



DIVISION OF
CORPORATION FINANCE

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

March 22, 2018

Elizabeth A. Ising
Gibson, Dunn & Crutcher LLP
shareholderproposals@gibsondunn.com

Re: The Home Depot, Inc.
Incoming letter dated January 12, 2018

Dear Ms. Ising:

This letter is in response to your correspondence dated January 12, 2018 concerning the shareholder proposal (the "Proposal") submitted to The Home Depot, Inc. (the "Company") by the NorthStar Asset Management Funded Pension Plan (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. We also have received a letter on the Proponent's behalf dated February 12, 2018. Copies of all of the correspondence on which this response is based 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,

Matt S. McNair
Senior Special Counsel

Enclosure

cc: Sanford Lewis
sanfordlewis@strategiccounsel.net

March 22, 2018

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: The Home Depot, Inc.
Incoming letter dated January 12, 2018

The Proposal recommends that the board report to shareholders a cost-benefit analysis of the most recent election cycle's political and electioneering contributions, examining the effectiveness, benefits, and risks to shareholder value associated with those contributions.

There appears to be some basis for your view that the Company may exclude the Proposal under rule 14a-8(i)(11). We note that the Proposal is substantially duplicative of a previously submitted proposal that will be included in the Company's 2018 proxy materials. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on rule 14a-8(i)(11).

Sincerely,

Lisa Krestynick
Attorney-Adviser

DIVISION OF CORPORATION FINANCE
INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matters under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the company in support of its intention to exclude the proposal from the company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes and rules administered by the Commission, including arguments as to whether or not activities proposed to be taken would violate the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversarial procedure.

It is important to note that the staff's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholder proposals in its proxy materials. Accordingly, a discretionary determination not to recommend or take Commission enforcement action does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the company's management omit the proposal from the company's proxy materials.

SANFORD J. LEWIS, ATTORNEY

February 12, 2018
Via electronic mail

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

Re: Shareholder Proposal to The Home Depot, Inc. Regarding Cost-Benefit Analysis of Political Contributions on Behalf of NorthStar Asset Management Funded Pension Plan

Ladies and Gentlemen:

NorthStar Asset Management Funded Pension Plan (the “Proponent”) is beneficial owner of common stock of The Home Depot, Inc. (the “Company”) and has submitted a shareholder proposal (the “Proposal”) to the Company. I have been asked by the Proponent to respond to the letter dated January 12, 2018 (“Company Letter”) sent to the Securities and Exchange Commission by Elizabeth Ising of Gibson Dunn & Crutcher LLP. In that letter, the Company contends that the Proposal may be excluded from the Company’s 2018 proxy statement by virtue of Rule 14a-8(i)(11).

I have reviewed the Proposal, as well as the letter sent by the Company, and based upon the foregoing, as well as the relevant rules, it is my opinion that the Proposal must be included in the Company’s 2018 proxy materials and that it is not excludable by virtue of those rules. A copy of this letter is being emailed concurrently to Elizabeth Ising.

THE PROPOSAL

Political Contributions Cost-Benefit Analysis Report

Whereas:

The Supreme Court ruling in *Citizens United v. Federal Election Commission* interpreted the First Amendment right of freedom of speech to include certain corporate political expenditures involving “electioneering communications,” resulting in greater public and shareholder concern about corporate political spending;

News reports indicate that “there has been a dramatic mobilization of political power among America’s largest big-box retailers over the past four election cycles, with federal campaign

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and lobbying expenditures growing from \$5.2 million during the 2000 political cycle to \$29.8 million during the 2014 cycle, an almost six-fold increase.” The same report claims that our company is the second largest donor “among the top 100 political donors overall for the period since 1989”;

Our political action committee (HDPAC) donated \$3.7 million in political contributions in the 2015-2016 election cycle, which is more than double the contribution level of the election cycles immediately prior to the cycle in which *Citizens United* was decided;

Shareholders believe Home Depot should minimize risk to the firm’s reputation regarding possible future missteps in Company and HDPAC political contributions. Harvard Business Review warns that “[company directors] in a range of industries have been stung by media reports that political intermediaries used corporate money to help fund causes or candidates adverse to a firm’s business interests or its espoused values and positions”;

Our website and policies indicate that environmental protection and diversity are high priorities for our Company, however analysis of 2015-2017 HDPAC political contributions indicate misaligned contributions, including at least:

- 22 Members of Congress that voted against an amendment to the Justice for Victims of Trafficking Act that included explicit LGBTQ nondiscrimination protections for runaway and homeless youth programs;
- 16 Members of Congress who voted against Employment Non-Discrimination Act (ENDA), a landmark bill that would end decades of employment discrimination against lesbian, gay, bisexual, and transgender Americans;
- 110 Members of Congress who have been identified as climate change deniers;

Given the recent controversies regarding misconduct of politicians and around electioneering contributions in general, as well as the apparent misalignment between many Home Depot-directed political contributions and company values and policies, shareholders are concerned that benefit to the Company of influencing policymakers through Home Depot-directed political contributions may not outweigh the risks associated with political and electioneering contributions.

Resolved: Shareholders recommend that the Board of Directors report to shareholders (at reasonable expense, excluding confidential information) a cost-benefit analysis of the most recent election cycle’s political and electioneering contributions, examining the effectiveness, benefits, and risks to shareholder value associated with those contributions.

Supporting Statement: “Expenditures for electioneering communications” means spending directly, or through a third party, at any time during the year, on printed, internet or broadcast communications, which are reasonably susceptible to interpretation as in support of or opposition to a specific candidate.

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ANALYSIS

The Company argues that the Proposal is substantially duplicative with a prior submitted proposal under Rule 14a-8(i)(11). In fact, the Proposals do not overlap in either thrust or focus. As noted by the Company, New York State Common Retirement Fund (NYSCRF) submitted a proposal prior to the Proponent requesting a report disclosing:

1. Policies and procedures for making, with corporate funds or assets, contributions and expenditures (direct or indirect) to (a) participate or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, or (b) influence the general public, or any segment thereof, with respect to an election or referendum.
2. Monetary and non-monetary contributions and expenditures (direct and indirect) used in the manner described in section 1 above, including:
 - a. The identity of the recipient as well as the amount paid to each; and
 - b. The title(s) of the person(s) in the Company responsible for decision making.”

