



January 26, 2021

Via email: shareholderproposals@sec.gov

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

RE: Stockholder Proposal of the National Center for Public Policy Research, Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen,

This correspondence is in response to the letter of Marc S. Gerber (the “Supplemental No-Action Request”) on behalf of Johnson & Johnson (the “Company”) dated January 20, 2021, further requesting that your office (the “Commission” or “Staff”) take no action if the Company omits our Shareholder Proposal (the “Proposal”) from its 2021 proxy materials for its 2021 annual shareholder meeting.

RESPONSE TO JOHNSON & JOHNSON’S SUPPLEMENTAL CLAIMS

Our Proposal asks the Board of Directors to prepare a report based on a review of the Business Roundtable (BRT) Statement of the Purpose of a Corporation (“the Statement”) to “provide the board’s perspective regarding whether and how our Company’s governance and management systems can or must be altered to fully implement the Statement of Purpose, and what our Company should do if the Statement cannot be reconciled with current practices and commitments.” That Statement was signed by Johnson & Johnson CEO Alex Gorsky. In our Proposal we made clear that we sought a report that considered and sought to reconcile current Company behaviors that diverged from the commitments made in the Statement, and that grappled with the possibility that coherent adherence to the Statement, given our Company’s divergences from it, might prove impossible, thus requiring our withdrawal from the Statement. We further sought a report that established, if possible, methods and means to ensure that the

Company's adoption of the Statement did not, by making nominal commitments to sometimes-orthogonally aligned stakeholders, in effect absolve the Company of accountability to any stakeholders, which would surely have violated the spirit and the letter of the Statement.

The Company seeks to exclude this proposal "pursuant to ... Rule 14a-8(i)(10) because Johnson & Johnson has already substantially implemented the Proposal; and Rule 14a-8(i)(7) because the Proposal deals with matters relating to Johnson & Johnson's ordinary business operations."¹

In its Supplemental No-Action Request the Company argues that we erred in our reply to its no-action request in suggesting that *McKesson Corp.* (May 26, 2020) is controlling here, and asserts that, instead, *Apple Inc.* (Dec 17, 2020) controls. Each of these contentions, though, is wrong, as we will explain below, meaning that the Company has not substantially – or in any meaningful and thoughtful way – implemented our Proposal, defeating its Rule 14a-8(i)(10) claim. And because of this, the Company cannot maintain its Rule 14a-8(i)(7) assertion, which has been reduced to nothing more than a claim that it may treat our Proposal as ordinary business because it has already substantially implemented our Proposal. The Company has tacitly admitted that the subject-matter here does not implicate ordinary business matters. It has not substantially implemented our Proposal as submitted in this proceeding. Our Proposal is therefore not properly excludable.

Under Rule 14a-8(g), the Company bears the burden of persuading the Staff that it may omit our Proposal. The Company has failed to meet that burden. The Commission has explicitly held that a proposal functionally indistinguishable from ours may not be omitted for the very reasons raised by the Company here. The Company's newly raised precedent is inapposite because the language of our Proposal here is materially different from the language of the proposal in *Apple Inc.* Because the only complete, properly contested precedent in this instance establishes that a no-action determination would be inappropriate in this context, we urge the Commission to reject the Company's no-action request.

Analysis

I. *The Company Has Failed to Satisfy Our Proposal's Objectives.*

The Company argues that our Proposal is functionally different than the proposal in *McKesson*, therefore invalidating it as controlling precedent. Its demonstrations of some textual differences, though, do not establish that point. Our Proposal is not an exact textual replication of the *McKesson* proposal, and it need not be for the precedent to apply. The question is whether it would require of the Company a functionally equivalent inquiry and then whether the Company has demonstrated that it has fulfilled that functionally equivalent inquiry, or has responded in a comparably insufficient way.

¹ Letter from Marc S. Gerber to Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission 2 (Oct. 16, 2020) ("No-Action Request").

Here, the inquiry sought by our Proposal is functionally equivalent to the one sought in *McKesson*, while the Company's attempt at demonstrating substantial implementation is even more wanting in this instance than it was in *McKesson*. *McKesson* therefore controls, with the result that our Proposal is not excludable.

The Company argues that our Proposal is sufficiently different from the *McKesson* proposal because we didn't include in our Proposal an acknowledgement that the company's policies are already somewhat aligned with the Statement.² But the failure to include this gratuitous language is not material – and, anyway, is implied by the fact that we're asking the company, relevantly, for a report on how the company can more fully align its governance and management systems with the Statement.³ We helpfully added, as did the proponent in *McKesson*, examples of behaviors that suggested that that alignment remains incomplete. This makes our Proposal functionally indistinguishable from the one in *McKesson*.⁴

All that remains, then, is the question of whether the Company's response substantially implemented our Proposal in a way that the company's response in *McKesson* did not. But as we established in our reply, the Company's response was similarly insufficient: simply citing its Credo.⁵ We know and the Company knows that this is an insufficient response to our Proposal. Consider, in this regard, the statements made by CEO Alex Gorsky in response to and at the time of the adoption of the Statement, which we quoted in our reply.⁶ He surely does not believe that the Statement, and increasing to full alignment with it, requires nothing more than a quick glance at a company's extended mission statement to make sure that there is some rhetorical consonance between that mission statement and the Statement itself. It's absurd of the Company now to ask us, or the Staff, to believe it.

Finally, the Company raises *Apple Inc.* and asserts that its precedent controls in this proceeding, while attempting to shame us for not having raised it ourselves. In this regard, we remind the Company that it bears the burden of making the case for exclusion, and it, in making that case,

² See Letter from Marc S. Gerber to Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission 2 (Jan. 20, 2021) ("Supplemental No-Action Request").

³ See Letter from Scott Shepard to Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission 5-6, fn. 9 (Jan. 11, 2021) ("No-Action Reply") (discussion of the interpretation of "and" and "or" in legal documents to avoid meretricious obstruction by challenging reasonable interpretation with sophistry).

⁴ The Company's throwaway line that "the suggestion that the essential objective of [our] Proposal needs to be 'divined' by inquiry beyond the plain text of [our] Proposal, as the Proponent's Letter puts forth, is baseless" is bizarre. We made no such suggestion, and the Company cites none. We do assert that the Company should read and understand as a complete expression the whole of our Proposal, and all such proposals, but we never suggested any additional inquiries beyond the four corners of our Proposal. That suggestion isn't baseless. It's imaginary.

⁵ See *id.* at 6, 8-9.

⁶ See *id.* at 11-12.

did not raise *Apple Inc.*, giving us nothing to respond to. As an initial matter, its failure to raise *Apple Inc.* in its no-action request, submitted more than a month after *Apple Inc.* issued, means its inclusion is untimely and precludes it from being raised now.

Yet because the Company has now raised *Apple Inc.*, in however untimely a way, we will respond in substance. We assumed that the Company failed to raise *Apple Inc.* in its initial no-action request because it rightly recognized that *Apple Inc.* is not relevant to this proceeding. Yes, it did involve a proposal that we submitted. But in response to the objections raised by Apple in that proceeding, we modified our Proposal for this proceeding. The *Apple Inc.* proposal asked “whether” that company “should” alter its government and management systems in order to more fully align them with the Statement. Our Proposal in this proceeding, by contrast, asks, *inter alia*, “how” the Company “can” alter these systems to achieve fuller implementation. As a result of these emendations, and the resulting differences between our Proposal here and the *Apple Inc.* proposal, which differences the Company failed to mention or consider, the *Apple Inc.* precedent is not relevant here. *McKesson* still controls, and requires a finding that our Proposal is not excludable because the Company has done nothing whatever to consider “how” the Company “can” more fully align its governance and management systems with the Statement.

II. *By Its Own Logic, the Company’s Failure to Address the Proposal’s Objectives Removes Its Last Remaining Claim That the Proposal Can Be Excluded as Related to Ordinary Business.*

In attempting to keep its Rule 14a-8(i)(7) ordinary business operations claim alive, the Company instead effectively obliterates it. It admits that the Company never, in its deliberations in response to our Proposal, determined “that the [BRT] Statement and its commitment to stakeholder primacy is a minor, ordinary business issue that is not of significant concern,” nor even that “the Proposal does not present a significant issue to Johnson & Johnson.”⁷ Rather, the Company reduces its Rule 14a-8(i)(7) claim to an assertion that the Company, through the Board’s Nominating & Corporate Governance Committee, “analyzed whether the Proposal was significant to Johnson & Johnson in light of the fact that Johnson & Johnson has already addressed the policy issue raised by the Proposal.”

This, though, represents a misreading and misuse of Rule 14a-8(i)(7), one that makes it, when used this way, wholly parasitical on Rule 14a-8(i)(10). To say “a matter becomes one of ordinary business if we can show that we’ve already substantially implemented it,” is to say “how our Rule 14a-8(i)(10) claim is determined wholly decides our Rule 14a-8(i)(7) claim.” This makes the claim pointless. And because here, as we’ve established above and in our reply to the original no-action request,⁸ the Company’s Rule 14a-8(i)(10) claim fails, its wholly derivative Rule 14a-8(i)(7) claim fails as well. Our Proposal, by the Company’s own implicit admission, raises objectives which, if not already substantially implemented, cannot be omitted

⁷ Supplemental No-Action Request at 3.

⁸ No-Action Reply at 3-7.

under Rule 14a-8(i)(7). The objectives have not been substantially implemented. Our Proposal therefore cannot be omitted under Rule 14a-8(i)(7).

Conclusion

For the above reasons, we urge the Staff to find that our Proposal may not be omitted under Rule 14a-8(i)(10) or under Rule 14a-8(i)(7).

The Company has clearly failed to meet its burden that it may exclude our Proposal under Rule 14a-8(g). Therefore, based upon the analysis set forth above, we respectfully request that the Staff reject Johnson & Johnson's request for a no-action letter concerning our Proposal.

A copy of this correspondence has been timely provided to the Company. If I can provide additional materials to address any queries the Commission may have with respect to this letter, please do not hesitate to call me at (202) 507-6398 or email me at sshepard@nationalcenter.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott A. Shepard", with a long horizontal flourish extending to the right.

Scott Andrew Shepard

cc: Marc S. Gerber, Skadden, Arps (marc.gerber@skadden.com)
Justin Danhof, National Center for Public Policy Research

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January 20, 2021

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

RE: Johnson & Johnson – 2021 Annual Meeting
Supplement to Letter dated December 16, 2020
Relating to Shareholder Proposal of
the National Center for Public Policy Research

Ladies and Gentlemen:

We refer to our letter dated December 16, 2020 (the “No-Action Request”), submitted on behalf of our client, Johnson & Johnson, pursuant to which we requested that the Staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) concur with Johnson & Johnson’s view that the shareholder proposal and supporting statement (the “Proposal”) submitted by the National Center for Public Policy Research (the “Proponent”) may be excluded from the proxy materials to be distributed by Johnson & Johnson in connection with its 2021 annual meeting of shareholders (the “2021 proxy materials”).

This letter is in response to the letter to the Staff, dated January 11, 2021, submitted by the Proponent (the “Proponent’s Letter”), and supplements the No-Action Request. In accordance with Rule 14a-8(j), a copy of this letter also is being sent to the Proponent.

I. Johnson & Johnson Has Satisfied the Proposal's Essential Objective.

In arguing that Johnson & Johnson has not substantially implemented the Proposal, the Proponent's Letter primarily attempts to draw a comparison to the Staff's decision in *McKesson Corp.* (May 26, 2020), stating that "the operative language of our Proposal is functionally the same as that used in the proposal in *McKesson*." This argument is neither legally nor factually sound. As noted in the No-Action Request, in determining whether to permit exclusion under Rule 14a-8(i)(10), the Staff considers whether a company's policies, practices and procedures compare favorably with the guidelines of the proposal. Whether or not the proposal in *McKesson* is "functionally the same" as the Proposal is irrelevant to the determination of whether Johnson & Johnson, through its policies, practices and procedures, has substantially implemented the Proposal. Moreover, accepting the Proponent's argument would require the Staff to ignore the actual text of the Proposal.

As described in the No-Action Request, there are meaningful distinctions between the instant Proposal and the one at issue in *McKesson*. In this regard, the proposal in *McKesson* acknowledged that "[s]hareholders assume that [c]ompany policies and practices are aligned with the [Business Roundtable's Statement on the Purpose of a Corporation (the "BRT Statement")]" and, therefore, sought a further report on how to "better align" those practices with the BRT Statement. The company's argument that it already complied with the BRT Statement was thus insufficient in addressing the essential objective of the proposal. In contrast, the instant Proposal requests a report on "whether and how" Johnson & Johnson can fully implement the BRT Statement. In addition, to the extent the Proposal seeks a reconciliation of Johnson & Johnson's actions with the BRT Statement, the No-Action Request addressed this concern, noting that "to the extent the Proposal requests a reconciliation of current practices and commitments that do not align with the BRT Statement, such a request similarly does not present a significant issue because there effectively are no significant differences" between the principles by which Johnson & Johnson operates and the principles in the BRT Statement. Further, the suggestion that the essential objective of the Proposal needs to be "divined" by inquiry beyond the plain text of the Proposal, as the Proponent's Letter puts forth, is baseless.

In addition, the Proponent's Letter mistakenly asserts that the Staff's decision in *JPMorgan Chase & Co.* (Feb. 5, 2020) was "superseded" by *McKesson*. In this puzzling assertion, the Proponent's Letter overlooks the Staff's more recent decision in *Apple Inc.* (Dec. 17, 2020)* – puzzling, as the Proponent was also the proponent in *Apple* – permitting the exclusion under Rule 14a-8(i)(10) of a proposal requesting a report on whether the company's governance and management systems should be altered to fully implement the BRT Statement. In that instance, the company argued it

* Citations marked with an asterisk indicate Staff decisions issued without a letter.

already operated in accordance with the principles in the BRT Statement and supported that conclusion with an analysis from the company's nominating and corporate governance committee. The proposal in *Apple*, like the proposal in *JPMorgan* and the instant Proposal, can be distinguished from the proposal in *McKesson* because it was focused on whether the company was operating in alignment with the BRT Statement, not on how the company could further align its operations with the BRT Statement. Accordingly, as described in the No-Action Request, the Proposal is excludable under Rule 14a-8(i)(10).

II. The Proposal Deals with Matters Relating to Johnson & Johnson's Ordinary Business Operations.

As described below, the Proponent's Letter mischaracterizes the conclusion of Johnson & Johnson's Nominating & Corporate Governance Committee (the "Committee") that the Proposal does not present a significant policy issue to Johnson & Johnson. In this respect, the Proponent's Letter states that the Committee determined "that the [BRT] Statement and its commitment to stakeholder primacy is a minor, ordinary business issue that is not of significant concern." The Committee, however, did not reach this conclusion. Instead, the Committee determined that the BRT Statement does not subject Johnson & Johnson to any new commitments and therefore that the Proposal does not present a significant issue to Johnson & Johnson. In making this determination, the Committee did not analyze whether the Proposal held broad significance; rather, it analyzed whether the Proposal was significant to Johnson & Johnson in light of the fact that Johnson & Johnson has already addressed the policy issue raised by the Proposal. Accordingly, as described in the No-Action Request, the Proposal is excludable under Rule 14a-8(i)(7) as relating to the Johnson & Johnson's ordinary business operations.

