



DIVISION OF
CORPORATION FINANCE

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

April 1, 2024

John J. Gorman
Luse Gorman, PC

Re: Blue Foundry Bancorp (the "Company")
Incoming letter dated January 22, 2024

Dear John J. Gorman:

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

We are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(f) because the Proposal as originally submitted to the Company on November 3, 2023 does not exceed the 500-word limitation under Rule 14a-8(d). The staff takes a common sense approach to word count rather than the restrictive requirements suggested by the Company. In addition, we note the Company's citations to an *incoming* request letter (Wells Fargo & Company, request letter dated December 29, 2023) as support for its views. Incoming request letters should not be characterized as representing the views of staff.

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/2023-2024-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Lawrence B. Seidman

LUSE GORMAN, PC
ATTORNEYS AT LAW

5335 WISCONSIN AVENUE, N.W., SUITE 780
WASHINGTON, D.C. 20015

TELEPHONE (202) 274-2000
FACSIMILE (202) 362-2902
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WRITER'S DIRECT DIAL NUMBER
(202) 274-2001

WRITER'S EMAIL
jgorman@luselaw.com

January 22, 2024

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

**Re: Blue Foundry Bancorp: Stockholder Proposal of Lawrence B. Seidman –
Securities Exchange Act of 1934, Rule 14a-8**

Ladies and Gentlemen:

This letter is to inform you that our client, Blue Foundry Bancorp (the “Company”), intends to omit from its proxy materials for its 2024 Annual Meeting of Stockholders (the “2024 Proxy Materials”) a stockholder proposal and statement in support thereof (together, the “Proposal”) received from Lawrence B. Seidman (the “Proponent”).

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the “Commission”) no later than eighty (80) calendar days before the Company intends to file its definitive 2024 Proxy Materials with the Commission; and
- 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 stockholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the staff of the Division of Corporation Finance (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 undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

LUSE GORMAN, PC

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THE PROPOSAL

The Proposal requests that the Company immediately engage an investment banking firm to guide the Company in taking steps to merge or sell the Company. The Proposal is attached hereto as Exhibit A.

BACKGROUND

On November 3, 2023, the Proponent submitted the Proposal to the Company. The Proposal contained procedural deficiencies, including far exceeding the 500-word limitation applicable to stockholder proposals. Accordingly, we sent a deficiency notice on behalf of the Company via email and U.S. Mail to the Proponent notifying him of the requirements of Rule 14a-8 and of the procedural deficiencies as to his Proposal, and providing him an opportunity to cure the deficiencies (the “Deficiency Notice,” attached hereto as Exhibit B).

The Deficiency Notice was mailed and emailed to the Proponent on November 17, 2023, which was within 14 calendar days of the Company’s receipt of the Proposal.

On November 20, 2023, in response to the Deficiency Notice, the Proponent submitted a revised Proposal in which the Proponent attempted to comply with the 500-word limit. The revised Proposal, while reducing the number of words used, still fails to comply with the 500-word limit.

All correspondence between the Proponent and the Company not otherwise included with this letter is attached hereto as Exhibit C.

BASIS FOR EXCLUSION

We hereby respectfully request that the Staff concur that the Proposal may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(d) and Rule 14a-8(f)(1) because the Proposal exceeds 500 words and the Proponent failed to correct this deficiency after proper notice.

ANALYSIS

The Proposal May Be Excluded Under Rule 14a-8(d) And Rule 14a-8(f)(1) Because The Proposal Exceeds 500 Words And The Proponent Failed To Correct This Deficiency After Proper Notice.

The Company may exclude the Proposal pursuant to Rule 14a-8(f)(1) because the Proposal violates the 500-word limitation imposed by Rule 14a-8(d) and the Proponent failed to correct this deficiency after proper notice. As explained in more detail below, the original

LUSE GORMAN, PC

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Proposal exceeded 500 words, and the Proponent's revised Proposal, submitted after notification from the Company of its procedural deficiency and of the opportunity to cure, is still in excess of the 500 word limit.

Rule 14a-8(d) provides that a proposal, including any supporting statement, may not exceed 500 words. The Staff has explained that “[a]ny statements that are, in effect, arguments in support of the proposal constitute part of the supporting statement” for purposes of the 500-word limitation. Staff Legal Bulletin No. 14 (July 13, 2001). On numerous occasions the Staff has concurred that a company may exclude a stockholder proposal under Rules 14a-8(d) and 14a-8(f)(1) because the proposal exceeds 500 words. *See, e.g., Amoco Corp.* (avail. Jan. 22, 1997) (permitting the exclusion of a proposal under the predecessors to Rules 14a-8(d) and 14a-8(f)(1) where the company argued that the proposal included 503 words and the proponent stated that it included 501 words). *See also Wells Fargo & Company* (avail. December 29, 2023); *Anthem, Inc.* (avail. Feb. 5, 2021); *Duke Energy Corp.* (avail. Mar. 6, 2019); *Danaher Corp.* (avail. Jan. 19, 2010); *Pool Corp.* (avail. Feb. 17, 2009); *General Electric Company* (avail. December 31, 2014); *Procter & Gamble Co.* (avail. July 29, 2008); *Amgen, Inc.* (avail. Jan. 12, 2004) (in each instance concurring in the exclusion of a proposal under Rules 14a-8(d) and 14a-8(f)(1) where the company argued that the proposal contained more than 500 words).

Consistent with Staff precedent, the Proposal may be excluded from the 2024 Proxy Materials because the Proposal exceeds the 500-word limitation in Rule 14a-8(d). In arriving at this calculation:

- We have counted each symbol (including “\$” and “%”) as a separate word, consistent with *Intel Corp.* (avail. Mar. 8, 2010) (the Staff stating that, in determining that the proposal appears to exceed the 500-word limitation, “we have counted each percent symbol and dollar sign as a separate word”).
- We have treated hyphenated terms as multiple words. *See Minnesota Mining & Manufacturing Co.* (avail. Feb. 27, 2000) (concurring with the exclusion of a stockholder proposal under Rules 14a-8(d) and 14a-8(f)(1) where the proposal contained 504 words, but would have contained 498 words if hyphenated words and words separated by “/” were counted as one word).
- We have counted “IPO” and “BLFY” as multiple words. Because each letter in an acronym is simply a substitute for a word, to conclude otherwise would permit proponents to evade the clear limits of Rule 14a-8(d) by using acronyms rather than words. We believe that the familiarity of an acronym is an arbitrary distinction and is irrelevant as to whether it represents one or multiple words. The acronym “IPO,” for example, is universally understood as referring to the term “initial public offering,” a term that is three words. *See Wells Fargo & Company* (avail. December 29, 2023).

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With respect to counting as words the numbers provided in the Proposal, we believe they should be counted based on the number of words required to write out the number rather than using numerals (e.g., 1,234 written out as one thousand two hundred thirty-four is six words). Because numerals are simply substitutes for words, allowing a proponent to count a large number as one word circumvents the limits of Rule 14a-8(d). *See Aetna Life & Casualty Co.* (avail. Jan 18, 1995) (the Staff concurred in the exclusion of a proposal under the predecessor rule to Rule 14a-8(d) following Aetna’s position to the Staff in its no-action request letter that the use of numbers is simply a substitute for the use of words (“[w]hether one writes out the words ‘one dollar eighty-two’ (four words) or ‘\$1.82’, the same message is presented to the reader.”)).

If each number in the Proposal (as revised by the Proponent) is counted as only one word (e.g., 4,466,000 is counted as one word and September 30, 2023 is counted as three words), the Proposal contains at least 518 words. If numbers are counted based on the number of words required to write out the number, the Proposal is even further in excess of the 500-word limit, at more than 580 words.

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 2024 Proxy Materials pursuant to Rule 14a-8(d) and Rule 14a-8(f)(1).

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 (202) 274-2001 or jgorman@luselaw.com.

Sincerely,



John J. Gorman

Enclosure

cc: Lawrence B. Seidman
James D. Nesci, President and CEO – Blue Foundry Bancorp

Exhibit A

STOCKHOLDER PROPOSAL

Stockholder Proposal Recommending Sale or Merger of the Company

Resolved that the Stockholders of Blue Foundry Bancorp (“BLFY”) strongly recommend that the Board of Directors immediately engage an investment banking firm experienced in community bank mergers and acquisitions to guide the Company in promptly (after BLFY’s three-year sale prohibition ends on July 15, 2024) taking steps to merge or sell BLFY on terms that will maximize stockholder value.

Supporting Statement for Recommending the Sale or Merger of Blue Foundry Bancorp

BLFY completed its initial public offering (“IPO”) on July 15, 2021. Since the completion of its IPO, BLFY has failed to earn a satisfactory return on stockholders invested capital. I think it is unlikely BLFY stockholders will receive an acceptable return on their investment in the foreseeable future through BLFY’s continued independent operation. Moreover, independent third-party analyses by each Wall Street analyst who publishes estimates on BLFY expect continued losses for as long as they forecast. If they are right, book value and franchise value will continue to erode the longer BLFY exists as an independent company. In contrast, the sale or merger of BLFY with a larger financial institution likely will provide stockholders with a substantial premium over present market value.

Banks similar to BLFY have merged with larger financial institutions, and stockholders of the acquired banks have received significant premiums over the pre-merger market price of their shares. Cost efficiencies associated with scalable technology reward larger institutions disproportionately, incenting banks to grow larger, faster.

BLFY’s Tangible Book Value per share declined from \$15.71 on September 30, 2021, its first quarter as a public company, to \$14.24 (\$1.47 reduction) at September 30, 2023. For the fiscal years ended on December 31, 2020 and 2021 BLFY had net losses of \$31,506,024 and \$36,342,000 respectively.

In the first three quarters of 2023 BLFY continued to lose money. BLFY’s loss was \$4,466,000. A significant contributor to BLFY’s poor financial performance is its poor efficiency ratio.

BLFY’s disappointing performance is evidenced in the price of its stock. Its closing price on July 16, 2021 was \$12.90 and on November 2, 2023 (the day before this stockholder proposal was submitted) BLFY’s closing price was \$7.83, a 39.30% decline.

Based upon the Company’s Efficiency Ratio, Return on Average Assets, and Return on Average Equity for calendar years 2021 and 2022, and the first three quarters of 2023, the Company is one of the worst performing publicly traded financial institutions between \$1 and \$3 billion in assets reported by S&P Global.

This poor financial performance did not stop the Compensation Committee, and the Board, from rewarding each director of the Company with approximately \$970,000 in compensation comprised of cash, stock awards and option awards, for calendar year 2022, and \$12 million in stock options granted to senior management.

The greatest long-term value for BLFY stockholders will be realized through the prompt sale or merger of the Company.

Please vote FOR this proposal.

