



DIVISION OF
CORPORATION FINANCE

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

April 4, 2019

Kristopher A. Isham
Walmart Inc.
kristopher.isham@walmartlegal.com

Re: Walmart Inc.
Incoming letter dated March 29, 2019

Dear Mr. Isham:

This letter is in response to your letter dated March 29, 2019 concerning the shareholder proposal (the "Proposal") submitted to Walmart Inc. (the "Company") by Martin Harangozo (the "Proponent"). On March 28, 2019, we issued a no-action response expressing our informal view that the Company could exclude the Proposal from its proxy materials for its upcoming annual meeting in reliance on rules 14a-8(b) and 14a-8(f) unless the Proponent provided the Company with appropriate documentary support of ownership within seven calendar days after receiving our response. You now ask us to concur in your view that the Company may exclude the Image (as defined in your March 29, 2019 letter) and the parenthetical that references the Image under rule 14a-8(i)(3).

There appears to be some basis for your view that the Company may exclude the Image and the parenthetical that references the Image under rule 14a-8(i)(3). In our view, the Image is irrelevant to a consideration of the subject matter of the Proposal, such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Image and the parenthetical that references the Image from its proxy materials in reliance on rule 14a-8(i)(3).

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>.

Walmart Inc.
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For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

M. Hughes Bates
Special Counsel

Enclosure

cc: Martin Harangozo

Martin Harangozo

March 30, 2019

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

Re Walmart Company
Shareholder proposal of Martin Harangozo

cc: Kristopher Isham, Gibson Dunn

Ladies and Gentlemen;

This letter is to inform you that Martin Harangozo (the “proponent”) finds that the Walmart Company (the “company”) must include in its proxy statement and form of proxy for its 2019 Annual Meeting of Shareowners the proposal received from the proponent.

THE PROPOSAL

This proposal recommends cumulative voting with an image Exhibit A (the “proposal”)

BASIS FOR INCLUSION

Gibson Dunn is flat wrong in the supplemental letter dated March 29, 2019.

ANALYSIS

Cumulative voting is a broad recommendation that is popular and has consistently received the support of the staff of the Division of Corporation Finance (the

“Staff”). It gives shareholders more voice in the company. The Company has attempted to exclude this proposal, with a no action letter dated Feb. 1, 2019. The staff gave the Proponent opportunity to remedy the deficiency claimed by the Company in a letter dated 3-28-2019. The Proponent cured this deficiency within 24 hours of opening the letter provided by the Staff.

The Company now wishes to exclude a portion of the proposal. The Company did not make this request in its initial no action request dated Feb 1.

While the Company using Counsel Gibson Dunn claims portions of the proposal are misleading, this is not true. An image of an individual is inherently precise and if only one individual is in the image, there can be no confusion as to who in the image is being recognized.

Matthew Johnson appeared in name in numerous shareholder proposals to GE, See GE Robert Fredrich 2014, and GE Neal Renn 2014. Correspondence between the proponent and the staff, surfaced that Matthew Johnson, objected to the GE company health ahead initiatives, apparently used questionable income accounting, apparently used questionable accounting regarding savings, and apparently used retaliation against an honorable employee raising concerns. Understanding the woes of GE can provide lessons learned to other public owned companies as the Company Walmart.

Many shareholders have asked “what is wrong with the GE Company” and specifically “who is this Matthew Johnson that so often appears in shareholder proposals”. An expression exists “a picture is worth a thousand words”. Harvesting an image of Matthew Johnson from Facebook adds clarity and is in no way misleading.

CONCLUSION

Based upon the foregoing analysis, the proponent respectfully requests that the staff concurs with the proponent that there is nothing misleading regarding the proposal.