The Company asserts that the current Proposal and NYSCRF’s proposal are “substantially similar because they seek similar types of information to achieve the same objective (*i.e.*, public disclosure of the Company’s political contributions and expenditures and the Company’s policies governing these activities), and that the scope of the policies, procedures, contributions and expenditures ... is so broad as to substantially duplicate the principal thrust of the more targeted and specific request included in the Proposal. Therefore, the reports generated under the Proposals would overlap substantially.”

The current Proposal is a request for a cost-benefit analysis of the Company's political and electioneering contributions. The prior submitted proposal requests disclosure of data of the Company's political contributions, including policies and procedures with respect to such contributions and monetary and non-monetary contributions and expenditures.

While both Proposals relate to the general topic of political contributions, the thrust of each Proposal differs. The proposal submitted by the NYSCRF requests *data* regarding political contributions made by the Company, including the Company’s internal written policies and procedures. The current Proposal asks management to *analyze whether* current political contributions are a net win for the company.

This distinction is analogous to the Commission’s own distinctions in rules applicable to Form 10-K. NYSCRF’s requests are the equivalent of a financial statement, and the current Proposal of a management discussion and analysis.

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The Staff has long allowed more than one proposal addressing a similar topic as long as the proposals did not overlap. Reading the plain language of the proposals there is in fact no overlap.

In Staff precedents under Rule 14a-8(i)(11), proposals on the same broad topic were not found excludable when the thrust of the request was different.

In *Chevron Corp.* (March 24, 2009), Chevron unsuccessfully attempted to characterize two distinct proposals as duplicative, alleging that “both reflect a concern over the Company's criteria for determining *whether to operate in various countries*” and both request an assessment of the *reputational risks associated with those decisions*. While the proposals did have the identified similarities, the Staff found their subject matter to be distinct and non-duplicative. One proposal addressed “a gap between [Chevron’s] international environmental aspirations and its performance,” referring to Chevron's multi-billion dollar environmental, health and safety fines and settlements, asking that the company apply the highest environmental standards in the countries in which it operates. The other proposal requested a report on “the policies and procedures that guide Chevron's assessment of host country laws and regulations with respect to their adequacy to protect human health, the environment and our company's reputation.”

The latter proposal addressed Chevron's “opaque” process to determine whether to invest in or withdraw from countries requesting a report detailing Chevron's criteria for “(i) investment in; (ii) continued operations in; and, (iii) withdrawal from specific countries.” Despite some overlap of subject matter, the Staff considered the proposals to be sufficiently distinct to avoid exclusion.

Similarly, in *Exxon Mobil Corporation* (March 23, 2009), a proposal requesting a report on the impact of climate change on vulnerable emerging countries between 2010 and 2030, comparing the severity of impacts to a scenario where Exxon adopted sustainable energy policies that benefitted vulnerable emerging countries, was not found to be duplicative of another proposal that asked the company to “adopt a policy for renewable energy research, development and sourcing, reporting on its progress to investors.” Even though both proposals broadly referred to renewable or sustainable technology research, the first proposal did not refer to creating policy changes within the company, but “to investigate and report to shareholders on the likely consequences of global climate change between now and 2030 for emerging countries, and poor communities in these countries and developed countries, and to compare these outcomes with scenarios in which ExxonMobil takes leadership in developing sustainable energy technologies that can be used by and for the benefit of those most threatened by climate change.”

Finally, in *OGE Energy Corp.* (February 27, 2008), two proposals that related broadly to climate change were found not to be substantially duplicative where the first filed proposal requested a report on the economic impact of climate change on the company, and the second proposal requested a report on the “feasibility of adopting quantitative goals based on current and emerging technologies for

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reducing global greenhouse gas emissions from the company's operations.” These decisions highlight that proposals that relate to the same subject matter are not excludable when they propose different core actions and have different principal thrusts.

Similarly, proposals that relate to aspects of board elections are not considered duplicative under the rule. For instance, in *Baxter Inc.* (January 31, 2012), one proposal calling for a simple majority vote, and another calling for directors to be elected on an annual basis were not found duplicative for purposes of Rule 14a-8(i)(11). See also *Pulte Homes Inc.* (March 17, 2010) (indicating that a proposal urging the board of directors to adopt a policy requiring senior executives to retain 75% of all equity-based compensation for at least two years following their departure from the company and to report to shareholders regarding the policy is distinct from a proposal asking the board to adopt a policy that would bar senior executives and directors from engaging in speculative transactions involving their holdings of company stock).

The Company argues that the “two Proposals are substantially similar because they seek similar types of information to achieve the same objective (*i.e.*, public disclosure of the Company’s political contributions and expenditures and the Company’s policies governing these activities).”

On numerous occasions, the Staff has allowed multiple proposals dealing broadly with political contributions and expenditures broadly to be placed on the proxy not excludable under Rule 14a-8(i)(11). *Bank of America Corp.* (January 7, 2013) (concurring that a proposal seeking to explore an *end to political spending* on elections and referenda is distinct from a proposal asking the company to *disclose* its *political spending* in a variety of categories).

Also see *e.g.*, *Ford Motor Company* (February 6, 2018) (a proposal recommending that Ford provide a semi-annual report disclosing certain information regarding the Company’s involvement in the political process is distinct from a proposal requesting the preparation of an annual report disclosing policies, procedures, and payments by Ford used for both indirect and direct lobbying).

See also, *The Allstate Corporation* (March 12, 2014) (proposal requesting report of company expenditures on lobbying does not substantially duplicate a proposal requesting disclosure of political spending); *AT&T Inc.* (February 3, 2012) (indicating that a proposal seeking a *report on lobbying contributions and expenditures* is distinct from a proposal seeking a report on political disclosure, whereas AT&T argued they were both “political”).

The decision in *CVS Caremark Corporation* (March 15, 2013), in which the Staff found that a political contributions disclosure and lobbying disclosure proposal did not overlap for purposes of Rule 14a-8(i)(11) is also quite relevant to the present instance. The political contributions proposal, though in a similar vein generally, did not include lobbying disclosure. Similarly, in the present instance, the explicit requests of the two proposals does not overlap. Only through the company's interpretive assumptions regarding information that could conceivably be in the cost-benefit report requested by the

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present Proposal is the company able to find significant actual overlap in what would be reported in the two different reports.

