporation is a Fortune 500 company and a leading operator of discount variety stores in North America. Dollar General is the largest retailer in the United States by store count, with more than 18,000 stores, located within five miles of approximately 75% of

the U.S. population.[1] As of February 25, 2022, Dollar General operated18,190 retail locations in 47 states throughout the United States, including 869 stores in Alabama..[2] In the fiscal year of 2021, Dollar General's net sales amounted to approximately 34.22 billion U.S. dollars.[3] Dollar General's largest merchandise category is consumables, accounting for over 75% of their net sales, which include paper and cleaning products, packaged foods, perishables, snacks, health and beauty, pet and tobacco products.[4]

2. Dollar General is a "value store" that sells groceries, medicine, medical devices, dietary supplements, cosmetics, and many other household goods. Thousands of Alabama consumers depend upon Dollar General for their daily needs. According to Dollar General: "Dollar General stands for convenience, quality brands and low prices. Dollar Genera's stores aim to make shopping a hassle-free experience. We design small, neighborhood stores with carefully-edited merchandise assortments to make shopping simpler. Dollar General saves time by staying focused on household essentials including paper and cleaning products, foods, over-the-counter medicines, health and beauty products, seasonal items, baby needs and more."[5] Many stores are located in rural areas, usually in small towns, often within walking distance or a very short drive from consumers' homes.

3. Dollar General operates 28 distribution centers across the country to support its retail stores. According to Dollar General, "Well-stocked aisles and *products in perfect shape* are key to our success. Every day, tens of thousands of items make it to stores all over the country—all thanks to the dedicated work of our distribution center teams. In addition to our 18 state-of-the-

---

[1] Dollar General 2021 Annual Report, available at https://investor.dollargeneral.com/download/companies/dollargeneral/Annual%20Reports/Final%20pdf%202021%20annual%20report.pdf https://www.statista.com/statistics/1121086/number-of-dollar-general-stores-in-the-united-states-by-state/ (last visited September 27, 2022).

[2] *Id.*

[3] *Id.*

[4] *Id.*

[5] Dollar General, *About Dollar General,* available at https://dollargeneral.com/about-us (last visited August 15, 2022).

art facilities around the country, we have added 10 Fresh distribution centers that allow us to deliver fresh foods such as milk, eggs, and more to our stores across the country."[6] (emphasis added). One of those distribution centers for Alabama and other southeastern stores is located at 4101 Lakeshore Parkway in Bessemer, Alabama (the "Bessemer Distribution Center"). The Bessemer Distribution Center distributes products to Dollar General stores in Alabama and other southern states, including over 860 stores in Alabama.

4. In or around late July or early August 2022, Dollar General closed the Bessemer Distribution Center due to significant rodent infestation. The closure of the Bessemer Distribution Center came after several Dollar General employees voiced concerns about rodents being present inside the facility, including rodents in and on retail merchandise. An individual under the name "CollegevilleGQ" on Facebook posted three separate videos of rats in food inventory and dead in the facility during his employment at the Bessemer Distribution Center. The videos were uploaded on February 23 and 25, 2022. On August 8, 2022, Birmingham news station CBS42/WIAT ran a news story about the Bessemer Distribution Center closure and the rodent/infestation concerns at the Bessemer Distribution Center.[7]

5. The rodent infestation and unsanitary conditions were never disclosed to Dollar General consumers prior to the CBS 42 report. The rodent infestation and unsanitary conditions at the Bessemer Distribution Center pose a major health and safety hazard to consumers.

6. There are numerous dangers associated with rodents including the potential presence of Salmonella, an organism which can cause serious and sometimes fatal infections in infants, young children, frail or elderly people, pregnant persons, persons with pre-existent

[6] Dollar General, *Distribution Centers*, available at https://careers.dollargeneral.com/distribution-centers/ (last visited September 27, 2022).

[7] www.cbs42.com/news/local/bessemer-dollar-general-distribution-center-temporarily-closed-due-to-possible-rat-infestation/

pathology (e.g., patients with cancer undergoing chemotherapy treatments, organ transplant recipients, etc.) and others with weakened immune systems.

7. Dollar General had actual knowledge of the rodent infestation since at least late 2021. Dollar General knew or should have known of the rodent infestation from far earlier due to its obligation to inspect its facilities, including distribution centers, for safety and health-related issues and to maintain clean environment of its facilities. Nevertheless, Dollar General chose to omit information about the rodent infestation and not to disclose rodent infestation to Plaintiff and the Class, so that it could continue to profit from the sale of its products.

8. The potentially harmful consumable products at issue include: (a) human foods, snacks and beverages (groceries, perishables, canned goods, packaged dinners, condiments, herbs and spices, boxed baking mixes, beer and wine, frozen foods, candy and gum,); (b) animal foods; (c) cosmetics and personal care products (skincare products, baby oils, lipsticks, toothpaste, shampoos, feminine care, and baby wipes); (d) baby products (baby food and formula, diapers and wipes, and baby bath and skincare products), (e) medical devices (feminine hygiene products, surgical masks, contact lens cleaning solutions, bandages, and nasal care products); (f) over-the-counter medications (pain medications, eye drops, dental products, antacids, and other medications for both children and adults) and (g) vitamins and dietary, herbal and mineral supplements.

9. At no time, either before or after the Bessemer Distribution Center closing, has Dollar General alerted consumers to the potentially harmful and contaminated products, nor has Dollar General issued any type of inspection or recall of products that may be affected.

10. During this time, Dollar General made significant profits, while knowingly exposing Alabama consumers to potentially hazardous or contaminated products by allowing and failing to prevent long-lasting and massive rodent infestations and other unsanitary conditions at its Bessemer Distribution Center. These facts demonstrate a troubling pattern of willful and

intentional neglect and deceptive and unconscionable business practices by Dollar General that compromise the health, safety, and well-being of Alabama consumers.

11. Despite its knowledge, Dollar General omitted information regarding the rodent infestation and unsanitary conditions from all advertising, promotion, or other contacts with Plaintiff and members of the Class prior to their purchase of products and continued to ship the products to its stores located in the southeast, including Alabama, from the Bessemer Distribution Center. By knowingly failing to disclose the rodent infestation and associated risk of contamination to consumers and by failing to correct the problem, Plaintiff and the Class purchased products of a lesser standard, grade and quality represented that do not meet ordinary and reasonable consumer expectations regarding the quality or value of the products and are unfit for their intended purpose. Moreover, the contamination associated with the rodent infestation poses a significant health risk to consumers that used or handled the products.