Exhibit A

RESOLVED: “That the stockholders of Walmart assembled in Annual Meeting in person and by proxy, hereby request the Board of Directors to take the necessary steps to provide for cumulative voting in the election of directors, which means each stockholder shall be entitled to as many votes as shall equal the number of shares he or she owns multiplied by the number of directors to be elected, and he or she may cast all of such votes for a single candidate, or any two or more of them as he or she may see fit. Cumulative voting is recommended by the late Benjamin Graham in the book *Security Analysis* coauthored by David Dodd. Cumulative voting gives shareholders improved distinction in electing directors.

Some Walmart stockholders believe raising concerns at public companies should be improved. Currently Walmart written policy prohibits retaliation for those raising concerns. This language appears similar in scope to retaliation and employment language used by General Electric Company. General Electric Company promises strict confidentiality for those raising concerns in its *Spirit and Letter*. General

Electric in writing also promises strict confidentiality in its arbitration agreement. These written promises have given some employees including their reputable counsel cause to formally request relief when they believed these promises were breached see Case # 3:08-CV-00082-JHM-DW. General Electric using counsel obtained a summary judgement against this employee, effectively removing the retaliation jurisdiction from an impartial jury or arbitrator. Procedures of retaliation against employees of the General Electric Company by the Company appear similar to Walmart's as no effective oversight outside the Company performing the alleged retaliation exists. General Electric makes a mockery of its promises, handling concerns raised after many promises of strict confidentiality, so they appear on internet <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2013/martinharangozorecon030413-14a8.pdf>. This website contains an e-mail dated November 7, 2010 by Matthew Johnson, who appears to count income for year 2010 for parts not sold that year, and not projected to be sold until later in year 2011. General Electric was fined and rebuked by the Securities Exchange Commission for accounting fraud

<https://www.sec.gov/news/press/2009/2009-178.htm>,
accounting appearing similar to that used by Matthew
Johnson (see image harvested from Facebook). Some
General Electric Stockholders believe Matthew Johnson
lied under oath.

Walmart is confederate with General Electric as it
places General Electric Products on its store shelves.
General Electric, once a most valuable company lost
most of that value all while the broad stock market
gained in value. This prosperity decline mirrors poor
prosperity in environments using secrecy and
oppression. Comparing per capita income of the United
States to that of North Korea illustrates this point.
Increased stockholder voice as represented by
cumulative voting may be critical in transparency and
success.

Legal
Corporate

Kristopher A. Isham
Senior Associate Counsel



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March 29, 2019

VIA E-MAIL to shareholderproposals@sec.gov

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

Re: *Walmart Inc.*
Supplemental Letter
Shareholder Proposal of Martin Harangozo
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

In a letter dated February 1, 2019 (the “No-Action Request”), we requested that the staff of the Division of Corporation Finance (the “Staff”) concur that Walmart Inc. (the “Company”), could omit from its proxy statement and form of proxy for its 2019 Annual Meeting of Shareholders (collectively, the “2019 Proxy Materials”) a shareholder proposal (the “Proposal”) and statement in support thereof (the “Supporting Statement”) received from Martin Harangozo (the “Proponent”). The Staff issued a response to the No-Action Request on March 28, 2019.

In light of the Staff’s response, we hereby respectfully request that the Staff concur in our view that the photograph accompanying the Proposal (the “Image”) and the parenthetical referencing the Image in the Proposal (“see image harvested from Facebook”) may be excluded from the 2019 Proxy Materials pursuant to Rule 14a-8(i)(3). See Exhibit A. As discussed below, the Image is false and misleading under Rule 14a-8(i)(3) because the Image is irrelevant to the subject matter of the Proposal such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote.

Pursuant to Rule 14a-8(j), we have concurrently sent a copy of this correspondence to the Proponent.

ANALYSIS

The Image, And The Parenthetical Referencing The Image, May Be Excluded Under Rule 14a-8(i)(3) As False And Misleading Because The Image Is Irrelevant To A Consideration Of The Subject Matter Of The Proposal, Such That There Is A Strong Likelihood That A Reasonable Shareholder Would Be Uncertain As To The Matter On Which He Or She Is Being Asked To Vote.

