

# LATHAM & WATKINS LLP

650 Town Center Drive, 20th Floor  
Costa Mesa, California 92626-1925  
Tel: +1.714.540.1235 Fax: +1.714.755.8290  
www.lw.com

## FIRM / AFFILIATE OFFICES

Abu Dhabi	Milan
Barcelona	Moscow
Beijing	Munich
Boston	New Jersey
Brussels	New York
Century City	Orange County
Chicago	Paris
Doha	Riyadh
Dubai	Rome
Düsseldorf	San Diego
Frankfurt	San Francisco
Hamburg	Shanghai
Hong Kong	Silicon Valley
Houston	Singapore
London	Tokyo
Los Angeles	Washington, D.C.
Madrid	

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

January 9, 2015

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

Re: Corrections Corporation of America – 2015 Annual Meeting  
Omission of Shareholder Proposal of Alex Friedmann

Ladies and Gentlemen:

This letter is submitted pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended, to request that the Staff of the Division of Corporate Finance (the “Staff”) of the Securities and Exchange Commission (the “Commission”) concur with our view that, for the reasons stated below, Corrections Corporation of America, a Maryland corporation (the “Company”), may exclude the shareholder proposal and supporting statement (the “Proposal”) submitted by Alex Friedmann (the “Proponent”) from the proxy materials to be distributed by the Company in connection with its 2015 annual meeting of shareholders (the “Proxy Materials”).

By copy of this letter, we are advising the Proponent of the Company’s intention to exclude the Proposal. In accordance with Rule 14a-8(j)(2) and Staff Legal Bulletin No. 14D, we are submitting by electronic mail (i) this letter, which sets forth our reasons for excluding the Proposal; and (ii) Exhibit A to this letter which includes a copy of the Proponent’s cover letter submitting the Proposal, the Proposal and a letter from Scottrade regarding the Proponent’s ownership of Company common stock as of November 19, 2014.

Pursuant to Rule 14a-8(j)(1), we are submitting this letter not less than 80 days before the Company intends to file its Proxy Materials.

## I. The Proposal

The text of the resolution contained in the Proposal is copied below:

**LATHAM & WATKINS LLP**

*RESOLVED: That the stockholders of the Company request that the Board of Directors adopt the following policy to be implemented beginning in fiscal year 2015, for the purpose of reducing recidivism for offenders in the Company's facilities:*

- 1. That by the end of the third quarter of each fiscal year, the Company shall expend funds equal to five percent (5%) of the Company's net income for the prior fiscal year on programs and services designed to reduce recidivism rates for offenders in the Company's correctional facilities.*
- 2. That the expenditure of the funds specified in Section 1 shall be in addition to any funds the Company already spends, intends to spend or is required to spend on rehabilitative or reentry programs and services pursuant to the Company's contracts with government agencies.*
- 3. That the expenditure of the funds specified in Section 1 may be used to expand rehabilitative programs or services already provided in the Company's correctional facilities; to establish new rehabilitative programs or services; or as donations to nonprofit organizations that provide rehabilitative or reentry programs and services for prisoners or released prisoners.*
- 4. That the Company shall expend the funds specified in Section 1 proportionally among the Company's correctional facilities that are in active operation (vacant facilities not included), with such funds prorated according to each active facility's average daily population at the end of the prior fiscal year.*

**II. The Company**

The Company, a publicly traded real estate investment trust (REIT), is the nation's largest owner of partnership correction and detention facilities and one of the largest prison operators in the United States, behind only the federal government and three states. The Company currently owns or controls 52 correctional and detention facilities and manages 12 additional facilities owned by the Company's government partners, with a total design capacity of approximately 84,500 beds in 19 states and the District of Columbia.

The Company specializes in owning, operating and managing prisons and other correctional facilities and providing residential, community re-entry and prisoner transportation services for governmental agencies. In addition to providing the fundamental residential services, our facilities offer a variety of rehabilitation and re-entry programs, including basic education, vocational training, faith-based services, life skills and employment training, and substance abuse treatment. These services are intended to reduce recidivism and to prepare offenders for successful re-entry into society upon their release.

In many cases, the nature and scope of the re-entry programming to be provided to inmates is explicitly defined in various contracts the Company has with its government partners. Further, in addition to the specificity of the contractual obligations set by government partners, these programs, and the *amount* of funds used to provide them, are regularly and carefully evaluated by the Company's management, based on their judgment and vast experience in the field of re-entry

programming, taking into account a variety of factors they determine are relevant to the Company and its stockholders and government partners, including, availability of funds, effectiveness of the programs, size of inmate population, available resources at different facilities and other business considerations.

### III. Grounds for Exclusion

We hereby respectfully request that the Staff concur in the Company's view that it may **exclude the Proposal from the Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal deals with a matter relating to the Company's ordinary business operations.**

Rule 14a-8(i)(7) permits a company to exclude a proposal from its proxy materials on the grounds that it deals with matters relating to the ordinary business operations of the company, ordinarily and properly carried out by the company's management and employees. In Commission Release No. 34-40018 (May 21, 1998) (the "1998 Release"), the Commission stated that the underlying policy of the "ordinary business" exception 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." The Commission further stated in the 1998 Release that this general policy rests on two central considerations. The first 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 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."

