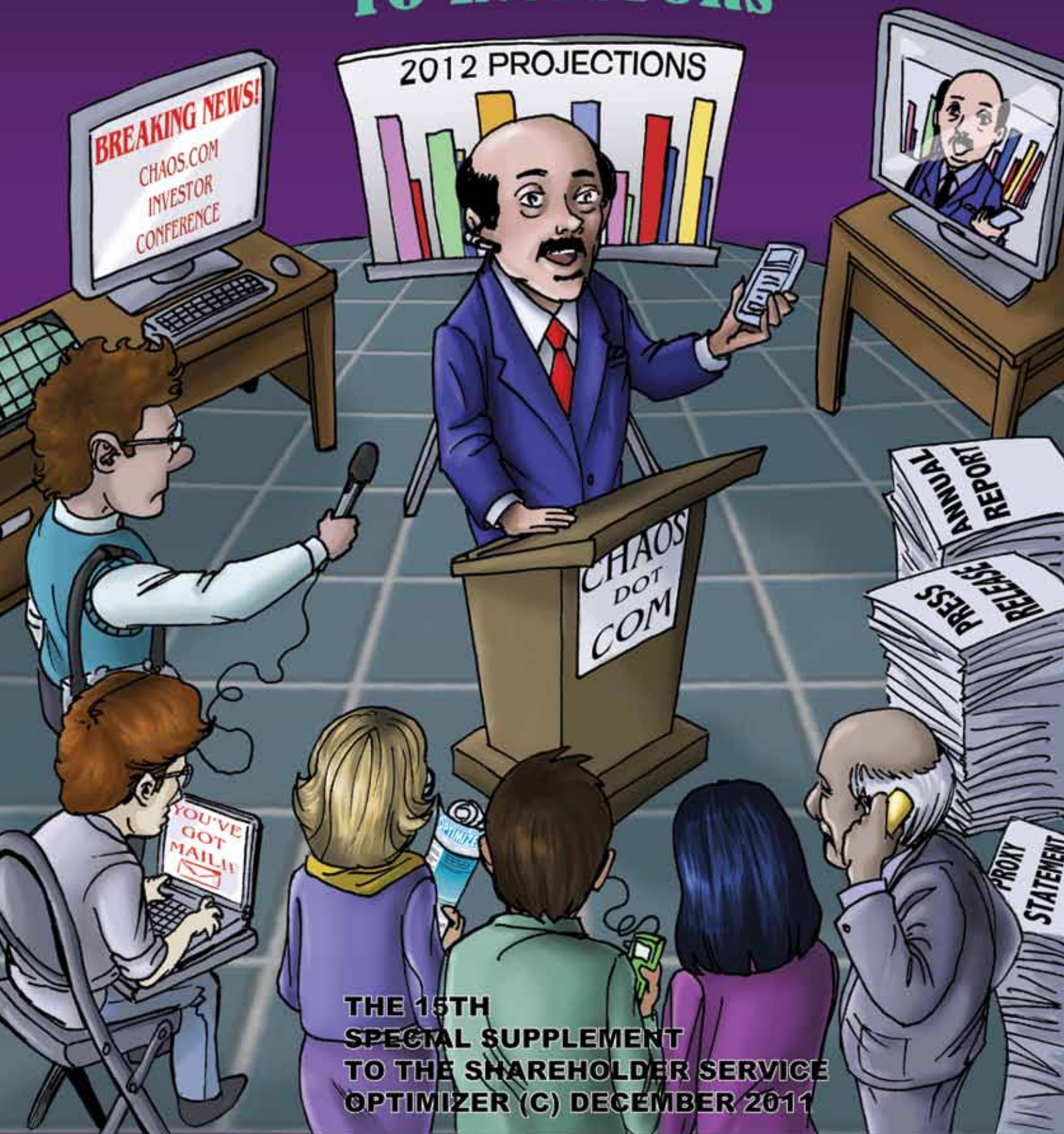


# GETTING YOUR MESSAGE **ACROSS** TO INVESTORS



THE 15TH  
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OPTIMIZER (C) DECEMBER 2011

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# GETTING YOUR MESSAGE ACROSS TO INVESTORS...

Dear readers;

This is the 15<sup>th</sup> annual Special Supplement to the Shareholder Service *OPTIMIZER* – so it is probably not the first issue you have received. But in my own totally biased opinion, it may well be the most important issue you'll ever get:

From our very first issue, in 1997, we have tried to focus intensively on the critically important issues that surround the investor relations and investor communications space – and on ways to communicate more effectively – and more *cost-effectively* as well.

And yes, since then – when the Internet was in its infancy – as was telephone voting, for that matter – and when telephonic quarterly reports (!) were all the rage – and where public companies were literally papering the streets with almost a billion sets of paper proxy materials each year – there have been truly amazing technological advances that make communicating with investors easier, and cheaper, and, theoretically, more convenient to access and use than ever before.

***But I'm betting big in this issue that you share my frustration: Clearly, the corporate community is sending more messages out to investors than ever before – and in dozens more ways than we even HAD in the old 20th century. But fewer and fewer of these messages seem to be “getting across” to them.***

Certainly, “information overload” is a big part of the problem here. All of us are being bombarded with sponsored messages, and purportedly urgent messages – every minute of the day, it seems.

And most of us confess to being frequently “distracted” these days – not just by the array of incoming messages, and their sheer numbers – but by the need they create for us to “multi-task” – both at work and at home. And here,

only recently, science has been finding that this is not a skill to brag about, as once we thought, but a contributor to lower productivity – and to a host of potentially dangerous missed-communications issues.

Meanwhile, both the communications issues – and the communications challenges facing publicly traded companies have exploded *exponentially* since the late 1990s, when the Corporate Governance movement was not even on the radar screen. Couple this with the truly stupefying increase in corporate regulations – thanks to Sarbanes-Oxley, Dodd-Frank, and to SEC rules and regs that have caused a typical

proxy statement to grow from a dozen or so pages in the '90s to 100+ at many companies today – and it really is no wonder that companies have trouble getting their messages across. ►



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And, oh yes, let's please not forget that thanks in large part to all the developments that LED to the governance movement – *and* to all those new rules and regs – investors – who once may have welcomed the Annual Report, or a friendly letter from the management – have become highly *skeptical* about corporate messages...and not totally without reason.

***All of this, please note, is no small issue: In fact, it is a big-money issue – not just in terms of the wastefully ineffective spending that takes place when the message does not get across; it's an issue that can become a true survival issue for public company directors – and for public companies themselves:***

Look for example at the precipitous decline we're seeing in individual investor voting at public company meetings. Look too at the simultaneous increase in 'unfriendly votes' from this same source. And look what has been happening when the corporate message does not come across right to investors of *every description*: The old idea, that long-term investors wouldn't – or couldn't "vote with their feet" no longer hold water, we say.

Let's note too, that public skepticism about corporate programs and corporate behaviors is not confined only to public companies – or to "investors" for that matter: Non-public and non-profit companies – thanks to pressures from *their regulators* – and from clients, donors, and other stakeholders – have exactly the same kinds of issues these days...and the same kinds of problems when it comes to getting their messages across.

***So what is a smart corporate citizen to do these days, to actually get the corporate messages across...and in a way that stands a better chance of actually achieving a meeting of the minds...and, ideally, the action you are hoping the recipients of your messages will take?***

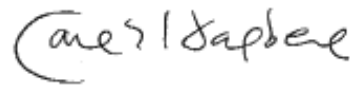
As usual, we have scoured our "virtual rolodex" (the old one is still lying, we must admit, all dust-covered in a corner of the desk, and totally useless and out-of-date in today's fast moving world) to get some fresh ideas from some of the smartest people we know – and from of the savviest and

most up-to-date suppliers of communications advice, support and delivery systems we could find.

We hope that you will spend some quality-time with the authors here, and also, to investigate the many new services and service providers that are available these days to help with the daunting communications tasks we face. We *can* do better – and we really *must* do better – when it comes to getting our messages across.

With all my best wishes for a happy, healthy, prosperous and peaceful new year...

Sincerely



Carl Hagberg,  
Publisher and editor in chief of  
The Shareholder Service *OPTIMIZER*

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TO THE  
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*OPTIMIZER*

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# Getting Your Message ACROSS

## “Effective engagement is critical...”



***Some practical advice from Ken Bertsch, President of the Society of Corporate Secretaries and Governance Professionals – and a prominent institutional investor analyst and spokesperson in his former career***

“U.S. issuers large and small have experienced fear and frustration on the latest ratcheting up of investor involvement in corporate governance, mainly through “say-on-pay.” The fear is that while investors have an enhanced role to play, they do not have sufficient insight or expertise to “second-guess” board and compensation committee decisions, and that compensation programs will be damaged as a result. Frustration has tended to focus on proxy advisory firms, as well as on some significant investors who are not amenable to dialog.

“I would suggest that while aspects of this fear and frustration are well-founded, issuers are finding effective ways to respond to the new environment, and some claims are exaggerated. Effective engagement is critical. First, this requires awareness of predominant institutional investor views, and familiarity in particular with views of a company’s leading investors. Company officials should know where elements of executive pay structure or outcomes are likely to raise red flags, and be proactive in changing elements that cannot be defended effectively, and in effectively explaining those that can.

“Second, issuers need to communicate effectively in the proxy statement, which too often has been viewed pri-

marily as a compliance document. It behooves compensation committees to try to communicate their executive pay strategy, structure and outcomes as clearly as possible, and a number of leading issuers paved the way in 2011 with succinct Compensation Disclosure & Analysis summaries.

“Third, it is clearer than ever that issuers need to know who the proxy voting decision-makers are at their leading investors, and to have a strategy to reach out to those individuals, particularly should ISS and/or Glass Lewis significantly misconstrue elements of executive pay. The ISS recommendation, in particular, appears dispositive for some investors, but for many others this is not the case, as evidenced by the fact that ISS opposed some 11% of say-on-pay proposals in 2011, but only 1.5% actually were defeated. I believe that large asset managers in many ways are the fulcrum for this new age of shareholder engagement. Many of them, over a number of years, have actually stepped up their game, and are very open to listening to sensible arguments and appeals from issuers.

“The Society of Corporate Secretaries and Governance Professionals has been stepping up its own engagement with investors at the national, regional and chapter levels, and we have seen a series of excellent interactions in 2011 between governance officers and investors. These will continue in 2012, including at our National Conference July 11-14 in Washington, D.C. I encourage folks to take advantage of Society programs and from networking with colleagues through the Society on rapidly evolving best practices in shareholders communications and engagement.”



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***More practical advice from Peggy Foran, Corporate Secretary and Governance Officer at Prudential Financial...whose 2011 proxy statement won the Optimizer's award for the best proxy statement of the year – by a huge margin – a fact that was also recognized a Corporate Secretary Magazine jury at their 2011 Awards Dinner:***

“Density of information does not equal clarity. Shareholders want more disclosure in a form they

can understand. A proxy needs to be informative and relevant. It's not only a disclosure document that must meet regulatory requirements, but also a powerful means to engage shareholders and solicit their feedback.”

[Editor's note: Prudential's 2011 proxy statement – where the information one needs to make up one's mind and vote one's proxy is totally “up-front” – both literally and figuratively – should be required reading for governance, compliance and communications experts alike. Don't start your 2012 proxy statement without carefully reviewing it we advise.]

***More on the difference between data and information, and more tips on getting your message across to investors...from Howard Christensen, Chairman, The Capital Markets Board:***



“A few weeks ago, I had the pleasure of hearing Roy Vallee, the current Executive Chairman of the Board of Avnet, Inc. deliver an inspiring message to the Arizona Chapter of the Financial Executives Institute. Roy described in great detail how Avnet had used its capital and available resources to deliver industry-leading economic profits through its performance and values-based culture of excellence to grow to a leader in the semi-conductor industry...with a \$4.5 billion market cap.

“When asked during the Q&A, why the company's market value had not delivered the same kind of performance for its shareholders, Roy admitted that was his major disappointment in a long string of successes.

“If the street doesn't understand the message, and how the company plans to provide long-term shareholder value, whose fault is it? There are huge amounts of data now available from numerous sources; but data

needs to be managed, and interpreted, to produce the desired results. What investors want is insight – the ability to get a clear look into the inner workings of the company as it is today – and insight into the future of the company. They want to be assured that management can provide leadership, manage risk, execute on opportunities, and create value.

“Companies need to use the ‘Elevator Rule’ more in their investor communications. You have 30 seconds to sell yourself while going from the 1st to the 15th floor. Convince the other passengers why they should choose you as their friend and leader. Focus on what's really important to them. Eliminate the nonessentials from the streaming litany of data and noise around you; package the real value drivers into a 30-second sound bite. You will be surprised at the success.”

[Editor's note: Recently, Howard told us about a big investor conference he attended at a spiffy resort in Vail, Colorado, which helped to inspire this year's cover: “Every morning, the analysts would troop in bright and early, get their coffee and boot up their PCs. Then, while one CEO and CFO after another ran through their carefully prepared slides, they proceeded to check e-mails, text, and surf around for other news. What an incredible waste of time and money these events turn out to be if you can not, somehow, command enough attention to get your message across”]



***Lydia Beebe, Corporate Secretary & Chief Governance Officer, Chevron Corporation reminds us that “Great performance does not necessarily speak for itself”***

We are working very hard at Chevron to communicate clearly, consistently – and aggressively in fact – and to focus intensively on our value proposition; our company’s performance and our financials.



We are using our most senior executives to communicate the value proposition to shareholders: Our Chairman, the CFO and the senior heads of our major business divisions participate in all our analyst meetings and earnings calls. And they are also making considerable time available to meet with investors in person.

We are focusing very intensively on our use of capital – and on very carefully explaining our capital spending program, where we plan to invest \$30 billion in the business over the next three years. And, by the way, we have also raised the dividend twice this year, which is a very ‘investor friendly thing’ we think.

You asked about the press, and we make a very big effort here. Everybody is watching us – and most other big companies too – with a magnifying glass it seems, and the least little slip gets a lot of attention.

On the governance side of things, investors have a variety of mind-sets as to how much a company’s financial performance ought to count as select their targets for shareholder proposals. But I do find it frustrating at times that shareholder proponents, and their proposals, don’t always reflect a recognition of a company’s overall governance performance. I think there is room for a lot more discussion here.

As to my top tips when it comes to getting your message across, I’d say again, it really does require hard work – and consistency – and a good deal of person-to-person communications. Second, don’t ever speak before you have all the facts. And last of all, results really do speak when it comes to getting one’s message across – but don’t ever think that they speak for themselves.”

***Getting your message across to investors when there is no “crisis” to focus on, and maybe nothing to stimulate a sense of urgency, or importance in the minds of recipients:***

***Peter Fritz, who specializes in shareholder identification and communication at TFC Data gives us some of his top tips:***



“Most public companies make some sort of attempt to identify their shareowners, follow their buying and selling activity, and reach out to them these days – at least if there are “issues.” Most of us have had some hands-on experience communicating with shareholders of all sizes when there is a major event – like a merger, a contentious shareholder meeting, an activist campaign – or an earnings miss.

“But the question I’m asked the most – as a professional collector and analyst of share-owner data – is this: “Once we have all the information you say we should collect, how should we act on it when there is no crisis? Why should we bother?

“First, I say, remember that most people don’t like surprises. So, consistency in your messaging – and in the timing and frequency of your communications efforts – will give you a big leg up with all investors, through good times and bad.

“Second, everyone likes it when they are noticed – and when they are treated as important people. This is especially true when there is no crisis, and when you are not contacting them to ask for a favor. This idea seems to be gaining a lot of traction: Sixty-five percent of respondents in a recent Corporate Secretary online survey indicated that they planned to increase their direct communication with shareholders in the upcoming year.

