



DIVISION OF  
CORPORATION FINANCE

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

March 3, 2022

William I. Intner  
Hogan Lovells US LLP

Re: Laboratory Corporation of America Holdings (the "Company")  
Incoming letter dated January 7, 2022

Dear Mr. Intner:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by John Chevedden for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal asks the board to take the steps necessary to amend the appropriate Company governing documents to give the owners of a combined 10% of the Company's outstanding common stock the power to call a special shareholder meeting.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(3). We are unable to conclude that the Proposal, taken as a whole, is so vague or indefinite that it is rendered materially misleading. We also are unable to conclude that you have demonstrated objectively that the Proposal is materially false or misleading.

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(10) because the Company's bylaws contain a one-year ownership requirement to call a special meeting of stockholders.

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2021-2022-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: John Chevedden

**Rule 14a-8(i)(3)**  
**Rule 14a-8(i)(10)**

**BY ELECTRONIC MAIL**

January 7, 2022

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

Re: Laboratory Corporation of America Holdings  
Shareholder Proposal of John Chevedden

To the Staff of the Division of Corporation Finance:

We are submitting this letter on behalf of Laboratory Corporation of America Holdings (the "Company"), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934 (the "Exchange Act") to notify the Securities and Exchange Commission (the "Commission") of the Company's intention to exclude from its proxy materials for its 2022 annual meeting of shareholders (the "2022 Proxy Materials") a shareholder proposal (the "Proposal") submitted by John Chevedden (the "Proponent").

We also request confirmation that the Staff of the Division of Corporation Finance (the "Staff") will not recommend to the Commission that enforcement action be taken if the Company excludes the Proposal from its 2022 Proxy Materials for the reasons discussed below.

A copy of the Proposal is attached as Exhibit A.

In accordance with Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D"), this letter and its exhibits are being e-mailed to [shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov). In accordance with Rule 14a-8(j), a copy of this letter and its exhibits also are being sent to the Proponent. Rule 14a-8(k) and SLB 14D provide that a shareholder proponent is required to send the company a copy of any correspondence that the proponent elects to submit to the Commission or the Staff. Accordingly, the undersigned hereby informs the Proponent that,

if the Proponent elects to submit additional correspondence to the Commission or the Staff relating to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned.

The Company currently intends to file its 2022 Proxy Materials with the Commission on or about March 31, 2022.

## THE PROPOSAL

On November 11, 2021, the Company received a letter submitting the Proposal for inclusion in the 2022 Proxy Materials. The Proposal, in relevant part, requests that the Company's shareholders approve the following:

Shareholders ask our board to take the steps necessary to amend the appropriate company governing documents to give the owners of a combined 10% of our outstanding common stock the power to call a special shareholder meeting.

## BASIS FOR EXCLUSION OF THE PROPOSAL

### **Rule 14a-8(i)(3) – The Proposal is Materially False and Misleading**

#### *A. Background*

Rule 14a-8(i)(3) provides that a company may omit a proposal from its proxy statement if the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9. Rule 14a-9, in turn, provides that no solicitation may be made by means of any proxy statement containing "any statement, which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading."

In Staff Legal Bulletin No. 14B (Sept. 15, 2004) ("SLB 14B"), the Staff articulated that "reliance on rule 14a-8(i)(3) to exclude or modify a statement may be appropriate where . . . the company demonstrates objectively that a factual statement is materially false or misleading." Staff precedent indicates that when the premise of a proposal is based on an objectively false or materially misleading statement, total exclusion of the proposal is warranted.<sup>1</sup>

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<sup>1</sup> See, e.g., *NETGEAR, Inc.* (Apr. 12, 2021) (finding that the proposal was excludable because the proposal's supporting statement asserting that special meetings could only be called by the board, chairman, chief executive officer or president, when the company's bylaws permitted shareholders owning at least 25% of the voting power to call a special meeting, was a materially false and misleading

Additionally, the Staff has also taken the position that a shareholder proposal is excludable under Rule 14a-8(i)(3) if it is so vague and indefinite that “neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires.” SLB 14B.<sup>2</sup>

As discussed below, the Proposal suffers from both of these defects; it contains false and misleading statements and is so vague that neither the shareholders voting on the proposal, nor the Company when implementing the Proposal, would be able to determine with reasonable certainty what actions the Proposal requires.

