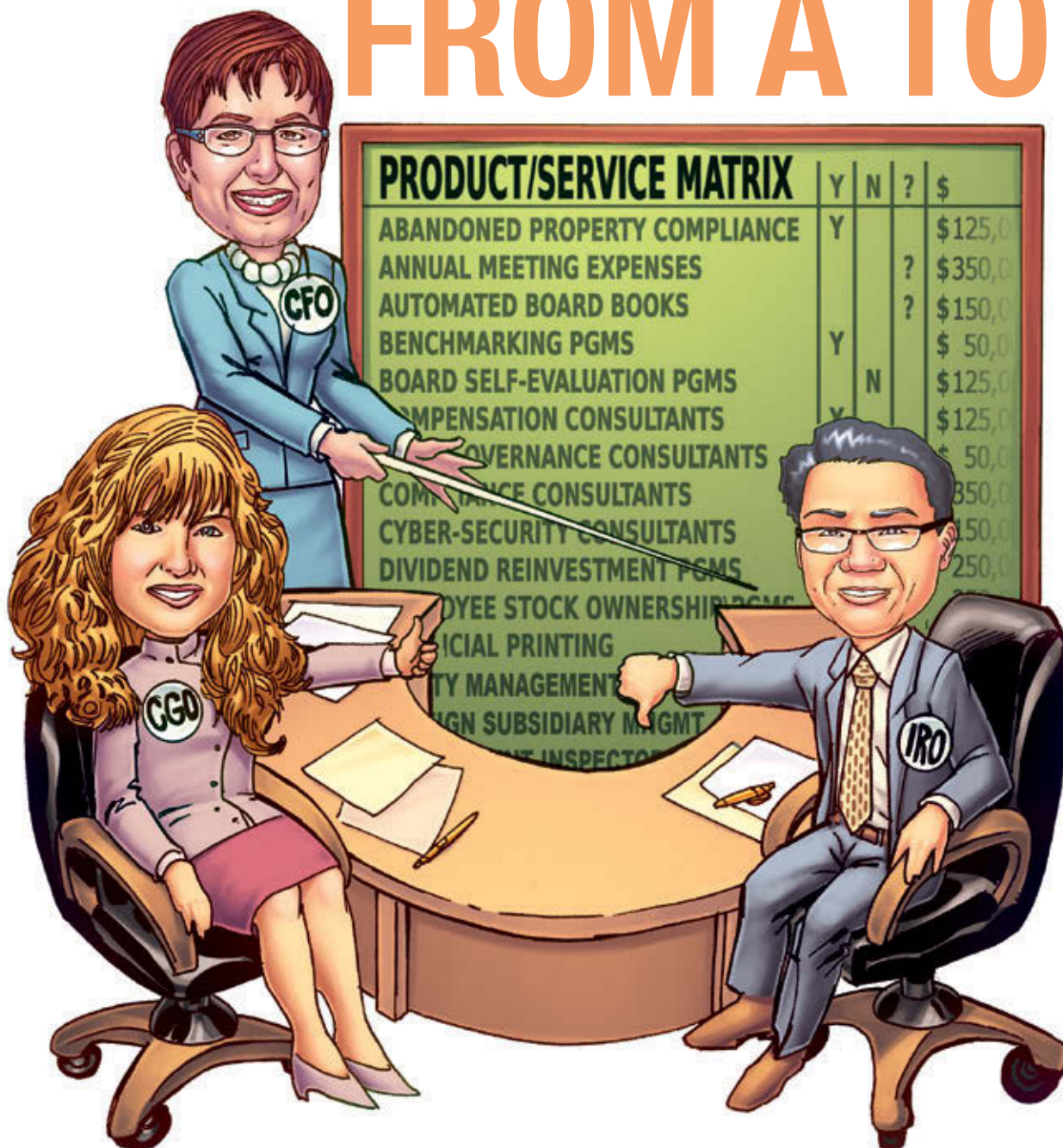


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“ESSENTIAL PRODUCTS AND SERVICES FOR PUBLIC COMPANIES - FROM A TO Z”

Dear readers,

This is the 19th Special Supplement to The Shareholder Service *OPTIMIZER*, which we have been publishing continuously since 1994.

We believe that our ‘mission’; “*Helping public companies – and their suppliers – to deliver better, and more cost-effective programs to investors*” is still a very important one. In fact, we think that in today’s fast-moving and fast changing public-company world, it is more worthy of serious attention than ever before.

As we hope you will notice from our cover image, we are aiming this issue specifically at the three people who, from our vantage-point as lifetime observers of the public-company scene, have become the “Big-Three Go-To People” at public companies today where shareholders are concerned: the CFO, the Corporate Governance Officer and the Investor Relations Officer.

Clearly, public companies, their boards – and these three officers in particular – are literally under the microscopes of investors these days. They are being peppered with questions, suggestions, shareholder proposals – and other, often much more threatening demands for board and corporate actions – at what seems to be an ever-accelerating rate.

So as we searched for a theme for this issue that would be truly helpful to the financial, investor relations and corporate governance teams at public companies, it occurred to us that an update on the “essential tools” they have – or ought to have at their disposal when it comes to dealing with investors would not only be helpful – but that a fresh look at this is way overdue on our part – and, we’d bet, in the C-suites of most of our readers too.

Here’s what we aim to do in this issue:

- **Take a fairly ‘deep-dive’ into the actual workings of essential products and services for public-companies – and give readers a primer on “the basics” of each one.**
- **Review the competitive landscape – and name a**

few names of the best providers in each space that we know and have confidence in.

- **Cover as many of the new or newly-enhanced products and services we can think of that are emerging on the scene today – and that public-companies really need to know about.**
- **Offer our advice on selecting a provider for each product or service covered – along with our tips on what to watch for – and on what to investigate and nail down with care before signing a deal.**
- **Provide a print and online Directory of Essential Products and Services – and of carefully vetted Service-Providers – with contact info, links to one or more additional background articles, and links to each providers’ own website.**

The last time we devoted an issue to “Essential Products, Services and Service-Suppliers for Public-Companies” was back in 2007. When we looked back – intending to use it as the starting point for this issue – we were truly startled to see how much the public-company ‘space’ – and the issues of most concern to public companies – and their investors – have changed since then.



In 2007 SOX was just off the presses – and many of the enabling rules and regulations had not even been written yet. All too soon thereafter, came Dodd-Frank – And here too, many of the key rules and regs are still unwritten – and many provisions, are being hotly challenged by activist investors – and by corporate-sponsored groups too.

No wonder there has been such growth in the “Compliance and Ethics Consulting” business since then – and where a broad review of the scene is long overdue, we think.

By far the biggest change we noted is, of course, the huge upsurge in shareholder activism – and in the sheer number of activist investors on the scene today. We must brag a bit that we were way ahead of the curve in predicting developments here, in our early 2013 article “The Next Big Thing in Corporate Governance: Holding Directors’ Feet to the Fire Over their Stewardship of Corporate Assets.” But even we

have been astonished by the huge number of successes activist investors have been racking up when it comes to having it their way, and effecting major changes at publicly-traded companies.

The most far-reaching trend of all; shareholder activism has “gone mainstream.” Back in 2007 - and into the early ‘teens’- shareholder-activists were usually short-termers - and often outright greenmailers. But by mid-2015, activist hedge funds had over \$120 billion under management - up 30% vs. last year. And now, even avowed ‘perpetual investors’ like pension funds and mutual funds are jumping on the activist bandwagon.

These days, activist investors are able to find highly-qualified directors who are eager to run for office on a “short slate” - people who would not think of doing such a thing back in 2007, or even in 2012. And, as we noted in our last issue, “Directors have become corporate activists themselves” - mighty quick to pull the trigger these days if stated goals are not met, or if there are indiscretions or other shortcomings on the part of top execs.

Accordingly, you will find a lot in this issue about products, services and service suppliers that can help you anticipate the arrival of an activist campaign, get your governance programs - and your defenses in tip-top shape - respond quickly and with vigor if there are “surprises” and help your company to ultimately wage a winning campaign.

There’s another big change afoot - one that we have been trying to draw attention to for over five years now, but which is now starting to gain enormous traction: *Increasingly, battles for the hearts and minds and votes of investors will be won or lost over the web.* And here too, we think you will find ideas, and service providers in this issue who can help to keep your company in fighting trim.

Our increasing dependency on the web - not just for finding information but for executing more and more of our financial transactions has led to another disturbing development - one that is suddenly of the highest importance to public companies; specifically, the need for new and better systems, new and better strategies and new and better firewalls to defend against cyber-intrusions and outright cyber-crimes. And here - while all of us may feel short of having totally fail-safe solutions in our own companies - being sure that our key service-providers will keep our data safe should be treated as a top priority by public-com-

pany officers - and by their boards as well.

This brings us to another area where the changes in the landscape since 2007 have been astonishingly large: The state of the supplier-universe itself.

As recently as 2009 there were still about 1,000 transfer agents. Now there are about 450. Eleven of them accounted for 90% of all the T-A business in 2009. Today, five of the eleven are gone - including 2009’s number-one agent. And, not surprising to us, as long-term watchers of troubled industries, there has been one new entrant - a major NYSE listed company. Currently, the number-one player now has roughly a 65% share of the market and the next four largest hold 25% - 27% in total...of a still fast-shrinking marketplace for traditional T-A services. So keeping close tabs on this space is a very important thing for public companies to do.

The proxy solicitation universe - which has been a *growth* business over the past five years, thanks to shareholder activism - has been experiencing even more dramatic shifts, as the top few firms that are noted for their proxy-fighting and advisory skills seeming to be winning the lion’s share of the money. There have been business closures and mergers in this over-crowded space too - and more consolidation is in the wind, and in the cards, we guarantee.

Financial printers have also experienced major consolidation - and some major hard times - as more and more once-printed shareholder communications are being moved to the web. Here, only the smartest, nimblest and most innovative are likely to survive - and even some of them are in financial trouble, due to falling demand and intense competition for what remains.

The most important takeaway here, we think, is that big problems always provide even bigger opportunities for the smartest, nimblest and most innovative players. We do think that many of them are represented in this issue, and that they will stand out clearly from the pack.

We hope you will enjoy reading through this issue - and that you will pass it along to other people in your company with a need to know more about the “essentials.”

We also hope that you will feel free to call or e-mail us if you have comments, questions or would like to have additional information on any of the subject matter in this issue.

Sincerely,

Carl & Peder Hagberg

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Published by
CARL T. HAGBERG & ASSOCIATES
P.O. BOX 531 • JACKSON, NJ • 08527-0531

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ESSENTIAL TOOLS, FROM A TO Z

... AND WHAT YOU SHOULD KNOW ABOUT BUYING THEM

- 4 **LETTER FROM THE EDITORS**
- 6 **SIMPLIFY FINANCIAL REPORTING**
WITH ERWIN GROENENDAL OF TANGELO SOFTWARE
- 10 **PROXY STATEMENTS**
TRANSITIONING FROM COMPLIANCE TO
COMMUNICATIONS-FOCUSED DOCUMENTS
- 12 **12TH ANNUAL END OF ANNUAL
MEETING CELEBRATION**
Honoring Benefit Co-Founders Ellen Philip and Cal
Donly raises \$115,000
- 16 **ESSENTIAL TOOLS, FROM A TO Z**
... AND WHAT YOU SHOULD KNOW ABOUT BUYING THEM
- 16 **ABANDONED PROPERTY COMPLIANCE PROGRAMS**
- 18 **ANNUAL MEETING SERVICES**
- 20 **AUTOMATED BOARD BOOKS**
- 20 **BENCHMARKING PROGRAMS**
- 21 **BOARD & BOARD COMMITTEE SUPPORT SERVICES**
- 21 **COMPLIANCE & ETHICS SERVICES**
- 22 **CORPORATE GOVERNANCE CONSULTING**
- 22 **CYBER-SECURITY SERVICES**
- 23 **DATA CONVERSION/DATA MANAGEMENT TOOLS**
- 23 **DIVIDEND REINVESTMENT & DIRECT STOCK
PURCHASE PLANS**
- 23 **DOCUMENT DESIGN & DISTRIBUTION**
- 24 **EMPLOYEE STOCK OWNERSHIP/OPTION PLAN
RECORDKEEPING & EXECUTION SERVICES**
- 24 **ENTITY MANAGEMENT SYSTEMS**
- 26 **FINANCIAL PRINTING**
- 27 **FOREIGN SUBSIDIARY MANAGEMENT TOOLS**
- 27 **INDEPENDENT INSPECTORS OF ELECTION**
- 28 **MEMBERSHIP ORGANIZATIONS**
- 28 **NOTICE & ACCESS**
- 30 **ODD-LOT BUYBACK/ROUND-UP PROGRAMS**
- 30 **OUTSIDE COUNSEL**
- 31 **PEOPLE**
- 31 **PROXY DISTRIBUTION & VOTE TABULATION**
- 32 **PROXY SOLICITORS**
- 32 **PUBLICATIONS**
- 33 **REGISTERED AGENTS**
- 33 **REORG SERVICES**
- 33 **SHAREHOLDER IDENTIFICATION/STOCK WATCH &
“INVESTOR TARGETING” PROGRAMS**
- 34 **SHAREHOLDER SATISFACTION SURVEYS**
- 34 **TRANSFER AGENTS**
- 36 **ZERO-BASED BUDGETING**
- 40 **OPTIMIZER NEWSLETTER**
VOLUME 21 NUMBER 2 2ND Q., 2015
- 52 **OPTIMIZER SUPPLIER INDEX**

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SIMPLIFY FINANCIAL REPORTING

An interview with Erwin Groenendal of Brooklyn-Based Tangelo Software

CREATING, MANAGING, AND PUBLISHING FINANCIAL REPORTS HAS NEVER BEEN EASIER

"More and more US-based companies are looking to offer their shareholders more professional looking and user-friendly "digital annual reports"

We sat down recently with Tangelo Software President, Erwin Groenendal to learn how his company's online platform is making big inroads with public companies worldwide; companies that are looking to improve efficiency, streamline the creation and publishing of their annual reports and other important financial documents - and to save significant amounts of money by using Tangelo's cutting-edge technologies.

"Tangelo is an online application for creating, managing and publishing financial documents. Users have secure access to Tangelo and can work from anywhere at anytime, to create, edit and publish professional publications - to multiple channels - with the click of the button. This 'single source' solution eliminates the extra expense and additional logistics of hiring design firms for typesetting or to make corrections, and for financial printers to prepare financial documents for publication."

"Tangelo is all about creating documents", stresses Groenendal. "Our software gives you full control over the process of creating and publishing annual reports, proxy statements and other critically important financial documents, where timeliness, accuracy, professional appearance and readability are critically important elements. It also allows you to publish to PDF and online at the same moment and keeps the risk of transcription errors to a minimum, due to our advanced interface with Excel. This all happens from a single source, which not only saves our clients a lot of time, but also a lot of money."

Over 50 companies, including Philips, Randstad, and DSM published their 2014 annual reports using Tangelo and many more are adopting their "one-stop-shop" document creation and publishing platform this year.



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Netherlands based Randstad uses Tangelo for the creation and publication of the English and Dutch language versions of its integrated annual report. The document is published to PDF, print and a website. “More and more US-based companies are looking to offer their shareholders more professional looking and user-friendly ‘digital annual reports’, says Groenendal, and Tangelo simplifies the process across the board.

“Your company’s desired document layout, including graphic design elements, charts, tables, and formatting are applied automatically through Tangelo, and there are many options to create a rich user experience and keep a viewer’s attention longer while highlighting key elements of interest.

“Single source publishing guarantees that the same information is presented across multiple channels including smartphones and other mobile devices where the layout is automatically adapted to fit the size of the screen.

“Another potentially huge money-saver arises from the use of digital printing and ‘printing on demand.’ When Philips started using Tangelo for their Annual Report in 2005, they were still printing thousands of hardcopies but lacked an online version. Now, they have a complete online Annual Report, including all financial statements and notes, and only print about 800 copies for the annual meeting using digital print, resulting in a huge cost savings for the company on design, printing and mailing services.

“Creating, managing, and publishing financial reports has never been easier. Tangelo allows companies to engage investors, eliminate errors, and save valuable time. With Tangelo, clients can link and sync figures

directly to Excel sheets, enforce universal company style guidelines, and produce polished reports without relying on an external agency.

“Online reports become more than just mandatory filings; they are now powerful, functional, and robust “marketing tools” and readers can interact with dynamic charts, download select sections, export data directly into Excel, view web-only videos, and much more.

“The Tangelo Software platform is an ideal fit for both public and private companies looking to streamline their annual report preparation and publishing process. It’s completely ‘cloud based’, secure, and fully supported by a team of engineers. Its single source design was developed to save money and give companies complete control of process from design all the way through approval and publishing.”