III. Conclusion

For the reasons stated above and in the No-Action Request, Johnson & Johnson respectfully requests that the Staff concur that it will take no action if Johnson & Johnson excludes the Proposal from its 2021 proxy materials.

Should the Staff disagree with the conclusions set forth in this letter, or should any additional information be desired in support of Johnson & Johnson's position, we would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response. Please do not hesitate to contact the undersigned at (202) 371-7233.

Very truly yours,



Marc S. Gerber

cc: Matthew Orlando
Worldwide Vice President, Corporate Governance and Corporate Secretary
Johnson & Johnson

Justin Danhof
General Counsel
The National Center for Public Policy Research



January 11, 2021

Via email: shareholderproposals@sec.gov

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

RE: Stockholder Proposal of the National Center for Public Policy Research, Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen,

This correspondence is in response to the letter of Marc S. Gerber on behalf of Johnson & Johnson (the “Company”) dated December 16, 2020, requesting that your office (the “Commission” or “Staff”) take no action if the Company omits our Shareholder Proposal (the “Proposal”) from its 2021 proxy materials for its 2021 annual shareholder meeting.

RESPONSE TO JOHNSON & JOHNSON’S CLAIMS

Our Proposal asks the Board of Directors to prepare a report based on a review of the Business Roundtable (BRT) Statement of the Purpose of a Corporation (“the Statement”) to “provide the board’s perspective regarding whether and how our Company’s governance and management systems can or must be altered to fully implement the Statement of Purpose, and what our Company should do if the Statement cannot be reconciled with current practices and commitments.”¹ That Statement was signed by Johnson & Johnson CEO Alex Gorsky. In our

¹ See Business Roundtable, STATEMENT ON THE PURPOSE OF A CORPORATION (Aug. 19, 2019), *available at* <https://opportunity.businessroundtable.org/ourcommitment/> (last accessed Oct. 26, 2020). In relevant part, the Statement asserts that

While each of our individual companies serves its own corporate purpose, we share a fundamental commitment to all of our stakeholders. We commit to:

Proposal we made clear that we sought a report that considered and sought to reconcile current Company behaviors that diverged from the commitments made in the Statement, and that grappled with the possibility that coherent adherence to the Statement, given our Company's divergences from it, might prove impossible, thus requiring our withdrawal from the Statement. We further sought a report that established, if possible, methods and means to ensure that the Company's adoption of the Statement did not, by making nominal commitments to sometimes-orthogonally aligned stakeholders, in effect absolve the Company of accountability to any stakeholders, which would surely have violated the spirit and the letter of the Statement.

The Company seeks to exclude this proposal "pursuant to ... Rule 14a-8(i)(10) because Johnson & Johnson has already substantially implemented the Proposal; and Rule 14a-8(i)(7) because the Proposal deals with matters relating to Johnson & Johnson's ordinary business operations."²

The Company's no-action request fails in the face of exactly applicable precedent to the contrary. In *McKesson Corp.* (avail. May 26, 2020), the Staff rejected a request by McKesson to permit omission of a proposal that is functionally indistinguishable from our Proposal. Though the Staff issued no explanation of its decision, the proceedings demonstrate that in that case McKesson showed that it had some policies and programs that were reasonably aligned with the Statement, but failed to conduct or publish the reasonably searching inquiry that the proponents sought, and failed even to investigate the specific instances of non-conformity raised by the proponents or attempt to account for the incongruity between lofty commitments and disparate realities. Circumstances in this proceeding are the same, except that here the Company did not even point to any management systems or programs designed to respond to the interests of all stakeholders and to weigh and reconcile competing stakeholder interests coherently while maintaining fiduciary duties. Rather, it pointed only to passages in its Credo, an extended mission statement (and in one case to a set of generic supplier standards). And because the

Delivering value to our customers. We will further the tradition of American companies leading the way in meeting or exceeding customer expectations.

Investing in our employees. This starts with compensating them fairly and providing important benefits. It also includes supporting them through training and education that help develop new skills for a rapidly changing world. We foster diversity and inclusion, dignity and respect.

Dealing fairly and ethically with our suppliers. We are dedicated to serving as good partners to the other companies, large and small, that help us meet our missions.

Supporting the communities in which we work. We respect the people in our communities and protect the environment by embracing sustainable practices across our businesses.

Generating long-term value for shareholders, who provide the capital that allows companies to invest, grow and innovate. We are committed to transparency and effective engagement with shareholders.

Id.

² Letter from Marc S. Gerber to Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission 2 (Oct. 16, 2020) ("No-Action Request").

Company, like McKesson, failed to undertake the requisite, systemic inquiry, its lip-service assertions that it has reached the required conclusions are empty.

Under Rule 14a-8(g), the Company bears the burden of persuading the Staff that it may omit our Proposal. The Company has failed to meet that burden. The Commission has explicitly held that a proposal materially indistinguishable from ours may not be omitted for the very reasons raised by the Company here. The Company's only precedent to the contrary is inapposite because the no-action request in that proceeding went uncontested. Because the only complete, properly contested precedent in this instance establishes that a no-action determination would be inappropriate in this context, we urge the Commission to reject the Company's no-action request.

Analysis

Part I. Rule 14-8(i)(10) Analysis.

A. Rule 14-8(i)(10)

Under Rule 14a-8(i)(10), a company may exclude a shareholder proposal if it can meaningfully demonstrate that "the company has already substantially implemented the proposal." Rule 14a-8(i)(10) exclusion is "designed to avoid the possibility of shareholders having to consider matters which already have been *favorably acted upon* by management." *See Exchange Act Release No. 12598* (regarding predecessor to Rule 14a-8(i)(10)) (emphasis added). A company can be said to have "substantially implemented" a proposal when its "policies, practices and procedures compare favorably with the guidelines of the proposal." *See Texaco, Inc.* (avail. March 8, 1991).

As the proponents in *McKesson* rightly explained,

[i]n order for a Company to meet its burden of proving substantial implementation pursuant to Rule 14a-8(i)(10), the actions in question must compare favorably with the guidelines and essential purpose of the Proposal. The Staff has noted that a determination that a company has substantially implemented a proposal depends upon whether a company's particular policies, practices, and procedures compare favorably with the guidelines of the proposal. *Texaco, Inc.* (Mar. 28, 1991). Substantial implementation under Rule 14a-8(i)(10) requires a company's actions to have satisfactorily addressed both the proposal's guidelines and its essential objective. *See, e.g., Exelon Corp.* (Feb. 26, 2010). Thus, when a company can demonstrate that it has already taken actions that meet most of the guidelines of a proposal and meet the proposal's essential purpose, the Staff has concurred that the proposal has been "substantially implemented." In the current instance, the Company has substantially fulfilled neither the guidelines nor the essential purpose of the Proposal, and therefore the Proposal cannot be excluded under Rule (i)(10).

B. The Proposal Is Functionally Indistinguishable From the Proposal That the Staff Determined Could Not Be Omitted in the McKesson Proceeding.

The resolution of the shareholder proposal submitted in the *McKesson* proceeding requested that

our Board review the BRT Statement of the Purpose of a Corporation, signed by our Chairman and Chief Executive Officer, and prepare a report discussing options as to how our Company's governance and management systems can be altered to better align with the Statement of Purpose. The report may include the Board's perspective on benefits and drawbacks of the options considered, as well as the board's recommendations.

Our Proposal is functionally indistinguishable from the proposal that the Staff allowed in *McKesson*. Per the resolution of our Proposal:

[s]hareholders request our Board ... provide the [B]oard's perspective regarding whether and how our Company's governance and management systems can or must be altered to fully implement the Statement of Purpose, and what our Company should do if the Statement cannot be reconciled with current practices and commitments.

Just as the Company does now, *McKesson* argued that it had already substantially implemented the proposal, per Rule 14a-8(i)(10). As the operative language of our Proposal is functionally the same as that used in the proposal in *McKesson*, consistency dictates that the Staff reject Johnson & Johnson's no-action request on these grounds.³

The Company makes a fleeting argument that the *McKesson* Proposal is distinguishable from our Proposal because the former asked for a report on "how our Company's governance and management systems can be altered to better align" with the Statement,⁴ while ours asked "how our Company's governance and management systems can ... be altered to fully implement the Statement."⁵ We fail to see any even semantic reason – and the Company provides none – why a proposal seeking a report that would look into specific ongoing company practice to discover how management *systems* (not mere rhetoric, like the Credo) can be improved to "better" implement would be non-excludable, while one seeking the same improvements to achieve full implementation, or to consider why full implementation is impossible, would not. This is a distinction without any functional difference at all, which is why the Company supplies none.

³ Letter from Sanford J. Lewis to Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission 3 (February 11, 2020) ("*McKesson* No-Action Reply").

⁴ No-Action Request, *supra* note 2, at 9.

⁵ Free Enterprise Project, NATIONAL CENTER, REPORT ON COMPANY'S INVOLVEMENT WITH BUSINESS ROUNDTABLE "STATEMENT ON THE PURPOSE OF A CORPORATION" (attached) ("Proposal").

C. As in McKesson, the Company Has Mischaracterized the Purpose of Our Proposal in Its Claim Already to Have Substantially Satisfied It.

In *McKesson*, the proponent’s proposal, upon which, as just demonstrated, our Proposal is materially modeled, was mischaracterized by McKesson in its assertions that the proposal had been substantially implemented. In that case, McKesson treated that proposal as seeking to determine whether the “[c]ompany has already fulfilled the essential objectives of the Proposal with its disclosures about its existing governance and management systems that demonstrate alignment with the BRT Statement.”⁶

The proponents in *McKesson* identified and objected to this mischaracterization. As they explained, McKesson

[m]ischaracterize[d] the purpose of the Proposal as asking the Company to address the impact of Company decisions on each of the five stakeholder populations, going to great lengths to demonstrate the actions it has already taken to take stakeholder interest into account. However, the purpose of the Proposal is not to merely ensure that [McKesson] has some programs or practices that consider or serve the five categories of stakeholders named in the Statement.⁷

The Company in this proceeding mischaracterized our Proposal in the same way, and to the same effect. It asserted that “the essential objective of [our Proposal] is to report on the actions Johnson & Johnson must take to implement the Business Roundtable’s “Statement on the Purpose of a Corporation.”⁸ It then quoted from our Proposal, but ignored the fact that the passage that it quoted included the requirement that the Board’s report review the ways in which the Company “*can* or *must*” implement the Statement – which, under standard and common legal canons of construction, means that our Proposal seeks a report responsible to both categories: *can* do and *must* do.⁹ It also quoted the language that the report should consider what Johnson &

⁶ Letter from Alan F. Denenberg to Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission 3 (March 30, 2020).

⁷ *McKesson* No-Action Reply, *supra* note 3, at 2-3.

⁸ No-Action Request, *supra* note 2, at 5.

⁹ An exceedingly common and well-known canon of legal interpretation, highlighted perhaps most famously in the long-standing interpretation of the Necessary & Proper Clause first articulated in *McCulloch v. Maryland*, 17 U.S. (4 Wheat) 316 (1819), is that the words “and” and “or” are interpreted interchangeably in order to give all of the words of a document meaning and purpose, and to avoid conundra in which an obstreperous party could, were the canon not in place, assert evasive interpretations of a text regardless of the conjunction selected. As such, the canon applies perfectly here. There is no question that what we meant in our Proposal was that we sought a report listing (a) what the Company *can* do to fully implement the Statement; (b) what the Company *must* do to achieve the same end; and (c) how the Company should proceed should it find that doing what it *can* or *must* do to fully implement the Statement would either put it in violation of law or leave it effectively responsible to *no* stakeholders. With a 500-word limit on proposals, we were unable in our Proposal to explain our obvious purpose in the tedious detail that usually characterizes legal documents, but this limit makes the application of this

Johnson “should do if the Statement cannot be reconciled with current practices and commitments,” while ignoring the passage in the body of our Proposal that makes clear that this requirement addresses concerns that were the Company to do all it can to implement the Statement, its efforts would either dissolve into incoherence or violate the spirit of the Statement and its own legal obligations by “reduc[ing] real accountability to shareholders and all other stakeholders generally and in effect result in genuine accountability to none.”¹⁰

The Company then demonstrated that various aspects of its Credo allude to the five categories of stakeholders identified in the Statement.¹¹ But this is in no way responsive to, far less a substantial implementation of, our Proposal. The Company, like McKesson, failed properly to divine – or to admit – the true and clear purpose of the proposal. As in *McKesson*,¹² what our Proposal seeks is a searching analysis of how the Company can more fully align itself with the Statement – and, uniquely, how it should respond if it finds that taking those steps would lead it into conceptual, legal or related difficulties. The Company has failed even to attempt that analysis.

D. As in McKesson, the Company Has Fulfilled Neither the Guidelines nor the Essential Purpose of Our Proposal.

In *McKesson* and in the instant proceeding, each company responded to the proponents’ requests by listing the ways in which its current policies rhetorically support the stakeholder groups explicitly identified in the Statement. Both failed, however, to consider ways in which various company behaviors failed to comport with the Statement, or otherwise to explain how the company’s behavior could be altered to conform more fully with the Statement while fulfilling legal obligations, and what to do if the actions that it could take to increase alignment with the Statement would create conceptual, legal or other difficulties.

In *McKesson*, the failure to fulfill the guidelines and essential purpose arose from a failure to consider explicitly how to respond to demonstrated failures of McKesson to conform its behavior to the Statement’s standards.¹³ The Company in this proceeding fails the same test in the same way. As we indicated in our Proposal, “[a]n Oklahoma court has recently found our Company guilty of under-considering customer-stakeholder concerns by ‘fueling the state’s opioid crises.’ It ‘ordered the corporation to pay \$572 million ... one of the biggest monetary awards in U.S.

standard legal canon vital in this instance. (Consider that had we written “can *and* must,” the Company would now be making the same claim about the “essential objective” of our Proposal. This is exactly the sort of sophistry that the canon is designed to short-circuit.)

¹⁰ Proposal, *supra* note 5.

¹¹ *See id.* at 4-12.

¹² *See McKesson* No-Action Reply, *supra* note 3, at 3 (“the purpose of the [proposal at issue in *McKesson*] is to spur a review of the Company’s management and governance systems documents with an eye toward more fully implementing the Statement across all of its activities and programs.”).

¹³ *See McKesson* No-Action Reply, *supra* note 3, at 4.

history.”¹⁴ We further noted that “[o]ur Company has been referred to as America’s ‘most admired lawbreaker’ because of a string of transgressions against a vast array of stakeholder interests stretching back to our Company’s founding.”¹⁵ In the few words allotted to us as proponents we demonstrated that despite the Company’s recital of parts of a mission statement that favor some stakeholders in some instances, the Company is still failing to make its lofty aspirations work on the ground for all stakeholders in sometimes very stark circumstances. Our examples were meant to point the Company toward the inquiry into Company governance and management systems, and into the potential conflicts created by fuller implementation of the Statement, that we asked it to undertake. The Company instead wants to do nothing, which is not “substantial implementation.”

