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January 14, 2013

**BY EMAIL** (shareholderproposals@sec.gov)

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

Re: Rite Aid Corporation – 2013 Annual Meeting  
Omission of Shareholder Proposal Submitted  
by Steven Krol

Ladies and Gentlemen:

Pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended, we are writing on behalf of our client, Rite Aid Corporation, a Delaware corporation (“Rite Aid” or the “Company”), to request that the Staff of the Division of Corporation Finance (the “Staff”) of the Securities and Exchange Commission (the “Commission”) concur with Rite Aid’s view that, for the reasons stated below, it may exclude the shareholder proposal (the “Proposal”) submitted by Steven Krol (the “Proponent”) from the proxy materials to be distributed by Rite Aid in connection with its 2013 annual meeting of shareholders (the “2013 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 Rite Aid’s intent to omit the Proposal from the 2013 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 the Proponent submits

correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to the Company.

## **I. The Proposal**

The resolution contained in the Proposal is set forth below:

**RESOLVED-** Effective at the 2014 Annual Meeting, shareholders request and recommend for non-binding vote the following:

1. Except for current Rite Aid executives or other companies enjoying contractual agreements which allow Board nominees of their choosing, that all other nominees will have no former or existing business or personal relationships, either directly or indirectly, with the senior management or the Company, and
2. All qualifying board members be paid fees and awards for board services only.

## **II. Bases for Exclusion**

We hereby respectfully request that the Staff concur in Rite Aid's view that it may exclude the Proposal from the 2013 proxy materials pursuant to (i) Rule 14a-8(i)(8)(iii) because the Proposal questions the competence and business judgment of directors that Rite Aid expects to nominate for reelection at the upcoming annual meeting of shareholders and (ii) Rule 14a-8(i)(8)(v) because the Proposal otherwise could affect the outcome of the upcoming election of directors.

## **III. Background**

The Company received the Proposal, accompanied by a cover letter from the Proponent and a letter from TD Ameritrade, by email on January 4, 2013. Copies of the Proposal and related enclosures are attached hereto as Exhibit A.

## **IV. The Proposal May be Excluded Pursuant to Rule 14a-8(i)(8)(iii) Because the Proposal Questions the Business Judgment of Board Members Rite Aid Expects to Nominate for Reelection at the Upcoming Annual Meeting of Shareholders.**

Under Rule 14a-8(i)(8)(iii), a shareholder proposal may be excluded from a company's proxy materials if it "[q]uestions the competence, business judgment, or character of one or more nominees or directors." In 2010, the Commission adopted amendments to Rule 14a-8(i)(8) to codify prior Staff interpretations and expressly allow for the exclusion of a proposal that "[q]uestions the competence, business

judgment, or character of one or more nominees or directors ... or [o]therwise could affect the outcome of the upcoming election of directors.” Exchange Act Release No. 34-62764 (Aug. 25, 2010) (the “2010 Release”). As explained in the 2010 Release, the amendment to Rule 14a-8(i)(8) “was not intended to change the [S]taff’s prior interpretations or limit the application of the exclusion” but rather to “provide more clarity to companies and shareholders regarding the application of the exclusion.” See also Exchange Act Release No. 34-56914 (Dec. 6, 2007) (noting that the Staff has taken the position that a proposal would be subject to exclusion under Rule 14a-8(i)(8) if the proposal “could have the effect of ... questioning the competence or business judgment of one or more directors”).

