



DIVISION OF  
CORPORATION FINANCE

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

January 19, 2025

Lyuba Goltser  
Weil, Gotshal & Manges LLP

Re: First Watch Restaurant Group, Inc. (the "Company")  
Incoming letter dated January 6, 2025

Dear Lyuba Goltser:

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

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(f) because the Proponent did not comply with Rule 14a-8(b)(1)(i). As required by Rule 14a-8(f), the Company notified the Proponent of the problem, and the Proponent failed to correct it. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rules 14a-8(b)(1)(i) and 14a-8(f).

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/2024-2025-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Chris Mueller

# Weil, Gotshal & Manges LLP

Lyuba Goltser  
767 Fifth Avenue  
New York, NY 10153-0119

[lyuba.goltser@weil.com](mailto:lyuba.goltser@weil.com)  
212-310-8048 (tel)  
212-310-8048 (fax)

January 6, 2025

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

**Re: First Watch Restaurant Group, Inc. – 2025 Annual Meeting of Stockholders  
Omission of Stockholder Proposal Submitted by Chris Mueller  
Securities Exchange Act of 1934 – Rule 14a-8**

Ladies and Gentlemen:

This letter is submitted on behalf of our client, First Watch Restaurant Group, Inc. (the “Company” or “First Watch”), pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”). The Company received a stockholder proposal and related correspondence attached as *Exhibit A* hereto (the “Proposal”) submitted by Chris Mueller (the “Proponent”) for inclusion in the Company’s form of proxy, proxy statement and other proxy materials (together, the “Proxy Materials”) for the Company’s 2025 annual meeting of stockholders (the “2025 Annual Meeting”). In reliance on Rule 14a-8 under the Exchange Act, the Company intends to omit the Proposal from the Proxy Materials. We respectfully request the concurrence of the Staff of the Division of Corporation Finance (the “Staff”) of the Securities and Exchange Commission (the “SEC”) that no enforcement action will be recommended if the Company omits the Proposal from the Proxy Materials.

Pursuant to Rule 14a-8(j) and Staff Legal Bulletin No. 14D (November 7, 2008) (“SLB 14D”), the Company is submitting electronically to the Staff this letter and related exhibits. Also, in accordance with Rule 14a-8(j), a copy of this letter and related exhibits is being simultaneously provided by email on this date to the Proponent informing him of the Company’s intention to exclude the Proposal from the Proxy Materials. The Company agrees to promptly forward to the Proponent any Staff response to the Company’s no-action request that the Staff transmits to the Company by mail or email. Rule 14a-8(k) and SLB 14D provide that a stockholder proponent is required to send to the Company a copy of any correspondence which the proponent elects to submit to the SEC or the Staff. Accordingly, the Company hereby informs the Proponent that the undersigned is entitled on behalf of the Company to receive from the Proponent a concurrent copy of any additional correspondence submitted to the SEC or the Staff relating to the Proposal.

## THE PROPOSAL

The Proposal, including the supporting statement, dated October 18, 2024 was received by the Company on October 28, 2024, and reads in its entirety as follows:

**First Watch Restaurant Group should allow our shareholders the option to hold their shares in certificated form by utilizing the “print on demand” service that Computershare offers called QuickCert.**

Hundreds of issuers use Computershare’s QuickCert service including: Tesla, Nvidia, Walmart, Yelp, MGM, United Airlines, Harley, Starbucks, TopGolf, Citizens, Icahn, JP Morgan, Goldman Sachs, Nasdaq, Hasbro, Cisco, Paypal, Foot Locker, Domino’s, Wayfair, Colgate, Amex, PNC, Pepsico, Campbell’s,

Manitowoc, K-Force, JetBlue, Carnival, AGNC, Nokia, Mattel, Funko.

Based on my own holdings, MOST issuers, that use Computershare as a transfer agent, continue to offer the option for certificated holdings. A majority of those issuers use QuickCert. The service is low cost, and the fee to the investor is \$25 per certificate.