“Third, I heartily recommend that companies invest in a much deeper identification and analysis effort – one that tracks changes over time – and also tracks the same data at your key peer companies. Why? Because following – and understanding your shareholders’ investing activities over time allows you to more directly and effectively shape your messaging to each of them, and to act quickly if they may have some mis-perceptions about the company. Here, by the way, is where the difference between data and information is really important – and why we also say that executive management – and the board – be kept apprised of developments here.

“Actively and effectively managing your investor relations activities – and reaching out broadly, and consistently, is far better than communicating only when there is an issue – or when an investor reaches out to you first.”

***Keith Gottfried of Blank Rome reviews some “Key Catalysts” that are generating additional engagement with investors...***

“Say-on pay was a very important catalyst for engagement last year, as it will be in 2012: With last year being the first proxy season to have a mandatory say-on-pay, companies found it critical to engage with their shareholders to avoid a failing vote.



While there are numerous reasons for the relatively low percentage (approximately 2%) of companies that had a failed say-on-pay vote, investor engagement was clearly one of the most important ones. Engagement also extended to other areas where there were noticeable successes. Out of nearly 500 corporate governance proposals that were submitted, 21% or 105 proposals were withdrawn. And clearly, successful engagement in 2011 was one of the primary reasons behind the lowest number of proxy contests we’ve seen in at least five years.

“The recently released ISS Corporate Governance Policy for 2012 should also cause companies to increase their investor engagement efforts as the annual meeting season ramps up: Companies that received less than 70% support for their say-on-pay proposal in 2011 will need to disclose in their 2012 proxy statements their engagement efforts with major institutional investors regarding the issues that contributed to the “low” level of support. Expect to see new proxy statement sections captioned “investor engagement” describing efforts on a wide variety of issues, I predict – including – but not limited to – executive compensation

“The growing importance of social media is likely to be another catalyst for increased investor engagement in 2012. While the IR and PR teams of a number of well-known companies have embraced social media, the use of social media on the corporate governance front is still in its infancy. There are some obvious regulatory issues that still to be addressed to cause more companies to be comfortable using social media to communicate with investors – but clearly it is a matter of when – and not if.”

***“Although the investor communications environment on a global basis is undergoing rapid change, key elements required of a successful proxy solicitation campaign remain the same.***

***Tom Germinario, Senior Vice President at DF King reminds us about some important “basics”...***



“In the current environment, public companies need to begin preparations early if they want to get their message across to investors. They need to have the key data and analytics about their shareholder profile, the key voting contacts at institutional investors and the voting policies/concerns of such investors. They also need to be able to reach investors on a global basis in condensed time frames. Relationship building with decision-makers is also key. With that as a base, companies need to begin a comprehensive process – months in advance of a shareholder meeting – to identify the key issues and vulnerabilities facing them -- and also to be well prepared to present the positive attributes on business performance and governance that should be part of a comprehensive institutional campaign.

“Good communication among various internal departments at the company (legal, IR, HR/compensation) and with external advisors (external counsel, proxy solicitor, PR/IR advisors) will foster early identification of key goals – and preparation of the best messaging to position the company for success.

“In a future that is expected to include an increased level of proxy contests, increased M&A activity and continued scrutiny of executive compensation – all on an increasingly global basis – companies need to be adept at applying proper analysis to decision-making and mobilizing to action the resources of the working group to maximize support for the company’s proposals – and its board of directors.”

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For many of the reasons outlined above, shareholders find themselves with small amounts of shares. By working with retail brokerage firms, ShareGift USA offers their clients the ability to clean up their accounts and donate small holdings to charity.



# PROXY SOLICITATION – The Next Generation

*An Interview with Michael Mackey, President, Alliance Advisors, LLC*



**Q: Michael, how is the proxy solicitation business going at Alliance Advisors?**

**Michael:** This past September marked our one year anniversary since our expansion back into the proxy solicitation business. During our first year we contracted with 200 corporations for proxy solicitation services. Not only was I pleased with the number of clients but also the size of the corporations which included dozens of Fortune 500 companies as well as the two largest utility companies in America. In addition, Alliance Advisors (Alliance) was also the proxy solicitor for 6 M&A transactions as well as representing 3 clients in proxy contests. I guess by any measure it would be considered a successful first year.

**What do you mean by “The Next Generation” in the title?**

Alliance is very focused on corporate governance issues and shareholder engagement so we have made a significant investment in building a governance consulting practice which consists of 4 former ISS executives. While the proxy solicitors who manage our campaigns are well versed on governance matters, we believe our Governance Consulting Group takes it to another level. Their expertise with finance, executive compensation, contested elections and direct knowledge of institutional investors has been a tremendous asset to our firm. To illustrate their effectiveness, consider that seven of our top ten proxy solicitation clients have also retained Alliance for corporate governance consulting services. That is what I mean by The Next Generation.

**How have you marketed the name Alliance Advisors?**

We have an aggressive business development plan to gain

**“Consider that seven of our top ten proxy solicitation clients have also retained Alliance for corporate governance consulting services.”**

market share which includes meeting with law firms and public companies as well as our executives speaking at various industry conferences. Alliance has also been very active in writing White Papers and sponsoring webinars. During our first year, we published 4 White Papers and sponsored 5 webinars, several being co-sponsored with law firms. Our White Papers have covered such timely topics as Dodd-Frank, Say-on-Pay, shareholder proposals and the most recent one is on the issue of political contributions.

The webinars we have conducted have involved issues such as shareholder activism, by-law amendments, voting by institutional investors and a recap of the past proxy season. Our last webinar had more than 300 participants from the corporate and legal community including many prominent law firms which offers us the opportunity to display our expertise.

**Are there other proxy services that Alliance Advisors offers?**

In addition to our 200 proxy solicitation clients, we also serviced another 200 corporations with proxy management, Notice & Access compliance and distribution services. Alliance is the only proxy solicitor that provides corporations with a turnkey solution to manage the entire shareholder meeting process whether the client selects the “Full Set Delivery” or the “Notice Only” model. Our proxy management program provides for the printing of all shareholder documents, posting of the annual report and proxy statement, web hosting, registered holder mailing, broker search and distribution and vote tabulation. These functions generate a host of cost considerations for issuers and our proxy ►

management service has resulted in many of our clients not only significantly reducing costs but also many hours of work. All told, Alliance provided 400 corporations with proxy related services this past year.

**We noticed on your website that you have another company, Alliance Shareholder Communications; Can you tell us about that?**

We formed Alliance Shareholder Communications (ASC) to handle asset reunification programs as well as open-end mutual fund proxy solicitations. These services are more event-driven and involve communicating primarily with large numbers of registered holders and retail shareholders by way of a call center application. Alliance and ASC have developed a scientific approach to call center management which includes campaign strategies, research, training, script development, data cleansing, householding, top listing and vote reporting. Also, the work we do in these business lines makes productive use of our call center during the periods that are off the corporate proxy season.

**Alliance Advisors seems to have an extensive list of services – can you speak to that?**

Our business model has always been about diversification – to provide corporations with multiple service offerings while keeping each service competitively priced. We pride ourselves on our ability to cross-sell and offering a suite of proxy services that are complementary will only benefit the client. For example, our governance consulting practice reinforces our core proxy solicitation business when there are critical management or shareholder proposals on the agenda. The proxy management program that we developed allows our proxy solicitation clients to interface with only one firm to also manage all of the operational aspects of the shareholder meeting process. ASC assists the client with the clean-up of the shareholder files after Alliance has completed their merger transaction. Also, our solicitation work for mutual funds greatly enhances our ability to communicate with thousands of individual investors. This business model has succeeded in the past and appears to be welcomed once again by corporations.

**What other things distinguish Alliance Advisors as a proxy solicitor?**

Our people. One of the main reasons my brother Kevin and I decided to re-enter the proxy solicitation business was the fact that we were able to work with colleagues from CIC – our former proxy solicitation firm. In fact, 10 of the senior people at Alliance are previous CIC executives who have a long history of working together in this business. Alliance has also been very strategic in hiring people with the right skill sets to build this company. In addition to bringing aboard a number of executives from ISS, we have individuals who worked at Broadridge, a market intel-

ligence firm, a transfer agent as well as on the corporate side. This approach has given us valuable insight into all of the different players who are involved in the proxy process. But the main asset that distinguishes our firm is service levels which I believe are not paramount at all proxy firms. Historically, clients have been loyal to us not only based on

the quality of the work, but perhaps more important, our responsiveness.

**Any final thoughts about Alliance Advisors?**

It is evident that we have something very special at Alliance – enthusiasm, teamwork, and a “client-first” approach. By melding veterans with decades of experience with some of the youngest and brightest minds in the industry, Alliance has built an extensive client roster which includes some of the most prestigious names in American business. Our mission is to offer corporations high level consulting, governance driven proxy solicitation, diversified services along with extraordinary results. To this goal, we will dedicate our professional efforts. ■



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# New Technology Offers Greater Opportunity for Shareholder Engagement

By John P. Dunn, Vice President Corporate Issuer Sales



Richard Barron, a New Jersey advertising executive, recently attended his first annual shareholder meeting...while sitting in an airport. "I was able to attend virtually, thanks to WiFi" he explains, "and I was even able to ask questions and vote my shares."

This year, a record 300,000 shareholders have participated in the corporate governance process through not only laptop and desktop computers, but iPads, smart phones and other mobile devices. Approximately 30% of them voted for the first time. Clearly, the era of handheld technology and social media has arrived – not only for individuals, but for corporate issuers seeking to expand their shareholder communications efforts.

"Forward thinking companies have been using social media sites like Facebook, Twitter and LinkedIn® to increase

brand awareness and improve customer service," says Mike Mostransky, Broadridge's Senior Product and Community Manager. "Recently, however, investor relations professionals have begun to realize that the combination of mobile technology and social media enables them to reach shareholders through a channel where many of them want to be reached. Market

researchers forecast that by 2015, more people will access the Internet by mobile devices than by PCs, and we believe this trend will also lead to increased mobile participation by shareholders."

## The Social Media Explosion

When the state of Delaware changed its laws in 2000 to permit virtual shareholder meetings, audio and video streaming capabilities were limited. Today, however, many Internet users have access to broadband which provides them with the ability to watch or listen to live action programming. Moreover, the evolution of social media has changed the way that people use the web. Users are becoming more accustomed to interactive experiences, as opposed to static viewing of individual pages. Now with the advent of mobile devices, people can choose to have an interactive online experience wherever and whenever they wish. To help public companies take advantage of this phenomenon in their efforts to enhance good governance and extend their shareholder reach, Broadridge has developed several groundbreaking tools that have already been adopted by such major corporations as The Coca-Cola Company, Best Buy, TD Ameritrade and NutriSystem. All of them enable issuers to interact with shareholders who have been validated by a proprietary process, thereby ensuring greater control:

- **The Virtual Shareholder Meeting** offers issuers the ability to conduct what may be their most important corporate governance function of the year electronically, on the Internet. Unlike most social media forums, however, the Virtual Shareholder Meeting limits participation to validated shareholders. Non-shareholders may hear and/or view the meeting, if permitted by the company, but not vote or ask questions.

By employing this innovative approach, issuers can: ►

## The Power of Social Media

The numbers below tell a revealing story. It took two years for Facebook to reach 50 million users. Compare that accomplishment to previous technological advancements:

MEDIUM	Years to 50 Million Users
Radio	38
Television	13
Internet	4
iPod	3
Facebook	2



- Eliminate geographic obstacles that stand in the way of maximum participation by not only shareholders, but directors and management
- Reduce travel expenses and minimize security issues
- Gain greater insight from better shareholder attendance and the ability to solicit input, post questions and conduct voting on a real-time basis
- Portray themselves as a company that embraces innovation, values inclusion and cares about the environment
- Display their commitment to greater transparency and strong governance

Virtual Shareholder Meetings can be held in conjunction with a traditional annual meeting or in place of it. For many issuers wishing to employ a transitional approach, a hybrid annual meeting, incorporating in-person and virtual elements, has enabled them to evaluate the effectiveness of this new medium and assess shareholder acceptance.

- **The Shareholder Forum** helps issuers prepare for their annual meeting and, in fact, it provides them with an ongoing means of communicating with validated registered and beneficial shareholders. Depending on issuer preference, the Shareholder Forum can be customized to:

- Contain content as varied as white papers, surveys and streaming video presentations by senior management.
- Solicit questions from shareholders that can be answered privately or displayed online in the interest of greater transparency and stockholder inclusiveness.
- Deploy year-round or on a seasonal basis to facilitate the proxy process and provide shareholders with content that will help them make more informed voting decisions.

Shareholder Forum limits access to shareholders of record and provides them with a convenient mechanism to access their ballots, vote their shares and even attend a Virtual Shareholder Meeting. At the same time, it provides directors and executives with a clear view of shareholder concerns that can help structure annual meetings for maximum impact. In addition, Shareholder Forum enables issuers to access a variety of real-time and weekly reports that can increase their understanding of how many shareholders are registered at the site, what their share ranges are and how many questions they asked and visits they made – all without compromising shareholder anonymity.

- **Mobile ProxyVote.com** enables issuers to reach shareholders through their smart phones or tablets. Available at no additional cost to issuers or shareholders, Mobile ProxyVote®.com is not an app that requires downloading. Shareholders simply visit ProxyVote.com with a mobile device and undergo an interactive experience that allows them to vote their shares. Issuers increase their voting returns and reach quorum more quickly by providing shareholders with the ability to vote through the channel of their choice as soon as they receive their notice.

## Fast facts about mobile technology

- According to IBM, today's smart phones are yesterday's super computers. A typical mobile device is 1000x more powerful than the computer that was on the Apollo 13.
- Mobile devices will be the primary connector to the internet by 2015 or sooner (source: International Data Corporation (IDC))
- More than 350 million users currently access Facebook through their mobile devices

## Broadening the information flow between directors, management and shareholders

Over the past several years, various industry constituents expressed concern about corporate transparency and a decline in proxy participation. The ability to communicate with shareholders and provide them with a voting mechanism through a channel that many of them have already embraced and many more will embrace in the future can only be a positive development for companies committed to strong governance and innovative investor relations.

"As corporate governance continues to evolve, there's going to be a need for companies to interface with shareholders on a far more regular basis," says Broadridge CEO, Rich Daly. "At Broadridge, we take great pride in being the first company to help shareholders and companies take advantage of the efficiencies, convenience and new avenues of engagement that the combination of social media and mobile technology provide."

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# Corporate America: meet your single point of contact for global subsidiary governance

*An interview with Eric van Aalst, of Citco's New York office  
and Kevin Penzien, of Citco's San Francisco office.*

*It has been a while since we last sat down with Eric van Aalst and Kevin Penzien of Citco Corporate Services Inc. (one of the Citco Group of Companies; see box on the next page), so we decided to check in with them to see how they are assisting their clients – a cross section of Corporate America – with global subsidiary management and what trends they observe.*

## **Since we last sat down two years ago, what has changed in your processes and the way that you do business?**

Frankly not a lot has changed in terms of our process and services. We still provide a single point of contact for global subsidiary governance in the broadest sense of the word. This includes a full range of corporate secretarial support services such as entity formation and statutory compliance as well as a suite of bespoke services such as accounting in accordance with overseas reporting standards and director and officer services. Our operations and processes have solidified over the years to a point where we offer seamless execution across a large number of overseas jurisdictions, using our network of Citco proprietary offices and a range of business partners around the world. Our multinational clients really like the fact that we assign them a global account management team that is responsive and pro-active. This team designs an annual compliance calendar for all subsidiaries for which clients engage our services and will also assist with ad-hoc projects, such as director changes, corporate health checks, branch registrations and liquidations. We have also added staff to our overseas front offices that provide dedicated support to multinational corporate clients in Asia-Pacific, Europe and Latin America.

## **So is the global footprint of Corporate America growing?**

Absolutely. With economic growth rates in the emerging markets of Asia-Pacific, Latin America and other emerging markets trending significantly higher than those in the USA and Europe, American corporations – both public and privately held – are expanding and investing overseas aggres-



Eric and Kevin at a client event in New Orleans

sively. With demographics and economic growth favoring foreign markets, US corporations will continue to add to their global operations and entity structure. In many cases, this brings them into uncharted territory, where they need expert guidance in terms of local corporate compliance.