Exhibit B

LUSE GORMAN, PC
ATTORNEYS AT LAW

5335 WISCONSIN AVENUE, N.W., SUITE 780
WASHINGTON, D.C. 20015

TELEPHONE (202) 274-2000
FACSIMILE (202) 362-2902
www.luselaw.com

WRITER'S DIRECT DIAL NUMBER
(202) 274-2001

WRITER'S EMAIL
jgorman@luselaw.com

November 17, 2023

Via email and U.S Mail

Lawrence B. Seidman

PII

lseidman@seidman-associates.com

Dear Mr. Seidman:

On behalf of Blue Foundry Bancorp (the "Company"), we are providing you this notice in response to your shareholder proposal, including its accompanying supporting statement, for consideration at the Company's 2024 Annual Meeting of Shareholders, which the Company received on November 3, 2023 (the "Proposal"). The Proposal contains certain procedural deficiencies, which Securities and Exchange Commission (the "SEC") regulations require us to bring to your attention.

1. Specific Days and Times of Availability

Under SEC Rule 14a-8(b)(1)(iii), a shareholder must, among other things, provide specific business days and times at which the shareholder is available to discuss their proposal with the company. The Proposal does not include this specific information. To remedy this defect, you must resubmit the Proposal and include specific days and times that you are available to discuss the Proposal with the Company, with such days and times being during the regular business hours of the Company's principal executive offices.

2. Number of Words in Proposal and Supporting Statement

Under SEC Rule 14a-8(d), a proposal, including its accompanying supporting statement, may not exceed 500 words. Pursuant to guidance and administrative rulings from the SEC regarding what the SEC considers a "word" for purposes of this rule, we count over 600 words in the Proposal. To remedy this defect, you must submit a revised version of the Proposal that contains no more than 500 words.

* * *

LUSE GORMAN, PC
ATTORNEYS AT LAW

Lawrence B. Seidman
November 17, 2023
Page 2

The SEC's rules require that your response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to me at 5335 Wisconsin Ave, NW, Suite 780, Washington, DC 20015 and electronically at jgorman@luselaw.com.

If you have any questions with respect to the foregoing, please contact me at (202) 274-2021.

Sincerely,



John J. Gorman, Esq.

cc: James D. Nesci, President and Chief Executive Officer, Blue Foundry Bancorp

Exhibit C

LAWRENCE B. SEIDMAN
100 Lanidex Plaza, Ste. 100
Parsippany, New Jersey 07054

November 3, 2023

Via email and Fedex next business day delivery

Blue Foundry Bancorp
19 Park Avenue
Rutherford, NJ 07070
Attn: Sandra Bossett, Corporate Secretary
sbossert@bluefoundrybank.com

Dear Ms. Bossert:

Enclosed is a Stockholder Proposal and Supporting Statement I submit in accordance with the provision for Stockholder Proposals contained in the April 12, 2023 Proxy Statement of Blue Foundry Bancorp. Pursuant to Securities Exchange Act Rule 14a-8, please include my Proposal and Supporting Statement in the Proxy Statement for Blue Foundry's 2024 Annual Meeting of Stockholders. I plan to attend the Stockholders Meeting and present the Proposal.

Below is required information:

Name: Lawrence B. Seidman
Address: [REDACTED] PII
Contact Information: lseidman@seidman-associates.com
973-952-0405 office
[REDACTED] PII
Number of shares owned: 18,512

I represent that I continuously have held at least \$25,000 in market value of Blue Foundry Bancorp shares for at least one year. I intend to continue to hold through the date of the 2024 Stockholders Meeting all shares that I own.

My Blue Foundry Bancorp shares are held in my brokerage account at Janney Montgomery Scott (17,512) and 1,000 shares are held in record name. Redacted copies of the relevant pages of my September 30, 2023 brokerage statement evidencing my ownership is enclosed.

I will be pleased to meet with Blue Foundry Bancorp representatives in person or by teleconference during normal business hours on a mutually convenient date during the next thirty days. If you disagree with any of the representations in the stockholder proposal, please have your representative call me immediately.

Very truly yours,


Lawrence B. Seidman

Enclosure

STOCKHOLDER PROPOSAL

Stockholder Proposal Recommending Sale or Merger of the Company

Resolved that the Stockholders of Blue Foundry Bancorp (“BLFY”) strongly recommend that the Board of Directors immediately engage an investment banking firm experienced in community bank mergers and acquisitions to guide the Company in promptly (after BLFY’s three-year sale prohibition ends on July 15, 2024) taking steps to merge or sell BLFY on terms that will maximize stockholder value.

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Banks similar to BLFY have merged with larger financial institutions, and stockholders of the acquired banks have received significant premiums over the pre-merger market price of their shares. Cost efficiencies associated with scalable technology reward larger institutions disproportionately, incenting banks to grow larger, faster.

BLFY’s Tangible Book Value per share declined from \$15.71 on September 31, 2021, its first quarter as a public company, to \$14.24 (\$1.47 reduction). For the fiscal years ended on December 31, 2020 and 2021 BLFY had net losses of \$31,506,024 and \$36,342,000 respectively.

In the first three quarters of 2023 BLFY has continued to lose money. BLFY’s loss was \$4,466,000. A significant contributor to BLFY’s poor financial performance is its poor efficiency ratio, which has ranged, from 9/30/2021-9/30/2023, between 285.67% to 92.37% with a majority of quarters above 100%.

BLFY’s disappointing performance is evidenced in the price of its stock. Its closing price on July 16, 2021 was \$12.90 and on November 2, 2023 (the day before this stockholder proposal was submitted) BLFY’s closing price was \$7.83, a 39.30% decline.

Based upon the Company’s Efficiency Ratio, Return on Average Assets (“ROAA”), and Return on Average Equity (“ROAE”) for calendar years 2021 and 2022, and the first three quarters of 2023, the Company is one of the worst performing publicly traded financial institutions between \$1 and \$3 billion in assets reported by S&P Global.

	2021*		2022*		2023**	
	Rank	# of Institutions	Rank	# of Institutions	Rank	# of Institutions
Efficiency Ratio	205	205	204	205	205	205
ROAA	205	205	201	205	204	205
ROACE	205	205	201	205	204	205

* Entire year

** Average first three quarters of 2023 if available

This poor financial performance did not stop the Compensation Committee, and the Board, from rewarding each director of the Company with approximately \$970,000 in compensation comprised of cash, stock awards and option awards, for calendar year 2022, and \$12 million in stock options granted to senior management. Mr. Nesci, BLFY's President and CEO, received a base salary of \$700,000, option awards equal to \$2,430,117, and other compensation equal to \$123,774 for a total compensation for calendar year 2022 of \$3,671,398. Clearly, the Board and management are profiting while the stockholders are incurring losses.

The greatest long-term value for BLFY stockholders will be realized through the prompt sale or merger of the Company.

Please vote FOR this proposal.



Client Account Summary

September 1 - September 30, 2023

Page 1 of 5

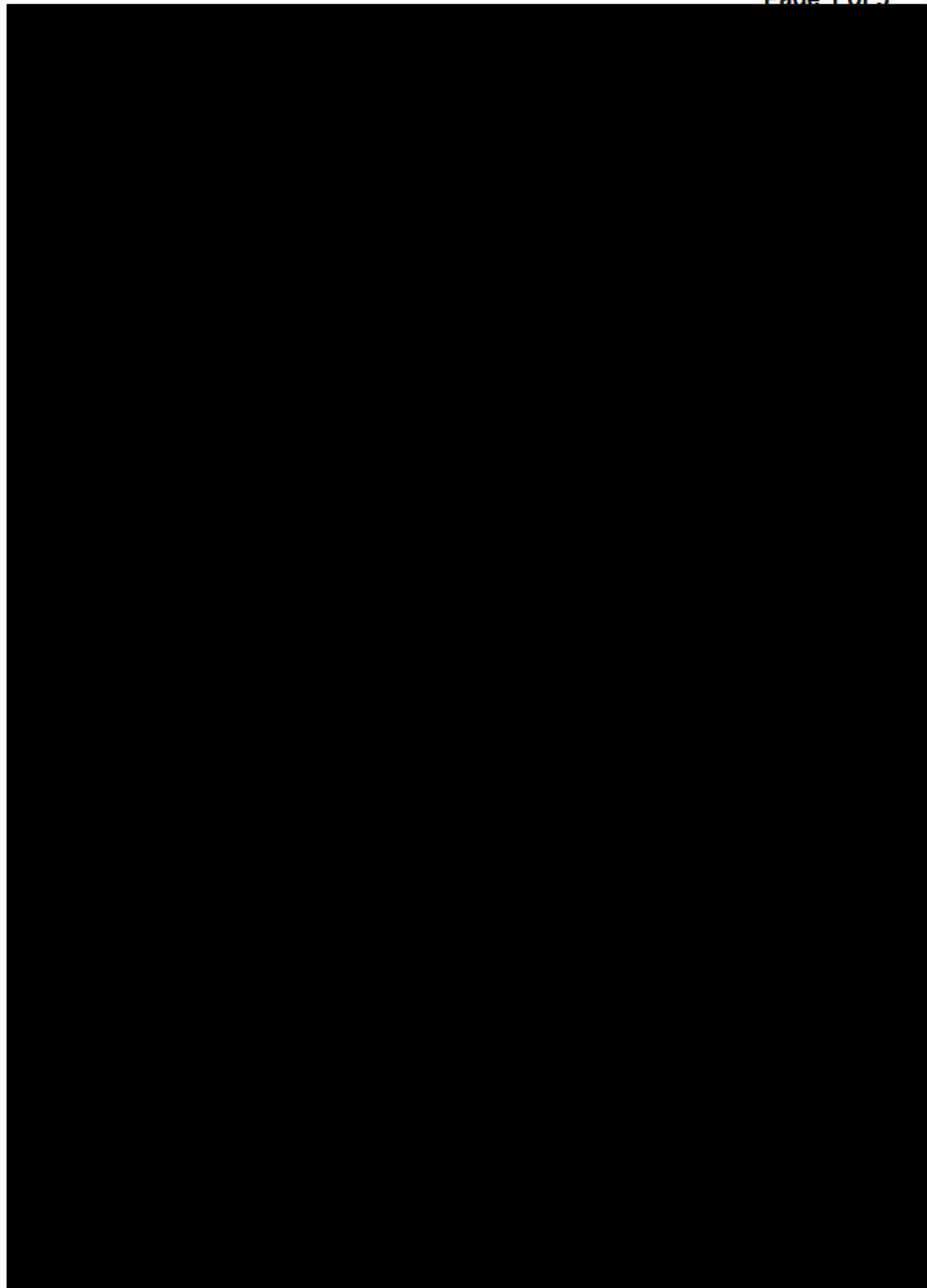
Account number: [Redacted] PII

Investment Objective: Growth & Income/Moderate

Your Financial Advisor

[Redacted]