### B. Analysis

The Proposal contains false and misleading statements. The Proposal asks the Company to “take the steps necessary to amend the appropriate company governing documents to give the owners of a combined 10% of our outstanding common stock the power to call a special shareholder meeting.” This is the first sentence of the Proposal and presumably the resolution to be voted on, though that is not clearly indicated by the Proposal.

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statement); *Ferro Corp.* (Mar. 17, 2015) (concurring in the exclusion of a proposal requesting that the company reincorporate in Delaware based on misstatements of Ohio law, which improperly suggested that the shareholders would have increased rights if Delaware law governed the company); *JPMorgan Chase & Co.* (Mar. 11, 2014, recon. denied Mar. 28, 2014) (concurring in the exclusion of a proposal in reliance on Rule 14a-8(i)(3) because, among other things, it misrepresented the company's vote counting standard for electing directors and mischaracterized the company's treatment of abstentions).<sup>2</sup> See, e.g. *eBay, Inc.* (Apr. 10, 2019) (noting that with respect to the proponent's proposal to “reform the executive committee” that “neither shareholders nor the Company would be able to determine with reasonable certainty the nature of the ‘reform’” the [proposal] is requesting” and that therefore the proposal, “taken as a whole, is so vague and indefinite that it is rendered materially misleading”); *Bank of America Corp.* (Mar. 12, 2013) (concurring in the exclusion of a proposal regarding the exploration of “extraordinary transactions that could enhance shareholder value” where the definition of “extraordinary transactions” was inconsistent and unclear throughout the proposal and the supporting statement); *Peoples Energy Corp.* (Nov. 23, 2004, recon. denied Dec. 10, 2004) (concurring in the exclusion of a proposal where the term “reckless neglect” was uncertain and subject to multiple interpretations); *Norfolk Southern Corp.* (Feb. 13, 2002) (concurring in the exclusion of a proposal requesting that the board of directors “provide for a shareholder vote and ratification, in all future elections of Directors, candidates with solid background, experience and records of demonstrated performance in key managerial positions within the transportation industry” as vague and indefinite because it did not provide adequate guidance to resolve potential inconsistencies and ambiguities with respect to its criteria); *Fuqua Industries, Inc.* (Mar. 12, 1991) (finding that the proposal was sufficiently misleading and therefore excludable under Rule 14a-8(i)(3) and that “any action ultimately taken by the [c]ompany upon implementation [of the proposal] could be significantly different from the actions envisioned by the shareholders voting on the proposal.”).

As discussed below, Article 1, Section 3 of the Company's Amended and Restated By-Laws already provides for the right of those who own at least 10% of the combined voting power of the outstanding shares of capital stock of the Company to call a special meeting. The first statement of the Proposal gives the impression that this is not the case and is therefore both false and misleading.

The Proposal's supporting statement does not include any clarifying details; instead it includes various claims that are unsubstantiated and given without context, and therefore add to the confusion of the Proponent's intent, and which could be misleading to stockholders. The Proposal's supporting statement states:

Currently it takes a theoretical 10% of all shares outstanding to call for a special shareholder meeting. This theoretical 10% of all shares outstanding translates into 12% of the shares that vote at our annual meeting.

...

[T]he owners of 12% of our stock could determine that they own 20% of our stock when their 100% ineligible shares in regard to a special meeting, that are owned for less than one full year, are factored in. All Laboratory Corporation shares not owned for a unbroken full year are 100% disqualified from formally participating in a call for a special shareholder meeting.

Thus a theoretical 10% stock ownership requirement can in practice be a 20% stock ownership requirement.