12. Plaintiff brings this action on behalf of herself and all those similarly situated (the "Class," "Class Members,") for Defendant's deceptive practices in violation of Alabama law. Plaintiff seeks damages, attorney's fees and costs, punitive damages, and the replacement of, or refund of money paid to purchase the products, and any other legal relief available for their claims. Should Plaintiff's demanded legal relief be unavailable or prove insufficient, Plaintiff seeks appropriate equitable and injunctive relief in the alternative pursuant to Ala. R. Civ. P. 8(a)(3).

II. PARTIES

13. Plaintiff Linda Williams is, and at all times relevant hereto has been, a resident citizen of Eufaula, Alabama, located in Barbour County. Plaintiff purchased various consumable items, including, but not limited to, human foods, cosmetics and personal care products and over the counter medications, throughout 2022 from Dollar General located in Eufaula, Alabama.

14. During the time, Plaintiff purchased, handled and used these consumable products, and due to the false and misleading claims and omissions by Defendant, Plaintiff believed the consumable products she purchased were safe. Plaintiff was unaware the products contained, or had a risk of containing, Salmonella or other infectious diseases. Plaintiff would not have purchased the consumable products if the rodent infestation and the related potential for contamination with Salmonella or other infectious disease had been fully and accurately disclosed and represented.

15. Defendant Dollar General Corporation is incorporated under the laws of the state of Tennessee. Defendant is responsible for the manufacturing, labeling, marketing, distribution, and sale of its products to thousands of consumers in Alabama.

III. JURISDICTION AND VENUE

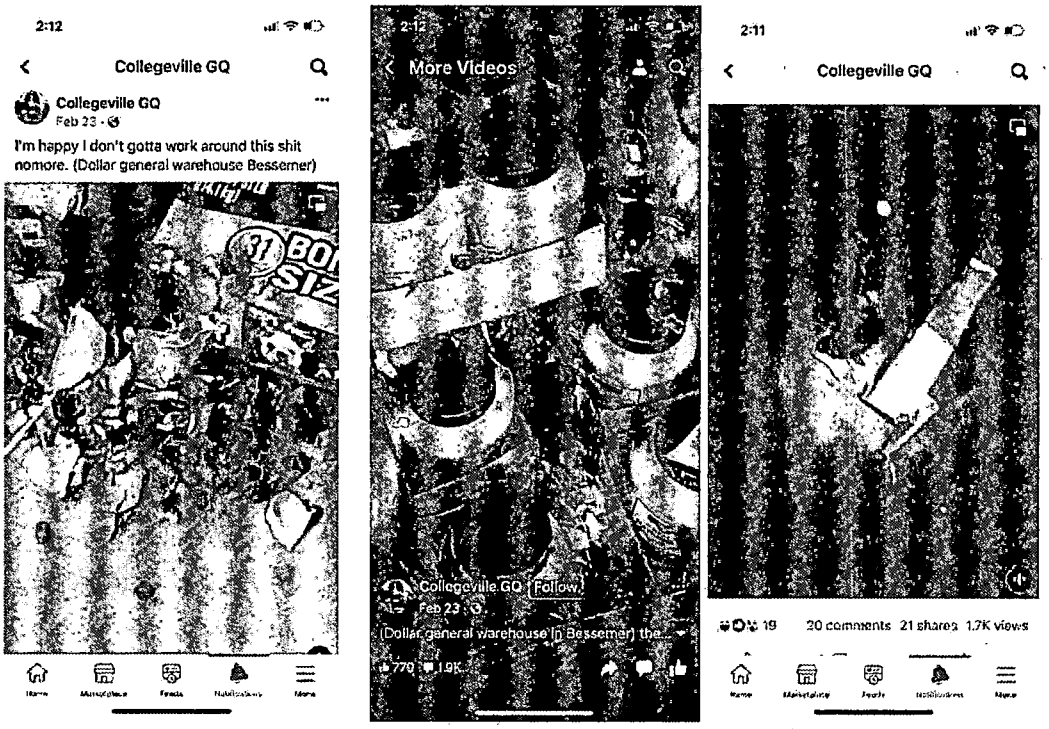
16. Jurisdiction is proper in Alabama as Plaintiff shopped at Dollar General stores in Eufaula, Alabama and purchased one or more of the harmful and contaminated consumable products described herein. Further, the harmful and contaminated consumable products described herein came to the Dollar General Eufaula store location through the Bessemer Distribution Center at issue.

17. Venue is proper in Barbour County, Alabama pursuant to Ala. Code § 6-3-7(a) because Plaintiff resides in Barbour County, Plaintiff's transactions with Defendant occurred in Barbour County, and a substantial part of the events or omissions giving rise to the claim occurred in Barbour County. Defendant conducts business in Barbour County, Alabama, and its contacts here are sufficient to subject it to personal jurisdiction.

IV. FACTUAL ALLEGATIONS

18. In or around late July or early August 2022, Dollar General closed its Bessemer Distribution Center due to significant rodent infestation as well as other unsanitary conditions. The

closure of the Bessemer Distribution Center occurred after several Dollar General employees voiced concerns about rodents being present inside the facility, including in and on retail merchandise. An individual under the name "CollegevilleGQ" on Facebook posted three separate videos of rats in food inventory and dead inside the facility during his employment at the Bessemer Distribution Center. The videos were uploaded on February 23 and 25, 2022. The photographs below were captured from these videos and were featured on CBS42/WIAT's August 8, 2022 news story:



19. On August 8, 2022, Birmingham news station CBS42/WIAT ran a news story about the Bessemer Distribution Center closure and the rodent infestation concerns at the Bessemer Distribution Center.

20. The rodent infestation and unsanitary conditions were never disclosed to Dollar General consumers prior to the CBS42 report. The rodent infestation and unsanitary conditions at the Bessemer Distribution Center pose a major health risk and safety hazard to consumers.

21. Because of the rodent infestation and other unsanitary conditions at the Bessemer Distribution Center, numerous categories of products purchased by consumers from Dollar General are unsafe for consumers to use or handle and should be discarded.