And as we have already noted, our Proposal asked the Company to establish “clear mechanisms ... to implement the” Statement to ensure that the end result was not to leave the Company effectively “accountabl[e] to none” of its stakeholders, which would contravene both the Statement and the Company’s legally binding fiduciary obligations to shareholders. In this regard it sought a functionally indistinguishable showing from that sought in *McKesson*, i.e., “how the Company’s governance documents will prioritize and reconcile the needs and support of different stakeholder groups henceforth across the Company’s activities,”¹⁶ and additionally, in our case, whether such reconciliation is even possible under a stakeholder model divorced from the underlying strictures of shareholder primacy.

In failing to grapple with these examples and other instances of divergence between commitment and real behavior, and in failing to conduct a systemic review of its governance and management systems, the Company has failed to consider how far it diverges from its Statement commitments, and whether or how it can bring itself into line with those goals.

The Company has also therefore failed to contemplate or respond to the possibility that, upon consideration of the results of the systemic review sought by our Proposal, the Company might conclude that a genuine – as opposed to its current notional – commitment to the Statement could not be achieved with fidelity to current corporate law, to the Company’s owners, or to other legal obligations faced by the Company and its leaders. This searching inquiry was contemplated by and included in the resolution and guidelines of our Proposal, but was ignored by the Company entirely.

¹⁴ Proposal, *supra* note 5 (citing <https://www.cbsnews.com/news/johnson-johnson-opioid-verdict-company-found-guilty-in-oklahoma-by-district-judge-in-opioid-abuse-lawsuit/>).

¹⁵ *Id.* (citing <https://highline.huffingtonpost.com/miracleindustry/americas-most-admired-lawbreaker/>).

¹⁶ See *McKesson* No-Action Reply, *supra* note 3, at 5.

E. The Company Alleges That the Board of Directors Has Completed the Requested Review, but Provides No Evidence That It Has Materially – Rather Than Purely Superficially – Done So.

The Company claims that it has demonstrated that it has substantially implemented our Proposal because the Board of Directors, by its Corporate Governance and Nominating Committee, has asserted that “Johnson & Johnson’s existing policies and practices under the Credo and Standards are so closely aligned with the BRT Statement that Johnson & Johnson does not need to take any action whatsoever in order to implement the BRT Statement, nor does it need to address ways in which the Credo and the BRT Statement cannot be reconciled.”¹⁷

This conclusion, though, once against mischaracterizes our Proposal. We did not merely ask the Board cursorily to raise before its Corporate Governance Committee, without conducting any further inquiry, the question of whether it thinks itself to be marvelous; we did not seek an empty and meaningless gesture. Instead, as was explained in Part I.D above, we sought a report based on a searching consideration of the different ways in which the Company’s current governance and management systems can be brought into fuller alignment with the Statement; one that determines whether (and if so, how) those commitments can be reconciled where some obligations conflict with others; and finally what should be done if, upon significant study of the current contrasts between commitments and reality, it were to be determined that such reconciliation is impossible consistent with extant legal duties and obligations.

A blithe assertion, apparently based on no searching inquiry, that, in effect, “everything’s fine as it is; we needn’t change a thing,” hardly provides substantial implementation of our Proposal.

F. The JP Morgan Chase & Co. Precedent Upon Which the Company Exclusively Materially Relies Is Inapposite Because the Proponent Made No Reply, and in Any Case Was Superseded by the Subsequent, and Fully Argued, McKesson Case.

The Company relies on *JP Morgan Chase & Co.* (avail. Feb. 5, 2020) as its only on-point precedent.¹⁸ But that reliance is misplaced. First, the *JP Morgan* proceeding is incomplete; the proponent of the proposal therein failed to respond to JP Morgan’s no-action request. This failure of response is controlling in this instance, because it would have been in a response to JP Morgan’s no-action request that the proponents there would have demonstrated JP Morgan’s nominal actions to be empty, if they were. Here the demonstration has been made, rendering *JP Morgan* inapposite.

Moreover, the incomplete *JP Morgan* precedent was superseded later in the spring by the *McKesson* precedent. JP Morgan and McKesson provided essentially the same response to their proponents. In the later, contested proceeding, the Staff concluded that the response was

¹⁷ No-Action Request, *supra* note 2, at 9-10.

¹⁸ *See id.* at 3, 12.

insufficient to permit preclusion because of the demonstration made by the proponents. We have done the same here.

The *McKesson* precedent thus controls. And as we have demonstrated, it wholly resolves this case, in which our Proposal is materially indistinguishable from the proposal that was deemed non-omittable in *McKesson*, even while the Company's argument in favor of omission followed *McKesson*'s response almost exactly, and our reply to that argument has likewise – with full fidelity and full relevance – followed that response.

Part II. Rule 14-8(i)(7) Analysis.

A. Rule 14-8(i)(7)

Rule 14a-8(i)(7) permits a company to exclude a shareholder proposal if the proposal “deals with a matter relating to the company’s ordinary business operations.” The underlying policy of the ordinary business exclusion is “to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting.” *SEC Release* No. 34-40018 (May 21, 1998) (the “1998 Release”).

As set out in the 1998 Release, there are two “central considerations” underlying the ordinary business exclusion. One consideration is that “[c]ertain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight.” The other consideration is that a proposal should not “seek[] to ‘micro-manage’ the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.”

Proposals that otherwise concern ordinary business matters may nonetheless be appropriate for a shareholder vote if the proposal raises a policy issue that is sufficiently significant to transcend day-to-day business matters. 1998 Release. The applicability of the significant policy exception “depends, in part, on the connection between the significant policy issue and the company’s business operations.” *Staff Legal Bulletin* No. 14I (November 21, 2017).

B. This Argument was Raised and Rejected in McKesson, which controls here, and is clearly wrong on the merits.

As we have demonstrated above, the proposal in *McKesson* is functionally indistinguishable from ours. In that proceeding the Staff determined that that proposal was not excludable on Rule 14-a8(i)(7) grounds. It did not specify whether it rejected *McKesson*'s Rule 14-a(8)(i)(7) argument because it considers these issues not to constitute or implicate ordinary business operations or because it considers these issues to be sufficiently significant to transcend day-to-

day business matters, but whatever it decided applies here just as it applied in *McKesson*. Like the proposal in that proceeding our Proposal seeks a report about ways in which *governance and management systems* can be more fully aligned with the Statement (and about what should be done if they cannot be more fully aligned consistent with other obligations).¹⁹ Like *McKesson*, Johnson & Johnson does not have a “flawless record of consistency” with the Statement.²⁰ The public interest in issues implicated by the Statement and by our Proposal remains high less than a year later.²¹ And the need to either create consistency between the Statement and Company practice or to grapple with the implications of an inability to do so remains the same as it was last May.

At all events, the claim that our Proposal improperly focuses on the ordinary business operations of the company could not be more wrong. While the Board may, in compiling the report responsive to our Proposal, find it appropriate to investigate some ordinary business operations of the Company to some extent, ordinary business operations are not the focus of our inquiry. Rather, we seek analysis of the governance and management systems of the Company, and whether they can be changed or in fact must be changed to more fully conform with the Statement, and concomitantly, whether such change can be made consistent with the Company’s legal form and the fiduciary and other obligations that flow from that legal form and from

¹⁹ See Proposal, *supra* note 5.

²⁰ See, e.g. Deak, Mike, *Former Johnson & Johnson Exec Alleges Gender, Sex Discrimination, Retaliation in Lawsuit*, BRIDGEWATER COURIER NEWS (Dec 17, 2020), available at <https://www.mycentraljersey.com/story/news/local/courts/2020/12/17/ex-johnson-johnson-exec-alleges-discrimination-retaliation-suit/3941187001/> (last accessed Jan. 8, 2021); Frehse, Rob, *Johnson & Johnson has to pay \$8 billion after male breast growth linked to antipsychotic drug, jury says*, CNN (Oct 9, 2019), available at <https://www.cnn.com/2019/10/09/uk/johnson-and-johnson-male-breast-growth-damages/index.html> (last accessed Jan. 8, 2020); Wichert, Bill, *Ex-Johnson & Johnson Employee Files Suit Citing Discrimination Over Age and Disability*, NJ ADVANCED MEDIA (Mar 30, 2019), available at https://www.nj.com/somerset/2013/05/lawsuit_former_johnson_johnson.html (last accessed Jan. 8, 2021); *Johnson & Johnson Employee Claims She Was Fired for Whistleblowing*, NILGES & DRAHER LLC (Oct. 23, 2018), available at <https://www.ohlaborlaw.com/posts/johnson-johnson-employee-claims-she-was-fired-for-whistleblowing/> (last accessed Jan. 8, 2021).

²¹ See, e.g., Murphy, Sara E., *BofA, BlackRock and State Street CEOs talk stakeholder primacy — and fall short*, GREENBIZ (Dec. 14, 2020), available at <https://www.greenbiz.com/article/bofa-blackrock-and-state-street-ceos-talk-stakeholder-primacy-and-fall-short> (last accessed Jan. 8, 2021); Stuttaford, Andrew, *Counting the Shareholder Out: When the Ruling Class Changes the Rules*, NATIONAL REVIEW (Dec. 11, 2020), available at <https://www.nationalreview.com/2020/12/counting-the-shareholder-out-when-the-ruling-class-changes-the-rules/> (last accessed Jan. 8, 2021); Wright, Robert E., *The Hype Surrounding Environmental, Social, and Governance Investing*, AMERICAN INSTITUTION FOR ECONOMIC RESEARCH (Dec. 3, 2020), available at <https://www.aier.org/article/hyping-esg-investing/> (last accessed Jan. 8, 2021); Morrison, Richard, *Woke Investing and Management Strategies Threaten the Future of American Free Enterprise*, THE AMERICAN SPECTATOR (Oct. 31, 2020), available at <https://spectator.org/esg-woke-investing/> (last accessed Jan. 8, 2021).

corporate law generally. Johnson & Johnson is a New Jersey corporation.²² Under New Jersey corporate law, while business corporations are permitted to consider certain other stakeholder interests when making decisions, their primary fiduciary obligation remains to shareholders.²³ The stakeholder primacy advanced by the Statement potentially requires a different hierarchy of interests, and raises the profound concern that by making managers nominally and equally responsible to all (including orthogonal and competing) interests, it in fact leaves them genuinely responsible to no one at all. Both of these potential consequences of the Statement create significant legal and reputational concerns. We have asked the company to prepare a report systemically considering all of these issues, and reporting with care and transparency about how its *governance and management systems*, not its everyday business operations, can or must be altered to more fully conform with the Statement, and how the Company should proceed if it finds that it cannot make those changes consistent with its legal and other obligations. This is not ordinary business. It is the root and core of the Company as a legal entity.

Additionally, our Proposal raises issues of, focuses Board attention on, and provides vital shareholder information about concerns that are sufficiently significant to transcend the ordinary business operations exception even if it did significantly implicate those operations. Leaders of American corporate life have declared it a vital issue for the future of business.²⁴ And as CEO Alex Gorsky himself declared when he signed the Statement, “This new statement better reflects the way corporations *can and should* operate today. It affirms the essential role corporations *can* play in improving our society when CEOs are *truly committed* to meeting the needs of *all stakeholders*.”²⁵

²² See RESTATED CERTIFICATE OF INCORPORATION OF JOHNSON & JOHNSON (Feb. 19, 2016; last amended Apr. 29, 2020), available at <https://www.investor.jnj.com/certif> (last accessed Jan. 8, 2020).

²³ See, e.g., N.J. STAT. ANN. § 14:A-6-1 (2021); Unger, Scott I., *Business Judgement Rule Inapplicable if Director is Engaged in Self-Dealing, Unconscionable, or Fraudulent Activities/Decisions*, NEW JERSEY LAW BLOG (Jan. 21, 2020), available at <https://www.njlawblog.com/2020/01/articles/shareholder-oppression/business-judgement-rule-inapplicable-if-director-is-engaged-in-self-dealing-unconscionable-or-fraudulent-activities-decisions/> (last accessed Jan. 8, 2021); McLaughlin, Maurice W., *Fiduciary Duties and the Business Judgment Rule: Bad Judgment Without Bad Faith Does Not Create Liability for Directors, Officers and Owners*, NEW JERSEY LAWYERS BLOG (Apr. 6, 2017), available at <https://wp.me/p845mp-aC> (last accessed Jan. 8, 2020).

²⁴ See, e.g., Murphy, Sara E., *BofA, BlackRock and State Street CEOs talk stakeholder primacy — and fall short*, GREENBIZ (Dec. 14, 2020), available at <https://www.greenbiz.com/article/bofa-blackrock-and-state-street-ceos-talk-stakeholder-primacy-and-fall-short> (last accessed Jan 8, 2021).

²⁵ *Business Roundtable Redefines the Purpose of a Corporation to Promote ‘An Economy That Serves All Americans’*, BUSINESS ROUNDTABLE (Aug. 19, 2019) (emphasis added), available at <https://www.businessroundtable.org/business-roundtable-redefines-the-purpose-of-a-corporation-to-promote-an-economy-that-serves-all-americans> (last accessed Jan 8, 2021).

Our own CEO made perfectly clear that the issue of more fully integrating stakeholder primacy is vital and needs to be an ongoing concern that *can and should* continue at companies *truly committed* to these goals. He and the Company cannot now argue, in contrast, that the Statement and its commitment to stakeholder primacy is a minor, ordinary business issue that is not of significant concern. According to our CEO himself, this is an issue of overriding concern, one to which companies can and should be actively trying to become more truly committed. His statements do not suggest that a mere assertion that “we’re already completely doing these newly defined things” will suit. Our Proposal simply offers the Company the opportunity to do what our CEO is himself calling for, and to share the findings with shareholders.

The Company does not attempt to demonstrate how it could be true that the McKesson proposal did not constitute excludable ordinary business under Rule 14a-8(i)(7) while our Proposal does, nor could it. *McKesson* controls, and requires that our Proposal not be omitted. Independently, as we have demonstrated, our Proposal does not improperly focus on ordinary business operations and is a matter of substantial – indeed defining – importance.

Conclusion

For the above reasons, we urge the Staff to find that our Proposal may not be omitted under Rule 14a-8(i)(10) or under Rule 14a-8(i)(7).

The Company has clearly failed to meet its burden that it may exclude our Proposal under Rule 14a-8(g). Therefore, based upon the analysis set forth above, we respectfully request that the Staff reject Johnson & Johnson’s request for a no-action letter concerning our Proposal.

A copy of this correspondence has been timely provided to the Company. If I can provide additional materials to address any queries the Commission may have with respect to this letter, please do not hesitate to call me at (202) 507-6398 or email me at sshepard@nationalcenter.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott A. Shepard", with a long horizontal flourish extending to the right.