The Proposal provides no basis for its conclusion that a 10% ownership requirement can "in practice be a 20% stock ownership requirement." As the Proposal indicates, the Company's By-Laws contain customary holding and other requirements that apply to shareholders seeking to call a special shareholder meeting. However, the Proposal arrives at hypothetical numbers without any explanation or backup. Thus, without any basis, and without being clear that these statements are one of many hypotheticals, the Proposal would mislead shareholders into thinking that the Company's existing requirements actually or effectively require ownership by holders of more than 10% of the Company's outstanding common stock. Further, the customary holding and other requirements are not the focus of the Proposal, which refers to the need to amend the Company's governing documents to provide for a 10% threshold (which already exists). As such, taken as a whole, the Proposal is so vague and indefinite that it is rendered materially misleading.

For these reasons, and consistent with the precedent noted, the Proposal may be excluded from the 2022 Proxy Materials pursuant to Rule 14a-8(i)(3).

## **Rule 14a-8(i)(10) – The Proposal Has Been Substantially Implemented**

### A. Background

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company has substantially implemented the proposal. In explaining the scope of a predecessor to Rule 14a-8(i)(10), the Commission said that the exclusion is “designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management.” *Exchange Act Release No. 12598* (Jul. 7, 1976) (discussing the rationale for adopting the predecessor to Rule 14a-8(i)(10), which permitted exclusion where “the proposal has been rendered moot by the actions of the management”). Thus, when a company has already taken action to address the underlying concerns and essential objectives of a shareholder proposal, the proposal has been “substantially implemented” and may be excluded.<sup>3</sup>

Applying this standard, the Staff has noted that “a determination that the company has substantially implemented the proposal depends upon whether [the company’s] particular policies, practices and procedures compare favorably with the guidelines of the proposal.” *Texaco, Inc.* (Mar. 28, 1991). Further, the Staff has consistently allowed companies to exclude shareholder proposals requesting that shareholders be accorded certain rights where the company has already provided for the rights on substantially similar terms. For example, in *Bank of America Corp.* (Dec. 15, 2010), the Staff agreed that the company had substantially implemented a proposal requesting that the board amend the company’s governing documents to give holders of 10% of the company’s stock the power to call a special meeting, where the board had adopted a bylaw giving holders of at least 10% of the company’s stock the power to call a special meeting but imposed additional requirements not outlined in the proposal. The additional requirements included, among others, that shareholders requesting a special meeting submit a statement regarding the purpose of the meeting, which must be signed by shareholders owning the requisite number of shares, as well as documentary evidence of each such shareholder’s record and beneficial ownership of the stock.<sup>4</sup>

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<sup>3</sup> See, e.g., *Lincoln National Corp.* (Feb. 9, 2017); *Exelon Corp.* (Feb. 26, 2010); *Exxon Mobil Corp.* (Mar. 23, 2009); *Anheuser-Busch Companies, Inc.* (Jan. 17, 2007); *ConAgra Foods, Inc.* (Jul. 3, 2006); *Talbots Inc.* (Apr. 5, 2002); *Exxon Mobil Corp.* (Jan. 24, 2001); *The Gap, Inc.* (Mar. 8, 1996).

<sup>4</sup> See also *Eli Lilly and Co.* (Jan. 8, 2018) (finding that the proposal requesting that the board take steps necessary to eliminate all voting requirements in the company’s charter and bylaws requiring greater than a simple majority when the company had already proposed amendments for shareholder approval removing all supermajority voting requirements in the company’s charter and bylaws); *Korn/Ferry International* (July 6, 2017) (permitting exclusion of a shareholder proposal where the proposal sought to eliminate supermajority voting provisions from the company’s certificate of incorporation and bylaws and the company planned to provide shareholders at the next annual

### B. Analysis

The Company's By-Laws substantially implement the right requested by the Proposal. The Proposal states, in relevant part that "[s]hareholders ask our board to take the steps necessary to amend the appropriate company governing documents to give the owners of a combined 10% of our outstanding common stock the power to call a special shareholder meeting". As noted above, the Company's By-Laws, in Article I, Section 3(c), already provide that "a Special Meeting of Stockholders shall be called . . . following receipt by the Secretary of the Corporation of a written request for a special meeting (a "Special Meeting Request") from one, or a group of persons who have owned at least ten percent of the combined voting power of the then outstanding shares of all classes and series of capital stock of the Corporation entitled generally to vote in the election of directors of the Corporation, voting as a single class, continuously for at least one year...", thus providing for the same right that is requested by the Proposal. An excerpt of the relevant provision from the Company's By-Laws is attached hereto as Exhibit B.