## **I guess that's where your "single point of contact" approach helps?**

Correct. In terms of efficient allocation of time and resources it is simply easier for multinational corporations to work with our specialists than to go out and engage different firms around the world on a country by country basis. As our clients can tell you, we have produced tangible cost savings and other efficiencies for them over the years. This is critical for corporations that are still in cost saving mode in the current economic environment.

## **So what new developments have you observed in the marketplace?**

Over the last two years, mergers and acquisitions have rebounded and we have assisted several clients with projects related to M&A activity. These projects ranged from assisting US corporations with the formation of overseas legal entities to operate a business that they had acquired, to assisting clients with managing international subsidiaries that had sold their business to private equity investors, but still needed to comply with overseas contractual arrangements and regulatory filings. In this last scenario, we often deal with legal entities that are no longer operational or have employees, but will be unwound over a number of years, during which our clients rely on us to assist with all overseas corporate compliance services. Another "issue du jour" seems to be corporate splits and spin-offs, whereby a business is divided between different publicly traded corporations. Often these new public companies have no legacy infrastructure and need to build a subsidiary compliance system from the ground up. That's where we can add huge value and ensure that the right, robust processes are implemented for overseas subsidiaries from Day 1. ►

### **With whom do you interface at multinational corporations?**

Historically, our main contact has been with the Corporate Secretary and General Counsel (many corporations –in the tech industry for instance – combine both offices) and their paralegal support staff. Also, we work closely with in-house and outside tax counsel of global corporations and investment funds in cases where particular attention needs to be given to the tax attributes of certain overseas subsidiaries. On the accounting and reporting side, we mostly liaise with CFOs and Treasurers. In recent years, they have taken on a larger role in the overseas compliance process, as due diligence by investors, creditors and regulators has increased. For instance in many cases default provisions that are part of contractual representations and warranties can be triggered in case of non-compliance with foreign regulatory and filing requirements. Also monetary penalties that overseas regulators impose in case of non-compliance have increased, which is why Treasurers and CFOs in many cases have moved from the back to the driver's seat of global subsidiary governance.

### **Isn't good subsidiary governance critical in the overseas context?**

It certainly is and clearly good corporate governance has taken center stage in overseas jurisdictions. An example of this is a recent court case in The Cayman Islands, where for the first time, two directors were held personally liable for investment losses of a fund, to the tune of US\$111 million. In its rulings the Cayman court confirmed that the directors of the Weaving Macro Fixed Income Fund Limited had willfully failed to discharge their duties of skill, care and diligence to the fund. Readers should watch this space and look for similar cases in other overseas jurisdictions. Just as for high-priority domestic entities, it is critical that similar attention is given to the books and records of foreign subsidiaries, even if these are relatively passive holding companies. Minutes of board meetings should accurately reflect the discussions of the board, its review of the financial statements and contractual arrangements as well as other matters that are relevant for the day-to-day activities of the overseas subsidiary.

### **Remind us how readers can connect with Citco.**

Our contact details are listed below and our website (**www.citco.com**) provides a directory of overseas offices. In terms of client interaction, this mostly takes place via e-mail. Our

global account management team offers a bespoke service and where necessary – because of ongoing or expected transactional matters – they will reach out to clients by phone or meet with them to discuss the portfolio of entities for which we are engaged. Also in many cases, Citco staff will directly handle input of data relating to overseas subsidiaries on the entity management system that our clients use. With regard to entity management software, we are platform-neutral and work with all leading systems that are available to Corporate America.

Also, in terms of Citco in general, we would like to point out that in addition to global corporate secretarial support, we provide a host of other services. In particular, our company is well known for fund administration and companies

## **Citco's history and scope of global services**

More than 70 years ago at the outbreak of World War II, Dutch multinational companies were under threat of having their corporate headquarters under enemy control and assets subject to seizure. Our founder Mr. A.A.G. Smeets -then a lawyer and civil law notary in Curacao– provided urgent assistance to these firms by relocating their corporate headquarters to the Netherlands Antilles in order to protect their assets.

Since that time, the Citco Group of Companies ("Citco") has been assisting multinational corporations with a range of corporate, accounting and reporting services to manage their international subsidiaries. Dedicated staff members around the world support multinational businesses with a broad range of corporate services. Citco's independence, decades of experience, global reach, and Fortune 500 client list speaks to our quality service and reputation in our industry.

which are part of Citco's Fund Services division are the leading administrators of global hedge funds, with US\$700 billion in assets under administration. In that space, our company provides a full range of middle and back office services, including a bespoke transparency suite for institutional investors in alternative investment funds.

### **So we'll have an interview date for next year?**

You bet. The Citco Group of Companies is privately held and majority owned by the family that founded our company more than 70 years ago. Our business perspective is a long term one, which is reflected in the long tenure and quality of our staff. ■

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## Computershare: Committed to Service Quality

*An interview with Jay McHale,  
President, US Equity Services, Computershare*



Computershare is known for service excellence and innovative solutions, delivering exceptional value and quality to clients and their stakeholders. In early November 2011, Computershare received notice of early termination of the antitrust review of its offer to purchase the Shareowner Services business from The Bank of New York Mellon Corporation, and the transaction is expected to close on or about January 1, 2012. Jay McHale has led Computershare's US Equity Services division since 2007. Here he shares his thoughts on the latest developments at Computershare.

### **Let's start with the acquisition of BNY Mellon Shareowner Services. What can you tell us?**

First, everyone at Computershare is excited about the prospect of adding BNY Mellon Shareowner Services' highly talented people to our organization. Their deep operational and industry experience will help us realize innovation in all parts of the business model. The acquisition will bring together two high-performance, world-class shareholder services providers and will offer clients and their shareholders the best of both organizations.

Now that we have received notice of early termination of the review under the Hart-Scott-Rodino Antitrust Improvements Act, the work needed to close the transaction is well underway.

Post-close, a Computershare and BNY Mellon Shareowner Services joint team consisting of senior, experienced worldwide staff will be solely dedicated to the integration – ensuring that current business operations and client services continue providing high quality, customer-focused service. This team will be responsible for planning and

leading the integration process across all key areas of the business, starting by developing a full understanding of the BNY Mellon Shareowner Services business and culture.

We'll be communicating frequently and fully with our clients as soon as we have information to share, and clients from both sides can rest assured that our first priority will be to ensure that our business continues to deliver high quality service levels without compromise.

### **Quality of service is a consistent focus at Computershare. Can you share your philosophy with us?**

We focus on quality in two important ways: developing products and services that best meet our clients' needs, and executing flawlessly in delivering those products and services.

We are always looking for new and innovative ways to enhance our service offerings. We strive to help our clients achieve their business objectives, and as their needs change we look to develop new solutions to support them – whether they are looking to control costs, raise capital, increase the shareholder vote or offer a DRP or ESPP. We provide a unique, custom solution set for each issuer we service, regardless of their size.

To help ensure top-quality service delivery, our staff is supported by robust processes, advanced technological tools, and a permanent infrastructure to drive quality. Our EVP of US Operations, Joe Spadaford, is a Master Six Sigma Black Belt and has created a strong quality culture throughout the organization. Every aspect of our operation is measured and monitored, resulting in quick turn- ►

around times, nearly 100 percent out-the-door accuracy, and first-call resolution in our communication centers.

### **What has been the effect of your quality efforts on shareholder satisfaction?**

We strive to provide outstanding service to our clients' shareholders, and based upon both internal and external measures, our team is doing a great job. Over the past few years, we have consistently scored above the industry average on independent shareholder satisfaction surveys conducted by Group Five for both transaction processing and telephone service.

In addition, for the second time in three years, our communications centers have been awarded the *NICE Customer Excellence & Satisfaction Award* from NICE Systems. The award is granted by a special panel of industry leaders to companies that use creative and inventive techniques to enhance overall quality and business performance.

### **What are your clients saying about Computershare's performance?**

The response from our clients in 2011 has been amazing. We were especially pleased with the results of this year's *2011 Shareholder Services Industry Satisfaction Report* from Group Five, where we were rated the best in the industry for the accuracy of our work, the accuracy and timeliness of client reports, and for continually seeking to improve our services – proof that our clients recognize our focus on continuous improvement.

In fact, in this year's survey, Computershare achieved a 91 percent overall satisfaction rate – the highest in the industry. We're proud to be recognized for our excellent

client service by a wide range of issuers. For example, we achieved 100 percent satisfaction rates for annual meeting services from both the largest issuers – those with more than 100,000 holders – as well as from smaller issuers with 1,000 to 5,000 holders.

As one of our clients put it in the survey comments, "Our client representative is one of the best in the business.

He partners with us and is like one of our own. He and his team value customer service and integrity the same as we do." That sums up the core of what we strive for at Computershare.

### **Those are certainly results to be proud of. Is there anything else you'd like to add?**

As I've mentioned in earlier interviews with the *Shareholder Service Optimizer*, the single most important measure to us is recommendation rate. Do our clients think enough of the service we provide to recommend us to another issuer? We have watched this percentage increase every year since 2007, and roughly nine out of ten of our clients would recommend us. In this year's

Group Five report, we had the highest reported recommendation rate at 85 percent and we're proud of that.

While these numbers are very satisfying, we always strive to do better. We want 100 percent satisfaction and recommendation rates. This is why continuous quality enhancement will always be a top priority at Computershare.

To learn more about Computshare and to find out how Computshare's best-in-class equity solutions can support your company's objectives, contact us today at **888-404-6333** or visit **[www.computershare.com](http://www.computershare.com)**. ■

**In 2011...we were rated the best in the industry for the accuracy of our work, the accuracy and timeliness of client reports, and for continually seeking to improve our services – proof that our clients recognize our focus on continuous improvement.**

**Computershare achieved a 91 percent overall satisfaction rate – the highest in the industry.**



# Introducing LoyaltyShares...

**A truly revolutionary development that, among other things, lets public companies turn debt into equity...**

*The Optimizer's editor interviews Ellen Philip and Cal Donly of Ellen Philip Associates*

**Carl:** You recently launched a venture that seems to take you into a space that's very different from the one you've been part of for a good number of years. Tell us something about your new company, LoyaltyShares LLC, and the ideas behind it.

**Ellen:** First, let me emphasize that we are still in the same businesses we've always been in, but LoyaltyShares moves us far beyond providing "shareholder services" as such and into a space with very different goals, different economic realities and a very different set of players. Still, the concept has its foundation in mechanisms and practices that have long been commonplace in the shareholder services community. For us it amounts to a new ballgame, but it involves a logical progression – and a major extension of our services – rather than radical change. It leaves us doing much the same things as we've done for over 30 years, but in a fresh, exciting and also challenging new context.

The LoyaltyShares idea, in a nutshell, is for a company to use its publicly traded common stock to drive brand loyalty. But it's more than just a loyalty driver. It becomes a way for a company to convert debt into equity. LoyaltyShares methodology enables a company to strengthen its balance sheet by reducing the liability posed by unredeemed loyalty points or miles. Such liabilities add up to big numbers. Some estimates of the total, sitting out there on company books, run as high as \$16 billion.

The principal mechanism behind the LoyaltyShares methodology is a direct stock purchase plan. Use of a plan in this way is not a spanking new idea, as you know. It's been tried in a variety of ways, but not in the way we now have in mind, and in place.

Our methodology enables a share-rewards component to be added, seamlessly, to existing loyalty platforms. Typically, ►

loyalty platforms are large and complex systems that not only track the accumulated points of program members but present participants with an array of redemption options. Many current options have little or no perceived value, and do little to strengthen brand loyalty. It's an area that's crying for a new idea, and that's what we have.

LoyaltyShares methodology disturbs nothing that a company might already have in place in its loyalty program. Nor does it impact any data processing systems that are currently in use. It simply gives a company the means of adding a fresh and different value proposition to its current list of point-redemption options. Through it a company can give a specific group of customers a way to convert loyalty points into equity positions – slices of the corporate pie. Shares of common stock become an alternative to toaster ovens, TVs, free appetizers or desserts and the like. It's a very appealing alternative, in our estimation.

**Carl:** It seems to me that you have done something like this before. How did this all come about?

**Ellen:** You recall correctly: Several years ago we had a key role in a share-based loyalty program sponsored by Jameson Inns, a hotel chain. "Invest While You Rest" is the slogan they came up with. After registering with and "vesting" in the plan, members received \$10 worth of stock for every \$100 they spent in stays at a Jameson hotel. In effect, a 10% "loyalty discount" or maybe a better way to think of it, a "loyalty bonus" – payable in Jameson shares.

The program was driven by senior marketing managers whose preoccupation was with the marketing and sales potential inherent in a shareholder account rather than with the raw cost of maintaining such an account. What's particularly interesting about the program is that the impetus driving it came all the way from the top of the company.

In order to distinguish Jameson's brand – in one of the most intensely competitive spaces around, by the way – the company's CEO set out to find a loyalty reward with more luster than those his competitors were offering, such as hotel stays, free meals and the like. What led him to the idea of offering shares of his own company's publicly traded stock we don't precisely know. What we do know is that by the time we were brought into the picture Jameson was working through the mechanics of a process that would be both operationally sound and legally compliant. Most important to note, it was also in the throes of a drawn out but ultimately successful process to get a green light from the SEC.

**Carl:** And what was your part in that process?

**Ellen:** Our task was to build a web-based interface that would control and facilitate the flow of data between the three principal program components – the participating members, the transfer agent system for allocating and administering plan shares, and Jameson's in-house system for tracking "qualifying" hotel stays. It was the job of the interface to pull the entire process together in a cohesive and orderly way, and to iron out any incompatibility in data that needed to move back and forth, so the process would appear seamless to the company's most loyal and most important customers. We took on the role of data intermediary – our responsibility was the communications hub through which different entities in the process could talk to one another. E-delivery was a condition of program membership, we should also note.

**Carl:** How did the Jameson program work out, and what happened to it?

**Ellen:** The program ran for several years, and very successfully. It came to an end when Jameson was taken private and the program lost its key ingredient – publicly traded stock. It was a big disappointment for us and for members as well, judging by the number of comments we got. The company had us explore ideas for alternative financial instruments, but we didn't find anything we believed would fill the gap.

**Carl:** And how was it that the share-rewards idea got reborn, as it were?

**Cal:** For a while we didn't do much of anything with it, but then we got to thinking it was too good an idea to simply drop. We ran some ads in *The Wall Street Journal* and *Chief Executive Magazine* and through them made contact with two veteran players in the loyalty industry, Skip Kitchen and Paul Hebert, who provided a new perspective. We put our heads together and LoyaltyShares LLC is the result.

**Carl:** How does a DSPP under the LoyaltyShares model differ from a regular DSPP?

**Cal:** In basic structure and also in requirements for implementation there is no intrinsic difference at all – that's why the Jameson precedent is so important. The difference, under the LoyaltyShares model, is that the plan is aimed at a specific target audience, a company's loyal customers and holders of reward points or miles. In a manner of speaking, it accepts the points customers have accumulated through their loyalty as currency. But, because of its importance – and the importance to "marketing people" of being able to monitor, track and analyze results, we recommend that a separate and distinct plan be established to hold the LoyaltyShares that are earned.



**Carl:** Why not keep it simple – and just put a code in the file and mix the loyalty plan participants in with the regular plan participants?

**Ellen:** There are a number of reasons why this is inadvisable, in my view, but the key factor is the impact such mixing would have on data processing. Adding a new subgroup to the plan mix would necessitate changes in existing processing programs and routines. We all know how difficult it is to make any change – big or small – in well-established processes. So in the end, it's far simpler to keep things separate. With a separate plan, and the LoyaltyShares interface to provide connectivity, processing obstacles are automatically avoided. Plus, as Cal noted, it's much, much easier to track and analyze and report on results this way.

