



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549-4561

March 6, 2012

Brad Rock  
DLA Piper LLP (US)  
brad.rock@dlapiper.com

Re: Ross Stores, Inc.

Dear Mr. Rock:

This is in regard to your letter dated March 6, 2012 concerning the shareholder proposal submitted by The Humane Society of the United States for inclusion in Ross Stores' proxy materials for its upcoming annual meeting of security holders. Your letter indicates that the proponent has withdrawn the proposal and that Ross Stores therefore withdraws its January 25, 2012 request for a no-action letter from the Division. Because the matter is now moot, we will have no further comment.

Copies of all of the correspondence related to this matter will be made available on our website at <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml>. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Charles Kwon  
Special Counsel

cc: Andrew Page  
The Humane Society of the United States  
apage@humanesociety.org



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2000 University Avenue  
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Brad Rock  
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T 650.833.2111  
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March 6, 2012

VIA E-MAIL

OFFICE OF CHIEF COUNSEL  
DIVISION OF CORPORATION FINANCE  
SECURITIES AND EXCHANGE COMMISSION  
100 F STREET, N.E.  
WASHINGTON, DC 20549

Re: Ross Stores, Inc.  
Withdrawal of No-action Request and Notice of Intent to Omit from Proxy Materials the  
Shareholder Proposal of the Humane Society of the United States

Ladies and Gentlemen:

In a letter dated January 25, 2012, we requested that the Staff of the Division of Corporation Finance concur that our client, Ross Stores, Inc., a Delaware corporation ("**Ross Stores**" or the "**Company**"), could exclude from its proxy statement and form of proxy for its 2012 Annual Meeting of Stockholders (collectively, the "**2012 Proxy Materials**") a stockholder proposal (the "**Proposal**") and statements in support thereof received on December 6, 2011 from The Humane Society of the United States ("**HSUS**" or the "**Proponent**").

Enclosed as **Exhibit A** is a letter to the Company dated March 6, 2012 from Mr. Andrew Page, Senior Director of HSUS, which withdraws the Proposal submitted by HSUS. In reliance on this letter from HSUS, we hereby withdraw the January 25, 2012 no-action request relating to the Company's ability to exclude the Proposal from the 2012 Proxy Materials pursuant to Rule 14a-8 under the Exchange Act of 1934.



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Please call me at (650) 833-2111, or Mark LeHocky, the Company's General Counsel, at (925) 965-4570 with any questions regarding this matter.

Very truly yours,

DLA Piper LLP (US)

A handwritten signature in black ink, appearing to read 'BR / MEL'.

Brad Rock  
Partner

Enclosures

cc: Mark LeHocky, Senior Vice President, General Counsel & Corporate Secretary,  
Ross Stores, Inc.

The Humane Society of the United States  
Attn: Andrew Page, Senior Director  
2100 L Street, N.W.  
Washington, DC 20037



EXHIBIT A

Letter from The Humane Society of the United States to withdraw Proposal

[begins on following page]



**THE HUMANE SOCIETY  
OF THE UNITED STATES**

Anita W. Coupe, Esq.  
*Chair of the Board*  
Jennifer Leaning, M.D., S.M.H.  
*Vice Chair of the Board*  
Eric L. Bernthal, Esq.  
*Second Vice Chair of the Board*  
Walter J. Stewart, Esq.  
*Board Treasurer*  
Wayne Pacelle  
*President & CEO*  
Michael Markarian  
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G. Thomas Wolke III  
*Treasurer & CFO*  
Andrew M. Rowan, Ph.D.  
*Chief International Officer  
& Chief Scientific Officer*  
Roger A. Kindler, Esq.  
*General Counsel & CLO*  
Janet D. Frake  
*Secretary*  
Holly Hazard, Esq.  
*Chief Innovations Officer*  
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David O. Wiebers, M.D.  
Lona Williams

March 6, 2012

**VIA ELECTRONIC MAIL AND OVERNIGHT DELIVERY**

**Mark LeHocky**  
Senior Vice President, General Counsel & Corporate Secretary  
**ROSS STORES, INC.**  
4440 Rosewood Drive  
Pleasanton, CA 94588

Re: Withdrawal of 2012 shareholder proposal by The Humane Society of  
the United States

Dear Mr. LeHocky:

As discussed, The Humane Society of the United State withdraws our  
shareholder proposal submitted to Ross Stores, Inc. on December 6, 2011 for  
inclusion in the 2012 proxy materials.