Scott Andrew Shepard

cc: Marc S. Gerber, Skadden, Arps (marc.gerber@skadden.com)
Justin Danhof, National Center for Public Policy Research

Report on Company's Involvement with Business Roundtable "Statement on the Purpose of a Corporation"

Whereas, our Company's Chief Executive Officer (CEO) Alex Gorsky signed a Business Roundtable (BRT) "Statement on the Purpose of a Corporation," (Statement) in August 2019, committing our Company to serve all stakeholders – including employees, customers, supply chains, communities where we operate – and shareholders.²⁶

Existing governance documents evolved in the still legally mandated system of shareholder primacy, but the Statement articulates a new purpose, moving away from shareholder primacy and including commitment to all stakeholders. The Statement may or may not be beneficial to associate with our brand, but as company policy, it may conflict with existing corporate law unless, and possibly even if, it is integrated into Company governance documents, including bylaws, articles of incorporation, and/or committee charters.

A stakeholder model would shift corporate focus from value creation to concerns generally referred to as Environmental, Social and Governance (ESG) issues. CEO Gorsky works hard to ensure Company commitment such causes.²⁷ Under his leadership, in 2018 we ranked first on DiversityInc.'s top companies list. "Gorsky stress[s] that prioritizing diversity and inclusion is critical to our future," and "encourage[es] a diversity of opinion by different members [which] really makes sure that you have thought through the implications" of corporate actions.²⁸

For consistency and the avoidance of legal risk, our Company should not endorse positions with which it has not or cannot conform itself. We currently engage in actions that seem to contradict the Statement. Just two examples:

- An Oklahoma court has recently found our Company guilty of under-considering customer-stakeholder concerns by "fueling the state's opioid crises." It "ordered the corporation to pay \$572 million ... one of the biggest monetary awards in U.S. history."²⁹

And

- Our Company has been referred to as America's "most admired lawbreaker" because of a string of transgressions against a vast array of stakeholder interests stretching back to our Company's founding.³⁰

²⁶ <https://opportunity.businessroundtable.org/ourcommitment/>

²⁷ <https://www.jnj.com/our-company/8-things-you-might-not-know-about-chairman-and-ceo-alex-gorsky>

²⁸ *Id.*

²⁹ <https://www.cbsnews.com/news/johnson-johnson-opioid-verdict-company-found-guilty-in-oklahoma-by-district-judge-in-opioid-abuse-lawsuit/>

³⁰ <https://highline.huffingtonpost.com/miracleindustry/americas-most-admired-lawbreaker/>

And while the Statement implies accountability to stakeholders, without clear mechanisms in place to implement the Purpose, this broadened standard could reduce real accountability to shareholders and all stakeholders generally and in effect, result in genuine accountability to none. This would violate both the letter and the spirit of the Statement.

Resolved: Shareholders request our Board prepare a report based on a review of the BRT Statement of the Purpose of a Corporation, signed by our Chief Executive Officer, and provide the board's perspective regarding whether and how our Company's governance and management systems can or must be altered to fully implement the Statement of Purpose, and what our Company should do if the Statement cannot be reconciled with current practices and commitments. The report may include the Board's perspective on benefits and drawbacks of the options considered, as well as the Board's recommendations.

Supporting Statement

Given the Company's inconsistent actions related to the Statement of Purpose, the Board might after full investigation consider the option of rescinding the CEO's signature and Company's name from that document.

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BY EMAIL (shareholderproposals@sec.gov)

December 16, 2020

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

RE: Johnson & Johnson – 2021 Annual Meeting
Omission of Shareholder Proposal of
the National Center for Public Policy Research

Ladies and Gentlemen:

Pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), we are writing on behalf of our client, Johnson & Johnson, a New Jersey corporation, to request that the Staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) concur with Johnson & Johnson’s view that, for the reasons stated below, it may exclude the shareholder proposal and supporting statement (the “Proposal”) submitted by the National Center for Public Policy Research (the “Proponent”) from the proxy materials to be distributed by Johnson & Johnson in connection with its 2021 annual meeting of shareholders (the “2021 proxy materials”).

In accordance with Section C of Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”), we are emailing this letter and its attachments to the Staff at shareholderproposals@sec.gov. In accordance with Rule 14a-8(j), we are simultaneously sending a copy of this letter and its attachments to the Proponent as

notice of Johnson & Johnson's intent to omit the Proposal from the 2021 proxy materials.

Rule 14a-8(k) and Section E of SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the shareholder proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponent that if it submits correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to Johnson & Johnson.

I. The Proposal

The text of the resolution contained in the Proposal is set forth below:

Resolved: Shareholders request our Board prepare a report based on a review of the BRT Statement of the Purpose of a Corporation, signed by our Chief Executive Officer, and provide the board's perspective regarding whether and how our Company's governance and management systems can or must be altered to fully implement the Statement of Purpose, and what our Company should do if the Statement cannot be reconciled with current practices and commitments. The report may include the Board's perspective on benefits and drawbacks of the options considered, as well as the Board's recommendations.

II. Bases for Exclusion

We hereby respectfully request that the Staff concur with Johnson & Johnson's view that the Proposal may be excluded from the 2021 proxy materials pursuant to:

Rule 14a-8(i)(10) because Johnson & Johnson has substantially implemented the Proposal; and

Rule 14a-8(i)(7) because the Proposal deals with matters relating to Johnson & Johnson's ordinary business operations.

III. Background

On November 9, 2020, Johnson & Johnson received the Proposal, accompanied by a cover letter from the Proponent dated November 5, 2020. On November 10, 2020, in accordance with Rule 14a-8(f)(1), Johnson & Johnson sent a

letter to the Proponent (the “Deficiency Letter”) via email requesting a written statement verifying that the Proponent owned the requisite number of shares of Johnson & Johnson common stock for at least one year as of November 5, 2020, the date the Proposal was submitted to Johnson & Johnson. On November 20, 2020, Johnson & Johnson received a letter from UBS Financial Services Inc., dated November 19, 2020, verifying the Proponent’s stock ownership. (the “Broker Letter”). Copies of the Proposal, cover letter, Deficiency Letter, Broker Letter and related correspondence are attached hereto as Exhibit A.

IV. The Proposal May be Excluded Pursuant to Rule 14a-8(i)(10) Because Johnson & Johnson Has Substantially Implemented the Proposal.

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal if the company has already substantially implemented the proposal. The Commission adopted the “substantially implemented” standard in 1983 after determining that the “previous formalistic application” of the rule defeated its purpose, which is to “avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management.” *See* Exchange Act Release No. 34-20091 (Aug. 16, 1983) (the “1983 Release”) and Exchange Act Release No. 34-12598 (July 7, 1976). Accordingly, the actions requested by a proposal need not be “fully effected” provided that they have been “substantially implemented” by the company. *See* 1983 Release.

Applying this standard, the Staff has permitted exclusion under Rule 14a-8(i)(10) when the company’s policies, practices and procedures compare favorably with the guidelines of the proposal. *See, e.g., Visa Inc.* (Oct. 11, 2019) (permitting exclusion of a proposal recommending that the compensation committee reform the company’s executive compensation philosophy to include social factors to enhance the company’s social responsibility where the company’s “policies, practices and procedures compare[d] favorably with the guidelines of the [p]roposal and the [c]ompany ... therefore, substantially implemented the [p]roposal”); *Exxon Mobil Corp.* (Mar. 17, 2015) (permitting exclusion of a proposal requesting that the company commit to increasing the dollar amount authorized for capital distributions to shareholders through dividends or share buybacks where the company’s long-standing capital allocation strategy and related “policies, practices and procedures compare[d] favorably with the guidelines of the proposal and ... therefore, substantially implemented the proposal”); *The Goldman Sachs Group, Inc.* (Mar. 12, 2018); *Wells Fargo & Co.* (Mar. 6, 2018); *Kewaunee Scientific Corp.* (May 31, 2017); *Wal-Mart Stores, Inc.* (Mar. 16, 2017); *Dominion Resources, Inc.* (Feb. 9, 2016); *Ryder Sys., Inc.* (Feb. 11, 2015); *Wal-Mart Stores, Inc.* (Mar. 27, 2014); *Peabody Energy Corp.* (Feb. 25, 2014); *The Goldman Sachs Group,*

Inc. (Feb. 12, 2014); *Hewlett-Packard Co.* (Dec. 18, 2013); *Deere & Co.* (Nov. 13, 2012); *Duke Energy Corp.* (Feb. 21, 2012); *Exelon Corp.* (Feb. 26, 2010).

In addition, the Staff has permitted exclusion under Rule 14a-8(i)(10) where a company already addressed the underlying concerns and satisfied the essential objective of the proposal, even if the proposal had not been implemented exactly as proposed by the proponent. For example, in *PG&E Corp.* (Mar. 10, 2010), the Staff permitted exclusion under Rule 14a-8(i)(10) of a proposal requesting that the company provide a report disclosing, among other things, the company's standards for choosing the organizations to which the company makes charitable contributions and the "business rationale and purpose for each of the charitable contributions." In arguing that the proposal had been substantially implemented, the company referred to a website where the company had described its policies and guidelines for determining the types of grants that it makes and the types of requests that the company typically does not fund. Although the proposal appeared to contemplate disclosure of each and every charitable contribution, the Staff concluded that the company had substantially implemented the proposal. *See also, e.g., The Wendy's Co.* (Apr. 10, 2019) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting a report assessing human rights risks of the company's operations, including the principles and methodology used to make the assessment, the frequency of assessment and how the company would use the assessment's results, where the company had a code of ethics and a code of conduct for suppliers and disclosed on its website the frequency and methodology of its human rights risk assessments); *MGM Resorts Int'l* (Feb. 28, 2012) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting a report on the company's sustainability policies and performance, including multiple objective statistical indicators, where the company published an annual sustainability report); *Exelon Corp.* (Feb. 26, 2010) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting a report disclosing policies and procedures for political contributions and monetary and non-monetary political contributions where the company had adopted corporate political contributions guidelines).

In particular, in *JPMorgan Chase & Co.* (Feb. 5, 2020) the Staff permitted exclusion under Rule 14a-8(i)(10) of a proposal requesting that the company's board review the Business Roundtable's Statement on the Purpose of a Corporation, provide oversight and guidance as to how the statement should alter the company's governance and management system and publish recommendations regarding implementation of the statement. The company argued that it had substantially implemented the proposal because it already operated in accordance with the principles set forth in the Business Roundtable's Statement on the Purpose of a Corporation. The Staff noted that "it appears that the board's actions compare

favorably with the guidelines of the [p]roposal and that the company has, therefore, substantially implemented the [p]roposal.”

In this instance, Johnson & Johnson has substantially implemented the Proposal, the essential objective of which is to report on the actions Johnson & Johnson must take to implement the Business Roundtable’s “Statement on the Purpose of a Corporation” (the “BRT Statement”). In this regard, the Proposal requests that the report describe “whether and how [Johnson & Johnson’s] governance and management systems can or must be altered to fully implement the Statement of Purpose, and what [Johnson & Johnson] should do if the Statement cannot be reconciled with current practices and commitments.”

The BRT Statement, which was published in August 2019 by the Business Roundtable and signed by 181 corporate chief executive officers, including Johnson & Johnson’s Chairman and Chief Executive Officer, expresses the companies’ commitment to all of their stakeholders. In particular, the BRT Statement expresses companies’ commitment to delivering value to customers; investing in employees; dealing fairly and ethically with suppliers; supporting the communities in which the companies work and generating long-term value for shareholders. A copy of the BRT Statement is attached hereto as Exhibit B.

As demonstrated by Johnson & Johnson’s publicly available materials, Johnson & Johnson already was operating in accordance with the principles set forth in the BRT Statement prior to their publication, and has done so for many decades. Specifically, Johnson & Johnson’s decision-making is grounded in the values set forth in its Credo (“Credo”), which was adopted in 1943 (and last updated in 2018) and provides that Johnson & Johnson is responsible to: “the patients, doctors and nurses, to mothers and fathers and all others who use [Johnson & Johnson’s] products and services;” Johnson & Johnson’s employees; and the communities in which Johnson & Johnson works.¹ In this respect, Johnson & Johnson’s definitive proxy statement for its 2020 annual meeting of shareholders (the “2020 Proxy Statement”) includes a letter from Johnson & Johnson’s lead director stating that “[w]e believe [Johnson & Johnson’s] current and future success depends on its leadership and its Credo-based culture” and that “[w]e never lose focus on Our Credo and the Company’s first priority: the patients and customers who use and trust

¹ See Our Credo, available at <https://www.jnj.com/credo/> and attached hereto as Exhibit C.

the Company's products.”² In addition, the 2020 Proxy Statement notes that “Johnson & Johnson is governed by the values set forth in Our Credo, which extend to our corporate governance practices and are reflected in our By-Laws and Principles of Corporate Governance.” The 2020 Proxy Statement also notes that “[s]ince 1943, Our Credo has guided us in fulfilling our responsibilities to our customers, employees, communities, and shareholders.” Also, as demonstrated by the fact that Johnson & Johnson conducts a biennial survey assessing the degree to which senior leadership demonstrates the values in the Credo, Johnson & Johnson continually evaluates the extent to which the actions of its senior leadership align with the values in the Credo.

Further, Johnson & Johnson also engages with its suppliers in accordance with the standards set forth in its Responsibility Standards for Suppliers (the “Standards”), which reflect Johnson & Johnson’s internal values and the expectations of external stakeholders, such as customers, regulators, investors and the public.³ As further explained below, there is virtually no difference between the principles espoused in the BRT Statement and those that Johnson & Johnson already adheres to through the Credo and the Standards. The following table provides a point-by-point comparison of the principles in the BRT Statement and the principles in the Credo and Standards.

² See Johnson & Johnson’s Definitive Proxy Statement for its 2020 Annual Meeting of Shareholders, available at <https://www.sec.gov/Archives/edgar/data/200406/000020040620000018/jnjproxy2020.htm>.

³ See Johnson & Johnson’s Responsibility Standards for Suppliers, available at <https://www.jnj.com/partners/responsibility-standards-for-suppliers> and attached hereto as Exhibit D.

The BRT Statement	The Credo⁴
1. Deliver value to our customers	We believe our first responsibility is to the patients, doctors and nurses, to mothers and fathers and all others who use our products and services. In meeting their needs everything we do must be of high quality. We must constantly strive to provide value, reduce our costs and maintain reasonable prices. Customers' orders must be serviced promptly and accurately.
2. Invest in employees by providing fair compensation, important benefits and training and fostering diversity, inclusion, dignity and respect	We are responsible to our employees who work with us throughout the world. We must provide an inclusive work environment where each person must be considered as an individual. We must respect their diversity and dignity and recognize their merit. They must have a sense of security, fulfillment and purpose in their jobs. Compensation must be fair and adequate and working conditions clean, orderly and safe. We must support the health and well-being of our employees and help them fulfill their family and other personal responsibilities. Employees must feel free to make suggestions and complaints. There must be equal opportunity for employment, development and advancement for those qualified. We must provide highly capable leaders and their actions must be just and ethical.

⁴ Unless noted otherwise, references in this column are to the Credo.

