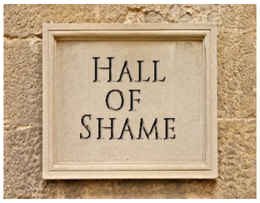
THE ACTIVIST REPORT
13D Monitor
Volume 6 Issue 11 November | 2016



THE CORPORATE GOVERNANCE HALL OF SHAME

NEW INDUCTEES

Monty Bennett, Chairman and CEO of Ashford Hospitality Prime
RiverNorth Capital Management

Monty Bennett - Monty Bennett is the Chairman and CEO of Ashford Hospitality Prime (the "Company") and the Chairman and CEO Ashford, LLC, the Company's external manager. This certainly poses a severe chance of conflict and is made worse with the fact that the external manager, rather than the Company's Board, appoints the CEO of the Company. Moreover, the external manager has a contract with the Company where it receives an annual fee for managing the Company's assets. This agreement con-

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Under the Threshold

Taubman Centers (TCO): Land & Buildings; Chipotle (CMG): CtW Investment; Harris Corp. (HRS): JANA Partners

NEW

Taubman

On October 19, 2016, **Land & Buildings Investment Management, LLC** sent a letter to the Board of **Taubman Centers, Inc. (TCO)** imploring them to hold the Taubman family accountable for the Company's dramatic discount to NAV, the Company's inferior operating performance and management's disastrous capital allocation decisions. Land & Buildings believes that the Company should explore the following actions to fix corporate governance, improve operations and enhance capital allocation: (i) de-stagger the Board; (ii) set a majority vot-

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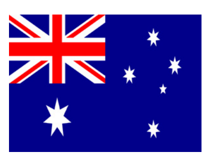
Around the World

Tatts Group: Sandon Capital

UPDATE

TattsGroup



On October 20, 2016, **Sandon Capital** stated its belief that the $11.3 billion merger of **Tatts Group** and Tabcorp is a terrible deal for shareholders and does not properly value the Company's lotteries business. Sandon stated its intention to speak with the Company's shareholders who could be convinced to buy into the company and push for a better deal, although such large Tatts shareholders as AustralianSuper and Perpetual have already backed the deal.

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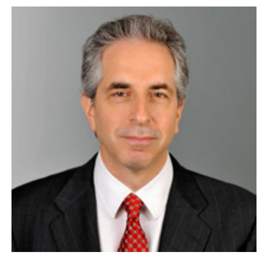
10 Questions with Steve Wolosky



Activist & Equity Investment Practice Chair Steve Wolosky is a corporate and securities lawyer who counsels clients in the areas of proxy contests and mergers and acquisitions. Steve spearheaded Olshan's Shareholder Activism Practice more than 20 years ago. Today, he advises hedge funds and investment partnerships on activist situations in the United States and worldwide. Steve advises on some of the most high-profile activist campaigns year-in, year-out. Most notably, Steve led the proxy contest representing Starboard Value's unprecedented victory in its election contest against Darden Restaurants. In 2015, he led client H Partners to an unprecedented withhold campaign victory at Tempur Sealy. In international news-making cases, Steve represented foreign clients who successfully obtained board representation for the first time in both Japan and South Korea. Steve has led over 500 proxy contests for board representation in his career.

13DM: You have a leading practice in activist representation. How has the composition of your clientele changed over the past five or ten

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STEVE WOLOSKY (cont'd. from pg. 1)

years? Are you seeing a lot more clients doing "one-off" activism versus clients that are dedicated activist funds?

SW: As the leading law firm in activist representation in the United States, we have significant insight into the ongoing evolution of the types of shareholders entering the activism arena. During the past five years, we have seen a substantial increase in the number of first-time, traditionally passive investors who are seeking our advice. These "reluctavists" are predominantly deep value investors who had historically made passive, long-term investments in a concentrated portfolio of securities with no intention of being active. In the event an investment was underperforming, historically these "reluctavists" would sell the stock and move on to the next opportunity rather than sticking to their guns and seeking to hold the board and management accountable. These investors may have chosen to forego taking an activist posture either because they did not have the requisite experience to mount an activist campaign or they were concerned that the stigma once associated with activism would harm their business. Recognizing the success that established, pure-play activists have had creating value at their portfolio companies, these traditionally passive investors are now exhibiting a willingness to engage in an activist strategy to address operational, governance or other concerns. These "reluctavists" have varying appetites with respect to the types of activism they are willing to pursue – while some are only comfortable engaging in behind-the-scenes dialogue with management, others are willing to go the distance with full-blown activist campaigns. A good example of the latter is H Partners and its unprecedented withhold campaign against Tepur Sealy discussed below. Some of these "reluctavists" who have had initial success with their foray into this space have made activism a part of their investment strategy and have become regular clients.

13DM: Activists have had a tough go of it in 2015 and 2016. What do you attribute this to? Is the nature of activism changing and are activists having a difficult time adapting?

SW: Many of our clients have actually had very strong results in 2015 and 2016 – some have even had banner years. It is true, however, that a few large, well-known activists were not as successful during this time period as in prior years and underperformed the market. In all fairness to these activists, it is important to note that when measuring success rates of activists, you have to take into consideration the varying time horizons necessary to implement different types of activist strategies. An activist strategy that focuses on improving operations, such as cutting costs, monetizing underperforming assets or replacing key members of management, could take much more time to complete than a strategy to return excess capital to shareholders through a dividend or buyback. Therefore, when reviewing an activist's performance during an annual, or any other defined measurement period, you really have to understand the types of strategies being deployed by the activist and how many more innings are left with respect to the implementation of each strategy in order to get a deeper understanding of the activist's true performance. Another important thing to note is that the large, well-known activists who on paper may not have had a good 2015 and 2016 are also facing new challenges associated with the growth of their business. As these funds have experienced increased inflows as a result of their prior success, it is more difficult for them to be as nimble as they were in the past in managing their campaigns and with larger targets it sometimes takes longer to right the ship.

