



DIVISION OF
CORPORATION FINANCE

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

April 7, 2025

Justin R. Howard
Alston & Bird LLP

Re: TrueCar, Inc. (the "Company")
Incoming letter dated January 28, 2025

Dear Justin R. Howard:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by Chris Mueller 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(e)(2) because the Company received it after the deadline for submitting proposals. 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(e)(2).

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

ALSTON & BIRD

One Atlantic Center
1201 West Peachtree Street
Atlanta, GA 30309-3424
404-881-7000 | Fax: 404-881-7777

January 28, 2025

VIA E-MAIL

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

Re: *TrueCar, Inc.*
Shareholder Proposal of Chris Mueller
Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

On behalf of TrueCar, Inc., a Delaware corporation (the “Company”), we submit this letter requesting confirmation that the staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) will not recommend enforcement action to the Commission if, in reliance on Rule 14a-8 under the Securities Exchange Act of 1934 (the “Exchange Act”), the Company omits the shareholder proposal (the “Proposal”) submitted by Chris Mueller (the “Proponent”) from the Company’s proxy statement and form of proxy for its 2025 Annual Meeting of Shareholders (collectively, the “2025 Proxy Materials”).

Pursuant to Rule 14a-8(j) under the Exchange Act, we have 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. 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 Company pursuant to Rule 14a-8(k) and SLB 14D.

A copy of the Proposal is attached hereto as Exhibit A.

I. SUMMARY OF THE PROPOSAL

On January 21, 2025, the Company received from the Proposal from the Proponent. In relevant part, the Proposal, which did not confirm whether or not it was being made pursuant to Rule 14a-8, reads:

My proposal: TrueCar, Inc. should demand additional disclosures from our transfer agent for the benefit of our registered holders including:

- 1) Providing an update regarding alleged arbitrage opportunities that may be enabled through recurring DirectStock Plan purchases.**
- 2) Disclosing how investor's registered shares used for "operational efficiency" (which title is legally owned by Cede & Co.) are protected (or insured). According to section 15 of our investment plan, securities held in DirectStock accounts are not insured.**
- 3) Disclosing how Computershare determines what percentage of aggregate DSPP shares are held at DTC for operational efficiency.**
- 4) Disclosing specifically why certificated shares (that are enrolled in DirectStock Plan) can not be held at DTC for operational efficiency.**

II. EXCLUSION OF PROPOSAL

A. Basis for Excluding the Proposal

As discussed in more detail below, we respectfully request that the Staff concur with the Company's view that it may properly omit the Proposal from its 2025 Proxy Materials for failure to comply with Rule 14a-8(e)(2) because the Company did not receive the Proposal from the Proponent before the deadline by which shareholder proposals were required to be submitted to the Company for inclusion in the 2025 Proxy Materials.

B. Background

Rule 14a-8(e)(2) provides that shareholder proposals submitted with respect to a company's regularly scheduled annual meeting must be received at a company's principal executive offices no less than 120 calendar days before the anniversary date of the company's proxy statement that was released to shareholders in connection with the previous year's annual meeting. On April 8, 2024, the Company filed with the Commission, and commenced distribution to its shareholders of, a proxy statement and form of proxy for its 2024 Annual Meeting of Shareholders (the "2024 Proxy Statement"). As required by Item 1(c) of Exchange Act Schedule 14A and Rule 14a-5(e), the Company included in the 2024 Proxy Statement the deadline for receiving shareholder proposals submitted for inclusion in the Company's proxy statement and form of proxy for the Company's next annual meeting, calculated in the manner prescribed in Rule 14a-8(e). Specifically, the following disclosure appeared on page 5 of the 2024 Proxy Statement:¹

Q: What is the deadline to propose actions for consideration at next year's annual meeting or to nominate individuals to serve as directors?

¹ The 2024 Proxy Statement is available on EDGAR at the following link:
https://www.sec.gov/Archives/edgar/data/1327318/000110465924044723/tm2332122-2_def14a.htm

A: Stockholder Proposals: Stockholders may present proper proposals for inclusion in our proxy statement and for consideration at our next annual meeting of stockholders by submitting their proposals in writing to our Corporate Secretary in a timely manner. For a stockholder proposal to be considered for inclusion in our proxy statement for our 2025 annual meeting, our Corporate Secretary must receive the written proposal at our principal executive offices no later than December 9, 2024. If we hold our 2025 annual meeting more than 30 days before or more than 60 days after May 23, 2025 (the one-year anniversary date of the Annual Meeting), we will disclose the new deadline by which stockholder proposals must be received to be considered for inclusion in our proxy statement for that annual meeting under Item 5 of Part II of our earliest possible Quarterly Report on Form 10-Q or, if impracticable, by any means reasonably determined to inform stockholders. In addition, stockholder proposals must otherwise comply with the requirements of Rule 14a-8 under the Securities Exchange Act of 1934, as amended, or the Exchange Act. Stockholder proposals should be addressed to:

TrueCar, Inc.
Attn: Jeffrey Swart, Corporate Secretary
1401 Ocean Ave, Suite 200
Santa Monica, California 90401

As described below, the Company calculated the December 9, 2024 deadline in the manner prescribed in Rule 14a-8(e) and Staff Legal Bulletin No. 14 (July 13, 2001) (“SLB 14”).