This Proposal, if adopted, would dictate that the Company implement inflexible and specific changes in the amount and allocation of funds spent in its ordinary business that would have complex repercussions on the Company's business as a whole. As noted above, the amount budgeted by the Company for its programs intended to reduce recidivism and to prepare offenders for their successful re-entry into society upon their release, is reviewed and set by management after taking into account many considerations of the business and efficacy of the programs. The funding needs of these programs can vary in each facility, and the Company's programs are regularly evaluated, updated or changed due to a host of complex factors including business needs, advances in technology or findings in social sciences that guide best practices. Management's ability to develop the best strategy for assessing these considerations and making decisions for funding of these programs against the backdrop of all the other business considerations of the Company is fundamental to their ability to run the business and provide effective re-entry programming.

Companies have excluded, with the Staff's concurrence, similar proposals trying to "micro-manage" portions of a company's ordinary business operations and spending. For example, shareholder proposals attempting to [dictate] a company's research, development and testing have been excluded. *See Marriott International, Inc.* (March 17, 2010) (proposal asking Marriott to test and install showerheads that use limited amounts of water was properly excluded because the Staff concluded that "although the proposal raises concerns with global warming, the proposal seeks to micromanage the company to such a degree that exclusion of the proposal is appropriate"); *Burlington Northern Santa Fe Corp.* (Jan. 14, 2004) (proposal requesting that the company's board

LATHAM & WATKINS LLP

of directors “embrace testing of the Electronic Train Management System,” or alternatively, a cab signaling system for its trains was properly excluded because it related to “the development and adaptation of new technology for the company’s operations”). Finally, shareholder proposals seeking to dictate the terms of a company’s spending and financing arrangements have also been properly excluded under Rule 14a-8(i)(7). *See Vishay Intertechnology, Inc.* (March 28, 2008) (concurring that the company could exclude a shareholder proposal requesting that the company pay off an existing convertible note); *Irvine Sensors Corp.* (January 2, 2001) (concurring in the exclusion of a proposal that related to the terms upon which capital is raised).

Because the Proposal seeks to micro-manage the amount and allocation among facilities of spending of corporate funds in a specific area of the business that management is already making day-to-day decisions for, it is clear that the Proposal is of the type that Rule 14a-8(i)(7) permits the Company to exclude. Similar to the precedent cited above, the Proposal relates to the ordinary business operations of the Company, better left to the informed judgment of Company’s management rather than micro-managed by shareholders. Furthermore, it cannot be convincingly argued that the Proposal (which attempts to dictate the *amount* of net income spent and *allocation* of such spending among facilities) relates to a significant policy issue that transcends day-to-day business matters, raising policy issues so significant as to be appropriate for a shareholder vote. The Commission has expressly noted that the allocation of profits, among other matters, do not involve the presence of widespread public debate (the 1998 Release).

In sum, determining the correct level of spending each year towards specific programs that are a part of the ordinary business operations of the Company should be left to the Company’s management and employees and the Proposal does not provide the flexibility needed by management to make decisions based on the current and ever-changing needs of the inmates and the Company. As such, this Proposal should be excluded in its entirety under Rule 14a-8(i)(7).

\* \* \* \*

If the Staff does not concur with the Company’s position, we would appreciate an opportunity to confer with the Staff concerning this matter prior to the determination of the Staff’s final position. In addition, the Company requests that the Proponent copy the undersigned on any response it may choose to make to the Staff, pursuant to Rule 14a-8(k).

Please contact me or Daniel Rees of Latham & Watkins LLP at 714-755-2244 to discuss any questions you may have regarding this matter.

Very truly yours,



William J. Cernius, Esq.  
of Latham & Watkins LLP

Enclosures

**LATHAM & WATKINS** LLP

---

cc: Alex Friedmann c/o Jeffrey Lowenthal, Esq.  
Steven E. Groom, Esq., Corrections Corporation of America  
Daniel E. Rees, Esq., Latham & Watkins LLP

**Exhibit A**

Proposal from Alex Friedmann

# *PRISON LEGAL NEWS*

Dedicated to Protecting Human Rights

[www.prisonlegalnews.org](http://www.prisonlegalnews.org)

Please Reply to Tennessee Office:

[afriedmann@prisonlegalnews.org](mailto:afriedmann@prisonlegalnews.org)

Director of OMB Memorandum M-07-16\*\*\*

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

November 19, 2014

**SENT VIA EMAIL AND  
USPS PRIORITY MAIL**

Corrections Corporation of America  
Attn: Secretary  
10 Burton Hills Boulevard  
Nashville, TN 37215

**Re: Shareholder Proposal for 2015 Proxy Statement**

Dear Secretary:

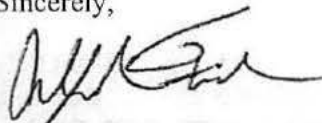
As a beneficial owner of common stock of Corrections Corporation of America ("CCA"), I am submitting the enclosed shareholder resolution for inclusion in the proxy statement for CCA's annual meeting of shareholders in 2015, in accordance with Rule 14a-8 of the General Rules and Regulations under the Securities Exchange Act of 1934 (the "Act").