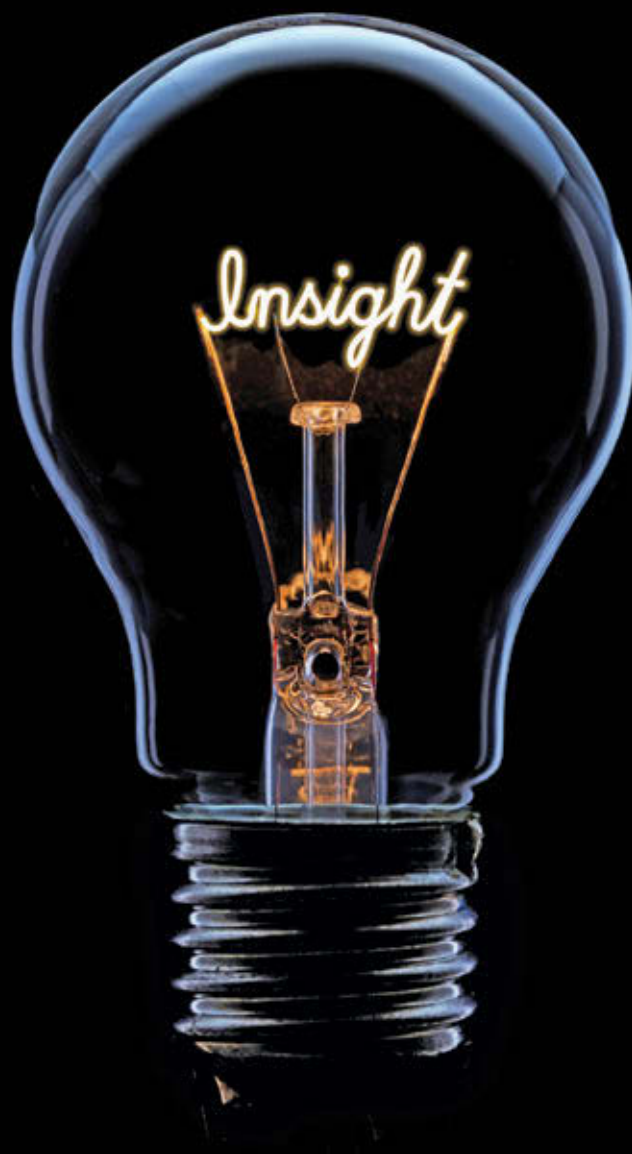
tangelo software

RANDSTAD ANNUAL REPORT USING TANGELO



“Tangelo greatly reduces the workload, especially in the final stages of the annual report publication process, thus allowing more time for content-related quality control.”

Pascal Sluijter, Investor Relations Officer, Randstad Holding nv



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PROXY STATEMENTS TRANSITIONING FROM COMPLIANCE TO COMMUNICATIONS-FOCUSED DOCUMENTS

By Ron Schneider

DIRECTOR, CORPORATE GOVERNANCE SERVICES
RR DONNELLEY

RR Donnelley works with approximately 1,900 US companies each year on various aspects of their proxy statements, including providing strategic advice, design services, printing, filing, distribution and web-hosting. Commencing with a few “governance leader” companies a decade ago, each year an increasing number of our clients take significant steps transitioning their proxies from their traditional SEC 14A compliance document into more shareholder-friendly, visually inviting and compelling communications pieces.

DRIVERS OF CHANGE

The main reasons companies are making this transition include:

- Say-on-Pay proposals and a desire to communicate their compensation programs more effectively
- Increasing levels of investor activism and a desire to tell their best “board and corporate governance” stories
- Changes made by their peer companies -- and the recognition that if they “stand still”, by comparison they may appear to be communication laggards
- Concerns about the impact and influence of proxy advisors, and a desire to make the company’s disclosures the primary reference point for investors

The above reasons do not impact every company in the same way or at the same pace, and as a result, all companies are not compelled to move in the same direction or at the same time. But eventually, we think that most widely-held public companies will make efforts to communicate their compensation and board/governance stories more effectively to their investors and other critical audiences.

MANY RR DONNELLEY CLIENTS INCREASING THEIR PRINT RUNS

Another trend we’ve observed is that a majority of our clients upgrading their proxies in these fashions have also increased their print runs. We considered why this is, and have come to the conclusion that, driven by a desire to communicate more effectively with a range of their investors (institutional, retail, employee, and others), once they upgraded their proxies, most of these companies then wanted more of their investors to receive them directly. While we know that many larger institutional investors view proxies

online, often on the ISS institutional voting platform or Broadridge’s ProxyEdge platform, it is also amply documented that retail investors are much more likely to vote if they directly receive traditional, “full set” hard copy documents in the mail, than if all they receive is a one page “notice of internet availability” which explains what they need to do if they want to obtain the documents, and to vote.

THE PROCESS AND PLAYERS ARE SHIFTING

For an increasing number of companies, the proxy process is shifting from an “episodic” event starting a couple of months before the filing/mailing and ending with the meeting date handled primarily by one member of the legal team. The new model is for the proxy process to be more of a year-round undertaking involving a broader, cross-functional drafting team.

Issues typically considered as part of this year-round process include:

- Consideration of the recent annual meeting vote results
- Conduct of post-meeting engagement with investors
- Review of feedback from this engagement, emerging trends and best practices in proxy disclosure, and review of evolution of peer company disclosures
- Consideration of current year financial performance and other key events impacting investors
- Drafting of the next annual meeting proxy featuring enhancements to governance and compensation “story-telling”
- Distribution, solicitation and once again
- Consideration of the recent annual meeting voting results (what’s sometimes referred to as “rinse, repeat”)

WHICH COMPANIES SHOULD RE-DESIGN THEIR PROXIES?

Not every company needs to radically re-design their proxy statement in any given year. This is not to say that it’s “set it and forget it”. Many companies, having undertaken their initial re-design, find themselves in what we call “incremental tweaking mode”.



Based on our experience working with hundreds of clients each year, we offer the following process to aid you as you consider a proxy re-design:

PROXY RE-DESIGN DECISION TREE AND CHECK LIST:

Phase One threshold question as part of post-meeting review:

Did our proxy serve us and key constituents well this past year and is it, with minor updating, likely to do the same next year?

Considerations in answering this question include:

- Were our voting results satisfactory, whether on directors, say on pay or other key resolutions? If not, do we know the reasons for poor votes, such as negative proxy advisor vote recommendations or triggering of internal investor voting policies?
- Is significant post-meeting engagement with investors appropriate to better understand who voted against what and why, and what it will take to turn these votes around next year?
- Is our company's performance holding up? Or is there the potential for increased concern about future alignment between pay and performance?
- Is our board coming under heightened scrutiny over diversity, tenure or related issues?
- Do we anticipate being a target for proxy access or other high profile resolutions on next year's ballot (whether company or shareholder-sponsored)? Are we otherwise concerned about potential activist initiatives?
- Have our peer companies significantly enhanced their disclosures? As a result, without upgrades, will we appear to be a relative laggard in this area?

Phase Two: Develop your Objectives, Strategy and Priorities:

- Convene cross-functional team
- Review latest engagement results, along with RR Donnelley institutional survey research
- Review evolving best practices in proxy disclosure, including the current RR Donnelley Proxy Guide (catalog of best in class proxy statement sections, topics and features)
- Bring objective, outside advisors, including RR Donnelley Proxy Solutions strategy and design team, into the conversation
- Most important, before making any changes, identify specific goals and objectives for next year's proxy

Phase Three: Review Potential Changes:

- Select specific pages or sections of the prior year's proxy

for content upgrade and design enhancements. Possibilities? Director skills and qualifications, the CD&A and pay for performance alignment, increased clarity around the appropriateness of performance metrics and peer group benchmarking

- Based on the Proxy Guide or other sources, have RR Donnelley re-set selected pages/sections of the current year's proxy into the new design so you can get comfortable in advance with a new style template
- Have internal drafting team work on enhancing telling of your story
- Identify graphs and other visual elements that can support the new or refined story
- Consider whether the addition of a Proxy Summary and/or CD&A Executive Summary would improve the likelihood that key messages get noticed. Note: While Proxy Summaries will be read, not every company needs one. Have a "strategy" for what you hope to accomplish through a Proxy Summary
- Consider whether enhanced navigation via an expanded table of contents (TOC, or multiple mini TOCs), page headers/footers and other devices will improve the ability of investors to quickly locate key information
- Approve new design template

Phase Four : Tactical Implementation:

- Once year-end performance and related pay decisions reveal themselves, finalize drafting
- Print, SEC file, mail and web-host the new proxy
- Consider upgrading the web-hosted version via additional color and improved navigation, as this is the version many larger institutional investors view
- Review whether you are using an optimal mix of hard copy versus Notice & Access distribution to maximize voting participation from friendly audiences (Note: your critics and activists will always vote no matter what)
- Engage in coordinated solicitation outreach, pointing out any changes made in response to earlier post-meeting engagement
- Hold annual meeting, analyze voting results

RESOURCES & CONTACT INFORMATION

To view the RR Donnelley Proxy Guide, Investor Survey and other relevant thought leadership pieces, you are invited to go to:

rrd.com/proxythoughtleadership

To contact the author Ron Schneider directly, email
ronald.m.schneider@rrd.com

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Twelfth Annual END OF ANNUAL MEETING SEASON CELEBRATION

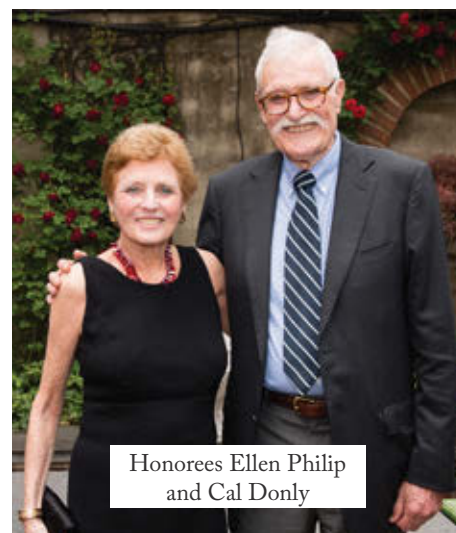
Honoring Benefit Co-Founders Ellen Philip and Cal Donly raises \$115,000 to support the work of artists living with mental illnesses.

Twelve years ago, Ellen and Cal decided to turn their famous “End of Annual Meeting Celebration” into an event that would benefit Fountain House, which for over 60 years has been providing housing, education, and a wide variety of wellness programs to people living with serious mental illnesses. They wanted to focus in particular on the artists - and on the ground-breaking work of Fountain House Gallery, on 49th and 9th in mid-town New York City.

For the first ten years, until the event outgrew their space, Ellen & Cal turned their own beautiful office spaces into an art gallery, to showcase the work of Fountain House Gallery Member-artists - where each year, roughly 100 of them collaborate and work together to show and sell their work - and dozens of other Members pitch in to staff the gallery - answering phones, arranging flowers, welcoming visitors, hosting ‘opening events’ and manning the cash registers.

For this year’s May 28th event, public companies - and virtually all of their key suppliers of the many products and services that are needed to have a successful shareholder meeting - turned out in record numbers to honor Ellen and Cal.

Over 100 art works were on display at Fountain House headquarters on W. 47th Street, and the crowds spilled over into the Club House’s beautiful gardens, which were in full bloom, and where they enjoyed cocktails, wine, music, a beautiful NYC evening, a light supper - and what has become the industry’s top networking event of the year. The



Honorees Ellen Philip
and Cal Donly



D.F. KING



GROWTH ON OUR HORIZON

We are pleased to announce the acquisition of D.F. King & Co., Inc. by an affiliate of American Stock Transfer & Trust Company, LLC.

Together with AST's affiliates, we offer an enhanced set of solutions for strategic counsel in proxy contests and contested solicitations, along with a broad array of specialized advisory services from proxy solicitation to corporate governance advisory and corporate actions.

We will continue to provide our full range of services along with our proactive approach to registry management and refined processes, delivering greater efficiencies to our clients. Our extensive value-added services include:

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Ellen & Cal flanked by Benefit Co-Hosts Anthony Battista of PSE&G, Patrick Burke of AIG, Carl Hagberg, and Bob Carney of AST

artists were there too to discuss their works and the cash registers rung like mad.

As at every Fountain Gallery event a Member-artist spoke about the Gallery and what it means to members. This year's speaker was Mercedes Kelly, a widely collected artist and a 25-year member of Fountain House. While at college she experienced the onset of schizoaffective disorder and began what would be the first of several hospitalizations.

"My participation in the Gallery helps me stay well. Fountain House has given me hope, friendship and a place where my work, both as a volunteer and an artist is appreciated" she told the group. Mercedes was able to return to college and obtain a degree in marketing and communications.

"In the 25 years I have been a Fountain House Member, I have not been hospitalized - and I never expect to be wandering down a hall in paper slippers ever again. Speaking at this event is very important to me because I am grateful to Ellen Philip and Cal Donly. They have shown a lot of love for Fountain House and Fountain House Gallery, and at this very celebration, a few years ago, they purchased one of my pieces. It is wonderful to be able to thank them in this special way."

This year's Benefit raised \$115,000 - and over its 12-year history it has raised just shy of \$1,000,000.00 - and it is not too late to donate, to put us over the million mark. Please visit www.fountaingallerynyc.org to see some of the art works for sale, to see a wonderful article about the event from the *Huffington Post*, to review the many ground-breaking Fountain House programs - and to donate.

Photos by LESLIE BARBARO PHOTOGRAPHY



Fountain House Gallery Artist Mercedes Kelly



Benefit Co-Host MaryEllen Andersen of Broadridge Financial Solutions with Ellen & Cal



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ESSENTIAL TOOLS, FROM A TO Z

.... And what you should know about buying them

ABANDONED PROPERTY COMPLIANCE PROGRAMS

For starters, please note that there are four basic parts to having an effective compliance program: Search, Reporting, Escheatment and "Cleanup" or "Asset Reunification Services" – many of which are governed by complex federal and state regulations and where truly effective programs are intertwined to some degree.

Most public companies use their transfer agents – and often, one or more outside service providers to handle some or all of these duties, as we will describe below. It is very important to note at the outset, however, that the ultimate responsibility for such programs lies squarely with the issuer. Many courts have held that issuers have a duty to their shareholders to do right by them – And there are many things that can go wrong here: everything from simple mistakes, or oversights, or failures to search with sufficient diligence – especially where large amounts are concerned – right down to outright thefts of abandoned property and to fraudulent schemes on the part of a rogue service provider, or an employee of theirs – or yours – to convey the property to themselves: The label itself, as we often point out, is akin to posting a big "Steal Me" sign on the file. (Please see the article on our website, "Tales from the Crypt" for some hair-raising examples, where the consequences to issuers were dire indeed.)

SEC rules require that issuers, or their agents, conduct an automated "search" of a qualified data-base, in an attempt to find a current address for shareholders whose mail has been returned as undeliverable. There are a few pitfalls here, however, that issuers should be aware of before they choose a provider.

Some 'searchers' intentionally use the worst databases they can find – because there are several opportunities for them to make some pretty serious money along the way. Some of them obtain commissions from abandoned property clearinghouses, based on the value of the cash and securities that are turned over to them for escheatment to various member states. Some search firms focus on another strategy – offering "asset recovery programs" where the found-shareholders agree in advance to pay a sometimes hefty percentage of the assets returned to them when they are 'found' and reunited with their property. Another little known but important fact you should know – current SEC rules regarding "search" do not apply to shareholder accounts in corporate names and in the names of known decedents – which are typically the top-two categories in terms of total dollars deemed 'abandoned' by so-called "lost shareholders"!

So there are some serious potential conflicts of interest here where your own best interests as a public company are concerned – AND where your duties to shareholders are concerned – vs. what may be in the best interest of a potential service-provider. Some agents cold-bloodedly use a computerized model to analyze your lost shareholder base and determine which avenue will bring them the most cash. And we have reported periodically on service providers who have offered "bonuses" – in the form of deep discounts on transfer agency or other services – or even "free services" – if the issuer gives them free reign with their shareholder-paid asset reunification services. This is a red-flag to say the least – and taking such deals, we say, would be a major breach of a company's fiduciary duties to its shareholders.

Next, you need to know that virtually every state in the union has one or more laws on its books governing the periodic reporting and "escheatment" of shareholder assets that the states deem to be abandoned...and that essentially, no two states have exactly the same rules. So there is a complex and ongoing job-of-work to be done to report, and then to turn over truly abandoned property to the state of the holders' last known residence, in accordance with each state's rules and regulations.

Very important to know is that states have been regularly ratcheting up their rules – shortening 'dormancy periods,' inventing new rules to deem property abandoned if the holder has not contacted the company in some way (either by writing a letter, phoning the call center or voting their proxy) – and even proposing to block the use of asset reunification programs once the dormancy date has passed. They have also been hiring outside auditors who demand to review your records, back as far as 10 years (!) – and then attempt to impose or "negotiate" big fines and back-interest penalties, since for many cash-strapped states this is a major revenue stream. (Currently, there is a case in Federal Court for the District of Delaware asserting that Delaware has applied new rules and imposed them retroactively, to unconstitutionally seize and sell assets belonging to Delaware resident or their lawful heirs...so stay tuned here. Also, please see the article on our website, "When the Protectors Become the Predators" for more info about existing and proposed state regulatory schemes.)

Most important for public companies to know, most states don't just grab the uncashed dividend checks – they sell the "underlying shares" – usually asap – and, if the 'lost shareholder' or his or her heirs come forward later on, most states will NOT replace the property they've seized – but will only pay out what they received when the shares were sold. This has led to several multi-million-dollar law suits, asserting

WHEN YOU HAVE A FAST-BREAKING DEAL

...OR AN IMPORTANT EMPLOYEE-PLAN MAILING TO MAKE...AN URGENT "ELECTION" FOR SHAREHOLDERS TO MAKE...OR A PROXY CONTEST... THAT REQUIRES YOU TO MIX AND MERGE FILES, CREATE AND MAIL CUSTOMIZED DOCUMENTS ASAP...



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that issuers 'did not do right' by shareholders - which, sometimes, they, or their service-provider, did NOT do.