**Carl:** What are some of the key benefits of the program, as you see them?

**Ellen:** There are benefits at both the company and customer levels. Loyal customers benefit from the opportunity to convert points into something of tangible value, something that's a close equivalent to cash. If they wish to do so, members can use the program as a mechanism for building a stock portfolio: They can reinvest dividends if there are any. They can also make voluntary cash purchases of additional shares if they really like the company – or they can sell their shares at any point they find it expedient to do so.

What's also valuable to customers is that they're given a redemption option that is very easy to use, and that produces instant gratification – as compared, let's say, to looking through a variety of merchandise in a catalogue. Better yet, redeeming points is not encumbered with restrictive conditions. You don't have to think about how and when to use your loyalty reward, as you would with airline miles, for example – where the restrictions sometimes create feelings of dis-loyalty, at least in my experience. The act of redemption becomes a much more straightforward process, involving more satisfaction and less frustration.

By taking a step that encourages redemption, the company gets a new and very strong driver for customer loyalty – and, of course, a very compelling reason to return as a customer, again and again. This is a substantial achievement in itself. But there's also that other benefit I mentioned – one that could be just as important and com-

PELLING, if not more so. That's the ability to convert debt into equity. The process has an impact on the company's balance sheet, so it's certainly something that is very compelling for a CFO to think about.

**Carl:** In your opinion, what sort of company could make best use of this type of program?

**Cal:** It would have to be a company whose stock is publicly traded, of course. And having a “fairly big ticket” per purchase – but not necessarily a really big one – seems important too. Airline tickets and hotel stays are naturals of course, but it's amazing, for example, how quickly a series of restaurant tabs or retail store purchases can add up over time. The company would have to be highly consumer oriented, heavily dependent on winning repeat business – and will probably be in an intensely competitive business environment, where there are lots of consumer choices. The ideal company will have a very strong commitment to winning market share, to defending and enhancing its brand, and a certain degree of boldness; not just the willingness but also a strong desire to jump out ahead of the pack.

**Carl:** You've told me that the reception you've had so far has been very positive. What do you see as challenges you face?

**Cal:** In the course of planning we've spoken to a wide range of people who focus on loyalty issues and the response has ranged from cautiously optimistic to very enthusiastic. We haven't heard anything that's really negative. From comments on our website we sense a groundswell of support from consumers.

We realize, though, that the decision to implement a program involving stock issuance is not one that a company makes without a great deal of deliberation. The decision involves factors that each company will have to think through for itself. It's not the type of decision that's made by one person or even one department. That's a challenge.

We've drawn up the roadmap, we have an implementation team in place, and, most important, we have a proven model – and a proven track record behind us. Our immediate goal is to bring people at top management levels around to asking what we think is the crucial question: “Why would we NOT give this a try?” ■



Pepper, the Ellen Philip mascot, checks in for a snack.

# The 2011 End Of Annual Meeting Celebration And Benefit

**Honors David W. Smith, Former President of  
The Society Of Corporate Secretaries & Governance Professionals  
and Raises Over \$80,000 To Support Fountain Gallery Artists  
Coping With Serious Mental Illnesses**



David Smith, and wife Cheryl (bedecked with flowers from the South-Sea-Islands-style sushi boat crew) accept congratulations, flanked by Benefit co-chairs Cal Donly & Ellen Philip (l) and Carl Hagberg (r)

Over 250 people from the Corporate Governance and financial services communities turned out in force to honor former Society President David W. Smith, who retired earlier in the year – and to celebrate the end of another tough annual meeting season – AND to support the amazing work of Fountain Gallery artists – all of whom are coping with serious mental illnesses...while racking up a truly impressive record of achievements in 2011.

***“David was one of the very first people in America to recognize the emerging and still-growing importance of the Corporate Governance movement” his citation noted. “He led the way in adding Corporate Governance to the Society’s name – and while this movement has complicated our lives a bit, and has added significantly to the ‘excitement’ of the annual meeting season – it has added major importance to the roles that all of us in this room perform throughout the year to foster good corporate governance practices.”***

Founded in the year 2000, Fountain Gallery has become the world’s premier venue for artists suffering from mental illness. And thanks in part to fundraisers like this one, but in much larger part to the talent and hard work of Gallery artists, 2011 was a year of very significant achievements for them:

To name just a few, member-artist Bernard Stote, who was the member-speaker at the Benefit, created a large-scale sculpture that was exhibited at the Kennedy Center in DC, to mark its 50th anniversary, and which will soon be on exhibit at Citibank in NYC. Bernie also led a team of more than 20 Gallery artists who created hand painted tiles for a water feature that ran between the two central elements of the sculpture. Gallery artists exhibited at the 2011 Outsider ►



Member-Artist Bernie Stote



Benefit honoree David Smith (center) with Fountain Gallery member-artists and exhibitors Carleton Cordier and Justine Hall

Art Fair, at the Manhattan DA's office – to mark the opening of the city's first Mental-Health Court – and at two shows in Long Island, sponsored by prominent artists and collectors – in addition to the five shows that were mounted in the Gallery itself. Gallery director Jason Bowman and member-artist Mary Cohen spoke at a symposium "Arts in Mind" at the Museum of Modern Art, where paintings by Marty and five other Fountain Gallery artists were on exhibit at MOMA. Thirty-one Fountain Gallery artists showed their works at the End of Annual Meeting Season event, and thanks to the generosity of Benefit attendees, and to our many corporate sponsors, two Fountain Gallery artists were able to study, create and collaborate during a week-long painting retreat at the Blue Moon Arts Center on Long Island. ■

*Readers; We urge you to go to our website, [www.optimizeronline.com](http://www.optimizeronline.com) and click on the link under "What's New" to see a video of the Benefit highlights – and to maybe spot yourself and lots of friends in the crowd. The very last scene – the Grand Prize Drawing, where the winner can pick any unsold work off the wall, thanks to Ellen & Cal – and where the prize-winner, the member-artist AND the chosen work all match up like magic – Is especially worth a look.*



## The 2011 End of Annual Meeting Season Celebration



**HONORING**  
David Smith  
Former President  
Society of Corporate Secretaries and Governance Professionals

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**BE SURE TO SAVE THE DATE...for  
THE 2012 END OF ANNUAL MEETING CELEBRATION & BENEFIT • FRIDAY, JUNE 5, 2012**



# Protests, market dips, unemployment and uncertainty in European Banks—oh my!

*Rhoda Anderson, founder of Rhoda Anderson Associates and EZOnline Documents*



As if the volatile worldwide financial markets and high unemployment rates aren't enough of a roller coaster ride, add to that the recent protests on Wall Street and around the world. It's enough to make an issuer dizzy.

## **What does this suggest as we gear up for the 2012 Annual Meeting Season?**

First, regardless of what one might think about the Occupy Wall Street movement, and the so-called ninety-nine-percenters - there is certain to be intensified focus on executive pay this season, and, we bet, a much bumpier ride for say-on-pay approvals than in 2011. The Presidential debates, and a global economy that seems to be stuck in the mud are already adding more fuel to the debate over "pay equity" and whether the gap between the top 1% and the remaining 99% of income earners has grown unacceptably large. And even without these factors, many people in the investor community think that last year's say-on-pay proposals were too much like a rubber-stamping exercise, and that much more discussion and much closer scrutiny is warranted going forward.

Another change we saw in 2011 was the big decline in voting by normally issuer-friendly individual investors - coupled with a noticeable increase at many companies in "unfriendly votes" from this previously friendly constituency.

The one common denominator on the investor scene is the call for far greater "transparency" where corporate communications are concerned; for a lot less boilerplate, and for a lot more "management discussion and analysis" - in plain and understandable English.

## **The Notice and Access Quandary:**

About four years ago, Notice and Access allowed public companies to issue hard copy notice of internet access to proxy material and present all the proxy and voting documents electronically - in lieu of mailing paper ones - unless investors specifically ask to have paper documents sent. After a disastrous year the SEC allowed the issuers to include a tutorial with the notice which helped shareowners understand what was going on. The good news is that electronic investor communication is far less expensive than traditional printing and mailing of paper materials, and that more and more shareowners are opting for electronic delivery each year. The bad news is that many people attribute the decline in individual voting directly to Notice and Access, which we think is simply not the case.

Why have individual investors been voting less and less often - even when the numbers of "hot issues" on the proxy ballot seem to be increasing, rather than decreasing?

Lots of reasons have been offered: We're way over-busy; proxy voting is not a top priority for most people these days...and, my own top pick, most proxy packages are far too difficult to access and hard to understand.

My Top-five tips for designing and delivering proxy materials that will have a chance of being read - and acted upon...plus one to grow on...

1. Put the matters to be voted on - along with the management recommendation and the proponent's state-



ment if there's a shareholder proposal right up front in your "proxy package".

2. Use plain English – and keep a “conversational tone”: “Test drive” your paper and electronic documents with ordinary readers for “readability”.
3. Make sure that your documents are easily “navigable” – whether they are to be read electronically or on paper. An up-front index, index “tabs” - on both your paper and electronic versions, prominent headlines and subheads that help people find what they want quickly – and intuitively – and footnotes way at the end, wherever possible are all things that will help the reader along and keep them reading.
4. Make sure that your electronic documents will open quickly and easily – for average people with average computer skills and systems capacity.
5. Do your math, and use a smart “stratification” system: Send paper packages to all your “larger” individual investors and to all your “paper voters” who voted last year, regardless of their size. Send reminders to electronic recipients – and to larger paper recipients who have not voted whenever you have important issues on the ballot and where you want all the favorable votes you can get.

And here's a tip to grow on: use experts to help you with all of the above. Find the suppliers who keep abreast of SEC regulation and industry changes. They work on the proxy process all year while you, hopefully, you do it only once a year...

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***So here's to a GREAT 2012 Annual Meeting Season!***

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# GLOBAL SHARES

*The Optimizer's Editor interviews John Bagdonas,  
Vice President, Business Development, Global Shares*



**The Optimizer:** John, when I made a list of the most difficult operational and communications problems facing corporate managers these days, managing a global stock ownership plan – and “Getting one’s message across” to employee investors – ranked at the very top of my list. Tell us about Global Shares, and how you help people cope with the many challenges in this arena.

**Bagdonas:** For starters, Global Shares is a truly global company. We have employees in Ireland – where our company was founded – and in the UK, Germany, Italy, Shanghai, China, and here in the U.S. Currently, we have over 150 clients, in 19 countries – most recently in Saudi Arabia – on four continents: Europe, Asia and North and South America.

We specialize in “Global” employee share ownership and incentive plan administration and recordkeeping. This is our only business. Our mission is to optimize the benefits of ownership incentive plans – both for companies and for their employees. We do it through excellence in administration – and in communications – your own hot button these days – and in terms of client service.

We are a relatively small company, which means we are adroit, nimble, and with a lot of very smart people – who know what they are doing, and who focus intensely on excellence in performance. And, very important in the custom solutions business, we are not tied to any giant operating platform as are so many of the players in this field. Everyone in the employee stock plan business, as you know, runs for the hills to be sure they don’t get into the customized stock plan market. Global Shares has embraced this market.

**“Everyone in the Employee Stock Plan business runs for the hills to be sure they don’t get into the customized stock plan market. Global Shares has embraced this market...”**

While we work with many companies directly, we also work with many of the major brokerage and wealth-management firms, like Morgan Stanley Smith Barney, UBS, Charles Schwab, BoA Merrill Lynch, Raymond James and others. Rather than trying to build something into their own large-scale platforms, when a

customized solution is needed, they use us, and simply interface the current information onto their own systems every day, so that all of a client’s employee plans will be available to participants from one site. One other thing to know about us, about 25% of our clients are private companies that are not publicly traded at all, but have many of the same challenges as listed companies, and then some unique ones as well. ►

**The Optimizer:** Tell us something about your customized communications solutions – and how they help to get what are, as I’m sure you’ll agree, some very complicated kinds of “messages” across to investors in company stock or equivalents.

**Bagdonas:** All of our clients want what we call our Participant Gateway or portal to be very company specific. Companies like Coty, Ambev, Cargill, and MassMutual for example, want to lead off with something that has the ‘look and feel’ of the company itself. In this way, we build the client’s brand and benefit program with their employees.

Another great thing, our platform lets them create customized messages, via an online bulletin board, to allow a company to lead off with a personal message or video from the Chairman. It also lets them update their messages easily, and quickly – to be very proactive in terms of current developments, and to anticipate, rather than react to the kinds of questions and transactions that are likely to arise during a given period.

The Optimizer: I watched your video, and I was really impressed with the way your statements looked. Many of the plan statements I see these days seem to give rise to more questions than they answer.

**Bagdonas:** We are very proud of our statements; not just the way they look and how easy they are to read, but with the intuitiveness of the overall presentation. Participants can also model transactions easily, to get an idea of future value and the tax implications of any transactions they may be thinking about.

Another thing we are very proud of, of course, is the ease and efficiency of making transactions. Participants can access the system and authorize transactions via I-Pad, PC, I-Phone or other smart phone, 24x7, in multiple languages, and basically, from anywhere in the world. Speed, flexibility, and efficiency also creates really big value, we think – both for client companies and for plan participants.

**The Optimizer:** What kind of advice and support can you provide to your corporate clients?

In my own experience – from way back when – things like regulatory and tax issues, and language issues too, were among the biggest hurdles for plan sponsors – and often prevented them from launching programs they really wanted to launch.

**Bagdonas:** You are right: Way back when, a “global plan” often meant “all the employees, no matter where they work, who are US citizens.” So you have put your finger on another very important set of reasons to work with plan providers who are Global in scope themselves. The overall expense of launching and administering an employee ownership plan can really be prohibitive if you have to work with a small army of individual service providers on a country-by-country basis, or somehow try to manage all the necessary work “in-house.” Today, for example, the risk of not being fully compliant is simply not an option. And frankly, rolling out an employee ownership plan to employees in some countries, but not in all, is very much a non-starter these days as well.

We can also help with employee and plan participant training – and with written and web-based materials in whatever languages a company may need. We can also provide consulting, and staff support as needed during the rollout period, or during heavy operational periods, or with event-driven developments, like a corporate reorganization.

**The Optimizer:** Let me say again how much I enjoyed watching your video. I think that well-done video presentations are maybe the very best ways to “get your message across.” And you sure got some powerful endorsements on there from clients. Where can readers go to watch?

**Bagdonas:** Simply go to our website,  
[www.globalshares.com](http://www.globalshares.com)



Contact John Bagdonas

Direct: **212-421-7427**

Mobile: **908-247-2227**

E-Mail: **[jbagdonas@globalshares.com](mailto:jbagdonas@globalshares.com)**

# INSPECTORS OF ELECTION:

## Some Questions and Answers On “The Basics”

### WHY DOES MY COMPANY NEED TO HAVE ONE OR MORE INSPECTORS OF ELECTION?

Business codes typically call for publicly traded companies to have one, two or three – or sometimes more – Inspector(s) of Election to oversee and certify the vote – whenever there is an Annual or Special Meeting of Shareholders. Most non-US companies also require Inspectors, or as they are sometimes called, “Judges of Election” or, in Canada, “SCRUTINEERS”. The Articles of Incorporation and/or the By Laws of most publicly held companies also spell out the role of the Inspector(s)...how many there should be...who should appoint them...and what is to happen at that company if an Inspector should unexpectedly become unable to serve.

### WHAT, EXACTLY, ARE INSPECTORS OF ELECTION SUPPOSED TO DO?

Inspectors of Election are typically charged by state law, and in the Corporate Charter documents, with five sets of duties, and sometimes a sixth:

1. Determining the number of shares that are entitled to vote on each matter before the meeting.
2. Determining whether a quorum is present, sufficient to allow the transaction of the business that is to come before the meeting
3. Tabulating, or overseeing the tabulation of all validly executed shareholder votes – whether cast in person or by proxy
4. Hearing and ruling on any challenges that may be made as to the validity of one or more proxies or ballots present at the meeting
5. Certifying the final results. In the U.S. the Inspectors’ final report is binding, and can only be reversed in a court of law.
6. In some states, it is the Inspector, and not the Chair of the meeting who announces when the polls are open and when they are officially closed.