22. The potentially harmful consumable products at issue include: (a) human foods, snacks and beverages (groceries, perishables, canned goods, packaged dinners, condiments, herbs and spices, boxed baking mixes, beer and wine, frozen foods, candy and gum,); (b) animal foods; (c) cosmetics and personal care products (skincare products, baby oils, lipsticks, toothpaste, shampoos, feminine care, and baby wipes); (d) baby products (baby food and formula, diapers and wipes, and baby bath and skincare products), (e) medical devices (feminine hygiene products, surgical masks, contact lens cleaning solutions, bandages, and nasal care products); (f) over-the-counter medications (pain medications, eye drops, dental products, antacids, and other medications for both children and adults) and (g) vitamins and dietary, herbal and mineral supplements.

23. Dollar General is responsible for the safe, clean and proper storage of all products in its distribution centers and the safety and quality of those products sold in its stores. Dollar General exerts day-to-day operational control from the top down, with its national corporate entity designing, supervising, and implementing uniform policies and procedures (to the extent they exist and are followed) that govern how its distribution centers, including the Bessemer Distribution Center, and its stores operate, including the conduct at issue herein. Dollar General's method of control intentionally allowed and resulted in the massive and long-lasting rodent infestation at the Bessemer Distribution Center and the selling of thousands of dollars' worth of potentially hazardous and contaminated products to Alabama consumers.

24. Alabama consumers depend and rely upon representations by Dollar General concerning the safety and quality of its products. The pervasive and extensive rodent infestation and other unsanitary conditions at the Bessemer Distribution Center were not disclosed to Alabama consumers prior to the CBS42/WIAT report and warehouse closure, despite the significant health and safety threats to consumers.

25. Alabama consumers paid thousands of dollars to Dollar General for products impacted by its rodent infestation, and because of the multitude of health hazards and dangers associated with these products, the commercial value of these products has been stripped.

26. Dollar General had actual knowledge of the rodent infestation since at least 2021. Dollar General knew or should have known of the rodent infestation and other unsanitary conditions far earlier, however, due to its obligation to inspect its facilities for safety, cleanliness, quality control, and health-related issues. Nevertheless, Dollar General chose not to disclose this information to Alabama consumers but continued to profit from the sales of its potentially hazardous or contaminated goods.

27. Dollar General omitted information about the extraordinary rodent infestation and resultant product contamination from all advertising, promotions, or other contacts with Alabama consumers prior to the consumer's purchase of the potentially hazardous or contaminated products and continued to ship these products to its Alabama stores from the Bessemer Distribution Center. By knowingly failing to disclose this information or correct the problems and associated risks of contamination, Alabama consumers purchased products of a lesser standard, grade, and quality that failed to meet ordinary and reasonable consumer expectations regarding quality and value of products. These products were unfit for their intended purposes.

28. Alabama consumers purchased and continued to handle or use the potentially hazardous or contaminated products and were unaware that the products they purchased could be

dangerous. Alabama consumers, including Plaintiff, would not have purchased the potentially hazardous or contaminated products if Dollar General had fully and accurately disclosed the rodent infestation and the related potential for contamination with Salmonella bacteria or other infectious diseases.

29. Alabama consumers, including Plaintiff, relied on Dollar General's marketing, which it disseminated throughout the state, through advertising, packaging, and labeling that omitted any mention of its rat infestation and contaminated or potentially contaminated goods.

30. Plaintiff alleges that at all relevant times, including specifically at the time Plaintiff and Class Members purchased the products, Dollar General knew, should have known, or was reckless in not knowing of the rodent infestation; Dollar General had a duty disclose information material to a consumer, such as the rodent infestation, based upon its exclusive knowledge; but Dollar General never disclosed the rodent infestation to Plaintiff, Class Members, or the general public.

31. Plaintiff makes the following allegations as specific as reasonably possible:

a) **Who**: *Dollar General* actively omitted information concerning the existence of the rodent infestation and unsanitary conditions from Plaintiff and Class Members at the point of sale or thereafter. Defendant's agents should have and could have disclosed the rodent infestation. As to Plaintiff, Defendant should have and could have disclosed the rodent infestation at the time Plaintiff purchased the products or thereafter.

b) **What**: Dollar General knew, should have known, or was reckless in not knowing, that the products were exposed to Salmonella and other infectious diseases due to the rodent infestation. Despite its knowledge, Dollar General *failed to disclose the rodent infestation* at the point of sale or thereafter.

c) **When**: Dollar General's omissions began *from the start of the Class period and continue to this day*. Dollar General has never taken any action to inform Plaintiff, Class Members, or the general public of the true nature or extent of the rodent infestation. As to Plaintiff, Defendant has continually omitted the true nature of the rodent infestation for the entirety of the relevant time period, including at the point of sale.

d) **Where**: Dollar General's omissions occurred *in every communication* it had with Plaintiff, Class Members, and the general public. As to Plaintiff, Defendant's omissions occurred in every communication it had with Plaintiff about the products, including all communications that happened before, at the point of and after Plaintiff's purchases.

e) **How**: Defendant *omitted and failed to disclose* the rodent infestation to Plaintiff, Class Members, or the general public at the point of sale or thereafter via a press release, postings at its stores, permanent warnings affixed to the products, direct mail campaign, or otherwise. As to Plaintiff, Defendant omitted and failed to disclose the rodent infestation in any communication or point of sale document.

f) **Why**: Due to corporate greed, Dollar General omitted the rodent infestation to deceive Plaintiff, Class Members, and the general public into buying products to *maximize its profits*. Furthering its goal to maximize profits, Dollar General failed to notify Class Members of the true nature of the rodent infestation to avoid requests to refund product purchases. As to Plaintiff, Dollar General omitted the rodent infestation to deceive them into

purchasing products, thereby maximizing Defendant's profits and to avoid refunding the cost of products to consumers.

g) **Causation**: Because Dollar General failed to disclose the rodent infestation, despite its extensive knowledge, Plaintiff and Class Members purchased products that were of a lesser standard, grade or quality that failed to meet ordinary and reasonable consumer expectations regarding quality and value of the products and these products did not or will not safely perform as intended. As such, these contaminated and potentially hazardous products are worth less than those products of uncontaminated standard, grade or quality and ones that are safe to use and handle. Had Defendant disclosed the rodent infestation, *Plaintiff and other Class Members would not have purchased the products, or certainly would have paid less for the products.*

32. Earlier this year, Dollar General's primary competitor, Family Dollar, closed over 400 retail stores and issued a voluntary recall of retail product as a result of similar massive rodent infestation and unsanitary conditions at Family Dollar's West Memphis Distribution Center. In contrast to the closure of retail stores, affirmative notice to consumers, and a voluntary recall of products disseminating out of the West Memphis Distribution Center, Dollar General has taken **no** actions to inform the public, close or inspect affected retail stores, or recall any contaminated or potentially contaminated retail products that may be in the hands of consumers and pose a significant health and safety risk.