The BRT Statement	The Credo
<p>3. Deal fairly and ethically with suppliers and dedicate to serve as good partners to other companies</p>	<p>Our business partners must have an opportunity to make a fair profit.</p> <p><u>Standards:</u></p> <p>We find business relationships are more productive and effective when they are built on trust, mutual respect and common values, and seek relationships with suppliers who share a common commitment to: (1) Comply with applicable laws and regulations; (2) Behave ethically and with integrity; ... (4) Respect human and employment rights; (5) Promote the safety, health and well-being of employees; (6) Embrace sustainability and operate in an environmentally responsible manner . . .</p>
<p>4. Support the surrounding communities, respect the people in those communities and protect the environment by embracing sustainable practices</p>	<p>We are responsible to the communities in which we live and work and to the world community as well. We must help people be healthier by supporting better access and care in more places around the world. We must be good citizens — support good works and charities, better health and education, and bear our fair share of taxes. We must maintain in good order the property we are privileged to use, protecting the environment and natural resources.</p>

The BRT Statement	The Credo
5. Generate long-term value for shareholders and commit to transparency and effective engagement with shareholders	Our final responsibility is to our stockholders. Business must make a sound profit. We must experiment with new ideas. Research must be carried on, innovative programs developed, investments made for the future and mistakes paid for. New equipment must be purchased, new facilities provided and new products launched. Reserves must be created to provide for adverse times. When we operate according to these principles, the stockholders should realize a fair return.

As shown in the table above, the principles set forth in the BRT Statement are principles that already guided Johnson & Johnson, as publicly disclosed in the Credo and Standards.

We are aware that, in at least one instance, the Staff has declined to grant relief under Rule 14a-8(i)(10) regarding a proposal relating to a company's assessment of the BRT Statement but believe that instance to be inapposite. *See McKesson Corp.* (May 26, 2020).^{*} In that instance, the proposal acknowledged that the company's existing policies and practices were aligned with the BRT Statement and did not seek a report on how governance and management systems "can or must be altered to fully implement" the BRT Statement. Rather, the proponent in *McKesson* sought a report on how to "better align" those systems and the BRT Statement.

In this case, however, the Proposal requests a report on whether and how Johnson & Johnson's governance and management systems can be altered to fully implement the BRT Statement, and what should be done if the BRT Statement cannot be reconciled with Johnson & Johnson's current practices and commitments. As demonstrated above, Johnson & Johnson's existing policies and practices under the Credo and Standards are so closely aligned with the BRT Statement that Johnson & Johnson does not need to take any action whatsoever in order to implement the

^{*} Citations marked with an asterisk indicate Staff decisions issued without a letter.

BRT Statement, nor does it need to address ways in which the Credo and the BRT Statement cannot be reconciled.

In addition, at a meeting held on November 30, 2020 the Nominating & Corporate Governance Committee (the “Committee”) of Johnson & Johnson’s Board of Directors (the “Board”) reviewed the Proposal. As discussed further below, the Committee determined that no additional action or assessment is required, as Johnson & Johnson already adheres to and operates in accordance with the principles set forth in the Credo, which are in accordance with the principles set forth in the BRT Statement, with oversight and guidance by the Board. Accordingly, the Committee concluded that the BRT Statement does not subject Johnson & Johnson to any new commitments and that no actions were necessary as a result of the Chief Executive Officer of Johnson & Johnson signing the BRT Statement. As such, Johnson & Johnson’s policies, practices and procedures compare favorably with the actions requested in the Proposal.

Therefore, Johnson & Johnson has substantially implemented the Proposal and the Proposal may be excluded under Rule 14a-8(i)(10).

V. The Proposal May be Excluded Pursuant to Rule 14a-8(i)(7) Because the Proposal Deals with Matters Relating to Johnson & Johnson’s Ordinary Business Operations.

Under Rule 14a-8(i)(7), a shareholder proposal may be excluded from a company’s proxy materials if the proposal “deals with matters relating to the company’s ordinary business operations.” In Exchange Act Release No. 34-40018 (May 21, 1998) (the “1998 Release”), the Commission stated that the policy underlying the ordinary business exclusion rests on two central considerations. The first recognizes that certain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight. The second consideration relates to the degree to which the proposal seeks to “micro-manage” the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.

A. The Proposal deals with Johnson & Johnson’s ordinary business operations.

As discussed above, the BRT Statement expresses companies’ commitment to delivering value to customers, investing in employees, dealing fairly and ethically with suppliers, supporting the communities in which the companies work and generating long-term value for shareholders. Each of the concerns raised in the BRT

Statement, and thus by the Proposal, however, has been specifically recognized by the Staff as ordinary business matters upon which a proposal may be excluded pursuant to Rule 14a-8(i)(7).

1. Relationship with customers.

For instance, the Staff has permitted exclusion of proposals that relate to a company's relationships with its customers. *See, e.g., JPMorgan Chase & Co.* (Feb. 21, 2019) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested the board complete a report on the impact to customers of the company's overdraft policies); *AT&T Inc.* (Dec. 28, 2016) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested the company provide free tools to customers to block robocalls); *Ford Motor Co.* (Feb. 13, 2013) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested removal of dealers that provided poor customer service, noting that "[p]roposals concerning customer relations are generally excludable under rule 14a-8(i)(7)"); *The Coca-Cola Co.* (Jan. 21, 2009, recon. denied Apr. 21, 2009) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested a report on how the company could provide information to customers regarding the company's products, noting that the proposal "relat[ed] to Coca-Cola's ordinary business operations (i.e., marketing and consumer relations)").

2. Management of the workforce.

The Staff also has found management of a company's workforce to be an ordinary business matter. *See* the 1998 Release (excludable matters "include the management of the workforce, such as the hiring, promotion, and termination of employees"); *see also, e.g., Walmart, Inc.* (Apr. 8, 2019) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested the company's board prepare a report evaluating discrimination risk from the company's policies and practices for hourly workers taking medical leave, noting that the proposal "relates generally to the [c]ompany's management of its workforce"); *Yum! Brands, Inc.* (Mar. 6, 2019) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that sought to prohibit the company from engaging in certain employment practices, noting that "the [p]roposal relates generally to the [c]ompany's policies concerning its employees"). Similarly, the Staff has permitted exclusion of shareholder proposals under Rule 14a-8(i)(7) that relate to general employee compensation. *See, e.g., CVS Health Corp.* (Mar. 1, 2017) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that urged the company's board to adopt principles for minimum wage reform, noting that "the proposal relates to general compensation matters"); *Best Buy Co., Inc.* (Mar. 8, 2016) (same); *The Goldman Sachs Group, Inc.* (Mar. 12, 2010) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that sought to introduce a policy limiting the amount

available for payment of employee compensation and benefits each year, noting that “[p]roposals that concern general employee compensation matters are generally excludable under rule 14a-8(i)(7)”).

3. *Relationships with suppliers.*

In addition, the Staff has permitted exclusion of shareholder proposals under Rule 14a-8(i)(7) that relate to a company’s relationships with its suppliers. *See, e.g., Walmart Inc.* (Mar. 8, 2018) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested a report outlining the requirements suppliers must follow regarding engineering ownership and liability); *Foot Locker, Inc.* (Mar. 3, 2017) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested a report outlining the steps the company was taking, or could take, to monitor the use of subcontractors by the company’s overseas apparel suppliers, noting that “the proposal relates broadly to the manner in which the company monitors the conduct of its suppliers and their subcontractors.”); *Kraft Foods Inc.* (Feb. 23, 2012) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested a report detailing the ways the company would assess risk to its supply chain and mitigate the impact of such risk, noting that the proposal concerned “decisions relating to supplier relationships [which] are generally excludable under rule 14a-8(i)(7)”); *Dean Foods Co.* (Mar. 9, 2007) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested an independent committee review the company’s standards for organic dairy product suppliers, noting that the proposal related to the company’s “decisions relating to supplier relationships”).

4. *Community relations.*

Further, the Staff has permitted exclusion under Rule 14a-8(i)(7) of proposals relating to the community impacts of a company’s operations. *See, e.g., Amazon.com, Inc.* (Mar. 28, 2019) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested an analysis of the community impacts of the company’s operations, noting that “the [p]roposal relates generally to ‘the community impacts’ of the [c]ompany’s operations and does not appear to focus on an issue that transcends ordinary business matters”); *Amazon.com, Inc.* (Mar. 16, 2018) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested a report on risks relating to the societal impact of the company’s growth).

5. *Enhancing shareholder value.*

Finally, the Staff has permitted the exclusion of proposals relating to the determination and implementation of a company’s strategies for enhancing shareholder value. *See, e.g., Bimini Capital Management* (Mar. 28, 2018)

(permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company's board take measures to close the gap between the book value of the company's common shares and their market price); *Ford Motor Co.* (Feb. 24, 2007) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company's chairman "honor his commitments to shareholders to increase stock performance," noting that the proposal appeared to relate to the company's "ordinary business operations (i.e., strategies for enhancing shareholder value)"). Similarly, the Staff has permitted companies to exclude proposals that relate generally to the company's relations with its stockholders. *See, e.g., Con-way Inc.* (Jan. 22, 2009) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested the company's board take steps to ensure future annual stockholder meetings be distributed via webcast, as "relating to [the company's] ordinary business operations (i.e., shareholder relations and the conduct of annual meetings)").

The Commission has stated that a proposal requesting the dissemination of a report is excludable under Rule 14a-8(i)(7) if the substance of the proposal is within the ordinary business of the company. *See* Exchange Act Release No. 34-20091 (Aug. 16, 1983); *see also Netflix, Inc.* (Mar. 14, 2016). In this case, the Proposal clearly relates to Johnson & Johnson's ordinary business matters because it requests a report on "whether and how" Johnson & Johnson needs to change its governance and management systems to address its responsibilities to customers, employees, suppliers, communities and shareholders, all of which have been deemed quintessential ordinary business matters under Rule 14a-8(i)(7). Accordingly, consistent with the precedent described above, the Proposal may be excluded under Rule 14a-8(i)(7).

B. The Nominating & Corporate Governance Committee determined that the Proposal is not sufficiently significant in relation to Johnson & Johnson.

We are aware that a proposal may not be excluded under Rule 14a-8(i)(7) if it is determined to focus on a significant policy issue. The fact that a proposal may touch upon a significant policy issue, however, does not preclude exclusion under Rule 14a-8(i)(7). As stated in Staff Legal Bulletin No. 14I (Nov. 1, 2017) ("SLB 14I"), "whether the significant policy exception applies depends, in part, on the connection between the significant policy issue and the company's business operations." According to the Staff, a "well-developed discussion of the board's analysis" of whether a particular issue is sufficiently significant – because the matter transcends ordinary business and would be appropriate for a shareholder vote – may assist the staff in its review of no-action requests under Rule 14a-8(i)(7). SLB 14I. In Staff Legal Bulletin No. 14J (Oct. 23, 2018) ("SLB 14J"), the Staff provided a

non-exclusive list of factors a board might consider in arriving at its conclusion that an issue is not sufficiently significant in relation to the company. In addition, the Staff stated that a company's request for exclusion should "include a discussion that reflects the board's analysis of the proposal's significance to the company" and should detail "the specific processes employed by the board to ensure that its conclusions are well-informed and well-reasoned." See SLB 14I; *see also Apple Inc.* (Dec. 2, 2019 *recon. denied* Jan. 17, 2020) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting a report on risks associated with omitting certain terms from its equal employment opportunity policy, where the board's nominating and corporate governance committee analyzed the proposal and concluded that it did not present a significant policy issue for the company). In addition, in Staff Legal Bulletin No. 14K (Oct. 16, 2019) ("SLB 14K") the Staff reiterated its view of the utility of a board analysis and provided further guidance on certain factors in such analysis

We are also aware that in the past the Staff has declined to permit exclusion under Rule 14a-8(i)(7) of proposals similar to the Proposal when companies have not provided a board analysis of whether the particular policy issued raised by the proposal was sufficiently significant in relation to the company. *See, e.g., Citigroup Inc.* (Feb. 25, 2020)*; *BlackRock Inc.* (Feb. 25, 2020)*; *Bank of America Corp.* (Feb. 12, 2020)*; *The Goldman Sachs Group, Inc.* (Dec. 30, 2019)*.

In this instance, the Committee evaluated the Proposal and concluded it does not present a significant issue to Johnson & Johnson. In particular, at a meeting held on November 30, 2020, the Committee reviewed the Proposal, the BRT Statement, the Credo and the Standards and determined that no additional action or assessment is required, as Johnson & Johnson already adheres to and operates in accordance with the principles set forth in the Credo, which are in accordance with the principles set forth in the BRT Statement, with oversight and guidance by the Board. Accordingly, the Committee determined that the BRT Statement does not subject Johnson & Johnson to any new commitments and therefore the Proposal does not present a significant issue to Johnson & Johnson and that no further action would be required by the Proposal. In reaching this conclusion, the Committee reviewed the following factors, as described in SLB 14J and 14K, and made the following determinations.

1. *Any differences between the Proposal's specific request and Johnson & Johnson's actions are insignificant.*

As described in SLB 14K, the Committee considered "[w]hether the company has already addressed the issue in some manner, including the differences –

or the delta – between the proposal’s specific request and the actions the company has already taken, and an analysis of whether the delta presents a significant policy issue for the company.” After reviewing a form of the chart contained in pages 7, 8 and 9 of this letter, the Committee determined that the principles espoused in the BRT Statement are substantially similar to the principles that Johnson & Johnson already adhered to by virtue of the Credo and Standards, such that any differences are sufficiently minor as to be insignificant. As a result, the Committee determined that the Proposal does not present a significant issue to Johnson & Johnson. In this regard, we also note that to the extent the Proposal requests a reconciliation of current practices and commitments that do not align with the BRT Statement, such a request similarly does not present a significant issue because there effectively are no significant differences between Johnson & Johnson’s Credo and Standards and the BRT Statement.

2. *The Proposal has no bearing on Johnson & Johnson’s core business activities and financial statements.*

Further, because Johnson & Johnson already adheres to the Credo and Standards and there is little, if any, difference between the principles in the Credo and Standards and the principles embodied in the BRT Statement, implementation of the BRT Statement would not have an impact on Johnson & Johnson’s core business activities and financial statements.

3. *Shareholders have not demonstrated interest in the issue presented by the Proposal.*

Shareholder interest on matters relating to the Proposal has been nearly non-existent since the BRT Statement was released. Only one or two shareholders out of the more than 100 shareholders with whom Johnson & Johnson engages have expressed an interest in Johnson & Johnson’s views regarding the BRT Statement’s relevance to Johnson & Johnson.

4. *The issue presented by the Proposal has never been voted on.*

The Proposal has not been previously voted on by shareholders, nor has anyone other than the Proponent requested the type of action sought by the Proposal.

After determining that the BRT Statement does not subject Johnson & Johnson or the Board to any new commitments, the Committee determined that no actions are required by the Proposal and that the Proposal was not significant to Johnson & Johnson.