Now for the real solution to the expensive and trouble-filled compliance problems posed by abandoned property, and it's an amazingly simple one: Hire an experienced and ethical service-provider to conduct an ongoing "asset reunification program." With today's excellent databases one can find virtually every so-called "lost shareholder" in America with ease. And once a piece of mail comes back, the faster you look, the easier it is to find the owners or their heirs - which assures that you have indeed "done right" by them.

Just be sure that you have vetted prospective providers with care - and that they will search for all shareholders, large and small - and that the fees they propose to charge the 'found shareholders' are fair and reasonable ones. The providers you choose should also have strong financial, privacy and data-

security controls - plus the wherewithal to sustain a big employee defalcation, should a bad-apple come along, since you will often be looking at surprisingly large sums. (The transfer agents listed in our Supplier Index are a good place to start... Then you should look into **Keane, Alliance Advisors, Georgeson** and **Laurel Hill** to develop an ongoing asset reunification program that is exactly right for you - and where, normally, the T-A and the "search firm" will work hand-in-glove to do the job. Beware cold-callers and relative newcomers to the business - and be especially wary of proffered 'rebates' and other 'tying schemes'.)

The best part of all this; if you focus on asset recovery programs rather than escheatment - and have them done right - there will be nothing for those greedy and intrusive state auditors to audit - and nothing for you to report and escheat!

ANNUAL MEETING SERVICES

Of all the money spent by public companies on the care and feeding of shareholders, the Annual Meeting consumes by far the lion's share. Just about every supplier represented in this issue is involved in some way or other - whether it's your printer, mailer, transfer agent, plan agent, data-handler, tabulator, proxy solicitor, strategic advisor or inspector of election. And, please note, this area represents not only your biggest spending area, but your biggest opportunity to save money by rethinking and revamping your usual drill, in order to "optimize" your spending.

We can also tell you, from close personal observation over many years, your annual meeting can actually become one of your biggest and best opportunities to create value for your company - and for you to become a shining star...Or, heaven forbid, it can also be an occasion to fritter away big money, or worse yet, for there to be a big snafu, where you can fall flat in a potentially career ending way.

We think we are seeing a very significant inflexion point where shareholder meetings are concerned: Over the past ten years many companies tended to think of the shareholder meeting as a necessary evil at best, and something to be gotten through as cheaply and as quickly as possible. Today, however - thanks largely to the upsurge of activist investor activities we are witnessing - and to their continuing successes - companies are starting to plan earlier, to reach out pro-actively to investors of every stripe, to hire strategic advisors to help them, to work harder to make their printed and web-based proxy materials clearer and more inviting to read, to pay more attention to the tabulation, reporting and vote-

certification processes - and even, at long last, to pay more attention to the often determinative retail investor vote.

Another big change that we have been long predicting, and that now seems to be gaining steam, is bigger and better use of the Internet - by public companies and activists alike - to communicate more effectively with investors, and to round up their votes. Among the major trends we see; far better presentation of web-based materials, a surprisingly large number of voters who are using mobile devices to review materials and to cast votes, greater use of "virtual shareholder meetings" and company-sponsored "virtual shareholder forums" - and OUCH! - "virtual shareholder forums" that are sponsored by dissident groups - which can be mighty compelling and effective tools indeed.

If we were to offer only one tip here, it would be to think about your next shareholder meeting using the zero-based-budget approach - looking to truly "optimize" each item in your budget: Set aside your old playbook - the one you have been routinely marking up year after year - and look at every single element of your shareholder meeting from a fresh and more modern and more "shareholder-friendly" perspective...guided by a very clear understanding of what, exactly, you want to accomplish with your meeting.

If we might offer a second tip, it is to look at our website where we have articles about virtually everything one needs to know about planning and conducting an annual or special shareholder meeting.... Admission Criteria Rules of Conduct, Security, Site-Selection, Dealing with Gadflies, Tabulating, Inspecting and Reporting on Results, "Virtual Meetings"...and, though we hope you will never need it...our primer on Proxy Fights.



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WHY BOARD EVALUATIONS?



COMPLIANCE
REQUIRED AND/OR
HIGHLY RECOMMENDED



LEADERSHIP
THE BOARD LEADS
BY EXAMPLE



AFFIRMATION
CONFIRM BOARD
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HELPING DIRECTORS BECOME MORE EFFECTIVE.

AUTOMATED BOARD BOOKS

Way back in 2006 we also urged readers to get cracking on making all their Board materials available to directors over the internet, in a secure environment...And at long last, this has been gaining major traction.

One of the biggest benefits, we'd remind again, is that having an automated process - with standards as to how and when materials need to be submitted - improves your own internal discipline enormously. Yet another big benefit is the huge amount of time and aggravation that is saved vs. doing things the old-fashioned way. We'll never forget the first time we witnessed the frantic copying, collating, page and sequence-checking and frantic calls for still-missing sections...then the packaging, addressing and address-checking that took place...quite literally into the eleventh hour on the third or fourth day before the board meeting.

These days, savvy directors are demanding fast, secure and easy-to-use internet availability of board materials. And many savvy corporate officers are using their portals to send news clippings, analyst reports, etc. between meetings - which most directors love to get. Even the least-computer-savvy board members are viewing this as a great opportunity to stay on top of things - and to get their own tech-

skills up to speed with company-sponsored tutorials.

Not surprisingly, this "space" has become rather overcrowded with over-eager but often under-ready vendors. Please look at our December, 2014 Special Supplement (www.OptimizerOnline.com issue archive) and turn to pages 31 & 32 for our recent and "Interesting Interactions With Board Books Providers" for some rather startling cautionary tales about selecting one.

Our advice: If you are a public company you need to be sure that the security of all your data will be absolutely airtight, and will continue to be state-of-the-art. There are numerous highly confidential items in a typical board-book - often with significant market-moving potential too - so insecure sites are prime hunting grounds for hackers.

Our other top tip: Before you make any investment of time and money here, make sure the provider you choose will be around for the long haul: Many will not be, we guarantee. The space is way overcrowded and total demand for the service is building-out fast. Who owns them? What other products and services do they have? What do their financials look like? What will all these vendors do for an encore? The last thing you want to do is to explain to your directors that the provider you picked has folded its doors.

BENCHMARKING PROGRAMS

The smartest public companies always benchmark their most important programs against their peers - and also against the "best in class."

We *hate* those programs that benchmark executive pay - because most are designed in a way that automatically ratchets-up the total pay for all execs, year after year. But sadly, comp-committees can't do without them.

We *love* programs that benchmark corporate governance provisions against the best-in-class: They can take away some potentially powerful issues that activist investors can use to brand targeted boards as less than independent, entrenched, or 'shareholder unfriendly.' (We have three excellent service providers in our Directory.)

Smart companies also monitor the performance of their most important suppliers, and periodically comparison-shop for the best services and price-to-value levels they can find. Most corporate people don't have the expertise - or the time to do it these days - hence the need for benchmarking services and for expert service providers who can manage them.

Lately, we've become big fans of the kinds of Shareholder Satisfaction Surveys, and surveys of public company satisfaction with their transfer agents, employee-plan service

providers and proxy solicitors. These surveys surely keep providers on their toes - and have indeed led to some noteworthy ratcheting up of provider performance levels.

We've also, somewhat reluctantly, become big fans of the RFP process: We greatly value our own vendors, and we always advise clients to work out any service or pricing issues 'offline' if they possibly can, before hiring outside consultants to help with an RFP. But if you see how fast technologies change these days...and how quickly they can lower costs...and how all the suppliers to public companies have been consolidating as a result...and how much money is being saved by companies that put good benchmarking and fairly regular RFP processes in place...you simply can't not do it!

Our advice: Go out with RFPs on a regular basis for any product or service where you spend a six-figure number or more. Also, read the article about Exelon's program to bid out their legal work, for a real eye opener - which demonstrates, by the way, that if you have time, and the subject-matter knowledge, you can do this kind of thing by yourselves. But if you don't have the time or the know-how to manage the RFP process in a rigorous manner - get professionals who do. They will pay for themselves tens, and sometimes hundreds of times over!

BOARD & BOARD COMMITTEE SUPPORT SERVICES

We've been watching this space since the 'Corporate Governance Movement' first emerged...and asking, "Why are corporate citizens not paying much more attention, and not being much more proactive in terms of giving their Directors much more than they're used to?" If ever there's a group to stay ahead of, and to get some brownie points from, it's them. And if ever there was a group that loves to be pampered, and fussed over and protected from every conceivable inconvenience, and every conceivable surprise – it's them too!

Let's start with what's probably the most important "Board Support Service" there is; their D&O coverage. Way back in 2002 we did some benchmarking on how often a typical board reviewed the D&O coverage. Less than a quarter of the respondents had done such a review during the prior two years. A year later, post-Enron et al, roughly half the respondent companies had awakened to the perils here – and we'd bet that the numbers have gone higher since. But if your editor were to go on a corporate board again, he'd continue to insist on an *annual review* of the kinds of events covered and the dollar amounts and any caps, exclusions or other limitations...and on who is providing the coverage...and what their rating is.

Way back in 2006 we also urged readers to get cracking on making all their Board materials available to Directors over the internet, in a secure environment...and at long last, as noted above, this has been gaining major traction.

Another indispensable service in our book is to get some expert, outside assistance when it comes to evaluating the effectiveness of board committees, and of directors themselves, which stock exchange listing requirements require boards to do. Not so long ago, most such programs were administered internally – maybe with the assistance of outside counsel – and mostly in a very general, 'check-the-box' kind of way. Lately, the ante has been going up big-time – as public companies are increasingly eager to prove to activist investors that they have very rigorous evaluation, re-nomi-

nation and 'director refreshment' programs in place.

There are tons of suppliers who are eager to help here – with everything from designing questionnaires and summarizing the findings, to conducting more probing one-on-one interviews and doing peer reviews on each individual director. So finding and using an outside provider to deal with such touchy and intimate subject matter is one of the trickiest things a corporate officer is ever called on to do.

Our advice: Do not consider anyone who has not spent considerable time in and around board rooms, or anyone whom a director would not consider to be a "near peer" in terms of their general knowledge, and their business and life experiences.

Do not pick anyone who is not a true expert on the kinds of issues facing board members in today's environment.

Do not pick anyone who comes across as pompous, or full-of-themselves, or worst of all, as a smarty-pants. The best candidates will be the best listeners.

Above all, the "chemistry" needs to be exactly right for your corporate culture – and for that of your board as a whole: The career consequences of picking a dud to put before your board are too horrible to contemplate. We have two outstanding providers of services like these in our Directory; Denise Kuprionis of Governance Solutions Group and Kristina Veaco of the Veaco Group.

Smart corporate citizens are also looking, increasingly, to bring in outside experts for brief sessions on hot-topics du jour: To provide a big-picture update on emerging corporate governance issues – or on cyber-security, for example. (Most directors much prefer brief and highly customized presentation to those at all-day or multi-day "Directors' Schools.") In our 1st quarter issue, we proposed a brief pre-annual-meeting info-session for directors and senior officers on the many changes in voter demographics and voting dynamics, on the mechanics of proxy voting (which most directors do not understand at all) – and on the importance of voting their own proxies – which many senior officers and directors fail to do. When it comes to potential presenters to the board, we'd offer the same advice about 'facilitators' as we did in the previous paragraph.

COMPLIANCE & ETHICS SERVICES

This was a new category in our Directory back in 2007 and we are not at all surprised to see how the attention being paid to both of these topics has continued to increase since then, pushed along, of course, by lots of regulatory changes and numerous carrots and sticks being brandished by federal and state regulators since then – not to mention those activist shareholders...and the always busy plaintiffs' bar.

We have a fair amount of advice to offer here, and many excellent service-providers who can help you are listed in our Supplier Index at the end of this magazine.

For starters, having memberships in industry organiza-

tions like the Society of Corporate Secretaries and Governance Professionals, and the Shareholder Service Association, are truly essential elements in terms of keeping up with regulatory changes and court decisions that will require changes and additions to your procedures, guidelines and internal communications programs.

Many of the best law firms also offer periodic regulatory updates, with advice and comment on what to do internally to stay on, and ideally stay ahead of the compliance and ethics curve.

Most of our readers are also avid followers of Broc Romanek's blog – and they tune in to his many webinars by the thousands, at www.thecorporatecounsel.net.

We also think that our own 22-year-old newsletter, The Shareholder Service *OPTIMIZER* has earned a reputation for being *way ahead of the curve* when it comes to identifying emerging issues – and for providing very practical advice on “What to Do” about them if you are a public company officer.

Our advice: We are great believers in having a robust annual compliance and ethics review process in place. And we are great believers in the value of bringing in an outside expert to help with the process – someone with objectivity and genuine expertise, with no pre-set point of view, ax to

grind or position to defend – to make an initial evaluation of where you are, relative to the ‘best in class’ and what you need to do to get there yourselves.

We are pleased to have three such experts in our Directory, all of whom we can recommend without reservation: Jane Ludlow, who offers “Custom Compliance Services for Corporations”, Denise Kuprionis, of Governance Solutions Group and Kristina Veaco of Veaco Group. These experts can also provide invaluable assistance with drafting and editing and ‘extra hands’ where any compliance, ethics or corporate governance issue or program is concerned.

CORPORATE GOVERNANCE CONSULTING

This has been the fastest growing service on the supplier scene these days – both in terms of the number and variety of would-be providers and in terms of the total dollars being spent.

The biggest dollars are being spent where there are real, or imagined, or simply theoretically-possible threats from activist investors. Here, the top three or four law firms and investment banking firms are raking in mega-millions – and the sky seems to be the limit when it comes to winning the day if an activist knocks on the door.

The top three or four proxy solicitation firms are taking in pretty big bucks here too, and there are a half-dozen excellent firms out there with specialized niches and areas of expertise. (See our section about Proxy Solicitors and Advisors for more detail.).

There are also a few “boutique-like providers” of corporate

governance advice, aimed at heading off or defusing activist beefs whenever possible...and lately, to assure that the Say-On-Pay proposal will pass comfortably, and that all directors will get a 90% or better approval rate.

There are also a number of individual hands-on experts – three of them mentioned in the preceding article – who can help companies benchmark and upgrade their corporate governance practices, committee charters, etc. against the best in class – and to do it in a careful, workmanlike and cost-effective way.

Perhaps the best advice we can offer here re: the high-price consultants is to repeat the advice that activist Greg Taxin offered in our December 2014 issue: “Don’t allow advisors to run their standard playbooks. Where activist investors are concerned, officers and directors need to steel themselves against what is basically a mercenary army of people, who like war. Make sure you do not get yourselves inextricably on this path because the people who are driving the train are ‘built for war’.”

CYBER-SECURITY SERVICES

These are the hottest and most important new products and services to hit the public-company marketplace – by far.

Here are just a few of the things a public company needs to have in place today:

Director education and decision-making support for board committees: Recent surveys show that there are wide disparities between director assessments of current threats, and the state of their own corporate preparedness – and what the company’s own I-T experts think. Quite understandably, most directors do not really understand the complexities of “cyber-threats” much less the kind of “cyber-security tools” their company needs to have – and whether the programs being presented to them for information – or for their approval – will succeed in meeting the threats.

The need for robust technologies to defeat intruders: Every company needs to have them today – but quite often,

they do not have the technological or financial resources to do an adequate job without expert, outside assistance – whether for software selection or to implement a broader company-wide program. And sadly, some of the systems and procedures that companies have bought into have proven to be pure vaporware, so caveat emptor. (We will have much more on this subject in future issues.)

The need for continual board level review of attempted and actual incursions – and for them to stay informed about new or emerging cyber-security issues in general.

And, of course, companies – and their suppliers too – need to have adequate insurance against cyber-attacks.

Our top tip at present: Please take a quick look at our July 2014 newsletter on the need to monitor a company’s outside suppliers and their cyber-security measures...

Much more to come on cyber-security in future issues, we promise!

DATA CONVERSION/DATA MANAGEMENT TOOLS

When we think about these much needed but ideally 'invisible' tools, we tend to think first of our good friends and colleagues at **Ellen Philip Associates**. In the 'old days' when your editor ran a big shareholder servicing business, he accidentally discovered that they were the "secret weapon" that allowed our in-house I-T people to seemingly pull all those rabbits out of a hat when a client wanted something previously unheard of, or when there was some other data processing crisis or time-crunch. So if you have a bunch of files...from a mixed bag of vendors...and need to somehow mix, match and smash the records together, to get something in the mail in a hurry, and process it seamlessly when it comes back...think of them.

We have also been very pleased to watch the continued success of **EZ Online Documents**, which offers a service to convert and convey important data from paper documents like your 10-k or 10-q to the web – and to tablets and mobile devices...where many 'online documents' somehow fail to translate properly.

Regular readers know that we've been preaching fire and brimstone about the need to make those e-delivered documents much more reader friendly than the kinds of "stuff"

that most companies put out. One of our biggest fears is that reader disgust upon opening the average e-delivered package would 'kill the goose' bearing the potentially golden egg of cost savings here.

Another, still worrisome issue, is the almost certain loss of individual investor VOTES when e-deliveries are ignored or automatically deleted by dismayed recipients, or by those without the computer firepower that so many e-deliveries require if one is to read them.

Accordingly, we are very happy to introduce **Tangelo Software** to the readers of this issue. We see this as a MAJOR breakthrough in terms of allowing public companies to quickly, easily and very cost-effectively produce important financial documents – such as proxy statements, earnings statements, annual and special reports – in a wide variety of formats, with very robust controls over accuracy.

