



DIVISION OF  
CORPORATION FINANCE

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

March 31, 2023

Lawrence Derenge  
Yum! Brands, Inc.

Re: Yum! Brands, Inc. (the "Company")  
Incoming letter dated January 16, 2023

Dear Lawrence Derenge:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by the Robert Elliot Friedman Trust (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(f) because the Proponent did not comply with 14a-8(b)(1)(i). Although the Company's Rule 14a-8(f) notice was deficient in numerous respects, the Company did notify the Proponent of the problem – using the only method of contact that the Proponent provided. The Proponent did not check the only method of contact until after the deadline for responding to the deficiency notice had passed. Therefore, Proponent's failure to remedy the problem could not have been caused by the inaccuracy and incompleteness of the deficiency notice. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rules 14a-8(b) and 14a-8(f). Company deficiency notices should clearly and accurately identify submission problems and how to correct them. Proponents should provide contact information that allows for timely and efficient communication.

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: Robert E. Friedman  
Robert Elliot Friedman Trust

January 16, 2023

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

By Email: [shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov)

Re: Yum! Brands, Inc. – Exclusion of Shareholder Proposal  
by Robert Elliot Friedman Trust

Dear Sir or Madam:

Yum! Brands, Inc. (the “Company”) respectfully submits this letter pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), to notify the Securities and Exchange Commission (the “Commission”) of the Company’s intention to exclude from the Company’s proxy materials for its 2023 annual meeting of shareholders (the “2023 Proxy Materials”) the shareholder proposal submitted to the Company by Robert Elliot Friedman Trust (the “Proponent”) in a letter dated November 28, 2022 (the “Proposal”).

The Company requests confirmation that the Commission’s staff (the “Staff”) will not recommend to the Commission that enforcement action be taken against the Company if the Company excludes the Proposal from its 2023 Proxy Materials pursuant to (i) Exchange Act Rule 14a-8(b) and Exchange Act Rule 14a-8(f)(1) because the Proponent failed to provide the requisite proof of share ownership in response to the Company’s proper request for that information. The Proposal is attached to this letter as Exhibit A.

Pursuant to Exchange Act Rule 14a-8(j), the Company is submitting electronically to the Commission this letter, and is concurrently sending a copy to the Proponent, no later than eighty calendar days before the Company intends to file its definitive 2023 Proxy Materials with the Commission.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (November 7, 2008) (“SLB 14D”) provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Exchange Act Rule 14a-8(k) and SLB 14D.

## **Background**

On December 2, 2022, the Company received the Proposal from the Proponent dated November 28, 2022 by overnight delivery service. Evidence of the date of the Company's receipt of the Proposal is attached as Exhibit B. The Proponent's submission of the Proposal failed to provide verification of the Proponents' ownership of the requisite number of Company shares and did not include a statement that the Proponent intended to hold the requisite number of shares through the date of the 2023 annual meeting.

The Company reviewed its stock records, which did not indicate that the Proponent was a record owner of the Company shares. After verifying that the Proponent was not a stockholder of record, the Company sent a deficiency notice by UPS Next Day Air to the Proponent on December 14, 2022 (the "Deficiency Notice," attached hereto as Exhibit C). The Deficiency Notice requested that the Proponent furnish the Company with proof of ownership within 14 days of receipt of the letter, as pursuant to Rule 14a-8(b)(2)(i).

The Deficiency Notice was received by the Proponent on December 15, 2022. The receipt of delivery is attached as Exhibit D. Therefore, the 14-day deadline to respond to the Deficiency Notice expired on December 29, 2022. As of the date of this letter, the Company has not received any additional correspondence from the Proponent.

## **Basis for Exclusion**

We respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2023 Proxy Materials pursuant to Rule 14a-8(b) and Rule 14a-8(f)(1) because the Proponent failed to establish the requisite eligibility to submit the Proposal.