In addition, each Inspector of Election is required to swear and file an oath to “faithfully execute the duties of Inspector of Election with strict impartiality and to the best of my abilities.”

### WHO CAN SERVE AS INSPECTORS OF ELECTION?

Any individual person can serve as an Inspector of Election. And, please note, while they may be acting as representatives of a company, Inspectors swear their oaths and serve as individual persons.

### DOES THIS MEAN THAT A COMPANY EMPLOYEE – OR A RETIREE CAN SERVE AS INSPECTOR?

Yes, company employees and retirees can and often do serve as Inspectors at “routine” Annual and Special Meetings. As long as they swear their oath to “faithfully execute the duties of Inspector” – and do so, we would add...and can pass the “sniff test” in terms of their ability to carry out such duties in a totally impartial manner. As long as the meeting will indeed be a totally “routine” one, this can be a perfectly fine and a highly cost-effective solution. If any of the outcomes might be “close” however – or worse, subject to challenge by parties who want to have different outcomes, an employee or retiree would probably not be a good choice as Inspector.

### WHAT ABOUT A HIRED “AGENT” OF THE COMPANY? SAY AN ATTORNEY, OR THE OUTSIDE AUDITOR, OR A REPRESENTATIVE OF MY TRANSFER AGENT OR PROXY SOLICITOR?

People who work for your outside law firm, auditing firm, transfer agent, and even your proxy solicitor can, of course, and often do serve as Inspectors of Election. Given today’s environment, however – the increasing closeness of many shareholder votes and the increasing scrutiny that the outcomes are receiving from activist investors – it is wise to pay particular attention both to the qualifications of Inspectors and to investor perceptions about their independence and their impartiality.

### A CHECKLIST OF QUALIFICATIONS TO CONSIDER BEFORE APPOINTING ONE OR MORE INSPECTORS OF ELECTION:

- ✓ Inspectors need to be persons who will appear to be well-qualified – and who are well-qualified. Their resumes, and the way Inspectors present themselves, should bespeak them as persons with impeccable experience and judgment.
- ✓ Inspectors must understand “the duties of Inspector”: Ideally, they will have well documented procedures as to what, exactly, they do to “inspect”. Very important to note these days, the Inspectors’ actual due diligence efforts need to be commensurate with the types of issues that are up for a vote, and commensurate with the likelihood that the outcomes may be “close” or otherwise subject to challenge.
- ✓ Increasingly, it has become important for Inspectors to be, and to be perceived as being, totally independent persons. Much as with corporate directors these days, persons who are or were employees of the company are not generally considered to be independent where governance matters are concerned. Persons who are affiliated with companies that derive significant income from the company appointing them are often not wise choices either – IF any of the Meeting outcomes could potentially be close or ultimately challenged. In today’s environment, it is often a wise decision to use a totally independent expert to “look over the shoulders” of proxy tabulators as a “double-check” of their work, and to receive and review the work of all submitters of proxies – like proxy solicitors, activist investors and any other bearers of proxies who may show up at the meeting.
- ✓ Inspectors of Election need to be able to stand up to any challenges that may be made – and to explain exactly what they have done to “inspect.” They also need to be able to “push back” diplomatically but firmly – not only to outside challengers, but to company representatives and their various agents, all of whom, of course, have a keen interest in “winning.” The worst possible outcome for a corporate meeting is not losing, we can assure you: It’s declaring a win and having to retract it later.
- ✓ Inspectors should be prepared to deal expeditiously and professionally with any proxies and ballots submitted at the meeting, and to certify the final results without delay. While added due diligence steps are often required these days, corporations, and their investors, have a need for speed as well as certainty as to the meeting outcomes. ►

**“WHO COUNTED THOSE PROXY VOTES, MADAM CHAIRMAN?”**

**“WHAT ARE THEIR QUALIFICATIONS?”**

**“AND WHAT DID THEY ACTUALLY DO TO ‘INSPECT’?”**

**Our 2011-2012 Team Of Independent  
Inspectors Of Election...**



Members of The Hagberg Team of Inspectors of Election, during their annual due diligence visit to Broadridge Financial Solutions operations headquarters, where they take stock of “what’s new” on the proxy voting and processing scenes, observe and review the processing procedures, the proof and control systems and procedures and review the internal and external audit reports.



**Carl Hagberg** serves as general manager for the Independent Inspectors Team. He has served as Inspector of Election at over 400 Annual and Special Meetings and in numerous proxy contests. Carl is considered to be one of the country’s leading authorities on Annual Meeting matters and on automating – and auditing – the proxy voting and tabulating processes.

If you would like more information about our services, call Carl at **732-928-6133** or email **cthagberg@aol.com**.



**Raymond (Ray) Riley**, a Brooklyn-based consultant specializing in systems and procedures, serves as co-manager of the IIOE Team. Ray has acted as Inspector of Election at well over 300 routine and contested meetings. While serving as the chief technology officer for the Corporate and Institutional Trust and Agency group of Manufacturers Hanover Trust Company, Ray developed the securities industry’s first fully-online proxy tabulation and reporting system. Ray is a former president of the Securities Transfer Association.





**Rhoda Anderson**, based in Cranbury, NJ, guided two of the world's largest companies to record voting levels – first as Assistant Secretary, Corporate Secretary's Dept. at AT&T, then the Director at Lucent Technologies – before founding her own company, which helps companies automate the delivery of annual reports and proxies and to better automate their voting processes.



**Michael Dzieciolowski**, based in Santa Clarita, CA, has over 35 years experience in brokerage and banking operations and in client services. As a former Assistant Vice President and Relationship Manager for BNY Mellon and its predecessors, Mike coordinated transfer agent activities and served as Inspector of Election for over 400 annual and special meetings of shareholders of small, medium and large companies. Clients included Rockwell International, Fluor Corporation, Computer Sciences Corporation, Hilton Hotels Corporation, Harman International Industries, Imagine Films Entertainment and Corporate Express among many others.



**Francis G. (Frank) Arren** has over 40 years of experience in the financial service industry. He served as a V.P. in the Mutual Funds Services Group of Bank-Boston, followed by a stint at Chase Global Funds Service, before moving to Equiserve, L.P. where he served as Director, Client Administration. From 2002-2009 Frank was a Client Service Manager and Chief Compliance Officer at Strategic Planning Group, an investment advisory firm in Needham, MA. Frank has served at numerous shareholder meetings, including Eastman Kodak, General Motors, Gillette and Xerox. He is a graduate of the Stonier School of Banking, the New England School of Banking at Williams College and holds an MA from Burdett College in Boston.



**Gregory P. Denman**, based in New Jersey, has worked at J.P. Morgan Shareholder Services, First Chicago Trust, Equiserve, Computershare and Continental Stock Transfer, where he was responsible for over 400 clients and from which he retired in 2008 as V.P. and Customer Service Manager. Greg has served as the Inspector of Election at well over 300 shareholder meetings. Earlier in his career, Greg worked for the U.S. Atomic Energy Commission where he was responsible for the management and control of confidential and top-secret documents.



**Debra Baker**, who divides her time between Atlanta, GA and Birmingham, AL, served from 2002-2006 as the Executive Director of Ethics and Compliance and Assistant Corporate Secretary at BellSouth Corporation. She was responsible for all the company's Ethics and Compliance programs, for the Board and Committee sections of the proxy statement, for meeting logistics, materials and minutes, for the annual Board and Committee evaluation process and for monitoring the company's governance ratings. Currently, she is affiliated with Arcapita, a private international investment bank headquartered in Bahrain, with offices in Atlanta, London, and Singapore that sources investment opportunities in asset-based corporate investments.



**Susan Edwards**, MBA, based in Boca Raton, FL is a former Stock Transfer Operations V.P. and Department Head of Manufacturers Hanover Trust Company, where she managed over 500 employees in multiple locations and on multiple shifts. She has attended numerous annual meetings and served as Inspector of Election for small, medium and large cap companies throughout the U.S. After relocating to Florida, Susan founded Rockwell Communications, an international telecommunications business which was subsequently sold to a publicly traded company.



**Dan Fahey**, MBA, a lifelong resident of the Boston area, has been in the securities processing business for over 35 years. He served as a senior level executive at Bank of Boston, Boston Equiserve and Equiserve, where he acted as Inspector of Election for numerous clients. Subsequently, he served, and continues to serve as an expert consultant for companies in the investor relations space. Dan earned his undergraduate and graduate degrees from Boston University.



**James D. Gaughan, Esq.**, based in Houston, TX, has over 25 years experience with Fortune 500 companies serving in corporate governance positions where he supervised the preparation and distribution of proxy solicitation materials and coordinated shareholder meetings from solicitation to vote tabulation. Jim is a long-time member of the Society of Corporate Secretaries and Governance Professionals, having served in a number of officer and committee positions with the New York and Houston Chapters. He also served as a member of the Society's Securities Law and Corporate Practices Committees.



**James E. Hagan**, based in Atlanta, GA, spent more than 45 years with BNY-Mellon and its predecessor companies, most recently in the position of Vice President & Senior Relationship Manager in the Atlanta office, from which he recently retired. During the course of his career he has served as Inspector of Election at more than 300 Annual Meetings including Harris Corporation, The Hershey Company, Loews Corporation, and Mirant Corporation. Jim is a graduate of New York University.



**Terence (Terry) Gallagher, Esq.**, based in Stanford, Connecticut, is a commercial litigator with 17 years of experience in various forms of securities litigation. He has defended federal securities fraud class actions, proxy litigations, and breach of fiduciary duty actions. Terry began his career with the New York Stock Exchange as an Examiner, reviewing member firms for compliance with federal and state laws and the rules of the Exchange. Terry is a graduate of the Wharton School, Pace University and the University of Southern California.



**Anna G. Hagberg**, who is based in New Jersey, began her career as an Inspector of Election in early 2010 by attending annual and special meetings of a wide variety of small, mid-cap and large corporate issuers. Prior to that, she was an Assistant Manager Regulatory Coordination at Merck & Co. She holds a B.S. degree from La Salle University in Philadelphia, Pennsylvania.



**Don Hager, Esq.**, based in Oklahoma City, OK, and currently Of Counsel to DeBee Gilchrist, is a former Assistant General Counsel and Assistant Secretary of Kerr-McGee Corporation. Don served as Chairman of the American Society of Corporate Secretaries Public Company Affairs Committee, as Chairman of the Membership Committee, and in 2003 received the Bracebridge Young Award, the Society's highest honor.



**Leah Grant**, who is based near Seattle, WA, has over 24 years of experience in the biopharmaceutical/medical device industry, the last 10 of which were spent in Investor Relations and Corporate Communications. She is the President of Fluididea, Inc, a firm she founded in 2007, which provides communications and IR consulting services to companies in the biopharma & medical device industries. Leah holds a BS from Western Washington University and an MBA from Seattle Pacific University. She is an active member of NIRI; a past president of the Seattle Chapter and a charter member of NIRI's Strategic Communication and Reputation Management Roundtable.



**Aubrye Harris-Foote**, based in southern California, is the founder and principal of Cretum Communications in Newport Beach, working with public and private companies on Investor Relations, Public Relations and Market Outreach programs. Earlier, she served as the Director of Investor Relations at several public companies and as the Senior Market Intelligence Executive of a Los Angeles IR agency. Aubrye holds a BS degree in Business Management from the University of Laverne, CA. Currently, she serves on the Board of the National Investor Relations Institute's Orange County Chapter.





**Trish Hodson**, who is based in the Dallas, TX area, has served as Inspector of Election at numerous shareholder meetings – both in the U.S. and Canada. She spent seven years in relationship management and sales at CIBC Mellon Shareholder Services in Toronto, Canada, followed by five years as a Vice President and Relationship Manager in the BNY Mellon Shareowner Services Dallas, TX office, before joining our Team of Inspectors in early 2010.



**Patricia Hoffmann** has spent 30+ years in management and senior customer relations positions in various areas of the financial services. Prior to joining our team, Pat managed a team of Stock-Option and Employee Ownership Plan Professionals at Citigroup's Smith Barney unit. Earlier, she served as a senior relationship management officer in the Stock Transfer divisions of Citibank, Manufacturers Hanover Trust Company and Mellon Investor Services. Pat has been responsible for coordinating annual meeting services and for serving as an Inspector of Election at well over 200 annual and special meetings. She is a graduate of The State University of New York at Oswego.



**Victor W. LaTessa, Esq.**, based in Charlotte, NC, is a former member of the Greyhound Corporation legal department and has over 30 years of experience in the stock transfer industry. Vic was a Vice President and Team Leader in the corporate trust departments of KeyBank, Wachovia, and National City Bank, and recently retired from American Stock Transfer & Trust. He has assisted hundreds of clients in the coordination of annual and special meetings and has served as Inspector of Election at over 300 meetings. Vic is a graduate of Case Western Reserve University and the Boston University School of Law.



**Jane Ludlow**, MBA, CPA, based in Dresher, PA, is an independent consultant specializing in corporate governance and compliance. From 1984-98 she was Executive Director – Corporate Governance at Bell Atlantic, where she supervised the creation of materials and the logistical and voting arrangements for the Annual Meeting, where typically, over 500 of the company's 2 million investors attended.



**Joseph MacLelland**, based in South Yarmouth MA, retired in late 2009 as the Operations Manager for the Computershare Proxy Group, which he had been managing since 1985. During his career there, Joe was responsible for all the activities necessary to design, produce, mail and tabulate proxies and to certify the vote at over 1,500 Annual and Special Meetings a year. He led or assisted on projects designed to implement developments such as Householding, Notice & Access and IVR and Web-based proxy voting. Until his retirement, Joe was a member of the STA Proxy Committee. He holds an Associate degree from Cambridge School of Business and attended Williams School of Bankin.



**Gregory Malatia**, based in the Chicago area, retired from LaSalle Bank in 2008 after managing Shareholder Services there for 11 years, where he was responsible for interfacing with the Bank's corporate clients, coordinating annual meeting requirements and acting as Inspector of Election at numerous annual and special meetings. Earlier, Greg spent 26 years at Harris Bank, ultimately becoming the operations manager for stock transfer, reorg, tax reporting, dividend disbursement and proxy production, mailing and tabulation activities. Greg has been a director of the Securities Transfer Association and currently is president of the Midwest Securities Transfer Association.



**Belinda Massafra**, MPA, CPA, based in Atlanta, Georgia, is president of Shareholder Services Consulting LLC. Prior to starting her own company, she served as Director of Shareholder Services for BellSouth Corporation from 1998 – 2007. Her responsibilities included coordinating BellSouth's annual and special shareholder meeting process – from proxy statement creation and delivery, to final vote tabulation covering BellSouth's 1.4 million shareholders. Belinda is an active member of the Society of Corporate Secretaries and Governance Professionals and the Shareholder Services Association. She is the co-author of the SSA's Guide to Annual Meeting Preparation.



**Sarah McDaniel** is an investor relations manager, based in Mountain Ranch, CA. She has served as Inspector of Election at over 200 Annual Meetings – as a representative of Bank of America, Wells Fargo Bank and Manufacturers Hanover Trust Company of California – prior to signing-on to our Team in 2003. Since then, Sarah has served as the inspector from our team at over 100 Annual Meetings, mostly for companies in California, Oregon and Washington.



**Kristina Veaco**, founder of Veaco Group in San Francisco, has been advising public companies on securities law compliance and corporate governance for over 20 years. Kris ran the Office of the Corporate Secretary at McKesson Corp. for seven years, where she was also responsible for securities law, SOX compliance, stock plan administration and subsidiary records management. Earlier, Kris had similar responsibilities at AirTouch Communications and at Pacific Telesis. A former Board Member of the Society of Corporate Secretaries and Governance Professionals, Kris is a past President of its Northern California Chapter and is active in the National Association of Corporate Directors.