Further, at *Pharma-Bio Serv, Inc.* (January 17, 2014), two proposals, which both related to the issuance of dividends, were allowed by the Staff to appear on the proxy, and not found to be excludable under Rule 14a-8(i)(11). The first proposal requested that the board establish a quarterly dividend policy, while the second requested that the board immediately adopt and issue a special cash dividend. Even though the subject matter of dividends underlay both proposals, they were not considered duplicative for purposes of the rule. Similarly, proposals that relate to aspects of board elections are not considered duplicative under the rule. For instance, in *Baxter Inc.* (January 31, 2012), one proposal calling for a simple majority vote, and another calling for directors to be elected on an annual basis, were not found duplicative for purposes of Rule 14a-8(i)(11). See also *Pulte Homes Inc.* (March 17, 2010)(indicating that a proposal urging the board of directors to adopt a *policy* requiring that senior *executives retain 75% of all equity-based compensation for at least two years following their departure* from the company and to *report* to shareholders regarding the policy is distinct from a proposal asking the board to adopt a *policy* that would *bar* senior executives and directors from engaging in *speculative transactions* involving their holdings of company stock). These proposals, while broadly about governance and government influence, are distinct in “principal thrust.”

There is no shared principal thrust and focus in the two Proposals.

The Company argues that both Proposals “request a report disclosing the Company’s political contributions and expenditures.” The Company fails to differentiate between our Proposal asking for a cost benefit analysis, and NYSCRF’s proposal’s completely different request to simply disclose political contribution data.

NYSCRF’s Proposal is a request for disclosure of data from the company – amounts of contributions made and to whom. In contrast, the Proposal seeks a specific analysis of the costs and benefits of the Company’s political contributions. This is a particular frame of analysis. Notably, the framework does not require the disclosure of data. Rather, our Proposal goes a great deal further in requesting an analysis of the costs and benefits of political contributions, and whether and how the Company’s existing political contributions benefit the Company and its shareholders.

The Company distorts the focus of the Proposals to Show Overlap

The Company Letter distorts the requests of both proposals in order to make them appear to overlap. For instance, the Company states that the NYSCRF Proposal seeks the disclosure of “[m]onetary and non-monetary contributions and expenditures (direct and indirect)” relating to political contributions, including the amounts paid. Similarly, the Proposal seeks a “cost”-benefit [stet] analysis of the most recent election cycle’s political and electioneering contributions, *which would also require disclosure of each contribution and expenditure (as well as analysis of the related benefit).*” [Emphasis added]

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Yet, the Proposal does not request disclosure of any specific contributions and expenditures. Instead, it only seeks an analysis of the data.

The Company also argues that “both Proposals request a report that would be made public and that would require disclosure and/or analysis of the Company’s policies and procedures governing its political contributions and expenditures.” While it is literally true that both proposals seek a report, the similarities end there. The Proposal does not request disclosure of the Company’s policies and procedures, but rather a cost-benefit analysis “examining the effectiveness, benefits, and risks to shareholder value associated with those contributions,” which the Company letter states “**would inevitably require analysis of the Company’s policies and procedures governing its political contributions and expenditures.**” [Emphasis added]

Again, the Company Letter distorts the Proposal. Although the cost-benefit analysis might well necessitate an examination of the company’s policies and procedures, those policies and procedures would not be detailed in the cost-benefit analysis. To the contrary, the cost-benefit analysis will merely make reference to existing policies and procedures. In short, the types of information requested by the two Proposals are completely different.

Next, the Company notes that “[b]oth Proposals focus on the importance of transparency and accountability in the Company’s political spending...[and] that the absence of the requested disclosure presents risks to the Company’s shareholder value.” It is certainly true that both proposals seek transparency and accountability and are concerned with risks to shareholder value. However, their requests do not overlap – the NYSCRF proposal requests data and policy disclosures, while our Proposal requests the management’s assessment of the costs and benefits of the Company’s political spending approach.

The Company argues that “both Proposals address direct and indirect spending.” This is a generic statement that could apply to a variety of proposal, not specifically to the Proposals at issue. The Company again argues that both our Proposal and that of NYSCRF request a “report” relating to contributions and expenditures. Our Proposal asks for a substantive analysis, whereas the NYSCRF Proposal asks for the underlying data. Again, these “similarities” are so generic as to apply to a number of different proposals, not just the Proposals here. Our Proposal requests an analysis of the Company’s political contributions, rather than data on “funds” expended for such contributions. With respect to Board of Directors oversight, while both Proposals reference Board oversight, this similarity could apply to any other Proposal, including those not related to the subject matter of political contributions. Surely, the Company is not suggesting that *any* Proposal relating to Board of Directors oversight would be duplicative?

The Company brings special attention to the prior decision in *FedEx Corp.* (July 21, 2011) where exclusion of the proponent’s proposal was allowed under Rule 14a-8(i)(11). But in that instance, the

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proposal and prior proposal both *requested specific data disclosures* which overlapped substantially. In that instance, the prior proposal requested that the company prepare and semi-annually update a report disclosing the company's policies and procedures for making political contributions and expenditures as well as monetary and non-monetary political contributions and expenditures used to participate or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, and used in any attempt to influence the general public, or segments thereof, with respect to elections or referenda. In *FedEx Corp.*, the NorthStar Proposal requested that

the Board of Directors adopt a policy under which the proxy statement for each annual meeting will contain a proposal describing the Company's and FedEx PAC policies on electioneering and political contributions and communications,

- **any specific expenditures for these electioneering and political contributions and communications known to be anticipated during the forthcoming fiscal year,**
- **the total amount of anticipated expenditures,**
- **a list of specific electioneering expenditures made in the prior fiscal year,**
- management's analysis of the congruency of those policies and such expenditures with company values and policies,
- and providing an advisory shareholder vote on those policies and future plans."

The prior proposal requested similar data. Thus, there was a clear overlap in the **data disclosures** requested. No such overlap exists in the Proposal. The two reports requested by the two proposals could stand side-by-side and would likely have no overlap. The thrust is not identical; rather, it contains two parallel tracks that appropriately could be requested side by side.