As noted above, the Company's By-Laws require that each shareholder contributing to the 10% threshold must have continuously held their shares of the Company's stock for at least one year, as well as other common requirements designed to ensure that the Company's resources are not wasted on actions that are duplicative of other recent proposals on which shareholders have voted or will vote. These requirements do not alter the basic fact that the Company's By-Laws provide a special meeting right to shareholders, with a 10% ownership threshold, all consistent with the Proposal's basic request that the Company offer shareholders with a combined 10% ownership the right to call a special meeting. If the Proposal were not considered substantially implemented on this basis, the Proponent could seek to force the Company's shareholders to vote each year on minor differences in a provision that is already in place and offers shareholders a basic right.

The Staff has consistently permitted exclusion of proposals requesting that a company give holders of a specified percentage of common stock the power to call a special meeting where the company has implemented a special meeting right with the ownership requirement specified in the proposal, even if additional procedural safeguards exist on that right.<sup>5</sup> Recently, in *ServiceNow, Inc.* (Apr. 16, 2021, recon. granted Apr. 23, 2021),

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meeting an opportunity to approve amends to the company's certificate of incorporation to replace the supermajority voting provisions with a majority of outstanding shares voting standard).

<sup>5</sup> See *Bank of America Corp.* (Jan. 19, 2018) (permitting exclusion under Rule 14a-8(i)(10) of a proposal asking for a 10% special meeting right and finding that the current right, which only counted shares toward the ownership percentage if the stockholder had full voting rights and the full economic interest in such shares and included various other procedural requirements, compared

the Staff permitted exclusion under Rule 14a-8(i)(10) of a proposal requesting that the company's board of directors amend the company's governing documents to give holders of 15% net long ownership of its common stock the power to call a special meeting where the company's bylaws were amended to give one or more holders of record of ownership, in the aggregate, of at least 15% of the company's shares for at least one year the power to call a special meeting. Consistent with these precedents, the Proposal should be excluded as the Company's existing By-Law satisfies the Proposal's essential objective – allowing holders of a combined 10% of the Company's outstanding common stock to call a special shareholder meeting. Accordingly, the Company's existing By-Law compares favorably with the Proposal and the Proposal should be excluded pursuant to Rule 14a-8(i)(10).

### CONCLUSION

For the reasons set forth above, the Company believes that the Proposal may be excluded independently under each of Rule 14a-8(i)(3) and Rule 14a-8(i)(10). The Company respectfully requests the Staff's concurrence in the Company's view or, alternatively, confirmation that the Staff will not recommend any enforcement action to the Commission if the Company so excludes the Proposal from the proxy statement for its 2022 annual meeting of shareholders.

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favorably with the guidelines of the proposal and that, therefore, Bank of America had substantially implemented the proposal). See also *AGL Resources Inc.* (Mar. 5, 2015) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting that the company's board of directors amend the company's governing documents to give holders of 25% of its outstanding common stock the power to call a special meeting where the company represented that its board of directors approved an amendment to the company's articles of incorporation that would "reduce the threshold for calling a special meeting to 25% of the company's shares of common stock outstanding and entitled to vote that have been held in a net long position continuously for at least one year"); *Windstream Holdings, Inc.* (Mar. 5, 2015) (permitting the exclusion of a proposal requesting that the company's board of directors amend the company's governing documents to give holders of 20% of its outstanding common stock the power to call a special meeting where the company represented that its board of directors approved an amendment to the company's certificate of incorporation and bylaws that would permit shareholders who have held at least a 20% net long position in the company's outstanding common stock for at least one year to call a special meeting).