Please call me at (301) 721-6417 with respect to any questions in connection  
with this matter.

Sincerely,

**Andrew Page**  
Senior Director

cc Brad Rock, DLA Piper. (via electronic mail only at [Brad.Rock@dlapiper.com](mailto:Brad.Rock@dlapiper.com))



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January 25, 2012

VIA E-MAIL

OFFICE OF CHIEF COUNSEL  
DIVISION OF CORPORATION FINANCE  
SECURITIES AND EXCHANGE COMMISSION  
100 F STREET, N.E.  
WASHINGTON, DC 20549

Re: Ross Stores, Inc.  
Notice of Intent to Omit from Proxy Materials the Shareholder  
Proposal of the Humane Society of the United States

Ladies and Gentlemen:

This letter is to inform you that our client, Ross Stores, Inc., a Delaware corporation (“**Ross Stores**” or the “**Company**”), intends to omit from its proxy statement and form of proxy for its 2012 Annual Meeting of Stockholders (collectively, the “**2012 Proxy Materials**”) a stockholder proposal (the “**Proposal**”) and statements in support thereof received from The Humane Society of the United States (the “**Proponent**”).

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the “**Commission**”) no later than eighty (80) calendar days before the Company intends to file its definitive 2012 Proxy Materials with the Commission; and
- concurrently sent copies of this correspondence to the Proponent.

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



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## **THE PROPOSAL**

The Proposal states:

RESOLVED, that shareholders encourage the board of directors to develop a policy, by the end of 2012, to prohibit the sale of products that use animal fur, such as raccoon dog, coyote, rabbit and bobcat.

A copy of the Proposal, as well as related correspondence with the Proponent, is attached to this letter as Exhibit A.

## **BACKGROUND**

In assessing this request for exclusion, it is important to understand Ross Stores' business, its position in the marketplace and its product supply chain as an "off-price" retailer. The way in which Ross Stores, as an off-price retailer, obtains apparel and other merchandise for sale in their stores is different from other retailers, and those differences support this request.

Ross Stores operates two brands of off-price retail apparel and home accessories stores. At October 29, 2011, Ross Stores operated 1,126 stores, of which 1,038 were Ross Dress for Less® locations in 29 states, the District of Columbia and Guam, and 88 were dd's DISCOUNTS® stores in seven states. Both brands target value-conscious consumers between the ages of 18 and 54. Ross Dress for Less target customers are primarily from middle income households, while the dd's DISCOUNTS target customer is typically from more moderate income households.

Ross Stores seeks to provide its customers with a wide assortment of first-quality, in-season, brand-name and designer apparel, accessories, footwear, and home merchandise for the entire family at everyday savings of 20 to 60 percent below department and specialty store regular prices, and 20 to 70 percent below moderate department and discount store regular prices at dd's DISCOUNTS. Ross Stores sells recognizable brand-name merchandise that is current and fashionable in each category. The mix of sales year to date by department in fiscal 2011 was approximately as follows: Ladies 30%, Home Accents and Bed and Bath 24%, Men's 12%, Accessories, Lingerie, Fine Jewelry, and Fragrances 12%, Shoes 12%, and Children's 9%. The merchandise offerings also include product categories such as small furniture and furniture accents, educational toys and games, luggage, gourmet food and cookware, watches, sporting goods and, in select Ross stores, fine jewelry.

