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**VIA STAFF ONLINE FORM**

January 16, 2025

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

RE: Ross Stores, Inc. – 2025 Annual Meeting
Omission of Stockholder Proposal of the
New York City Employees' Retirement System, the
New York City Teachers' Retirement Systems and the
New York City Police Pension Fund

Ladies and Gentlemen:

Pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), we are writing on behalf of our client, Ross Stores, Inc., a Delaware corporation ("Ross" or the "Company"), to request that the Staff of the Division of Corporation Finance (the "Staff") of the U.S. Securities and Exchange Commission (the "Commission") concur with the Company's view that, for the reasons stated below, it may exclude the stockholder proposal and supporting statement (the "Proposal") submitted by the Office of the Comptroller of the City of New York (the "NYC Comptroller"), on behalf of the New York City Employees' Retirement System, the New York City Teachers' Retirement Systems and the New York City Police Pension Fund (collectively, the "New York City Retirement Systems"), from the proxy materials to be distributed by the Company in connection with its 2025 annual meeting of stockholders (the "2025 proxy materials"). The New

York City Retirement Systems and the NYC Comptroller are sometimes referred to collectively as the "Proponents."

In accordance with relevant Staff guidance, we are submitting this letter and its attachments to the Staff through the Staff's online Shareholder Proposal Form. In accordance with Rule 14a-8(j), we are simultaneously sending a copy of this letter and its attachments to the NYC Comptroller, on behalf of the New York City Retirement Systems, as notice of the Company's intent to omit the Proposal from the 2025 proxy materials.

Rule 14a-8(k) and Section E of Staff Legal Bulletin No. 14D (Nov. 7, 2008) provide that stockholder proponents are required to send companies a copy of any correspondence that the stockholder proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponents that if the Proponents submit correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to the Company.

## I. The Proposal

The text of the resolution contained in the Proposal is set forth below:

> **RESOLVED:** Shareholders request the Ross Stores, Inc. ("Ross") Board of Directors adopt a board evaluation policy (the "Policy") to include the following components:
>
> - engage an external, independent party, preferably an executive search firm, to conduct individualized director evaluations, at least biannually; and
>
> - direct the external party to create an action plan ensuring follow-up, which may include identifying board skills and experience gaps to inform succession planning and facilitating conversations with underperforming directors or those whose skills no longer align with company strategy.

## II. Basis for Exclusion

We hereby respectfully request that the Staff concur with the Company's view that it may exclude the Proposal from the 2025 proxy materials pursuant to Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company's ordinary business operations. Specifically, the Proposal seeks to micromanage the Company and, therefore, is excludable under Rule 14a-8(i)(7).

## III. Background

### *A. Ross and its Board of Directors*

Ross operates two brands of off-price retail apparel and home fashion stores—Ross Dress for Less® and dd's DISCOUNTS®. Ross Dress for Less is the largest off-price apparel and home fashion chain in the United States, with 1,836 locations in 43 states, the District of Columbia, and Guam, as of November 2, 2024.

The Company's Board of Directors (the "Board") will have 11 members when the current CEO steps off the Board in early February as part of a previously announced CEO succession plan. There are eight independent directors, including three women and two racially diverse directors. Three of the independent directors have been on the Board for less than five years.

The Board has a comprehensive annual self-evaluation policy and practice, which has been developed under independent director leadership and which has continued to evolve over the years based on director feedback. Self-evaluations are conducted annually by the full Board, and also by the Audit, Compensation, and Nominating and Corporate Governance Committees, to review and assess their respective performance and practices, and to solicit suggestions for improvement. As part of this process, the Board and each of the Committees engages in thoughtful and open discussions regarding the self-evaluation results, and actionable opportunities are identified through this process. The self-evaluation policies and practices are overseen by the Nominating and Corporate Governance Committee. Historically, the Board and its Committees have chosen not to utilize outside consulting firms to conduct or participate in the self-evaluation process, although they remain free to do so at any time. In contrast, the Nominating and Corporate Governance Committee engages outside firms to assist in assessing and searching for potential new independent Board members.