U.S. Securities and Exchange Commission  
Office of Chief Counsel  
Division of Corporation Finance  
January 7, 2022  
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We would be happy to provide the Staff with any additional requested information and answer any questions related to this subject. Please do not hesitate to contact the undersigned at (410) 659 2778 or [william.intner@hoganlovells.com](mailto:william.intner@hoganlovells.com).

Sincerely,

A handwritten signature in black ink that reads "William I. Intner". The signature is written in a cursive style with a horizontal line underneath the name.

William I. Intner

Attachment

cc: Sandra van der Vaart, Laboratory Corporation of America Holdings  
C. Alex Bahn, Hogan Lovells US LLP  
John Chevedden

**Exhibit A**

**The Proposal**

Ms.Sandra D. van der Vaart  
Corporate Secretary  
Laboratory Corporation of America Holdings (LH)  
358 South Main Street  
Burlington, North Carolina 27215  
PH: [REDACTED]

Dear Ms. van der Vaart,

This Rule 14a-8 proposal is respectfully submitted in support of the long-term performance of our company.

This Rule 14a-8 proposal is intended as a low-cost method to improve company performance – especially compared to the substantial capitalization of our company.

This proposal is for the next annual shareholder meeting.

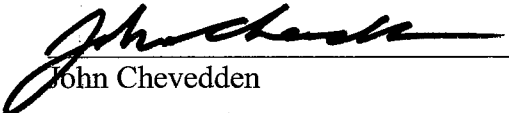
**I intend to continue to hold through the date of the Company's 2022 Annual Meeting of Stockholders the requisite amount of Company shares used to satisfy the applicable ownership requirement.**

This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

Please assign the proper sequential proposal number in each appropriate place.

I expect to forward a broker letter soon so if you acknowledge this proposal in an email message it may very well save you from requesting a broker letter from me.

Sincerely,

  
John Chevedden

November 11, 2021  
Date

cc: Michele Hunter <[REDACTED]@LabCorp.com>

[LH – Rule 14a-8 Proposal, November 11, 2021]  
[This line and any line above it is not for publication.]  
**Proposal 4 – Special Shareholder Meeting Improvement**

Shareholders ask our board to take the steps necessary to amend the appropriate company governing documents to give the owners of a combined 10% of our outstanding common stock the power to call a special shareholder meeting.

Currently it takes a theoretical 10% of all shares outstanding to call for a special shareholder meeting. This theoretical 10% of all shares outstanding translates into 12% of the shares that vote at our annual meeting.

It would be hopeless to think that shares that do not have the time to vote would have the time to go through the special procedural steps to call for a special shareholder meeting.

And the owners of 12% of our stock could determine that they own 20% of our stock when their 100% ineligible shares in regard to a special shareholder meeting, that are owned for less than one full year, are factored in. All Laboratory Corporation shares not owned for a unbroken full year are 100% disqualified from formally participating in a call for a special shareholder meeting.

Thus a theoretical 10% stock ownership requirement can in practice be a 20% stock ownership requirement.

Shareholders who may have profitable new ideas for management do not want to sit on their shares for a year before they have the traction of a special meeting to bring their ideas to management. Plus Laboratory Corporation does not have an independent board chairman which is a way to make it hard for potentially profitable new ideas to get through to top management.

All things being equal a company that does not have an independent board chairman should have a more reasonable stock ownership threshold than a company that does have an independent board chairman.

Please vote yes:

**Special Shareholder Meeting Improvement – Proposal 4**

[The line above – *Is* for publication. Please assign the correct proposal number in the 2 places.]

Notes:

“Proposal 4” stands in for the final proposal number that management will assign.

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

**We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.**

See also: Sun Microsystems, Inc. (July 21, 2005).

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge this proposal promptly by email

The color version of the below graphic is to be published immediately after the bold title line of the proposal.

Will consider withdrawal of the graphic if management commits to a fair presentation of the proposal which includes:

No management graphic in connection with the rule 14a-8 proposals in the proxy or ballot.

No proxy or ballot text suggesting that the proposal will be moot due to lack of presentation.

No ballot electioneering text repeating the negative management recommendation.

Management will give me the opportunity to correct any typographical errors.