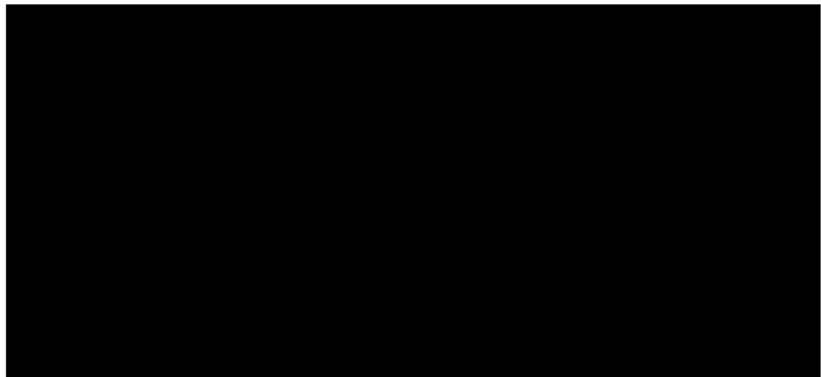
YNNNNN FF04
LAWRENCE B SEIDMAN
[Redacted] PII



PORTFOLIO SUMMARY

	As of 8/31/23	As of 9/30/23
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]

ACCOUNT ALLOCATION



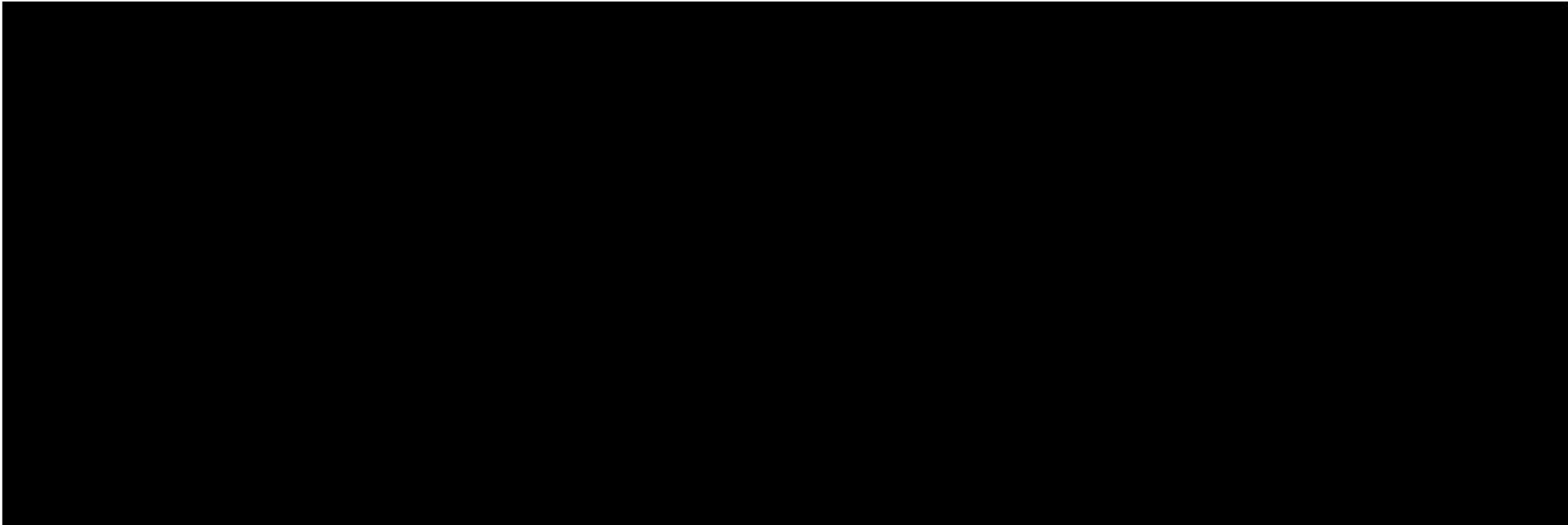
**Janney Insured Sweep balances are FDIC insured, are not covered by Janney or SIPC and are not available for margin purposes.

LAWRENCE B SEIDMAN

ACCOUNT NUMBER: PII

Page 2 of 5

PORTFOLIO DETAILS



EQUITIES - STOCKS & OPTIONS

Description	Symbol/ CUSIP	Quantity	Purchase Date	Cost Amount	Unit Cost	Current Price	Current Value	Unrealized Gain/(Loss) Term	Accrued Interest	Est. Ann. Income	Est. Yield	% of Port.
BLUE FOUNDRY BANCORP	BLFY	17,512	c8/18/21	175,120.00	10.0000	8.3700	146,575.44	(28,544.56) LT				████
██████████	████	████	████	████	████	████	████	████ ██				████
██████████	████	████	████	████	████	████	████	████ ██		████	████	████
██████████	████	████	████	████	████	████	████	████ ██		████	████	████

LAWRENCE B. SEIDMAN
100 Lanidex Plaza, Ste. 100
Parsippany, New Jersey 07054

November 20, 2023

Via email and Fedex

Blue Foundry Bancorp
19 Park Avenue
Rutherford, NJ 07070
Attn: Sandra Bossert, Corporate Secretary
sbossert@bluefoundrybank.com

Dear Ms. Bossert:

I am responding to the letter dated November 17, 2023 from Mr. John Gorman. Enclosed is a revised Stockholder Proposal and Supporting Statement I submit in accordance with the provision for Stockholder Proposals contained in the April 12, 2023 Proxy Statement of Blue Foundry Bancorp. There is no question that the Proposal is less than 500 words. Pursuant to Securities Exchange Act Rule 14a-8, please include my Proposal and Supporting Statement in the Proxy Statement for Blue Foundry's 2024 Annual Meeting of Stockholders. I plan to attend the Stockholders Meeting and present the Proposal.

Below is required information:

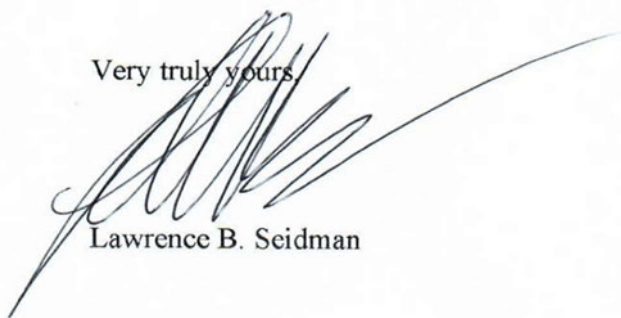
Name:	Lawrence B. Seidman
Address:	PII
Contact Information:	lseidman@seidman-associates.com 973-952-0405 office PII
Number of shares owned:	18,512

I represent that I continuously have held at least \$25,000 in market value of Blue Foundry Bancorp shares for at least one year. I intend to continue to hold through the date of the 2024 Stockholders Meeting all shares that I own.

I have enclosed a letter confirming my ownership from Janney Montgomery Scott. My Blue Foundry Bancorp shares are held in my brokerage account at Janney Montgomery Scott (17,512) and 1,000 shares are held in record name, which record is in your possession. Redacted copies of the relevant pages of my September 30, 2023 brokerage statement were previously provided.

I am available to discuss my Proposal with the Company by phone Monday, November 27th between 9:00-10:00am or 1:00-5:00pm, Tuesday, November 28th from 9:00-11:00am, Wednesday, November 29th from 9:00-11:00am, Thursday, November 30th from

9:00-11:00am, or Friday, December 1st from 9:00-11:00am.

Very truly yours,

Lawrence B. Seidman

Enclosures

cc: John Gorman



JANNEY MONTGOMERY SCOTT LLC
1475 Peachtree Street NE, Suite 800
Atlanta, GA 30309
www.janney.com

November 20, 2023

Blue Foundry Bancorp
19 Park Avenue
Rutherford, NJ 07070

To Whom It May Concern:

This is to advise you that as of the date of this letter, the Lawrence B Seidman account, held at Janney Montgomery Scott, LLC, owns 17,512 shares of Blue Foundry Bancorp. These shares have been owned continuously since the conversion on August 18, 2021.

Sincerely,

A handwritten signature in black ink that reads "ABello".

ANTHONY BELLO

Complex Operations Manager

Toll-free 800-JANNEYS (800.526.6397)

Office: 404-926-2006

Texting: 404-926-2006

Fax: 404-233-5580

Janney Montgomery Scott, LLC

3630 Peachtree Road NE, Suite 850, Atlanta GA 30326

[Atlanta Complex](#) | [Atlanta, GA](#) | [Financial Advisors](#) | [Janney](#)

***This information is not the official record of the account and is subject to changes, errors and omissions cannot be guaranteed as to its accuracy or completeness. Distributions can be canceled at any time at the client's request. The printed confirmations and periodic account statements constitute the official account record. This information is not a substitute for other important information that Janney sends to the client. The above may not be used for tax reporting purposes. Janney will provide official tax documentation regarding the account by mail.

LAWRENCE B. SEIDMAN
900 Lanidex Plaza, Ste. 230
Parsippany, New Jersey 07054

December 1, 2023

Via email

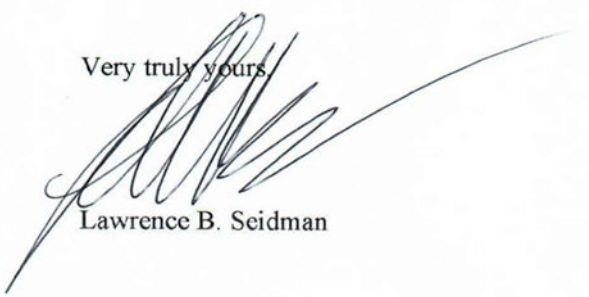
Blue Foundry Bancorp
19 Park Avenue
Rutherford, NJ 07070
Attn: Sandra Bossett, Corporate Secretary
sbossert@bluefoundrybank.com

Dear Ms. Bossert:

I am writing again to inform you of my availability to discuss my Proposal with the Company by phone as I have not received a response to my November 20, 2023 letter.

I am available Monday, December 4th, 9:00-10:00am or 1:00-5:00pm, Tuesday, December 5th, 9:00-11:00am, Wednesday, December 6th, 9:00-11:00am, Thursday, December 7th, 9:00-11:00am, or Friday, December 8th, 9:00-11:00am.

Very truly yours,



Lawrence B. Seidman

cc: John Gorman

LAWRENCE B. SEIDMAN
900 Lanidex Plaza, Ste. 230
Parsippany, New Jersey 07054
lseidman@seidman-associates.com
tel. 973-952-0405

January 25, 2024

Via email: shareholderproposals@sec.gov

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

Re: Blue Foundry Bancorp: Stockholder Proposal of Lawrence B. Seidman – Securities Exchange Act of 1934, Rule 14a-8

Ladies and Gentlemen:

I am writing in response to the January 22, 2024 letter Mr. Gorman wrote as counsel for Blue Foundry Bancorp (the “Company”), seeking approval for the omission of my stockholder proposal from its proxy material for its 2024 Annual Meeting of Stockholders.

My original proposal (“Proposal 1”) was submitted on November 3, 2023. The Company, in its Deficiency Notice dated November 17, 2023, made a general statement that Proposal 1 exceeded 500 words, but did not delineate how it arrived at its word count. If detailed information had been provided on how the Company counted each word, acronym, number and symbol, as required by the Commission’s policy and precedent, my revised proposal (“Proposal 2”) submitted on November 20, 2023, like my Proposal 3 herein (Exhibit A) would have resolved the word count issue. My Proposal 2 was submitted to the Company way before the required December 14, 2023 date for inclusion in the Company’s proxy statement for its 2024 Annual Meeting. *See, e.g., Amoco Corp.* (avail. January 22, 1997). In addition, the Company never arranged for a phone call even though I provided appropriate dates, as requested, to discuss the word count issue. The method that I used for calculation of the word count for Proposal 2 was Microsoft Word which calculated the word count to be 488.