"During the past five years, boards have realized that many of these activists are actually very sophisticated and could directly, or indirectly through highly-qualified director representatives, make available significant resources and add tremendous value to the board."

13DM: Are there too many activists?

SW: Even as activism continues to grow as an asset class, we do not believe there are too many activists. Critics assert that the growth of activism and the number of activists in the space is detrimental to the economy because they claim companies are forced to focus on actions that create short-term increases in their stock price at the expense of long-term growth. Specifically, these critics argue that in response to activists, companies are reducing capital expenditures, R&D budgets and employee training, which are all detrimental to long-term innovation and competitiveness. We do not believe shareholder activism is harmful and have seen first-hand how the types of shareholder advocacy pursued by most of our activist clients have generated great benefits to shareholders and the economy on both a short-term and long-term basis. Best in class companies compete most effectively in a global economy. There are also empirical studies examining the five-year window following activist campaigns that show that activism has no detrimental effect on the long-term interests of shareholders. These studies show that initial increases in share price performance at target

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STEVE WOLOSKY (cont'd. from pg. 2)

companies are not followed by abnormal long-term declines in share price and that there are no abnormal long-term declines in share price performance after activists exit their positions.

13DM: It seems like there are hardly any activist campaigns that go to a vote versus five or ten years ago? What do you attribute that to? Is this good for activism?

SW: While it is not unusual for a proxy fight to go to a vote at a shareholders meeting, most activist situations during the past ten years have been resolved through negotiated settlements resulting in some degree of board representation for the activists and a reasonable standstill. During the early stages of the current activism cycle, which began in the early 2000s, a typical board facing an activist campaign would take an immediate defensive posture and refuse to engage with the activist. Activists were undeservedly viewed as the "barbarians at the gate" seeking to destabilize company leadership, disrupt the business and alter the strategic direction of the company with the sole purpose of making a quick return on their investment. As a result, on a percentage basis, more companies refused to settle and therefore more contests went to a vote. Well-advised activists had very good success rates obtaining board representation at these meetings, often because they would not spend the time and money on an activist situation unless they were very familiar with the shareholder base and knew that they had a substantial likelihood of obtaining board representation. During the past five years, boards have realized that many of these activists are actually very sophisticated and could directly, or indirectly through highly-qualified director representatives, make available significant resources and add tremendous value to the board. In addition, advisors to companies have encouraged dialogue to avoid the distraction of a proxy contest. These dialogues have proven helpful as a well crafted settlement involves not just providing the activist with board representation but also addressing the activist's specific operational and business concerns as part of the settlement. For these reasons, boards are much more likely to engage with activists in the early stages of the process and drive towards a settlement. In 2016 alone, my firm has been involved in over 55 settlements compared to only 8 situations that went to a vote.

13DM: Is it harder for an activist to create value when they are offered a seat or two on the board versus winning it in a proxy fight after receiving the support of shareholders?

SW: We have found that once an activist's director designees have been appointed to the board of a portfolio company in connection with a negotiated settlement where there have been meaningful discussions between the company and the activist, it is rare for the board or management to put up roadblocks intended to frustrate the activist's ability to engage in the necessary dialogue within a well-functioning boardroom. Before a settlement is reached, there has usually been a lengthy engagement process between the activist and the company during which the board has gained a deep understanding of what concerns the activist has and the suggested changes to address these concerns that the activist will seek to effect in the boardroom. A certain degree of trust is forged between the parties during the course of this process. The company will also agree to appoint the members of the activist's slate the board is most comfortable with after an interview process. Under these circumstances, we have seen tremendous value created in the boardroom. As far as an activist's ability or likelihood to obtain the same results when its director nominees are elected at an annual meeting, all boards are different and the results are mixed. Sometimes, even after the most hotly contested, no-holds-barred proxy battles involving personal attacks, the threat of litigation and millions of dollars spent, we have seen boards accept and even embrace activist nominees who were elected by shareholders at the meeting. In these cases, the shareholders spoke and the company listened. Alternatively, we have also seen boards isolate or alienate activist representatives in the boardroom despite being elected by the shareholders by an overwhelming majority of the vote.

13DM: What do you see as the three biggest differences between today's activism versus ten years ago?

SW: The first difference we are seeing in today's activism is the expanding role of the large institutional investors. Ten years ago, these institutions only communicated privately with management regarding any grievances or concerns with their portfolio companies. Today, perhaps recognizing the success activists have had effecting change and maximizing value, these institutions are beginning to publicly voice their concerns with management. During the past year, BlackRock and Vanguard delivered well-publicized letters to portfolio companies on various corporate governance topics, and we believe this is a trend we will continue to see in the future. These large institutions are also becoming less dependent on proxy advisory firms in making their determinations on how they will vote in election contests. The second difference we are seeing is more M&A related activism. More proxy contests than ever before are being initiated either to defeat M&A transactions where the activist believes the consideration to be paid to shareholders in connection with the proposed transaction is inadequate or to proactively broker M&A activity. Third, as the current activism cycle matures in duration, we are seeing more multi-year election campaigns, sometimes with the same activist and other times with a new activist. It is more and more common for activists to already have director

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STEVE WOLOSKY (cont'd. from pg. 3)

representation on the board from prior election contests, changing the dynamics of the timing and direction of settlement negotiations with respect to subsequent election contests.