As is apparent to anyone who visits the stores, Ross Stores does not target apparel or other merchandise that contains animal fur, or consistently carry any particular merchandise that uses fur. Ross Stores sources its products primarily from excess inventory of other retailers and from production overruns by manufacturers. Items made from fur or that include fur are not a



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meaningful merchandise category for the Company, and are not significant or recognizable enough to even be separately tracked. To the extent the Company from time to time happens to carry isolated items that use any fur, they are typically items of apparel with purely incidental amounts of fur trim, such as on winter coats, or perhaps on fashion accessories or in the lining of gloves. The Company's buying staff believes that products that use animal fur represent less than 1% of the Company's clothing, shoes and accessory purchases.

Under Ross Stores' business model, it offers an "off price," bargain-oriented shopping experience where customers find an ever-changing assortment of brand-name merchandise. Ross Stores does not design clothing, shoes, accessories or other products that use animal fur, does not manufacture or control or direct the manufacture of products that use animal fur, and does not determine the materials to be used in products that use animal fur or the policies under which those materials are sourced. For products that use animal fur, Ross Stores is a "downstream" purchaser in a market for goods that have already been designed and manufactured for sale to somebody else, and which have opportunistically become available for secondary purchase in the wholesale aftermarket.

The majority of the apparel and apparel-related merchandise that Ross Stores offers is acquired through opportunistic purchases created by manufacturer overruns and canceled orders by other retailers, both during and at the end of a fashion season. The Company may also obtain clearance or excess inventory from other retailers. Ross Stores focuses on purchasing nationally recognized name brands, and generally leaves the brand-name label on the merchandise they sell. By purchasing later in the merchandise buying cycle than department, specialty, and discount stores, the Company is able to take advantage of imbalances between retailers' demand for products and manufacturers' supply of those already-made products. Often, to the extent the Company does purchase products that contain any fur, it is as part of an "assorted buy" where a vendor sells in bulk a certain amount of remaining inventory, which the Company may not even have the opportunity to review or inspect prior to purchase or receipt. As a result of its off-price business model and purchasing methods, Ross Stores is not in a position to determine or to influence the design decisions and materials sourcing policies of product manufacturers and designers who use fur.



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## **BASIS FOR EXCLUSION**

The Company believes that the Proposal is excludable under at least two of the bases for exclusion set forth in Rule 14a-8(i) of the Exchange Act:

1. the Proposal may be excluded under the relevance standards of Rule 14a-8(i)(5);  
and
2. the Proposal involves the ordinary business operations of the Company as contemplated by Rule 14a-8(i)(7).

## **ANALYSIS**

### **A. The Proposal is not relevant under the standards of Rule 14a-8(i)(5) and thus may be excluded from the 2012 Proxy Materials.**

Rule 14a-8(i)(5) permits the exclusion of a stockholder proposal that relates to operations which account for less than 5% of a company's (i) total assets at the end of its most recent fiscal year, (ii) net earnings for the most recent fiscal year, and (iii) gross sales for the most recent fiscal year, and that is not otherwise significantly related to the company's business. As noted above, the Company's operations relating to the sale of products that contain animal fur clearly do not meet the 5% quantitative tests for relevance under Rule 14a-8(i)(5). Consequently, the only question is whether those operations are "otherwise significantly related" to the Company's business.

In Securities Exchange Act Release No. 34-19135 (October 14, 1982), the Commission adopted revisions to what is now rule 14a-8(i)(5) that included the five percent test of economic significance in an effort to create a more objective standard. However, the Commission stated that proposals may be includable notwithstanding their "failure to reach the specified economic thresholds if a significant relationship to the issuer's business is demonstrated on the face of the resolution or supporting statement." This can occur where a particular corporate policy raises societal or public policy issues that "may have a significant impact on other portions of the issuer's business or subject the issuer to significant contingent liabilities." *Id.* Even where a proposal raises a policy issue, the policy must be more than ethically or socially "significant in the abstract." It must have a "meaningful relationship to the business" of the company in question. *See Lovenheim v. Iroquois Brands, Ltd.*, 618 F. Supp. 554, 561 and note 16 (D.D.C. 1985) (finding a proposal relating to the mistreatment of animals, namely the procedure used to force-feed geese for the production of pâté de foie gras was "otherwise significantly related" to a grocery chain that imported that product, and thus not excludable).