The Company did not object to my Proposal 2 until January 22, 2024, (approximately two months after receiving it), and the objection was by way of its letter to the Securities and Exchange Commission (Exhibit B enclosed herewith) and not a fourteen-day deficiency notice. Therefore, proper notice, including disclosure of the method used to count the words, was never given.

Inexcusably, the Company did not timely or properly inform me of the basis for its determination that Proposals 1 and 2 exceeded 500 words in order to eliminate my ability to correct the claimed deficiency.

Every item described in the Company’s January 22, 2024 letter to the Commission, pages 2-4, should have been delineated in its Deficiency Notice as required by the case cited in the Company’s letter and the Commission’s policy statements. I am not clairvoyant and without any detail, I reasonably presumed the Company used the conservative method employed by *Duke Energy Corp.* (avail. March 6, 2019). The Company should not be rewarded for failing to properly disclose how it counted the words, acronyms, numbers and symbols in the Deficiency Notice by having my stockholder proposal excluded from its proxy statement for its 2024 Annual Meeting of Stockholders.

The Company is correct that the cases it cited permit it to exclude a stockholder proposal if it exceeds 500 words, but the cases also delineate what must be included in a Deficiency Notice, which the Company failed to follow. The first time the Company disclosed how it counted words, acronyms, numbers and symbols was in its January 22, 2024 letter to the Commission.

The Company's animosity towards me is documented in the enclosed Delaware Chancery Court Opinion. Because of the Company's unreasonable and egregious conduct (see pages 15-25 of the enclosed Opinion, Exhibit C attached hereto), the Company was required to pay my litigation fees, which is an extraordinary remedy. The Company is continuing its lack of candor by failing to issue a proper Deficiency Notice so I could properly respond to the word count issue.

Enclosed is Proposal 3 that without question reduces the number of words below 500 (by my count Proposal 3 is 476 words using Mr. Gorman's method) without making a single substantive change to Proposal 1 or Proposal 2. If proper delineation was provided in the Deficiency Notice, Proposal 3 would have been Proposal 2 and this entire issue would have been moot.

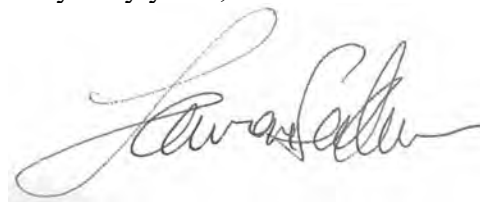
Staff Legal Bulletin No. 14 (July 13, 2001) and Staff Legal Bulletin No. 14B (September 15, 2004) (CF) (B2) states, "We have had, however, a long-standing practice of issuing no-action responses that permit shareholders to make revisions that are minor in nature and do not alter the substance of the proposal. We adopted this practice to deal with proposals that comply generally with the substantive requirements of Rule 14a-8, but contain some minor defects that could be corrected easily." There is no question that Proposal 3 fits into this policy as my revisions do not alter the substance of my prior proposals. Therefore, the Company should be required to include this Proposal 3 in its proxy material for its 2024 Annual Meeting of Stockholders.

Based upon my Proposal 3, which is less than 500 words and the above stated policy, I respectfully request that the Commission deny the Company's no action request and require that my enclosed Proposal 3 be included in the Company's proxy material for its 2024 Annual Meeting. My Proposal 3 was filed with the Company and the Commission within five days of receipt of the Company's January 22, 2024 No-Action Letter. The only reason Proposal 2 did not resolve the word issue is because the Company failed to delineate how it counted words, acronyms, numbers and symbols and did not have a phone call with me even though I provided appropriate dates. The Company should not be rewarded for violating the Commission's policy and precedent by excluding my Stockholder Proposal.

By including Proposal 3 in the Company's proxy material, the Company will not be prejudiced in any shape or form, however if it is not included, the Stockholders would be prejudiced by not being able to vote on this issue.

If you wish to discuss any issues in more detail, please call me.

Very truly yours,



LAWRENCE B. SEIDMAN

cc: John Gorman (via email jgorman@luselaw.com)
Sandra Bossert (via email sbossert@bluefoundrybank.com)

EXHIBIT A

STOCKHOLDER PROPOSAL

Stockholder Proposal Recommending Sale or Merger of the Company

Resolved that the Stockholders of Blue Foundry Bancorp (the “Company”) strongly recommend that the Board of Directors immediately engage an investment banking firm experienced in community bank mergers and acquisitions to guide the Company in promptly (after the three-year sale prohibition ends on July 15, 2024) taking steps to merge or sell the Company on terms that will maximize stockholder value.

Supporting Statement for Recommending the Sale or Merger of Blue Foundry Bancorp

The Company has failed to earn a satisfactory return on stockholders’ invested capital. It is unlikely the Company’s stockholders will receive an acceptable return on their investment in the foreseeable future through the Company’s independent operation. Book value and franchise value will continue to erode the longer the Company exists as an independent company. In contrast, the sale or merger of the Company with a larger financial institution likely will provide stockholders with a substantial premium over present market value.

Banks similar to the Company have merged with larger financial institutions, and stockholders of the acquired banks have received significant premiums over the pre-merger market price of their shares.

The Company’s Tangible Book Value per share declined from \$15.71 on September 30, 2021, its first quarter as a public company, to \$14.24 (\$1.47 reduction) at September 30, 2023. For the fiscal years ended on December 31, 2020 and 2021, the Company had net losses of \$31,506,024 and \$36,342,000 respectively.

In the first three quarters of 2023, the Company continued to lose money. The Company’s loss was \$4,466,00. A significant contributor to the Company’s poor financial performance is its poor efficiency ratio.

The Company’s disappointing performance is evidenced in the price of its stock. Its closing price on July 16, 2021 was \$12.90 and on November 2, 2023 (the day before this stockholder proposal was submitted) the Company’s closing price was \$7.83, a 39.30% decline.

Based upon the Company’s Efficiency Ratio, Return on Average Assets, and Return on Average Equity for calendar years 2021 and 2022, and the first three quarters of 2023, the Company is one of the worst performing publicly traded financial institutions between \$1 and \$3 billion in assets reported by S&P Global.

The greatest long-term value for the Company’s stockholders will be realized through the prompt sale or merger of the Company.

Please vote FOR this proposal.

EXHIBIT B

LUSE GORMAN, PC
ATTORNEYS AT LAW

5335 WISCONSIN AVENUE, N.W., SUITE 780
WASHINGTON, D.C. 20015

TELEPHONE (202) 274-2000
FACSIMILE (202) 362-2902
www.luselaw.com

WRITER'S DIRECT DIAL NUMBER
(202) 274-2001

WRITER'S EMAIL
jgorman@luselaw.com

January 22, 2024

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

**Re: Blue Foundry Bancorp: Stockholder Proposal of Lawrence B. Seidman –
Securities Exchange Act of 1934, Rule 14a-8**

Ladies and Gentlemen:

This letter is to inform you that our client, Blue Foundry Bancorp (the "Company"), intends to omit from its proxy materials for its 2024 Annual Meeting of Stockholders (the "2024 Proxy Materials") a stockholder proposal and statement in support thereof (together, the "Proposal") received from Lawrence B. Seidman (the "Proponent").

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the "Commission") no later than eighty (80) calendar days before the Company intends to file its definitive 2024 Proxy Materials with the Commission; and
- 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 stockholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the staff of the Division of Corporation Finance (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 undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

LUSE GORMAN, PC

Office of Chief Counsel
Securities and Exchange Commission
January 22, 2024
Page 2

THE PROPOSAL

The Proposal requests that the Company immediately engage an investment banking firm to guide the Company in taking steps to merge or sell the Company. The Proposal is attached hereto as Exhibit A.

BACKGROUND

On November 3, 2023, the Proponent submitted the Proposal to the Company. The Proposal contained procedural deficiencies, including far exceeding the 500-word limitation applicable to stockholder proposals. Accordingly, we sent a deficiency notice on behalf of the Company via email and U.S. Mail to the Proponent notifying him of the requirements of Rule 14a-8 and of the procedural deficiencies as to his Proposal, and providing him an opportunity to cure the deficiencies (the "Deficiency Notice," attached hereto as Exhibit B).

The Deficiency Notice was mailed and emailed to the Proponent on November 17, 2023, which was within 14 calendar days of the Company's receipt of the Proposal.

On November 20, 2023, in response to the Deficiency Notice, the Proponent submitted a revised Proposal in which the Proponent attempted to comply with the 500-word limit. The revised Proposal, while reducing the number of words used, still fails to comply with the 500-word limit.

All correspondence between the Proponent and the Company not otherwise included with this letter is attached hereto as Exhibit C.

BASIS FOR EXCLUSION

We hereby respectfully request that the Staff concur that the Proposal may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(d) and Rule 14a-8(f)(1) because the Proposal exceeds 500 words and the Proponent failed to correct this deficiency after proper notice.

ANALYSIS

The Proposal May Be Excluded Under Rule 14a-8(d) And Rule 14a-8(f)(1) Because The Proposal Exceeds 500 Words And The Proponent Failed To Correct This Deficiency After Proper Notice.

The Company may exclude the Proposal pursuant to Rule 14a-8(f)(1) because the Proposal violates the 500-word limitation imposed by Rule 14a-8(d) and the Proponent failed to correct this deficiency after proper notice. As explained in more detail below, the original

LUSE GORMAN, PC

Office of Chief Counsel
Securities and Exchange Commission
January 22, 2024
Page 3

Proposal exceeded 500 words, and the Proponent's revised Proposal, submitted after notification from the Company of its procedural deficiency and of the opportunity to cure, is still in excess of the 500 word limit.

Rule 14a-8(d) provides that a proposal, including any supporting statement, may not exceed 500 words. The Staff has explained that "[a]ny statements that are, in effect, arguments in support of the proposal constitute part of the supporting statement" for purposes of the 500-word limitation. Staff Legal Bulletin No. 14 (July 13, 2001). On numerous occasions the Staff has concurred that a company may exclude a stockholder proposal under Rules 14a-8(d) and 14a-8(f)(1) because the proposal exceeds 500 words. *See, e.g., Amoco Corp.* (avail. Jan. 22, 1997) (permitting the exclusion of a proposal under the predecessors to Rules 14a-8(d) and 14a-8(f)(1) where the company argued that the proposal included 503 words and the proponent stated that it included 501 words). *See also Wells Fargo & Company* (avail. December 29, 2023); *Anthem, Inc.* (avail. Feb. 5, 2021); *Duke Energy Corp.* (avail. Mar. 6, 2019); *Danaher Corp.* (avail. Jan. 19, 2010); *Pool Corp.* (avail. Feb. 17, 2009); *General Electric Company* (avail. December 31, 2014); *Procter & Gamble Co.* (avail. July 29, 2008); *Amgen, Inc.* (avail. Jan. 12, 2004) (in each instance concurring in the exclusion of a proposal under Rules 14a-8(d) and 14a-8(f)(1) where the company argued that the proposal contained more than 500 words).