And while we're on the subject of data conversion and data handling, we couldn't possibly fail to mention our friends and colleagues at **Broadridge Financial Solutions** for their truly amazing accuracy, scope, size, speed and overall dependability – and to note their very compelling message that for many companies, in today's deadline oriented but over-busy environment, having "one source" for centralization, coordination, production and control of shareholder related data and transaction processing is a very hard proposition to beat.

DIVIDEND REINVESTMENT & DIRECT STOCK PURCHASE PLANS

Long-term readers know that we consider these plans to be among the best and most effective tools a public company has at its disposal to strengthen its base of loyal, long-term shareholders. And, please note, you don't even have to be a dividend payer for these plans to create value for you, although it helps.

There is a fairly lengthy article about them in this issue – and we have lots of other articles about this on our website, www.optimizeronline.com – and even more that we're always delighted to send if asked.

To summarize, our best advice is this:

Be sure you understand your company's own natural 'affinity groups' – and that you are both realistic and very specific about the goals you would like to achieve – before you launch and 'price' your plan.

Don't simply copy the latest plan...and don't be railroaded by a plan provider whose goals are often quite different, and sometimes even incompatible with your own.

Finally, measure and monitor plan activities regularly – to see if you are achieving your goals, and getting good value for the money spent. If not, revise and re-market your plan until you DO achieve its full potential to create value for your company.

DOCUMENT DESIGN & DISTRIBUTION

Badly designed forms lead to added follow-up actions and re-work...errors...and agitated phone calls from the 'confused': Please note that the more "choices" shareholder are being offered, the more important it is to make them crystal clear.

Whether one is drafting Annual Meeting materials – or, even more critically – gearing up for a merger, acquisition, tender-offer, small-shareholder buyback program or some other kind of "reorg job" – the content, design and overall understandability of the documents you deliver to shareholders is a truly critical element. Easily understandable documents – and especially the forms that shareholder need to fill out and

return will make the job go quickly – and smoothly.

Transactions that involve employee-plan holders tend to be particularly tricky – since often, multiple plan agents or trustees will be involved – and, very often, the share amounts will change between the mailing and effective dates: So a seemingly little thing – like asking plan holders to indicate a share-amount in a tender offer rather than a percentage-of-holdings amount can lead to big processing issues. Being able to consolidate the holdings of multiple plans – and including the registered shareholder positions as well – can lead to big savings in paper, postage and processing costs... if handled correctly...but can lead to processing snarls and ringing phones, and angry holders if the document design

and delivery process has not been meticulously thought-through – and meticulously processed.

Our advice:

Use the supplier universe – and our Directory – as a resource, and treat the sample documents potential suppliers produce – and the level of support they offer to provide

during the execution phase as a key decision factor in selecting suppliers.

Review the listing information under Transfer Agents, Reorg Agents, Small-Shareholder Buyback Agents, Employee Plan Specialists and Data Conversion/Data Management Specialists.

EMPLOYEE STOCK OWNERSHIP/ OPTION PLAN RECORDKEEPING & EXECUTION SERVICES

Ten or fifteen years ago, the vast majority of stock option plans covered only the top five or ten people in the firm. And, for that matter, most of the money in 'regular employee' stock ownership plans belonged to the top tier too. Then came the technology boom, and soon, the dot-com boom – and a mad scramble to attract the 'best and brightest' with stock options and awards... and with it, a huge boom in "Global Plans" – where options were issued to all employees – including employees that, increasingly, are located all over the globe.

And over the past few years, while huge numbers of options are still out there, and while option plans are still important, there's been a big surge in Restricted Shares and Performance Shares and "Phantom Shares" – bringing another big increase in complexity where recordkeeping, reporting, participant education and execution are concerned. Whenever your editor speaks on shareholder services at an industry conference he asks for a show of hands from people who are "completely satisfied" with their employee-plan service providers. Hardly a hand is raised!

So what should you look for in a Plan Provider? The number one item in our book (and readers, your editor was directly involved in developing and offering such services for many

years) is the size, financial strength, reputation, experience and staying power of the firm you choose. Aside from the overall importance here, never forget that it's the Board – and your top-exec's – who'll want the final say. What do they most want? Fast and flawless execution, rock-bottom commissions...and, in our experience, red-carpet treatment.

What should you most want after the most essential needs of your bosses are met? These days, we say, it's the tightest possible control and compliance environment – to be sure that YOUR back is being properly watched...along with the simplest and easiest-to-use 'tools' you can possibly find...along with flexibility where delivery systems are concerned – to meet the constantly evolving programs those comp-consultants come up with.

Ideally, one would like to have a single provider for all employee plans, which makes life much, much simpler. But sadly, many of them get straight As for some services, but Cs and Ds for others, so do your homework with care, we advise.

Increasingly, given the fact that so many of these plans are truly 'global' – you need a provider that has a truly global presence...and the ability to ACT LOCALLY.

Lastly, we must note the fact that many of the tools we see our corporate friends and colleagues using are badly in need of checking...if not an outright chucking! We will be publishing more on this too in future issues.

ENTITY MANAGEMENT SYSTEMS

Every public company has some sort of subsidiary or entity "management system" – even if it's like one of those marked-up, paper-bound notebooks – or maybe a box of file-folders – that many colleagues have sheepishly admitted to using as their only system.

Back in 2007 few people foresaw how many subsidiaries their company would end up having – much less the number of non-US subsidiaries they might accumulate as their overseas operations grew -- much less the fact that entity management and record keeping would turn out to be a critically important Corporate Governance issue – much less a SOX-induced compliance issue.

It sure seems to us as if a surprising number of public companies are still using rather shaky, makeshift sorts of systems to handle subsidiary record keeping. Many others are using old and outmoded versions of software programs due to 'expense control measures' – little knowing that this is likely the least

cost-effective way to go. Many other companies are way behind in terms of "good housekeeping" tasks – like cleaning up old records, purging and correcting out-of-date information, and closing up subs that have outlived their useful lives. Another big problem we hear from subsidiary management experts are "rogue subs" – that make all sorts of deals without proper parental consent and supervision – and that fail to follow established procedures or report to headquarters at all.

If you are one of those companies – or even if you have what you think is a good system, but you haven't made a careful assessment of all the records you may have on file – and how many may be "dead" or "dirty" data elements, it's high time for a checkup, we'd advise. There is robust completion among service providers these days, which can help you get a lot more for your money – along with a lot of valuable help in getting your records into shape.

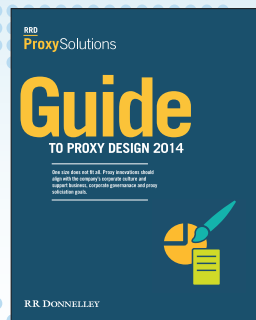
Also, you can't afford to neglect your non-US subsidiaries, where global attention to "profit shifting" activities is ratcheting up in a big way... So please look at our section on Foreign Subsidiary Management, below.

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TOOLS

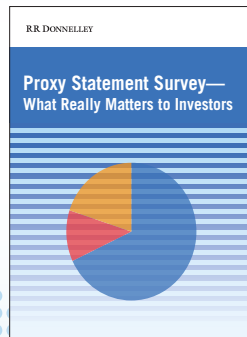


Our Proxy Guide

catalogs over 250 unique examples of layout, design, navigation and content from among our blue-chip client base.

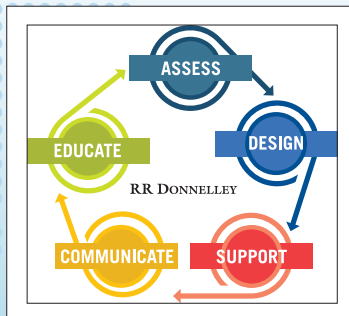
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FINANCIAL PRINTING

Since we did our first review of products, services and service-providers in 2007 the universe of financial printers has shrunk by roughly half. This has been mostly due to a dramatic drop in demand for printed matter, thanks to the growing use of Notice and Access -- but also to an ever-growing belief that the web is the best -- and certainly the fastest and the cheapest place from which to disseminate important corporate info... And, of course, you can't not be there. The corporate imperative to constantly reduce costs has been yet another major driver of shrinking demand.

These factors, coupled with the high fixed costs of being a printer, have taken a heavy toll on the industry. The two oldest and biggest U.S. printers – Bowne and **RR Donnelly** merged a few years ago, to create something of an industry powerhouse. A handful of old-time, old-line financial printers still remain – because competition still works in the USA, and because financial printing is still very much a ‘service business’ – which is critically important to smart buyers.

And, not surprising at all to watchers of fast-consolidating businesses, there have been a number of new entrants – most notably **Broadridge Financial Solutions**, which has long been a major supplier of digitally printed materials, and which offers size, strength and “one-stop-shopping” at annual meeting time, which is a plus for many already overburdened corporate citizens.

Over the past two years we are glad to note, there has been a growing realization at many companies that they cut the quality – and also in some cases the quantity of their printed matter – much to their disadvantage:

Well-designed printed matter makes an immediate impact on recipients. If it is “inviting” it will prompt recipients to skim, and ideally to read deeper.

The growing length, complexity – and often the critical importance of corporate governance matters has also focused attention on better ways to get readers’ attention, win their support – and get their votes.

Good printed materials also send a strong message about the strength of company itself – and the value it places on its shareholders, and on communicating with them. Also, as one of our suppliers noted, the “push model” tends to get much more shareholder attention than a web-based “pull-model” – that requires recipients to go to one or more web-sites to take action – like casting one’s proxy votes. Recipients of “full-set hard-copies” of proxy materials are roughly twice as likely to cast their proxy votes than recipients of “Notices of Internet Availability”...although we still believe that over time – and IF companies design their materials, and their voting sites better, the two models will eventually equal out, and the web may actually win over a majority of voters – as it has already done at most high-tech companies.

In any event, there has been much more attention paid in recent years to design and layout considerations – both in printed and in web-based materials. And lately, there has been a modest return to the use of “glossy” materials, which had fallen out of favor – primarily because dropping them was such a quick and easy way to cut costs.

This brings us to another very important point: New technologies are driving change fast in both the print and the web worlds. Most important to note, they are helping to reduce costs – even while increasing quality – and the timeliness of info – for corporate issuers and for their shareowners. Please be sure to look at the article about **Tangelo Software** in this issue about ways to make the layout and presentation of important and time-sensitive financial documents cheaper, easier, more accurate, more available in multiple formats – and faster. Digital printing – and print-on-demand – can also generate huge money-savings for corporate issuers, as Tangelo points out.

We buy a fair amount of printing ourselves. And we also benchmark the price of printing on a regular basis for clients, usually in connection with RFPs for transfer agency and reorg contracts and sometimes in connection with annual and special meetings. In our 22 years as a publisher, we have seen our own printing costs go down in every single year we went out for bids.

So here's a summary of our advice:

(1) Relationships are important, and having good relationships with your financial printer(s) WILL pay big dividends for you, and make life a lot easier. Also...changing printers is a challenging and potentially disruptive experience: It involves extra work and extra monitoring in year-one at best, and a fair degree of risk.

(2) But that's no reason not to benchmark the market-price of printing, and the kinds of services that good printers can bring to the table on a fairly regular basis. If you already have good suppliers, more often than not, you'll stay with them...and be a lot more comfortable for having done your homework. Best of all, your printers will likely respect you a lot more in the morning, and pay more attention to you thereafter.

(3) Be watchful if you let other suppliers – like a transfer agent, reorg agent, solicitor or mailing house buy printing for you: They are entitled to a reasonable markup, if they've done the legwork, provided storage and/or logistical support – but many times we've found these largely hidden surcharges to be way out of line with the value added.

(4) A well-designed RFP process, with a well-crafted RFP, will also help you make sure you are getting a truly good deal, and that there will be no 'surprises' in the form of unexpected extra charges and surcharges on your bills. Our very first issue had an outline that is still good, twenty-two years later!

(5) Most times, however, all it takes is a few phone calls (from people who understand the printing business, that is) rather than an elaborate RFP process to get a better break on printed matter: Regular readers may remember our real-life example of someone who'd been quoted \$.13 an envelope – for over one million of them – who got down to \$.06 after a few calls...only to find out from us that she could easily have paid as little as \$.015 had she shopped a bit harder...and smarter. These days, however, as noted above, it's not strictly a matter of pricing: It is also very wise to assess the kind of know-how – and hands on support – and genuine value-added that a really good fi-

nancial printer can bring to your own printed materials.

(6) Always check your printing bills with care – for surcharges and 'extras' like making corrections, overtime charges, etc. – and for mathematical mistakes, which, tend not to be made in your favor.

(7) Maybe the best tip of all...pull a D&B report on any new printer you might consider using. Most printers these days barely scrape by on miniscule margins – And many of them have no printing plant at all, but simply 'job-out' the work to others. NOT a good recipe for a long-term relationship.

FOREIGN SUBSIDIARY MANAGEMENT TOOLS

Ten years ago, this item was barely on the radar screens of most U.S. companies. But as we predicted way back then, "globalization" is no longer a concept, or an aspiration, or mostly marketing fluff – it is now a big part of our everyday workaday world.

First came SOX – which made it more imperative than ever to have tight controls over exactly who can authorize what at public companies – and where in the world they can do it – and whether they and their subsidiaries are in compliance with the local accounting, corporate governance and filing rules. Then came Dodd-Frank, with even more compliance mandates...and nowadays, increasing calls for harsher penalties when rules are broken or ignored.

And currently, we are heading for an all-time record number of mergers, acquisitions and spin-offs – virtually all of which have global entities that need to be dealt with and/or disposed of properly. In the old days most companies used their local outside attorney to manage their foreign entities, and most of them 'outsourced' to local laws firms where the entity was located. Not a very efficient or cost-effective solution to say the least.

Here's another set of little known facts that should get your

attention: In many non-US jurisdictions the failure of a local subsidiary to file timely with local authorities can delay or prevent a deal involving the sub from going through altogether – and worse yet – can subject subsidiary directors to severe fines and penalties.

And now...OUCH!...we have "BEPS" ("Base Erosion and Profit Shifting") standards and reports to worry about...along with CbC reporting by MNEs (that's country-by-country reporting by Multi-National Entities for the uninitiated) – thanks to the OECD:

As we write this, major changes are afoot on the global subsidiary scene – with 39 U.S. and foreign governments that now subscribe to the Organization for Economic Cooperation and Development Conventions looking to assure that there are real, and sometimes fairly substantial operations going on at foreign subsidiaries, in order to qualify for the tax sheltering that gave birth to the entire system. So look for more filings – and for more detailed filings – and for more 'policing' – and probably for bigger fines and penalties for failing to keep up with new rules.

The good news is that there are several firms that are really GOOD at this – that have excellent systems and procedures in place to keep your corporate records up to date, and that have local resources 'on the ground' and fully up-to-speed and up-to-snuff when it comes to keeping all your foreign subsidiaries fully compliant.

INDEPENDENT INSPECTORS OF ELECTION

Virtually every public company is required by their State charter, or by their bylaws, to have one or more Inspectors of Election to oversee and certify the voting at their annual meetings. The majority of companies still tend to use their transfer agents to do this – but over the past five years, more and more companies are looking for Inspectors who are completely independent: Who can serve as a reliable check-and-

balancing system with respect to any proxy tabulator they may use.

A surprising but fast-dwindling number of public companies use their own employees, retirees, or retirees from their outside law or public accounting firms. One firm we know used a priest, a nun, a rabbi, and an AME minister (honest!) to oversee and bless the final tabulation. Lovely people, of course, but people who knew nothing at all about proxies, much less about the increasingly complex "proxy plumbing systems" – much less the court-tested "rules of proxies."

Every year we still see a few companies that get sold on using their proxy solicitors to sanctify the final vote – votes they got paid to round up and sometimes to tally up too, and where sometimes, there is a bonus for big pro-company votes. Obviously, any of the prior conditions create clear conflicts of interest where certifying the vote is concerned.

Old traditions like these are changing fast, and for very good reasons: As more and more proxy matters are decided by a hair's breadth each year, it becomes ever more important for the Inspector to be able to pass a 'sniff test' where "independence" and know-how, and the due-diligence that is actually performed are concerned. It really IS time to rethink.

MEMBERSHIP ORGANIZATIONS

Industry-oriented Membership Organizations are, without a doubt, the most powerful tools a corporate citizen has at his or her disposal when it comes to finding a key fact, solving a pressing problem, looking to network with and gain best-practice tips from peers, or seeking out strong and reliable service-providers.

Most public companies we know would get their membership money back the first time they get a question answered, vs. the cost of calling outside counsel for the answer, or for a few leads on where to go.

Here are our two favorites:

The Society of Corporate Secretaries and Governance Professionals

The Shareholder Services Association (SSA) – which focuses intensively on practical, operational and money-saving issues.

NOTICE & ACCESS

The "notice and access system" has saved literally billions of dollars for public companies to date, by eliminating hundreds of thousands of tons of printed shareholder meeting materials and millions of dollars in postage each year. Approved by the SEC in 2007 the amended proxy rules allow companies to provide proxy materials to most of its shareholders over the Internet. (Please note that some employee-plan trustees insist that some kinds of plan participants still need to receive paper documents, but most plans are OK with N&A.)

Instead of automatically sending shareholders a hard copy set of proxy materials by mail (typically consisting of an Annual Report, Notice of Meeting, Proxy Statement and Proxy Card or Voting Instruction Form (VIF)), companies may choose instead to mail a "Notice of Internet Availability of Proxy Materials" (the "Notice").