13DM: How do you think activism will change over the next ten years?

SW: Shareholder activism is going global and will continue to do so over the next decade. Up until a few years ago, our activist practice was almost exclusively domestic. Forays into activist situations in foreign jurisdictions, such as Steel Partners' proxy fight against Aderans in Japan and KT&G in South Korea, were outliers. As the number of activists continues to increase, competition for activist targets has grown fierce. As a result, activists are beginning to take a closer look at potential situations in foreign jurisdictions. Over the past twelve months, we have seen a noticeable uptick in proxy fights flaring up all over the world. Countries that have historically been viewed as infertile ground for activism are no longer off limits. A great example of this is the recent proxy fight in Germany where Active Ownership Capital ("AOC") was successful replacing the Chairman of the Supervisory Board of STADA Arzneimittel AG ("STADA") at its 2016 AGM. German listed corporations have never been prime targets of shareholder activists as the general consensus regarding the boards of German corporations has always been that they are hopelessly entrenched due to the mandatory two-tiered board structure. Under German corporate law, most publicly listed corporations have a Management Board comprised of executive directors and a Supervisory Board comprised of non-executive directors. The Management Board oversees the day-to-day business and operations of the corporation and the Supervisory Board is charged with monitoring the Management Board's activities on behalf of the various constituents it represents. Our review of the STADA situation revealed that there are actually various avenues available to a shareholder holding a relatively small ownership interest in a German listed corporation to influence management. Under German corporate law, at any meeting of shareholders at which shareholder representatives on the Supervisory Board are up for election, any shareholder may nominate a competing slate at the meeting and the shareholders must be given the opportunity to vote for the competing slate if requested to do so by shareholders owning at least 10% of the shares represented at the meeting. In addition, shareholders owning at least 5% of the share capital or 500,000 Euros worth of shares may submit business proposals at meetings, including proposals to remove and replace shareholder representatives on the Supervisory Board. In the STADA situation, AOC did both. Of course, it is extremely important to consult with counsel experienced in offshore proxy contests and a proxy solicitation firm that understands the local shareholder base and proxy voting mechanics when evaluating a potential activist campaign abroad.

13DM: Many people make a lot out of activist defense measures like staggered boards and bylaws rules that make it hard for shareholder to affect change. Yet, you represented H Partners when they achieved substantial board changes at Tempur Sealy simply through a withhold vote campaign. Has it gotten to a point that an activist could win a campaign purely through social pressure?

SW: It is certainly more time consuming to nominate directors today as many companies are adopting enhanced nomination procedures in their bylaws requiring lengthy and often unnecessary disclosure regarding the nominating shareholder, its beneficial ownership and prior securities and hedging transactions, questionnaires and representation letters to be submitted by the nominees and in some cases irrelevant internal fund offering documents. While these enhanced procedures make the nomination process more onerous and are intended to make activists spend more money to nominate directors, they should not ultimately affect the legal right and practicability of shareholders to nominate directors. Even if an activist has missed a nomination deadline, there are other ways to skin the cat. Depending on the governing documents of the company and applicable state law, shareholders may have the ability to seek to remove and replace directors by calling a special meeting or taking action by written consent in lieu of a meeting. If an activist still desires to take some form of action at the annual meeting, an alternative strategy outside the traditional nomination process for effectuating change on the board is the withhold campaign. In the H Partners situation, our client decided to run a withhold campaign against Tempur Sealy after the nomination deadline had already passed. The three incumbent directors targeted in the withhold campaign were the Chairman, CEO and Chair of the Nominating and Governance Committee. H Partners devoted the same time and resources to the withhold campaign that it would have otherwise devoted to a traditional election contest and was successful preventing the three incumbents from receiving a majority vote by a significant margin. As a result, under the company's director resignation policy, the three incumbent directors were required to tender their resignations that the board could either accept or disregard at its discretion. Rather than ignoring the clear will of shareholders and allowing these incumbents to continue to serve, the company agreed to a settlement resulting in significant leadership changes, including the immediate termination of the CEO, the resignation of the three targeted incumbent directors and board representation for H Partners. This is

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STEVE WOLOSKY (cont'd. from pg. 4)

a great example of how an alternative strategy was used to influence a board outside the ordinary nomination process and a company doing the right thing by listening to its shareholders.

13DM: Large mutual fund complexes like BlackRock claim that they routinely engage with management teams to affect change despite not filing 13Ds. Do you see any evidence of this? Is it possible that they are running afoul of 13D rules?

SW: Generally speaking, there are no issues with shareholders, from individual investors to hedge funds to the large institutions, merely engaging with management to discuss the company's business, plans and prospects in the ordinary course of business. Furthermore, shareholder outreach is part of the playbook for companies in this day and age, whether an activist has surfaced or not. As part of that dialogue, a large mutual fund may make suggestions for a company to independently consider, including commencing a strategic review process, implementing specified corporate governance reform or even replacing key members of senior management. We do not believe this alone creates a non-passive intent requiring a 13D although a regulator may disagree. For example, regulators could have a different view where a mutual fund recommends a particular candidate for the board but if the mutual fund more generally suggests the type of expertise the board is missing, this should not be an issue. We assume these large mutual funds are being advised by legal counsel well versed in the finer points of what constitutes "active" versus "passive" activity.

13DM: What do you think is the biggest myth about activism or activist investors?