Consistent with Staff precedent, the Proposal may be excluded from the 2024 Proxy Materials because the Proposal exceeds the 500-word limitation in Rule 14a-8(d). In arriving at this calculation:

- We have counted each symbol (including "\$" and "%") as a separate word, consistent with *Intel Corp.* (avail. Mar. 8, 2010) (the Staff stating that, in determining that the proposal appears to exceed the 500-word limitation, "we have counted each percent symbol and dollar sign as a separate word").
- We have treated hyphenated terms as multiple words. *See Minnesota Mining & Manufacturing Co.* (avail. Feb. 27, 2000) (concurring with the exclusion of a stockholder proposal under Rules 14a-8(d) and 14a-8(f)(1) where the proposal contained 504 words, but would have contained 498 words if hyphenated words and words separated by "/" were counted as one word).
- We have counted "IPO" and "BLFY" as multiple words. Because each letter in an acronym is simply a substitute for a word, to conclude otherwise would permit proponents to evade the clear limits of Rule 14a-8(d) by using acronyms rather than words. We believe that the familiarity of an acronym is an arbitrary distinction and is irrelevant as to whether it represents one or multiple words. The acronym "IPO," for example, is universally understood as referring to the term "initial public offering," a term that is three words. *See Wells Fargo & Company* (avail. December 29, 2023).

LUSE GORMAN, PC

Office of Chief Counsel
Securities and Exchange Commission
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Page 4

With respect to counting as words the numbers provided in the Proposal, we believe they should be counted based on the number of words required to write out the number rather than using numerals (e.g., 1,234 written out as one thousand two hundred thirty-four is six words). Because numerals are simply substitutes for words, allowing a proponent to count a large number as one word circumvents the limits of Rule 14a-8(d). *See Aetna Life & Casualty Co.* (avail. Jan 18, 1995) (the Staff concurred in the exclusion of a proposal under the predecessor rule to Rule 14a-8(d) following Aetna's position to the Staff in its no-action request letter that the use of numbers is simply a substitute for the use of words ("[w]hether one writes out the words 'one dollar eighty-two' (four words) or '\$1.82', the same message is presented to the reader.")).

If each number in the Proposal (as revised by the Proponent) is counted as only one word (e.g., 4,466,000 is counted as one word and September 30, 2023 is counted as three words), the Proposal contains at least 518 words. If numbers are counted based on the number of words required to write out the number, the Proposal is even further in excess of the 500-word limit, at more than 580 words.

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 2024 Proxy Materials pursuant to Rule 14a-8(d) and Rule 14a-8(f)(1).

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 (202) 274-2001 or jgorman@luselaw.com.

Sincerely,



John J. Gorman

Enclosure

cc: Lawrence B. Seidman
James D. Nesci, President and CEO – Blue Foundry Bancorp

Exhibit A

STOCKHOLDER PROPOSAL

Stockholder Proposal Recommending Sale or Merger of the Company

Resolved that the Stockholders of Blue Foundry Bancorp ("BLFY") strongly recommend that the Board of Directors immediately engage an investment banking firm experienced in community bank mergers and acquisitions to guide the Company in promptly (after BLFY's three-year sale prohibition ends on July 15, 2024) taking steps to merge or sell BLFY on terms that will maximize stockholder value.

Supporting Statement for Recommending the Sale or Merger of Blue Foundry Bancorp

BLFY completed its initial public offering ("IPO") on July 15, 2021. Since the completion of its IPO, BLFY has failed to earn a satisfactory return on stockholders invested capital. I think it is unlikely BLFY stockholders will receive an acceptable return on their investment in the foreseeable future through BLFY's continued independent operation. Moreover, independent third-party analyses by each Wall Street analyst who publishes estimates on BLFY expect continued losses for as long as they forecast. If they are right, book value and franchise value will continue to erode the longer BLFY exists as an independent company. In contrast, the sale or merger of BLFY with a larger financial institution likely will provide stockholders with a substantial premium over present market value.

Banks similar to BLFY have merged with larger financial institutions, and stockholders of the acquired banks have received significant premiums over the pre-merger market price of their shares. Cost efficiencies associated with scalable technology reward larger institutions disproportionately, inciting banks to grow larger, faster.

BLFY's Tangible Book Value per share declined from \$15.71 on September 30, 2021, its first quarter as a public company, to \$14.24 (\$1.47 reduction) at September 30, 2023. For the fiscal years ended on December 31, 2020 and 2021 BLFY had net losses of \$31,506,024 and \$36,342,000 respectively.

In the first three quarters of 2023 BLFY continued to lose money. BLFY's loss was \$4,466,000. A significant contributor to BLFY's poor financial performance is its poor efficiency ratio.

BLFY's disappointing performance is evidenced in the price of its stock. Its closing price on July 16, 2021 was \$12.90 and on November 2, 2023 (the day before this stockholder proposal was submitted) BLFY's closing price was \$7.83, a 39.30% decline.

Based upon the Company's Efficiency Ratio, Return on Average Assets, and Return on Average Equity for calendar years 2021 and 2022, and the first three quarters of 2023, the Company is one of the worst performing publicly traded financial institutions between \$1 and \$3 billion in assets reported by S&P Global.

This poor financial performance did not stop the Compensation Committee, and the Board, from rewarding each director of the Company with approximately \$970,000 in compensation comprised of cash, stock awards and option awards, for calendar year 2022, and \$12 million in stock options granted to senior management.

The greatest long-term value for BLFY stockholders will be realized through the prompt sale or merger of the Company.

Please vote FOR this proposal.

Exhibit B

LUSE GORMAN, PC
ATTORNEYS AT LAW

5335 WISCONSIN AVENUE, N.W., SUITE 780
WASHINGTON, D.C. 20015

TELEPHONE (202) 274-2000
FACSIMILE (202) 362-2902
www.luselaw.com

WRITER'S DIRECT DIAL NUMBER
(202) 274-2001

WRITER'S EMAIL
jgorman@uselaw.com

November 17, 2023

Via email and U.S Mail

Lawrence B. Seidman

PII

lseidman@seidman-associates.com

Dear Mr. Seidman:

On behalf of Blue Foundry Bancorp (the "Company"), we are providing you this notice in response to your shareholder proposal, including its accompanying supporting statement, for consideration at the Company's 2024 Annual Meeting of Shareholders, which the Company received on November 3, 2023 (the "Proposal"). The Proposal contains certain procedural deficiencies, which Securities and Exchange Commission (the "SEC") regulations require us to bring to your attention.

1. Specific Days and Times of Availability

Under SEC Rule 14a-8(b)(1)(iii), a shareholder must, among other things, provide specific business days and times at which the shareholder is available to discuss their proposal with the company. The Proposal does not include this specific information. To remedy this defect, you must resubmit the Proposal and include specific days and times that you are available to discuss the Proposal with the Company, with such days and times being during the regular business hours of the Company's principal executive offices.

2. Number of Words in Proposal and Supporting Statement

Under SEC Rule 14a-8(d), a proposal, including its accompanying supporting statement, may not exceed 500 words. Pursuant to guidance and administrative rulings from the SEC regarding what the SEC considers a "word" for purposes of this rule, we count over 600 words in the Proposal. To remedy this defect, you must submit a revised version of the Proposal that contains no more than 500 words.

* * *

LUSE GORMAN, PC
ATTORNEYS AT LAW

Lawrence B. Seidman
November 17, 2023
Page 2

The SEC's rules require that your response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to me at 5335 Wisconsin Ave, NW, Suite 780, Washington, DC 20015 and electronically at jgorman@luselaw.com.

If you have any questions with respect to the foregoing, please contact me at (202) 274-2021.

Sincerely,



John J. Gorman, Esq.

cc: James D. Nesci, President and Chief Executive Officer, Blue Foundry Bancorp

Exhibit C

LAWRENCE B. SEIDMAN
100 Lanidex Plaza, Ste. 100
Parsippany, New Jersey 07054

November 3, 2023

Via email and Fedex next business day delivery

Blue Foundry Bancorp
19 Park Avenue
Rutherford, NJ 07070
Attn: Sandra Bossett, Corporate Secretary
sbossert@bluefoundrybank.com

Dear Ms. Bossert:

Enclosed is a Stockholder Proposal and Supporting Statement I submit in accordance with the provision for Stockholder Proposals contained in the April 12, 2023 Proxy Statement of Blue Foundry Bancorp. Pursuant to Securities Exchange Act Rule 14a-8, please include my Proposal and Supporting Statement in the Proxy Statement for Blue Foundry's 2024 Annual Meeting of Stockholders. I plan to attend the Stockholders Meeting and present the Proposal.

Below is required information:

Name:	Lawrence B. Seidman
Address:	[REDACTED] PII
Contact Information:	lseidman@seidman-associates.com 973-952-0405 office [REDACTED] PII
Number of shares owned:	18,512

I represent that I continuously have held at least \$25,000 in market value of Blue Foundry Bancorp shares for at least one year. I intend to continue to hold through the date of the 2024 Stockholders Meeting all shares that I own.

My Blue Foundry Bancorp shares are held in my brokerage account at Janney Montgomery Scott (17,512) and 1,000 shares are held in record name. Redacted copies of the relevant pages of my September 30, 2023 brokerage statement evidencing my ownership is enclosed.

I will be pleased to meet with Blue Foundry Bancorp representatives in person or by teleconference during normal business hours on a mutually convenient date during the next thirty days. If you disagree with any of the representations in the stockholder proposal, please have your representative call me immediately.

Very truly yours,


Lawrence B. Seidman

Enclosure

STOCKHOLDER PROPOSAL

Stockholder Proposal Recommending Sale or Merger of the Company

Resolved that the Stockholders of Blue Foundry Bancorp (“BLFY”) strongly recommend that the Board of Directors immediately engage an investment banking firm experienced in community bank mergers and acquisitions to guide the Company in promptly (after BLFY’s three-year sale prohibition ends on July 15, 2024) taking steps to merge or sell BLFY on terms that will maximize stockholder value.

Supporting Statement for Recommending the Sale or Merger of Blue Foundry Bancorp

BLFY completed its initial public offering (“IPO”) on July 15, 2021. Since the completion of its IPO, BLFY has failed to earn a satisfactory return on stockholders invested capital. I think it is unlikely BLFY stockholders will receive an acceptable return on their investment in the foreseeable future through BLFY’s continued independent operation. Moreover, independent third-party analyses by each Wall Street analyst who publishes estimates on BLFY expect continued losses for as long as they forecast. If they are right, book value will continue to erode and franchise value will be lost the longer BLFY exists as an independent company. In contrast, the sale or merger of BLFY with a larger financial institution likely will provide stockholders with a substantial premium over present market value.

Banks similar to BLFY have merged with larger financial institutions, and stockholders of the acquired banks have received significant premiums over the pre-merger market price of their shares. Cost efficiencies associated with scalable technology reward larger institutions disproportionately, incenting banks to grow larger, faster.