Information that must appear on the Notice includes the Internet website address where shareholders can access proxy materials online, instructions for requesting hard copy proxy

Our advice: If you think you may have close or contentious matters on your ballot, or if investors are voting on one or more "material items" – like a merger, recapitalization or a by-law change that requires shareholder approval – think hard, about having one or more expert and truly independent Inspectors become a part of your official process.

Also: Make sure that any firm or individual inspector you may pick has rigorous, written procedures in place – and actually follows them – and that the inspector(s) can stand up and be effectively counted themselves if challenged.

(Please note too that we have numerous articles about Inspectors of Election on our website)

Quite aside from the wonderful 'libraries' of written materials and sample forms and documents they have, or can quickly obtain by "emailing for info" – the biggest benefit, by far, is in the networking opportunities they facilitate. You can get an answer, or brainstorm potential solutions to a problem, simply by browsing the membership list – and calling or emailing anyone who seems likely to have an answer – or by posting your question on their networking sites.

Another thing we like especially about both organizations are the wonderful 'leadership development opportunities' they offer you – and your key staff members.

When WE think of membership organizations, we are constantly reminded of the venerable old truism that "the biggest and best 'secret of success' is simply showing up." It sure has worked well for us. So please consider having a membership in both organizations – and showing up with regularity.

materials by mail, telephone or email if they prefer to stick with paper, and the option to permanently elect to receive hard-copy materials for future shareholder meetings of all companies where they are shareholders.

Companies that choose the Notice and Access option are required to post meeting materials on a publicly accessible Internet web site – other than the SEC's EDGAR Database – a rule that many companies currently flout, with impunity – which is bad, as we will see in a second. The materials should also be essentially have the same format and content of the hard-copy materials – and they should be readily "searchable" – two other rules that many public companies also flout these days...which is too bad – because a bad shareholder experience creates a risk of "killing the golden goose" that generates such huge savings when shareholders willingly give up their paper copies.

There is another bad side-effect of Notice and Access, namely the fact that many individual investors fail to vote their proxies when all the needed materials are not "pushed to them" and placed under their noses, where they can be han-

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dled as part of their normal mail-processing drill – and individual investors still vote overwhelmingly with management recommendations, which, increasingly, can make a critical difference in the outcomes.

Here's our advice on how to max-out on the N&A savings – while also maxing-out on your individual investor vote:

First, recognize that shareholder demographics – and the related voting preferences – vary widely from company to company. At high-tech companies, voters overwhelmingly prefer the internet-only model. At older companies – which tend to have older and more old-fashioned shareholders – expect many of them to sign up to always get paper materials – or, a very bad thing, to ignore the Notice altogether.

Ask a variety of trusted providers for their advice on how best to “stratify” your mailings. Many companies still “push” paper materials to all individual shareholders, to max out on their votes. But most companies can reap big savings with minimal impact on the total vote by mailing only to shareholders with a “meaningful investment” (we say it's a \$20,000 one, but do

some modeling to find a cut-off point that works best for your company) while mailing the Notice to all the really small holders. Many of these companies automatically send “full sets” to every shareholder who typically votes their proxy, regardless of size, to keep them in the fold.

Make sure that the materials you place on the website are truly “user-friendly” if you want shareholders to take the time and trouble to actually vote. Ever try to read an “Edgarized” document? Or try to scroll-through a lengthy PDF document that has no indexing features, or that is poorly or non-intuitively organized?

Make sure that your documents can be easily read on tablets and mobile devices. Many we see are NOT compatible here: Believe it or not, voting via mobile devices has been increasing dramatically every year.

We have lots of articles, with loads of practical tips on designing and delivering shareholder-friendly materials – both on paper and on the web. There are also many highly-skilled providers in this issue who can help you to “optimize” your big spending on shareholder materials... in a wide variety of ways.

ODD-LOT BUYBACK/ROUND-UP PROGRAMS

Long-term readers know that these programs have long been something of a mania with us. We hate waste – and we hate to see money wasted on servicing shareholders, and on shareholder accounts, and on making mailings to people who have no material stake in the company that's paying all the bills.

But we hate it even more when we see odd-lot buyback programs that are so badly designed that the benefits to the agents outstrip the benefits to the corporate sponsor...or that leave the biggest savings on the table.

We are especially peeved when odd-lot programs are designed so the “middling holders” end up subsidizing the deals...even while the really small holders – the ones you most want to get rid of – continue to sit on their hands.

And we are infuriated when small shareholders aren't informed that sometimes they can simply cash out for nothing, or for next to nothing, through an existing DRP, or through the “Direct Registration System.” Not just dumb,

but a shamefully shabby trick.

A lot of companies have been burned on badly designed programs that were not worth their time and trouble. But readers, most companies whose shareholder records we review would benefit hugely from a cleanup program that would eliminate those costly “cling-ons.”

Our advice: Do some homework first. Read some of the articles about small-shareholder buyback programs that are on our website.

Carefully consider targeting only the truly immaterial holders for your next odd-lot program – and keep your program simple. (In the old days we used to like those buy-back/round-up programs – and we liked those charitable donation options too. But now we say, limit the choices to three at most: Cash Out, Donate, or Do Nothing.

Do the math with care, and consider picking up all the processing fees and brokerage commissions yourselves: You will usually break-even in the first year if you design the program properly – and realize true savings each year for 16 years or more, which is the average account-life of a 1-to-5-share shareholder!

OUTSIDE COUNSEL

Having the right legal firms on our team – firms that understand both our business and the way we do business – not only helps us sleep much better, it often creates significant competitive advantages...in terms of ‘sealing more deals’ and doing deals faster, and with less risk...and in doing damage control if things go off track...advantages that are very often overlooked or taken for granted. We ourselves are still using the same firm – and the same wonderful attorney that we used

when your editor-in-chief ran the old Manny Hanny T-A business back in the 1990s – and glad of it!

That said, however, there's at least as much to be gained from a bit of competition – as wonderfully illustrated by the article on Exelon's RFP process that's on our website...and by some of our other tips on RFPs we think...to be sure that WE, the customers, are not being inadvertently overlooked or taken for granted...and to guard against the possibility that both sides may have gotten ‘too comfortable’ for anyone's good.

PEOPLE

If there is one overarching theme that comes through in this special issue of the Optimizer we hope, it's how much the efficacy of our really important tools depend on the PEOPLE who design, deliver and wield them on our behalf.

As we constantly hear from our corporate clients – and constantly preach to our supplier clients – Yes, cutting edge technologies and cost-efficient production techniques are critically important. But buyers still put service at the very top of their list, and so they should. If anything, public companies rely much more than ever on their suppliers to ‘watch their backs’ and to deliver high levels of service – details that they themselves have all too little time to micro-manage or oversee on a day-to-day basis.

Over the past 24 years we have had the good fortune to work with some of the biggest and best companies in America – helping them to review a wide variety of programs aimed at shareholders – with the goal of “optimizing” the value-for-money spent. Virtually every client chose “The Tone at the Top” as their number-one decision factor. And every one of them considered “the people who will be assigned to work on our account” as the number-two decision-maker-or-breaker. Very wise criteria indeed.

Accordingly, we have some added advice for readers of this issue where ‘people’ are concerned: As you read the many articles that have been authored by suppliers of services – here and on our website – read carefully between the lines: We believe you can get a very good sense, both of the “tone at the top”...and also of the level of service that will be delivered to you.

PROXY DISTRIBUTION AND VOTE TABULATION

Stop number-one for public companies these days is Broadridge Financial Solutions – which distributes proxy materials and voting instruction forms (VIFs) – and tabulates and reports on them for virtually the entire “street-name” universe of shareholders. (They have a couple of small competitors – who work with a handful of brokers – and a handful of those pesky “respondent banks” still need dealing with as well, but these are mostly minor matters, which Broadridge mostly handles for you too, in a relatively seamless fashion.)

For most companies, their transfer agent is an equally important stop, since they have the files of the “registered” shareholders – and many companies still rely on them, as they did traditionally, for mailing, tabulation and inspection services.

Another very important set of issues to consider revolve around your various Employee-Ownership Plans. Very

One other thing worth knowing, we think: We are always happy to help our readers find good people if they have an important staff vacancy – so feel free to call on us.

And finally, when it comes to finding and employing good people, we want to make a very special pitch for the Fountain House Transitional Employment Program, a description of which can be found on our website under the “**Doing Well by Doing Good**” tab. We first used it ourselves back in our banking days – when we used T-E members to open, sort and deliver our incoming and interoffice mail, keep logs, make photocopies...and later, to water and maintain our potted plants. In 10+ years of using them, we never, ever, had a problem with a TEP worker. (If only we could say the same about our “regular workers”!)

You will hear the same, we guarantee, from **Broadridge’s CEO Rich Daly** – a champion of T-E and a major user of the program for over 20 years – and from the **Wall Street Journal**, which, for many years, used Fountain House Members to review and route their all-important letters to various editors, and uses them now to work on their historical archive, among other chores...and from law firms like **Cravath Swaine & Moore**... and enlightened public-companies like **Estée Lauder** and **Publicis**.

The biggest benefit of this program usually comes as a big and pleasant surprise to new employers: It’s the effect the program has on your existing workers – who will derive amazing energy and job satisfaction from mentoring T-E workers, from watching the many successes of T-E workers – and from “doing well by doing good.”

often, a company has three, four or more such plans – and there is a fair degree of overlap among investor accounts – both in the plans themselves and in the registered-shareholder population. Accordingly, there are good opportunities to consolidate the data-bases – and the mailings – which reduces expense – and usually increases the total vote. Employee Plans also require a fair amount of coordination among your suppliers – in order to consolidate files and mailings where possible – and especially when a Plan Trustee is required to vote the un-voted shares proportionately to the votes of actual plan voters – which is a ‘last minute’ job of work, often involving significant numbers of votes

Here’s our advice on these critically important issues:

Review the other articles – and especially the listings in our Supplier Index under Annual Meeting Services, Document Design and Distribution, Employee-Plan Services, Financial Printing and Transfer Agents – to decide on the “optimal” mix of vendors for your own company.

PROXY SOLICITORS

Not so many years ago we were almost ready to declare this a dying industry: The last thing that anyone wanted – whether they were a big institutional investor or a nice Mom or Pop, sitting down to dinner or the TV – was to have their proxy “solicited” by an old-time proxy chaser.

But oh how times have changed – with a huge upsurge in the successes of shareholder proposals and other sorts of ‘approaches’ from activist investors, ‘vote no’ campaigns and out and out proxy fights, which have been breaking previous records year after year. And oh how the smarter solicitors have changed their business models to suit the times.

Interestingly, the biggest winners in the marketplace since our 2007 review have been two firms that were smaller, nimbler and newer back then – and feistier and more creative than the old-guard it seemed to buyers – **MacKenzie Partners** and **Innisfree**, who are typically lined up first in virtually every real fight out there. **Georgeson** – an ‘old-line firm’ and still one of the best-known and most respected brand-names in the business – is typically on one side of most big-company fights as well.

If ever there was a business where PEOPLE are the “cutting-tool” that decides which firm makes the cut – and where PEOPLE can actually make or break the outcome – it’s this one...So let’s hasten to note the big strides made by **Okapi Partners** on the fight and advisory scenes in recent years, and also to note the big success of **Alliance Advisors**, which has rounded-up over 500 clients in just five years – and which has been growing 15% a year – mostly with mid-size and smallish companies who often get short-shrift from the “big firms.” Let’s note too, the recent acquisition of the big, old-line **DF King** firm by transfer agent **AST** – and to note especially the smallish, “niche firms” like **Regan & Associates** and **Laurel**

Hill, who have special expertise in proxy fights that arise in smallish companies – like community banks and old-timey family-owned firms where the biggest battles tend to play out in local or regional communities – and very often to get “personal” – and down-and-dirty to boot.

Our advice:

These days, companies of every size need to consider having a proxy solicitation firm that has a strong success record with companies like theirs “on tap”...in case an activist knocks on the door. Even when there are no “issues” we say, use one of them at least every other year, to keep them, and you, in fighting trim.

Very important to say, “don’t automatically cast aside your old firm...to automatically hire the firm your counsel or your investment banker thinks is the hottest gun this week” if a fight seems imminent or does break out.

Review our articles on proxy solicitation, proxy fights – and on selecting a solicitor; “Teamwork, and good chemistry is everything in a proxy contest” we advise...So use our “Chemistry Test” to be sure the ‘fit’ with your company’s culture and style, and with your senior management and the board is a great one.

Then, since several firms will usually pass the sniff-test – and the chemistry test too – use our “Life-Boat Test”: The analogy is a powerful one, since in proxy fights, the need to survive as a company, and as a team, is often paramount. All of the key players need to operate in perfect synch – and often in uncomfortably close quarters, so there’s no room in the boat for anyone who does not pull his or her weight to the fullest – or who’s not a true team-player.

This, by the way, is a good way to select any important service provider. It comes back to “people” again: If you choose the firm that leads the Lifeboat Test, the choice becomes much clearer and simpler – and you won’t ever go wrong.

PUBLICATIONS

If you are a public-company citizen in today’s fast changing and often dangerous environment, you absolutely need to stay alert to breaking developments, to stay ‘ahead of the curve’ – and to get practical advice and practical solutions that will help you perform at your peak. Subscribing to the right publications is the best way to do it.

So here are our top-picks:

The Society of Corporate Secretaries and Governance Professionals web-based “Alerts” – plus their many monographs, benchmarking studies and tutorials...PLUS the **“Society Huddle”** – which allows members to ask the membership about breaking and/or troublesome issues, engage in web-based discussions and, most important, to share solutions.

The SSA website – with its steady stream of webinars, regulatory alerts, tutorials and “ask the membership” features on a wide variety of highly practical “Practice Issues.”

Directors & Boards Magazine: A treasure trove of wise, carefully considered and often provocative articles from top-tier figures on the corporate scene – and by the editor as well...plus regular web-delivered bulletins between the printed issues.

The Shareholder Service OPTIMIZER: Now with 22+ years of content – covering just about every development on the shareholder relations, shareholder servicing and corporate governance scenes, we have to note...all of it available to subscribers, either on the web or upon request. PLUS...The **OPTIMIZER** comes with the promise of “some free consulting on any shareholder relations or shareholder servicing matter that ever crosses your desk.”

REGISTERED AGENTS

Every public company needs to have one of these as the “official recipient” of subpoenas and other legal notices, demands or documents...although recently, we were surprised to discover that many companies decide to be their own registered agent: Bad idea, we say, based on the high turnover we see in corporate head-offices these days – and on the number of items returned to us by such offices when the intended recipient leaves or retires, rather than being passed on to a designated successor.

As you may have noticed, the field became severely

overcrowded five or so years ago – which led to a steep drop in price levels. As a result, many of the agents tried to peddle all kinds of new services – and to pepper us with flyers and unsolicited emails to raise their profiles and/or demonstrate their expertise – much of which proved to be vaporware. Then, no big surprise, many of the newbies disappeared.

Our advice: Do some comparison shopping to be sure you are getting a good deal on price – but be very wary of picking a new agent that does not have the size and staying power to ride out the competitive storm. And this is doubly true when it comes to signing up for any “new and improved services”.

REORG SERVICES

Here’s what we wrote in our 2007 issue on “Essential Tools”: “What a big boom there’s been of late in ‘corporate reorganizations’ and in other deals that are known as ‘reorg jobs’...like spin-offs, mergers and acquisitions, Dutch Auction Tenders and multi-billion dollar long-term stock-buyback programs.”

And now – wow – reorg-jobs are approaching all-time-high levels. And many of the biggest deals of all are international or even multi-national ones, which greatly adds to the complexities – and to the risks.

Regular readers know we’ve been offering a lot of advice here too – which often produces amazingly large dollar savings. Here’s our advice in a nutshell:

(1) If you think you’ll be spending a six-figure number, all-in, go out for competitive bids. Your transfer agent normally enjoys a natural advantage here, but the TA of a company you are acquiring is often as good an option – and sometimes better – And sometimes (see points 5, 6 & 7) the TA is not a good choice at all.

(2) Be sure the RFP will allow you to carefully benchmark the out-of-pocket expenses – which tend to be very big ones where

reorg jobs are concerned.

(3) Review the kinds of forms and other educational/informational materials the vendors have used in the past. Well-designed and well-written materials will save you a huge amount of personal aggravation, assure the deal goes through quickly and smoothly and will save a huge amount of expensive “clean-up work” later on.

(4) Do not forget to benchmark the brokerage commissions associated with many such jobs: The differences can be HUGE.

(5) Review the contracts and other legal agreements with special care: Every year we see some that try to limit the agents’ liabilities – because reorg jobs create big ones. But that’s why you hire an agent – and why you also need to be absolutely sure that any agent you hire has both the legal obligation and the financial ability to shoulder the risks, or they’ll end up as YOURS

(6) Make sure the agent you choose has very robust internal systems and controls in place...and

(7) Above all – as indicated in (5 and 6) – be sure that the agent you select has the financial wherewithal to make-good on the monster-size mistakes that can and sometimes do arise in big reorg deals.

SHAREHOLDER IDENTIFICATION/ STOCKWATCH AND “INVESTOR TARGETING” PROGRAMS

We have been a consistent booster of shareholder identification programs from our very first issue: It’s simple: You cannot possibly communicate with investors effectively if you don’t know who they are...and what their top issues are.