### **The Proposal Is Excludable Under Rule 14a-8(b) and Rule 14a-8(f)(1) Because Proponent Failed to Establish the Requisite Eligibility to Submit the Proposal.**

The Company may exclude the Proposal under Rule 14a-8(f)(1) because the Proponent failed meet the eligibility of the procedural requirements in Rule 14a-8(b). Rule 14a-8(b) requires, in part, that in order to be eligible to submit a proposal, a stockholder 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" and "intend to continue to hold the requisite amount of securities ... through the date of the shareholders' meeting for which the proposal is submitted." Staff Legal Bulletin No. 14 (July 13, 2021) ("SLB 14") specifies that when the stockholder is not a registered holder, the stockholder "is responsible for proving his or her eligibility to submit a proposal to the company", which the stockholder may do by one of the two ways provided in Rule 14aa-8(b)(2). See Section C.1.c., SLB 14. Rule 14a-8(f)(1) permits a company to exclude a shareholder proposal from the company's annual proxy materials if the proponent fails to comply with the eligibility or procedural requirements under Rule 14a-8(a) through (d), including failing to provide the beneficial ownership information required under Rule 14a-8(b), provided that the company has timely notified the proponent of the deficiency and timeframe for response, and the proponent failed to respond or correct such deficiency within 14 days from the date of receipt.

The Staff has consistently concurred in the exclusion of proposals when proponents have failed, following a timely and proper request by a company, to timely furnish evidence of eligibility to submit the stockholder proposal pursuant to Rule 14a-8(b). For example, in *Walgreens Boots Alliance, Inc.* (November 8, 2022), the company received an initial broker letter that did not satisfy any of the

ownership requirements. The company identified deficiencies in its notice that was sent to the proponent within 14 days of the company's receipt of the proposal. The company subsequently received a second broker letter purporting to demonstrate the proponent's ownership 2 days after the 14-day deadline had passed. The Staff concurred with the exclusion of the proposal under Rule 14-a8(f) because the proponent "did not comply with Rule 14-a(8)(b)(1)(i)," noting "[a]s required by Rule 14a-8(f), the company notified the [p]roponent of the problem, and the [p]roponent failed to adequately correct it."

Similarly, in *Visa Inc.* (November 8, 2022), the company received an initial broker letter that did not satisfy any of the ownership requirements. The proponent did not subsequently deliver satisfactory proof of ownership until 18 days after the company transmitted a second deficiency note, and the Staff concurred with the exclusion of the proposal, noting that the proponent "did not comply with Rule 14a-8(b)(1)(i)" and "[a]s required by Rule 14a-8(f), the company notified the [p]roponent of the problem, and the [p]roponent failed to adequately correct it." (See also *FedEx Corp.* (June 5, 2019), where the proponent submitted a proposal without any accompanying proof of ownership and did not provide any documentary support until 15 days following receipt of the company's deficiency notice. Despite being only one day late, the Staff concurred with the exclusion pursuant to Rule 14a-8(b) and 14a-8(f)(1)).

As discussed above and consistent with the guidance, the Company satisfied its obligation under Rule 14a-8 to timely notify the Proponent of the deficiency by timely providing the Proponent with the Deficiency Notice, identifying the deficiency and specifically requesting that the Proponent provide a statement proving ownership of the shares. See Exhibit C. The Proponent failed to provide any documentary evidence of the ownership of the Company shares, either in the original Proposal or in response to the Company's Deficiency Notice. Therefore, the Proponent has not demonstrated eligibility required under Rule 14a-8(b) to submit the Proposal, and the Proposal may be excluded under Rule 14a-8(f)(1).

### **Conclusion**

Based on the foregoing, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2023 Proxy Materials pursuant to Rule 14a-8(b) and Rule 14a-8(f)(1) because the Proposal failed to provide the requisite proof of share ownership in response to the Company's proper request for that information. Should the Staff disagree with the Company's conclusions regarding the omission of the Proposal, or should any additional information be desired in support of the Company's position, I would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of your response.

If the Staff has any questions regarding this request or requires additional information, please contact the undersigned by phone at 502-874-8719 or by email at [larry.derenge@yum.com](mailto:larry.derenge@yum.com).