BLFY’s Tangible Book Value per share declined from \$15.71 on September 31, 2021, its first quarter as a public company, to \$14.24 (\$1.47 reduction). For the fiscal years ended on December 31, 2020 and 2021 BLFY had net losses of \$31,506,024 and \$36,342,000 respectively.

In the first three quarters of 2023 BLFY has continued to lose money. BLFY’s loss was \$4,466,000. A significant contributor to BLFY’s poor financial performance is its poor efficiency ratio, which has ranged, from 9/30/2021-9/30/2023, between 285.67% to 92.37% with a majority of quarters above 100%.

BLFY’s disappointing performance is evidenced in the price of its stock. Its closing price on July 16, 2021 was \$12.90 and on November 2, 2023 (the day before this stockholder proposal was submitted) BLFY’s closing price was \$7.83, a 39.30% decline.

Based upon the Company’s Efficiency Ratio, Return on Average Assets (“ROAA”), and Return on Average Equity (“ROAE”) for calendar years 2021 and 2022, and the first three quarters of 2023, the Company is one of the worst performing publicly traded financial institutions between \$1 and \$3 billion in assets reported by S&P Global.

	2021*		2022*		2023**	
	Rank	# of Institutions	Rank	# of Institutions	Rank	# of Institutions
Efficiency Ratio	205	205	204	205	205	205
ROAA	205	205	201	205	204	205
ROACE	205	205	201	205	204	205

* Entire year

** Average first three quarters of 2023 if available

This poor financial performance did not stop the Compensation Committee, and the Board, from rewarding each director of the Company with approximately \$970,000 in compensation comprised of cash, stock awards and option awards, for calendar year 2022, and \$12 million in stock options granted to senior management. Mr. Nesci, BLFY's President and CEO, received a base salary of \$700,000, option awards equal to \$2,430,117, and other compensation equal to \$123,774 for a total compensation for calendar year 2022 of \$3,671,398. Clearly, the Board and management are profiting while the stockholders are incurring losses.

The greatest long-term value for BLFY stockholders will be realized through the prompt sale or merger of the Company.

Please vote FOR this proposal.

Account number: [PII]
Investment Objective: Growth & Income/Moderate

Your Financial Advisor
[PII]

YNNNN FFO4
LAWRENCE B SEIDMAN
[PII]

PORTFOLIO SUMMARY

	As of 8/31/23	As of 9/30/23
[PII]	[PII]	[PII]
[PII]	[PII]	[PII]
[PII]	[PII]	[PII]

ACCOUNT ALLOCATION

[Redacted Table]

[Large Redacted Table]

**Janney Insured Sweep balances are FDIC insured, are not covered by Janney or SIPC and are not available for margin purposes.

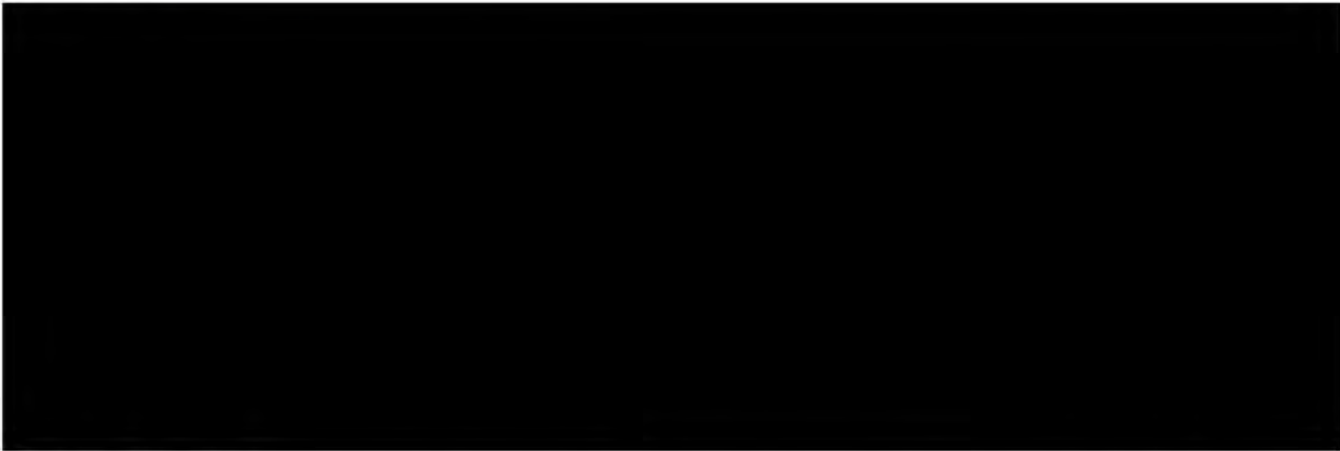


LAWRENCE B SEIDMAN

ACCOUNT NUMBER: PII

Page 2 of 5

PORTFOLIO DETAILS



EQUITIES - STOCKS & OPTIONS

Description	Symbol/ CUSIP	Quantity	Purchase Date	Cost Amount	Unit Cost	Current Price	Current Value	Unrealized Gain/(Loss)	Term	Accrued Interest	Est. Ann. Income	Est. Yield	% of Port.
BLUE-FOUNDRY BANCORP	BLFY	17,512	08/18/21	175,120.00	10.0000	8.3700	146,575.44	(28,544.56)	L1				
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]				[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]

LAWRENCE B. SEIDMAN
100 Lanidex Plaza, Ste. 100
Parsippany, New Jersey 07054

November 20, 2023

Via email and Fedex

Blue Foundry Bancorp
19 Park Avenue
Rutherford, NJ 07070
Attn: Sandra Bossert, Corporate Secretary
sbossert@bluefoundrybank.com

Dear Ms. Bossert:

I am responding to the letter dated November 17, 2023 from Mr. John Gorman. Enclosed is a revised Stockholder Proposal and Supporting Statement I submit in accordance with the provision for Stockholder Proposals contained in the April 12, 2023 Proxy Statement of Blue Foundry Bancorp. There is no question that the Proposal is less than 500 words. Pursuant to Securities Exchange Act Rule 14a-8, please include my Proposal and Supporting Statement in the Proxy Statement for Blue Foundry's 2024 Annual Meeting of Stockholders. I plan to attend the Stockholders Meeting and present the Proposal.

Below is required information:

Name:	Lawrence B. Seidman
Address:	[REDACTED] PII
Contact Information:	lseidman@seidman-associates.com 973-952-0405 office [REDACTED] PII
Number of shares owned:	18,512

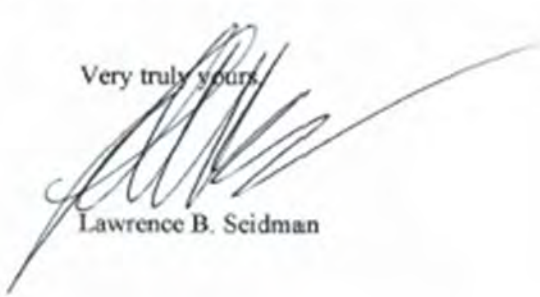
I represent that I continuously have held at least \$25,000 in market value of Blue Foundry Bancorp shares for at least one year. I intend to continue to hold through the date of the 2024 Stockholders Meeting all shares that I own.

I have enclosed a letter confirming my ownership from Janney Montgomery Scott. My Blue Foundry Bancorp shares are held in my brokerage account at Janney Montgomery Scott (17,512) and 1,000 shares are held in record name, which record is in your possession. Redacted copies of the relevant pages of my September 30, 2023 brokerage statement were previously provided.

I am available to discuss my Proposal with the Company by phone Monday, November 27th between 9:00-10:00am or 1:00-5:00pm, Tuesday, November 28th from 9:00-11:00am, Wednesday, November 29th from 9:00-11:00am, Thursday, November 30th from

9:00-11:00am, or Friday, December 1st from 9:00-11:00am.

Very truly yours,



Lawrence B. Seidman

Enclosures

cc: John Gorman



JANNEY MONTGOMERY SCOTT LLC
1475 Peachtree Street NE, Suite 800
Atlanta, GA 30309
www.janney.com

November 20, 2023

Blue Foundry Bancorp
19 Park Avenue
Rutherford, NJ 07070

To Whom It May Concern:

This is to advise you that as of the date of this letter, the Lawrence B Seidman account, held at Janney Montgomery Scott, LLC, owns 17,512 shares of Blue Foundry Bancorp. These shares have been owned continuously since the conversion on August 18, 2021.

Sincerely,

ANTHONY BELLO
Complex Operations Manager
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LAWRENCE B. SEIDMAN
900 Lanidex Plaza, Ste. 230
Parsippany, New Jersey 07054

December 1, 2023

Via email

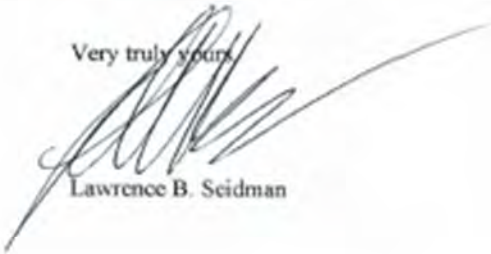
Blue Foundry Bancorp
19 Park Avenue
Rutherford, NJ 07070
Attn: Sandra Bossett, Corporate Secretary
sbossert@bluefoundrybank.com

Dear Ms. Bossert:

I am writing again to inform you of my availability to discuss my Proposal with the Company by phone as I have not received a response to my November 20, 2023 letter.

I am available Monday, December 4th, 9:00-10:00am or 1:00-5:00pm, Tuesday, December 5th, 9:00-11:00am, Wednesday, December 6th, 9:00-11:00am, Thursday, December 7th, 9:00-11:00am, or Friday, December 8th, 9:00-11:00am.

Very truly yours,



Lawrence B. Seidman

cc: John Gorman

EXHIBIT C

COURT OF CHANCERY
OF THE
STATE OF DELAWARE

MORGAN T. ZURN
VICE CHANCELLOR

LEONARD L. WILLIAMS JUSTICE CENTER
500 N. KING STREET, SUITE 11400
WILMINGTON, DELAWARE 19801-3734

July 7, 2023

John M. Seaman, Esquire
Abrams & Bayliss LLP
20 Montchanin Road
Suite 200
Wilmington, DE 19807

Kenneth J. Nachbar, Esquire
Morris Nichols Arsht & Tunnell LLP
1201 North Market Street
Wilmington, DE 19801

RE: *Lawrence B. Seidman v. Blue Foundry Bancorp*,
Civil Action No. 2022-1155-MTZ

Dear Counsel:

I write to regretfully shift fees for glaringly egregious litigation conduct in defending against a books and records request.