Holding book-entry shares with the transfer agent already adds a layer of protection for the investor, however, there are still risks with holding uncertificated shares. According to Computershare's FAQ, book-entry shares (enrolled in certain investment plans) are held by Computershare's nominee Dingo & Co. "A portion" of those shares are held "at DTC for operational efficiency". Computershare has not provided information regarding how they determine what portion of those shares are held at DTC, however, Computershare has stated that certificated shares are not included in the aggregate total of DSPP shares held at DTC. Allowing investors to certificate their shares enables investors to enroll in certain investment plans while eliminating the ability for Computershare to hold a portion of those shares at DTC.

It is also worth mentioning is that transfer agents are not immune to negligence nor cyber attacks. On 8/20/24, the SEC announced settled charges with Equiniti for failing to assure that client securities and funds were protected from cyber intrusions against theft or misuse. Personally, I was not able to log in to dozens of accounts at AST for MONTHS in 2023. Without holding many of my securities in certificated form, I was limited in my ability to prove that I owned those shares during that time.

Although this added layer of protection may not be a priority to everyone, it is worth the additional \$25 investment to me personally. I encourage our company to take my proposal seriously. **Issuers that refuse to offer the certificated holding option are denying our investors the ability to incorporate this extra layer of protection for their shares.**

#### **BASIS FOR EXCLUSION**

We hereby request that the Staff concur in our view that the Proposal may be excluded from the Proxy Materials because the Proponent has failed to provide the requisite proof of continuous stock ownership required by Rules 14a-8(b)(1)(i), 14a-8(b)(2) and 14a-8(f)(1) of the Exchange Act in response to the Company's proper request for that information.

#### **BACKGROUND**

On October 28, 2024, the Company received a letter from the Proponent, dated October 18, 2024 (the "Proposal Letter"), requesting inclusion of the Proposal in the Proxy Materials.

After reviewing its records, the Company was not able to ascertain whether the Proponent satisfied the ownership requirements of Rule 14a-8(b) permitting him to submit the Proposal for inclusion in the Proxy Materials. Consequently, and because the Proposal Letter also did not include evidence demonstrating satisfaction of the ownership requirements of Rule 14a-8(b), the Company notified the Proponent of the deficiency by notice of deficiency, a copy of which is attached hereto as *Exhibit B* (the "Deficiency Notice"), identifying this procedural defect and explaining how the Proponent could cure it. The Deficiency Notice also attached a copy of Rule 14a-8, as amended, as well as copies of SLB 14D, Staff Legal Bulletin No. 14F (Oct. 18, 2011) ("SLB 14F"), Staff Legal Bulletin No. 14G (Oct. 16, 2012) ("SLB 14G") and Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L"). The Company delivered the Deficiency Notice to the Proponent on October 30, 2024, which was within fourteen (14) calendar days of receiving the Proposal Letter and advised the Proponent that in order to preserve his eligibility, if any, to have the Proposal included in the Proxy Materials, his response was required to be postmarked no later than 14 days from the date the Proponent received the Deficiency Notice. To date, the Proponent has not responded to the Deficiency Notice, and has not had any follow up correspondence or communication with the Company.



## ANALYSIS

### **The Proposal May Be Excluded Under Rules 14a-8(b)(1)(i), 14a-8(b)(2) and 14a-8(f)(1) for Failure to Establish the Requisite Eligibility To Submit the Proposal**

Rule 14a-8(b)(1)(i) provides, in part, that to be eligible to submit a proposal for an annual or special meeting, a stockholder proponent must satisfy one of the ownership requirements by continuously having held either: at least (A) \$2,000 in market value of the Company's securities entitled to vote on the proposal for at least three years; (B) \$15,000 in market value of the Company's securities entitled to vote on the proposal for at least two years; or (C) \$25,000 in market value of the Company's shares entitled to vote on the proposal for at least one year (collectively, the "Ownership Requirement"). Rule 14a-8(f) provides that a company may exclude a stockholder proposal if the proponent fails to provide evidence of eligibility under Rule 14a-8, including the Ownership Requirement of Rule 14a-8(b).