Management will give me advance notice if it does a special solicitation that mentions this proposal.



**Exhibit B**

**Excerpt from Bylaws**

**AMENDED AND RESTATED BY-LAWS OF  
LABORATORY CORPORATION OF AMERICA HOLDINGS**

**(hereinafter called the “Corporation”)**

**(as amended as of July 7, 2020)**

**ARTICLE I**

**MEETINGS OF STOCKHOLDERS**

**Section 1. Place of Meetings.** Meetings of the stockholders for the election of directors or for any other purpose shall be held at such time and place, either within or without the State of Delaware, as shall be designated from time to time by the Board of Directors (or the Chairman or Vice Chairman, if any of the Board of Directors in the absence of a designation by the Board of Directors) and stated in the notice of the meeting or in a duly executed waiver of notice thereof.

**Section 2. Annual Meetings.** The Annual Meetings of Stockholders shall be held on such date and at such time as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting, at which meetings the stockholders shall elect by a majority vote a Board of Directors, as provided in Section 1 of Article II, and transact such other business as may properly be brought before the meeting. Except as otherwise permitted or required by applicable laws or regulations, notice of the Annual Meeting stating the place, date and hour of the meeting shall be given to each stockholder entitled to vote at such meeting not less than ten nor more than sixty days before the date of the meeting. Notice may be given in any manner permitted by applicable laws and regulations, as provided in Article V.

**Section 3. Special Meetings.** (a) Unless otherwise prescribed by law or by the Certificate of Incorporation, Special Meetings of Stockholders, for any purpose or purposes, may be called at any time by the Board of Directors.

(b) Except as otherwise permitted or required by applicable laws or regulations, notice of a Special Meeting stating the place, if any, date and hour of the meeting and the purpose or purposes for which the meeting is called shall be given not less than ten nor more than sixty days before the date of the meeting to each stockholder entitled to vote at such meeting. Notice may be given in any manner permitted by applicable laws and regulations, as provided in Article V.

(c) Subject to the provisions of this Section 3(c), a Special Meeting of Stockholders shall be called by a majority of the entire Board of Directors following receipt by the Secretary of the Corporation of a written request for a special meeting (a “Special Meeting Request”) from one, or a group of persons who have owned at least ten percent of the combined voting power of the then outstanding shares of all classes and series of capital stock of the Corporation entitled generally to vote in the election of directors of the Corporation, voting as a single class,

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continuously for at least one year as of both (i) a date within seven days prior to the date of the Special Meeting Request and (ii) the record date for determining stockholders entitled to vote at the Special Meeting (the “Requisite Holders”), if such Special Meeting Request complies with the requirements of this Section 3(c) and all other applicable sections of these By-Laws. For purposes of satisfying the foregoing ownership requirement under this Section 3(c), (i) the term “owned” shall have the same meaning as Section 13(e) of this Article I, and (ii) the shares of the capital stock of the Corporation owned by one or more stockholders, or by the person or persons who own shares of the capital stock of the Corporation and on whose behalf any stockholder is acting, may be aggregated. For the avoidance of doubt, if a group of stockholders aggregates ownership of shares in order to meet the requirements under this Section 3(c), all shares held by each stockholder constituting their contribution to the foregoing ten percent threshold must be held by that stockholder continuously for at least one year, and evidence of such continuous ownership shall be provided as specified in this Section 3(c). The Board of Directors shall determine whether all requirements set forth in this Section 3 and these By-Laws have been satisfied and such determination shall be binding on the Corporation and its stockholders. If a Special Meeting Request is made that complies with this Section 3(c) and all other applicable sections of these By-Laws, the Board of Directors may (in lieu of calling the Special Meeting of Stockholders requested in such Special Meeting Request) present an identical or substantially similar item (a “Similar Item”) for stockholder approval at any other meeting of stockholders that is held within ninety days after the Corporation receives such Special Meeting Request.