I. BACKGROUND

Defendant Blue Foundry Bancorp (“Blue Foundry,” the “Company,” or “Defendant”) is a publicly traded Delaware corporation with its principal place of business in Parsippany, New Jersey.¹ The Company has been the holding company for Blue Foundry Bank since July 15, 2021, following the completion of the

¹ Docket Item (“D.I.”) 37 [hereinafter “PTO”] ¶ 11.

mutual-to-stock conversion of Blue Foundry, MHC, a New Jersey-chartered mutual holding company.²

Plaintiff is a stockholder of record and a beneficial owner of Blue Foundry common stock.³ Throughout 2021, Plaintiff grew alarmed that Blue Foundry intended to pay non-employee directors and senior management compensation that he felt was excessive in light of the Company's financial performance.⁴

Plaintiff aired his concerns to Blue Foundry's senior management.⁵ On June 7, 2021, Plaintiff met with Jim Nesci, Blue Foundry's President and Chief

² Blue Foundry Bancorp, Annual Report (Form 10-K), at 6 (Mar. 14, 2022). *In re Rural Metro Corp. S'holders Litig.*, 2013 WL 6634009, at *7 (Del. Ch. Dec. 17, 2013) ("Applying [Delaware] Rule [of Evidence] 201, Delaware courts have taken judicial notice of publicly available documents that 'are required by law to be filed, and are actually filed, with federal or state officials.'" (citations omitted) (quoting *In re Tyson Foods, Inc. Consol. S'holder Litig.*, 919 A.2d 563, 584 (Del. Ch. 2007))).

³ PTO ¶ 10.

⁴ *See, e.g.*, D.I. 32 at Deposition Transcript of Lawrence B. Seidman [hereinafter "Seidman Dep."], at 61 (testifying that Plaintiff and Nesci "talked about the benefit plan coming up with an appropriate performance standard, so that not only would his directors be compensated, but his shareholders would make money"); *id.* 63 ("Q. And what did you discuss in that phone call? A. Again, the performance standard . . ."); *id.* 66 (testifying that, on May 2, 2022, Plaintiff spoke with Nesci regarding Blue Foundry's equity incentive plan and "discussed putting a proper performance standard upon it, so that the directors get paid and the shareholders make money and not using the [Luse Gorman], if you're breathing, you get the benefits"); *see also* PTO ¶ 17 ("Plaintiff had at least two meetings with Nesci and other [Blue Foundry] representatives to discuss, among other things, the Company's post-IPO strategic initiatives and equity incentive plan. The first meeting occurred sometime in 2021. The second meeting occurred on May 2, 2022.").

⁵ PTO ¶ 17.

Executive Officer, to discuss, among other things, the long-term equity incentive plan that Blue Foundry intended to adopt following the Company's initial public offering.⁶ Plaintiff advocated for "an appropriate performance standard."⁷

On July 15, 2021, Blue Foundry completed its conversion into a publicly traded Delaware corporation.⁸ On March 14, 2022, Blue Foundry filed a Form 10-K disclosing that it lost \$36.3 million in 2021.⁹

On May 2, 2022, Plaintiff met with Nesci a second time to discuss the Company's forthcoming long-term equity incentive plan and argued that the restricted stock awards should be subject to a performance standard.¹⁰ The record suggests that at this meeting, Plaintiff offered he knew "major players" in the northern New Jersey real estate market, who he described as "real estate people who have been referred to as the real estate Jewish mafia," and stated he could introduce Nesci to those "major real estate players."¹¹ Nesci declined Plaintiff's

⁶ Seidman Dep. 59–61.

⁷ *Id.*; *see id.* 62 ("We discussed the frameworks of a performance standard that would be beneficial to the management and directors and the shareholders.").

⁸ Blue Foundry Bancorp, Annual Report (Form 10-K), at 6, 54, 66, 102 (Mar. 14, 2022).

⁹ Blue Foundry Bancorp, Annual Report (Form 10-K), at 37, 49 (Mar. 14, 2022).

¹⁰ Seidman Dep. 66; *see* PTO ¶ 17.

¹¹ Seidman Dep. 61–62; D.I. 43, Ex. 9 [hereinafter "Blue Foundry's Am. Interrog. Resp."] at Resp. No. 8 (placing this discussion at the May 2 meeting).

recommendation to tie Blue Foundry's restricted stock awards to any sort of performance standard. In response, Plaintiff launched a "vote no" campaign urging Blue Foundry stockholders to vote against the Company's forthcoming proposal.¹²

On July 18, 2022, Blue Foundry filed a proxy statement with the Securities and Exchange Commission (the "Proxy") disclosing that its board had unanimously approved, and was recommending that the Company's stockholders approve, its proposed 2022 Equity Incentive Plan (the "Equity Plan").¹³ The Proxy disclosed that under the Equity Plan, the Company's directors would each receive 42,783 restricted stock awards and 106,959 stock option awards (collectively, the "Director Awards").¹⁴ Blue Foundry valued the restricted stock awards at \$504,839 per director but stated it could not determine the value of the stock option awards because their value would depend on the exercise date. The Proxy further

Plaintiff's offhand reference to this term became a focus of the Company's in discovery. Perhaps the Company thought the term connoted some engagement in organized crime. To be abundantly clear, I do not interpret the term that way, and do not understand why the term took on such outsized importance in the Company's defense.

¹² Specifically, on June 21, 2022, Plaintiff filed a notice of exempt solicitation urging Blue Foundry stockholders to vote against the Company's forthcoming request for stockholder approval of its stock-based benefit plans in light of the Company's poor performance. PTO ¶ 18.

¹³ D.I. 47, Ex. 12 [hereinafter "Proxy"]; PTO ¶ 19.

¹⁴ Proxy at SEIDMAN_00120-27.

disclosed that the Compensation Committee intended to grant equity awards to senior management and that such awards were “discretionary.”¹⁵

The Proxy also disclosed the factors considered by the Compensation Committee, noting consideration of Blue Foundry’s peer group:

The Compensation Committee considers a number of factors in its decisions regarding executive compensation, including, but not limited to, the level of responsibility and performance of the individual executive officers, the overall performance of Blue Foundry Bancorp and a peer group analysis of other financial institutions. In order to identify the appropriate compensation level necessary to attract and retain the talent to build the institution, we consulted with our compensation consultant in developing our peer group. Our peer group is comprised of institutions of similar complexity, within the tri-state geographic area, having approximately \$400 million in equity and an asset size of approximately \$3 billion.¹⁶

On July 29, 2022, Plaintiff filed a second notice of exempt solicitation urging Company stockholders to vote against the Equity Plan.¹⁷

On August 25, 2022, the Company held its annual meeting (the “Annual Meeting”).¹⁸ During the Q&A session of the Annual Meeting, the Company denied that it had conducted a peer group analysis of the Equity Plan. When asked

¹⁵ Proxy at SEIDMAN_00127. Blue Foundry concedes that the awards to management were “discretionary.” *See, e.g.*, PTO ¶ 22.

¹⁶ Proxy at SEIDMAN_00107.

¹⁷ PTO ¶ 25.

¹⁸ *Id.* ¶ 26.

whether the Company had “a peer group comparison of the cost of the benefit plan,” Nesci responded: “I do not have a peer group comparison of the cost of the benefit plan to compare to at this juncture. My assumption is, as I work with the comp committee, a peer comparison will be built.”¹⁹ Following the Q&A session, Company stockholders approved the Equity Plan. Beginning on October 19, 2023, the Compensation Committee began granting stock option awards to senior management.

In the meantime, on September 23, 2022, Plaintiff made a written demand pursuant to Section 220 of the Delaware General Corporation Law (“Section 220”) seeking, among other things, copies of any compensation consulting reports received by the board in connection with the Equity Plan (the “September 23 Demand”).²⁰ On October 7, Blue Foundry rejected the September 23 Demand, claiming that Plaintiff lacked a proper purpose for seeking inspection and refusing to produce a single document.²¹

¹⁹ D.I. 47, Ex. 14. Plaintiff produced an audio file to the Court. The Court has verified this quote.

²⁰ D.I. 43, Ex. 2.

²¹ D.I. 43, Ex. 3.

On October 28, Plaintiff filed a books and records action in New Jersey.²² Blue Foundry responded that the New Jersey Superior Court lacked jurisdiction and that the Company's forum selection clause required Plaintiff to file his books and records action in Delaware.²³ On November 7, Plaintiff voluntarily dismissed the New Jersey action.

On December 1, Plaintiff served the operative books and records demand (the "Demand") requesting copies of any compensation consulting reports received by the board and any other formal board materials concerning the evaluation and approval of the Equity Plan and all presentations to the board by senior management.²⁴ The Demand explained Plaintiff sought inspection for the purposes of investigating mismanagement and communicating with Plaintiff's fellow stockholders regarding any proxy contest or other corrective measures.²⁵ Defendant refused to produce a single document.

Plaintiff filed this action on December 14. Blue Foundry pled four defenses in its answer: (1) failure to state a claim; (2) failure to comply with 8 *Del. C.* §220

²² D.I. 43, Ex. 4.

²³ D.I. 17, Ex. 7.

²⁴ D.I. 1, Verified Complaint for Inspection of Books and Records, Ex. A [hereinafter "Demand"], at 5.

²⁵ Demand at 3-4.

because the demand is not under oath; (3) failure to establish a proper purpose; and (4) the books and records are not necessary and essential to Plaintiff's stated purposes or identified with the requisite precision.²⁶ The parties served discovery requests on January 3, 2023, and exchanged discovery responses on January 10. In its interrogatory responses, Blue Foundry confirmed under oath that "it will not contend that Plaintiff's stated purposes are not his actual purposes."²⁷ Blue Foundry also pressed merits-based defenses, including that any future plenary action challenging the Director Awards would be dismissed under the stockholder ratification doctrine.²⁸ Blue Foundry refused to answer Plaintiff's interrogatory

²⁶ See D.I. 7 at 11–12.

²⁷ D.I. 43, Ex. 8 [hereinafter "Blue Foundry's Interrog. Resp."] at Resp. No. 8. The position that the plaintiff holds an improper purpose is an affirmative defense in response to a books and records action. *Rivest v. Hauppauge Digital, Inc.*, 2022 WL 3973101, at *9 (Del. Ch. Sept. 1, 2022) ("And the Company raised a series of affirmative defenses, including: . . . (v) the contention that the lawsuit was "brought for an improper purpose"); *Chammas v. NavLink, Inc.*, 2015 WL 5121095, at *1 n.3 (Del. Ch. Aug. 27, 2015) ("The affirmative defenses include . . . that the scope of the demands exceeds any proper purpose"); *Woods Tr. of Avery L. Woods Tr. v. Sahara Enters., Inc.*, 238 A.3d 879, 891 (Del. Ch. 2020) ("[O]nce a stockholder has identified a proper purpose, . . . the burden shifts to the corporation to prove that the stockholder's avowed purpose is not her actual purpose and that her actual purpose for conducting the inspection is improper." (citing *Pershing Square, L.P. v. Ceridian Corp.*, 923 A.2d 810, 817 (Del. Ch. 2007))).