V. CLASS ACTION ALLEGATIONS

33. Plaintiff brings this action as a class action pursuant to Rule 23 of the Alabama Rules of Civil Procedure on behalf of the following Class:

> All persons residing in the state of Alabama who, during the twelve (12) months preceding the filing of this class action complaint,

> purchased consumable products including: (a) human foods, snacks and beverages; (b) animal foods; (c) cosmetics and personal care products; (d) baby products, (e) medical devices; (f) over-the-counter medications and (g) vitamins and dietary, herbal and mineral supplements from Dollar General stores located in Alabama and supplied by the Bessemer Distribution Center.

34. Excluded from the Class are Defendant, its employees, officers, directors, legal representatives, heirs, successors and wholly or partly owned subsidiaries or affiliates of Defendant, Class Counsel and their employees, and the judicial officers and their immediate family members and associates court staff assigned to this case.

35. Numerosity—Ala. R. Civ. P. 23(a)(1). The Class is comprised of thousands of individuals who were Defendant's customers, the joinder of which in one action would be impracticable. The exact number or identification of the Class Members is presently unknown. The identity of the Class Members is ascertainable and can be determined based on Defendant's records.

36. Predominance of Common Questions—Ala. R. Civ. P. 23(a)(2), 23(b)(3). The questions of law and fact common to the Class predominate over questions affecting only individual Class Members, and include, but are not limited to, the following:

a) whether Defendant owed a duty of care;

b) whether Defendant knew or should have known that the rodent infestation existed;

c) whether Defendant knew or should have known that the rodent infestation posed health and safety risks to consumers;

d) whether Defendant failed to disclose the rodent infestation;

e) whether Defendant's representations in advertising, warranties, packaging, and/or labeling are false, deceptive, and misleading;

f) whether those representations are likely to deceive a reasonable consumer;

g) whether Defendant had knowledge that those representations were false, deceptive, and misleading;

h) whether Defendant continues to disseminate those representations despite knowledge that the representations are false, deceptive, and misleading;

i) whether Defendant's failure to notify and disclose the rodent infestation is material to a reasonable consumer;

j) whether Defendant's marketing and advertising of the products are likely to mislead, deceive, confuse, or confound consumers acting reasonably;

k) whether Defendant violated Alabama law; and

l) whether Plaintiff and the members of the Class are entitled to declaratory and injunctive relief.

37. Defendant engaged in a common course of conduct giving rise to the legal rights sought to be enforced by Plaintiff individually and on behalf of the other members of the Class. Identical statutory violations and business practices and harms are involved. Individual questions, if any, are not prevalent in comparison to the numerous common questions that dominate this action.

38. Typicality—Fed. R. Civ. P. 23(a)(3). Plaintiff's claims are typical of those of the members of the Class in that they are based on the same underlying facts, events, and circumstances relating to Defendant's conduct.

39. Adequacy—Ala. R. Civ. P. 23(a)(4); 23(g)(1). Plaintiff will fairly and adequately represent and protect the interests of the Class, has no interest incompatible with the interests of the Class, and has retained counsel competent and experienced in class action, consumer protection, and false advertising litigation.

40. Predominance —Ala. R. Civ. P. 23(b)(3). Questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class.

41. Superiority—Ala. R. Civ. P. 23(b)(3). A class action is the best available method for the efficient adjudication of this litigation because individual litigation of Class Members' claims would be impracticable and individual litigation would be unduly burdensome to the courts. Plaintiff and members of the Class have suffered irreparable harm as a result of Defendant's bad faith, fraudulent, deceitful, unconscionable, unlawful, and unfair conduct. Because of the size of the individual Class Members' claims, no Class Member could afford to seek legal redress for the wrongs identified in this Complaint. Without the class action vehicle, the Class would have no reasonable remedy and would continue to suffer losses, as Defendant continues to engage in the bad faith, fraudulent, deceitful, unconscionable, unlawful, and unfair conduct that is the subject of this Complaint, and Defendant would be permitted to retain the proceeds of its violations of law. Further, individual litigation has the potential to result in inconsistent or contradictory judgments. A class action in this case presents fewer management problems and provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court.

COUNT I
VIOLATION OF ALABAMA DECEPTIVE TRADE PRACTICES ACT
(ALA. CODE § 8-19-1, et seq.)

42. Plaintiff re-alleges and incorporates by reference each of the paragraphs above.

43. Plaintiff is a "consumer" within the meaning of ALA. CODE § 8-19-3(2).

44. Plaintiff is a "person"" within the meaning of ALA. CODE § 8-19-3(5).

45. The products are "goods" within the meaning of ALA. CODE § 8-19-3(3).

46. Defendant engaged in "trade or commerce" within the meaning of ALA. CODE § 8-19-3(8).

47. The Alabama Deceptive Trade Practices Act ("Alabama DTPA") declares several specific actions to be unlawful, including: "(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or qualities that they do not have," "(7) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another," and "(27) Engaging in any other unconscionable, false, misleading, or deceptive act or practice in the conduct of trade or commerce." ALA. CODE § 8-19-5.

48. By concealing the risks and harms associated with the use and handling of the products (which due to the rodent infestation and other unsanitary conditions contain or have a risk of containing Salmonella or other infectious diseases), Defendant engaged in deceptive business practices prohibited by the Alabama DTPA, including representing that products have characteristics, uses, benefits, and qualities which they do not have; representing that products are of a particular standard, quality, and grade when they are not; and engaging in other unconscionable, false, misleading, or deceptive acts or practices in the conduct of trade or commerce. All of this deception would be material to a reasonable consumer.