On a number of occasions, the Staff has permitted a company to exclude a proposal under Rule 14a-8(i)(8) where the proposal, together with the supporting statement, questioned the competence, business judgment or character of directors who will stand for reelection at an upcoming annual meeting of shareholders. See *Rite Aid Corp.* (Apr. 1, 2011) (permitting exclusion of a proposal that criticized the business judgment, competence and service of directors because the supporting statement “appear[ed] to question the business judgment of board members whom Rite Aid expects to nominate for reelection at the upcoming annual meeting of shareholders”); *Marriott Int’l, Inc.* (Mar. 12, 2010) (permitting exclusion of a proposal that targeted two directors for removal from the board and questioned their suitability because the proposal “appear[ed] to question the business judgment of a board member whom Marriott expects to nominate for reelection at the upcoming annual meeting of shareholders”); *General Electric Co.* (Jan. 29, 2009) (permitting exclusion of a proposal that suggested that the named director was unsuitable for service on the board, should have resigned and that her continued presence “besmirched” the company because the supporting statement “appear[ed] to question the business judgment of a board member whom GE expects to nominate for reelection at the upcoming annual meeting of shareholders”); *Brocade Communications Systems, Inc.* (Jan. 31, 2007) (permitting exclusion of a proposal stating that “any director that ignores [the 2006] votes of the Company’s shareowners is not fit for re-election,” as appearing to “question the business judgment of board members whom Brocade indicates will stand for reelection at the upcoming annual meeting of shareholders”); *Exxon Mobil Corp.* (Mar. 20, 2002) (permitting exclusion of a proposal that referred to the chief executive officer as causing “negative perceptions of the company” because it “appear[ed] to question the business judgment of Exxon Mobil’s chairman, who will stand for reelection at the upcoming annual meeting of shareholders”); *Black & Decker Corp.* (Jan. 21, 1997) (permitting exclusion of a proposal requesting that the board disqualify anyone who has served as chief executive officer from serving as chairman of the board because it “appear[ed] that the actions contemplated by the proposal, together with certain contentions made in the supporting statement, question[ed] the business judgment, competence and service of the Company’s chief executive officer who the

Company indicates will stand for reelection at the upcoming annual meeting of shareholders”).

When read together with the supporting statement, it is clear that the Proposal questions the competence and business judgment of the Company’s board nominees who do not meet the Proponent’s standard of independence as described in the Proposal. The supporting statement refers to the importance of having “truly independent outside directors” and directors who have “never worked for the company or are closely related, professionally or personally, to anyone in senior management.” These statements imply that some of Rite Aid’s independent directors are not “truly independent.”

The supporting statement also claims that NYSE listed companies often “subjectively interpret the independence rules” and “misapply” them, and where such independence rules are not properly applied, a board’s objectivity and independence will be compromised and the board will lose its credibility. According to the Proponent, such boards “lack real outside independence to protect ... investment[s],” “tend to make decisions more beneficial to management” and “otherwise ignore good corporate governance.”

Significantly, the supporting statement makes it clear that these are not abstract, general statements on corporate governance, but rather are intended to relate to Rite Aid’s directors nominated for reelection when the supporting statement directs shareholders to carefully review the biographies for director nominees in the Company’s proxy statement “to determine whether or not real independence tests have been met.” The Proponent’s specific reference to Rite Aid’s director nominees in this context, together with the preceding comments criticizing boards that “lack real outside independence,” clearly implies that the Proponent believes some of the Rite Aid director nominees named in the Company’s proxy statement do not meet the Proponent’s “real independence tests” and, therefore, lack objectivity, undermine the credibility of the board, favor management and ignore good corporate governance.

Because the Proposal questions the competence, business judgment and character of the directors who do not meet the Proponent’s definition of independence and who Rite Aid expects will be nominated to stand for reelection at the 2013 annual meeting of shareholders, the Proposal is excludable from the 2013 proxy materials pursuant to Rule 14a-8(i)(8)(iii).