We are much less enamored with those so-called “investor targeting programs” however, mainly because where large and/or

sophisticated investors who don’t own your stock are concerned, there is usually a reason for it – and THAT is what you really need to know – way before you try to treat them as “targets.”

As we also remind regularly, your shareholder profile can and will change – virtually overnight – if there’s an “issue” or a potential “fight”...And, please note, there are limitations on how much it is legally/ethically possible to know in a timely and reasonably accurate way.

If you have a decent “baseline” of information however, you can almost always detect potentially troubling activities such as large sales – or accumulations – and potentially

troubling short positions. And you can, of course, reach out to investors you'd like to have in your stock, to find out why they are not there. The best "Shareholder Identification" firms will also have a very good idea of how your major shareholders usually vote on proxy proposals, and will usually know the best people to contact if you want to "engage" – as well as the folks who probably won't want to engage with you at all.

The biggest thing to beware of – whether you're buying I-D or one of those "Targeting Services" that purport to identify

important potential investors in your stock is to think you can buy a "magic box" that will do all the work for you, make all the current info completely available to you, and somehow make all the answers pop out.

There is simply no substitute for PEOPLE here; people who can help you to gather, analyze and interpret your ownership data, strategize on the 'what ifs' and develop the right game plan for your specific situation...and who are well aware that there is a lot of data that simply can't be legally dug out, despite one's best efforts.

SHAREHOLDER SATISFACTION SURVEYS

As we've written many times before... Transfer Agents should be conducting them...Issuers should be insisting on them...

And if you are paying a six-digit number for any shareholder service, you should consider commissioning "shareholder satisfaction surveys" yourselves – and maybe "client satisfaction

surveys" among your own internal team members too – to be sure you are getting what you pay for.

Another important and often-repeated tip: "Eat your own cooking" from time to time: Log in to the shareholder self-help-site and browse around; Call the toll-free number your T-A has assigned to you: See how long you have to wait – then ask a few questions a confused shareholder is likely to ask... and rate the answers you get.

TRANSFER AGENTS

Transfer agents take a lot of heat – from shareholders – and from their clients too (though, after all, that's what you really pay them to do) – and sometimes from the Optimizer as well. But if you stop to think about it, you'll realize that they probably wield more tools on your behalf than any other supplier you have.

This business, as most readers also know, has been undergoing a massive consolidation for over ten years now – driven mainly by dramatically falling unit volumes as shareholders continue to migrate to 'street-name.' The result; a do-or-die competitive environment.

Over just a few years we saw **Mellon Bank** merge with **Bank of New York** – to pass up former number-one transfer agent **Computershare's** once commanding market share by a country mile. And then, rather amazingly, Computershare bought out the BNY-Mellon business to take a basically insurmountable lead...And then – as so often happens with rapidly consolidating businesses – came a new entrant, **Broadridge Financial Solutions**, which promised to follow a 'disruptive' business model. And then, just last year, we saw one of the two largest agents in the mid-sized-agent category, **Registrar and Transfer Company**, also sell its business to Computershare. And then...one of the largest of the 'smaller agents' – **Illinois Stock Transfer**, was shut

down by the SEC...And then, just a few months ago, another of the biggest 'small agents' – albeit a tiny one – was snapped up by **AST**.

But now, suddenly, the competitive turmoil – which so often created "dislocations" for clients, to put it politely, and where the now number-two agent, **Wells Fargo Shareowner Services** had been 'making hay' as the saying goes – seems to have simmered down a bit: All of the larger players still standing have found their feet, and are doing an "OK job." So not only are the clients basically pretty happy – very few of them have a good reason to shop around and run the risk of leaving a stable environment for what is still the "unknown"...since one thing is for sure, we say: *"The dealin's are far from done in this industry."*

Currently, the reorg departments at the larger agents are sort of feasting on the hot and heavy M&A market – and picking up a few newly spun-off companies too. But once those dealin's are done, the number of registered shareholders, net of the few modest additions from spin-offs, will bite the bottom lines of the big TAs pretty hard.

So for now, are advice is to sit tight, and to try to develop a warm and loving relationship with your TA, while keeping a close eye on the newspapers and the industry newsletters for more consolidation to come.

But if you are one of the 'disaffected' companies, or feel 'dislocated' after the competitive re-shufflings, there are two articles

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on our website that will help you; one on “What to do if you are not satisfied with your T-A” and another on Selecting a Transfer Agent.

One last but very important point: If you are one of the 400 or so public companies that serve as your own transfer agent, or if you are using a very small provider, it is really time to re-think.

Please review the article on Transfer Agent Liabilities in our 1st Quarter 2015 newsletter. They are much bigger than you think they are...And just one snafu can more than wipe out

whatever “savings” you may think you are realizing via a “do-it-yourself program” - or by using a very small, super-low-price provider.

And yes, there are still ways for your company to serve as the “front office” where shareholder questions are concerned, if you’d like to do so - while delegating the riskiest back-office tasks to providers with the expertise - and the financial resources - to shoulder the big liabilities that come with the job.

ZERO-BASED BUDGETING

We put this category in our Directory back in 2007 - partly to go from A to Z, we admit, but largely because we think it is one of our biggest and best money saving tips ever, when applied to the biggest line items in our average reader’s budget. This year, by the way, is reportedly the 50th anniversary of this ground-breaking concept.

In today’s fast-changing, highly competitive and highly tech-oriented world, we’re willing to bet that you can shave 10% to

30% off your usual spending - often improving the overall quality of what you buy, in the bargain - by ‘starting from scratch’ rather than marking up last year’s spending by the rate of inflation... and by questioning ‘old ways of doing things’...and by going out for some competitive bids for the big-ticket items.

But please take one final word of advice: Don’t put all of the money we think you can save with a zero-based-budgeting approach back into the corporate kitty: Redeploy at least 60% of the savings to do other things, and to do them better - and to make your own corporate life a bit easier too.

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fast these days.**

If you think you may have matters on your shareholder meeting ballot where the outcomes could turn out to be close or contentious...

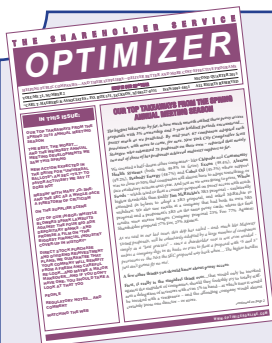
If investors are voting on one or more “material items” – like a merger, recapitalization or a bylaw change that requires shareholder approval...

If you simply want to follow “best practices” when it comes to ‘inspecting the election’ and certifying the final results...

If you want to be sure that any firm or individual inspector that you and your board appoint has rigorous procedures in place – and actually follows them – and that the inspector(s) can stand up and be effectively counted themselves if challenged...

Please think about having one or more expert and truly independent Inspectors as a part of your company’s official shareholder meeting team.

Please visit our website to review some “Questions and Answers about Inspectors of Election”... “What, Exactly Should Inspectors Be Inspecting?”... “Whose Counting Those Votes, Madam Chairman?”... and to review the profiles of our current team of Inspectors.



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VOLUME 21, NUMBER 2

NOW IN OUR 22nd YEAR

SECOND QUARTER 2015

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IN THIS ISSUE:

OUR TOP TAKEAWAYS FROM THE SPRING 2015 ANNUAL MEETING SEASON

THE BEST, THE WORST... AND THE WEIRDEST ANNUAL MEETING DEVELOPMENTS WE SAW THIS SPRING

NEW ACTION EXPECTED IN THE DRIVE FOR "UNIVERSAL BALLOTS": AN SEC "TILT" TO FAVOR ACTIVISM? WE SAY IT DOES NOT

MESSIN' WITH MARY JO: SHE, AND THE SEC AS A WHOLE, FACE A FIRESTORM OF CRITICISM

ON THE SUPPLIER SCENE

OUT OF OUR IN-BOX: WHISTLE BLOWERS SPARK LAWSUITS AGAINST THE FOUR BIG ADR DEPOSITARY BANKS – AND PROMISE A FILM ON "THE BIGGEST FINANCIAL INDUSTRY COVER-UP IN HISTORY"

DIRECT STOCK PURCHASE AND DIVIDEND REINVESTMENT PLANS: WE GUARANTEE THAT YOUR COMPANY WILL BENEFIT FROM A FRESH AND CAREFUL RE-LOOK...AND MAYBE A MAJOR MAKEOVER...AND IF YOU DON'T HAVE ONE, YOU SHOULD TAKE A LOOK AT THAT TOO

PEOPLE

REGULATORY NOTES... AND COMMENT

WATCHING THE WEB

OUR TOP TAKEAWAYS FROM THE SPRING ANNUAL MEETING SEASON

The biggest takeaway, by far, is how much smooth sailing those proxy access proposals with 3% ownership and 3-year holding periods encountered... pretty much as we predicted. By mid-year, 67 companies adopted such provisions, with more to come, for sure. New York City Comptroller Scott Stringer, who submitted 75 proposals on their own – reported that nearly two out of three of his proposals achieved majority support so far.

We counted a half-dozen other companies– like **Chipotle** and **Community Health Systems** (both with 49.8% in favor) **Exxon** (49.4%), **Alexion** (49.2%), **Peabody Energy** (48.7%) and **Cabot Oil** (45.3%) where support was so close to 50% that companies will almost have to adopt something, or face retaliatory actions next year. And just as we were going to press, **Whole Foods** – which tried to float a counter-proposal on proxy access with much higher thresholds than gadfly **Jim McRitchie's** 3&3 proposal – unilaterally amended its bylaws to adopt a 3&3 proposal, and asked McRitchie to withdraw. We also saw results at a company that had both its own 5&5 proposal and a proponent's 3&3 on the same proxy cards, where the final results were mirror images: Company proposal 23% For, 77% Against; Shareholder proposal 77% For, 23% Against.

As we said in our last issue, this ship has sailed – and, much like Majority Voting proposals, will be voluntarily adopted by a large number of companies simply as a "best practice" – since a shareholder vote is not even needed – unless a company digs in its heels, or tries to float a proposal with "5 and 5" provisions vs. the 3&3 the SEC proposed way back when....The higher hurdles just ain't gonna fly no mo'.

A few other things you should know about proxy access:

First, it really is the stupidest thing ever...that would only be invoked against the stupidest of companies, should they foolishly try to totally stiff-arm a delegation of investors with even 1% in hand...at which time it would be invoked with a vengeance – and the offending company would almost certainly loose one director – or more.

continued on page 2

Second, trying to beat investors to the polling place, and float one's own 5 & 5 proposal, is stupider yet... Your editor had dinner with a client the night before his shareholder meeting, who said he was considering such a move for next year. *"What percentage of your outstanding shares are held by your top two investors?" we asked him. "About 2 ½ %" he said. "And how many would get you to 5%?" "Oh...I see" he said... "One more would get me to 3% and maybe only three or four more would get me to 5%...So yes, why in the world would I tick off my top five or six holders – and probably embarrass my directors too." Case closed.*

The second big development so far this season was the outcome of the DuPont-Trian proxy fight, where "opiners" have been all over the lot, but where there are several lessons to learn, we think:

First off, there seems to be little doubt that 'retail investors' were major factors in the outcomes here – as they are in almost every really "close election" – and who almost always vote overwhelmingly for the management slate. And, for sure, the biggest-money investors among them were DuPont officers, directors, employees, retirees, and their heirs, who have many economic, social and sentimental reasons to vote for the home team – which has produced mighty sweet returns for them over the years – and so they did.

Most surprising, however, with Train's Peltz coming up only 77 million votes short of a win, was the extent to which only a single one of DuPont's top-three investors could have swung the vote decidedly the other way. While a very large number of DuPont's institutional investors were willing to "roll the dice" on adding a few new directors – to "stir up the pot" – the basic conservatism of three of DuPont's biggest investors, **Vanguard, State Street and BlackRock**, and their willingness to trust, rather than second-guess the management team is worth noting...and is basically comforting to incumbent boards and management teams. If ever a case needs to be made for engaging pro-actively, and often, with one's largest investors, this is IT.

But the final takeaway also seems pretty clear: The incumbent directors – and most especially the Chairman & CEO and the Nominating Committee members – are decidedly "on probation" now - and won't be allowed to survive a failure to turn the recently receding economic tides mighty fast. We'd bet a quick \$100 that DuPont will add at least one, and maybe two directors from the Trian slate before too long, come what may...

Another meeting we had on our radar screen was BofA's – where the board overrode a binding bylaw resolution it had honored initially – to separate the Chairman

and CEO roles: They awarded CEO **Brian Moynihan** the Chairman's title almost as if it was a boy-scout medal for niceness and hard work - which he certainly exhibits, under loads of pressure - but without much advance discussion with its biggest investors. Then, yielding to screams from the activist crowd, they agreed – 48 hours before the meeting was to convene – to put it to a shareholder vote... "No later than next year's annual meeting." Then, they laid-low on disclosing the actual votes. Moynihan garnered a very robust 93.9% of the votes cast in favor of his election to the board. And most of the other nominees did about the same. But the Chairman of the Corporate Governance Committee got just 66.6% in favor, and the other three Governance Committee members polled just over 71% in favor...putting them all in the "danger zone" where future institutional investor votes are concerned.

There's no doubt that these days, the Governance/Nominating Committee seats are the hottest spots to be in on a board – and that institutional investors will apply the heat big time if they feel it's warranted.

Director Elections were mostly uneventful, as Broadridge's mid-year Proxy Pulse summary indicated clearly: At large-cap companies, average shareholder support for directors was unchanged at 97%, compared to 92% at microcap companies — which experienced a 2 percentage point decrease from the same period last year. But oops...458 directors (just under 4% of directors up for election) failed to receive at least 70% shareholder support and 126 directors at 60 different companies failed to achieve majority shareholder support – about the same as last year.

Say-On-Pay votes also encountered mostly smooth sailing to date: Average support levels were unchanged at 90% so far this season, according to the Broadridge report, although approximately 8% of pay plans failed to surpass the 70% shareholder support level and 3% of say-on-pay votes failed to achieve majority approval.

Another thing we can say for sure, companies spent a lot of money on their "outreach" and communications efforts this year, to assure their Say-On-Pay proposals would sail by – and stay well above the 70% "danger zone" - and, ideally, above the 90% level. One company we heard about spent over \$1 million on a "proxy advisor/consultant" – to assure they'd beat the 90% mark – and we're sure there were a lot more such cases.

A few years ago, we opined that "80% is the new 50%." Today, "90% is the new 80%" – at least where director elections and say-on-pay ratifications are concerned.

THE BEST, THE WORST...AND THE WEIRDEST ANNUAL MEETING DEVELOPMENTS WE SAW THIS SPRING

Let's lead off on a high note, with some of the best meetings your editor attended – and where there were some nice innovations worth passing along:

Verizon, Inc. takes first prize in our book, for the wonderfully new and efficient way they handled the “shareholder question period.” *Wonderfully respectful*, we thought, of the attendees’ valuable time and attention: They set up signs around the edges of the room for five or six topics that investors would likely be interested in – like new products, consumer questions, HR & IR stations – and the Chairman stepped down from the podium to take questions directly, from any and all comers, at the front of the room. A nice hot breakfast for shareholders also opened up in an adjoining area – which almost everyone much preferred vs. having to listen to the usual and often argumentative array of questions that are rarely high on their own questions list. But every attendee had every opportunity to be heard, or merely to say, “Thanks, and nice job” – as many did.

UnitedHealth Group - which had four or five institutional-investor reps in attendance - was a very close first-runner-up – for the way the chair of the Governance and Nominating Committee answered an activist investor’s question about Board “refreshment efforts.” (It’s a mighty rare thing for institutional investors to attend a shareholder meeting these days, much less to constitute a majority of the audience – unless they are very unhappy about something, which these definitely were *not*. We thought the turnout was very much due to the downtown Boston location, which was a lot more convenient place for the likes of **Fidelity, Vanguard** and **Walden Asset Management** to check out the management team up close and personal than is Minnetonka, MN.) But in any event, we ourselves were astonished – which doesn’t happen very often at shareholder meetings – and totally impressed – by the clarity, cogency and detail of the Governance Committee Chair’s seemingly impromptu response: Clearly (and we really don’t think she was tipped off to the question) a lot of effort WAS being devoted to this subject at UnitedHealth. And wow, did she ace it! Turns out that among other things, UnitedHealth actually has a panel of outside advisors from a wide number of disciplines, who try to identify important business, technological, scientific, ‘social’ and other strategic issues – and to look for director candidates that will keep them ahead of the curve. “Does any other company have a program like this?” the investor asked... “Not to our knowledge” they said... But stay tuned for more companies to tune into this, we feel sure. And please remember that you read both our top two tidbits here FIRST, if, as we suspect, you did...

Here are a few other nifty things we saw in proxy documents this season:

BEST EXECUTIVE COMPENSATION DISCLOSURE AND DISCUSSION: Exxon Mobil, hands down. They produced a 12 page glossy “Overview” that they asked shareholders to review “Before you cast your vote on Management Resolution Item 3 – Advisory Vote to Approve Executive Compensation”...along with the “more detailed information” in the CD&A section, comp-tables and narrative in the proxy statement. Colored bar-charts and graphs made their stand-out performance vs. their top four peers – and vs. the petroleum industry overall – quick and easy to appreciate... like Safety Performance, the lead-off item, where Exxon beats its industry peers consistently, and by a wide margin, and which they see as a KEY performance metric...and yet again on item 2 – Return on Average Capital Employed – and Free Cash Flow (a strong number-2) – and your editor’s favorite metric, Total Cash Distribution Yield where the “*Dividends per share [were] up 10 percent per year over the past ten years*” and Exxon “*Distributed 46 cents of every dollar generated from operating cash flow and asset sales...from 2010 to 2014.*” Their charts and plain English explanations of arcane and usually indecipherable executive comp-speak – like Realized and Unrealized Pay, Equity Incentive Programs, Vesting Periods, and The Exxon Mobil Program vs. Formula-Based Pay are all must reviewing – both for content and for presentation.