On January 21, 2025, 43 days after the Company’s deadline for shareholder proposals, the Company received the Proposal. *See Exhibit A.*

Since January 21, 2025, the Company has not received any communication or further correspondence from the Proponent concerning the Proposal. For this reason, we are writing to request that the Staff concur that the Company may exclude the Proposal pursuant to Rule 14a-8(e)(2).

C. The Proposal May Be Omitted in Reliance on Rule 14a-8(e)(2) Because the Company Did Not Receive the Proposal Until After the Deadline for Submitting Shareholder Proposals to the Company for Inclusion in the 2025 Proxy Materials

Rule 14a-8(f)(1) permits exclusion of a shareholder proposal if the proponent fails to follow one of the eligibility or procedural requirements contained in Rule 14a-8. Generally, exclusion on this basis is permitted only after timely notification to the proponent of an applicable defect and a proponent’s failure to timely and adequately correct the defect. However, a company “need not provide [the proponent] such notice of deficiency if the deficiency cannot be remedied, *such as if [the proponent] fail[s] to submit a proposal by the company’s properly determined deadline*” as per Rule 14a-8(f)(1) (emphasis added).

Rule 14a-8(e)(2) provides that shareholder proposals must be received at a company's principal executive offices no less than 120 calendar days before the anniversary date of the company's proxy statement that was released to shareholders in connection with the previous year's regularly scheduled annual meeting. Under Rule 14a-8(e)(2), a meeting is "regularly scheduled" if it has not changed by more than 30 days from the date of the annual meeting held in the prior year. The Company's 2024 Annual Meeting of Shareholders was held on May 23, 2024. The Company's 2025 Annual Meeting of Shareholders is anticipated to be held on or around May 22, 2025, which is within 30 days of the anniversary date of the 2024 Annual Meeting of Shareholders.

SLB 14, Section C.3.b indicates that, to calculate the deadline, a company should "[i] start with the release date disclosed in the previous year's proxy statement; [ii] increase the year by one; and [iii] count back 120 calendar days." Consistent with this guidance, to calculate the deadline for receiving shareholder proposals submitted for the Company's 2025 Annual Meeting of Shareholders, the Company (i) started with the release date of its 2024 Proxy Statement (*i.e.*, April 8, 2024), (ii) increased the year by one (*i.e.*, April 8, 2025), and (iii) counted back 120 calendar days. As per SLB 14, Section C.3.b, "day one" for purposes of this calculation was April 7, 2025, resulting in a deadline for receiving shareholder proposals submitted for inclusion in the Company's 2025 Proxy Statement of December 9, 2024. As mentioned above, this December 9, 2024 submission deadline was also disclosed explicitly on page 5 of the 2024 Proxy Statement as required by Item 1(c) of Exchange Act Schedule 14A and Rule 14a-5(e).

As a result of the foregoing, the Proponent's submission must have been received by the Company on or before December 9, 2024 in order to be considered timely. As noted above and as shown in Exhibit A, the Proposal was received on January 21, 2025, and the document itself is dated January 6, 2025. The Proposal was thereby received by the Company 43 days after the Rule 14a-8(e)(2) deadline.

Based upon both Staff guidance and previous responses to no-action requests, the Staff has made it abundantly clear that the deadline for shareholder proposal submissions under Rule 14a-8 is to be strictly construed. *See, e.g.*, Tesla, Inc. (avail. Mar. 23, 2023) (concurring that Rule 14a-8(e)(2) provides a basis to exclude a proposal received 20 days after the submission deadline); Etsy, Inc. (avail. Apr. 19, 2022) (concurring that Rule 14a-8(e)(2) provides a basis to exclude a proposal received one day after the submission deadline); AT&T Inc. (avail. Jan. 26, 2022) (concurring that Rule 14a-8(e)(2) provides a basis to exclude a proposal received six days after the submission deadline); Walgreens Boots Alliance, Inc. (avail. Oct. 12, 2021) (concurring that Rule 14a-8(e)(2) provides a basis to exclude a proposal received two days after the submission deadline); Hewlett Packard Enterprise Co. (avail. Jan. 15, 2021) (concurring that Rule 14a-8(e)(2) provides a basis to exclude a proposal received two days after the submission deadline); General Dynamics Corp. (avail. Jan. 8, 2021, recon. denied Mar. 17, 2021) (concurring with exclusion of a proposal received four days after the submission deadline); Verizon Communications, Inc. (avail. Jan. 4, 2018) (concurring that Rule 14a-8(e)(2) provides a basis to exclude a proposal received one day after the submission deadline); Wal-Mart Stores, Inc. (avail. Feb. 13, 2017) (concurring that Rule 14a-8(e)(2) provides a basis to exclude a proposal received six days after the submission deadline); Applied Materials, Inc. (avail. Nov. 20, 2014) (concurring that Rule 14a-8(e)(2) provides a basis to exclude a proposal received one day after the submission deadline); Tootsie Roll Industries, Inc. (avail. Jan. 14, 2008) (concurring that Rule 14a-8(e)(2) provides a basis to exclude a proposal received two days after the submission deadline). The Staff has also emphasized this point in SLB

14 by advising, “[t]o avoid exclusion on the basis of untimeliness, a shareholder should submit his or her proposal well in advance of the deadline...”