**V. The Proposal May be Excluded Pursuant to Rule 14a-8(i)(8)(v) Because the Proposal Otherwise Could Affect the Outcome of the Upcoming Election of Directors.**

Under Rule 14a-8(i)(8)(v), a shareholder proposal may be excluded from a company's proxy materials if it "[o]therwise could affect the outcome of the upcoming election of directors." In the proposing release relating to amendments to Rule 14a-8(i)(8), the Commission stated that the language in clause (v) "was included to address new proposals that may be developed over time that are comparable to the four specified categories and would undermine the purpose of the exclusion." Exchange Act Release No. 34-60089 (Jun. 10, 2009). The Commission has stated that the "principal purpose of the [exclusion] is to make clear, with respect to corporate elections, that Rule 14a-8 is not the proper means for conducting campaigns." Exchange Act Release No. 34-12598 (July 7, 1976).

In the last paragraph of the supporting statement, the Proponent's statement that "[s]hareholders should carefully review the biographies for director nominees contained in these proxy materials under the heading 'Board of Directors' in the Table of Contents to determine whether or not real independence tests have been met" is clearly intended to express a negative view of directors standing for election and result in shareholders incorporating the Proponent's views when making their voting decisions in this election. Accordingly, the Proposal could have an effect on the outcome of the election of Rite Aid directors at the 2013 annual meeting. Rule 14a-8(i)(8) is intended to prevent precisely this kind of back door campaign against directors standing for election. Urging shareholders to review the biographies of director nominees in order to decide whether or not such nominees are independent according to the Proponent's definition of independence is a clear attempt to influence shareholders' voting decisions to vote for or against certain of Rite Aid's director nominees and is not an appropriate use of the Rule 14a-8 shareholder proposal process.

Because the Proposal could affect the outcome of the upcoming election of directors, the Proposal is excludable from the 2013 proxy materials pursuant to Rule 14a-8(i)(8)(v).

**VI. Conclusion**

For the foregoing reasons, Rite Aid respectfully requests the concurrence of the Staff that the Proposal may be excluded from the 2013 proxy materials pursuant to Rule 14a-8(i)(8).

Securities and Exchange Commission  
Office of Chief Counsel  
January 14, 2013  
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If we can be of any further assistance, or if the Staff should have any questions, please do not hesitate to contact me at the telephone number or email address appearing on the first page of this letter.

Very truly yours,

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

Marc S. Gerber

Attachments

cc: Marc A. Strassler, Esq.  
Rite Aid Corporation

Steven Krol

**EXHIBIT A**

**From:** Steve Krol FISMA & OMB Memorandum M-07-16 \*\*\*  
**Date:** January 4, 2013, 12:09:44 PM EST  
**To:** Marc Strassler <[mstrassler@riteaid.com](mailto:mstrassler@riteaid.com)>  
**Subject: Proposal for 2013 Annual Meeting of Shareholders**  
**Reply-To:** Steve Krol FISMA & OMB Memorandum M-07-16 \*\*\*

Mr. Marc A. Strassler  
Secretary  
Rite Aid Corporation  
30 Hunter Lane  
Camp Hill, Pa. 17011

January 4, 2013

Dear Mr. Strassler:

Please allow this letter to act as your notice that the undersigned shareholder intends to present at the 2013 Annual Meeting of Shareholders the following Proposal, which recommends that Rite Aid Corp. and/or its Board of Directors consider certain future actions. A prior email sent to you earlier this morning evidences my sufficient position in Rite Aid stock held by my broker Ameritrade.

It is requested that this Proposal be placed on the company's proxy card, and in a form that allows for shareholder's to specify by boxes a choice between For, Against, or Abstain.

As the previously submitted Ameritrade letter, dated 1/4/13, indicates, I have continuously held at least \$2000. in market value of Rite Aid common shares for much longer than one (1) year, and I intend on holding these shares through at least the date of the 2013 Annual Meeting of Shareholders, which I will also attend.

Sincerely,  
Steven Krol  
Rite Aid Shareholder

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

**STOCKHOLDER PROPOSAL-**

**RECOMMENDATION FOR QUALIFICATION OF CERTAIN DIRECTOR NOMINEES**

Steven Krol, owner of 255,625 common shares, has notified the Company that he intends to present the following Proposal at the 2013 Annual Meeting of Shareholders.