49. Defendant also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the products.

50. By failing to disclose and by actively concealing the defects in the products, Defendant engaged in unfair and deceptive business practices in violation of the Alabama DTPA.

51. In the course of Defendant's business, it willfully failed to disclose and actively concealed the dangerous risks posed by the products. Defendant's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiff.

52. Defendant intentionally and knowingly misrepresented material facts regarding the products.

53. Defendant knew or should have known that its conduct violated the Alabama DTPA.

54. Defendant owed a duty to disclose the true quality, safety and reliability of the products.

55. Because Defendant fraudulently concealed the harms and risks associated with the products, consumers were deprived of the benefit of their bargain since the products purchased were worth less than they would have been if they were free from such harms and risks.

56. Plaintiff suffered ascertainable loss caused by Defendant's misrepresentations and its concealment.

57. As a direct and proximate result of Defendant's violations of the Alabama DTPA, Plaintiff has suffered injury-in-fact and/or actual damage as alleged above. As a direct result of Defendant's misconduct, Plaintiff and the Class incurred damages.

58. Pursuant to ALA. CODE § 8-19-10, Plaintiff seeks monetary relief against Defendant.

59. Plaintiff also seeks an order enjoining Defendant's unfair, unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper relief available under ALA. CODE § 8-19-1, et seq.

COUNT II
NEGLIGENCE

60. Plaintiff re-alleges and incorporates by reference each of the paragraphs above.

61. Defendant owed a duty to Plaintiff and the Class to exercise reasonable care in the manufacturing, labeling, advertising, marketing, promotion, storage, distribution, and sale, of its products.

62. Defendant breached its duties to Plaintiff and the Class by:

a) marketing, selling, advertising and warranting defective products (which contain or have a risk of containing Salmonella or other infectious diseases) to Plaintiff and the Class;

b) failing to take those steps necessary to discontinue selling the contaminated and potentially hazardous products to consumers;

c) failing to design, direct, train, supervise, or implement policies and procedures for the safe and clean storage, handling, and distribution of products to consumers;

d) knowingly storing, distributing, and selling contaminated and potentially hazardous products to Plaintiff and the Class; and,

63. failing to take those steps necessary to discontinue selling the products to consumers. Defendant was aware, or reasonably should have been aware, that the products were harmful and did not perform their intended use.

64. When they purchased the products, Plaintiff and the Class were unaware of their unsafe and dangerous nature.

65. As a direct and proximate cause of the foregoing, Plaintiff and the Class have suffered and will continue to suffer damages and economic loss described fully above.

66. Plaintiff and the Class are entitled to damages in an amount to be determined at trial.

COUNT III
BREACH OF IMPLIED WARRANTY

67. Plaintiff re-alleges and incorporates by reference each of the paragraphs above.

68. Defendant is a merchant engaging in the sale of goods to Plaintiff and the Class members.

69. There was a sale of goods from Defendant to Plaintiff and the Class members.

70. As set forth herein, Defendant marketed and sold the products, and prior to the time the products were purchased by Plaintiff and the Class, Defendant impliedly warranted to them that they were of merchantable quality, fit for their ordinary use, and conformed to the promises and affirmations of fact made on the products' packages and labels that they did not.

71. Plaintiff and the Class relied on Defendant's promises and affirmations of fact.

72. Contrary to these representations and warranties, the products were not fit for their ordinary use or intended purpose and did not conform to Defendant's representations and warranties.

73. Defendant breached the implied warranties by selling products that risk serious harm and Defendant were or should have been on notice of this breach.

74. As a direct and proximate result of Defendant's conduct, Plaintiff and the Class have suffered actual damages in that they have purchased the products that are worth less than the price they paid and that they would not have purchased at all had they known the harms and risks that the products contained.

COUNT IV
UNJUST ENRICHMENT

75. Plaintiff re-alleges and incorporates by reference each of the paragraphs above.

76. Substantial benefits have been conferred on Defendant by Plaintiff and the Class through the purchase of the contaminated and potentially hazardous products. Defendant knowingly and willingly accepted and enjoyed these benefits.

77. Defendant either knew or should have known that the payments rendered by Plaintiff and the Class were given and received with the expectation that the products would have the qualities, characteristicsand suitability for use represented and warranted by Defendant. As such, it would be inequitable for Defendant to retain the benefit of the payments under these circumstances.

78. Defendant's acceptance and retention of these benefits under the circumstances alleged herein make it inequitable for Defendant to retain the benefits without payment of the value to Plaintiff and the Class.

COUNT V
FRAUDULENT CONCEALMENT AND FAILURE TO DISCLOSE

79. Plaintiff re-alleges and incorporates by reference each of the paragraphs above.

80. During the Class period, Defendant knowingly, fraudulently, and actively represented, omitted and concealed from consumers material facts relating to the quality, cleanliness and safety of its products.

81. Defendant has a duty to disclose to Plaintiff and the Class the actual quality of its products which contain or have a risk of containing Salmonella or other infectious diseases.

82. The misrepresentations, omissions and concealments complained of herein were material and were made on a uniform and market-wide basis. As a direct and proximate result of these misrepresentations, omissions and concealments, Plaintiff and the Class have been damaged, as alleged herein.

83. Plaintiff and the Class reasonably and actually relied upon Defendant's representations, omissions and concealments. Such reliance may also be imputed, based upon the materiality of Defendant's wrongful conduct.

84. Based on such reliance, Plaintiff and the Class purchased contaminated and potentially hazardous products and, as a result, suffered and will continue to suffer damages and economic loss in an amount to be proven at trial.

85. Had Plaintiff and the Class been aware of the true nature of Defendant's business practices, they would not have purchased the products.

86. Defendant's actions, omissions and willful misconduct, as alleged herein, constitute oppression, fraud and/or malice entitling Plaintiff and the Class to an award of punitive damages to the extent allowed in an amount appropriate to punish or to set an example of Defendant.