The Company goes on to assert that like in *FedEx Corp.*, although our Proposal and the NYSCRF Proposal use somewhat different terminology, "*they both ultimately seek to have the Company report on its policies regarding political contributions and expenditures and on the decision-making process regarding such contributions and expenditures.*" The company goes on to argue that there is some "risk of confusion and inconsistent results if the Company's shareholders were asked to vote on both Proposals. If.... one passed while the other failed, it would be impossible for the Company to implement one without also taking steps called for by the other proposal that the Company's shareholders had not supported."

In our view, there is no risk of confusion and inconsistent results if the Company's shareholders were asked to vote on both Proposals. If the shareholders vote for NYSCRF's proposal, and reject ours, a report containing political contribution data could be prepared. Conversely, if our Proposal was implemented, and NYSCRF's was rejected, a cost benefit analysis of the political contributions could be prepared. The Proposals are sufficiently different that if one was accepted and the other rejected, there would be a logical outcome, rather than confusion by the shareholders. Since it is possible to

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disclose analysis without data or data without analysis, the idea that the proposals are overlapping is false.

CONCLUSION

Based on the foregoing, we believe it is clear that the Company has provided no basis for the conclusion that the Proposal is excludable from the 2018 proxy statement pursuant to Rule 14a-8. As such, we respectfully request that the Staff inform the company that it is denying the no action letter request. If you have any questions, please contact me at 413 549-7333 or sanfordlewis@strategiccounsel.net.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Lewis", written over the word "Sanford Lewis".

Sanford Lewis

Cc:

Elizabeth Ising
Julie Goodridge
Mari Schwartzer

January 12, 2018

VIA E-MAIL

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

Re: *The Home Depot, Inc.*
Shareholder Proposal of NorthStar Asset Management Funded
Pension Plan
Securities and Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, The Home Depot, Inc. (the “Company”), intends to omit from its proxy statement and form of proxy for its 2018 Annual Meeting of Shareholders (collectively, the “2018 Proxy Materials”) a shareholder proposal (the “Proposal”) and statements in support thereof received from the NorthStar Asset Management Funded Pension Plan (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 2018 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 shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to 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 the following:

Resolved: Shareholders recommend that the Board of Directors report to shareholders (at reasonable expense, excluding confidential information) a cost-benefit analysis of the most recent election cycle’s political and electioneering contributions, examining the effectiveness, benefits, and risks to shareholder value associated with those contributions.

Supporting Statement: “Expenditures for electioneering communications” means spending directly, or through a third party, at any time during the year, on printed, internet or broadcast communications, which are reasonably susceptible to interpretation as in support of or opposition to a specific candidate.

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

BASIS FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2018 Proxy Materials pursuant to Rule 14a-8(i)(11) because the Proposal substantially duplicates another proposal previously submitted to the Company by the New York State Common Retirement Fund (the “NYSCRF Proposal” and, together with the Proposal, the “Proposals”) that the Company intends to include in its 2018 Proxy Materials. See Exhibit B.

ANALYSIS

The Proposal May Be Excluded Under Rule 14a-8(i)(11) Because It Substantially Duplicates Another Proposal That The Company Intends To Include In Its Proxy Materials.

- A. *Proposals Are Substantially Duplicative Under Rule 14a-8(i)(11) When They Have The Same Principal Thrust Or Focus*

Rule 14a-8(i)(11) provides that a shareholder proposal may be excluded if it “substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company’s proxy materials for the same meeting.” The Commission

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has stated that “the purpose of [Rule 14a-8(i)(11)] is to eliminate the possibility of shareholders having to consider two or more substantially identical proposals submitted to an issuer by proponents acting independently of each other.” Securities Exchange Act of 1934 Release No. 12999 (Nov. 22, 1976). When two substantially duplicative proposals are received by a company, the Staff has indicated that the company must include the first of the proposals in its proxy materials, unless that proposal may otherwise be excluded. *See Great Lakes Chemical Corp.* (avail. Mar. 2, 1998); *see also Pacific Gas & Electric Co.* (avail. Jan. 6, 1994).

The standard that the Staff has traditionally applied for determining whether a proposal substantially duplicates an earlier received proposal is whether the proposals present the same “principal thrust” or “principal focus.” *Pacific Gas & Electric Co.* (avail. Feb. 1, 1993). If a proposal does satisfy this standard, it may be excluded as substantially duplicating the earlier received proposal despite differences in the terms or breadth of the proposals and even if the proposals request different actions. *See, e.g., Exxon Mobil Corp.* (avail. Mar. 9, 2017) (concurring that a proposal requesting a report on political contributions substantially duplicated a proposal requesting a report on lobbying expenditures); *Union Pacific Corp.* (avail. Feb. 1, 2012, *recon. denied* Mar. 30, 2012) (same); *FedEx Corp.* (avail. July 21, 2011) (concurring that a proposal requesting that the company’s board of directors adopt a policy that each proxy statement contain a proposal with specific features relating to electioneering and political contributions (as discussed in greater detail below) substantially duplicated an earlier proposal requesting a semi-annual report detailing expenditures used to participate in political campaigns and the policies for such expenditures); *Wells Fargo & Co.* (avail. Feb. 8, 2011) (concurring that a proposal seeking a review and report on the company’s internal controls regarding loan modifications, foreclosures and securitizations substantially duplicated a proposal seeking a report that would include “home preservation rates” and “loss mitigation outcomes,” which would not necessarily be covered by the other proposal); *Chevron Corp.* (avail. Mar. 23, 2009) (concurring that a proposal requesting that an independent committee prepare a report on the environmental damage that would result from the company’s expanding oil sands operations in the Canadian boreal forest substantially duplicated a proposal to adopt goals for reducing total greenhouse gas emissions from the company’s products and operations); *Ford Motor Co. (Leeds)* (avail. Mar. 3, 2008) (concurring that a proposal to establish an independent committee to prevent Ford family shareholder conflicts of interest with non-family shareholders substantially duplicated a proposal requesting that the board take steps to adopt a recapitalization plan for all of the company’s outstanding stock to have one vote per share).