Here, there is no connection between the product purchasing policies of Ross Stores and the treatment of animals. The resolution and the supporting statement fail to demonstrate any



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significant relationship to the Company's business. Rather, the Proposal and its supporting statement is essentially a generic attack directed at the use of animal fur in products generally. It is not factually linked in any realistic way to the Company's actual business operations or its position in the retail apparel market. For example, the proposal calls out coyote and bobcat fur, and the supporting statement focuses on conditions said to occur at fur factory farms for fox and mink. But there is no basis for connecting those claims to the Company's business operations or its product purchasing policy. The Company is not aware that it has sold products using fur from any of those animals, and if it ever has, it was almost certainly the result of an "assorted buy" where a bulk purchase of close out products from third parties included some incidental items that included fur trim.

In the one place where the Proponent's supporting statement bullet points make specific reference to Ross Stores, it is unfair and misleading. It mentions petitions before the FTC in which the Proponent has complained about the misrepresentation of fur products. Yet, with regard to Ross Stores, the situation in fact related to products that were allegedly mislabeled by the manufacturer. That is not fairly attributable to Ross Stores, which was itself a victim of any mislabeling and was not involved in designing, manufacturing or labeling the subject products.

The problem of mislabeled products can arise for any retailer who sources products that are designed and manufactured by others, and is not limited to fur, but can include materials that are allergenic or otherwise required to be disclosed to consumers. The Company already has policies in place to take prompt and appropriate corrective action when it learns of products that are improperly labeled.

The Proponent goes on to reference lawsuits it has brought against other companies, and media stories about misrepresentations by salespeople at other companies – none of which is connected to Ross Stores or its product purchasing methods.

The Proponent also asserts that various competitors of the Company have adopted "fur-free policies." However, they do not list off-price retailers like Ross Stores, but designers and department and specialty stores who create or contract to produce their own product lines, or who contract with manufacturers to be retail channels for particular lines of products. To the extent those designers and retailers, and others in that tier of the apparel supply chain, adopt fur-free policies, then the manufacturing overruns and excess and clearance inventory buying opportunities for Ross Stores and other off-price retailers will also contain fewer products that use animal fur. While the designers, manufacturers and branded-label tier of the retail industry may have a meaningful connection to the creation of products that include animal fur, and possibly some ability to influence the sourcing of animal fur and to implement vendor policies relating to the treatment of animals, Ross Stores' business model is fundamentally different.



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The Staff has in numerous instances recognized that, although a proposal may have social or ethical implications, the relationship between the company's operations and those implications were so slight or were not necessarily of concern to the company's shareholders because of the minimal impact of those issues on the company, and therefore did not meet the requirements of Rule 14a-8(i)(5). *See, e.g., Hewlett-Packard Co. (Reik)* (January 7, 2003) (allowing exclusion of a proposal which sought to require the relocation or closure of Hewlett-Packard's offices in Israel due to allegations of Israel's violation of numerous United Nation Resolutions and human rights violations); *American Stores Co.* (March 25, 1994) (selling of tobacco products by one of nation's major food and drug retailers was "not otherwise significantly related to" its business); and *Kmart Corp.* (March 11, 1994) (selling of firearms in Kmart stores was "not otherwise significantly related to" its business).