COUNT VI
DECLARATION AND INJUNCTIVE RELIEF

87. Plaintiff re-alleges and incorporates by reference each of the paragraphs above.

88. Plaintiff and the Class are entitled to declaratory relief establishing that Defendant engaged in unfair and deceptive practices.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this case be certified and maintained as a class action and for a judgment to be entered upon Defendant as follows:

A. Appointing Plaintiff as representative of the Class and the undersigned counsel as Class counsel;

B. For economic and compensatory damages on behalf of Plaintiff and all Class Members;

C. For actual damages sustained;

D. For treble damages pursuant to law, and all other actual, general, special, incidental, statutory, punitive, and consequential damages to which Plaintiff and Class Members are entitled;

E. For injunctive relief, compelling Defendant to cease its unlawful actions and to account to Plaintiff for their unjust enrichment;

F. For reasonable attorneys' fees, reimbursement of all costs for the prosecution of this action, and pre-judgment and post-judgment interest; and,

G. For such other and further relief this Court deems just and appropriate.

PLAINTIFF DEMANDS A TRIAL BY STRUCK JURY

Dated this 30th day of September, 2022.

/s/ James M. Terrell
James M. Terrell
Robert G. Methvin, Jr.
METHVIN, TERRELL, YANCEY, STEPHENS & MILLER, P.C.
2201 Arlington Avenue South
Birmingham, Alabama 35205
Telephone: 1-800-210-7476
jterrell@mtattorneys.com
rgm@mtattorneys.com

Chris T. Hellums (HEL012)
Jonathan S. Mann (MAN057)
PITTMAN, DUTTON, HELLUMS, BRADLEY & MANN P.C.
2001 Park Place North, Suite 1100
Birmingham, AL 35203
Tel: (205) 322-8880
Fax: (205) 328-2711
Email: chrish@pittmandutton.com
Email: jonm@pittmandutton.com

Wm. Eric Colley (COL081)
P.O. Box 681045
Fort Payne, AL 35968
Tel: (256) 845-8101
Fax: (256) 845-8103
Email: colleyw@bellsouth.net

Attorneys for Plaintiff and the Proposed Class

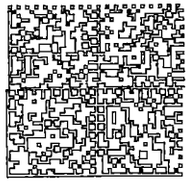
PLEASE SERVE DEFENDANT VIA ITS REGISTERED AGENT:

Corporation Service Company
2908 Poston Ave
Nashville, TN 37203-1312

Paige Smith
Barbour County Circuit Clerk
405 East Barbour Street
Suite 3, Room 119
Eufaula, AL 36027

CERTIFIED MAIL®

7022 0410 0001 4658 9845



quadient
FIRST-CLASS MAIL
IMI
$009.41 9
10/03/2022 ZIP 36027
043M31232537

US POSTAGE

Dollar General Corp
Corporation Service Co.
2908 Poston Ave.
Nashville, TN 37203

Troutman Pepper Hamilton Sanders LLP
401 9th Street, N.W.
Suite 1000
Washington, D.C. 20004

troutman.com

Gregory F. Parisi
gregory.parisi@troutman.com
202.274.1933

March 15, 2023

Via E-Mail (shareholderproposals@sec.gov)

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

Re: Dollar General Corporation
Shareholder Proposal of Domini US Impact Equity Fund and Various Co-Filers
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

We are writing to you on behalf of our client, Dollar General Corporation (the "Company"), with respect to the shareholder proposal and supporting statement (collectively, the "Proposal") submitted by Domini US Impact Equity Fund and 5 co-filers (together, the "Proponents").

On January 20, 2023, the Company submitted a letter (the "No-Action Request") to the staff of the Division of Corporation Finance (the "Staff") of the U.S. Securities and Exchange Commission (the "Commission") requesting that the Staff confirm that it will not recommend any enforcement action to the Commission if the Company excludes the Proposal from its proxy statement and form of proxy for its 2023 Annual Meeting of Shareholders (collectively, the "2023 Proxy Materials"). The Company's No-Action Request provided the Company's analysis in support of the Proposal's exclusion from the 2023 Proxy Materials in reliance on Rule 14a-8(i)(7) under the Securities Exchange Act, as amended (the "Exchange Act"), as relating to the Company's ordinary business operations.

On March 3, 2023, the Proponents submitted a letter to the Staff responding to the No-Action Request (the "Response Letter").

The Company would like to reply to certain assertions made in the Response Letter. While the Company does not intend to reiterate the legal analysis and arguments set forth in the No-Action

Request, the Company wants to expand upon certain points that support exclusion of the Proposal from the 2023 Proxy Materials pursuant to Rule 14a-8(i)(7) of the Exchange Act.

Pursuant to Rule 14a-8(j) under the Exchange Act, we are simultaneously providing the Proponents with a copy of this submission.

1. *There is a clear nexus between the Pending Litigation (as defined below) and the information requested by the Proposal, such that implementation of the Proposal could directly interfere with the Company's litigation strategy, the conduct of the Pending Litigation and the resolution of the Pending Litigation (including the parties' settlement postures).*

As described in the No-Action Request, the Company is presently involved in various litigation and other regulatory matters relating to the subject matter of the Proposal (collectively, the "Pending Litigation"):

- the Company is defending through the administrative litigation process various contested citations pending with the Occupational Safety and Health Administration ("OSHA") and certain state Occupational Safety and Health ("OSH") agencies with respect to alleged violations of applicable federal and state workplace safety statutes (the "Citations");[1]

- the Company is defending against a petition (the "Petition") filed by the Secretary of Labor for summary enforcement of a final order of the Occupational Safety and Health Review Commission, in which the Secretary of Labor contends that such order is necessary to ensure the Company satisfies its obligation under the related settlement agreement to comply with the Occupational Safety and Health Act (the "OSH Act") and the safety and health regulations issued thereunder;[2]

- the Company is defending against two class action lawsuits that, among other things, challenge the health and safety practices of the Company by alleging that the Company knew or should have known about a rodent infestation that allegedly posed a risk of contamination and illness (the "Class Actions");[3] and

[1] The Company currently has contested citations pending through state and federal administrative litigation processes. *See, e.g.*, Occupational Safety and Health Review Commission Docket Nos: 22-1355, 22-1338, 22-1484, 22-1335, 22-1336, 22-1323, 22-0862, 22-1223, 22-1022, 22-1427, 22-1228, 22-1339, 22-1325, 22-1016, 22-1023, 23-0012, 22-1225, 22-1337, 22-1537, 22-1480, 23-0296, 23-0169, 23-0131, 23-0139, 23-0120, 23-0138, 23-0185, 23-0075, 23-0214; Kentucky Occupational Safety and Health Review Commission Docket Nos: 5911-22, 5912-22.
[2] United States Court of Appeals for the Seventh Circuit Docket No. 22-2499.
[3] *Mary Jones Wright v. Dollar General Corporation*, case no. 1:23-cv-00027-LAG ("*Wright v. Dollar General*"); *Linda Williams v. Dollar General Corporation*, case no. 2:22-cv-656-ECMv ("*Williams v. Dollar General*"). An