The Staff has concurred that proposals are excludable under Rule 14a-8(i)(11) even when the second proposal is more specific and targeted than the first proposal. For example, in

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JPMorgan Chase & Co. (New York City Pension Funds) (avail. Mar. 14, 2011), the Staff concurred that a proposal that specifically requested that the board of directors both dispatch its audit committee to conduct an independent review of internal controls over its mortgage servicing operations and issue a subsequent report could be omitted in reliance on Rule 14a-8(i)(11) as substantially duplicative of a previous proposal that asked for the board to oversee and report on the development and enforcement of internal controls related to loan modification methods. Irrespective of the differences in scope and detail, the principal focus and the core issue of general mortgage modification practices remained the same. Similarly, in *Abbott Laboratories* (avail. Feb. 4, 2004), the Staff permitted exclusion of a proposal requesting limitations on all salary and bonuses paid to senior executives as substantially duplicating an earlier proposal requesting only that the board of directors adopt a policy prohibiting future stock option grants to senior executives. *See also Ford Motor Co. (Lazarus)* (avail. Feb. 15, 2011) (concurring that a proposal requesting a semi-annual report detailing policies and procedures for making political contributions and expenditures and disclosing contributions and expenditures paid substantially duplicated a proposal requesting only that a report listing political contributions be published in certain major newspapers); *General Motors Corp.* (avail. Apr. 5, 2007) (concurring that a proposal requesting a report on the company's non-deductible political contributions and expenditures substantially duplicated a proposal to disclose the company's contributions made "in respect of a political campaign, political party, referendum or citizen's initiative, or attempts to influence legislation").

B. The Proposal Substantially Duplicates The NYSCRF Proposal

The Company received the NYSCRF Proposal on November 16, 2017, prior to its receipt of the Proposal on December 1, 2017. The Company intends to include the NYSCRF Proposal, a copy of which is attached to this letter as Exhibit B, in its 2018 Proxy Materials. The NYSCRF Proposal requests that "the Company provide a report, updated semiannually, disclosing the Company's:

1. Policies and procedures for making, with corporate funds or assets, contributions and expenditures (direct or indirect) to (a) participate or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, or (b) influence the general public, or any segment thereof, with respect to an election or referendum.
2. Monetary and non-monetary contributions and expenditures (direct and indirect) used in the manner described in section 1 above, including:
 - a. The identity of the recipient as well as the amount paid to each; and

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b. The title(s) of the person(s) in the Company responsible for decision making.”

The NYSCRF Proposal further provides that “[t]he report shall be presented to the board of directors or relevant board committee and posted on the Company’s website within 12 months from the date of the annual meeting. This proposal does not encompass lobbying spending.”

The two Proposals are substantially similar because they seek similar types of information to achieve the same objective (*i.e.*, public disclosure of the Company’s political contributions and expenditures and the Company’s policies governing these activities), and the scope of the policies, procedures, contributions and expenditures addressed in the NYSCRF Proposal is so broad as to substantially duplicate the principal thrust of the more targeted and specific request included in the Proposal. Therefore, the reports generated under the Proposals would overlap substantially.

This shared principal thrust and focus is evidenced by the following:

- *Both Proposals request a report disclosing the Company’s political contributions and expenditures.* Specifically, the NYSCRF Proposal seeks the disclosure of “[m]onetary and non-monetary contributions and expenditures (direct and indirect)” relating to political contributions, including the amounts paid. Similarly, the Proposal seeks a “cost”-benefit analysis of the most recent election cycle’s political and electioneering contributions, which would also require disclosure of each contribution and expenditure (as well as analysis of the related benefit).
- *Both Proposals request a report that would be made public and that would require disclosure and/or analysis of the Company’s policies and procedures governing its political contributions and expenditures.* Specifically, the NYSCRF Proposal requests that a report be published on the Company’s website and that it include disclosure of “[p]olicies and procedures for making, with corporate funds or assets, [political] contributions and expenditures (direct or indirect).” Likewise, the Proposal is focused on the “apparent misalignment between . . . political contributions and company values and policies” and asks that the Company’s Board of Directors make the report available to shareholders, “examining the effectiveness, benefits, and risks to shareholder value associated with those contributions,” which report would inevitably require analysis of the

Office of Chief Counsel
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Company's policies and procedures governing its political contributions and expenditures.

- *Both Proposals focus on the importance of transparency and accountability in the Company's political spending.* Both Proposals emphasize the importance of transparency and accountability related to the Company's political spending. The NYSCRF Proposal's supporting statement, for instance, emphasizes that "[a]s long-term shareholders of Home Depot, we support transparency and accountability in corporate political spending." Likewise, the Proposal's supporting statement focuses on accountability by emphasizing that "shareholders are concerned that benefit to the Company of influencing policymakers . . . may not outweigh the risks associated with political and electioneering contributions."
- *Both Proposals argue that the absence of the requested disclosure presents risks to the Company's shareholder value.* For instance, the NYSCRF Proposal argues that "[t]he Company's board and shareholders need comprehensive disclosure to fully evaluate the political use of corporate assets." Similarly, the "Resolved" clause of the Proposal is specifically directed at assessing impact on "shareholder value" associated with political and electioneering expenditures.
- *Both Proposals address direct and indirect spending.* The Proposal defines "[e]xpenditures for electioneering communications" as "spending *directly, or through a third party*, at any time during the year, on printed, internet or broadcast communications, which are reasonably susceptible to interpretation as in support of or opposition to a specific candidate" (emphasis added), which directly correlates with the NYSCRF Proposal's request for a reporting of "[m]onetary and non-monetary contributions and expenditures (*direct and indirect*) used" to participate or intervene in any political campaign, including payments to trade associations and other tax-exempt organizations, which may be used for political purposes (emphasis added).
- *Both Proposals reference funds used for "electioneering communications" as a focal point of the information being sought.* In addition to the similar reference to direct and indirect contributions and expenditures, both Proposals also seek information related to funds used for "electioneering communications." The Proposal specifically defines "[e]xpenditures for electioneering communications," as noted above. The supporting statement of the NYSCRF Proposal notes that corporate political spending "includes any activity considered intervention in any political campaign under the Internal Revenue Code, such as direct and indirect

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political contributions to candidates, parties, or organizations, and independent expenditures *or electioneering communications* on behalf of federal, state, or local candidates” (emphasis added).

- *Both Proposals require involvement by the Board of Directors.* The NYSCRF Proposal requests that the report on political contributions be presented to the Board of Directors (or relevant Board committee). Likewise, the Proposal requests that the Board of Directors report to the shareholders on the requested cost-benefit analysis.