III. Waiver Of The 80-Day Requirement In Rule 14a-8(j)(1) Is Appropriate.

We further request that the Staff waive for good cause the 80-day filing requirement set forth in Rule 14a-8(j). Rule 14a-8(j)(1) requires that, if a company “intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission.” However, Rule 14a-8(j)(1) allows the Staff to waive the deadline if a company can show “good cause.”

The Company currently intends to file its definitive 2025 Proxy Materials on or around April 8, 2025, which means that the last day to have satisfied the 80-day requirement was January 18, 2025. Because the Company fully complied with the requirements set forth in Rule 14a-8, SLB 14, and SLB 14D but the Proponent transmitted its Proposal 3 days after the 80-day deadline, we believe that there is “good cause” for not satisfying the 80-day requirement. The Staff has waived the 80-day requirement under similar circumstances. *See, e.g.,* Deere & Company (avail. December 22, 2000) (waiving the 80-day requirement with respect to a proposal that was received after both (i) the Rule 14a-8(e)(2) deadline for submissions and (ii) the deadline for satisfying the 80-day requirement under Rule 14a-8(j)). Therefore, we respectfully request that the Staff waive the 80-day requirement with respect to this letter.

IV. 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 2025 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 me at justin.howard@alston.com, Rebecca Valentino at rebecca.valentino@alston.com or Alex Krause at alex.krause@alston.com. If we can be of any further assistance in this matter, please do not hesitate to call me at 404-881-7758, Rebecca Valentino at 650-838-2025 or Alex Krause at 404-881-7450.

Sincerely,

/s/ Justin R. Howard

Justin R. Howard

Enclosures

cc: Jeff Swart, Executive Vice President & General Counsel

EXHIBIT A

January 6, 2025

TrueCar, Inc.
1401 Ocean Avenue, Suite 200
Santa Monica, CA 90401

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 registered ownership position. I intend to hold my position through the 2025 annual shareholder meeting. I can meet with the board to discuss my proposal at any time.

I also submitted a shareholder proposal for the 2024 meeting. My proposal included a reference to the arbitrage exposure that allegedly occurs with recurring purchases made through Computershare's DirectStock Plan. It has been 11 months since I submitted my proposal, and Computershare has not provided an update. According to the FAQ page on Computershare's website:

"We are looking into the concern from investors about the predictable schedule DirectStock Plan open market purchases open up arbitrage opportunities. The orders are being executed on exchanges and there is a concern being raised that third parties can anticipate an order arriving in the market."

My proposal: TrueCar, Inc. should demand additional disclosures from our transfer agent for the benefit of our registered holders including:

- 1) Providing an update regarding alleged arbitrage opportunities that may be enabled through recurring DirectStock Plan purchases.
- 2) Disclosing how investor's registered shares used for "operational efficiency" (which title is legally owned by Cede & Co.) are protected (or insured). According to section 15 of our investment plan, securities held in DirectStock accounts are not insured.
- 3) Disclosing how Computershare determines what percentage of aggregate DSPP shares are held at DTC for operational efficiency.
- 4) Disclosing specifically why certificated shares (that are enrolled in DirectStock Plan) can not be held at DTC for operational efficiency.

It is important to note that last year the SEC updated the "holding your securities" page on their website. Unfortunately, the bulletin is missing an important disclosure. The bulletin states that securities purchased through the transfer agent are not DRS and must be moved from "the issuer plan" to become DRS form. **What is missing, however, is a disclosure stating that when book-entry DRS form shares are enrolled in "the issuer plan" that the title to the shares is no longer owned by the investor.**

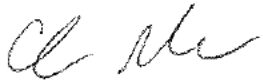
Our investors deserve to know who owns the title to "their" securities, and how their investment may or may not be protected or insured. Without the disclosures listed above, our investors do not have the necessary information to make the best decisions for holding their investments.

I believe that our company may have a fiduciary responsibility to provide answers to the concerns above. A hypothetical custodial insolvency could negatively affect our shareholders which could

negatively affect our company. Please demand the disclosures above that Computershare and the SEC have not provided to help protect our investors and our company.

I would prefer correspondence through email to limit the resource expenditure necessary for responding to my proposal.

Thank you,

A handwritten signature in cursive script, appearing to read 'C Mueller'.

Chris Mueller

PII

A large black rectangular redaction box covering the lower portion of the signature block.