Sincerely,



Lawrence Derenge  
Corporate Counsel  
Yum! Brands, Inc.

cc: Robert Elliot Friedman Trust

**Exhibit A**

**Proponent Proposal**

*See attached*

## ROBERT ELLIOT FRIEDMAN TRUST

November 28, 2022

Mr. Scott Catlett  
Corporate Secretary  
Yum! Brands, Inc.  
1441 Gardiner Lane  
Louisville, KY 40213


**VIA: FEDEX**

Dear Mr. Catlett,

Enclosed, please find my shareholder proposal for inclusion in YUM's 2023 proxy statement and proxy card for presentation at YUM's 2023 Annual Meeting of Shareholders.

For procedural purposes, please see additional information regarding my trust:

**Address:**

Robert Elliot Friedman Trust  
Robert E. Friedman, CPA, MBA  
C/O Jaffa Gate Research & Advisory Group  


**Number of YUM shares the Robert Elliot Friedman Trust currently owns: 10,068.**

Please do not hesitate to reach out to me if you should have any questions, FYI's, or requests.

Sincerely,



Robert E. Friedman, CPA, MBA  
Trustee  
Robert Elliot Friedman Trust

Encl: Shareholder Proposal/2023 YUM Proxy Statement

# ROBERT ELLIOT FRIEDMAN TRUST

## **SHAREHOLDER PROPOSAL 2023 YUM! BRANDS PROXY STATEMENT AND SHAREHOLDER MEETING**

**RESOLVED:** Shareholder requests that the Board of Directors prepare a strategic review regarding a proposed spin-off of Yum! Brands' KFC, Pizza Hut, and Taco Bell franchises into three separate publicly traded companies, and to sell its Habit Burger chain in a separate, pre-spinoff transaction.

**SUPPORTING STATEMENT:** Spinning off YUM's three primary franchises into separate companies would allow distinct CEO's, management teams, and board of directors to better focus on each chain's operations, including each franchise's unique end-markets and operating dynamics. Separate companies would also allow talented operating heads to remain at each company as CEO, instead of having to depart eventually. For example, Brian Niccol, the talented former president of Taco Bell, left the chain in 2018 to become CEO of Chipotle. If Taco Bell had been a separate, publicly traded company, it would have been highly likely that Mr. Niccol would have continued running the franchise.

Moreover, it seems apparent that YUM management continues to experience challenges managing its three major quick-serve franchises concurrently. For example, all three of YUM's franchises continue to lag behind its primary competitors in sales growth: Based on latest annual statistics, from 2016 through 2021, Chic-fil-A's system-wide revenues expanded at a five-year compound annual growth rate (CAGR) of 16%, versus 6.5% for KFC; Dominos Pizza's system-wide revenues grew at a five-year CAGR of 12%, versus 1.7% for Pizza Hut; and Chipotle, Inc's system-wide revenues increased at a five-year CAGR of 14%, versus 6.7% for Taco Bell.

It also seems that YUM's primary competitors are taking market share away from YUM. For example, from 2016 through 2021, the U.S. quick service chicken franchise industry grew at a five-year CAGR of 9.7%. If Chic-fil-A's sales grew at a five-CAGR of 16% and KFC's sales grew at a five-year CAGR of 6.5%, it seems to reason that Chic-fil-A is taking a material amount of market share away from KFC.

Lastly, it seems that YUM has not completely resolved issues with its franchisees; anecdotal evidence seems to point, at least in NJ where the shareholder is based, that there is still a material amount of Pizza Hut and Taco Bell outlets that have not been remodeled since the mid-1990's.

## ROBERT ELLIOT FRIEDMAN TRUST

In conclusion, YUM management may contend that there are material purchasing power advantages of incorporating KFC, Pizza Hut, and Taco Bell franchises under one umbrella. However, the shareholder strongly contends that any cost savings from purchasing power advantages would pale in comparison to the prospect of outsized volume sales growth, dramatic operational improvements--and ultimately, sustainable strong long-term shareholder returns--that would accrue from managing each franchise via separate corporate entities, and distinct, highly focused management and boards.