Importantly, the NYSCRF Proposal is virtually identical to the proposal that was received from the Comptroller of the City of New York (the “NYC Comptroller Proposal”) and considered in *FedEx Corp.* (avail. July 21, 2011). In addition, the Proposal is very similar to the proposal received from the same Proponent as here—the NorthStar Asset Management Funded Pension Plan— (the “NorthStar Proposal”) that FedEx Corp. sought to exclude as being substantially duplicative of the NYC Comptroller Proposal. Specifically, the NYC Comptroller Proposal, like the NYSCRF Proposal, requested that the company prepare and semi-annually update a report disclosing the company’s policies and procedures for making political contributions and expenditures as well as monetary and non-monetary political contributions and expenditures used to participate or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, and used in any attempt to influence the general public, or segments thereof, with respect to elections or referenda.

The NorthStar Proposal requested that that “the Board of Directors adopt a policy under which the proxy statement for each annual meeting will contain a proposal describing:

- the Company’s and FedExPAC policies on electioneering and political contributions and communications,
- any specific expenditures for these electioneering and political contributions and communications known to be anticipated during the forthcoming fiscal year,
- the total amount of anticipated expenditures,
- a list of specific electioneering expenditures made in the prior fiscal year,
- management’s analysis of the congruency of those policies and such expenditures with company values and policies,
- and providing an advisory shareholder vote on those policies and future plans.”

As such, like the Proposal, the NorthStar Proposal (1) requested that the board of directors act (as opposed to the company); (2) covered electioneering and political expenditures, including political action committee (“PAC”) donations; and (3) also requested

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“management’s analysis of the congruency of those policies and such expenditures with company values and policies,” which is akin to the Proposal’s request for a “cost-benefit analysis” that examines the “effectiveness, benefits, and risks to shareholder value” associated with “the most recent election cycle’s political and electioneering contributions.”

As with the Proposal and the NYSCRF Proposal, the NorthStar Proposal and the NYC Comptroller Proposal substantially duplicated each other in *FedEx Corp.* because the principal thrust and focus of the two shareholder proposals were identical: to publicly provide details related to the company’s political contributions and expenditures and the company’s policies governing these activities. Like in *FedEx Corp.*, although the Proposal and the NYSCRF Proposal use somewhat different terminology, they both ultimately seek to have the Company report on its policies regarding political contributions and expenditures and on the decision-making process regarding such contributions and expenditures. The fact that, unlike the NYSCRF Proposal, the Proposal asks for the “cost-benefit analysis” does not change this result, just as in *FedEx Corp.* where the NorthStar Proposal requested a congruency analysis and an advisory vote on FedEx Corp.’s political expenditures. While the Proponent in *FedEx Corp.* argued otherwise, the Staff did not agree and concurred that the NorthStar Proposal was excludable as being substantially duplicative of the NYC Comptroller Proposal. Here, the Proposal’s request for a cost-benefit analysis of political contributions for the most recent election cycle necessarily will involve some degree of disclosure of such contributions as well as the Company’s policies and procedures for making political contributions and expenditures, both of which are covered by the NYSCRF Proposal. Similarly, the fact that the Proposal alludes to contributions made by the Company’s PAC, is not relevant to the analysis. This issue was raised in *FedEx Corp.* and, again, despite the Proponent’s counsel attempting to demonstrate a distinction, the Staff did not agree.

Thus, because, like in *FedEx Corp.*, the principal thrust and focus of the Proposal and the NYSCRF Proposal relate to, and seek information regarding, the Company’s political spending, and the Company’s policies governing such spending, the Proposal substantially duplicates the earlier NYSCRF Proposal.

Finally, because of this duplication, there is a risk of confusion and inconsistent results if the Company’s shareholders were asked to vote on both Proposals. If both Proposals were included in the Company’s 2018 Proxy Materials, and one passed while the other failed, it would be impossible for the Company to implement one without also taking steps called for by the other proposal that the Company’s shareholders had not supported. As noted above, the purpose of Rule 14a-8(i)(11) “is to eliminate the possibility of shareholders having to consider two or more substantially identical proposals submitted to an issuer by proponents

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Office of Chief Counsel
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acting independently of each other.” Securities Exchange Act Release No. 12999 (Nov. 22, 1976). Accordingly, consistent with the Staff precedent in *FedEx Corp.* and the other precedents cited above, we request that the Staff concur that the Proposal may be excluded under Rule 14a-8(i)(11) as it substantially duplicates the NYSCRF Proposal.

CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2018 Proxy Materials.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to shareholderproposals@gibsondunn.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 955-8287, or Stacy S. Ingram, the Company’s Associate General Counsel and Deputy Corporate Secretary, at (770) 384-2858.

Sincerely,



Elizabeth A. Ising

Enclosures

cc: Stacy S. Ingram, The Home Depot, Inc.
Julie N.W. Goodridge, NorthStar Asset Management, Inc.
Mari Schwartzer, NorthStar Asset Management, Inc.

EXHIBIT A

From: Mari Schwartzter [<mailto:mschwartzter@northstarasset.com>]
Sent: Friday, December 01, 2017 11:57 AM
To: Roseborough, Teresa W <TERESA_W_ROSEBOROUGH@homedepot.com>
Cc: Dayhoff, Diane <Diane_Dayhoff@HomeDepot.com>; Ingram, Stacy <STACY_INGRAM@homedepot.com>
Subject: [EXTERNAL] Shareholder proposal - 2018 proxy

Dear Ms. Roseborough,

Attached, please find a shareholder proposal intended for the 2018 proxy. A hard copy is being sent concurrently via FedEx Express.

We look forward to engaging with your company on this important matter.

Sincerely,

Mari

Mari Schwartzter

Assistant Director of Shareholder Activism, Engagement, and Social Research

NorthStar Asset Management, Inc.

mschwartzter@northstarasset.com

www.northstarasset.com

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December 1, 2017

Teresa Wynn Roseborough
Corporate Secretary
The Home Depot, Inc.
2455 Paces Ferry Road
Building C-22
Atlanta, GA 30339

Dear Ms. Roseborough:

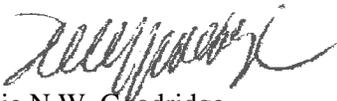
Considering the Supreme Court decision of *Citizens United v. Federal Election Commission* and past public backlash against corporate political spending, we are concerned about our Company's potential exposure to risks caused by our future electioneering contributions.