The Company is aware of the Staff's position concerning the inclusion of stockholder proposals that have ethical or social significance and relate to public policy against "unnecessary cruelty to animals." With respect to the treatment of animals, the Staff has been unwilling to concur with the exclusion of proposals pursuant to Rule 14a-8(i)(5) that have generally addressed (i) the testing of animals by pharmaceutical companies, cosmetic companies, *see Avon Products, Inc.* (March 30, 1988), and consumer product companies, *see Proctor & Gamble Co.* (July 27, 1988), (ii) issues such as the "factory farming" of animals and eggs by food processors and restaurant chains, *see PepsiCo, Inc.* (March 9, 1990) and *Bob Evans Farms, Inc.* (April 26, 2011) (concluding that proposal to sell increased proportion of cage free eggs by restaurant was not excludable. But note that eggs represented more than 5% of revenues).

However, the Staff has generally drawn a distinction between retailers and manufacturers in the context of Rule 14a-8(i)(7) analyses involving social issues. *See, e.g., Wal-Mart Stores, Inc.* (March 9, 2001) (permitting exclusion of a proposal requesting that it stop selling handguns and their accompanying ammunition) and compare that result with the Staff's position in *Sturm, Ruger & Co.* (March 5, 2001) (concluding that a proposal seeking a report on company policies aimed at "stemming the incidence of gun violence in the United States" where the company's "principal business continues to be the manufacture and sale of firearms" was not excludable). The Company believes the same principles apply under Rule 14a-8(i)(5) in the case of the Proposal and that, applying those principles consistently, the Staff should concur with the Company's conclusion that it may exclude the Proposal.

Two relatively recent no-action letter requests relating to proposals for a retailer to adopt "fur free" policies were submitted Coach, Inc. *Coach, Inc.* (August 19, 2010) (concluding that a proposal to adopt a policy to ensure that no fur products are acquired or sold could not be excluded), and *Coach, Inc.* (August 7, 2009) (concluding that a proposal to produce a report on the feasibility of ending use of fur in company's products was not excludable). Coach is a well-known designer and retailer of fine leather goods and related products. Coach sought to exclude



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the respective proposals, among other reasons, on the grounds that products using animal fur represented significantly less than 1% of their business, and that the design choices to include some natural fur in a particular branded product was an essential and ordinary business activity for their company. The Staff did not concur in the requests by Coach to exclude the proposals. As noted above, the product sourcing position of Ross Stores is fundamentally different from that of Coach. Although the amount of their products that include fur might be small, Coach designs and manufactures or contracts for the manufacture of its own branded products, and is therefore in a position to decide what materials to include and to establish policies for sourcing materials that could have some impact on the treatment of animals. Ross Stores sources its products primarily from the over-stocking and excess inventory of other retailers, and production overruns by manufacturers. None of this merchandise has been designed or manufactured at Ross Stores' behest, or with any intention of supplying it to Ross Stores at the time of production.

If one asks the question "What actual effect would the adoption of a policy by Ross Stores against the sale of products that use animal fur have on the treatment of animals?" the answer is effectively "None." Purchases by Ross Stores in the "downstream," wholesale aftermarket for already-manufactured goods do not have any impact on the design, vendor sourcing or manufacturing of products that include fur. Because Ross Stores does not design products or contract in advance for the manufacture of the types of products at issue here, and does not make specific arrangements to carry particular items or lines or collections of clothing or other merchandise containing fur, Ross Stores has no impact on any of the "upstream" fashion, design and manufacturing decisions that determine whether or not animal fur is part of any product. Ross Stores likewise has no impact (and no ability to impact) decisions by designers and manufacturers as to their policies for sourcing materials and their policies for considering the treatment of animals in their design and sourcing decisions. Whatever fashion and market signals may factor into determining the choice of materials and the selection of vendors to supply those materials (including if relevant, the treatment of animals by any vendors), those determinations are already made before the products come onto the off-price market. The adoption of a policy against the sale of products that use animal fur by Ross Stores would be purely symbolic in terms of its impact on the treatment of animals, while at the same time enormously impractical for a business that is an active participant in the wholesale, closeout market for off-price apparel and similar products.