SW: The biggest myth about activists is that they are myopic, short-term investors looking to make a quick buck at the expense of the company and the other shareholders. This simply is not the case and we already discussed above the empirical evidence showing that activism is not detrimental to companies or the economy. Based on our own experience, investment holding periods of activists are on average higher than those of traditional institutional investors. We have clients that have been in the same stock for over 15 years. Shareholder activism would not have become a mainstream form of investing if activists sold their stock immediately after a fleeting bump in the stock price after winning an election contest or entering into a settlement agreement or after one of its value enhancing proposals is adopted by the company. This type of short-sighted activity could actually harm an activist's franchise and prevent it from being taken seriously by the investment community in future situations.

HALL OF SHAME
(cont'd from pg. 1)

tains a provision that awards the external manager approximately $150 million if it is terminated. The entire market capitalization of the Company is less than $400 million and the termination fee is greater than 17 times the annual fee, where a normal termination fee for arms-length transactions is approximately three times the annual fee. The Company recently attempted to sell up to 13.3% of its voting interests in the form of penny preferred stock to a group consisting primarily of the Company's management and related parties. This transaction was called off after shareholder outcry. In an attempt to make an impression of good corporate governance, the company adopted (i) a majority voting provision for uncontested elections, but excluded from the tally withhold votes, which rendered the provision completely meaningless, and (ii) proxy access for three year shareholders at a time when the Company was less than three years old.

RiverNorth Capital Management - On November 6, 2015, RiverNorth sent a letter to Fifth Street Finance Corp. ("FSC"), also an externally managed company: (i) nominating three directors for election to the Board and (ii) submitting a proposal to terminate the Investment Advisory Agreement between the Company and Fifth Street Management LLC. RiverNorth stated that it believed that after years of underperformance by the Company under its external manager, it is in the best interest of the Company's stockholders to terminate the Investment Advisory Agreement, and find a more suitable replacement that will put the Company on the right path for the maximization of stockholder value. On February 18, 2016, RiverNorth entered into an agreement with the Company pursuant to which the Company agreed to buy from RiverNorth all of its shares and swap positions for $6.25 per share in exchange for RiverNorth withdrawing its nominations and proposal and entering into a Standstill Agreement with respect to the Company and one of its affiliates, Fifth Street Senior Floating Rate Corp. ("FSFR"). This is a situation that can only happen when a bad management team is engaged by a short term minded, self-serving shareholder. RiverNorth took payment of $6.25 per share for shares that were trading at $4.85 the day the agreement was signed, enrichening themselves at the expense of the other shareholders. Moreover, there were two unique provisions to this Greenmail agreement – (i) the Company not only bought out the shares that RiverNorth owned and could vote but they also paid them a premium on their cash settled swap position and (ii) RiverNorth agreed to a standstill provision with respect to the Company and an affiliated company also externally managed by Fifth Street Management. So, they paid RiverNorth with FSC's shareholder money in order to not only entrench themselves at FSC but also to prevent RiverNorth from trying to oust them at FSFR.

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New Filings for October

Company Name	Investor	Mkt. Cap.	Filing Date	%	Cost	Item 4 Action
HD Supply Holdings Inc. (HDS)	JANA Partners	$6.49B	10/27/2016	8.10%	$31.31	strategic alternatives to maximize value
USA Technologies Inc. (USAT)	Legion Partners	$208.73M	10/11/2016	9.94%	n/a	strategic alternatives, possible sale

One to Watch

Company

HD Supply Holdings Inc. (HDS)
Market Cap.: $6.49B
Enterprise Value: $10.48B
Cash: $313M
Debt: $4.31B
EBITDA: $909M

Investor

JANA Partners, LLC
13F Holdings: $5.85B
# of 13F Positions: 34
Largest Position: $1.15B
Avg. Return on 13Ds: 26.06%
Versus S&P500 avg: 10.14%

Investment

Date of 13D: 10/27/2016
Beneficial Ownership: 8.10%
Average Cost: $31.31
Amount Invested: ~$508.79M
Highest price paid: $36.54
# of larger shareholders: 1

JANA has had discussions with members of the Company's management team regarding strategic alternatives and financial and operational means of maximizing value for shareholders, and may have further discussions with members of the Company's Board, management team and shareholders regarding these and other topics including board composition. HDS is a distribution business with three segments: Water, Facilities Maintenance and Construction. It is a good business that is the number one player in each of its markets. The stock is down from $36.78 in September after reporting bad earnings in part due to a recent operational misstep in consolidating its San Diego and Atlanta operations. So there is an operational opportunity here in stabilizing operations and improving earnings. However, the larger opportunity is strategic. HDS was formerly a part of Home Depot, and when it was sold to private equity in 2007, HDS was comprised of 12 businesses. Management divested nine of those businesses so they have shown that they are adept in using strategic transactions to create shareholder value. Last year, Home Depot paid 17 times LTM EBITDA to acquire Interline Brands to expand its Pro division. Interline is a less attractive version of HDS with respect to margins and segment – it does janitorial services. Home Depot has since stated several times publicly that it wants to continue to grow its Pro area and HDS would be a potential target for that growth. Moreover, Loews and Wolseley have also publicly stated on an earnings call and investor presentation, respectively, that they are interested in growing their Pro divisions. A potential plan here would be to sell the water division and use their NOLs to shield any taxes and then be left with the Facilities and Construction businesses, which would make the Company an even more attractive strategic acquisition target. Also, the CEO owns approximately 2 million shares and would receive a large payout in any sale of the Company.

