



DIVISION OF
CORPORATION FINANCE

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

April 30, 2025

Allen Z. Sussman
Virco Mfg. Corporation

Re: Virco Mfg. Corporation (the "Company")
Incoming letter dated February 14, 2025

Dear Allen Z. Sussman:

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). In reaching this position, we have not found it necessary to address the alternative basis for omission upon which the Company relies.

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



Virco Mfg. Corporation
2027 Harpers Way
Torrance, California 90501

February 14, 2025

VIA ONLINE PORTAL SUBMISSION

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

**Re: Virco Mfg. Corporation
Exclusion of Shareholder Proposal by Chris Mueller**

Ladies and Gentlemen:

On behalf of Virco Mfg. Corporation, a Delaware corporation (the “*Company*”), and in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “*Exchange Act*”), we are submitting this letter with respect to the shareholder proposal (the “*Proposal*”) submitted by Chris Mueller (the “*Proponent*”) with respect to the proxy materials that the Company intends to distribute in connection with its 2025 Annual Meeting of Stockholders (the “*2025 Proxy Materials*”). A copy of the Proposal and its supporting statement is attached hereto as Exhibit A.

We note that the Proponent did not expressly request inclusion of the Proposal in the Company’s proxy materials, and it is unclear whether the Proponent actually intended to submit the Proposal for inclusion in the 2025 Proxy Materials under Rule 14a-8 under the Exchange Act. Nevertheless, the Company intends to exclude the Proposal from its 2025 Proxy Materials on the basis of Rule 14a-8, and we respectfully request 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 any enforcement action if, in reliance on Rule 14a-8, the Company omits the Proposal from its 2025 Proxy Materials.

Pursuant to Rule 14a-8(j), this letter is being submitted to the Commission no later than 80 calendar days before the date the Company intends to file its definitive 2025 Proxy Materials. This letter constitutes the Company’s statement of the reasons it deems the omission of the Proposal from the 2025 Proxy Materials to be proper. In accordance with Rule 14a-8(j) and *Staff Legal Bulletin No.14D* (Nov. 7, 2008), we are simultaneously sending a copy of this letter and its attachments to the Proponent.

The Proposal

The Company received the below Proposal from the Proponent, which states in relevant part as follows:

My proposal: Virco MFG Corporation 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 Purchase 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 Purchase Plan) can not be held at DTC for operational efficiency.**

Bases for Exclusion

The Company believes that the Proposal may be properly omitted from the 2025 Proxy Materials pursuant to:

- Rule 14a-8(e)(2) under the Exchange Act, because the Company did not receive the Proposal from the Proponent at its principal executive offices by the deadline for submitting shareholder proposals for inclusion in the 2025 Proxy Materials; or
- Rule 14a-8(i)(7) under the Exchange Act, because the Proposal deals with matters relating to the Company's ordinary business operations.

A. The Proposal may be excluded under Rule 14a-8(e) because the Company did not receive the Proposal from the Proponent until after the Proposal Deadline.

The Company's deadline to receive shareholder proposals for inclusion in the 2025 Proxy Materials was January 7, 2025 (the "***Proposal Deadline***"). The Company disclosed this deadline on page 23 of its proxy statement for its 2024 Annual Meeting of Stockholders.

The Proposal itself was first mailed to the Company on January 7, 2025 and was actually received by the Company on or after January 13, 2025, which is past the Proposal Deadline. Attached hereto as Exhibit A is a copy of the USPS certified envelope showing the mailing date of January 7, 2025, and a tracking history from USPS showing delivery of the envelope on or after January 13, 2025.

Rule 14a-8(e)(2) provides, in part, that for a regularly scheduled annual meeting, "[t]he proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting." The deadline for receiving shareholder proposals for inclusion in the 2025 Proxy Materials was January 7, 2025, as calculated under Rule 14a-8(e)(2) and in accordance with Staff guidance set forth in Section C.3.b of *Staff Legal Bulletin No. 14* (July 13, 2001) ("***SLB 14***"). The Company disclosed this Proposal Deadline in its proxy statement for its 2024 Annual Meeting of Stockholders.