### *B. The Proposal*

The Company received the Proposal on December 3, 2024, accompanied by a cover letter from the Proponent, dated December 3, 2024, and a written statement from the record owner of the Proponent's shares verifying that the Proponent had beneficially owned the requisite number of shares of Company common stock continuously for at least the requisite period preceding and including the date of submission of the Proposal. Copies of the Proposal, cover letter and related correspondence are attached hereto as Exhibit A.[1]

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[1] Exhibit A omits correspondence between the Company and the Proponent that is irrelevant to this request, such as the proof of beneficial ownership. *See* the Staff's "Announcement Regarding

## IV. The Proposal May be Excluded Pursuant to Rule 14a-8(i)(7) Because the Proposal Deals with Matters Relating to the Company's Ordinary Business Operations.

Under Rule 14a-8(i)(7), a stockholder proposal may be excluded from a company's proxy materials if the proposal "deals with matters relating to the company's ordinary business operations." In Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"), the Commission stated that the policy underlying the ordinary business exclusion rests on two central considerations. The first recognizes that certain 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 stockholder oversight. The second consideration relates to the degree to which the proposal seeks to "micro-manage" the company by probing too deeply into matters of a complex nature upon which stockholders, as a group, would not be in a position to make an informed judgment. As demonstrated below, the Proposal implicates this second consideration.

As the Commission has explained, a proposal may probe too deeply into matters of a complex nature if it "seeks to impose specific time-frames or methods for implementing complex policies." *1998 Release*. In Staff Legal Bulletin No. 14L (Nov. 3, 2021), the Staff explained that a proposal can be excluded on the basis of micromanagement based on "whether and to what extent it inappropriately limits discretion of the board or management."

Applying the foregoing principles, the Staff has consistently permitted exclusion on the basis of micromanagement of stockholder proposals urging the adoption of policies that impose specific methods for implementing complex policies. For example, in the context of board self-evaluation policies and processes, such as the policy sought by the Proposal, the Staff has previously determined that a proposal specifying required procedures and processes for evaluating individual board members was excludable on the basis of micromanagement. Specifically, in *General Electric Co.* (Jan. 25, 2012, *recon. denied* Apr. 16, 2012) the Staff permitted exclusion under Rule 14a-8(i)(7) of a proposal that would have required the board of directors to evaluate the performance of independent directors with more than ten years of service on the company's board by ranking each such director numerically and not re-nominating the director with the highest total numerical score, noting that "the proposal seeks to micromanage the company."

As further evidenced by more recent instances, the fact that a proposal relates to a corporate governance matter does not insulate the proposal from exclusion on the basis of micromanagement. *See, e.g., Booz Allen Hamilton Holding Corporation* (Jun.

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Personally Identifiable and Other Sensitive Information in Rule 14a-8 Submissions and Related Materials" (Dec. 17, 2021), available at https://www.sec.gov/corpfin/announcement/announcement-14a-8-submissions-pii-20211217.

6, 2024) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that would have required director compensation be fixed at $1.00 for any fiscal year, unless it was disclosed to stockholders in advance of the year in which compensation will be paid, submitted for a stockholder vote in advance of the year in which compensation will be paid and approved by a majority of stockholder votes in advance of the year in which compensation will be paid, noting that the proposal "seeks to micromanage the [c]ompany."); *NetApp, Inc.* (Jul. 19, 2024) (same); *The Coca-Cola Co.* (Feb. 16, 2022) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company submit any proposed political statement to stockholders at the next stockholder meeting for approval prior to issuing the subject statement publicly, noting that "[i]n our view, the [p]roposal micromanages the [c]ompany.").

In this instance, the Proposal seeks to micromanage the Company by prescribing specific methods for implementing complex policies and inappropriately limiting the discretion of the Board. It does so by requesting that the Board adopt a board evaluation policy that (i) requires engagement of an external party, (ii) requires that such external party be independent, (iii) imposes a specific preference that the external, independent party be an executive search firm, (iv) requires that the external, independent party conduct individualized director evaluations, (v) requires that such engagement and individualized evaluations occur "at least biannually," and (vi) requires that the external, independent party be directed to create an action plan to be followed by the Board that potentially "identif[ies] board skills and experience gaps," "inform[s] succession planning" and "facilitat[es] conversations with underperforming directors or those whose skills no longer align with company strategy."