BEST – AND CHEAPEST MEETING-EMBARRASMENT PROTECTION: Exxon Mobil again, for its short section in the proxy statement on People with Disabilities: “*We can provide reasonable assistance to help you participate in the meeting if you tell us about your disability and your plans to attend. Please call or write the Secretary at least two weeks before the meeting at the telephone number, address or fax number listed under Contact Information on page 3*” Cost of time, ink and paper? Near zero. *Value*, vs. having someone ask about this from the floor, as at least two people did at meetings this year...making your company look clueless – and cold hearted? Priceless!

BEST VOTE-NOW MESSAGE: Lockheed Martin, which placed a very eye-catching, full-color photo of their Chairman & CEO, **Marillyn A. Hewson** on page-one of the Notice of Meeting, with a message that resonated with us; The first such message that ever did, thanks to the personal touch – and maybe because Lockheed has been one of our most rewarding investments: “*As a stockholder, your vote is important to our continued success. Please vote your shares today*” – which we took special pains to do.

ANOTHER GREAT USE OF THE “PERSONAL TOUCH” in that dry old proxy statement: United Parcel Service had neat little photos of each and every Committee Chairperson – using the UPS “shield” to frame them attractively – at the head of each Committee description in the proxy statement. It made you want to look, and read on. Best of all, it made you feel that “*Real people are actually in charge here!*”

continued on page 4

BEST USE OF TECHNOLOGY TO GET ONE'S POINTS ACROSS: Trian, in its fight to elect four directors at DuPont, for posting videotaped interviews with each candidate on www.DuPontCanBeGreat.com. What a way to showcase the candidates, their very impressive qualifications, their compellingly stated reasons for signing up to run – and their ideas as to how DuPont can become great(er). None won, for reasons we try to decode above...but what a grand run they made. And if DuPont's stock-price, which fell when the Trian results were announced, does not become a lot greater over the next few months, look for them to come back again – with guns blazing, we bet...

NOW FOR THE WORST MEETING OUTCOME OF THE SEASON:

First prize surely goes to T. Rowe Price, who filed to exercise their appraisal rights in the course of the **Dell** buyout of shareholders – and who, with some 30 million shares in various funds was Dell's third largest shareholder – and became the lead plaintiff in the appraisal case. But Oh! Woe! Despite their statements that they had voted NO against the going-private deal, it turned out that their voting agent, **ISS** – who rightly needs to share the first-prize honors here for 'worst' – voted YES, when it changed its own recommendation. So T. Rowe, and its attorneys, got booted from the case, since one must vote no (or in some states simply not voting is OK) in order to exercise appraisal rights – or to benefit from any added payments that may be awarded to dissenters. Dell moved quickly in Delaware Chancery Court to disqualify them from the class of claimants altogether. We are betting that the court will cut them no slack – even though the yes vote was a mistake – and not made by them. Ultimately, if there IS a higher appraisal, and an award, T. Rowe Price does have another remedy, of course – to sue ISS for the dough.

FINALLY, THE WEIRDEST EVENTS WE SAW THIS SEASON, THANKS TO OUR TEAM OF INSPECTORS OF ELECTION, WHO SERVED AT 500+ MEETINGS:

Remember our 1st Quarter warnings about so-called "Floor Proposals"? Here's a little horror story straight from the proxy-war front, to get your attention: One of our Inspector of Election clients, a small and 'financially troubled' bank, got four proposals from a shareholder who did not meet the deadline in the company's Notice Provision, so they did not appear in the proxy statement. But – weird fact 1 – the company's bylaws also provided that with 30 – 60 day's 'notice' – shareholders could present proposals *from the floor*. But – weird fact 2 – the wannabe proponent did not provide proper proof that he met the required share ownership criteria. Nonetheless – weird fact 3 – somewhere along the line, the bank said they'd let the shareholder introduce his proposals at the meeting anyway. Our Inspector reminded them that unless there was an actual tabulation of the votes that ran to the proxy committee on "all other business" (which there was not) we would have no number to enter on behalf of street-name voters. But – weird fact 4 – the client's outside lawyer insisted that in their state of incorporation, and as also stated in the

proxy statement, the company's proxy committee was entitled to vote as they wished on "all other business." Since it seemed to the Inspector that the company votes would prevail under any scenarios – and since the company could still disallow votes for the proposals due to the proof-of-ownership issue – which, clearly, the proponent failed to meet – there was no need for concern just yet. But then – weird and troubling fact 5 – the proponent showed up with over a dozen supporters, all of them looking to vote. But no big surprise to the Inspector, all but a small handful of the wannabe voters held their shares in street name...and had no Legal Proxies in hand. So, even if one counted only the votes of people who voted in the room on this "other business" – as the company considered doing so as not to rub their defeat in the noses of the dissidents – the company prevailed by an overwhelming majority. But as we've warned before – we HAVE seen instance where dissidents had enough votes to carry the day on proposals raised "from the floor." *So readers...please note this important takeaway too: It does not cost a single penny extra to tabulate the street votes on "all other business to come before the meeting."* And while yes, increasingly, many institutional investors will NOT check the box to give management a 'blank check' here, most times management WILL prevail on proposals that have not been submitted to ALL shareholders.

And how's this for another hairy-scary meeting moment:

Shortly before their meeting was set to convene, a well-known company we'll allow to remain anonymous – and which had a shareholder-sponsored proposal on the agenda that they did NOT want to see pass – had 12,817,985 shares FOR the proposal and 12,643,343 shares against. And OH! More woe! The Chairman (whose minions obviously did not read our 1st Quarter tips on being sure that all the key officer and director votes got voted in time) suddenly realized that he had not voted his own shares...some 200,000+ shares that were held at a broker...And, oops again, naturally, he had no Legal Proxy in hand that would have enabled him to vote his shares then and there. But a happy ending here too, thanks to a smart and savvy Inspector of Election, who was willing to allow time for him to get his broker on the phone, and get the required paperwork issued. And thanks to some very fast scrambling by the **Broadridge** staff too – the final count ended up as 12,817,985 For and 12,890,145 Against.

Three valuable 'practice points' to note here: First, we believe that it is always appropriate for an Inspector of Election to allow a "reasonable amount" of time for voters who ask to make last-minute vote changes, and/or to assure they have a "fair and reasonable chance" to get their votes into the final tally as desired. We had several such instances this season – many of which involved tardy institutional voters, with big and determinative positions – including two that involved last minute changes of mind that changed the outcome. Second, it's always smart to keep close tabs on large 'un-voted positions' where the votes may have gotten "lost in the shuffle" thanks to the bad habit so many big institutions have of waiting 'til the very last moment to vote. And third – do review our article on "Getting Out the Often Decisive Officer and Director Votes."

LASTLY, JUST SO YOU CAN SAY, ‘THANK GOD IT WASN’T ON MY WATCH’ - AN EMBARRASSING REPORTING FLUB, by Intel: According to a press release from **The Holy Land Principles, Inc.**, correcting their initial press release about their shareholder proposal, *“A top Intel official twice emphasized to us that we would not be able to resubmit our Resolution next year because we had obtained only 2.6% of the vote. But our expert attorney refuted that, declaring that ‘I have just checked, and Intel’s numbers, as reported to the SEC show that the Holy Land Principles received just over 3.2% of the vote (as calculated for resubmission purposes, disregarding abstentions.’)”* Mistakes happen, as we all know, but this was a surprising ‘rookie-like error’ - on a fairly sensitive matter - by the usually meticulous Intel - which gave proponent **Fr. Sean McManus** an extra turn at bat in press-release-land.

NEW ACTIONS EXPECTED IN THE DRIVE FOR “UNIVERSAL BALLOTS”

“SEC Chief Tilts Again to Activists” the WSJ headline screamed, on page-1 of the June 26 Money & Investing section, reporting on Chairman Mary Jo Wight’s remarks at the Society of Corporate Secretaries conference where she endorsed the universal ballot idea, and urged companies to adopt one voluntarily in a proxy fight. It is perfectly permissible to do so now if both sides agree – but she also promised to study rule-making on the subject.

“This is not ‘tilt to activists at all” say we...Think again WSJ – and you too, M-J: At first blush, a “universal ballot” that would give all investors in a proxy contest the ability to choose among all the candidates, and vote on all the other issues up for a vote, *seems* like the best and fairest way to do things.

It makes it less likely, for example, that shareholders will accidentally cast votes for all the management candidates – and all the opposition candidates too – or for more candidates in total than there are seats at stake – thereby voiding all of their votes on directors.

It also allows voters to vote on all the items up for a vote – since, very often, the opposition takes no position on, and does not solicit or record votes on things like the ratification of auditors, or other items of business that are not directly related to “the fight”.

Smart Inspectors of Election also urge the use of a “universal” or “combined ballot” at the meeting site when there is a contest...although they are not in control here: Both sides need to agree – and they usually do. A single consolidated ballot is quicker and easier to pass out to the audience – and it does provide the ability to remind voters to “Be Sure to Vote for No More than X Directors” ...and it should also, out of simple fairness to all investors, have a place for attendees to vote on all matters before the meeting. Also worth noting, we have never seen the contestants disagree about clearly identifying and separating the management nominees from the opposition nominees, which is a help we find, in helping people make up their minds if they haven’t already done so... and is perfectly “fair” to all concerned.

But this is not to say that a ‘universal ballot’ is needed – much less is a cure-all for shareholder confusion – or pure carelessness. One can have the same reminder as to the maximum number of directors that can be voted upon on the two competing ballots – and really...why should dissidents NOT offer voters the opportunity to vote on all other items...if they want to, and as they really should?

The really important thing to note here is that in a proxy fight, having separate cards, whether to avoid confusion (?) and to say “Vote the green card...or the gold card...or the white card NOW! Is actually a GOOD thing in a fight – where both sides want to make their own best case – and NOT to inadvertently help to drum up opposition votes. It also allows both sides to “hide their votes” as long as possible...just as one does in a card game, where none of the parties want to tip their real hand or to give up even the slightest tactical advantage. This, by the way, is also why NO SERIOUS PROXY COMBATANT WILL EVER USE THE COMPANY’S OWN PROXY CARD TO LAUNCH A PROXY FIGHT...UNLESS THEY ARE SERIOUSLY MIS-ADVISED!

There is another valuable take-away here regarding fight-strategy that even the most sophisticated proxy advisors often fail to note: In a proxy fight – where, say, there are 13 candidates for 10 seats – the *really smart* thing is for the opposition to list its own three candidates, then the seven management directors they least dislike – leaving three management directors out entirely...and effectively running a “Vote No” campaign against the “weakest” or most vulnerable three. Remember; in a proxy contest, it’s the candidates that get the highest vote totals that get elected...so this is a way for dissidents to target and thus to minimize the number of votes that are cast for three “bad guys.” And this creates a bigger and better opportunity for the three dissident “good guys” to win, vs. what otherwise may be a near dead-heat where the two opposing *slates* are concerned, where individual directors tend to be invisible in or indistinguishable from ‘the herd.’

So Mary Jo, we hate to mess with you – and your friends (?) at the Council of Institutional Investors...but you are all seriously misguided, misinformed – and actually, your “universal ballot” is not a good tool for activist investors to use at all...except at the meeting site, and solely for the sake of meeting logistics...If they want to WIN that is.

MESSIN' WITH MARY JO: SHE – AND THE SEC AS A WHOLE – ARE FACING A FIRESTORM OF CRITICISM

“I am disappointed that you have not been the strong leader that many had hoped for and that you promised to be” Senator Elizabeth Warren, D-MA and a member of the Senate Banking Commission wrote in early June - in a stinging 13-page letter to SEC Chairman Mary Jo White: “I hope you will step up to the job for which you were confirmed.”

Among the shortcomings Warren cited; the long delay in proposing new executive-comp disclosure rules – and a rule, mandated by Dodd-Frank and first proposed in 2013 to disclose the gap between CEO pay and that of the median pay; on the SEC’s failures to require more admissions of guilt in settlement actions; for declining to use penalties that are at the SEC’s disposal – like revoking an offender’s “well-known seasoned issuer” status – and for being too lenient with waivers of penalties on repeat offenders. “These waivers apparently reflect the commission’s view that these banks deserve to continue to enjoy special privileges under the securities law despite the deep breaches of trust and evidence mismanagement displayed in these cases” she wrote.

Meanwhile, the SEC has been scrambling to defend its use of in-house vs. federal judges – which has drawn public criticism from a large number of former SEC officials – like William McLucas, a former director of the Division of Enforcement and Matthew Martens, formerly the SEC’s chief litigation counsel, in a WSJ Op-Ed article – and George Cannelos, who stepped down last year as co-director of the Enforcement Division, and who recently called on the SEC to “end the very grave appearance of injustice” when the SEC commissioners first decide to approve enforcement actions, then decide on appeals against the judgments of their in-house judges. At least seven cases are currently at risk, after a federal judge in Atlanta ruled that the in-house tribunals were “likely unconstitutional” because the judges should be “officials” – appointed by the commissioners themselves – rather than being “employees” hired by lower level staffers.

And Ouch! The SEC’s CAT – or Consolidated Audit Trail project – supposedly the answer to preventing more “Flash Crashes” – seems to be totally out of control – exactly as we’d predicted it would end up when it was first announced, in 2010. The ten industry orgs that were supposed to manage the project – obviously a bad way to manage *any* large project – have still not chosen anyone to organize, build or run it. There’s no consensus on what it will cost to do so – with estimates that vary from \$150 - \$500 million for just the first five years...or on how to pay for it...or on when it might be up and running...although the smart money says way more than five years. And now there are serious doubts that a ‘consolidated audit trail’ – while it might help to do a postmortem, and maybe assist in cleaning up some of the mess - would do a single thing to prevent future flash-crashes...or help to spot rogue traders, as also promised, back when. (The CAT, it should be noted, was first let out of the bag and unleashed on Mary Shapiro’s watch...but small consolation for M-J we’re sure.)

All of the flak seems to have set off a sudden flurry of activity at the SEC (see our Regulatory Notes and Comments section below)...which MAY prove to be a “good thing” for Mary Jo, and for the markets, so here’s hopin’. And hey! In fairness to Mary Jo, let’s note that this is the most politicized set of SEC commissioners in living memory – who are beset and beleaguered by the most politicized bunch of so-called “legislators” we’ve ever seen, to boot.

QUOTE OF THE QUARTER

“Executive officers should not be permitted to retain incentive based compensation that they should not have received in the first instance”

SEC Chairman Mary Jo White’s statement before the vote on proposed claw-back rules, as reported in the July 22 Wall Street Journal

ON THE SUPPLIER SCENE:

More consolidation in the Transfer Agency business as AST buys First American Stock Transfer, Inc. , a Phoenix AZ company that specializes in small and micro-cap companies, and in shareholder-paid stock transfer services.

More signs of the growing popularity - and acceptability of corporate activism - Cadwalader, Wickersham & Taft – the oldest and whitest of the white-shoe law firms, founded in 1792 – has hired Richard Brand away from Kirkland & Ellis to focus on working for activists as well as on the defense side of deals. A mere lad of 35, who's become famous as an advisor to the likes of **Pershing Square** and **Sachem Capital Management**, but who has worked both on offense and defense, Brand adds a nice

brand name – and a nice brash panache to the old-time firm.... with lots of new money to come their way, we bet.

Wonder why so many people tend to think of law firms, and lawyers, as heedless, heartless money-grubbers? *“Major law firms, which had record revenues of more than \$100 billion last year are donating only a tenth of 1 per-cent of their proceeds to legal aid to low income people.”* This according to *The American Lawyer*, as quoted in the June 30 nytimes.com/dealbook column. This prompts another reminder, dear readers, to check out the article on our website on “Putting Your Legal Work Out to Bid” - where, among other things, the author's company - and cheers for them - award extra points for a firm's pro-bono work.

WATCHING THE WEB

What's the biggest threat to corporate data security, and to exposing networks to spy-ware, mal-ware and thefts of highly confidential info? The CEO, according to a recent Verizon report on data breaches issued in April. Senior execs top the list of employee categories that are targeted by “spear-phishing” and other “social engineering attacks.” “Not only do [senior execs] have a higher public profile than average” – which allows spear-phishers to obtain convincing info that causes execs to open emails, and click on links they think they can trust – “they're also likely to have greater access to proprietary information” the report says. (This is something that we reported in this space some five years ago, by the way.) Another study, reported in a May 22 *WSJ* story, sent emails to various staffers to test their “security savvy”

– and found top execs to be 25% more likely than other workers to open links of the type that contain mal-ware, spy-ware or outright scams.

But oops...Maybe the biggest threat is our kids! An April 20 *WSJ* supplement on Information Security reported that more than half of all U.S. parents reported that children under 18 had breached their own security systems in one or more ways over the past year: 64% had kids who'd made unauthorized purchases online; 39% installed software on a household computer (not their own); 35% had downloaded a virus and 32% had changed network settings on a parent's computer, mobile device, router or local network.