**Exhibit B**

**Proposal Receipt**

*See attached*

**Subject:** FW: [EXT]Catlett, Scott has a delivery! It can be picked up at YUM! Brands / KFC  
Louisville Campus : YUM! Mailroom

**From:** YUM! Brands / KFC via Envoy Deliveries <[no-reply@envoy.com](mailto:no-reply@envoy.com)>

**Sent:** Friday, December 2, 2022 9:32 AM

**To:** [REDACTED]

**Subject:** [EXT]Catlett, Scott has a delivery! It can be picked up at YUM! Brands / KFC Louisville Campus : YUM! Mailroom



Dear [REDACTED] a new delivery has arrived for Catlett, Scott!

RECIPIENT

**Catlett, Scott**

Location

Louisville Campus

Address



Delivery area

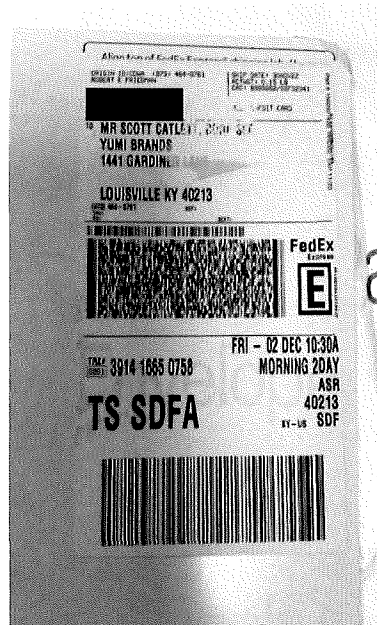
YUM! Mailroom

Carrier

FedEx

Date received

December 02, 2022

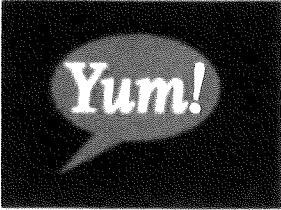


**Exhibit C**

**Deficiency Notice**

*See attached*

Yum! Brands, Inc.  
1441 Gardiner Lane  
Louisville, KY 40213



December 13, 2022

Robert Elliot Friedman Trust  
Robert E. Friedman, CPA, MBA  
C/O Jaffa Gate Research & Advisory Group



**Re: Shareholder Proposal**

Dear Mr. Friedman:

I am writing to acknowledge receipt of your communication sent to Scott Catlett on behalf of the Robert Elliot Friedman Trust. We note that the communication includes a shareholder proposal for inclusion in the YUM! Brands, Inc. proxy statement to be circulated to YUM! Brands, Inc. shareholders in conjunction with the next annual meeting.

This letter serves as a notice of deficiency. We respectfully request that with reference to the proposal, you furnish to us, within 14 days of your receipt of this letter, the shareholder trust's proof of ownership of more than \$2,000 worth of shares of YUM! Brands, Inc. common stock pursuant to Regulation 14a-8(b)(2)(i). In addition, you must provide the appropriate broker or bank statements regarding past and future ownership of the shares.

Please direct your response to me at the above address. Upon receipt of ownership, we will contact you regarding your proposal.

We note that your communication does not include an email address or telephone number so that we may open a dialogue with you. Please contact Larry Derenge via email at [Larry.Derenge@yum.com](mailto:Larry.Derenge@yum.com) or call him at (502) 874-8719.

Very truly yours,

  
M. Gayle Hobson  
HIPAA Compliance Officer and Manager, Legal

I:\COMMON\GAYLE\2023 Proxy\Notice of Deficiency - Robert Elliot Friedmant Trust.docx



**Exhibit D**

**Proof of Deficiency Notice Delivery**

*See attached*

# Proof of Delivery

Dear Customer,

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

**Tracking Number**

1Z8E53R30196629020

**Service**

UPS Next Day Air®

**Shipped / Billed On**

12/14/2022

**Delivered On**

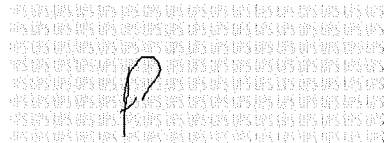
12/15/2022 1:07 P.M.

**Delivered To**



**Received By**

PARK



**Left At**

Dock

**Reference Number(s)**

9950810

Please print for your records as photo and details are only available for a limited time.