For the Proponent's submission to have been timely, the Company must have received the Proposal from the Proponent on or before the Proposal Deadline. As noted above and as shown in Exhibit A, the Proposal was not received by the Company on or before the Proposal Deadline.

The Company did not provide the Proponent with a notice of deficiency per Rule 14a-8(f), which provides that a notice is not required "if the deficiency cannot be remedied, such as if [a proponent] fail[s] to submit a proposal by the company's properly determined deadline." See also SLB 14 ("[A] company does not need to provide [a] shareholder with a notice of defect(s) if the defect(s) cannot be remedied . . . [which] would apply, for example, if . . . the shareholder failed to submit a proposal by the company's properly determined deadline").

The Staff made clear in SLB 14 and in subsequent no-action responses that it strictly construes the deadline for shareholder proposals under Rule 14a-8, permitting companies to exclude from their proxy materials those proposals received at a company's principal executive offices on any date after the deadline. See, e.g., *GameStop Corp.* (April 24, 2024) (proposal received 61 days after the company's deadline); *CTS Corp.* (March 22, 2024) (proposal received six days after the company's deadline); *The PNC Financial Services Group, Inc.* (February 20, 2024) (proposal received one day after the company's deadline); *Hewlett Packard Enterprise Co.* (January 4, 2024) (proposal received five days after the company's deadline); and *Dow Inc.* (February 15, 2022) (proposal received several minutes after the close of business on the date of the company's 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."

Consistent with Rule 14a-8(e) and the Staff's approach to deadlines under Rule 14a-8, the Company believes that it may exclude the Proposal in reliance on Rule 14a-8(e), as the Company did not receive the Proposal on or before the Proposal Deadline.

B. The Proposal may be excluded from the Company's 2025 Proxy Materials pursuant to Rule 14a- 8(i)(7) because it relates to the Company's ordinary business operations.

Rule 14a-8(i)(7) permits a company to exclude a shareholder proposal if the proposal "deals with a matter relating to the company's ordinary business operations." The underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting." SEC Release No. 34-40018 (May 21, 1998) (the "**1998 Release**"). As set out in the 1998 Release, there are two "central considerations" underlying the ordinary business exclusion. One consideration is that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." The other consideration is that a proposal should not "seek to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." The Proposal submitted by the Proponent seems to implicate each of these considerations.



We believe that the Proposal may be excluded pursuant to Rule 14a-8(i)(7) because it relates to the Company's direct stock purchase plan (the "**Purchase Plan**") offered through its transfer agent, Computershare, and requests that the Company demand additional disclosures related to the Purchase Plan. The decision to offer a direct stock purchase plan and the terms and conditions of the plan involve a number of legal and administrative issues, such as timing, cost, ease of administration, availability of alternatives and contractual obligations. None of these considerations is appropriate for direct oversight by shareholders, who lack the requisite day-to-day familiarity with the Company's business or its considerations in adopting the Purchase Plan. If these or similar decisions were subject to direct oversight by shareholders, the Company would be significantly hindered in its day-to-day operations.

In addition to interfering with management's day-to-day operations, the Proposal also seeks to "micro-manage" the Company. Specifically, the Proposal instructs the Company to demand that Computershare, a third-party service provider, provide certain disclosures related to its Purchase Plan, which is a service that Computershare provides to many public companies, including disclosures with respect to how registered shares purchased through the plan are held or titled. Determinations about how to manage a stock purchase plan are inherently complex, and shareholders as a group are not in an appropriate position to make informed decisions on such determinations because such determinations require analysis of costs, benefits, management of activity, and numerous other considerations. Moreover, in general, the management of the Company's transfer agent is the responsibility of the Company's management, not its stockholders. The Staff has previously recognized that decisions concerning a company's relationships with vendors are matters of ordinary business and are not to be micromanaged by shareholders. See, e.g., *Alaska AirGroup, Inc.* (March 8, 2010) (concurring with Rule 14a-8(i)(7) exclusion of a proposal requesting a report on contract repair facilities finding that a proposal regarding "decisions relating to vendor relationships are generally excludable under rule 14a-8(i)(7)"); *Continental Airlines, Inc.* (March 25, 2009) (same).