OUT OF OUR IN-BOX:

Class action suits have been filed, or are set to be filed, against all the major ADR Depository banks – Citi, JPMorgan Chase (both filed) BNY-Mellon and Deutsche Bank – asserting that for at least 15 years, the banks have been secretly “assigning” foreign exchange rates that are far below the amounts actually realized, and systematically and illegally pocketing the “spread” between the U.S. dollar dividends and other distributions they pay out to ADR holders and what they actually realize in the marketplace. The **Benjamin Merryman et al. v. Citigroup et al.** suit in USDC for the Western Division of Arkansas, cites a survey of 610 cash distributions, covering 22 currencies and 83 distinct ADR issues, where in 71% of the cases the distributions were below the median exchange rate for the day, and where 27% were at or near the lowest rates of the day.

Whistleblowers, who indeed have ‘inside knowledge’ about the ADR industry, have told the OPTIMIZER that there's a lot more juicy stuff to come – including a film documentary exposing the “**Greatest Cover Up in International Capital Markets History**” that will detail “crimes the Depository banks commit/committed, enabled and/or facilitated” including “Billions of dollars in bribes to foreign private issuers and government officials. Billions of dollars in tax evasion by these banks. Share-Price and Shareholder Voting Right manipulation...the destruction of global shareholder wealth through carefully crafted Global Naked Short Positions issued by the banks for market-price effect and [market] manipulation as well as continuous Phantom Share distribution [and] global money laundering using ADRs and GDRs” which the whistleblowers say “represent a substantial threat to the homeland security of every nation.” Stay tuned for more...

DIRECT STOCK PURCHASE AND DIVIDEND REINVESTMENT PLANS: WE GUARANTEE THAT YOUR COMPANY WILL BENEFIT FROM A FRESH AND CAREFUL RE-LOOK...AND MAYBE A MAJOR MAKEOVER...AND IF YOU DON'T HAVE ONE, YOU SHOULD TAKE A LOOK AT THAT TOO

While preparing for this issue - with its special focus on “Essential Products and Services” for public companies - we were surprised at how long it’s been since we published an update on Dividend Reinvestment Plans, commonly known - and sometimes, sadly performing - as “DRIPs” - and their slightly more sophisticated cousins, Direct Stock Purchase Plans, or “DSPPs.”

Our last full-blown coverage was way back in 1999, when we responded to companies’ pleas to “Show Us The Money” that was being spent on - and generated by - these products...and how to determine what the ROI actually looked like - in order to decide whether offering such plans was worth the time, the trouble and the money one needs to spend on them.

And wow...times have sure changed since then, in many significant ways. Here are a few excerpts from our 1999 list of money-making results:

- **JC Penney** compared the buying behaviors of stockholder and non-stockholder credit card holders and found that stockholders visited JC Penney stores more than twice as often and spent 52% more money per visit than non-stockholders, thus spending more than three times as much. (Source: *The Shareholder Service Optimizer*, Sept/Oct '95)

- **Real Goods Trading Corp.**, a company that sells environmentally friendly products via catalog, and that went public over the Internet, found that its stockholders bought twice as much as other buyers. (Source: *Wall Street Journal*, 6-29-99)

- **A major Midwestern financial institution**, which, like most of its peers, conducts continuous direct-mail campaigns for gold and platinum cards, car loans, CDs, mortgages and home equity loans, etc., found that its stockholders accepted such offers at three times the rate of non-stockholders. In the expensive direct-mail marketing business, this added “edge” has major financial significance, even before the added benefits of prompter than average payments and much lower than average default rates that arise from having stockholders as customers. (Source: *Carl T. Hagberg and Associates*)

- **Sears Roebuck**, which included a broad array of product coupons in its mid-year 1997 report to shareholders, garnered 43,000 redemptions. The profits generated by the incremental sales paid for the entire interim report. (Source: *IR Update*, Sept. '97)

- **Texaco**, which has been cultivating “affinity groups” for as long as we can remember, took two investor surveys in recent years. They found “the correlation between stock ownership and a preference for Texaco products is overwhelmingly positive.” No wonder they have one of the best-marketed and best performing Direct Stock Purchase Plans in the country.

- **A study of 500 stockholders who participate in DRP/DSPP programs**, commissioned by **First Chicago Trust Co.**, found that 77% recommend products and services of companies in which they own stock to friends and associates, 47% would use products of the companies they own even if it were more convenient for them to use those of competing companies and 44% would buy where they own stock “even if a competitor offered a better price.” (Source: *First Chicago Trust Co. Investor Purchase Behavior Study*, Nov. '97)

Yikes! While we feel sure that JC Penney shareholders still shop their stores as loyally as ever, we truly doubt that JCP has the time to focus on their retail investors as they did back then. And poor Sears, with its mostly poor-looking stores, has become more of a REIT than a retail company, while Texaco has disappeared into **Chevron**, which is not much of a retail-player at all nowadays. And, on the TA scene, First Chicago has morphed and acquired its way to become DRIP & DSPP Giant **Computershare**...but where they have indeed continued to sell the benefits of such plans – adding two or three new Plans per month of late...so the scene is far from dormant. (The full text of the article is still available on our website, or at <http://www.optimizeronline.com/investorsascustomers.aspx>)

Subsequently, in our 3rd Quarter 2012 edition, we published an equally compelling set of arguments, we think, as to the significant economic value of having a robust population of retail investors – and gave “Our Top-Ten Reasons to Grow and to Guard Your Individual Investor Population, which details benefits like raising equity capital at low cost, building brand value, and thus, stock price, lowering volatility...and thus one’s cost of capital, to cite just a few of the ten tips – plus one to grow on.. (This article too is still available at www.optimizeronline.com)

Actually, we think this article has become more important than ever, thanks to three newish factors: the constantly declining levels of retail investor analysts and analysis, that leaves small, mid-cap and even large-cap companies under-reported-on; the very significant stock-price volatility we’ve been seeing of late, that a strong retail base helps to dampen – and last, but far from least, the increasing value of retail investor VOTES in closely contested matters, where individual investors still vote overwhelmingly with management – when they vote at all, that is.

Very important to note when evaluating a DRIP or DSPP, these plans really WORK – IF, that is, they are properly designed, monitored and re-marketed from time to time. As our good friend **Chuck Carlson**, editor of the **DRIP Investor** newsletter noted in our 2012 Special Supplement (also on our website), “The combination of long-term investing, systematic dividend reinvestment and no-cost/low-cost investing is a very powerful strategy for wealth creation.” So if properly designed and marketed, a “DRIP” can become a veritable gusher of money for public companies looking to raise equity at low rates, as well as for investors themselves.

But now, for some of the downside aspects of DRIP and DSPP investment plans:

First, they do cost money to run...And yes, while there has been a steady trend toward “shareholder-paid” plans over the past ten years, most companies still have to pay the transfer agents’ “account maintenance fees” – plus most if not all of the out-of-pocket expenses that are incurred for producing and mailing quarterly statements, annual meeting materials and “miscellaneous expenses” which are sometimes surprisingly large.

Secondly – and here’s why a fresh new look is warranted, we say – At many of the companies we look at, the overwhelming majority of Plan participants have a truly negligible amount of money in the stock. (Some agents have done a terrible job of monitoring, enforcing or even *having* Plan provisions that require accounts to be liquidated when the value drops below some minimum dollar level – or whenever all the full-shares are sold or transferred out. Many agents pay no attention at all when the full shares are sold or transferred to a brokerage account shortly after a record date – and where the dividend ends up buying .001 share – keeping the essentially dead account alive for billing purposes. (We have more than a few of these accounts ourselves, we must confess – simply because the proceeds of sale are not worth all the work involved in getting the agents to sell off the fractional share.)

One last point on the upsides and downsides of DRIPs and DSPPs: While you need to pay a regular dividend to have a true “DRIP” – you do NOT need to do so in order to reap the potentially huge benefits of having a well-designed DSPP.

THE SHAREHOLDER SERVICE **OPTIMIZER**

is published quarterly by

CARL T. HAGBERG & ASSOCIATES

P.O. Box 531, Jackson New Jersey 08527-0531

SUBSCRIPTION PRICE: \$300 per year

E-ONLY EDITION: \$250 per year

Questions, comments or letters to the editor about material in this newsletter are also most welcome.

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PEOPLE

Investment banker and attorney **William Anderson**, who many observers say was the first investment banker to practice the art and science of advising public companies on how to deal with activist investor “approaches” – and still the best – has left his perch at market leader **Goldman Sachs** to join relative newcomer **Evercore Partners** where both he, and Evercore, served as advisors to **DuPont** in the recent proxy fight vs. **Triam**. Evercore, founded by former deputy Treasury Secretary **Roger Altman**, had only one new company defense last year, the July 1 *WSJ* story noted, vs. the 23 defenses at Goldie - But as the story also noted - which is very much worth noting, readers - “The numbers don’t include matters that never become public or instances where advisers weren’t disclosed, which bankers say are myriad.”

Amy Goodman, who recently retired as a partner in **Gibson, Dunn & Crutcher’s** Washington, D.C. office, was presented with the **Society of Corporate Secretaries and Governance Professionals’ Bracebridge H. Young Distinguished Service Award** at the Society’s annual conference in June. Amy was a member of Gibson, Dunn’s Securities Regulation and Corporate Transactions groups, advising clients on securities law disclosure and regulatory issues and corporate governance matters, including the representation of independent board committees. She joined the firm in 1998 after serving as a free-lance editor and author of books and newsletters on securities and corporate law topics, including Editor-in-Chief of *Insights: The Corporate and Securities Law Advisor*, *The Investment Lawyer*, and *The Corporate Governance Advisor*, all published by **Aspen Law & Business**. Previously, she was with the **Securities and Exchange Commission** for 11 years, holding several senior positions with the SEC’s Division of Corporation Finance, including Chief of the Task Force on Corporate Accountability. It is

hard to imagine a more worthy award recipient: Amy was a frequent and always a clear, incisive and compelling speaker at Society and securities industry events. She was always ready and willing to listen, and to think and speak “outside the box” – while always representing the SEC – and later, Gibson, Dunn, with distinction.

New York State’s top-banking-cop, Benjamin Lawskey, left the state Department of Financial Services in June – to start his own consulting and law firm. Unlike the half-dozen or more top securities cops “that have gone on to \$3 million-and-up positions at major law firms” of late, noted Columbia Law School Professor **John Coffee** in a *WSJ* article, “he’s not gotten a warm welcome from the [Wall Street] market.” But no worries at all, we say: We think he will continue to go and grow like “gangbusters” in his new career. A man of rare integrity and skill.

Two SEC commissioners are reportedly planning to step down at roughly the same time, later this year; Democrat Luis Aguilar and Republican Daniel Gallagher. Let’s hope we can ‘trade up’ a bit with the newbies.

Activist hedge fund Hudson Executive Capital has added two high-profile people to its roster – former SEC Chairman **Mary Shapiro**, who will advise the fund on regulatory and governance issues, and former **Wells Fargo Bank** Chairman & CEO **Richard Kovacevich**, as one of the fund’s “CEO Partners.”

Fred Marquardt, a much-valued advisor to public company clients of proxy solicitor **Morrow & Co.**, passed away unexpectedly in April. He too was a frequent speaker at industry events, whose presence and insights on the shareholder meeting scene will be missed.

REGULATORY NOTES... AND COMMENT

ON THE HILL: While Republican and Democratic legislators say that are making-nice, and cooperating more these days, it seems that all the real action is coming from federal agencies – and that a lot of it IS nice: The FCC adopted a rule that will give phone companies more room to block robo-calls and spam text-messages on both phone and mobile devices. Three cheers! The FDIC developed a few simple criteria for deciding on banks that can be exempted from regulations and exhaustive examinations without posing risks: No trading assets or liabilities, no derivatives positions other than ‘plain vanilla’ ones AND where the total derivatives exposure s are less than \$3 billion – AND banks with

shareholder equity that totals at least 10% of assets – which sure exempts a lot of banks. The DOL has also proposed rules to better safeguard individual retirement assets, by imposing “fiduciary standards” on sellers of funds and on “advisors” to retirees...which may not fly by as easily...but it’s *another* thing the SEC has been dawdling on for decades now.

AT THE SEC: Suddenly, there’s a heap of actual business landing in the SEC’s in-box of late: Their proposed rules to improve disclosure and increase the ability of investors to understand and compare executive pay across industries have been out since April, and the comment period just expired.

And just out, in a rather brilliant move, the SEC punted the job of handling claw-back provisions when there are financial restatements with a “proposed rule and rule amendments [that] would direct the national securities exchanges and national securities associations to establish listing standards that would require each issuer to develop and implement a policy providing for the recovery, under certain circumstances, of incentive-based compensation based on financial information required to be reported under the securities laws that is received by current or former executive officers, and require the disclosure of the policy. A listed issuer would be required to file the policy as an exhibit to its annual report.” *“Executive officers should not be permitted to retain incentive based compensation that they should not have received in the first instance”* Chairman White stated before the vote, which seemed obvious to the two Democratic Commissioners – and where most people would find it obvious too – but not to the two Republicans, who voted no.

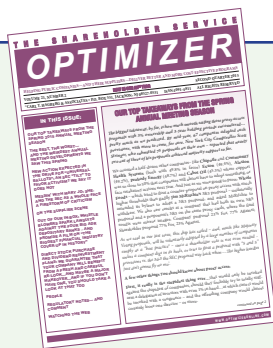
Now if only the SEC could get the “median pay” issue out the door for comment, they’d be getting a solid C- we think... But Corp-Fin director **Keith Higgins** seems to have been totally flimflammed as to the alleged “difficulties” and allegedly “very, very expensive process” of calculating the median number: “You don’t have to find every employee’s compensation to get to a median” he said in a June 22 WSJ interview. “When you read your newspaper and it talks about the median home price in the U.S. my guess is that they don’t take the data from every single home sale over a period of time. There’s a statistical sampling that gets done.” Well Keith, we are certain your guess is dead wrong: City, state and county databases routinely record the sales prices of every home sale where the deed is re-recorded – just as virtually every company has one or more databases that contain every employee’s name and rate of pay...or how else would you pay them? Merging all the data, then putting it together in ascending or descending order, covering 12 months of pay - then counting how many data elements are there ARE – then finding the median – which is simply the “middle one” on the list – like the ten thousandth name in a database of twenty thousand – is a task that the average junior high-school student can handle these days with Excel...and in a jiffy!

IN THE COURTHOUSE: The Supreme Court ruled unanimously in May that companies that administer employee 401-k plans must “monitor trust investments and remove imprudent ones. This continuing duty exists separate and apart from a trustee’s duty to exercise prudence in selecting investments at the outset.” The

case was brought by **Edison International** employee plan participants, who alleged that the company violated its fiduciary duties when it bought retail mutual funds while less expensive institutional-class funds, with essentially identical features, were available. It came to the Supremes when a lower court threw out the suit, ruling that a six-year time limit had expired. The case will go back to the lower court to review how often the administrator needs to review and reexamine investments, and how to calculate the deadline. This marks yet another victory for St. Louis attorney **Jerome Schlichter** who has brought 13 such suits over the past few years, and to date, has settled eight of them, including a \$62 million settlement with **Lockheed Martin** earlier this year.

A federal judge upheld former AIG CEO Hank Greenberg’s contention that the federal government had no legal right to “become the owner of AIG” in exchange for bailout loans, but refused to award any of the \$400 billion of damages Greenberg was seeking – a decision that Greenberg will appeal. “We respectfully disagree with the trial court’s contention that...there is no remedy for the government’s illegal conduct...[R]equiring shareholders to surrender 80% of their equity improperly cost the shareholders and improperly enriched the government by more than \$23 billion” the statement from Greenberg-led **Starr International** maintained, which we ourselves find hard to argue with, given the judge’s ruling that this was an “illegal exaction under the Fifth Amendment.”

The U.S. Court of Appeals (Delaware) issued its long awaited Opinion on the Trinity Wall Street v. Wal-Mart Stores case, affirming Wal-Mart’s ability to exclude Trinity’s shareholder proposal concerning the sale of guns at Wal-Mart stores from its proxy materials under Rule 14a-8(i) (7) – the “ordinary business provision.” The July 6th must-read Opinion wrestles with the “social-policy exclusion” – sounding almost set to go the other way. And it concludes by noting the rise in shareholder proposals framed as social-policy proposals since the SEC’s last guidance was given, way back in 1990 - suggesting that they consider updating their guidance, in what sounds like yet another slap at the agency: “Although a core business of courts is to interpret statutes and rules, our job is made difficult where agencies, after notice and comment, have hard-to-define exclusions to their rules and exceptions to those exclusions. For those who labor with the ordinary business exclusion and a social-policy exception that requires not only significance but “transcendence,” we empathize.”



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If you want to be sure that any firm or individual inspector that you and your board appoint has rigorous procedures in place - and actually follows them - and that the inspector(s) can stand up and be effectively counted themselves if challenged...

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www.Inspectors-of-Election.com

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www.GovernanceProfessionals.org



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Founded in 2005, Alliance has an extensive client roster of more than 400 corporate clients, which includes some of the most prestigious names in American business. We distinguish our firm by having a staff of senior proxy executives, former professionals from ISS and a complimentary suite of products and services. Alliance has vast expertise in dealing with all proxy issues and corporate transactions including: executive compensation, contested elections, mergers, shareholder proposals and corporate governance. Our success is based on a combination of our dedicated professionals, sophisticated databases, unmatched service and the firm's collective commitment to flawless execution.

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