Accordingly, for the reasons discussed above, the Proposal should be excluded from Johnson & Johnson's 2021 proxy materials pursuant to Rule 14a-8(i)(7) as relating to Johnson & Johnson's ordinary business operations.

VI. Conclusion

Based upon the foregoing analysis, Johnson & Johnson respectfully requests that the Staff concur that it will take no action if Johnson & Johnson excludes the Proposal from its 2021 proxy materials.

Should the Staff disagree with the conclusions set forth in this letter, or should any additional information be desired in support of Johnson & Johnson's position, we would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response. Please do not hesitate to contact the undersigned at (202) 371-7233.

Very truly yours,



Marc S. Gerber

Enclosures

cc: Matthew Orlando
Worldwide Vice President, Corporate Governance and Corporate Secretary
Johnson & Johnson

Justin Danhof
General Counsel
The National Center for Public Policy Research

EXHIBIT A

(see attached)



November 5, 2020

Via FedEx to

Matthew Orlando
Corporate Secretary
Office of the Corporate Secretary
One Johnson & Johnson Plaza
New Brunswick, New Jersey 08933

Dear Mr. Orlando,

I hereby submit the enclosed shareholder proposal ("Proposal") for inclusion in the Johnson & Johnson Inc. (the "Company") proxy statement to be circulated to Company shareholders in conjunction with the next annual meeting of shareholders. The Proposal is submitted under Rule 14(a)-8 (Proposals of Security Holders) of the United States Securities and Exchange Commission's proxy regulations.

I submit the Proposal as the Deputy Director of the Free Enterprise Project of the National Center for Public Policy Research, which has continuously owned Company stock with a value exceeding \$2,000 for a year prior to and including the date of this Proposal and which intends to hold these shares through the date of the Company's 2021 annual meeting of shareholders. A Proof of Ownership letter is forthcoming and will be delivered to the Company.

Copies of correspondence or a request for a "no-action" letter should be forwarded to Justin Danhof, Esq. General Counsel, National Center for Public Policy Research, 20 F Street, NW, Suite 700, Washington, DC 20001 and emailed to JDanhof@nationalcenter.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Shepard", with a stylized flourish at the end.

Scott Shepard

Enclosure: Shareholder Proposal

Report on Company's Involvement with Business Roundtable "Statement on the Purpose of a Corporation"

Whereas, our Company's Chief Executive Officer (CEO) Alex Gorsky signed a Business Roundtable (BRT) "Statement on the Purpose of a Corporation," (Statement) in August 2019, committing our Company to serve all stakeholders – including employees, customers, supply chains, communities where we operate – and shareholders.¹

Existing governance documents evolved in the still legally mandated system of shareholder primacy, but the Statement articulates a new purpose, moving away from shareholder primacy and including commitment to all stakeholders. The Statement may or may not be beneficial to associate with our brand, but as company policy, it may conflict with existing corporate law unless, and possibly even if, it is integrated into Company governance documents, including bylaws, articles of incorporation, and/or committee charters.

A stakeholder model would shift corporate focus from value creation to concerns generally referred to as Environmental, Social and Governance (ESG) issues. CEO Gorsky works hard to ensure Company commitment such causes.² Under his leadership, in 2018 we ranked first on DiversityInc.'s top companies list. "Gorsky stress[s] that prioritizing diversity and inclusion is critical to our future," and "encourage[es] a diversity of opinion by different members [which] really makes sure that you have thought through the implications" of corporate actions.³

For consistency and the avoidance of legal risk, our Company should not endorse positions with which it has not or cannot conform itself. We currently engage in actions that seem to contradict the Statement. Just two examples:

- An Oklahoma court has recently found our Company guilty of under-considering customer-stakeholder concerns by "fueling the state's opioid crises." It "ordered the corporation to pay \$572 million ... one of the biggest monetary awards in U.S. history."⁴

And

- Our Company has been referred to as America's "most admired lawbreaker" because of a string of transgressions against a vast array of stakeholder interests stretching back to our Company's founding.⁵

¹ <https://opportunity.businessroundtable.org/ourcommitment/>

² <https://www.jnj.com/our-company/8-things-you-might-not-know-about-chairman-and-ceo-alex-gorsky>

³ *Id.*

⁴ <https://www.cbsnews.com/news/johnson-johnson-opioid-verdict-company-found-guilty-in-oklahoma-by-district-judge-in-opioid-abuse-lawsuit/>

⁵ <https://highline.huffingtonpost.com/miracleindustry/americas-most-admired-lawbreaker/>

And while the Statement implies accountability to stakeholders, without clear mechanisms in place to implement the Purpose, this broadened standard could reduce real accountability to shareholders and all stakeholders generally and in effect, result in genuine accountability to none. This would violate both the letter and the spirit of the Statement.

Resolved: Shareholders request our Board prepare a report based on a review of the BRT Statement of the Purpose of a Corporation, signed by our Chief Executive Officer, and provide the board's perspective regarding whether and how our Company's governance and management systems can or must be altered to fully implement the Statement of Purpose, and what our Company should do if the Statement cannot be reconciled with current practices and commitments. The report may include the Board's perspective on benefits and drawbacks of the options considered, as well as the Board's recommendations.

Supporting Statement

Given the Company's inconsistent actions related to the Statement of Purpose, the Board might after full investigation consider the option of rescinding the CEO's signature and Company's name from that document.



MATTHEW ORLANDO
WORLDWIDE VICE PRESIDENT
CORPORATE GOVERNANCE
CORPORATE SECRETARY

ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-0026
(732) 524-3292
FAX: (732) 524-2185
MORLAND3@ITS.JNJ.COM

November 10, 2020

VIA EMAIL

Justin Danhof, Esq.
General Counsel
National Center for Public Policy Research
Jdanhof@nationalcenter.org

Dear Mr. Danhof:

This letter acknowledges receipt by Johnson & Johnson, on November 9, 2020, of the shareholder proposal submitted by National Center for Public Policy Research (the “Proponent”) pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the “Rule”), for consideration at the Company’s 2021 Annual Meeting of Shareholders (the “Proposal”).

Paragraph (b) of the Rule provides that shareholder proponents must submit sufficient proof of their continuous ownership of at least \$2,000 in market value, or 1%, of a company’s shares entitled to vote on the proposal for at least one year preceding and including the date the shareholder proposal was submitted, which was November 5, 2020. The Company’s stock records do not indicate that the Proponent is a record owner of Company shares, and to date, we have not received sufficient proof that the Proponent has satisfied the Rule’s ownership requirements.

Accordingly, please furnish to us, within 14 days of your receipt of this letter, a written statement from the “record” holder of the Proponent’s shares (usually a broker or a bank) and a participant in the Depository Trust Company (“DTC”) verifying that the Proponent beneficially owned the requisite number of Company shares continuously for at least the one-year period preceding, and including, November 5, 2020, the date the Proposal was submitted. The Proponent can confirm whether a particular broker or bank is a DTC participant by asking the broker or bank or by checking DTC’s participant list, which is currently available on the Internet at: <http://www.dtcc.com/client-center/dtc-directories>.

If the Proponent’s broker or bank is not on the DTC participant list, the Proponent will need to obtain a written statement from the DTC participant through which the Proponent’s shares are held verifying that the Proponent beneficially owned the requisite

number of Company shares continuously for at least the one-year period preceding, and including, November 5, 2020, the date the Proposal was submitted. The Proponent should be able to find who this DTC participant is by asking the Proponent's broker or bank. If the broker is an introducing broker, the Proponent may also be able to learn the identity and telephone number of the DTC participant through the Proponent's account statements, because the clearing broker identified on the account statements will generally be a DTC participant. If the DTC participant knows the Proponent's broker or bank's holdings, but does not know the Proponent's holdings, the Proponent can satisfy the proof of ownership requirement by obtaining and submitting two proof of ownership statements verifying that, for at least the one-year period preceding and including November 5, 2020, the required amount of securities was continuously held – one from the Proponent's broker or bank confirming the Proponent's ownership, and the other from the DTC participant confirming the Proponent's broker or bank's ownership.

In addition, paragraph (d) of the Rule specifies that any shareholder proposal, including any accompanying supporting statement, may not exceed 500 words. We believe the Proposal contains more than 500 words. Accordingly, you must revise the Proposal so that it does not exceed 500 words.

The SEC's rules require that any response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to me at Johnson & Johnson, One Johnson & Johnson Plaza, New Brunswick, NJ 08933, Attention: Corporate Secretary. For your convenience, a copy of the Rule is enclosed.

Once we receive any response, we will be in a position to determine whether the Proposal is eligible for inclusion in the proxy materials for the Company's 2021 Annual Meeting of Shareholders. We reserve the right to seek relief from the Securities and Exchange Commission as appropriate.

In the interim, you should feel free to contact either my colleague, Renee Brutus, Assistant Corporate Secretary, at (732) 524-1531 or me at (732) 524-3292 if you wish to discuss the Proposal or have any questions or concerns that we can help to address.

Very truly yours,



Matthew Orlando

cc: Renee Brutus



Via FedEx

November 19, 2020

Matthew Orlando, Corporate Secretary
Johnson & Johnson
Office of the Corporate Secretary
One Johnson & Johnson Plaza
New Brunswick, New Jersey 08933

Dear Mr. Orlando,

Enclosed please find a Proof of Ownership letter from UBS Financial Services Inc. in connection with the shareholder proposal submitted under Rule 14(a)-8 (Proposals of Security Holders) of the United States Securities and Exchange Commission's proxy regulations by the National Center for Public Policy Research to Johnson & Johnson on November 5, 2020.

Copies of correspondence or a request for a "no-action" letter should be forwarded to Justin Danhof, Esq., General Counsel, National Center for Public Policy Research, 20 F Street, NW, Suite 700, Washington, DC 20001 and emailed to JDanhof@nationalcenter.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Danhof", with a stylized flourish at the end.

Justin Danhof, Esq.

Enclosure: UBS Ownership Verification Letter



UBS Financial Services Inc.
1000 Harbor Boulevard
Weehawken, NJ 07086
Tel. 877-827-7870
FAX 877-785-8404

UBS Wealth Advice Center

www.ubs.com

Matthew Orlando, Corporate Secretary
Office of the Corporate Secretary
One Johnson & Johnson Plaza
New Brunswick, New Jersey 08933

November 19, 2020

Confirmation: Information regarding the account of The National Center for Public Policy Research

Dear Mr. Orlando,

The following client has requested UBS Financial Services Inc. to provide you with a letter of reference to confirm its banking relationship with our firm.

The National Center for Public Policy Research has been a valued client of ours since October 2002 and as of the close of business on 11/05/2020, the National Center for Public Research held, and has held continuously for at least one year 145 shares of Johnson & Johnson common stock. UBS continues to hold the said stock.

Please be aware this account is a securities account not a "bank" account. Securities, mutual funds, and other non-deposit investment products are not FDIC-insured or bank guaranteed and are subject to market fluctuation.

Questions

If you have any questions about this information, please contact Reese Bickham at (844) 964-0333.

UBS Financial Services is a member firm of the Securities Investor Protection Corporation (SIPC).

Sincerely

Catherine R Bickham

Catherine Reese Bickham
Financial Advisor
UBS Financial Services Inc.

EXHIBIT B

(see attached)

Statement on the Purpose of a Corporation

Americans deserve an economy that allows each person to succeed through hard work and creativity and to lead a life of meaning and dignity. We believe the free-market system is the best means of generating good jobs, a strong and sustainable economy, innovation, a healthy environment and economic opportunity for all.

Businesses play a vital role in the economy by creating jobs, fostering innovation and providing essential goods and services. Businesses make and sell consumer products; manufacture equipment and vehicles; support the national defense; grow and produce food; provide health care; generate and deliver energy; and offer financial, communications and other services that underpin economic growth.

While each of our individual companies serves its own corporate purpose, we share a fundamental commitment to all of our stakeholders. We commit to:

- Delivering value to our customers. We will further the tradition of American companies leading the way in meeting or exceeding customer expectations.
- Investing in our employees. This starts with compensating them fairly and providing important benefits. It also includes supporting them through training and education that help develop new skills for a rapidly changing world. We foster diversity and inclusion, dignity and respect.
- Dealing fairly and ethically with our suppliers. We are dedicated to serving as good partners to the other companies, large and small, that help us meet our missions.
- Supporting the communities in which we work. We respect the people in our communities and protect the environment by embracing sustainable practices across our businesses.
- Generating long-term value for shareholders, who provide the capital that allows companies to invest, grow and innovate. We are committed to transparency and effective engagement with shareholders.

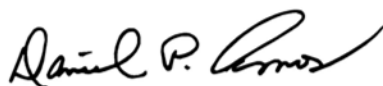
Each of our stakeholders is essential. We commit to deliver value to all of them, for the future success of our companies, our communities and our country.

Released: August 19, 2019

Signatures Updated: September 2019, December 2019, February 2020, April 2020, June 2020, August 2020, September 2020 and October 2020.



Kevin J. Wheeler
President & Chief Executive
Officer
A. O. Smith Corporation



Daniel P. Amos
Chairman and CEO
Aflac



Nicholas K. Akins
Chairman, President and CEO
American Electric Power



Robert Ford
President and Chief
Executive Officer
Abbott



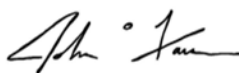
Roger K. Newport
Chief Executive Officer
AK Steel Corporation



Stephen J. Squeri
Chairman and CEO
American Express



Julie Sweet
Chief Executive Officer
Designate
Accenture



John O. Larsen
Chairman, President & CEO
Alliant Energy



Thomas Bartlett
President and Chief Executive
Officer
American Tower Corporation



Carlos Rodriguez
President and CEO
ADP



Lee Styslinger, III
Chairman & CEO
Altec, Inc.



James M. Cracchiolo
Chairman and Chief
Executive Officer
Ameriprise Financial



Mike Burke
Chairman and CEO
AECOM



Jeffrey P. Bezos
Founder and Chief
Executive Officer
Amazon



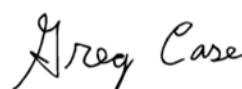
Gail Koziara Boudreaux
President and CEO
Anthem, Inc.



Andrés Gluski
President and CEO
The AES Corporation



Doug Parker
Chairman & CEO
American Airlines



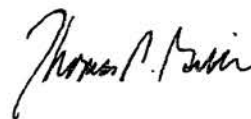
Greg Case
CEO
Aon



Tim Cook
CEO
Apple



Brian Moynihan
Chairman and CEO
Bank of America



Todd Gibbons
Chief Executive Officer
BNY Mellon



Eric Foss
Chairman, President & CEO
Aramark



José (Joe) E. Almeida
Chairman, President and Chief
Executive Officer
Baxter International Inc.



Frédéric B. Lissalde
President and Chief
Executive Officer
BorgWarner Inc.



Alan B. Colberg
President and CEO
Assurant



Philip Blake
President Bayer USA
Bayer USA



Rich Lesser
CEO
Boston Consulting Group



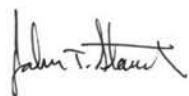
Randall Stephenson
Chairman and Chief
Executive Officer
AT&T Inc.