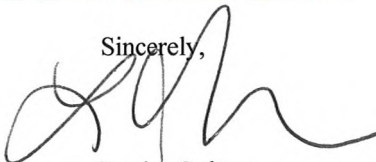
Here, the Deficiency Notice (i) informed the Proponent that based on the Company's review of its records and the Proposal Letter, it could not determine whether the Proponent held the requisite amount of First Watch securities for the requisite amount of time to satisfy the Ownership Requirement of Rule 14a-8(b) (the "Ownership Deficiency") and (ii) explained how the Proponent could cure the Ownership Deficiency, including providing copies of Rule 14a-8, SLB 14D, SLB 14F, SLB 14G and SLB 14L. To date, the Proponent has failed to provide any evidence to support that he has satisfied the Ownership Requirement.

Accordingly, we ask that the Staff concur that the Company may exclude the Proposal pursuant to Rule 14a-8(b) and Rule 14a-8(f)(1) under the Exchange Act. *See, e.g., The Home Depot, Inc.* (Mar. 9, 2023) ("There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(f) because the Proponent did not comply with Rule 14a-8(b)(1)(i). As required by Rule 14a-8(f), the Company notified the Proponent of the problem, and the Proponent failed to adequately correct it."); *CNA Financial Corp.* (Feb. 20, 2024) (same); *Exxon Mobil Corp.* (Feb. 13, 2017) (concurring with the exclusion of a stockholder proposal under Rule 14a-8(b) and Rule 14a-8(f) and noting that "the proponent appears to have failed to supply, within 14 days of receipt of ExxonMobil's request, documentary support sufficiently evidencing that she satisfied the minimum ownership requirement for the one-year period required by rule 14a-8(b)"); *Amazon.com, Inc.* (Mar. 29, 2011) (same); *General Motors Corp.* (avail. Apr. 5, 2007) (same); *Johnson & Johnson* (avail. Jan. 3, 2005) (same); *Intel Corp.* (avail. Jan. 29, 2004) (same); *Moody's Corp.* (avail. Mar. 7, 2002) (same).

## CONCLUSION

For the foregoing reasons we believe that the Proposal may be omitted from the Proxy Materials and respectfully request that the Staff confirm that it will not recommend any enforcement action if the Proposal is excluded.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. If we can be of any further assistance in this matter, please do not hesitate to contact me at [Lyuba.Goltser@weil.com](mailto:Lyuba.Goltser@weil.com) or (212) 310-8048, or Jay Wolszczak, General Counsel and Chief Legal Officer, at [Jwolszczak@firstwatch.com](mailto:Jwolszczak@firstwatch.com) or (941) 907-9800.

Sincerely,  
  
Lyuba Goltser

Cc: Jay Wolszczak, First Watch Restaurant Group, Inc.  
Chris Mueller

Attachments

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EXHIBIT A

Proposal Letter

October 18, 2024

First Watch Restaurant Group  
8725 Pendery Pl Suite 201  
Bradenton, FL 34201

Members of the board.

My name is Chris Mueller, and I would like to submit a shareholder proposal for the 2025 annual shareholder meeting. I am an individual investor with a directly registered ownership position in our company. I intend to hold my position through the date of the meeting, and I'm available to discuss my proposal with the board at any time.

**My proposal: First Watch Restaurant Group should allow our shareholders the option to hold their shares in certificated form by utilizing the "print on demand" service that Computershare offers called QuickCert.**

Hundreds of issuers use Computershare's QuickCert service including: Tesla, Nvidia, Walmart, Yelp, MGM, United Airlines, Harley, Starbucks, TopGolf, Citizens, Icahn, JP Morgan, Goldman Sachs, Nasdaq, Hasbro, Cisco, Paypal, Foot Locker, Domino's, Wayfair, Colgate, Amex, PNC, Pepsico, Campbell's, Manitowoc, BNY Mellon, K-Force, JetBlue, Carnival, AGNC, Nokia, Mattel, Funko.