Therefore as the beneficial owner, as defined under Rule 13(d)-3 of the General Rules and Regulations under the Securities Act of 1934, of more than \$2,000 worth of shares of Home Depot common stock held for more than one year, the NorthStar Asset Management Funded Pension Plan is submitting for inclusion in the next proxy statement, in accordance with Rule 14a-8 of the General Rules, the enclosed shareholder proposal. The proposal requests that the company prepare a cost-benefit analysis report regarding the company and PAC's political contributions.

As required by Rule 14a-8, the NorthStar Asset Management, Inc Funded Pension Plan has held these shares for more than one year and will continue to hold the requisite number of shares through the date of the next stockholders' annual meeting. Proof of ownership will be provided within fifteen business days. I or my appointed representative will be present at the annual meeting to introduce the proposal.

A commitment from Home Depot to report to shareholders as described in the proposal will allow this resolution to be withdrawn. We believe that this proposal is in the best interest of our Company and its shareholders.

Sincerely,



Julie N.W. Goodridge
President

Encl.: shareholder resolution

Political Contributions Cost-Benefit Analysis Report

Whereas:

The Supreme Court ruling in *Citizens United v. Federal Election Commission* interpreted the First Amendment right of freedom of speech to include certain corporate political expenditures involving “electioneering communications,” resulting in greater public and shareholder concern about corporate political spending;

News reports indicate that “there has been a dramatic mobilization of political power among America’s largest big-box retailers over the past four election cycles, with federal campaign and lobbying expenditures growing from \$5.2 million during the 2000 political cycle to \$29.8 million during the 2014 cycle, an almost six-fold increase.” The same report claims that our company is the second largest donor “among the top 100 political donors overall for the period since 1989”;

Our political action committee (HDPAC) donated \$3.7 million in political contributions in the 2015-2016 election cycle, which is more than double the contribution level of the election cycles immediately prior to the cycle in which *Citizens United* was decided;

Shareholders believe Home Depot should minimize risk to the firm’s reputation regarding possible future missteps in Company and HDPAC political contributions. Harvard Business Review warns that “[company directors] in a range of industries have been stung by media reports that political intermediaries used corporate money to help fund causes or candidates adverse to a firm’s business interests or its espoused values and positions”;

Our website and policies indicate that environmental protection and diversity are high priorities for our Company, however analysis of 2015-2017 HDPAC political contributions indicate misaligned contributions, including at least:

- 22 Members of Congress that **voted against an amendment to the Justice for Victims of Trafficking Act** that included explicit LGBTQ nondiscrimination protections for runaway and homeless youth programs;
- 16 Members of Congress who **voted against Employment Non-Discrimination Act (ENDA)**, a landmark bill that would end decades of employment discrimination against lesbian, gay, bisexual, and transgender Americans;
- 110 Members of Congress who have been identified as **climate change deniers**;

Given the recent controversies regarding misconduct of politicians and around electioneering contributions in general, as well as the apparent misalignment between many Home Depot-directed political contributions and company values and policies, shareholders are concerned that benefit to the Company of influencing policymakers through Home Depot-directed political contributions may not outweigh the risks associated with political and electioneering contributions.

Resolved: Shareholders recommend that the Board of Directors report to shareholders (at reasonable expense, excluding confidential information) a cost-benefit analysis of the most recent election cycle’s political and electioneering contributions, examining the effectiveness, benefits, and risks to shareholder value associated with those contributions.

Supporting Statement: “Expenditures for electioneering communications” means spending directly, or through a third party, at any time during the year, on printed, internet or broadcast communications, which are reasonably susceptible to interpretation as in support of or opposition to a specific candidate.

From: Mari Schwartzter <mschwartzter@northstarasset.com>
Date: December 8, 2017 at 12:18:34 PM EST
To: "teresa_w_roseborough@homedepot.com" <teresa_w_roseborough@homedepot.com>
Cc: "Diane Dayhoff (Diane_Dayhoff@HomeDepot.com)" <Diane_Dayhoff@HomeDepot.com>, "Ingram, Stacy" <STACY_INGRAM@homedepot.com>
Subject: [EXTERNAL] RE: Shareholder proposal - 2018 proxy

Dear Ms. Roseborough:
Attached, please find the proof of ownership associated with the shareholder proposal we filed last week. I will be sending a hard copy concurrently via USPS Express Mail.

Thank you,
Mari

Mari Schwartzter
Assistant Director of Shareholder Activism, Engagement, and Social Research
NorthStar Asset Management, Inc.
mschwartzter@northstarasset.com
www.northstarasset.com

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From: Mari Schwartzter
Sent: Friday, December 01, 2017 11:57 AM
To: 'teresa_w_roseborough@homedepot.com'
Cc: Diane Dayhoff (Diane_Dayhoff@HomeDepot.com); 'Ingram, Stacy'
Subject: Shareholder proposal - 2018 proxy

Dear Ms. Roseborough,
Attached, please find a shareholder proposal intended for the 2018 proxy. A hard copy is being sent concurrently via FedEx Express.

We look forward to engaging with your company on this important matter.

Sincerely,
Mari

Mari Schwartzter
Assistant Director of Shareholder Activism, Engagement, and Social Research
NorthStar Asset Management, Inc.
mschwartzter@northstarasset.com
www.northstarasset.com

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December 8, 2017

Teresa Wynn Roseborough
Corporate Secretary
The Home Depot, Inc.
2455 Paces Ferry Road
Building C-22
Atlanta, GA 30339

Dear Ms. Roseborough:

This letter is regarding the shareholder proposal filed for the 2018 proxy statement by the NorthStar Asset Management Funded Pension Plan. Enclosed, please find a letter from our brokerage, Morgan Stanley Wealth Management (a DTC participant), verifying that the NorthStar Funded Pension Plan has held the requisite amount of stock in The Home Depot, Inc. for more than one year prior to filing the shareholder proposal. As previously stated, we intend to continue to hold these shares through the next shareholder meeting.

Please note that we are submitting this proof of ownership on a timely basis consistent with Rule 14a-8. In the event that you find any defect in this documentation, we request that you notify us promptly of any concerns or deficiencies.