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UNDER THE THRESHOLD

NEW

Taubman

ing standard for directors in uncontested elections; (iii) fill the vacant board seat with a highly regarded industry leader such as Scot Sellers (former CEO of Apartment REIT Archstone-Smith), Dana Hamilton (Board Member of FelCor Lodging Trust) or Jon Fosheim (Co-Founder of Green Street Advisors); (iv) immediately reduce the tenure of the Board from fourteen to below seven years; (v) separate the role of Chairman and CEO; (vi) put Series B Preferred Stock voting rights to shareholder vote; (vii) immediately appoint a Lead Independent Director; (viii) increase NOI margins by at least 400 basis points by significantly reducing bloated expenses and capitalizing on missed revenue opportunities; and (ix) buy back stock and monetize the Asia business through a joint venture, spin-off or outright sale.

On October 24, 2016, Land & Buildings sent a letter to the Company's shareholders commenting on the Company's reduction in Board size from nine to eight directors and stating its belief that this is a violation of the Company's Charter, which clearly states that as long as the Preferred Series B stockholders have the right to designate nominees to the Board, the Board size will be fixed at nine. Land & Buildings stated its intention to explore whether the violation of the TCO Charter should be directed to the DOJ for investigation.

UPDATE

On November 1, 2016, **CtW Investment Group** and **Amalgamated Bank** submitted a non-binding shareholder proposal to replace **Chipotle Mexican Grill Inc.'s (CMG)** CEO, Steve Ells, with an independent director. CtW stated that it will begin reaching out to the Company's biggest shareholders, including Fidelity and Vanguard, to make its case for change.

UPDATE

On November 1, 2016, **Harris Corp. (HRS)** announced a definitive agreement with SpeedCast International by which SpeedCast will acquire Harris' CapRock Communications commercial business for $425 million in cash, the proceeds of which Harris intends to use to pay down debt and return cash to shareholders.

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AROUND THE WORLD - ONGOING SITUATIONS

On August 21, 2016, **Smoothwater Capital Corporation** (16.6%) announced that it will not support the proposed merger between **Alberta Oilsands Inc. ("AOS")** and Marquee Energy Ltd and that it is demanding a shareholder vote on the proposed merger. Smoothwater sees the deal as a bailout of a distressed junior energy company with little prospects of success unless energy prices increase dramatically and believes that the Company should issue a cash dividend instead.

On August 29, 2016, Smoothwater responded to a press release issued by AOS which Smoothwater believes purported to deny Smoothwater the right to nominate director candidates at the 2016 Annual Meeting. Smoothwater stated that it filed a notice of intent to nominate board members just before learning that AOS secretly applied to reschedule the 2016 Annual Meeting from September to November, which Smoothwater believes is an attempt by AOS to avoid shareholders and throw out director nominations.

On September 29, 2016, it was announced that **Elliott Management** is pushing for a sale or strategic partnership at **Avianca S.A.** It was reported that Elliott provided loans to Avianca's largest shareholder Germán Efromovich, more than a year ago, and the loans are secured against the value of Efromovich's 51% stake in the Company and are linked to its share price — meaning Elliott stands to gain if the airline is sold.

Elliott Management has launched legal action against Hong Kong's **Bank of East Asia**. Elliott is seeking to compel the Company's directors to hand over internal documents covering their decision to sell 222 million new shares last September to Sumitomo Mitsui Financial Group. Elliott presently holds approximately a $230 million (2.5%) position.

On February 4, 2016, Elliott sent a letter to the shareholders of Bank of East Asia Limited stating that the only responsible way for the Board to deliver proper value to shareholders is through an auction process to explore the scope for a sale of the Company at an appropriate premium. Elliott cited the Company's underperformance and attributed it to the long-term mismanagement of the Company, combined with the entrenched management team. Elliott highlighted that historic Hong Kong bank sales have been priced at an average of 2x book value, which in the Company's case could equate to approximately HK$60 per share (185% more than the current share price).

On February 4, 2016, Elliott sent a letter to shareholders of Bank of East Asia stating that the Board should focus on delivering value for shareholders by conducting an auction process to explore the scope for a sale of the Company at a premium.

On February 15, 2016, Bank of East Asia rejected Elliott's suggestion to sell the Company, stating that the challenging economic and business environment would bode poorly for such a process. Instead, the Company intends to focus on improving and executing on what it already has.

On July 18, 2016, Elliott Management announced that it commenced legal proceedings against Bank of East Asia (BEA), the majority of its directors, and its CEO and Chairman, David Li, in the Hong Kong courts and cited "allegations of unfairly prejudicial conduct" and "alleged serious corporate governance failings" relating to last year's issuance of new shares to Sumitomo Mitsui Banking Corp.

On July 7, 2015, **Crystal Amber** (3.2%) called on **Grainger** to refinance its debt and seek a takeover by an institutional investor. Crystal Amber believes the Company is an attractive asset for an insurance company and that there is hidden value on the balance sheet because of the Company's ownership of some properties valued at below the open market sale price.

On January 28, 2016, Crystal Amber announced that it will continue to seek a sale of Grainger or a spin-off of its regulated tenancies division, despite the Company's announced plan to commit £850 million to private rented accommodation over the next four years. Crystal Amber believes there is about £500 million of hidden potential profits from the Company's rent controlled holdings that do not appear on Grainger's balance sheet.