**Ray Poplasky**, based in Jupiter, Florida, recently retired as an Assistant Vice President and Senior Relationship Manager at BNY-Mellon Shareholder Services. Ray has more than 35 years experience in the Stock Transfer and Shareholder Relations industries – starting at U.S. Trust Company, where he managed the U.S. Trust account, among others, then at Bankers Trust, Manufacturers Hanover Trust and BNY-Mellon. He has served as Inspector of Election at over 300 Annual meetings, including companies such as Hess Corporation, Honeywell Corporation, Sallie Mae and U.S. Air.



**Thomas Watt**, who is based in Staten Island, NY, is a former Vice President and Senior Relationship Manager with BNY Mellon and its predecessor companies, a career that began with Manufacturers Hanover Trust Co. in NYC in the late 1960s. Over the past 25 years, Tom has attended meetings and acted as Inspector of Election for many of the Banks' most important clients. Tom holds the record on our Team, we believe, for the most-miles-traveled to annual meetings and for most meetings attended.



**Tod Shafer** is located outside of Chicago, IL. Recently retired from Computershare Investor Services, Tod is a seasoned securities professional, having spent over 39 years in the stock transfer industry. His first 15 years were spent in operations with the last 24 years in relationship management. He has acted as Inspector of Election at well over 100 stockholder meetings, including meetings for FPL Group, Maytag, PNC Financial Services and US Cellular.



**Gary Wozniak** is a Long Island, NY based consultant to the shareowner services industry. Gary brings four decades of financial services industry experience in all phases of Corporate Trust Group Services, with an emphasis on managing large, complex clients and transactions. He has helped organize numerous annual meetings and has acted as an Inspector of Election at over 250 routine and contested meetings. Most recently a First Vice President at The Bank of New York Mellon, earlier Gary worked at Marine Midland Bank, Manufacturers Hanover Trust and Harris Trust Company. He is a graduate of Pace University.



**Barry Shapiro**, who is based in New York City, is the founder of Applied Consulting & Logistics, a shareholder relations consulting firm. Barry spent more than 30 years with Mellon Investor Services and its predecessors as a Vice President & Senior Relationship Manager. He has served as Inspector of Election at more than 200 Annual Meetings, including those for Bell-South, Fannie Mae, The McGraw-Hill Companies, and Yale University Trustee Elections. Barry is the Treasurer of the NYAKORA Foundation, a non-profit organization that provides clean water to hospitals and neighboring communities in Africa, and is also a director of the Stevenson School in NYC.



# KEANE

## Leads the Way



CEO Mike O'Donnell announces Keane's top rating to attendees of Keane's 2011 annual client conference.

Keane, the country's #1 provider of unclaimed property communications, compliance & consulting services, is making a difference for our clients.

As outlined below, that difference is created by our focus on three key areas:

- Delivering Service Excellence to our Clients
- Providing Critical Assistance to their Shareowners and Legal Claimants
- Offering Clients Unmatched Compliance and Consulting Expertise

These differentiators are highlighted below by our CEO, Mike O'Donnell, General Counsel & EVP of Legal

Claimant Services, Jarrett Roth, and Managing Director of the National Consulting and Advisory Services Group, Valerie Jundt.

### #1 in Service

"We are pleased to have been rated the number one lost shareholder and asset recovery firm in Group 5's 2011 Shareholder Services Industry Satisfaction Report," O'Donnell reported to the attendees of Keane's annual client conference in September.

"Our promise of uncompromising performance is something I take very seriously. This acknowledgement speaks to the performance of our company and our employees' commitment to providing excellent service for our customers by working to solve their shareholder challenges every day. Our Legal Claimant Services team, our consultants and our compliance team are all equally responsible for our success."

### 2011 SATISFACTION RATINGS

Corporate Issuer Satisfaction with Post-Merger Cleanup (PMC), Lost Shareholder Search, and Asset Recovery Service Providers



Source: Group 5's 2011 Shareholder Services Industry Satisfaction Report

The study asked corporate clients to rate their satisfaction with the services of lost shareholder and asset reunification service providers. Keane ranked the highest with an 88% favorable rating compared to the industry average of 76%. Group 5's annual study has been measuring client satisfaction since 1990 and is based on completed surveys by delegates of 1,000 corporations – representing more than 32 million registered shareowners. Keane ►

has earned the top rating in each of the two years that lost shareholder and asset recovery service satisfaction has been measured.

### **#1 in Assisting Shareowners and Legal Claimants**

One of the primary reasons that our clients are satisfied with our services and team is the way in which we protect their shareowners' interests. "Over the years, our programs have helped millions of people reconnect with their accounts," Roth explained, "preserving billions in account value." Roth attributes Keane's success to its unmatched resources for locating and assisting account owners, estate representatives, heirs, and other beneficiaries. "As the industry's largest team of researchers, account executives and recovery specialists, we are uniquely qualified to locate owners and beneficiaries, contact them, and assist them to take the necessary action," he said. "Three of the seven attorneys on staff, specialize in Trusts & Estates and, combined, have more than 40 years of experience in that specialized area of law — which positions us to best serve the needs of our clients. The quality of our employees has been a driving force in making us the leader we are today."

Our internal 2011 legal claimant satisfaction surveys echo the same encouraging results seen in the Group Five study. Over the course of the year we receive feedback from hundreds of claimants, 98% of which are satisfied with Keane's services and would recommend Keane's services to others. That's why Keane is trusted by the financial industry's largest corporations, mutual funds, brokerages, banks, and insurers.

### **# 1 in Consulting and Compliance**

The economic downturn and growth of state budget deficits have resulted in unclaimed property regulations that are constantly changing – making it more important than ever to have an unclaimed property consulting team that understands the evolving landscape.

Led by Valerie M. Jundt, who joined Keane in January 2011, Keane's National Consulting and Advisory Services team includes former state administrators, former auditors, attorneys, internal auditors, certified fraud examiners and CPAs that bring more than 200 years of diverse industry and unclaimed property expertise.

"The Keane team is the only one in the industry that provides diverse and comprehensive services, expertise, and guidance," said Jundt. "We can proactively help your company identify potential gaps in compliance, prepare for and respond to multi-state audits, draft and implement policies & procedures, coordinate constructive dialogue with various state officials, and assess current systems and processes in the most complete, efficient and appropriate way."



Valerie M. Jundt, Managing Director of Keane's Consulting and Advisory Group

Under Jundt's leadership, Keane's depth and breadth of knowledge is unmatched industry-wide. Her experience as a former state unclaimed property administrator and executive director of the National Association of Unclaimed Property Administrators (NAUPA), paired with more than eleven years of industry consulting experience, is unparalleled. She has been instrumental in helping to resolve compliance issues involving state unclaimed property audits, voluntary compliance initiatives, enforcement actions and law changes.

### **Outsource Your Unclaimed Property Needs to Keane**

We encourage you contact one of our specialists today to discuss your unclaimed property challenges. You'll find out why leading companies...Lean on Keane.

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Phone: **1-800-848-8896**

For more information, visit [www.keaneup.com](http://www.keaneup.com).



# Laurel Hill Advisory Group

*An interview with Dr. William J. Catacosinos, Chairman, Laurel Hill Advisory Group*

***"We are putting out a very consistent message:  
We're here...We are battle seasoned...  
And we are strong..."***



**The Optimizer:** It's been a year since we last interviewed you, Doctor. Tell us about what's new at Laurel Hill, and how things are going.

**Dr. Catacosinos:** We have been putting out a very consistent message: We're here: We are battle seasoned...And we are strong. In Canada, for example, where activist investors have been considerably more active than they've been in the U.S. of late, we've handled ten proxy fights in 2011 – and won all of them. We have been broadening our range of services in Canada: We added a new person in Vancouver, we have great salespeople – and we have a superb operating group up there. My son Jamie spends one week out of every two in Canada. This 'gem' continues to shine, and to grow.

**Optimizer:** The theme of this year's magazine is "Getting your message *across* to investors" – and we notice that you seem to be putting out a very robust stream of messages to the financial community here in the U.S. as well. How has this been "getting across" so far?

**Dr. C:** We have been working very hard to overcome a lot of the misinformation that had been going around about our commitment to these businesses. Certainly, competition has never been keener – but I think we are exactly where we need to be now. Francis Byrd's Byrd Watch column is very widely read, and he, and his column, are widely quoted. Francis, as you know, knows everybody who's everybody in the corporate governance space. He's very honest and very plain spoken – and he is tough, which sometimes takes people by surprise. Recently, for example, he held his ground against one of the best-known lawyers in the world of corporate governance, who grilled him fiercely – and who ended up very impressed, for sure. We have also been sponsoring, and speaking at a wide variety of industry events, as you note, and we will continue to do so.

**The Optimizer:** What are your thoughts about the big proxy issues for 2012?

**Dr. C:** Say on pay is here to stay, for sure. And it will, increasingly, become a target for activists. It has already opened the door for the plaintiffs' bar – which quickly become yet another "wedge" for activists to get their way on governance matters. But many companies have not yet fully bought in, I think. Note well: Companies will be punished for pay practices that are perceived to be weak – and for weak disclosure.

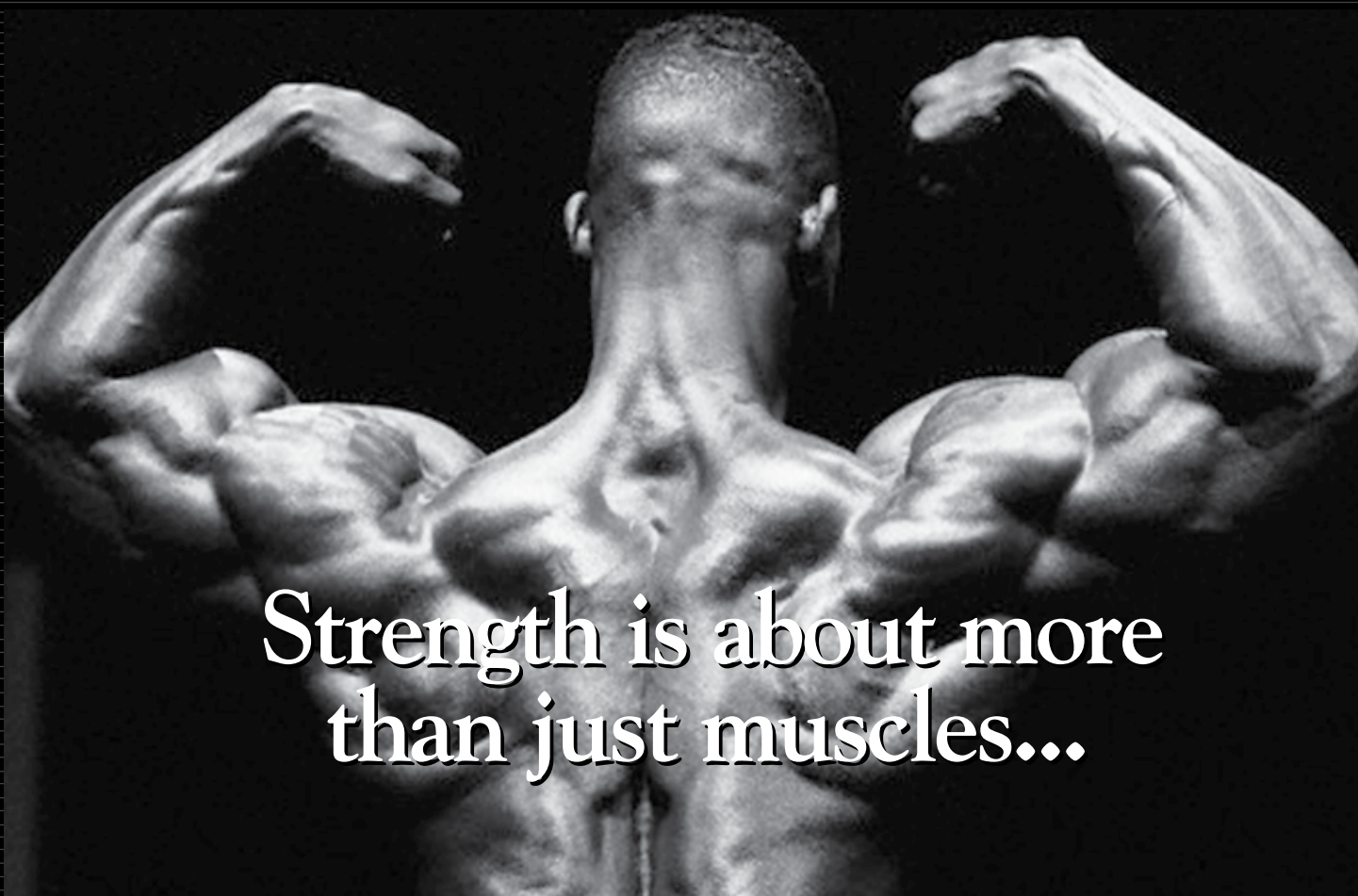
As to Proxy Access, more and more companies will have to set up some sort of policy here – starting with the major companies. But this will trickle down rather quickly to mid-cap and smaller companies, I think. I've been on several boards where board members said, "Don't pay any attention to this kind of nonsense" – often because the company was small, and fairly closely held. But that is not a smart attitude for any company today.

**Optimizer:** What are YOUR top tips on "Getting your message *across* to investors?"

**Dr. C:** Be consistent. Be clear. And be concise. But also, realize that you have to attract the *attention* of the viewer: I know that you are a big fan of our "visuals" – all of which we produce totally in-house. And we do find them to be big attention-getters.

**The Optimizer:** Any final thoughts here that you'd like to share with readers?

**Dr. C:** We have worked very hard to establish our name in the marketplace, and we are now looking to make even more headway – especially with large companies. It's a battleground, of course. But we have developed a team of very senior people. We all pay very close attention to our business. We have a team that senior managers can really relate to – who are "not kids" – and, as I said earlier, we are battle-seasoned. ►



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# Outsource the Corporate Secretary Role?

**Does it ever make sense for a company to outsource the corporate secretary role? Or to bring someone in temporarily, to supplement existing staff?**

*Kris Veaco, founder of the Veaco Group in San Francisco, shares some insights...and some recent case histories*



Many companies – particularly the robust and well-seasoned ones – have a robust and well-seasoned Corporate Secretary's Office. Generally, they won't need additional 'outside' or outsourced support.

Many other companies however – often smaller or newer ones – do not have full-time staff for these functions. Some divide the work within the General Counsel's office, or bring HR or IR staffer, or staff from the CFO's office into the mix.

Some companies use their outside counsel to be the Corporate Secretary – and to provide a lot of the needed staff support as well. But even the largest companies sometimes find themselves shorthanded and have a sometimes pressing need to obtain a seasoned Corporate Secretary who can work on an ongoing or as-needed or project-oriented basis.