Sincerely,

UPS

Tracking results provided by UPS: 01/04/2023 10:55 A.M. EST



Robert Friedman

PII

## 2023 YUM! Brands Proxy Statement/Robert Elliot Friedman Trust Shareholder Proposal

1 message

Robert Friedman

PII

Wed, Jan 25, 2023 at 12:06 PM

To: shareholderproposals@sec.gov

Cc: Larry.Derenge@yum.com

Dear Sir or Madam:

I am reaching out to alert the SEC about a situation regarding my trust's shareholder proposal, which I would like to be included in YUM! Brands' 2023 proxy statement. Long story short, as this is the first time that I have made a shareholder proposal, I was not aware that I needed to include proof of ownership in my trust's original shareholder proposal packet sent to YUM; the requirement was not mentioned in YUM! Brands' proxy statement instructions (please see attached). As an FYI--For security purposes, I did not include my personal residential address and phone number in the original packet sent to YUM, so the company was not able to contact me about the deficiency via phone or residential mail. Moreover, as I only intermittently check my firm's PO box, I did not see YUM's two certified mail packages containing the deficiency letters until six days after the deadline. However, as soon as I saw the deficiency letters yesterday afternoon, I quickly emailed a copy of my trust's 12/31/2022 Schwab brokerage statement, proving my ownership stake in YUM shares.

Although my trust was technically late in sending proof of ownership information to YUM, I am hoping that YUM will still include my shareholder proposal in its 2023 proxy statement. As I mentioned in my email to Larry Derenge (please see below attached packet), YUM's corporate counsel, my trust's brokerage statement was sent to him only six business days after the deficiency date. Also, it seems that YUM still has wide discretion to include my trust's proposal, despite the proof of ownership timing deficiency (please see attached YUM January 16, 2023 letter to the SEC). In my humble view, it is my strong belief that YUM still has ample time to respond to my proposal, as well as wide discretion in deciding to include my trust's shareholder proposal. It is my sincere hope that the SEC feels the same way, too.

Of course, please do not hesitate to contact me, if you should have any further questions or comments.

Thank you very much for your attention to this matter.


Sincerely,

Robert E. Friedman, CPA, MBA  
Trustee  
Robert Elliot Friedman Trust  
YUM shareholder since 1997

PII

### 2 attachments

 YUM2023ProxyREFTrustShldrProposalPacketSEC.pdf  
10733K

 YUM2023ProxyREFTrustShldrProposalYUMSECLetter.pdf  
5137K



Robert Friedman

PII

## 2023 YUM Proxy Statement/Robert Elliot Friedman Trust Shareholder Proposal/Corrected

2 messages

Robert Friedman

PII

Tue, Jan 24, 2023 at 8:31 PM

To: Larry.Derenge@yum.com

Dear Mr. Derenge,

Attached below, please find a copy of my trust's December 31, 2022 brokerage statement showing my trust's ownership of (currently) 10,112 YUM common shares, with Schwab as the nominee.

I'm relaying my Schwab brokerage statement (I will call Schwab first thing tomorrow morning, to make arrangements for Schwab to send YUM proof of ownership), despite the situation that my trust is in technical deficiency of SEC Reg 14a-8(b)(2)(i). This situation occurred because of two reasons: YUM sent the deficiency letter to a virtual office and essentially a P.O. box, that I only intermittently check (I just saw the envelopes today), and since I did not originally include my email address, home address, or telephone number in the original packet (for security reasons), there was no way that YUM could have contacted me. Since this is the first time that I've submitted a shareholder proposal to any publicly-traded company, I was just not aware of this SEC reg, so I didn't think that a problem like this could arise.

Despite my technical deficiency of Reg 14(a)-8(b)(2)(i), I nevertheless respectfully request that YUM still include my shareholder proposal in the 2023 proxy. Although my proof of ownership and broker's statement was/will be sent six-seven days after the January 16, 2023 grace period, I strongly believe that YUM will still have ample time to respond to my proposal.

I would very much appreciate it if you could either email or call me [PII] if there are still any issues regarding my proposal being included in the proxy statement.

Thank you very much for taking the time to address this situation.