Based on my own holdings, MOST issuers, that use Computershare as a transfer agent, continue to offer the option for certificated holdings. A majority of those issuers use QuickCert. The service is low cost, and the fee to the investor is \$25 per certificate.

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Although this added layer of protection may not be a priority to everyone, it is worth the additional \$25 investment to me personally. I encourage our company to take my proposal seriously. **Issuers that refuse to offer the certificated holding option are denying our investors the ability to incorporate this extra layer of protection for their shares.**

I would appreciate correspondence through email (if possible) to limit the resource expenditure necessary for responding to my proposal.

Thank you for your time,



Chris Mueller



EXHIBIT B

Deficiency Notice



October 30, 2024

**VIA ELECTRONIC MAIL**

Chris Mueller  


Re: Notice of Deficiency

Dear Mr. Mueller:

On October 28, 2024, First Watch Restaurant Group, Inc. (the “Company”), received your letter dated October 18, 2024, containing a proposal for inclusion in the Company’s proxy materials for its 2025 Annual Meeting of Stockholders (the “2025 Annual Meeting”) pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”). The purpose of this notice is to inform you that we have not received proof of the Proponent’s ownership as required by Rule 14a-8(b) of the Exchange Act.

Please be advised that to be eligible to have a shareholder proposal included in the Company’s proxy statement in respect of the 2025 Annual Meeting, you are required to satisfy the eligibility requirements set forth under Rule 14a-8 of the Exchange. You must have continuously held:

- At least \$2,000 in market value of the Company’s securities entitled to vote on the proposal for at least three years;
- At least \$15,000 in market value of the Company’s securities entitled to vote on the proposal for at least two years; or
- At least \$25,000 in market value of the Company’s securities entitled to vote on the proposal for at least one year.

Our records show that you are currently the record holder of 1 share of our common stock, par value \$0.01 per share, which would not meet the requirements provided in Rule 14a-8. Please advise whether you hold shares of common stock as beneficial holder under other accounts and whether your aggregate holdings would satisfy the above-stated eligibility thresholds. If so, please provide evidence that you hold these shares through a broker letter, as required by Rule 14a-8(b)(2)(ii)(A).

Additionally, you have not complied with Rule 14a-8(b)(1)(iii) which requires you to provide the Company with a written statement that you are able to meet in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal, including business days and specific times that you are available to discuss the proposal with the Company. Please provide your availability in accordance with the rules.



You may remedy this deficiency by providing a written statement from the record holder of your shares (usually a bank or broker) and a participant in the Depository Trust Company (DTC) verifying that, at the time you submitted the Proposal, you had beneficially held the requisite number of Company securities continuously for the requisite amount of time. For information regarding the acceptable methods of proving your continuous ownership of the minimum number of Company securities, see Exchange Act Rule 14a-8(b)(2) and related Staff Legal Bulletins in the attachments to this letter.

The SEC's rules require that any response to this notice be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this notice. The failure to correct the deficiencies within this timeframe will provide the Company with a basis to exclude the proposal from the Company's proxy materials for its 2025 Annual Meeting.

Please address any response to Jody Gale, SVP, Legal at [jgale@firstwatch.com](mailto:jgale@firstwatch.com) or Mr. Jody Gale, First Watch Restaurant Group, Inc., 8725 Pendery Place, Suite 201, Bradenton, FL 34201.

The Company reserves the right to submit a no-action request to the staff of the SEC, as appropriate, with respect to this Proposal for any of the foregoing reasons stated in this notice or for any other reason.

Enclosures

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Wolszczak", with a stylized flourish at the end.

Jay Wolszczak