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AROUND THE WORLD - ONGOING SITUATIONS

On July 4, 2016, **John Menzies PLC** announced that it is open to dialog with **Shareholder Value Management AG ("SVM")** (7%) after SVM called on the Company to split its aviation and distribution businesses and to hire a new independent chairman. SVM also called on interim chairman Dermot Jenkinson, who replaced Iain Napier as chairman in May, to step down, claiming he has ties to the Menzies family via his wife.

On July 19, 2016, John Menzies PLC announced that it appointed Irish paper and packaging industry tycoon, Dermot Smurfit, as its new independent chairman to replace interim chairman Dermot Jenkinson, following Shareholder Value Management AG's ("SVM") call for more independence on the Board.

On August 16, 2016, the Chairman of John Menzies PLC, Dermot Smurfit, announced that he is considering splitting the Company's distribution and aviation businesses following Shareholder Value Management's push for such a breakup.

On May 25, 2016, **Oceanwood Capital Management LLP** sent a letter to the Board of **NH Hotel Group** asking Charles Mobus, Chairman of the Company's Board, and three other directors who represent HNA Group, a Chinese conglomerate that owns 29.5% of NH, to step aside until the Company resolves a conflict of interest related to HNA's acquisition of Carlson Hotels Inc., a competitor to the Company. Oceanwood believes that the Carlson deal: (i) compromises the independence of the Board, since the Chairman of the Board of NH had his own company advise HNA on the takeover and (ii) could influence the directors representing HNA when assessing decisions such as hotels to sell from NH's portfolio, expansion through new hotels, or a potential merger between NH and Carlson.

On June 21, 2016, at NH Hotel Group's Annual Meeting, shareholders voted in favor of Oceanwood Capital Management LLP's proposal to remove CEO Federico Gonzalez Tejera as well as four other members of the board, including former co-chairman and chairman of the board Charles Bromwell Mobus Jr. The following four replacement directors were appointed to the Board: Paul Daniel Johnson, Fernando Lacadena, José María Cantero and María Grecna.

On September 12, 2016, **Starboard Value** (4.6%) sent a letter to **Perrigo Company plc's** Board expressing its belief that the Company should hire an investment bank or advisor to advise on non-core asset divestitures or other broader strategic alternatives. Starboard highlighted Mylan N.V.'s April 2015, unsolicited proposal to acquire the Company for cash and stock worth approximately $205 per share, more than a 25% premium at that time. Starboard noted that the Company spent more than $100 million in advisor fees relating to its defense against the acquisition and that the Company has lost more than half of its value since the Mylan offer. Starboard believes that the Company should focus on the execution of its core business and that some of the Company's non-core assets have considerable value which is not reflected in the stock price. Starboard stated its intention to immediately engage with the Company and its shareholders to understand how the Company plans to improve its strategy and execution.

On July 31, 2015, **ValueAct Capital** revealed that it has built up a 5.44% stake in **Rolls-Royce**. On August 3, 2015, it was reported that Chairman, Ian Davis, and Chief Executive, Warren East, spoke with ValueAct. A Company spokesman said: "We have engaged in constructive discussions with ValueAct over recent days and welcome them as an investor who recognizes the long-term value of our business."

In a regulatory announcement by Rolls-Royce, it was announced that ValueAct crossed the 10% reporting threshold on November 18, 2015.

On March 2, 2016, Rolls-Royce appointed Bradley Singer, of ValueAct, as a non-executive director. He will join the Board immediately and will become a member of the Science and Technology Committee.

During the period of the agreement, ValueAct will be prevented from acquiring in excess of 12.5% and will abide by certain standstill provisions, which, among other things, prevents ValueAct from soliciting proxies, calling shareholder meetings, proposing mergers or other change of control transactions, proposing changes to the Company's strategy or management,

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or publicly criticizing or disparaging the Company. The standstill period will expire on the day after the 2018 Annual Meeting, or if earlier, 90 days after Singer stops being a board member.

On July 21, 2016, **Elliott Management** (1.46%) sent a letter to the Board of **SABMiller** expressing its concerns about the structure of the Company's proposed £71B takeover by larger US rival Anheuser-Busch InBev. A drop in the value of sterling following Brexit heightened the difference between AB InBev's £44 a share cash offer for 59% of the Company and a mostly stock alternative for the remainder. On July 18, 2016, The Children's Investment Fund Management (TCI) announced that it has taken a stake in the Company and on July 23, 2016, it was announced that Sandell Asset Management has also taken a stake in the Company.

On June 4, 2015, **Elliott Associates LP** announced that it acquired a 7.1% position in **Samsung C&T**, a construction and industrial investment business that owns a stake in Samsung Electronics. Elliott stated its opposition to Cheil Industries bid to acquire Samsung C&T. The Samsung heir apparent, Jay Y. Lee, is vice chairman of Samsung Electronics and has a 23% stake in Cheil Industries, the main holding company for the Lee family's interests across the Samsung Group. Elliott opposes Cheil's bid, worth at least $8 billion, because it undervalues Samsung C&T. In a regulatory filing, Elliott disclosed that it bought its shares of Samsung C&T "for the purpose of participating in management." Samsung C&T rejected Elliott's assertion that Cheil's bid undervalues the Company. On June 9, 2015, Elliott filed an injunction with the Seoul Central District Court to block the vote on Cheil Industries offer. On June 11, 2015, Elliott filed a second injunction with the court to stop Samsung C&T Corp from selling treasury shares to KCC Corp., in an effort to gain KCC's support for the proposed Cheil Industries takeover.