Based on the foregoing, the Company believes that the Proposal is not "otherwise significantly related" to the Company's business for the following reasons:

- Ross Stores sources products almost entirely from the over-stocking and excess inventory of other retailers, and production overruns by manufacturers; none of this merchandise



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has been designed or manufactured at Ross Stores' request or with any intention by the designer or manufacturer of supplying them to Ross Stores – with the result that Ross Stores has no influence over whether those products use animal fur or how that fur is sourced;

- because of the opportunistic and unpredictable nature of the sourcing of merchandise in the off-price marketplace where Ross Stores obtains products, including the prevalence of “assorted buys” with miscellaneous bulk merchandise, Ross Stores is not in any position to track or even to know whether particular product purchases might contain fur;
- because of the nature of its business and the characteristics of its target customer base, Ross Stores does not target the sourcing of products that are based on animal fur, and those products are already not a substantial part of its business; and
- products that use animal fur are a *de minimis* portion of Ross Stores business, and the Company is not aware that it has offered any products that include mink, fox, bobcat or various kinds of fur that are the focus of the Proposal.

The social policy that the Proponent seeks to advance by means of the Proposal – the avoidance of inhumane treatment of animals - has no “significant relationship” to Ross’s business. Adoption of the Proposal is not necessary to avoid contingent liabilities or other adverse effects that could arise from Ross Store’s current merchandise purchasing practices.

For the reasons discussed above, the Company has concluded that it may exclude the Proposal from the 2012 Proxy Materials under Rule 14a-8(i)(5).

**B. The Proposal involves the ordinary business operations of the Company and thus may be excluded from the 2012 Proxy Materials.**

Under Rule 14a-8(i)(7), a proposal may be omitted from a registrant’s proxy statement if it “deals with a matter relating to the company’s ordinary business operations.” The general policy underlying 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.” Release No. 34-40018 (May 21, 1998) (the “1998 Release”). In the 1998 Release, the Staff noted that one of the central considerations underlying this policy, which relates to the subject matter of the Proposal, 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.” 1998 Release. However, certain proposals “relating to such matters but focusing on sufficiently significant policy issues (e.g., significant discrimination matters) generally would not be



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considered to be excludable.” 1998 Release. The Staff has also stated: “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.” 1998 Release. The Company believes that it may exclude the Proposal because it relates to ordinary business operations.

The Proposal seeks to impose a particular policy on the materials included in third party-manufactured products obtained by the Company. This would significantly limit the Company’s purchases in the wholesale aftermarket in which it sources the products that it sells, which is one of the fundamental day-to-day business functions of the Company. In effect, the adoption of a policy against purchasing products that use animal fur would limit the Company’s participation in the off-price marketplace to only those product offerings or assortments offered by designers and manufacturers who themselves had implemented such a policy, or were willing to make representations to the Company as to compliance.

In considering whether the Proposal is a matter of the ordinary business operations of Ross Stores, we note that the Staff listed the “retention of suppliers” as one of the examples of “tasks . . . 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.” 1998 Release. Adoption of the policy supported by the Proposal would preclude the Company from purchasing bulk inventory if it includes (or might include) animal fur. Bulk purchases and “assorted buys” are both fundamental components of Ross’s day-to-day business functions and its off-price purchasing strategies.