Brendan P. Bechtel
Chairman & CEO
Bechtel Group, Inc.



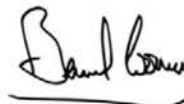
Robert Dudley
Group CEO
BP plc



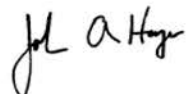
John Stankey
Chief Executive Officer
AT&T Inc.



Corie Barry
Chief Executive Officer
Best Buy Co., Inc.



Bernard Looney
Chief Executive Officer
BP



John A. Hayes
Chairman, President
and CEO
Ball Corporation



Laurence D. Fink
Chairman and Chief
Executive Officer
BlackRock, Inc.



Giovanni Caforio
Chairman and Chief
Executive Officer
Bristol Myers Squibb



Bob Biesterfeld
President and Chief
Executive Officer
C.H. Robinson Worldwide



Maurice R. Greenberg
Chairman and CEO
C.V. Starr & Co., Inc.



Kewsong Lee
Co-Chief Executive Officer
The Carlyle Group



David Gitlin
President and Chief
Executive Officer
Carrier Global Corporation



D. James Umpleby III
Chairman and Chief
Executive Officer
Caterpillar, Inc.



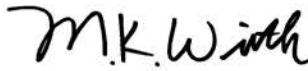
Robert E. Sulentic
President & CEO
CBRE Group, Inc.



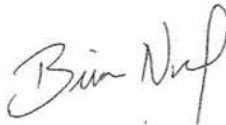
Michael F. Neidorff
Chairman, President, and CEO
Centene Corporation



W. Anthony Will
President & Chief
Executive Officer
CF Industries



Michael K. Wirth
Chairman and Chief Executive
Officer
Chevron Corporation



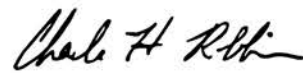
Brian Niccol
Chairman and Chief Executive
Officer
Chipotle Mexican Grill



Evan G. Greenberg
Chairman & CEO
Chubb



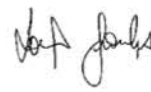
David M. Cordani
President and Chief
Executive Officer
Cigna



Chuck Robbins
Chairman and CEO
Cisco Systems, Inc.



Michael L. Corbat
Chief Executive Officer
Citigroup, Inc.



Lourenco Goncalves
Chairman, President and Chief
Executive Officer
Cleveland-Cliffs, Inc.



Hubertus M. Mühlhäuser
Chief Executive Officer
CNH Industrial



James Quincey
Chairman and Chief
Executive Officer
The Coca-Cola Company



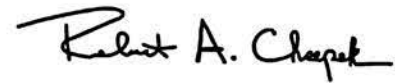
Brian Humphries
Chief Executive Officer
Cognizant



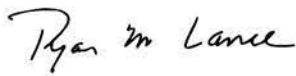
Brian L. Roberts
Chairman & CEO
Comcast Corporation



Larry Merlo
President & CEO
CVS Health



Bob Chapek
Chief Executive Officer
The Walt Disney Company



Ryan M. Lance
Chairman & CEO
ConocoPhillips Company



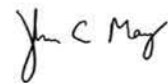
Hal Yoh
Chair and CEO
Day & Zimmermann



Jim Fitterling
Chief Executive Officer
Dow



Wendell P. Weeks
Chairman, Chief Executive
Officer & President
Corning Incorporated



John May
Chief Executive Officer
Deere & Company



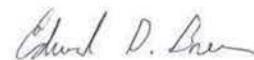
Lynn Good
Chairman, President & CEO
Duke Energy



James C. Collins, Jr.
Chief Executive Officer
Corteva Agriscience



Michael S. Dell
Chairman and CEO
Dell Technologies



Ed Breen
Executive Chair of the Board &
CEO
DuPont de Nemours, Inc.



Tom Linebarger
Chairman and CEO
Cummins Inc.



Punit Renjen
Global CEO
Deloitte



JM Lawrie
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DXC Technology



Brett White
Executive Chairman & CEO
Cushman & Wakefield



Ed Bastian
Chief Executive Officer
Delta Air Lines, Inc.



Mike Salvino
President and Chief Executive
Officer
DXC Technology



Mark J. Costa
Chairman and CEO
Eastman Chemical Company



Carmine Di Sibio
Global Chairman & CEO
EY



James "Jim" D. Farley, Jr.
President and Chief Executive
Officer
Ford Motor Company



Craig Arnold
Chairman and CEO
EATON



Frederick W. Smith
Chairman & CEO
FedEx Corporation



Lachlan K. Murdoch
Executive Chairman & CEO
Fox Corporation



Pedro J. Pizarro
President & CEO
Edison International



Gary Norcross
Chairman, President & CEO
FIS



Richard C. Adkerson
Vice Chairman, President and
Chief Executive Officer
Freeport-McMoRan Inc.



David A. Ricks
Chairman and Chief
Executive Officer
Eli Lilly and Company



Revathi Advaiti
Chief Executive Officer
Flex



Sonia Syngal
Chief Executive Officer
Gap Inc.



Christopher M. Crane
President and Chief
Executive Officer
Exelon Corporation



Carlos M. Hernandez
Chief Executive Officer
Fluor Corporation



Phebe Novakovic
Chairman and CEO
General Dynamics Corporation




Darren W. Woods
Chairman and CEO
Exxon Mobil Corporation



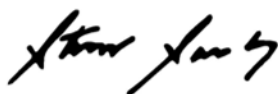
James P. Hackett
President and CEO
Ford Motor Company



Mary Barra
Chairman & CEO
General Motors Company



David M. Solomon
Chairman and Chief
Executive Officer
The Goldman Sachs Group,
Inc



Steven R. Swartz
President and CEO
HEARST Corporation



Ginni Rometty
Chairman, President, and Chief
Executive Officer
IBM Corporation



Bradley J. Preber
Interim CEO
Grant Thornton LLP



Craig Menear
Chairman, CEO and President
The Home Depot



Arvind Krishna
Chief Executive Officer
IBM Corporation




Deanna M. Mulligan
President and CEO
Guardian Life Insurance
Company of America



Darius Adamczyk
Chairman and CEO
Honeywell



Charles Phillips
Chief Executive Officer
Infor



Gerald W. Evans
CEO
Hanesbrands Inc.




Enrique Lores
President and CEO
HP Inc.



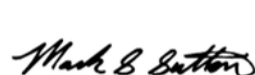
Robert H. Swan
Chief Executive Officer
Intel Corporation



Stephen B. Bratspies
Chief Executive Officer
Hanesbrands Inc.



Bruce Broussard
President and CEO
Humana Inc.



Mark S. Sutton
Chairman and CEO
International Paper Co.



Dinesh C. Paliwal
President and Chief
Executive Officer
HARMAN International



Mike Petters
President and Chief Executive
Officer
Huntington Ingalls Industries



Michael I. Roth
Chairman and Chief Executive
Officer
Interpublic Group



Linda H. Apsey
President & CEO
ITC Holdings Corp.

Beth E. Mooney
Chairman & CEO
KeyCorp



William M. Brown
Chairman & Chief
Executive Officer
L3Harris Technologies, Inc.



Steve Demetriou
Chair and CEO
Jacobs



Christopher M. Gorman
Chairman, Chief Executive
Officer, and President
KeyCorp



Beth E. Ford
President and CEO
Land O'Lakes, Inc.



Samuel R. Allen
Chairman and CEO
John Deere



Bruce E. Grewcock
CEO and Chairman of the
Board
Kiewit Corporation



Roger A. Krone
Chairman and Chief
Executive Officer
Leidos



Alex Gorsky
Chairman of the Board
and Chief Executive
Officer
Johnson & Johnson



Michael Hsu
Chairman of the Board and
Chief Executive Officer
Kimberly-Clark



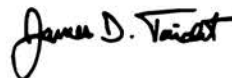
Stuart Miller
Executive Chairman
Lennar Corporation



George R. Oliver
Chairman and CEO
Johnson Controls



Bill Thomas
Global Chairman and CEO
KPMG LLP



James D. Taiclet
President and Chief Executive
Officer
Lockheed Martin Corporation



Jamie Dimon
Chairman and CEO
JPMorgan Chase & Co.



Lynne M. Doughtie
Chairman and CEO
KPMG LLP



Marillyn A. Hewson
Chairman, President and CEO
Lockheed Martin Corporation



Bhavesh V. (Bob) Patel
Chief Executive Officer
LyondellBasell Industries



Arne M. Sorenson
President and Chief
Executive Officer
Marriott International, Inc.



Kevin Sneader
Global Managing Partner
McKinsey & Company



Jeff Gennette
Chairman & Chief
Executive Officer
Macy's, Inc.



Roger W. Crandall
Chairman, President & Chief
Executive Officer
MassMutual



Geoffery S. Martha
Chief Executive Officer
Medtronic, Inc.



Mark Trudeau
President and CEO
Mallinckrodt Pharmaceuticals



Ajay Banga
President & CEO
Mastercard



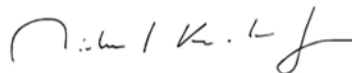
Omar Ishrak
Chairman & CEO
Medtronic plc



Lee M. Tillman
Chairman, President and CEO
Marathon Oil Corporation



Ynon Kreiz
Chairman and Chief
Executive Officer
Mattel, Inc.



Michel Khalaf
President & Chief
Executive Officer
MetLife



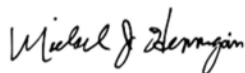
Gary R. Heminger
Chairman and CEO
Marathon Petroleum
Corporation



Lawrence E. Kurzius
Chairman, President and CEO
McCormick and Company,
Inc.



Sanjay Mehrotra
President & CEO
Micron Technology



Michael Hennigan
President and CEO
Marathon Petroleum
Corporation



Brian Tyler
Chief Executive Officer
McKesson Corporation



Satya Nadella
Chief Executive Officer
Microsoft Corporation

Ken Moelis
Chairman & CEO
Moelis & Company

Ted Mathas
Chairman, President and CEO
New York Life Insurance Co.

Brian Chambers
President and Chief Executive
Officer
Owens Corning

Raymond McDaniel Jr.
President and Chief Executive
Officer
Moody's

David L. Stover
Chairman and CEO
Noble Energy, Inc.

Dan Shulman
President and Chief Executive
Officer
PayPal, Inc.

James P. Gorman
Chairman & CEO
Morgan Stanley

Kathy Warden
Chairman, Chief Executive
Officer and President
Northrop Grumman Corporation

Ramon Laguarta
Chairman and CEO
PepsiCo

Greg Brown
Chairman & CEO
Motorola Solutions

Steve Fisher
President & CEO
Novelis

Dr. Albert Bourla
Chief Executive Officer
Pfizer Inc.

Adena T. Friedman
President and CEO
Nasdaq

Mauricio Gutierrez
President & CEO
NRG Energy, Inc.

Greg C. Garland
Chairman and CEO
Phillips 66

Thomas C. Nelson
Chairman, President & CEO
National Gypsum Company

Safra Catz
CEO
Oracle

Marc B. Lautenbach
President and Chief Executive
Officer
Pitney Bowes



Daniel J. Houston
Chairman, President
and CEO
Principal



Gregory J. Hayes
Chief Executive Officer
Raytheon Technologies
Corporation



Christian Klein
Chief Executive Officer
SAP



David S. Taylor
Chairman of the Board,
President and Chief
Executive Officer
The Procter & Gamble
Company



Thomas A. Kennedy
Chairman & CEO
Raytheon Company

Bill McDermott
Chief Executive Officer
SAP



Tricia Griffith
President & CEO
Progressive Corporation



Blake D. Moret
Chairman and Chief
Executive Officer
Rockwell Automation



Jim Goodnight
CEO
SAS Institute



Bob Moritz
Chairman
PwC



Douglas L. Peterson
President and CEO
S&P Global



Tamara L. Lundgren
President and Chief Executive
Officer
Schnitzer Steel Industries, Inc.



Steve Mollenkopf
Chief Executive Officer
Qualcomm Incorporated



Marc Benioff
Chair & Chief Executive
Officer
Salesforce



Jeffrey W. Martin
Chairman & CEO
Sempra Energy



Earl C. Austin, Jr.
President and Chief
Executive Officer
Quanta Services



Keith Block
Co-CEO
Salesforce



Lisa Davis
CEO
Siemens Corporation USA



Egon Durban
Silver Lake



Kevin Lobo
Chairman & CEO
Stryker



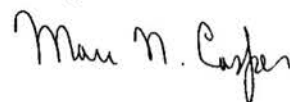
Richard K. Templeton
Chairman, President and
Chief Executive Officer
Texas Instruments
Incorporated



Stewart Butterfield
Co-Founder and Chief
Executive Officer
Slack Technologies, Inc.



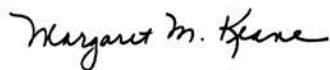
John F. Fish
Chairman & CEO
Suffolk



Marc N. Casper
Thermo Fisher Scientific
Chairman, President and Chief
Executive Officer



Thomas A. Fanning
Chairman, President
and CEO
Southern Company



Margaret M. Keane
Chief Executive Officer and
Member of the Board of
Directors
Synchrony



Rob Speyer
President & CEO
Tishman Speyer



James M. Loree
President & Chief
Executive Officer
Stanley Black & Decker



Brian Cornell
Chairman & CEO
Target



Hal Lawton
President and Chief Executive
Officer
Tractor Supply Company



Michael L. Tipsord
Chairman, President &
Chief Executive Officer
State Farm



Russell K. Girling
President and Chief
Executive Officer
TC Energy



Alan D. Schnitzer
Chairman and Chief
Executive Officer
The Travelers Companies Inc.



James P. Keane
President and CEO
Steelcase Inc.



LeRoy T. Carlson, Jr.
CEO
Telephone & Data Systems, Inc.



M. Troy Woods
Chairman, President & CEO
TSYS



Peter J. Davoren
President & CEO
Turner Construction Co.



David Abney
Chairman and Chief Executive
Officer
UPS



Robert F. Smith
Founder, Chairman and CEO
Vista Equity Partners



Lance M. Fritz
Chairman, President & CEO
Union Pacific



Stuart Parker
CEO
USAA



Curt Morgan
President & CEO
Vistra Energy



Scott Kirby
Chief Executive Officer
United Airlines



Wayne Peacock
President and Chief Executive
Officer
USAA



Stefano Pessina
Executive Vice Chairman
and CEO
Walgreens Boots Alliance



Oscar Munoz
Chief Executive Officer
United Airlines



Mortimer J. Buckley
Chairman & CEO
Vanguard



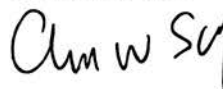
Doug McMillon
President and CEO
Walmart, Inc.



Gregory J. Hayes
Chairman & CEO
United Technologies
Corporation



Scott G. Stephenson
Chairman, President and Chief
Executive Officer
Verisk Analytics



Charles W. Scharf
Chief Executive Officer and
President
Wells Fargo



Carol Tomé
Chief Executive Officer
UPS



Alfred F. Kelly, Jr.
Chairman and Chief Executive
Officer
Visa Inc.