Kind regards,

Rob Friedman  
Trustee  
Robert Elliot Friedman Trust  
Shareholder since 1997; 10,112 shares

Robert Friedman

PII

Tue, Jan 24, 2023 at 8:41 PM

To: Larry.Derenge@yum.com

Please see attached broker's statement.....

[Quoted text hidden]

 REFTrustYUMHlgsBrokStmt123122.pdf

3237K



Mr. Scott Catlett  
Corporada Secretary

May I propose actions for consideration at next year's Annual Meeting of Shareholders or nominate individuals to serve as directors?

Under the rules of the SEC, if a shareholder wants us to include a proposal in our proxy statement and proxy card for presentation at our 2023 Annual Meeting of Shareholders, the proposal must be received by us at our principal executive offices at YUM! Brands, Inc., 1441 Gardiner Lane, Louisville, Kentucky 40213 by December 9, 2022. The proposal should be sent to the attention of the Corporate Secretary.

Under our bylaws, certain procedures are provided that a shareholder must follow to nominate persons for election as directors or to introduce an item of business at an Annual Meeting of Shareholders that is not included in our proxy statement. These procedures provide that nominations for director nominees and/or an item of business to be introduced at an Annual Meeting of Shareholders must be submitted in writing to our Corporate Secretary at our principal executive offices and you must include information set forth in our bylaws. We must receive the notice of your intention to introduce a nomination or to propose an item of business at our 2023 Annual Meeting no later than the date specified in our bylaws. If the 2023 Annual Meeting is not held within 30 days before or after the anniversary of the date of this year's Annual Meeting, then the nomination or item of business must be received by the tenth day following the earlier of the date of mailing of the notice of the meeting or the public disclosure of the date of the meeting. Assuming that our 2023 Annual Meeting is held within 30 days of the anniversary of this Annual Meeting, we must receive notice of your intention to introduce a nomination or other item of business at that meeting by February 18, 2023.

In addition, our bylaws provide for proxy access for director nominations by shareholders (as described at page 20). A shareholder, or group of up to 20 shareholders, owning continuously for at least three years shares of YUM common stock representing an aggregate of at least 3% of our outstanding shares, may nominate, and include in YUM's proxy materials, director nominees constituting up to 20% of YUM's Board, provided that the shareholder(s) and nominee(s) satisfy the requirements in YUM's bylaws. Notice of proxy access director nominees must be received no earlier than November 9, 2022, and no later than December 9, 2022.

The Board is not aware of any matters that are expected to come before the 2022 Annual Meeting other than those referred to in this proxy statement. If any other matter should come before the Annual Meeting, the individuals named on the form of proxy intend to vote the proxies in accordance with their best judgment.

The chairperson of the Annual Meeting may refuse to allow the transaction of any business, or to acknowledge the nomination of any person, not made in compliance with the foregoing procedures.

*Bylaw Provisions.* You may contact YUM's Corporate Secretary at the address mentioned above for a copy of the relevant bylaw provisions regarding the requirements for making shareholder proposals and nominating director candidates

Proxy Statement

# ROBERT ELLIOT FRIEDMAN TRUST

## **SHAREHOLDER PROPOSAL 2023 YUM! BRANDS PROXY STATEMENT AND SHAREHOLDER MEETING**

**RESOLVED:** Shareholder requests that the Board of Directors prepare a strategic review regarding a proposed spin-off of Yum! Brands' KFC, Pizza Hut, and Taco Bell franchises into three separate publicly traded companies, and to sell its Habit Burger chain in a separate, pre-spinoff transaction.

**SUPPORTING STATEMENT:** Spinning off YUM's three primary franchises into separate companies would allow distinct CEO's, management teams, and board of directors to better focus on each chain's operations, including each franchise's unique end-markets and operating dynamics. Separate companies would also allow talented operating heads to remain at each company as CEO, instead of having to depart eventually. For example, Brian Niccol, the talented former president of Taco Bell, left the chain in 2018 to become CEO of Chipotle. If Taco Bell had been a separate, publicly traded company, it would have been highly likely that Mr. Niccol would have continued running the franchise.