In addition, as indicated above, the Staff has generally drawn a distinction between the manufacturer and the vendor of products with respect to proposals dealing with, for example, tobacco, firearms and other products that may be deemed to raise significant policy issues, and time after time has taken the position that proposals regarding the selection of products for sale relate to a company’s ordinary business operations and thus are excludable from the company’s proxy materials pursuant to Rule 14a-8(i)(7). *Compare Wal-Mart Stores, Inc.* (March 9, 2001) (in which a proposal requesting that the Company stop selling handguns and their accompanying ammunition was excludable) *with Sturm, Ruger & Co.* (March 5, 2001) (a proposal seeking a report on company policies aimed at “stemming the incidence of gun violence in the United States” where the company’s “principal business continues to be the manufacture and sale of firearms” was not excludable). *Albertson’s, Inc.* (March 18, 1999), *J.C. Penney Co.* (March 2, 1998), and *Walgreen Co.* (September 29, 1997) all provide additional examples of situations where the Staff found the proposals requiring that retailers stop selling tobacco or cigarettes were excludable under Rule 14a-8(i)(7).

The Staff has similarly found that proposals seeking to direct the sale of particular goods, even when the proponent alleges inhumane treatment of animals, may be excludable under Rule 14a-



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8(i)(7). *See, e.g., PetSmart, Inc.* (April 8, 2009) (permitting the exclusion of a proposal requesting that the board produce a feasibility report related to the phasing out of the sale of live animals), and *Lowe's Companies, Inc.* (February 1, 2008) and *Home Depot, Inc.* (January 24, 2008) (both permitting the exclusion of a proposal seeking to end the sale of certain pest control devices). In each of *PetSmart*, *Lowe's* and *Home Depot* the Staff permitted the exclusion as relating to the ordinary business operations of the company (i.e., the sale of a particular product), in spite of the allegations of animal cruelty by the proponent. And in other lines of no-action letter, it appears that the Staff recognizes that the mere mention of an underlying connection with the treatment of animals is not sufficient to take a proposal out of the "ordinary business operations" basis for exclusion where the relationship between the proposal and the treatment of animals is attenuated. *See, e.g., Target Corporation* (March 31, 2010) (permitting the exclusion under rule 14a-8(i)(7) of a proposal requesting that the board prepare a written report regarding charitable donations since 2004 and requests that the report address "the feasibility of concrete policy changes, including minimizing donations to charities that fund animal experiments.")

In view of the foregoing, the Company has concluded that the Proposal may be excluded in reliance on Rule 14a-8(i)(7), as the Proposal deals with the Company's ordinary business operations.

## **CONCLUSION**

Ross Stores hereby requests that the Staff concur with the conclusion that it can properly exclude the Proposal, and confirm that the Staff will not recommend any enforcement action if Ross Stores excludes the Proposal from the 2012 Proxy Materials. Should you disagree with the conclusions set forth herein, we would appreciate the opportunity to confer with you prior to the issuance of the Staff's response. Moreover, Ross Stores reserves the right to submit to the Staff additional bases upon which the Proposal may properly be excluded from the 2012 Proxy Materials.

By copy of this letter, the Proponent is being notified of Ross's intention to omit the Proposal from its 2012 Proxy Materials.



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We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. If we can be of any further assistance in this matter, please do not hesitate to call me at (650) 833-2111 or Mark LeHocky, the Company's General Counsel, at (925) 965-4570.

Very truly yours,

**DLA Piper LLP (US)**

A handwritten signature in blue ink, appearing to read 'BRAD ROCK'.

Brad Rock  
Partner

Enclosures

cc: Mark LeHocky, Senior Vice President, General Counsel & Corporate Secretary,  
Ross Stores, Inc.

The Humane Society of the United States  
Attn: Andrew Page., Senior Director  
2100 L Street, N.W.  
Washington, DC 20037

EXHIBIT A

**PROPOSAL**

[begins on following page]

**RESOLVED**, that shareholders *encourage* the board of directors to develop a policy, by the end of 2012, to prohibit the sale of products that use animal fur, such as raccoon dog, coyote, rabbit and bobcat.