A Special Meeting Request must be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation. A Special Meeting Request shall only be valid if it is signed and dated by each of the stockholders that is one of the Requisite Holders and include: (i) a statement of the specific purpose(s) of the Special Meeting of Stockholders, the matter(s) proposed to be acted on at the Special Meeting of Stockholders, and the reasons for conducting such business at the Special Meeting of Stockholders; (ii) the text of any proposed amendment to the By-Laws to be considered at the Special Meeting of Stockholders; (iii) the name and address of each stockholder of record signing such request, the date of each such stockholder’s signature, and the name and address of any beneficial owner on whose behalf such request is made; (iv) the class or series and number of shares of the Corporation that are owned of record or beneficially by each such stockholder and any such beneficial owner and documentary evidence of such record or beneficial ownership; (v) any material interest of each stockholder or any such beneficial owner in any of the business proposed to be conducted at the Special Meeting of Stockholders and a description of all arrangements or understandings between any such stockholder and/or beneficial owner and any other person or persons (naming such person or persons) with respect to the business proposed to be conducted; (vi) a representation that one or more of the stockholders submitting the Special Meeting Request intend to appear in person or by proxy at the Special Meeting of Stockholders to present the proposal(s) or business to be brought before the Special Meeting of Stockholders; (vii) if any stockholder submitting such request intends to solicit proxies with respect to the stockholders’ proposal(s) or business to be presented at the Special Meeting of Stockholders, a representation to that effect; (viii) all



information relating to each stockholder signing the Special Meeting Request that must be disclosed in solicitations for proxies for election of directors in an election contest (even if an election contest is not involved), or is otherwise required, in each case pursuant to Regulation 14A under the 1934 Act (as defined below in Article II); and (ix) if the purpose of the Special Meeting of Stockholders includes the election of one or more directors, all the information such stockholder or stockholders would be required to include in a notice delivered to the Corporation pursuant to Article I, Section 9 of these By-Laws.

In addition, a Special Meeting Request shall not be valid if (i) the Special Meeting Request relates to an item of business that is not a proper subject for stockholder action under applicable law; (ii) the Special Meeting Request is received by the Corporation during the period commencing one hundred and twenty days prior to the first anniversary of the date of the immediately preceding annual meeting and ending on the date of the next annual meeting; (iii) a Similar Item was presented at any meeting of stockholders held within ninety days prior to receipt by the Corporation of such Special Meeting Request (and, for purposes of this clause (iii), the election of directors shall be deemed a "Similar Item" with respect to all items of business involving the election or removal of directors); (iv) a Similar Item is included in the Corporation's notice as an item of business to be brought before a stockholder meeting that has been called but not yet held; or (v) such Special Meeting Request was made in a manner that involved a violation of Regulation 14A under the 1934 Act, or other applicable law.

Stockholders may revoke a Special Meeting Request by written revocation delivered to the Corporation at any time prior to the Special Meeting of Stockholders; provided, however, the Board of Directors shall have the discretion to determine whether or not to proceed with the Special Meeting of Stockholders.

If none of the stockholders who submitted the Special Meeting Request for a Special Meeting of Stockholders appears or sends a qualified representative to present the proposal(s) or business submitted by the stockholders for consideration at the Special Meeting of Stockholders, the Corporation need not present such proposal(s) or business for a vote at such meeting.

**Section 4. Quorum.** Except as otherwise provided by law or by the Certificate of Incorporation, the holders of a majority of the capital stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business. If, however, such quorum shall not be present or represented at any meeting of the stockholders, the stockholders entitled to vote thereat, present in person or represented by proxy, may adjourn the meeting from time to time, but no other business shall be transacted at the meeting. Any business may be transacted at the adjourned meeting which might have been transacted at the original meeting. The stockholders present at a duly called or convened meeting, at which a quorum is present, may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. When a meeting is adjourned to another time or place, if any, notice need not be given of the adjourned meeting if the time and place, if any, thereof, by which

January 9, 2022

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

**# 1 Rule 14a-8 Proposal**  
**Laboratory Corporation of America Holdings (LH)**  
**Special Shareholder Meeting Improvement**  
**John Chevedden**

Ladies and Gentlemen:

This is a contrasting perspective in regard to the January 7, 2022 no-action request.