Furthermore, under the Staff's recent guidance with respect to Rule 14a-8(i)(7) set forth in Section C.2. of *Staff Legal Bulletin No.14M* (Feb. 12, 2025), we can confirm that the Proposal raises no significant policy questions with respect to the Company, its business or its shareholders. The Company and its shareholders rarely utilize the Computershare Purchase Plan, and the total activity under the Purchase Plan is immaterial to the Company. The purported issues about the Purchase Plan that were raised by the Proponent are immaterial and raise no significant policy questions for the Company.

The Proposal also does not involve a significant social policy issue. As explained in the 1998 Release, proposals "focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable [under Rule 14a-8(i)(7)], because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote." Accordingly, an issue must meet certain standards to be deemed a significant policy issue. In determining whether an issue should be deemed a significant policy issue, the Staff considers whether the issue has been the subject of widespread and/or sustained public debate. In this instance, the issue of whether the Company



should demand disclosures related to a direct stock purchase plan, including how registered shares purchased through the plan are held or titled, do not meet this standard, as the Company is not aware of any widespread or sustained public debate regarding this issue.

Accordingly, we believe that the Proposal may also be excluded from the 2025 Proxy Materials pursuant to Rule 14a-8(i)(7).

Conclusion

For the foregoing reasons, we respectfully request that the Staff, consistent with its prior no-action letters, concur that it will take no action if the Company excludes the Proposal from its 2025 Proxy Materials pursuant to Rule 14a-8(e) or Rule 14a-8(i)(7), on the basis that the Proposal was received after the deadline for receipt of shareholder proposals or on the basis that the Proposal deals with a matter relating to the Company's ordinary business operations.

If the Staff has any questions with respect to the foregoing, or if for any reason the Staff does not agree that the Company may exclude the Proposal from its 2025 Proxy Materials, please do not hesitate to contact me at asussman@virco.com or at (310) 503-2020. In addition, should the Proponent choose to submit any response or other correspondence to the Commission, we request that the Proponent concurrently submit that response or other correspondence to the Company, as required pursuant to Rule 14a-8(k) and Staff Legal Bulletin No. 14D, and copy the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read 'Allen Z. Sussman', with a long horizontal line extending to the right.

Allen Z. Sussman
Corporate Counsel

cc: Robert Dose, Chief Financial Officer, Virco Mfg. Corporation
Chris Mueller

EXHIBIT A
Shareholder Proposal
(see attached)

January 6, 2025

Virco MFG Corporation
2027 Harpers Way
Torrance, CA 90501

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: Virco MFG Corporation 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,



Chris Mueller

PII



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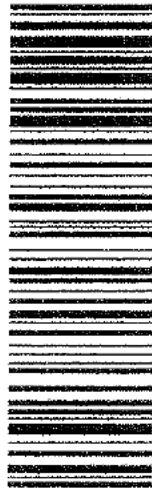
Chris Mueller

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TAMPA FL 335

Retail



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RDC 99



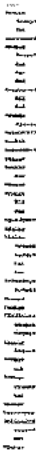
90501

U.S. POSTAGE PAID
FCM LETTER
TAMPA, FL 33607
JAN 07, 2025

\$5.58

S2324P501993-15

Virco MFG Corporation
Attention: Corporate Secretary
2027 Harpers Way
Torrance, CA 90501



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9589071052701614076532



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Your shipment has potentially been delayed due to weather conditions at 7:03 pm on January 13, 2025.

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Alert

Processing Exception, Regional Weather Delay

January 13, 2025, 7:03 pm

In Transit to Next Facility

January 13, 2025

Arrived at USPS Regional Destination Facility

LOS ANGELES CA DISTRIBUTION CENTER

January 11, 2025, 2:42 pm

Departed USPS Facility

TAMPA, FL 33630

January 8, 2025, 4:03 am

Arrived at USPS Origin Facility

TAMPA, FL 33630

January 7, 2025, 7:27 pm

Departed Post Office

TAMPA, FL 33607

January 7, 2025, 6:20 pm

USPS in possession of item

TAMPA, FL 33607

January 7, 2025, 1:25 pm

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