On July 1, 2015, the Seoul court sided with Samsung, stating that the merger offer followed a domestic law under which merger ratios are calculated through a predetermined formula based on recent stock prices. Elliott stated its intention to continue to seek to prevent the proposed merger from being consummated and encouraged all of the Company's shareholders to do the same. On July 3, 2015, Elliott said it filed an appeal seeking to overturn the court's decision against its request for an injunction. On July 6, 2015, the court ruled against Elliott on its request to stop KCC from using treasury shares bought from the Company to vote on the proposed takeover by Cheil Industries.

On July 17, 2015, Samsung shareholders approved the takeover of Samsung C&T by Cheil Industries. On August 6, 2015, Elliott said it will exercise its right to sell back shares to Samsung C&T. Under Korean law, shareholders who oppose a merger have the option to sell shares to the Company at a fixed price, determined by a formula based on where the shares traded before a deal. Elliott did not specify how much of its stake it is selling, but the option can be exercised only on shares held prior to a deal being announced.

On October, 29, 2015, Samsung announced a $10 billion share buyback plan which will be completed in 3-4 phases over time. Samsung said it will return 30% to 50% of free cash flow over the next three years to shareholders, through dividends and buybacks.

On October 5, 2016, Elliott Management sent a letter to the Board of Samsung Electronics Co Ltd stating that the Company should streamline by splitting into a listed holding company and a listed operating company and that the new holding company should look at a possible all-stock merger with Samsung C&T Corp - the subsidiary that Elliott targeted in a shareholder battle last year. In the letter, Elliott stated its belief that Samsung is undervalued by as much as 70% due to the company's "unnecessarily complex" structure, "bottom-tier" shareholder returns, and "subpar" governance. Elliott also called for a more independent board, with greater gender diversity and global business experience, and proposed a special cash dividend of $27 billion to shareholders.

On September 9, 2016, **Seagate Technology** reached out to **ValueAct Capital** (4%) to invest in the Company through a secondary block trade and offered ValueAct an "observer board" position that will give ValueAct access to directors and the Company's deliberations, but not voting power.

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In **Third Point's** investor letter issued on October 30, 2015, Third Point highlighted that it has continued to add to its investment in Japan's **Seven & I Holdings Co.** (the parent company for the "Seven Eleven" franchise). Third Point noted that despite being the most valuable Japanese retailer by market cap, the Company is undervalued and under-levered, trading at 7.2x forward EBITDA versus global peers such as Couche-Tard and Walgreens, which trade at 10x-12x EBITDA. Third Point believes the valuation gap comes from the Company's divergence between its convenience store businesses and its other retail operations. Third Point is encouraged by the Company's CEO's recent announcement that 20% of the superstores that are underperforming will be closed and 30% of its office staff will be streamlined. Third Point believes the CEO should take it a step further and the superstores should leave the group and restructure as a standalone company, allowing the Company to evolve into a global pure-play convenience store company. Third Point believes as the Company's growth capex spend in Japan comes to an end, free cash flow generation will accelerate which will allow for substantial dividend increases and buybacks in the future. Management has also told Third Point that it has considered a partial listing of Seven Eleven U.S., which would serve as an additional lever of value creation.

On April 7, 2016, Suzuki stepped down as CEO of the Company following a boardroom clash with Third Point's Dan Loeb who criticized Suzuki's succession plans and corporate strategy. Loeb accused Suzuki of attempting to remove the Company's President, Ryuichi Isaka, in order to appoint his own son to the position, a plan that was rejected by the Company's Board on April 7, 2016. Loeb also publicly voiced concerns regarding Suzuki's health issues which he said could raise serious questions about his competence and judgement in making decisions for the Company.

On March 28, 2016, Third Point sent his third letter to the Company urging it to choose new leadership based on capability rather than nepotism. Third Point believes that the new CEO should be chosen by the Board rather than appointed by the current CEO, Toshifumi Suzuki, who is looking to eventually have his son named a successor. Third Point stated that it may submit a shareholder proposal on the succession issue for the Company's 2016 Annual Meeting, scheduled for May.

On April 19, 2016, Seven & i Holdings Co. made the following appointments: (i) Ryuichi Isaka as President of the parent company, (ii) Katsuhiro Goto as Vice President of the parent company and (iii) Kazuki Furuya as President of Seven-Eleven Japan, replacing Isaka. This was decided by all 15 directors in a board meeting.

On October 6, 2016, Seven & i Holdings Co. announced that it would accelerate expansion in North America and seek acquisition opportunities, following the Company's engagement with Third Point. Seven & i stated its intention to increase its store count in North America from nearly 8,900 stores at the end of June to 10,000 by fiscal 2019, seek acquisition opportunities in the United States and Canada, and shed some money-losing businesses in Japan, including department stores.

On January 27, 2016, **Effissimo Capital Management** (a 4% owner) sent a letter to **Sharp Corp.** urging it to better explain how it will decide between a bailout by a state-backed fund or a buyout by Taiwan-based Hon Hai. Effissimo stated that the Company's passive stance on disclosing information is creating confusion in the markets and the Company must disclose a decision.

On June 28, 2016, **West Face Capital** announced that it is pushing **SNC-Lavalin Group Inc.** to sell its stake in Ontario's 407 toll highway, which it believes could be sold for more than $5 billion CAD ($3.83 billion USD). West Face believes that the Company should use the money from a sale for a share buyback and to reinvest into the business, the full value of which it believes is not reflected in the current share price.

On May 3, 2016, **Active Ownership Fund SCS ("SCS")** reported its 5% stake (and 2% via stock options) in **Stada Arzneimittel AG**, with a view to potentially push for a sale of the generic drug maker. It was reported that SCS has approached large hedge funds in London and New York with the goal of gathering support for its plan. On May 9th, SCS proposed replacing the Company's chairman along with four other supervisory board members in an effort to give the company more international industry experience. The Company's annual general meeting will be held on June 9th.