Although most large public company boards of directors conduct self-evaluations, there are myriad variations and many ways in which those self-evaluations can be designed and implemented. Some boards may choose to involve outside third-party facilitators from time-to-time, and others may not. A board or nominating and governance committee may consider a wide range of factors and considerations in selecting a particular self-evaluation methodology including, among other things, the particular makeup, culture, and personal working chemistry of the particular board. In the case of Ross, the Nominating and Corporate Governance Committee assesses the factors that it deems appropriate and the facts and circumstances to make judgments as to the board self-evaluation methodology. The Proposal seeks to impose a rigid, specific and detailed policy on board self-evaluations that inappropriately seeks to limit the discretion of the Board and the Nominating and Corporate Governance Committee.

Decisions concerning the Board's procedures and processes for conducting board, board committee and individualized director evaluations, including whether or not to engage external parties, the criteria to apply to any such engagement of an external party, the frequency of such evaluations and the work product to be produced require complex business judgments by the Board. In this respect, the Board and/or the Nominating and Corporate Governance Committee regularly assesses Board and Board

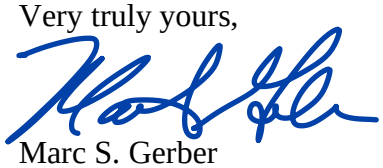
committee effectiveness and exercise their business judgment and discretion to ensure a sound process to identify, as appropriate, actionable opportunities for continued improvement. By mandating a series of procedures and processes including engagement of an external party with a specified professional expertise, at least biannual individualized director evaluations and production of an "action plan," the Proposal seeks to impose specific methods for implementing complex policies and, therefore, probes too deeply into matters of a complex nature upon which stockholders, as a group, are not in a position to make an informed judgment. The Proposal would, therefore, attempt to micromanage the Company.

Accordingly, the Proposal should be excluded from the Company's 2025 proxy materials pursuant to Rule 14a-8(i)(7) as seeking to micromanage the Company.

## V. Conclusion

Based upon the foregoing analysis, the Company respectfully requests that the Staff concur that it will take no action if the Company excludes the Proposal from its 2025 proxy materials. Should the Staff disagree with the conclusions set forth in this letter, or should any additional information be desired in support of the Company's position, we would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response. Please do not hesitate to contact the undersigned at (202) 371-7233.

Very truly yours,



Marc S. Gerber

Enclosures

cc: Ken Jew
Group Senior Vice President, General Counsel & Corporate Secretary
Ross Stores, Inc.

Yumi Narita
Office of the Comptroller of the City of New York

EXHIBIT A

(see attached)

CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

MUNICIPAL BUILDING
ONE CENTRE STREET, 8TH FLOOR NORTH
NEW YORK, N.Y. 10007-2341
TEL: [redacted]

Yumi Narita
EXECUTIVE DIRECTOR OF
CORPORATE GOVERNANCE

December 3, 2024

Ken Jew
Corporate Secretary
Ross Stores, Inc.
5130 Hacienda Drive
Dublin, California 94568

Dear Mr. Jew:

I write to you on behalf of the Comptroller of the City of New York, Brad Lander. The Comptroller is the custodian and a trustee of the New York City Employees' Retirement System, the New York City Teachers' Retirement Systems and the New York City Police Pension Fund (individually a "System," collectively the "New York Retirement Systems" or "NYCRS"). The Systems' boards of trustees have authorized the Comptroller to submit and otherwise act on the Systems' behalf with respect to the enclosed shareholder proposal, and to inform you of the NYCRS' intention to present the shareholder proposal for the consideration and vote of stockholders at the Company's next annual meeting.

Therefore, we offer the enclosed proposal for the consideration and vote of shareholders at the Company's next annual meeting. It is submitted to you in full compliance with Rule 14a-8 of the Securities Exchange Act of 1934, and I ask that it be included in the Company's proxy statement.