## **A few examples of WHEN you might need to look outside the company for help:**

- When your Corporate Secretary has to be out for extended period
- When your Corporate Secretary leaves unexpectedly, and the company needs temporary support while they look for a replacement
- When the Corporate Secretary simply has too much to do – and needs some help on an ongoing basis – or for a special project – or to help with a crisis
- When you have a new Corporate Secretary just learning the role, who needs temporary or perhaps ongoing support from a seasoned expert
- When you need an extra pair of experienced hands to work on Board and Annual or Special Meeting matters

- When you feel you need a fresh look, or a "governance audit" of your existing practices and processes

## **A few case-histories of how and when an outsourced expert can help:**

- At a newly public company, the legal and HR staff had no prior experience with sound corporate governance practices. It soon became apparent that meeting materials were inadequate and minutes were poorly drafted, creating an uncomfortably weak platform from which to initiate board and committee actions and to properly document and record the Board and Committee deliberations and the actions taken. The General Counsel engaged an experienced Corporate Secretary/Corporate Governance Consultant to audit existing practices, to advise on, educate on, and to very quickly document and implement appropriate governance practices tailored for that company to ensure solid legal and regulatory compliance.
- At a small company, a very busy CFO also held the Corporate Secretary title, but did little more in the role, other than taking the minutes. He soon realized that he lacked the time, the background and the right staff to fulfill the obligations of the Corporate Secretary in a way that would make Directors as comfortable as they should be: In fact, several Board members began to express concerns. The CFO engaged an experienced Corporate Secretary – on a totally "outsourced basis" – to provide the needed governance support, both for senior management and the Board.
- At a troubled bank, the CEO's assistant had been acting as the Corporate Secretary. But as the number and duration of Board and Board Committee meetings increased, the Board recognized that the internal process and support for the many board meetings they were holding was no longer adequate. Regulators also expressed concern about the processes – and about the records of Board ►

deliberations and actions – which led to greater regulatory scrutiny and to heightened board concern. The Board engaged an experienced Corporate Secretary on an outsourced basis to work with existing staff to organize Board files, to work with the Board and senior management on meeting agendas, to help with the drafting of resolutions and minutes and to advise the Board on sound governance practices. The Corporate Secretary was also able to identify issues requiring input from outside counsel to maintain legal and regulatory compliance, and quickly became a trusted advisor to the Board.

- A new Corporate Secretary came into the role a few months prior to the Annual Stockholders Meeting. She engaged an outsourced Corporate Secretary/Corporate Governance Consultant to educate her and her staff about sound Annual Meeting processes and procedures, to provide sample documents and to work with her on the logistics, and on the agenda for the Annual meeting. The meeting was conducted smoothly in every respect, which enhanced the reputation of the new Corporate Secretary and her team with the General Counsel, senior management and the Board.

***What kinds of things should you look for if you need to outsource – whether temporarily or on an ongoing basis?***

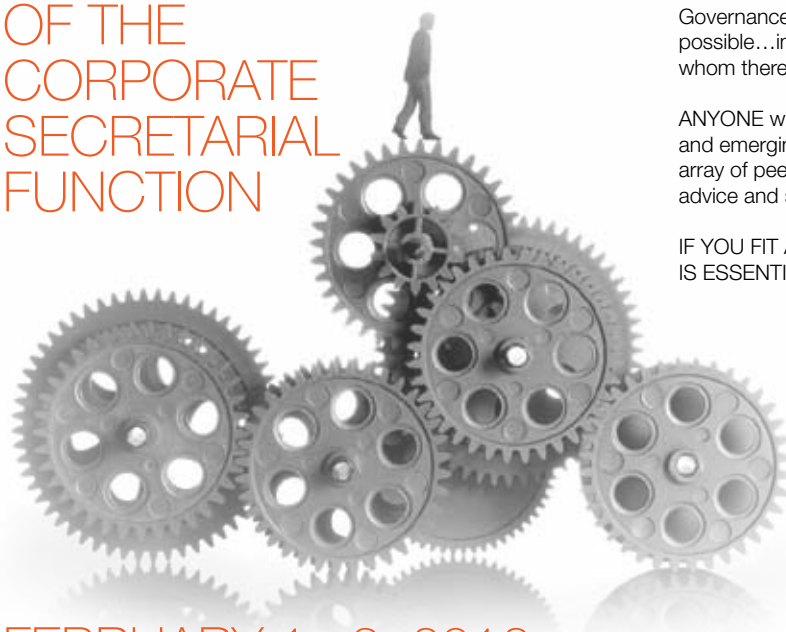
In all cases, having the right person is essential: Board work is probably the most sensitive work in the company and the Board deserves to have someone with experience, judgment, discretion, and deep and up-to-date *expertise* at handling Board matters. Look for someone who has done the work; who understands the role and responsibilities from the in-house perspective and – above all – for someone who is an expert, and who keeps current on governance developments.

An “outsourced Corporate Secretary” must also be an outstanding collaborator and team builder: He or she needs to be able to work as a partner with in-house staff, with outside counsel and other advisors to the board, and, above all, with the senior management team – and with directors themselves.

For more information, contact Kris Veaco:

**kveaco@veacogroup.com**

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- 1 The sessions provide abundant practical advice
- 2 The materials are comprehensive
- 3 Presenters are well prepared
- 4 Indispensable networking for governance professionals
- 5 I attended twice and recommend it!

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[www.governanceprofessionals.org](http://www.governanceprofessionals.org)**



# The Shareholder Services Association...Are You A Member? If Not, Why Not?



Karen V. Danielson  
SSA President

I have a great job as Manager, Shareowner Services of The Coca-Cola Company. Not only do I work for a great company, I have the pleasure of working with some of the most knowledgeable people in the Shareholder Services industry. How did I get to know these experienced people and become educated in

the industry? Through the Shareholder Services Association (SSA), of course.

If your company has shareowners, regardless of how many, someone in your company is responsible for handling Shareholder Services, whether they actually know it or not. The responsibilities, as well as the department under which the responsibilities fall, may vary; but the responsibility exists and someone should be minding the store. The SSA concentrates on educating and training individuals responsible for those duties and provides networking opportunities with professionals who are willing to share their experiences.

With that said, please read on to hear first-hand from SSA board members, past and present, regarding the benefits of membership. It's interesting to note that each individual contributing to this piece heard of the SSA through word of mouth. Pass it on, it's a powerful thing!



Tom Boin, Governance  
Specialist, Shareholder  
Services Exelon Corporation

The shareholder services function at my company was part of the Investor Relations Department. I was on the Corporate Secretary's staff and interfaced with IR once a year through the annual meeting process. Eventually, through a restructuring, I was given responsi-

bility for the entire shareholder services function. I knew of the transfer agent and relationship manager; I knew there was the dividend reinvestment plan and that dividends were paid quarterly, but that was about it.

My company, like many large companies, had a policy of benign neglect of its shareholders. It trusted the transfer agent to serve as the face of the corporation to its registered shareholders. While the transfer agent did the job well, what had been missing was clear direction from the corporation on how that relationship should be managed. The default thinking was to have the transfer agent provide the minimum level of service that still complied with applicable laws, and then let the transfer agent at their discretion take initiative to provide any level of service over and above the legal minimum. Although management's desire was to move beyond the default and improve shareholder services, it wasn't clear to me how to go about it. The SSA was there to educate me and give me direction.



Maritza Vicole, Manager  
Shareholder Relations  
PepsiCo, Inc.

Given PepsiCo's significant role in the retail consumer packaged goods space and its "shareholder hand-holding" culture, it became clear to me that I would need to become more experienced with shareholder relations and the industry as a whole. What better way to increase my competency than join a professional organization such as

the Shareholder Services Association.

I wasn't aware there was an organization geared towards individuals that work in the shareholder services industry until my introduction to the SSA by my former manager when I joined PepsiCo. I learned that the SSA is a career-focused organization that provides a number of benefits for ►

professionals at all levels and at all stages of their career growth. I view membership in the SSA as a long-term investment with time well spent on bettering yourself and your company. As a member I have a direct impact on the SSA's performance and direction.

The SSA makes my job easier by providing me with consistent updates on current industry trends, informative presentations, and helps me expand my professional network with a diverse group. My SSA membership also gives me direct access to notable professionals throughout the industry and allows me to benchmark PepsiCo's services and discover new solutions and best practices. The monthly meetings are a great venue for sharing and learning through lively and interesting discussions. The SSA website offers a wealth of information with the Member Connect, News, and Resources sections. The annual conference is informative, caters specifically to the needs of its members, and is fun!



Jay Ernst, Group Manager –  
Global Ethics and Compliance  
at Procter & Gamble

I joined the Shareholder Services Association in 1997, a few months after being assigned responsibility for the in-house securities transfer operation at American Financial Group, Inc. Being new to the industry, I wanted to learn as quickly as possible, so I read the Securities Transfer Association (STA) and Midwest

STA newsletters and publications. Doing so was generally helpful, but the focus of the newsletters limited their usefulness to me as manager of an in-house issuer-agent operation.

Sometime that year, I had a conversation with the shareholder services manager at Cincinnati Gas & Electric who said, "You really ought to consider CTA (SSA)." "Why's that?" I asked. "It's the industry group that's focused on the in-house transfer agent, so you'll really pick up some information you'll find useful." It seemed like an excellent idea, so I joined. I had no idea at the time how much of an understatement his comment was!

When I joined Procter & Gamble in 2004, I decided to attend the SSA 2005 Annual Conference at Squaw Valley, CA. It was a really good first experience. Everyone I met was very friendly, but it felt a little like I was crashing a family reunion. It was apparent the personal and professional relationships in the SSA were longstanding. Thinking back, the decision to get out of my cube and attend the meeting led to so many positive things.

First, I grew professionally because of the SSA. I had opportunities to hone communications skills through participation on discussion panels at several annual conferences. I also had the opportunity to lead and to learn from leaders as a director of the association. All of it was new territory for me and these experiences helped me grow my skills and confidence.

Additionally, my membership in the SSA helped me grow my industry expertise in a way that could be applied immediately for the benefit of my company. Whether it was a corporate action or an overhaul of the fee structure for P&G's DSPP/DRIP or the analysis and decision on Notice & Access, I was able to successfully lead or contribute to the success of these projects due in large part to the SSA and the willingness of those colleagues to share their thoughts and experiences with me. Besides the benefits enjoyed by our company from the successful execution of these projects, I also gained a great deal of personal credibility at P&G for having industry expertise. I think it's true that no one really succeeds alone and that notion is really at the heart of what SSA is all about.

Finally, and no less importantly, I met a lot of great friends through SSA, had a lot of fun and made a lot of fond memories. To me SSA is not only unique, it's special. Becoming a member was one of the best decisions I've ever made – professionally and personally.

**The Shareholder Services Association (SSA) is a professional organization whose purpose is to support corporate issuers in effectively meeting their responsibilities for shareholder record-keeping and service. For more information on the SSA, please visit [www.shareholderservices.org](http://www.shareholderservices.org). ■**



# Wells Fargo Shareowner Services

*An interview with Todd May*



***"Our relationship focus is evident in the way we attract and retain clients. We do so by understanding their needs and delivering great service."***

## **What are your goals around serving clients?**

When it comes right down to it we see our role as a way to save our clients' resources. By effectively serving their shareowners we reduce the number of phone calls and emails our contacts need to personally address.

Taking that a step further, if we help initiate investment plans or execute corporate actions, we can help clients connect with their most important constituents. We may save them time and money, and even help protect their companies from risk.

This year we are focusing on increasing the usage of our shareowner website and also the adoption of eDelivery. Increasing the usage of online statements, forms, and documents is a direct way we can help our clients save significant costs associated with mailings.

## **How do you ensure consistent service?**

Our culture is tied to being helpful and consultative. The industry tenure on our team is incredible. Our relationship and operations managers are true industry experts. They are able to advise companies on the most effective methods of managing their shareowner base.

We also focus on transactional excellence. Strict monitoring tools track activities within operations and the contact center to an exacting level. Ensuring accuracy and managing workflow are critical to delivering on our service promise.

## **With many banks having exited the business, why does Wells Fargo stay in it?**

Wells Fargo is foremost a relationship bank. Our mission is to satisfy all our customers' financial needs and help them succeed financially. How better to do this than serving those who are most important to our corporate clients – their shareowners. This view is driven from the bank's executive management throughout the organization.

Wells Fargo's commitment translates into business investments. We made major technology enhancements last year and we will be moving our headquarters to a larger space in 2012.

## **You talk about being a relationship business; what does that really mean?**

In short it means that we value the client's entire relationship with Wells Fargo. We aren't just delivering transfer agent services; we're reinforcing their company's decision to work with Wells Fargo. This means that we are committed to delivering expert and consultative service and we want our clients to use the products that best meet their goals and objectives.

Our relationship focus is evident in the way we attract and retain clients. We do so by understanding their needs and delivering great service. That is how a relationship business should work.

## **Are there benefits of being a bank-owned transfer agent?**

There are so many benefits – even beyond the relationships we already discussed. Our customers benefit from bank controls, balancing, regulatory involvement, and even ancillary products best delivered by a financial institution.

Being part of a bank, we are audited multiple times in a given year. These audits help us maintain multiple checkpoints making sure we are managing compliance and risk.

Not only do we have direct access to a multitude of investment options, we deliver seamless escrow and paying/exchange agent services to clients executing M&A transactions. ►

### **After last year's website releases – what has the feedback been?**

The efforts to enhance our issuer and shareowner websites last year were remarkable. Our team benefited from client feedback during the sites' creation. We also worked closely with the teams responsible for Wells Fargo's award-winning online banking and *Commercial Electronic Office®* sites.

The response has been tremendous. With less than a year between our website deployments and this year's survey efforts, increases in issuer website satisfaction were in excess of 20% from last year. We've seen a 34% increase of users to that site as well.

Feedback around Shareowner Online has also been very positive with marked satisfaction increases over last year.

With future releases, clients and shareowners will continue to see additional tools and functionality.

### **Your business keeps growing – how are you accommodating that growth?**

Yes, we do continue to realize steady growth in our client base, but that growth has been deliberate and planned.

Over the past few years our operations capacity has increased exponentially as we began to more fully leverage bank-wide capabilities. Take our mailing facilities. This group creates nearly three billion impressions annually and can easily accommodate our growth. This same principle extends throughout our business. From mail and technology services to trading execution, we operate within a highly-sophisticated infrastructure.

We appreciate each client's business and have taken the necessary steps to ensure that our growth does not negatively impact them – it will help us serve them even better.

### **How does your team stay current on new regulation?**

Wells Fargo recognizes the importance of being involved in the communities we serve. This stance is vital to ensuring preparedness during times of industry change.

As a world-leading diversified financial services company, Wells Fargo works to effect and adapt to change at a global level.

Within Shareowner Services we are very involved in industry associations and committees. The Shareholder Services Association, Stock Transfer Association, and Cost Basis Reporting Service (CBRS) Committee are just a few examples.

As part of the Wells Fargo enterprise we also have the advantage of working with other lines of business. We certainly weren't the only Wells Fargo business to prepare for cost basis implications. Instead, we were able to share best practices and even leverage Wells Fargo's corporate tax professionals for guidance.

### **How can companies actively manage their registered shareholder base?**

That question perpetually circulates this space. There is little doubt that it is important for issuers to manage their registered shareholders. We have the tools and expertise to help companies maintain, grow, or reduce their registered base as dictated by their strategy.

For companies looking to attract shareowners, we have found great vehicles in investment plans such as direct stock purchase plans and employee stock purchase plans.

These plans are customized to reach the issuer's goals. With our new Shareowner Online website, shareowners can easily manage their accounts and make additional investments. Encouraging dividend reinvestment and electronic delivery of statements, tax forms, and communications can also help companies save related costs.

Conversely, for companies interested in reducing their shareowner base, we offer effective share sale and odd lot programs.

### **What's next for Wells Fargo Shareowner Services?**

Each year we focus on implementing changes that improve the value we add to clients and their shareowners – 2012 will be no different.

For certain transactions, we are introducing policy changes that will reduce the number of rejected shareowner requests. We are pleased that these changes will improve satisfaction without compromising our risk standards.

We will continue to make technology enhancements. These range from added IVR capabilities for shareowners who call us to ongoing releases to our websites.