It is misleading to say that 10% of Company stock can call a special shareholder meeting unless a footnote is added to explain that all shares that have not aged a year since purchased are totally excluded from participation.


Management does not explain how it would supposedly be impossible for the owners of 12% of the shares that vote at the annual meeting to determine that they own 20% of Company stock when they factor in the shares that they own that are not owned for one full year.

Management is making an apples to oranges comparison in citing *ServiceNow, Inc.* (April 16, 2021). From the attachment it is clear that in *ServiceNow* the company took related action after a rule 14a-8 proposal was submitted.

This is in contrast to Laboratory Corporation which has taken no related action since this rule 14a-8 proposal was submitted. And management does not claim that it has a better so-called precedent than *ServiceNow* buried in a footnote.

And management cited no precedent that might show that the Staff considered the total exclusion of shares not aged a full year since purchase as insignificant.

Sincerely,

  
\_\_\_\_\_  
John Chevedden

cc: Michele Hunter

April 16, 2021

**Response of the Office of Chief Counsel**  
**Division of Corporation Finance**

Re: ServiceNow, Inc.  
Incoming letter dated February 1, 2021

The Proposal requests that the board take the steps necessary to amend the bylaws and governing documents to give shareholders with an aggregate of 15% net long of outstanding common stock the power to call a special meeting.

We are unable to conclude that the Company has met its burden of establishing that it may exclude the Proposal under rule 14a-8(i)(10). In this regard, we note your statement that the Company's proposed amendments have "not yet been formally approved by the [b]oard." Additionally, the Company did not confirm that the board has formally taken the actions discussed in its no-action request. Absent such confirmation, the staff is unable to conclude that the Company will take all requisite board actions, including those necessary to provide shareholders with the opportunity to vote on the applicable amendment. Accordingly, we do not believe that the Company may omit the Proposal from its proxy materials in reliance on rule 14a-8(i)(10).

Sincerely,

Michael Killoy  
Special Counsel

[LH – Rule 14a-8 Proposal, November 11, 2021]  
[This line and any line above it is not for publication.]  
**Proposal 4 – Special Shareholder Meeting Improvement**

Shareholders ask our board to take the steps necessary to amend the appropriate company governing documents to give the owners of a combined 10% of our outstanding common stock the power to call a special shareholder meeting.

Currently it takes a theoretical 10% of all shares outstanding to call for a special shareholder meeting. This theoretical 10% of all shares outstanding translates into 12% of the shares that vote at our annual meeting.

It would be hopeless to think that shares that do not have the time to vote would have the time to go through the special procedural steps to call for a special shareholder meeting.

And the owners of 12% of our stock could determine that they own 20% of our stock when their 100% ineligible shares in regard to a special shareholder meeting, that are owned for less than one full year, are factored in. All Laboratory Corporation shares not owned for a unbroken full year are 100% disqualified from formally participating in a call for a special shareholder meeting.

Thus a theoretical 10% stock ownership requirement can in practice be a 20% stock ownership requirement.

Shareholders who may have profitable new ideas for management do not want to sit on their shares for a year before they have the traction of a special meeting to bring their ideas to management. Plus Laboratory Corporation does not have an independent board chairman which is a way to make it hard for potentially profitable new ideas to get through to top management.

All things being equal a company that does not have an independent board chairman should have a more reasonable stock ownership threshold than a company that does have an independent board chairman.

Please vote yes:

**Special Shareholder Meeting Improvement – Proposal 4**

[The line above – Is for publication. Please assign the correct proposal number in the 2 places.]

February 28, 2022

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

**# 2 Rule 14a-8 Proposal**  
**Laboratory Corporation of America Holdings (LH)**  
**Special Shareholder Meeting Improvement**  
**John Chevedden**

Ladies and Gentlemen:

This is a contrasting perspective in regard to the January 7, 2022 no-action request.

Management has not produced any sort of precedent that might hold that mandating a one-year holding period for all shares requesting a special shareholder meeting would be a non material requirement.

Sincerely,

  
John Chevedden

cc: Michele Hunter