Rule 14a-8(i)(3) permits the exclusion of a shareholder proposal if the proposal or supporting statement is contrary to any of the Commission's proxy rules or regulations, including Rule 14a-5(a), which requires information in a proxy statement to be clearly presented, and Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials.

In Staff Legal Bulletin No. 14I (Nov. 1, 2017) ("SLB 14I"), the Staff addressed the use of images in shareholder proposals, stating: "the Division recognizes the potential for abuse in this area" but noting that "these potential abuses can be addressed through other provisions of Rule 14a-8." The Staff provided as an example that graphs and/or images can be excluded under Rule 14a-8(i)(3) as false and misleading "where they . . . are irrelevant to a consideration of the subject matter of the proposal, such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote."

Notably, the footnote accompanying this statement in SLB 14I cites *General Electric Co.* (avail. Feb. 3, 2017, *recon. granted* Feb. 23, 2017) ("*GE 2017*"). *See* n.17. The proposal in *GE 2017* (the "*GE 2017 Proposal*") was submitted by the Proponent, and the text of its resolved clause is virtually identical to the text of the resolved clause of the Proposal. Moreover, the following year, the Proponent submitted an identical proposal to the *GE 2017 Proposal* (the "*GE 2018 Proposal*"), and a near-identical proposal in 2019 (the "*GE 2019 Proposal*", and together with the *GE 2017 Proposal* and the *GE 2018 Proposal*, the "*GE Proposals*"). As in the current instance, the *GE Proposals* all included images that were irrelevant to the consideration of cumulative voting. The images in the *GE Proposals* purported to showcase aspects the company's financial performance in one or more charts, but these images had no relationship to the proposals' requests for the adoption of cumulative voting. In all three cases, the Staff concurred with the exclusion of the images submitted with the *GE Proposals* under Rule 14a-8(i)(3). *See General Electric Co.* (avail. Mar. 6, 2019) ("*GE 2019*"), *General Electric Co.* (avail. Mar. 1, 2018) ("*GE 2018*") and *GE 2017*.

The Image is a photograph of an individual that the Proponent states was "harvested from Facebook." Moreover, we believe that the Image is of the Proponent's former supervisor at GE, who is named earlier in the same sentence in the Supporting Statement. The Proposal requests the adoption of cumulative voting in director elections. Thus, as with the images that accompanied the *GE Proposals*, there is no relationship between the Image and the Proposal's request that the Company adopt cumulative voting. In this regard, the Image is similar to the images that the Staff concurred could be excluded in *GE 2017*, *GE 2018*, and *GE 2019*, which were completely unrelated to the *GE Proposals*' requests for the adoption of cumulative voting.

Office of Chief Counsel
Division of Corporation Finance
March 29, 2019
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As a result, there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote on if the Image is included in the Company's 2019 Proxy Materials. As such, consistent with the standard set in SLB 14I and just as with the precedent set in *GE 2017*, *GE 2018*, and *GE 2019*, the Image and the parenthetical in the Supporting Statement referring to the Image are excludable under Rule 14a-8(i)(3). Thus, for the reasons addressed above, we respectfully request that the Staff concur with our view that the Image and the parenthetical in the Supporting Statement that refers to the Image ("see image harvested from Facebook") are properly excludable under Rule 14a-8(i)(3).

CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Company excludes the Image and the related parenthetical from its 2019 Proxy Materials.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Please provide any correspondence regarding this matter to me at Kristopher.Isham@walmartlegal.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (479) 204-8684, or Elizabeth A. Ising of Gibson, Dunn & Crutcher LLP at (202) 955-8287.

Sincerely,



Kristopher A. Isham
Senior Associate Counsel
Walmart Inc.

cc: Elizabeth A. Ising, Gibson, Dunn & Crutcher LLP
Martin Harangozo

EXHIBIT A