Should you need anything further, do not hesitate to contact me at mschwartz@northstarasset.com. Thank you in advance for your attention to this matter.

Sincerely,



Mari C. Schwartz
Assistant Director of Shareholder Activism, Engagement, and Social Research

Encl.: proof of ownership

Wealth Management
35 Village Road, Suite 601
Middleton, MA 01949
direct 978 739 9600
fax 978 739 9650
toll free 800 730 3326

Morgan Stanley

December 5, 2017

Teresa Wynn Roseborough
Corporate Secretary
The Home Depot, Inc.
2455 Paces Ferry Road
Building C-22
Atlanta, GA 30339

Dear Ms. Roseborough:

Morgan Stanley Wealth Management, a DTC participant, acts as the custodian for the NorthStar Asset Management, Inc. Funded Pension Plan. As of December 1, 2017, the NorthStar Funded Pension Plan held 378 shares of Home Depot common stock valued at \$68,198.76. Of those shares, 360 shares valued at \$64,951.20 have been held continuously by Morgan Stanley Wealth Management on behalf of the NorthStar Asset Management Funded Pension Plan since December 1, 2016. Morgan Stanley Wealth Management will continue to hold the requisite number of shares through the date of the next stockholders' annual meeting.

Sincerely,



Stephen A. Calderara CFP®
Financial Advisor
NMLS 1401593

Investments and Services are offered through Morgan Stanley Smith Barney LLC & accounts carried by Morgan Stanley & Co. Incorporated. Member SIPC

The information contained herein is based upon data obtained from sources believed to be reliable. However, such data is not guaranteed as to its accuracy or completeness and is for informational purposes only. Clients should refer to their confirmations and statements for tax purposes as the official record for their account.

THE ABOVE SUMMARY/QUOTE/STATISTICS CONTAINED HEREIN HAVE BEEN OBTAINED FROM SOURCES BELIEVED RELIABLE BUT ARE NOT NECESSARILY COMPLETE AND CANNOT BE GUARANTEED. ERRORS AND OMISSIONS EXCEPTED.

EXHIBIT B

From: <TGoldsmith@osc.state.ny.us>

Date: November 16, 2017 at 6:25:16 PM EST

To: <investor_relations@homedepot.com>, <teresa_w_roseborough@homedepot.com>

Subject: [EXTERNAL] Shareholder Request

Hello Ms. Teresa Roseborough,

Please find attached a copy of the New York State Common Retirement Fund filing letter and shareholder resolution, which has also been sent to you today via UPS.

If you have any questions, please feel free to contact me regarding this transmission.

Kind Regards,

Tana

Tana Goldsmith
Special Investment Officer
Pension Investment and Cash Management
Office of the State Comptroller
59 Maiden Lane Fl. 30
New York, NY 10038
tgoldsmith@osc.state.ny.us
Direct Line: 212.383.2592
Receptionist: 212.383.3931
Facsimile: 212.383.1331

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THOMAS P. DINAPOLI
STATE COMPTROLLER



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

DIVISION OF CORPORATE GOVERNANCE
59 Maiden Lane-30th Floor
New York, NY 10038
Tel: (212) 383-1428
Fax: (212) 383-1331

November 16, 2017

Ms. Theresa Roseborough
Corporate Secretary
The Home Depot, Inc.
2455 Paces Ferry Road, Building C-22
Atlanta, Georgia 30339

Dear Ms. Roseborough:

The Comptroller of the State of New York, Thomas P. DiNapoli, is the trustee of the New York State Common Retirement Fund (the "Fund") and the administrative head of the New York State and Local Retirement System. The Comptroller has authorized me to inform of his intention to offer the enclosed shareholder proposal for consideration of stockholders at the next annual meeting.

I submit the enclosed proposal to you in accordance with rule 14a-8 of the Securities Exchange Act of 1934 and ask that it be included in your proxy statement.

A letter from J.P. Morgan Chase, the Fund's custodial bank verifying the Fund's ownership of Home Depot, Inc., shares, continually for over one year, is enclosed. The Fund intends to continue to hold at least \$2,000 worth of these securities through the date of the annual meeting.

We would be happy to discuss this initiative with you. Should Home Depot decide to endorse its provisions as company policy, the Comptroller will ask that the proposal be withdrawn from consideration at the annual meeting. Please feel free to contact me at (212) 383-1428 and or email at pdoherty@osc.state.ny.us should you have any further questions on this matter.

Very truly yours,

Patrick Doherty
Director of Corporate Governance

Enclosures

Resolved, that the shareholders of The Home Depot, Inc., (“Home Depot” or “Company”) hereby request that the Company provide a report, updated semiannually, disclosing the Company’s:

1. Policies and procedures for making, with corporate funds or assets, contributions and expenditures (direct or indirect) to (a) participate or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, or (b) influence the general public, or any segment thereof, with respect to an election or referendum.
2. Monetary and non-monetary contributions and expenditures (direct and indirect) used in the manner described in section 1 above, including:
 - a. The identity of the recipient as well as the amount paid to each; and
 - b. The title(s) of the person(s) in the Company responsible for decision-making.

The report shall be presented to the board of directors or relevant board committee and posted on the Company’s website within 12 months from the date of the annual meeting. This proposal does not encompass lobbying spending.

Supporting Statement

As long-term shareholders of Home Depot, we support transparency and accountability in corporate political spending. This includes any activity considered intervention in a political campaign under the Internal Revenue Code, such as direct and indirect contributions to political candidates, parties, or organizations, and independent expenditures or electioneering communications on behalf of federal, state, or local candidates.

Disclosure is in the best interest of the company and its shareholders. The Supreme Court recognized this in its 2010 *Citizens United* decision: “[D]isclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.”

Relying on publicly available data does not provide a complete picture of the Company’s political spending. For example, the Company’s payments to trade associations that may be used for election-related activities are undisclosed and unknown. This proposal asks the Company to disclose all of its political spending, including payments to trade associations and other tax-exempt organizations, which may be used for political purposes. This would bring our Company in line with a growing number of leading companies that present this information on their corporate websites.

The Company’s board and shareholders need comprehensive disclosure to fully evaluate the political use of corporate assets. We urge your support for this critical governance reform.