John J. Engel
Chairman, President and CEO
WESCO International, Inc.



Hikmet Ersek
Chief Executive Officer
Western Union



Michael J. Kasbar
Chairman, President and CEO
World Fuel Services
Corporation



Michael Roman
Chairman of the Board and
Chief Executive Officer
3M



John F. Barrett
Chairman, President & CEO
Western & Southern
Financial Group



Jim Kavanaugh
CEO
World Wide Technology



Marc Bitzer
Chairman and Chief
Executive Officer
Whirlpool Corporation



John Visentin
Vice Chairman and Chief
Executive Officer
Xerox Corporation



Alan S. Armstrong
President and Chief
Executive Officer
The Williams Companies,
Inc.



Patrick Decker
President and CEO
Xylem Inc.



Abidali Z. Neemuchwala
CEO & Managing Director
Wipro Limited



Anders Gustafsson
Chief Executive Officer
Zebra Technologies
Corporation



Aneel Bhusri
Co-Founder & CEO
Workday, Inc.



Kristin Peck
Chief Executive Officer
Zoetis Inc.

EXHIBIT C

(see attached)

Our Credo

We believe our first responsibility is to the patients, doctors and nurses, to mothers and fathers and all others who use our products and services. In meeting their needs everything we do must be of high quality. We must constantly strive to provide value, reduce our costs and maintain reasonable prices. Customers' orders must be serviced promptly and accurately. Our business partners must have an opportunity to make a fair profit.

We are responsible to our employees who work with us throughout the world. We must provide an inclusive work environment where each person must be considered as an individual. We must respect their diversity and dignity and recognize their merit. They must have a sense of security, fulfillment and purpose in their jobs. Compensation must be fair and adequate and working conditions clean, orderly and safe. We must support the health and well-being of our employees and help them fulfill their family and other personal responsibilities. Employees must feel free to make suggestions and complaints. There must be equal opportunity for employment, development and advancement for those qualified. We must provide highly capable leaders and their actions must be just and ethical.

We are responsible to the communities in which we live and work and to the world community as well. We must help people be healthier by supporting better access and care in more places around the world. We must be good citizens — support good works and charities, better health and education, and bear our fair share of taxes. We must maintain in good order the property we are privileged to use, protecting the environment and natural resources.

Our final responsibility is to our stockholders. Business must make a sound profit. We must experiment with new ideas. Research must be carried on, innovative programs developed, investments made for the future and mistakes paid for. New equipment must be purchased, new facilities provided and new products launched. Reserves must be created to provide for adverse times. When we operate according to these principles, the stockholders should realize a fair return.

Johnson & Johnson

EXHIBIT D

(see attached)

Responsibility Standards for Suppliers

2017

Our Credo

We believe our first responsibility is to the doctors, nurses and patients, to mothers and fathers and all others who use our products and services. In meeting their needs everything we do must be of high quality. We must constantly strive to reduce our costs in order to maintain reasonable prices. Customers' orders must be serviced promptly and accurately. Our suppliers and distributors must have an opportunity to make a fair profit.

We are responsible to our employees, the men and women who work with us throughout the world. Everyone must be considered as an individual. We must respect their dignity and recognize their merit. They must have a sense of security in their jobs. Compensation must be fair and adequate, and working conditions clean, orderly and safe. We must be mindful of ways to help our employees fulfill their family responsibilities. Employees must feel free to make suggestions and complaints. There must be equal opportunity for employment, development and advancement for those qualified. We must provide competent management, and their actions must be just and ethical.

We are responsible to the communities in which we live and work and to the world community as well. We must be good citizens — support good works and charities and bear our fair share of taxes. We must encourage civic improvements and better health and education. We must maintain in good order the property we are privileged to use, protecting the environment and natural resources.

Our final responsibility is to our stockholders. Business must make a sound profit. We must experiment with new ideas. Research must be carried on, innovative programs developed and mistakes paid for. New equipment must be purchased, new facilities provided and new products launched. Reserves must be created to provide for adverse times. When we operate according to these principles, the stockholders should realize a fair return.

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Guiding Principles

The Companies that comprise the Johnson & Johnson Family of Companies (Johnson & Johnson Companies) hold themselves to high standards that, along with our management philosophy, are embodied in Our Credo. These Standards reflect our internal values and the expectations of external stakeholders, such as customers, regulators, investors and the public. We find business relationships are more productive and effective when they are built on trust, mutual respect and common values, and seek relationships with suppliers who share a common commitment to:

- 1 | Comply with applicable laws and regulations;
- 2 | Behave ethically and with integrity;
- 3 | Integrate quality into business processes;
- 4 | Respect human and employment rights;
- 5 | Promote the safety, health and well-being of employees;
- 6 | Embrace sustainability and operate in an environmentally responsible manner;
- 7 | Implement management systems to maintain business continuity, performance governance and continuous improvement; and
- 8 | Disclose information associated with the supplier's impact on the environment and social issues



We believe that when these guiding principles are followed, both businesses and communities realize economic, social and environmental benefits. We developed the following set of Standards to assist us with selecting suppliers who operate in a manner consistent with these guiding principles and to support our suppliers in understanding and upholding our expectations. We strive to include elements of these Standards in purchasing contracts, and may take steps to assess a supplier's conformance to them. When appropriate, Johnson & Johnson Companies may work with suppliers to identify agreed upon actions and timelines to achieve improvement. Johnson & Johnson Companies consider progress in meeting these expectations and ongoing performance in their sourcing decisions.



Legal Compliance

Suppliers to Johnson & Johnson Companies are expected to operate in compliance with all applicable laws and regulations of the countries, states and localities in which they operate. This includes laws and regulations related to ethical business practices, quality, labor and employment practices, as well as health, safety and environmental protection. Suppliers are also expected to conform their practices to generally accepted industry standards, obtain and maintain all applicable permits, licenses and registrations, and operate in accordance with permit limitations and requirements at all times.



Ethics and Business Conduct

Suppliers to Johnson & Johnson Companies are expected to behave ethically and with integrity in all business transactions. As such, they shall:

- Uphold standards for fair business practices including accurate and truthful advertising, and fair competition;
- Prohibit the payment of bribes, illegal political contributions, or other illicit payments or consideration for any reason, including the waiver of penalties or fines or the receipt of any other special benefits or gifts;
- Prohibit financial or professional conflicts of interest;
- Ensure that workers report concerns or illegal activities in the workplace without threat of reprisal, intimidation or harassment;
- Safeguard against improper use of intellectual property, including disclosure of confidential or sensitive information, including pricing, employee and patient information;
- Maintain an environment of transparency, collaboration and innovation; and
- Treat any animals used in its activities in an ethical and humane manner and follow the principles of replacement, refinement and reduction of laboratory research animal testing.



Quality

Suppliers to Johnson & Johnson Companies are expected to provide goods and services that consistently meet customers' needs, are safe for their intended use and perform as intended. While suppliers must meet the specifications agreed upon in the applicable agreement, purchase order or other contractual relationship, suppliers must also meet certain minimum quality requirements including compliance with regulations where their products may be sold. As such, they shall:

- Establish and maintain Quality controls to protect the integrity of the goods and services provided;
- Notify the relevant Johnson & Johnson Company of proposed changes to specifications, methods, suppliers, materials/components, manufacturing/supply process, manufacturing location or equipment in order to determine impact on the Johnson & Johnson Company's Product;
- Permit the relevant Johnson & Johnson Company or an authorized delegate to conduct Quality audits of the facilities, systems and/or documents related to the goods and services provided, and promptly provide responses and take corrective actions to remedy any observations cited;
- Notify the relevant Johnson & Johnson Company of significant Health Authority inspections and regulatory issues, such as: warning letters, FDA form 483 observations, letters of non-compliance, seizures and injunctions, including any observations related to the products of any Johnson & Johnson Company; and
- Ensure that all pallets used to supply goods to any Johnson & Johnson Company comply with the Johnson & Johnson Pallet Policy.



Health, Safety and Well-being of Employees

Suppliers to Johnson & Johnson Companies are expected to maintain the workplace and any living quarters used to house employees in a clean, orderly and safe manner. As such, they shall:

- Provide necessary facilities (e.g., two means of egress to safely exit areas/buildings) and equipment (e.g., fire alarms and detection systems) to assure the health, safety and well-being of employees and visitors;
- Implement programs to protect workers and prevent or control employee exposures to workplace hazards including chemical, biological and physical hazards;
- Implement programs to manage processes safely and prevent catastrophic events;
- Implement programs that promote access to health programs that positively impact the health of employees;
- Identify potential emergency situations, implement preventive measures, and be prepared to execute emergency response procedures;
- Provide safety and health information related to hazardous materials and necessary occupational health and safety training; and
- Ensure that health and safety program requirements are consistent for contractors and subcontractors working at supplier's facilities.



Sustainability and Environmental Responsibility

Suppliers to Johnson & Johnson Companies are expected to operate in a sustainable and environmentally responsible manner. As such, they shall:

- Work to reduce the environmental impacts of their operations including natural resource consumption, materials sourcing, waste generation, wastewater discharges and air emissions;
- Implement programs to manage wastewater and air emissions ensuring compliance and protection of human health and the environment;
- Prevent accidental spills and releases of hazardous materials into the environment and adverse environmental impacts on the local community;
- Implement programs to manage solid waste(s) compliantly and responsibly in regard to the environment, employee safety and public health, from generation through collection, storage, transportation and ultimate disposal;
- Implement programs to ensure products do not contain restricted or banned materials; and
- Implement programs to verify that plant/forest materials and derivatives purchased are legally harvested and exported/imported.



Human Rights, Labor and Employment

Suppliers to Johnson & Johnson Companies are expected to treat people with dignity and respect. As such, they shall:

- Not engage in any form of human trafficking (for example, by using force, fraud or coercion to subject a person to involuntary servitude, peonage, debt bondage or slavery), procure commercial sex acts or use forced labor (for example, by knowingly providing labor from a person by threats of serious harm to that person or another person);
- Comply with the Johnson & Johnson Human Trafficking Policy;
- Not destroy, conceal, confiscate, or otherwise deny employees, contractors or subcontractors access to such person's identity or immigration documents, use misleading or fraudulent recruiting practices, use recruiters that do not comply with local labor laws in the country where the recruiting takes place, charge recruiting fees, expect workers to pay for a job, provide housing that does not meet the standards of the country where work is performed, or fail to provide an employment contract or recruitment agreement if required by law;
- Provide return transport for the person if supplier has transported or paid (directly or indirectly) to transport an employee, contractor or subcontractor from another country to the country where such employee will perform work;
- Ensure that employees have freedom of movement and are free to leave their employment after reasonable notice;



- Not discriminate against or harass an individual on the basis of race, color, religion, gender, pregnancy, HIV status, health status, sexual orientation, national origin, age, disability, veteran's status, marital status or political affiliation;
- Not treat or threaten to treat an individual harshly or inhumanely. Harsh or inhumane treatment includes sexual harassment or abuse, corporal punishment and/or coercion;
- Respect workers' rights to rest and leisure and avoid unsafe working conditions by providing sufficient rest periods during the workday, honor agreed upon days off from work and maximum working hours;
- Pay fair wages that meet or exceed legal minimum for all hours worked and clearly communicate the wages that employees are to be paid in advance of commencing work. Communicate to all employees if overtime is required and the wages to be paid for such overtime;
- Comply with the Johnson & Johnson Employment of Young Persons Policy;
- Respect workers' rights to make informed decisions free of coercion, threat of reprisal or unlawful interference regarding their desire to associate freely, join or not join organizations or to peaceful assembly;
- Respect workers' rights to bargain collectively without unlawful interference;
- Respect workers' rights to raise concerns in the workplace through a grievance mechanism; and
- Comply with requirements included in Johnson & Johnson's Statement on Conflict Minerals.



Management Systems

Suppliers to Johnson & Johnson Companies are expected to manage their activities systematically in order to maintain business continuity, meet the standards set forth in this document and to improve their operations continually. As such, they shall:

- Demonstrate senior management commitment and accountability through policies, objectives and formal processes;
- Implement processes to develop, maintain and control documents and records, as well as any appropriate compliance-related requirements;
- Implement and maintain processes and standards for data integrity and security to ensure that it is protected, complete and accurate;
- Provide resources, including competent personnel and appropriate infrastructure, to manage risks and ensure conformance to these Standards;
- Implement processes to control the production of products and/or materials for any Johnson & Johnson Company, manage change effectively and ensure customer requirements are satisfied;



- Implement processes to manage nonconformity, incident response and emergency situations related to products, business operations/continuity and these Standards, including the reporting of such events to applicable regulatory authorities and Johnson & Johnson Companies as appropriate;
- Identify and implement improvement goals, performance objectives and actions, including effective complaint investigation, internal audit and corrective action processes;
- Develop, implement and maintain training programs that achieve appropriate levels of knowledge, skills and abilities in management and workers to address these expectations;
- Assist in maintaining a safe and secure supply chain, by supplying authentic products manufactured through appropriate authorization and according to the requirements issued by any Johnson & Johnson Company; and
- Implement processes to extend applicable elements of these Standards to their own partners and suppliers.



Health Care Compliance & Privacy (HCC&P)

Suppliers to Johnson & Johnson Companies and any third party conducting business on our behalf are expected to uphold our strong stance against bribery and corruption, consistent with the anti-corruption laws that exist in many countries around the world. As such, in connection with any Johnson & Johnson relationship, they shall:

- Follow local and internationally applicable laws and ethical standards and strictly prohibit bribes, kickbacks, illegal payments and any other offer of items of value that may inappropriately influence or reward a customer to order, purchase or use our products and services, whether provided directly or through a third party, such as a distributor, customs broker or other agent;
- Avoid any other action that could inappropriately influence the medical decisions of health care professionals and the purchasing decisions of entities that buy our products and services, including health care professionals, government regulators and inspection authorities;
- Respect the privacy of employees and others whose personal information they have access to, by complying with local and applicable international laws when collecting and storing personal information about employees, business partners, patients, health care professionals, consumers and others, such as birth dates, addresses and financial, medical and other information; and
- Collect personal information only for legitimate business purposes, share only with those who are allowed access, protect in accordance with security policies, retain only for as long as necessary, and contractually obligate third parties with access to personal information to protect it.



Transparency and Disclosure

Suppliers to Johnson & Johnson Companies are expected to make reasonable efforts to publicly disclose topics and goals that are important to the organization's impact on the environment and social issues (e.g., on a website or publicly available report).



Monitoring and Compliance

Johnson & Johnson Companies may engage in monitoring activities to confirm a supplier's compliance to these Standards, including on-site assessments of facilities, use of questionnaires, review of available information or other measures necessary to review supplier's performance.

Johnson & Johnson Companies may disqualify any potential supplier or terminate any relationship with a current supplier that has failed to conform to these Standards.

For more information, please visit us at:
www.jnj.com/partners and healthforhumanityreport.jnj.com

This is the current version of the Johnson & Johnson Responsibility Standards for Suppliers, and it supersedes all previous versions.

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