Moreover, it seems apparent that YUM management continues to experience challenges managing its three major quick-serve franchises concurrently. For example, all three of YUM's franchises continue to lag behind its primary competitors in sales growth: Based on latest annual statistics, from 2016 through 2021, Chic-fil-A's system-wide revenues expanded at a five-year compound annual growth rate (CAGR) of 16%, versus 6.5% for KFC; Dominos Pizza's system-wide revenues grew at a five-year CAGR of 12%, versus 1.7% for Pizza Hut; and Chipotle, Inc's system-wide revenues increased at a five-year CAGR of 14%, versus 6.7% for Taco Bell.

It also seems that YUM's primary competitors are taking market share away from YUM. For example, from 2016 through 2021, the U.S. quick service chicken franchise industry grew at a five-year CAGR of 9.7%. If Chic-fil-A's sales grew at a five-CAGR of 16% and KFC's sales grew at a five-year CAGR of 6.5%, it seems to reason that Chic-fil-A is taking a material amount of market share away from KFC.

Lastly, it seems that YUM has not completely resolved issues with its franchisees; anecdotal evidence seems to point, at least in NJ where the shareholder is based, that there is still a material amount of Pizza Hut and Taco Bell outlets that have not been remodeled since the mid-1990's.



## ROBERT ELLIOT FRIEDMAN TRUST

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January 16, 2023

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

By Email: [shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov)

Re: Yum! Brands, Inc. – Exclusion of Shareholder Proposal  
by Robert Elliot Friedman Trust

Dear Sir or Madam:

Yum! Brands, Inc. (the “Company”) respectfully submits this letter pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), to notify the Securities and Exchange Commission (the “Commission”) of the Company’s intention to exclude from the Company’s proxy materials for its 2023 annual meeting of shareholders (the “2023 Proxy Materials”) the shareholder proposal submitted to the Company by Robert Elliot Friedman Trust (the “Proponent”) in a letter dated November 28, 2022 (the “Proposal”).

The Company requests confirmation that the Commission’s staff (the “Staff”) will not recommend to the Commission that enforcement action be taken against the Company if the Company excludes the Proposal from its 2023 Proxy Materials pursuant to (i) Exchange Act Rule 14a-8(b) and Exchange Act Rule 14a-8(f)(1) because the Proponent failed to provide the requisite proof of share ownership in response to the Company’s proper request for that information. The Proposal is attached to this letter as Exhibit A.

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Rule 14a-8(k) and Staff Legal Bulletin No. 14D (November 7, 2008) (“SLB 14D”) provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Exchange Act Rule 14a-8(k) and SLB 14D.

751680020



## **Background**

On December 2, 2022, the Company received the Proposal from the Proponent dated November 28, 2022 by overnight delivery service. Evidence of the date of the Company's receipt of the Proposal is attached as Exhibit B. The Proponent's submission of the Proposal failed to provide verification of the Proponents' ownership of the requisite number of Company shares and did not include a statement that the Proponent intended to hold the requisite number of shares through the date of the 2023 annual meeting.

The Company reviewed its stock records, which did not indicate that the Proponent was a record owner of the Company shares. After verifying that the Proponent was not a stockholder of record, the Company sent a deficiency notice by UPS Next Day Air to the Proponent on December 14, 2022 (the "Deficiency Notice," attached hereto as Exhibit C). The Deficiency Notice requested that the Proponent furnish the Company with proof of ownership within 14 days of receipt of the letter, as pursuant to Rule 14a-8(b)(2)(i).

The Deficiency Notice was received by the Proponent on December 15, 2022. The receipt of delivery is attached as Exhibit D. Therefore, the 14-day deadline to respond to the Deficiency Notice expired on December 29, 2022. As of the date of this letter, the Company has not received any additional correspondence from the Proponent.

## **Basis for Exclusion**

We respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2023 Proxy Materials pursuant to Rule 14a-8(b) and Rule 14a-8(f)(1) because the Proponent failed to establish the requisite eligibility to submit the Proposal.