Lastly, as I mentioned earlier, our team will be moving to a larger headquarters building. Not only will our headquarters still house a service counter for walk-in shareowners, but it also puts us less than a mile from our Shareowner Relations contact center in Mendota Heights, Minn. This move is symbolic of Wells Fargo's dedication to this business and my team's dedication to the clients of Wells Fargo Shareowner Services. ■

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| <b>February 23</b>   | <b>"Company Buybacks: Best Practices"</b><br>Webcast from The Corporate Counsel, featuring Broc Romanek and leading attorneys from Baker Donelson, Davis Polk and Skadden Arps |
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| <b>July 11-14</b>    | <b>Society of Corporate Secretaries &amp; Governance Professionals</b><br><b>National Conference;</b> JW Marriott Hotel, Washington, DC  |
| <b>July 17-20</b>    | <b>The Shareholder Services Association Annual Conference</b><br>Loews Coronado Bay, San Diego, CA   |





Photo by Eric Saphire

## When The Protectors Of Abandoned Property Become The Predators... What Should Public Companies Be Doing??

*An interview with Bob Irvine, President and Jennifer Borden, Executive Vice President  
& General Counsel, Unclaimed Property Recovery and Reporting, LLC*

**The OPTIMIZER:** As you both know, abandoned property has been very high on the Optimizer's radar screen for 17 years now: We consider it to be one of the most important – and among the most troublesome set of issues a public company has to deal with. And about a year ago it seemed that State Treasurers were ramping up their activities here in a major way. What exactly has been happening?

**Bob Irvine:** It's no secret, of course, that states are under enormous financial pressures these days. And many seem to think that there is a bottomless pit of money out there in the form of abandoned property – that they can lay hand on rather easily – and that once they have it, only a tiny fraction of the real owners ever appear to claim it. So it's like "free money" to them.

This may have been true when no one was paying much attention to the issues, but it's no longer true today. But, for starters, about a year ago, the State of California launched a major effort to challenge the escheatment reports that publicly traded companies had filed with them – going back as far as ten years. Over 4,000 demands were issued,

asserting that various reports were late, or contained errors, and accordingly, that a wide array of fines and penalties were due. Most of the complaints that we know about at UPRR ended up with the company's transfer agent – which required the TA's to research and respond to them one by one. For most of our clients, after tedious research, we were able to have the assessments reduced or reversed, and we believe many TA's had similar success for their clients. But many assessments appear to have been settled-out by public companies themselves – because they were not sure on how to answer, or where to go for the information they needed to refute them. Thanks to the efforts of Securities Transfer Association members, where we were very proactive, these demands have pretty much simmered down: A lot of work was done on both sides – without bearing much fruit for California.

**Jen Borden:** But earlier this year the states embarked on a much more troublesome initiative – contingent fee audits of the equity filings that companies have reported and remitted back to 1981 – in search of errors and omissions that may have been made over the last three decades. ►

**The OPTIMIZER:** We have been hearing that this is a mighty disruptive thing for public companies. Tell us a little bit about how these audits go.

**Borden:** About half of the Fortune 1000 has been or is going through a general ledger audit. Therefore, the audits are already authorized, and the equity portion simply begins with a new information request. It is a staggeringly long list of documents the auditing firm wants to have. Question-two, for example, typically calls for a list of “all mergers, acquisitions, and redemptions that have been made since 1981” – which for many companies runs to two or three pages. Then they ask for a list of the unexchanged shareholders of all these deals and any outstanding balances there may be...plus “proof” of all the cash deposits that were made to the various paying agents. Can’t lay hands on all this stuff? No problem, they’ll simply “estimate” and say, for example, “Well...there were X number of shares, at X dollars, ... so we’ll estimate that 10% of them must not have exchanged their shares, so X dollars are due to your state of incorporation, plus interest.”

**Irvine:** And no big surprise, we’re hearing lots of stories about big companies that took over smaller companies – that had made several acquisitions themselves, way back when. But with all the changes there have been, both in the public company sector and in the transfer agent sector, there is not always a clear audit trail, or clarity on who the responsible party is. And let’s face it, most companies assumed, and with good reason, that they’d “closed the books” on these deals once and for all when they escheated everything that was left over...way back when.

**Borden:** There’s another interesting factor at work here too: audit fatigue. Many companies – especially the largest and best-known ones – are war-weary: They’ve already been through a major siege of general ledger audits by cash hungry states. These audits consumed a huge amount of time and talent and, aside from the cost, they created a major distraction in the company treasurer’s office, and in the legal and auditing departments too. The equity auditors insist on speaking directly with the company. They don’t

want to speak with the transfer agents. So there is a strong temptation to simply pay up to end the audit barrage.

**The OPTIMIZER:** We go back to the days when state treasurers used to brag about their efforts to find “lost shareholders” – and would actually keep stock certificates in their vaults, so that “found holders” would get their full value back. This no longer seems to be the case. And are we right that these audits are being conducted by outside contractors – who are being paid on commission – through a bounty system of sorts?

**Borden:** I’ve worked for and defended a state in abandoned property matters, and believe that state officials want to do the right thing by their citizens. To reach out to return property, they attend state fairs, and attempt to publish information on the internet, and utilize newspapers alert owners. However, most states are selling underlying shares as soon as they become escheatable, and will only give back what they got –not the shares themselves,

or the appreciated value – if the rightful owners come forward. And yes, the outside auditors are working on a sort of bounty system: although there are variations, in most instances they are being paid 12% of the amount they deem to be escheatable. The problem I have with this system is that it allows the auditors to drill an awful lot of dry holes at corporate sites, thanks to the gushers they occasionally find elsewhere. Some states are now saying that there should be no pre-escheatment searches allowed. This creates an inherent conflict – the states are using statutes designed to reunite owners with their property to say don’t attempt to reunite owners with their property. Couple that with the liquidation of the shares, and it’s as if the former protectors have turned into predators.

**The OPTIMIZER:** Apropos the predators, and potentially predatory practices, let me ask about the many moves we’ve been hearing about to make a lot more property “escheatable” than ever before.

**Irvine:** Several states have already adopted a “no contact standard” for escheatment, instead of the very longstanding practice of waiting for actual evidence that a holder is “lost”

**“The problem I have with this system is that it allows auditors to drill an awful lot of dry holes at corporate sites, thanks to the gushers they occasionally find elsewhere... it’s as if the former protectors have turned into predators.”**

or that their property has been abandoned. There is a growing list of states that are considering similar moves. This is really a terrible practice. Take a typical shareholder who's in a Dividend Reinvestment Plan: They made a decision way back when to buy the stock...and then to systematically reinvest. There really was no need for continued review of the account— and many investors felt no need to buy more, or sell any, or vote their proxies or to write the agent a letter. But under a no-contact standard their property would be escheatable — unless the company goes to the expense of “proving contact” by sending such people something that they have to send back. And, as we all know, many recipients of such notices just won't pay them any attention, or send anything back, and will lose their entire stake as a result.

**The OPTIMIZER:** The scariest thing about these kinds of state practices, from our perspective, is that some of the people whose property was theoretically abandoned will ultimately come forward, and that in general, most states will only pay back what they realized when they sold off the underlying assets, — rather than the appreciated value. So owners, or their heirs, will assert that the company failed to do right by them, and sue...and maybe win.

**Borden:** Yes, this is probably the worst nightmare one can contemplate. And there have been plenty of such suits, where even if you win you lose after you count in the time, the legal expense, and the reputational expense. The answer is so simple: Just find the owners before you escheat even a dime. It is easier, and less expensive to find so-called lost-holders than ever before. And most important, as we are seeing of late, escheating even one thin dime is opening the door for lawsuits and the accompanying negative publicity.

**The OPTIMIZER:** What are the top tips you'd offer to people who discover they're going to be audited?

**Borden:** First, read the letter you get with special care. Make sure you — and they — dot every “i” and cross every

“t”: Make sure, for example, that you know exactly what states the audit firm is representing. If they are representing two states, do not turn over records for all 50 states, even though they may ask you to. Know the state laws that apply, and what, exactly, they mean: What, for example is the “date prescribed for payment” or a “string of uncashed

checks”? Make sure that the acquisitions are actually ones for which your company is responsible. Cross reference the outstanding shareholder files with your payroll files to make sure that you do not escheat the shares of your employees. Pay particular attention to accounts held in street name. The United States Supreme Court has made it clear that such accounts are the responsibilities of the broker dealer, not the issuer, yet the auditors are attempting to take these accounts. The burden of proof in audits such as these ought to be on the states — not on you.

**Irvine:** If you are getting audited, be sure to find and use experts. Very few in-house attorneys are familiar with arcane matters like these, but your transfer agents generally have people on staff who are. And most transfer

agents have outside experts of their own, who specialize in abandoned property. So, as Jen said, do not go into any audit under-prepared.



For information about developing a comprehensive shareowner outreach program, “reach out” to:

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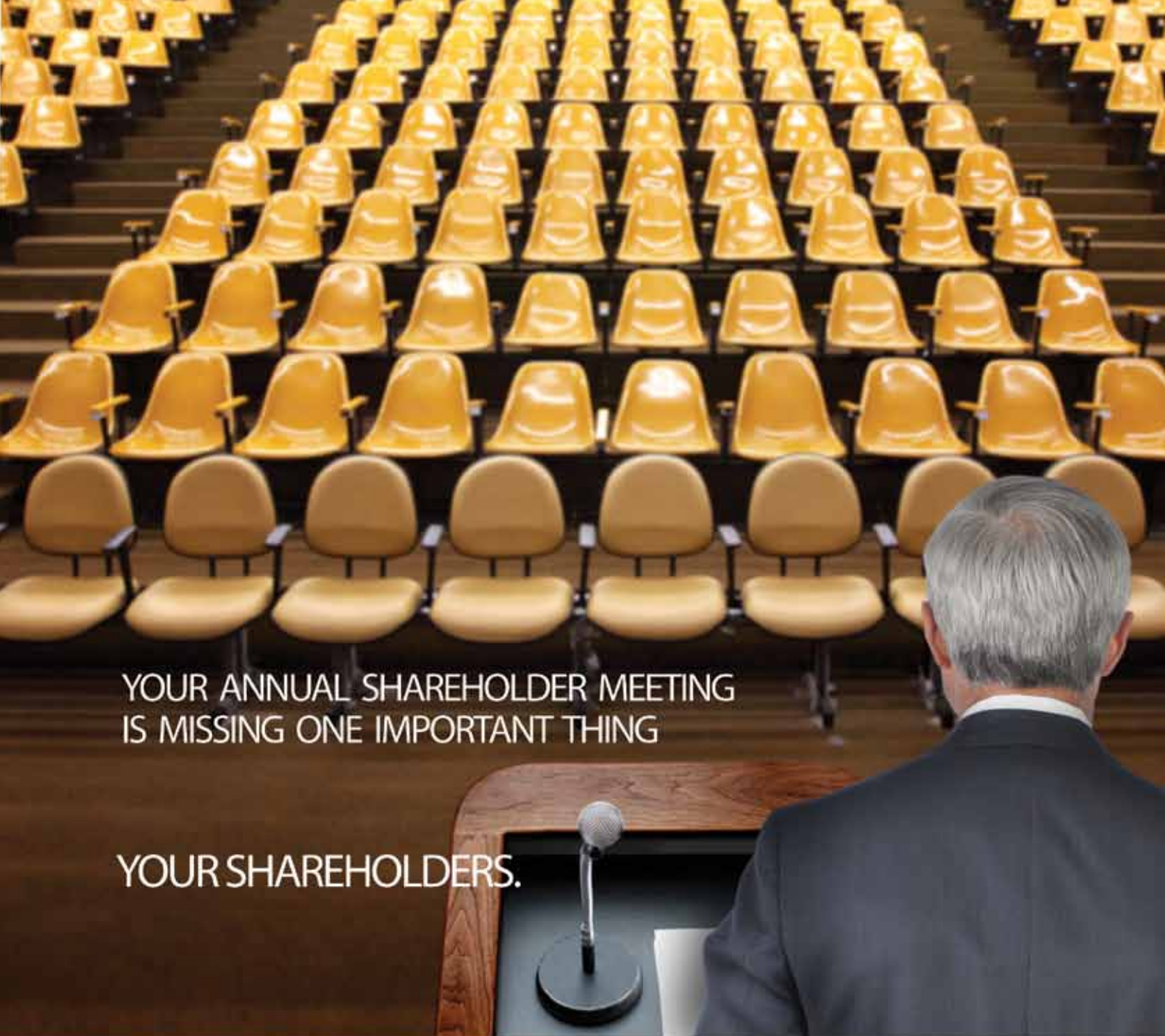


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# GETTING YOUR MESSAGE ACROSS TO INVESTORS

## THE SHAREHOLDER SERVICE OPTIMIZER'S TOP-TEN TIPS

- 1. DECIDE ON THE *OVERRIDING* MESSAGE** you need to put across to your audience: ...and how each of the subordinate messages relate to it: Most of the time – whether you are gearing up to visit with investors or preparing a 200+ page proxy statement – the over-riding message you need to convey is a surprisingly simple one: “We are good people – and good corporate citizens – and very good stewards of your money: We deserve your support on the matters we are putting forward during this visit (or in this big fat document)...and your thoughts and reactions are important to us.”
- 2. KNOW *WHO YOUR AUDIENCE IS*** for the specific message(s) you are trying to deliver...and what their “HOT BUTTONS” are: This is really the number-one rule of communicating successfully – but much more honored in the breach than in the observance. Perhaps it's because people are too busy to do their homework – and to customize their messages for different audiences. Perhaps it's because so many people think they *need* to use corporate-speak, or legalese, or to vet and rehearse their bullet-points to the point that all the life goes out of them...
- 3. GRAB THE *ATTENTION OF YOUR AUDIENCE!*** This is much easier said than done, we know – especially if your message has to be wrapped in a proxy statement: It's the *number-one challenge*, we'd say...But it should be *item-number-one* if you want to “get your message across.” Throw the old template out the window and design a document that DOES attract – and deserve attention: Keep reading down for specific ideas...
- 4. MAKE YOUR MESSAGES *PERSONAL*:** The more you can personalize the “tone” – and turn your discussion or your document into a dialogue rather than a monologue – the more successful you will be in terms of getting it across. Years ago, it was well nigh impossible to “personalize” messages to the many sub-sets there are in a typical company's shareowner population... but that was then. Today, it's not only easy to send personalized emails, or brief video clips, or even written materials that are specifically designed for sub-sets of your ownership base – and to send reminders, and thank-yous...customization – and personalization – rather than a one-size-fits all approach, is the most *cost-effective way* to get results.
- 5. CUT TO THE CHASE!** Put your main messages right up-front: Back to throwing out that old proxy-statement template...and why we say...again...check out Prudential's 2011 doc.
- 6. WORK HARD on *CLARITY*:** Still another reason for throwing out the old template, starting from scratch and building the message around the *overriding message* rather than mindlessly following the proxy rules in numerical order. Make your points in *logical order*. Stick to short sentences in plain English. Avoid jargon and legalese. Try to write as if you are speaking to a “regular person.” Hire a good headline writer and a good sound-bite writer. Relegate “minutia” to the very end of your documents. Avoid minutia *entirely* in live conversations if you want to “get your message across.”
- 7. BE CONSISTENT:** Virtually every writer and observer in this issue makes the same point: Consistency counts big with investors. Make sure that everything you say and do IS consistent with your “overriding message” – and with the image you want to cultivate. Be sure to communicate regularly, in good times and bad.
- 8. USE STRONG VISUALS:** Good “visuals” will attract and hold attention better than any old blah-blah-blah we've ever seen or heard. They will help HUGELY to “get your message across” and will help to *carry* your readers, or your listeners, to the “goal post.”
- 9. *LISTEN...observe...react...refine*:** Many of the large investors we've interviewed over the years cited the same big complaint: “People come to visit us, then proceed to do all the talking. Not only do many of them forget to ask us what WE think, they seem to be deaf, dumb and blind when their messages are NOT ‘getting across’ the way they'd like them to.” Test-market both your written and in-person communications, we say: Ask if the messages are clear...Listen to the responses... *Observe* how people react...and refine accordingly.
- 10. *HOLD ATTENTION*:** A HUGE challenge, when messages are complex and audiences are busy. *More reasons* to put your main points way up front and to use every trick in the book (like brevity – and headlines, sub-heads, sound-bites, charts, graphs and other snappy images that will add “color” - and keep the reader reading on. Ask for action way up front. Keep reminding readers why you are writing...And relegate all the trivia to appendices.





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