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On May 13, 2016, Active Ownership Fund SCS ("SCS") announced that it now only seeks to replace three of Stada Arzneimittel AG's nine current board members, and it is no longer asking for the removal of board Chairman Martin Abend. SCS stated that it seeks to add international healthcare expertise on the Board and seeks the election of the following three director candidates to the supervisory board: (i) Klaus-Joachim Krauth, the former finance chief of Hexal and Athos; (ii) Ulrich Wandschneider, former- Chief Executive of hospitals chain Asklepios Kliniken; and (iii) Klaus Roehrig, SCS founding partner, all to replace current Board members, Eckhard Brueggemann, Arnold Hertzsch and Constantin Meyer.

On May 25, 2016, it was announced that the Company has been holding informal talks with private-equity firm CVC Capital Partners over a potential buyout that could value the Company at roughly €3.7 billion ($4.1 billion). Stada decided to withdraw from a compromise agreement with SCS that would have put three of the fund's five nominees on Stada's supervisory board and now Stada will instead delay its Annual Meeting to conduct its own search for three new supervisory board members.

On July 1, 2016, Active Ownership Fund SCS ("SCS") announced that it launched a proxy fight against Stada Arzneimittel AG over the nomination of new supervisory board members and called on the Company's largest shareholders to participate in the process to select the independent candidates. On June 27, 2016, Guy Wyser-Pratte disclosed a position (>3%) in Stada Arzneimittel AG, stated that the Company had missed opportunities in the past and that it should team up with an international rival.

On July 20, 2016, Stada Arzneimittel AG announced that it will allow shareholders to vote to remove restrictions on trading its shares which pose a barrier to any potential takeover and also proposed four new supervisory board members for election at the 2016 Annual Meeting. Active Ownership Fund SCS stated that it welcomes the proposed changes to the type of share but added it would push for wider changes to the supervisory board and that it will prepare to add motions to the Company's agenda in the next few days.

On July 25, 2016, Active Ownership Fund SCS announced that it wants to replace Stada Chairman Martin Abend with Eric Cornut, formerly chief of ethics and compliance at Novartis AG and also suggested three other board candidates for election at the 2016 Annual Meeting.

On August 15, 2016, Stada Arzneimittel AG's CEO, Hartmut Retzlaff, resigned and informed the supervisory board that differing views on the Company's strategy contributed to his resignation decision, leaving interim CEO Matthias Wiedenfels to continue as CEO until August 26, 2016 at the Company's Annual Meeting. Active Ownership Fund SCS ("SCS") (7%) has stated that Wiedenfels lacks experience and suggested that management should be overhauled if Retzlaff did not return.

On August 27, 2016, following a fourteen hour shareholder meeting, Chairman Martin Abend was ousted by shareholders and replaced by Carl Ferdinand Oetker. In addition, five new members were appointed to the Company's supervisory board, including former Novartis AG manager Eric Cornut.

TattsGroup

In February 2016, **Sandon Capital** published an in-depth analysis on **Tatts Group**, a gaming conglomerate headquartered in Australia. Sandon's investment thesis is: (i) the sum of the Company is worth more than the current market price; (ii) the wagering businesses has strategic corporate appeal and should be separated; (iii) the lotteries business has attributes that are similar to the infrastructure assets and should be valued accordingly; (iv) a free standing lotteries business required a refreshed board and management to focus on growth opportunities; (v) the balance sheet provides scope for capital management; and (vi) the company is worth >A$50.50 per share if separated and if growth opportunities in lotteries are pursued and value creative capital management options are undertaken, it could be worth more.

TeliaSonera

On January 29, 2016, **Cevian Capital** announced that **TeliaSonera AB** is overpriced, following the announcement that the Company lost almost a third of its market value ($8 billion) because of bribe allegations in Asia and a failed merger in Denmark with its Norwegian rival, Telenor. Cevian, who owned shares in the Company from 2006

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to 2010, believes that the Company's core operations are trading at a ratio of about 20x earnings, compared to about 12x for other carriers.

On May 6, 2016, **TCI Fund Management Ltd.** sent a letter to **Volkswagen AG** attacking the Company's corporate excess and calling for wide-ranging changes to management pay. TCI expressed its view that the Company has a major corporate governance problem that has abused shareholders and that over the past five years it has been held back by underperforming and overpaid management. TCI highlighted the following concerns with the Company: (i) the core business has gone "significantly backwards" over the past six years, yet the Company's nine board members have been paid around €400 million over that time; (ii) workers' pay has increased, including a 50% increase in the wage bill since 2011, despite low productivity relative to its peers; and (iii) the Company's executive pay structure has encouraged aggressive management behavior, contributing to the diesel emission scandal.

On May 13, 2016, TCI Fund Management Ltd. announced that it wants Volkswagen AG shareholder Lower Saxony (20%) to step back from its two seats on the Company's supervisory board to allow new management to introduce productivity and efficiency measures.

On September 22, 2016, TCI Fund Management Ltd. sent a letter to Volkswagen AG proposing a new target-based bonus system whereby the Company would pay its managers no bonuses at all if its earnings per share are below €20. In the letter, TCI called for specific targets based on earnings per share, EBIT per share, free cash flow per share, return on invested capital and total shareholder return, which it believes will discourage expensive acquisitions, share issuance and excessive capital expenditure.

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