- the Company is a nominal defendant in a shareholder derivative action for breach of fiduciary duties and waste of corporate assets, alleging that "members of Dollar General's Board . . . have permitted and condoned hazardous working conditions for its employees" (the "Derivative Action").[4]

As discussed in our No-Action Request and further elaborated upon below, each of these Pending Litigation matters would be impacted by the implementation of the Proposal:

The Citations. Each of the citations relates to an alleged violation of Section 5 of the OSH Act, an OSHA standard or a rule promulgated under the OSH Act with respect to which compliance is addressed in the Company's existing policies and practices.[5] The Company is currently contesting all of the Citations and seeking to reach a mutually agreeable resolution with OSHA with respect thereto. If a resolution between the Company and OSHA is not reached, the Company expects to litigate the Citations and challenge the Citations on all available grounds. In addition to disputing certain or all of the facts underlying the alleged violations, the Company expects to challenge other elements of each Citation, such as the classification of the alleged violation and the appropriateness of the proposed penalty. Both parties' settlement postures and litigation strategies could be significantly impacted by the results of the requested audit, which would produce information regarding the overall impact of the Company's policies and procedures on employee health and safety and thereby would directly relate to the violations alleged in the Citations.

The Petition. The Petition seeks enforcement of OSHA's June 20, 2022, final order ("Final Order"), alleging that "OSHA inspections have consistently identified violations related to blocked exit routes, blocked fire extinguishers, and blocked electrical panels."[6] Contrary to the Proponent's assertion in its Response Letter,[7] the Company did not concede that it "committed the violations"

---

individual plaintiff has also filed a substantially similar claim in Alabama. *See* Alevnia Lewis v. Dollar General Corporation, case no. 69-cv-2022-900050.00.

[4] *Brent Conforti, et. al. v. Jeffrey C. Owen, Michael M. Calbert, Warren Bryant, Ana Chadwick, Patricia Fili-Krushel, Timothy McGuire, William C. Rhodes III, Debra A. Sandler, Ralph Santana, Todd Vasos and Carman Wenkoff, Defendants, and Dollar General Corporation, Nominal Defendant,* case no. 3:23-cv-00059 ("*Conforti v. Owen*"). The Company acknowledges that this matter was not included in the No-Action Request, as it was filed on January 20, 2023, which was the deadline for the Company to file the No-Action Request pursuant to the requirements of Rule 14a-8 based on the date of the planned filing of the proxy statement. On February 13, 2023, the plaintiff amended the complaint to add breach of fiduciary duty allegations against certain of the Company's officers.

[5] For example, the Citations relate to, among other matters, access to emergency exits, electrical panels and fire extinguishers, each of which is addressed by the Company's policies and practices.

[6] United States Court of Appeals for the Seventh Circuit Docket No. 22-2499.

[7] Response Letter at p. 3.

underlying the Final Order. Instead, it entered into a settlement without admission of violation.[8] As the Company describes in its Answer to the Petition, the Secretary of Labor seeks an order from the Seventh Circuit Court of Appeals that is contrary to the OSH Act and would attempt to hold Dollar General in contempt and impose sanctions for violations of the OSH Act that were not the subject of the Final Order.[9] Accordingly, the requested audit of the impact of the Company's policies and practices on employee safety and well-being pursuant to the Proposal would directly impact the Company's litigation strategy and conduct related to the Petition.

The Class Actions. The Company agrees that the Class Actions are focused on alleged harm to consumers, rather than employees. However, the Company disagrees with the Proponent's assertion that this means that there is "no relationship" between the Proposal and the Class Actions.[10] The Class Actions raise issues related to the Company's oversight of health and safety matters, as well as related policies and procedures. The Class Actions allege, among other things, that:

- "Dollar General exerts day-to-day operational control from the top down, with its national corporate entity *designing, supervising, and implementing uniform policies and procedures (to the extent they exist and are followed) that govern how its distribution centers, including the Bessemer Distribution Center, and its stores operate, including the conduct at issue herein*";[11] and
- Dollar General "breached its duties to Plaintiff and the Class by . . . *failing to design, direct, train, supervise, or implement policies and procedures* for the safe and clean storage, handling, and distribution of products to consumers."[12]

The Proposal broadly requests an "audit on the impact of the company's policies and practices on the safety and well-being of workers." Such an audit is likely to produce information overlapping substantially with the efficacy of policies and procedures also intended for consumer protection. As an example, the Company's general sanitation policies and procedures are applicable to both consumers and employees. Keeping a clean and sanitized facility not only prevents employee accidents and injuries, but also creates a foundation for pest control. In preparing the Proposal's

---

[8] *See* United States Court of Appeals for the Seventh Circuit Docket No. 22-2499, Exhibit A, Informal Settlement Agreement at number 7 ("The Employer takes the position that for purposes of actions other than actions or proceedings under the provisions of the Occupational Safety and Health Act of 1970, nothing contained herein shall be deemed an admission by the Employer that the Employer violated the Act or its regulations or standards.").
[9] See pp. 4-9 of the Company's Answer to the Petition, attached as Exhibit A to the Response Letter.
[10] Response Letter at 4.
[11] *Williams v. Dollar General* at paragraph 23 (emphasis added); *Wright v. Dollar General* at paragraph 23 (emphasis added).
[12] *Williams v. Dollar General* at paragraph 62(c) (emphasis added); *Wright v. Dollar General* at paragraph 62(c) (emphasis added).

requested audit, it will be virtually impossible for the Company to exclude coverage of all policies and procedures that may impact consumer health and safety, either directly or indirectly, in such a way as to avoid implicating issues in the Class Actions.

The Class Actions also raise issues with respect to the Company's ability to implement, control and supervise policies and procedures generally.[13] The requested audit would likely produce information related to the Company's implementation, control and supervision of policies and procedures related to the safety and well-being of workers that could impact the Company's litigation strategy with respect to these issues in the Class Actions.