**RESOLVED-** Effective at the 2014 Annual Meeting, shareholders request and recommend for non-binding vote the following:

1. Except for current Rite Aid executives or other companies enjoying contractual agreements which allow Board nominees of their choosing, that all other nominees will have no former or existing business or personal relationships, either directly or indirectly, with the senior management or the Company, and
2. All qualifying board members be paid fees and awards for board service only.

### Supporting Statement

The primary responsibility of the board of directors is to protect shareholder assets and ensure they receive a decent return on their investment. The composition and performance of a board of directors says a lot about its responsibilities to a company's shareholders.

Having truly independent outside directors has always been considered a "best practice". In theory, the Board is responsible to the shareholders and is supposed to govern a company's management. Independence allows a director to be objective and evaluate the performance of management and the well-being of the company.

This includes:

#### **Independence from Management-**

Directors get outside information and perspective other than from the company President or CEO

#### **Compensation-**

Board members do not accept compensation for anything other than board service

#### **Conflict of Interest-**

Board members have never worked for the company or are closely related, professionally or personally, to anyone in senior management

#### **Effectiveness and Time Constraints of a Board Member-**

According to a 2003 study of the 1,700 largest U.S. public companies, the majority of board members sit on no more than three boards

#### **Ethics-**

All board members have an impeccable record and reputation for honest and ethical conduct in his or her professional and personal activities

All NYSE listed companies, subjectively interpret the independence rules established by the NYSE. Often times, companies misapply the rules. A Board loses credibility if its objectivity and independence are compromised by not correctly applying the definition of independence. Too many actual insiders serving as directors will mean that the Board will tend to make decisions more beneficial to management. The "big boys" on Wall Street will never invest and place their monies at risk in any company where they believe the Board lacks real outside independence to protect their investment and to otherwise ignore good corporate governance.

This Resolution will guide our Board in naming certain Board nominees. There is no more important decision that they make while serving on our Board to increase shareholder value. Shareholders should carefully review the biographies for director nominees contained in these proxy materials under the heading "Board of Directors" in the Table of Contents to determine whether or not real independence tests have been met and are strongly urged to vote **"FOR"** this Proposal.

**From:** Steve Krol\* FISMA & OMB Memorandum M-07-16 \*\*\*  
**Sent:** Friday, January 04, 2013 11:32 AM  
**To:** Marc Strassler  
**Subject:** Proposal For 2013 Annual Meeting of Shareholders

Dear Mr. Strassler:

1/4/13

Reference is made to the Ameritrade attachment included herein, dated today 1/4/13, evidencing my current stock position in Rite Aid Corporation. Please note my new address in this letter for purposes of any future mailings. The undersigned will maintain this stock position beyond the date of the 2013 Annual Meeting. The Proposal to be included in the proxy materials for shareholder vote will immediately follow this email.

I hope you and your family will have much health and happiness in this New Year.

Sincerely,  
Steven Krol  
Rite Aid Shareholder



January 4, 2013

Steven Krol

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

Re: TD Ameritrade account ending in 9532 \*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

Dear Steven Krol,

Thank you for allowing me to assist you today. Pursuant to your request, our records indicate that as of January 4, 2013 you hold 255,625 shares of Rite Aid Corporation (symbol RAD) in this TD Ameritrade account ending in 9532. Further, pursuant to your request, our records indicate that you have continuously held at least \$2,000.00 in stock value of Rite Aid Corporation (symbol RAD) in this TD Ameritrade account ending in 9532 for over one year. Along with this, TD Ameritrade is an active participant with the Depository Trust Company (DTC).

If you have any further questions, please contact 800-669-3900 to speak with a TD Ameritrade Client Services representative, or e-mail us at [clientservices@tdameritrade.com](mailto:clientservices@tdameritrade.com). We are available 24 hours a day, seven days a week.

Sincerely,

Emily Jackson  
Resource Specialist  
TD Ameritrade

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