### **The Proposal Is Excludable Under Rule 14a-8(b) and Rule 14a-8(f)(1) Because Proponent Failed to Establish the Requisite Eligibility to Submit the Proposal.**

The Company may exclude the Proposal under Rule 14a-8(f)(1) because the Proponent failed meet the eligibility of the procedural requirements in Rule 14a-8(b). Rule 14a-8(b) requires, in part, that in order to be eligible to submit a proposal, a stockholder 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" and "intend to continue to hold the requisite amount of securities ... through the date of the shareholders' meeting for which the proposal is submitted." Staff Legal Bulletin No. 14 (July 13, 2021) ("SLB 14") specifies that when the stockholder is not a registered holder, the stockholder "is responsible for proving his or her eligibility to submit a proposal to the company", which the stockholder may do by one of the two ways provided in Rule 14a-8(b)(2). See Section C.1.c., SLB 14. Rule 14a-8(f)(1) permits a company to exclude a shareholder proposal from the company's annual proxy materials if the proponent fails to comply with the eligibility or procedural requirements under Rule 14a-8(a) through (d), including failing to provide the beneficial ownership information required under Rule 14a-8(b), provided that the company has timely notified the proponent of the deficiency and timeframe for response, and the proponent failed to respond or correct such deficiency within 14 days from the date of receipt.

The Staff has consistently concurred in the exclusion of proposals when proponents have failed, following a timely and proper request by a company, to timely furnish evidence of eligibility to submit the stockholder proposal pursuant to Rule 14a-8(b). For example, in *Walgreens Boots Alliance, Inc.* (November 8, 2022), the company received an initial broker letter that did not satisfy any of the



ownership requirements. The company identified deficiencies in its notice that was sent to the proponent within 14 days of the company's receipt of the proposal. The company subsequently received a second broker letter purporting to demonstrate the proponent's ownership 2 days after the 14-day deadline had passed. The Staff concurred with the exclusion of the proposal under Rule 14a-8(f) because the proponent "did not comply with Rule 14-a(8)(b)(1)(i)," noting "[a]s required by Rule 14a-8(f), the company notified the [p]roponent of the problem, and the [p]roponent failed to adequately correct it."

Similarly, in *Visa Inc.* (November 8, 2022), the company received an initial broker letter that did not satisfy any of the ownership requirements. The proponent did not subsequently deliver satisfactory proof of ownership until 18 days after the company transmitted a second deficiency note, and the Staff concurred with the exclusion of the proposal, noting that the proponent "did not comply with Rule 14a-8(b)(1)(i)" and "[a]s required by Rule 14a-8(f), the company notified the [p]roponent of the problem, and the [p]roponent failed to adequately correct it." (See also *FedEx Corp.* (June 5, 2019), where the proponent submitted a proposal without any accompanying proof of ownership and did not provide any documentary support until 15 days following receipt of the company's deficiency notice. Despite being only one day late, the Staff concurred with the exclusion pursuant to Rule 14a-8(b) and 14a-8(f)(1)).

As discussed above and consistent with the guidance, the Company satisfied its obligation under Rule 14a-8 to timely notify the Proponent of the deficiency by timely providing the Proponent with the Deficiency Notice, identifying the deficiency and specifically requesting that the Proponent provide a statement proving ownership of the shares. See Exhibit C. The Proponent failed to provide any documentary evidence of the ownership of the Company shares, either in the original Proposal or in response to the Company's Deficiency Notice. Therefore, the Proponent has not demonstrated eligibility required under Rule 14a-8(b) to submit the Proposal, and the Proposal may be excluded under Rule 14a-8(f)(1).

### **Conclusion**

Based on the foregoing, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2023 Proxy Materials pursuant to Rule 14a-8(b) and Rule 14a-8(f)(1) because the Proposal failed to provide the requisite proof of share ownership in response to the Company's proper request for that information. Should the Staff disagree with the Company's conclusions regarding the omission of the Proposal, or should any additional information be desired in support of the Company's position, I would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of your response.

If the Staff has any questions regarding this request or requires additional information, please contact the undersigned by phone at 502-874-8719 or by email at [larry.derenge@yum.com](mailto:larry.derenge@yum.com).

Sincerely,



Lawrence Derenge  
Corporate Counsel  
Yum! Brands, Inc.

cc: Robert Elliot Friedman Trust