The Derivative Action: The Derivative Action, which was initially filed on the date the Company filed its No-Action Request, arises from the same subject matter as the Proposal. Specifically, the complaint (as amended) alleges "hazardous" employee working conditions and that the Company's directors and certain officers failed to "act to improve its policies and procedures to ensure employee complaints are heard" and "implement adequate internal controls and reporting programs to address employee concerns of unsafe working conditions."[14] The Derivative Action is expected to focus on oversight related to worker health and safety, including the Company's policies and procedures and actions taken in response to health and safety issues – the exact subject of the Proposal which requests an "independent third-party audit on the impact of the company's policies and practices on the safety and well-being of workers." Accordingly, the requested audit could have a significant impact on the Company's litigation strategy and legal and factual arguments with respect to the Derivative Action.

2. *Exclusion of the Proposal based on Rule 14a-8(i)(7) is not at odds with the purpose of Rule 14a-8 under the Exchange Act.*

The Proponents contend that allowing exclusion of the Proposal is at odds with the purpose of Rule 14a-8 under the Exchange Act since "[l]arge companies, which receive the bulk of shareholder proposals, face a significant volume of litigation, enforcement actions, and administrative claims at any given time" and that "the Company will almost always be contesting at least one OSHA citation."[15] However, the Proponents' contention assumes that all shareholder proposals with respect to worker health and safety matters will impact such existing litigation or "one OSHA citation." To the contrary, the reason the Proposal impacts each of the Pending Litigation matters is its breadth. By failing to narrowly tailor the requested audit and instead seeking overly broad coverage of all of the Company's "policies and practices on the safety and well-being of

[13] *See* footnotes 11 and 12 of this letter and the accompanying text.
[14] *Conforti v. Owen* at paragraphs 1, 6, 32, 40, 41, 49, 85, 86, 109 & 117.
[15] Response Letter at 4-6.

workers," the Proponents are the ones at odds with the purpose of Rule 14a-8. It is this all-encompassing nature of the Proposal which impedes on the Company's litigation strategy in the ordinary course of its business.

In support of their argument that the Litigation Prejudice Doctrine (as defined in the Response Letter) should be abandoned by the Staff for human capital proposals,[16] the Proponents cite the Staff's denial of "a request to exclude a proposal addressing worker health and safety on ordinary business grounds" in *Amazon.com, Inc.* (avail. Apr. 6, 2022) ("Amazon.com 2022").[17] However, the audit requested under the proposal at issue in Amazon.com 2022 was significantly more specific than the audit proposed in the Proposal: "an independent third-party audit on workplace health and safety evaluating: productivity quotas, surveillance practices, and the effects of these practices on injury rates and turnover." In Amazon.com 2022, the proposal focused on the alleged effect of specific company policies (*i.e.*, purported "productivity quotas" and "surveillance practices") on certain aspects of workplace safety (*i.e.*, "injury rates and turnovers"). In contrast, the Proposal focuses broadly on the impact of the Company's policies and practices generally on the "safety and well-being of workers."[18] Without conceding that a more narrowly tailored proposal would require a different outcome in this instance, it is conceivable that better-tailored proposals might not impact ongoing litigation even at a large company. Accordingly, there is no need for the Staff to abandon the Litigation Prejudice Doctrine with respect to human capital proposals.

3. *The Company's legal strategy and conduct in the Pending Litigation could still be affected by implementing the Proposal, even if the Company chooses not to publicly disclose certain information from the requested audit.*

The Proponents argue that the Company could implement the Proposal in a manner that would not prejudice its position in the Pending Litigation by declining "to disclose material from the requested audit that it believes would impair [this] ability."[19] However, this solution wholly fails to acknowledge the full potential impact to the Company's legal strategy and conduct with respect to the Pending Litigation that could arise from merely conducting the requested audit. Regardless of the quantity or type of information that the Company discloses publicly from the audit, the risk remains

[16] Response Letter at 6.
[17] Response Letter at 6.
[18] The Company notes that Dollar Tree received a proposal nearly identical to the Proposal and has requested no-action with respect to its exclusion based on Rule 14a-8(i)(7) as related to Dollar Tree's ordinary business operations (without regard to any pending litigation) and similarly distinguished Amazon.com 2022, noting that policies and practices with respect to the safety and well-being of workers are of the type that every company maintains as part of its ordinary business operations and involve the type of day-to-day managerial oversight that has long been found to implicate ordinary business considerations. *See Dollar Tree, Inc.* (avail. Feb. 10, 2023).
[19] Response Letter at 4.

that the underlying audit materials may be sought by opposing parties, including OSHA, in the Pending Litigation.[20] Since, as discussed above, the matters on which the Proposal seeks an audit and publication of a report have a clear nexus with the Pending Litigation, creating written materials on these matters that are subject to discovery are highly likely to impact the Company's strategy and position in the Pending Litigation.

CONCLUSION

Based upon the foregoing and the analysis contained in the No-Action Request, the Company respectfully reaffirms its request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2023 Proxy Materials. The Company would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to gregory.parisi@troutman.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 274-1933.

Sincerely,

Gregory F. Parisi

Enclosures

cc: Christine L. Connolly, Esq., Dollar General Corporation
Mary Beth Gallagher, Domini US Impact Equity Fund
Sister Judy Byron, OP, Adrian Dominican Sisters
Erin Ripperger, Portico Benefit Services
Rob Fohr, Presbyterian Church U.S.A.
Catherine Rowan, Trinity Health
Matthew J. Illian, United Church Funds

---

[20] Proponents may further contend that the Company could protect all or portions of the audit that are not publicly disclosed under attorney-client privilege. Protecting attorney-client privilege generally requires that a communication (a) is confidential and (b) relates to a fact of which the attorney was informed "for the purpose of securing primarily either (i) an opinion on law or (ii) legal services or (iii) assistance in some legal proceeding." *United States v. United Shoe Mach. Corp*, 89 F. Supp. 357, 358-59 (D. Mass. 1950). Even assuming the audit were undertaken at the direction of legal counsel and intended to remain privileged and confidential (which on its face appears to be at odds with the intent and specific wording of the Proposal), the Company is not guaranteed that a court would agree that such audit is protected by the attorney-client privilege and allow the Company to withhold production of such materials.