**SUPPORTING STATEMENT:**

Ross appears to be out of step with its competitors that have implemented animal fur policies to ensure proper, clear vendor compliance, and to protect their customers. It would be in shareholders' interests for the company to have a clear policy prohibiting the sale of animal fur products. Please consider the following:

- Leading retailers and designers like JCPenney, Sears, Forever 21, Daffy's, Liz Claiborne, Urban Outfitters, Gap, J. Crew, Overstock.com, John Bartlett, Charlotte Ronson, Tommy Hilfiger and Calvin Klein have already implemented fur-free policies.
- The Humane Society of the United States (HSUS) has consistently found falsely-advertised and falsely-labeled animal fur garments that mislead customers. In recent years, misrepresentation of fur products has led to nearly two dozen companies, including Ross, being named in HSUS petitions filed before the Federal Trade Commission, six companies named in an HSUS lawsuit before the D.C. Superior Court, and multiple media stories about additional companies whose sales representatives misrepresented animal fur to reporters posing as customers.
- Millions of animals, including raccoon dogs, foxes, rabbits, mink and coyotes, are killed every year for fur, either on fur factory farms or in steel traps.
- Animals on fur factory farms spend their entire lives crammed in wire cages, often exhibiting neurotic behaviors like constant spinning and pacing. Foxes can never touch soil, much less dig, and semi-aquatic mink have no access to swimming water.
- Animals on fur factory farms are killed by anal and genital electrocution, neck breaking, gassing and poisoning, and the practice of live skinning is well documented in China. The United Kingdom has banned fur farming because of inhumane practices.
- In the wild, some terrified and injured animals caught in steel-jaw leghold traps try to escape by chewing off their own limbs. In several states, trappers are not required to check traps for several days, leaving animals with prolonged suffering. When trappers do return, they often kill the animals by beating them, stomping on them or shooting them in the head. Many countries and several U.S. states have banned or severely restricted the use of steel-jaw leghold traps.
- The quality of faux fur has improved dramatically in recent years, making it a suitable alternative for products that require the look and feel of animal fur.

We urge shareholders to vote **FOR** this resolution, which would simply encourage the board to take action on an important social and legal issue on which numerous competitors have already taken action.



**THE HUMANE SOCIETY**  
OF THE UNITED STATES

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December 5, 2011

Mark Lehocky  
SVP, General Counsel, and Corporate Secretary  
Ross Stores, Inc.  
4440 Rosewood Dr.  
Pleasanton, CA 94588

Via UPS and email ([mark.lehocky@ros.com](mailto:mark.lehocky@ros.com))

Dear Mr. Lehocky:

Enclosed with this letter is a shareholder proposal submitted for inclusion in the proxy statement for the 2012 annual meeting and a letter from The Humane Society of the United States' (HSUS) brokerage firm, Deutsche Bank, confirming ownership of Ross common stock. The HSUS has held at least \$2,000 worth of common stock continuously for more than one year and intends to hold at least this amount through and including the date of the 2012 shareholder meeting.

Please contact me if you need any further information or have any questions. If Ross will attempt to exclude any portion of this proposal under Rule 14a-8, please advise me within 14 days of your receipt of this proposal. I can be reached at 301-721-6417 or [apage@humanesociety.org](mailto:apage@humanesociety.org). Thank you for your assistance.

Very truly yours,

Andrew Page  
Senior Director

Enclosures: 2012 Shareholder Resolution  
Copy of Deutsche Bank letter



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December 6, 2011

Mark LeHocky, Senior Vice President, General Counsel and Corporate Secretary  
Ross Stores, Inc.  
4440 Rosewood Dr.  
Pleasanton, CA 94588

Dear Mr. LeHocky:

This letter serves as confirmation to verify that The Humane Society of the United States (HSUS) is the beneficial owner of at least \$2,000.00 in market value of Ross Stores, Inc. common stock. The HSUS has continuously held at least \$2,000.00 in market value for at least one year prior to and including the date of this letter.

Please contact me at 310-788-6203 if you need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to be 'Eric Smith'.

Eric Smith  
Vice President  
Risk Officer