Each System is the beneficial owner of at least $25,000 in market value of the Company's securities entitled to vote on the shareholder proposal and have held such stock continuously for at least one year. Furthermore, each System intends to continue to hold at least $25,000 worth of these securities through the date of the Company's next annual meeting. Proof of continuous ownership for the requisite time period will be sent by the NYCRS' custodian bank, State Street Bank and Trust Company, under separate cover.

We welcome the opportunity to discuss the shareholder proposal with you and are available to meet with the Company via teleconference on December 24, 2024 at 9am PT or December 26, 2024 at 9am PT.

Please note that if the Company believes that the Systems or the enclosed shareholder proposal has failed to meet one or more of the eligibility or procedural requirements set forth in answers to Questions 1 through 4 of Rule 14a-8, the Company must notify us in writing of any alleged deficiency within 14 calendar days of receiving the proposal and provide us with an opportunity to respond to any alleged deficiency within 14 days of receiving the Company's written notification.

I can be contacted at the phone number or email address set forth above to address any further questions the Company may have about the enclosed proposal.

Sincerely,

Yumi Narita
Enclosure

**Director Evaluation**

**RESOLVED:** *Shareholders request the Ross Stores, Inc. ("Ross") Board of Directors adopt a board evaluation policy (the "Policy") to include the following components:*

- engage an external, independent party, preferably an executive search firm, to conduct individualized director evaluations, at least biannually; and
- direct the external party to create an action plan ensuring follow-up, which may include identifying board skills and experience gaps to inform succession planning and facilitating conversations with underperforming directors or those whose skills no longer align with company strategy.

**Supporting Statement**

According to PWC, 49% of directors are dissatisfied with at least one director on their board, and 25% believe two or more directors are underperforming "with perceived ineffectiveness of the assessment process highlighting greater discontent." This report cites collegiality as the top obstacle to director removal. Furthermore, dissatisfied directors are more likely to view evaluations as a "check-the-box exercise and feel constrained from giving candid feedback that could inspire change."[1]

Concurrently, boards have been asked to oversee more risks and opportunities in shorter time frames – *every year a director is on the board is a long time,* considering the complex and evolving issues that they must oversee: AI, cybersecurity risk, global pandemics, social media, etc. Investors would benefit from director evaluations that may help to counter undue collegiality and equip them to have challenging conversations to ensure that each precious seat is filled by a director who is actively engaged, able to ask management tough questions, and serve as a fiduciary on behalf of investors in the boardroom.

Meanwhile, board turnover rates remain incredibly low - 7% annually. Ross is an outlier with the average tenure of independent directors at 16 years. Despite investor expectation of board refreshment, according to Spencer Stuart, only 1% of S&P 500 companies have such tenures between 16-20 years.[2] This board includes "independent" directors who have terms of 42 years (Orban), 24 years (Garrett), 23 years (Bush, former Ross executive), and 21 years (Bjorklund). Furthermore, three current executives sit on the board, creating even less assurance of robust oversight of management.

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[1] https://www.pwc.com/us/en/services/governance-insights-center/library/assets/pwc-uncertainty-and-transformation-2024.pdf

[2] https://www.spencerstuart.com/-/media/2024/09/ssbi2024/2024_us_spencer_stuart_board_index.pdf

Merely expanding board seats to give the appearance of refreshment is not the solution, as it can bloat the board, creating inefficiencies that hinder decision-making and accountability. Distended boardrooms financially impact the company– at Ross, the average compensation for a non-employee director is $280,932.[3]

The Policy could help ensure that all directors are high performers, thus decreasing the likelihood of becoming activist targets. For investors, this could help avoid expensive contested situations.

In 2024, Ross disclosed only that: "Annual self-evaluations are conducted by the Board, Audit Committee, Compensation Committee, and Nominating and Corporate Governance Committee, to review and assess their performance and practices."[4]

If this proposal appears in the proxy, Ross chose neither to engage the proponents nor to provide sufficient assurance that it will undertake more than a box-checking exercise.

Please vote FOR this proposal.

[3] Ibid.
[4] Form DEF 14A for Ross Stores INC filed 04/09/2024