I am the beneficial owner of at least \$2,000 in market value of CCA common stock. I have held these securities for more than one year as of the date hereof and will continue to hold at least the requisite number of shares for a resolution through the date of the annual meeting of shareholders. I have enclosed a copy of a Proof of Ownership letter from Scottrade.

I or a representative will attend the annual meeting to move the resolution as required.

Please communicate with my counsel, Jeffrey Lowenthal, Esq. of Stroock & Stroock & Lavan LLP, should you need any further information. If CCA will attempt to exclude any portion of my proposal under Rule 14a-8, please advise my counsel of this intention within 14 days of your receipt of this proposal. Mr. Lowenthal may be reached at Stroock & Stroock & Lavan LLP, by telephone at 212-806-5509 or by e-mail at [jlowenthal@stroock.com](mailto:jlowenthal@stroock.com).

Sincerely,



Alex Friedmann

Enclosures



November 19, 2014

Alex Friedmann

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

Re: Scottrade Account ~~number~~ & OMB Memorandum M-07-16\*\*\*

To Whom It May Concern:

Scottrade is a brokerage firm registered with the SEC and FINRA. Through us, Mr. Alex Friedmann ~~Account number~~ OMB Memorandum has continuously held no less than 191 shares of Corrections Corporation of America, Inc. common stock (NYSE: CXW), CUSIP number 22025Y407, since at least March 25, 2010 to the present date. We in turn hold those shares through Depository Trust Corporation (DTC) in an account under the name of Scottrade.

If you have any questions, please contact our branch office directly at 615-340-7740 or toll free at 877-349-1980.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Ownby', is written over a faint, larger version of the signature.

Ed Ownby  
Investment Consultant



## RESOLUTION

On Sept. 15, 2014, Corrections Corporation of America (“the Company”) announced that it will expand reentry programs at the Company’s facilities.

CCA president Damon Hininger pledged that CCA “would play a larger role in helping reduce the nation’s high recidivism rate,” noting that “Reentry programs and reducing recidivism are 100 percent aligned with our business model.”<sup>1</sup>

Recidivism rates for released prisoners are extremely high, with almost 77 percent of offenders being re-arrested within five years of release.<sup>2</sup>

The need to reduce recidivism rates for offenders held in the Company’s facilities is particularly important, as two recent studies concluded that prisoners housed at privately-operated prisons have higher recidivism rates.

A 2013 Minnesota study determined “that offenders who had been incarcerated in a private prison had a greater hazard of recidivism in all 20 models, and the recidivism risk was significantly greater in eight of the models.”<sup>3</sup>

A 2008 study of Oklahoma prisoners in public and private prisons found “a significantly greater hazard of recidivism among private prison inmates in six of the eight models tested.... In every categorical model (including the two that were non-significant), private prison inmate groups had a greater hazard of recidivism than did public inmate groups.”<sup>4</sup>

Although the Company provides rehabilitative programs at its facilities, such programs are typically required by the terms of the Company’s contracts with government agencies. This resolution provides an opportunity for CCA to do more to reduce the recidivism rates of offenders released from the Company’s facilities, and thus reduce crime and victimization in our communities.

**RESOLVED:** That the stockholders of the Company request that the Board of Directors adopt the following policy to be implemented beginning in fiscal year 2015, for the purpose of reducing recidivism for offenders in the Company’s facilities:

1. That by the end of the third quarter of each fiscal year, the Company shall expend funds equal to five percent (5%) of the Company’s net income for the prior fiscal year on programs and services designed to reduce recidivism rates for offenders in the Company’s correctional facilities.

---

<sup>1</sup> <http://www.cca.com/press-releases/corrections-corporation-of-america-to-enhance-and-expand-reentry-programming-opportunities-that-reduce-recidivism>

<sup>2</sup> <http://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>

<sup>3</sup> [www.doc.state.mn.us/pages/files/9613/9206/2382/MN\\_Private\\_Prison\\_Evaluation\\_Website\\_Final.pdf](http://www.doc.state.mn.us/pages/files/9613/9206/2382/MN_Private_Prison_Evaluation_Website_Final.pdf)

<sup>4</sup> <https://www.prisonlegalnews.org/news/2009/dec/15/private-prisons-dont-make-better-prisoners/>

2. That the expenditure of the funds specified in Section 1 shall be *in addition* to any funds the Company already spends, intends to spend or is required to spend on rehabilitative or reentry programs and services pursuant to the Company's contracts with government agencies.

3. That the expenditure of the funds specified in Section 1 may be used to expand rehabilitative programs or services already provided in the Company's correctional facilities; to establish new rehabilitative programs or services; or as donations to non-profit organizations that provide rehabilitative or reentry programs and services for prisoners or released prisoners.

4. That the Company shall expend the funds specified in Section 1 proportionally among the Company's correctional facilities that are in active operation (vacant facilities not included), with such funds prorated according to each active facility's average daily population at the end of the prior fiscal year.