²⁸ E.g., Blue Foundry's Am. Interrog. Resp. at Resp. No. 3; cf. *Amalgamated Bank v. UICI*, 2005 WL 1377432, at *2 (Del. Ch. June 2, 2005) (observing that evaluating the merits in a Section 220 action of affirmative defenses to plenary claims, in some circumstances, is inconsistent with Section 220's summary nature); *accord CHC Invs., LLC v. FirstSun Cap. Bancorp.*, 2019 WL 328414, at *3 n.47 (Del. Ch. Jan. 24, 2019) ("This decision does not evaluate that argument, or FirstSun's argument that a general

asking Blue Foundry to confirm or deny what, if any, formal board materials existed.²⁹

On January 12, Plaintiff's counsel emailed Blue Foundry's counsel asking if the Company still intended to take Plaintiff's deposition, informing counsel that "Mr. Seidman will be in Florida for the rest of the month" and offering to make him available for a remote deposition on January 23 or 27.³⁰ The Company insisted that Plaintiff's deposition be held in person in Delaware. The next day, Defendant noticed Plaintiff's deposition for Delaware,³¹ forcing Plaintiff to seek relief from this Court.³² The Court granted a protective order, noting that

release bars CHC's plenary claims, which are best addressed in the Plenary Action." (citing *Amalgamated Bank*, 2005 WL 1377432, at *2)).

²⁹ Blue Foundry's Am. Interrog. Resp. at Resp. No. 21 ("Category 2: Defendant will not provide the information requested in Request No. 21."). During oral argument, defense counsel argued that Plaintiff should nevertheless have been able to *infer* that responsive formal board materials existed because: (1) in response to interrogatory number 21, Blue Foundry objected that the scope of Plaintiff's inspection request "goes beyond the scope of an 8 *Del. C.* 220 action for books and records where formal board material exists"; and (2) in response to interrogatory number 12, Blue Foundry identified the board and Compensation Committee meetings during which the Director Awards, Management Awards and Equity Plan were discussed. D.I. 53 [hereinafter "Hr'g Tr."] at 49-50 (quoting Blue Foundry's Am. Interrog. Resp. at Resp. No. 21). Defense counsel conceded that these responses did not amount to actually telling Plaintiff that formal board materials existed for each of the meetings identified in response to interrogatory number 12. *Id.* at 50.

³⁰ D.I. 47, Ex. 15.

³¹ D.I. 15.

³² D.I. 17.

Defendant “offer[ed] no real reason” the deposition needed to occur in Delaware, particularly since Defendant was not pressing an improper purpose defense.³³

At Plaintiff’s deposition, Blue Foundry’s counsel initiated a persistent line of questioning as to whether Plaintiff was “involved in the Jewish Mafia” based on his conversation with Nesci.³⁴ Plaintiff clarified that he “knew” some “major real estate players, who were referred to as” members of that purported group.³⁵ Blue Foundry’s counsel continued interrogating Plaintiff about “the Jewish mafia,” and Plaintiff objected that, “[y]ou know, you use that term—it’s disgraceful that you use that term that way.”³⁶ Despite Plaintiff’s deposition testimony that he was not a member of that purported group, Blue Foundry continued to claim the opposite, asserting in an interrogatory response that “Plaintiff stated that he is a member of a group often called the ‘Jewish Mafia.’”³⁷

After 8:00 p.m. on the night before the close of discovery, Blue Foundry for the first time sought to assert as an affirmative defense that Plaintiff’s stated

³³ D.I. 25.

³⁴ Seidman Dep. 61–62.

³⁵ *Id.*

³⁶ *Id.*

³⁷ Blue Foundry’s Am. Interrog. Resp at Resp. No. 8.

purpose was not his actual purpose.³⁸ This change occurred too late for Plaintiff to take discovery, to which he is entitled, into an issue on which the Company bears the burden.³⁹

On February 1, the Company identified its list of trial witnesses.⁴⁰ In response, Plaintiff's counsel sent an email stating:

³⁸ Compare Blue Foundry's Interrog. Resp at Resp. No. 8 (stating on January 10, 2023: "Subject to and without waiving its Specific and General Objections, Defendant states that at this time it will not contend that Plaintiff's stated purposes are not his actual purposes, but will contend that those purposes are not adequate to justify the Demand."), with Blue Foundry's Am. Interrog. Resp at Resp. No. 8 (stating on January 30, 2023: "Subject to and without waiving its Specific and General Objections, Defendant continues to assert as its principal defense that Plaintiff has not stated a proper purpose for his inspection of the Company's books and records. . . . However, based upon Plaintiff's deposition testimony, Blue Foundry now believes that Plaintiff's stated purpose is not his actual purpose. . . . As is clear, Plaintiff is attempting to use his leverage as a stockholder of the Company to gain benefits for himself, and his books and records demand is part of this effort. This is not a proper purpose for a books and records demand."). The substantial completion deadline was January 17, 2023, and discovery closed January 30. D.I. 6 ¶¶ 2(d), 2(f).

³⁹ *Woods*, 238 A.3d at 891 (citing *Pershing Square*, 923 A.2d at 817); *Chammas*, 2015 WL 5121095, at *1-2 (holding that Section 220 plaintiffs were entitled to discovery into the defendant's affirmative defenses).

⁴⁰ D.I. 30.

We are in receipt of defendant's witness list. We see that defendant has disclosed that it "may" call plaintiff at trial but not whether it "expects" to do so, as required by Paragraph 2(g) of the scheduling order. See Dkt. 6 ¶ 2(g) ("Parties exchange lists identifying any witnesses the Parties *expect* to call at trial."). Could you please clarify whether defendant expects to call plaintiff as a witness at trial? We would like to give our client a definitive answer this week on whether he needs to appear live at trial so that he can make the necessary travel arrangements.⁴¹

Defendant's counsel responded: "I'm not sure what the notable difference is between 'may' and 'expects,' as neither term commits either party to definitively calling Mr. Seidman as a witness at trial. In any event, we 'expect' to call Mr. Seidman at trial."⁴² In spite of this email exchange, on March 21, Blue Foundry misrepresented to the Court: "Contrary to Plaintiff's false claims, it was *Plaintiff* who insisted on live testimony."⁴³

The parties filed a Joint Pre-Trial Stipulation and [Proposed] Order on February 9, and filed pre-trial briefs on February 13.⁴⁴ At the February 15 pretrial conference, the Court warned that "the manner in which the company has litigated

⁴¹ D.I. 47, Ex. 16 (emphasis in original).

⁴² *Id.*

⁴³ Compare D.I. 44 [hereinafter "Opp."] ¶ 11 (emphasis in original), and *id.* ¶ 20 (claiming Plaintiff "insist[ed] on live testimony"), with D.I. 47, Ex. 16 (February 1, 2023 email from Plaintiff's counsel asking defense counsel to "clarify whether defendant expects to call plaintiff as a witness at trial" and adding that "[w]e would like to give our client a definitive answer this week on whether he needs to appear live at trial so that he can make the necessary travel arrangements").

this issue to date may very well rise to the level of fee shifting under *Gilead*.⁴⁵ The Court observed the Company “changed its position” and began asserting the affirmative defense that Plaintiff’s purpose was not his actual purpose “at a moment when it was too late for [Plaintiff] to take discovery into [Blue Foundry’s affirmative defense], on which the [C]ompany bears the burden, which he’s entitled to do.”⁴⁶ The Court also questioned why the Company was “going through the excessive exercise of calling Mr. Seidman live on a proceeding that’s often on a paper record.”⁴⁷

After the pretrial conference, Blue Foundry agreed to produce compensation consulting reports and responsive formal board materials. On February 20, two days before trial, the parties filed a Proposed Final Order and Judgment,⁴⁸ which this Court entered the next day (the “Inspection Order”).⁴⁹ On February 24, pursuant to the Inspection Order, Blue Foundry produced approximately sixty

⁴⁴ D.I. 31, D.I. 33, D.I. 34.

⁴⁵ D.I. 42 [hereinafter “Pre-Trial Tr.”] at 13.

⁴⁶ *Id.* at 12.

⁴⁷ *Id.* at 13.

⁴⁸ D.I. 39.

⁴⁹ D.I. 40.

pages of documents.⁵⁰ The two compensation consulting reports that were the focus of the Demand totaled fifteen pages.⁵¹ The Company did not designate any portion of its production confidential.⁵²

Plaintiff incurred \$223,651.60 in attorneys' fees and expenses through February 20, 2023.⁵³ On March 14, 2023, Plaintiff filed a Motion for an Award of Attorneys' Fees and Expenses (the "Motion").⁵⁴ On March 21, 2023, Blue Foundry filed its Opposition to Plaintiff's Motion for An Award of Attorneys' Fees and Expenses (the "Opposition").⁵⁵ On March 24, 2023, Plaintiff filed his Reply in Support of Motion for an Award of Attorneys' Fees and Expenses.⁵⁶

Blue Foundry's Opposition contained several falsehoods. Blue Foundry claimed it "did not accuse Plaintiff of belonging to the 'Jewish mafia[.]'"⁵⁷ even

⁵⁰ D.I. 47, Ex. 13 at 2.

⁵¹ See Blue Foundry's Am. Interrog. Resp at Resp. No. 21 ("The approximate volume of documents is 15 pages."); see also Hr'g Tr. at 26.

⁵² Opp. ¶ 24; Hr'g Tr. at 26.

⁵³ See D.I. 43 at Affidavit of John M. Seaman, Esq. in Support of Plaintiff's Motion for an Award of Attorneys' Fees and Expenses [hereinafter "Seaman Aff."] ¶¶ 3-4.

⁵⁴ D.I. 43.

⁵⁵ Opp.

⁵⁶ D.I. 47.

⁵⁷ Opp. ¶ 21.

though it had done so.⁵⁸ Blue Foundry stated it “did not know” that Plaintiff was located in Florida when it noticed Plaintiff’s deposition for Delaware, even though it did.⁵⁹ Blue Foundry represented to the Court at the pretrial conference and repeated in its Opposition that it had identified whether responsive formal board materials existed,⁶⁰ even though it had not.⁶¹ And Blue Foundry claimed “it was Plaintiff who insisted on live testimony” at trial, even though it was Blue Foundry that insisted that Plaintiff appear live.⁶²

The Court heard argument on May 9, 2023, and granted the Motion. In keeping with *Gilead*’s observation that glaringly egregious litigation conduct in books and records actions exacerbates the burdens that meritorious litigation places on this Court, I asked Plaintiff’s counsel to draft a proposed opinion shifting fees

⁵⁸ Seidman Dep. 61; Blue Foundry’s Am. Interrog. Resp at Resp. No. 8 (“Plaintiff stated that he is a member of a group often called the ‘Jewish Mafia.’”); *see also* Hr’g Tr. 44–48.

⁵⁹ Compare Opp. ¶ 12 n.2 (claiming that Blue Foundry “did not know” that Plaintiff was located in Florida when it noticed Plaintiff’s deposition for Delaware on January 13, 2023), with D.I. 47, Ex. 15 at 1 (January 12, 2023 email from Plaintiff’s counsel to defense counsel stating that “Mr. Seidman will be in Florida for the rest of the month”).

⁶⁰ Pre-Trial Tr. at 14–15 (“[ATTORNEY NACHBAR:] Your Honor also said that we haven’t identified whether documents exist. We have. . . . We’re not hiding the ball.”); Opp. ¶ 23.

⁶¹ Blue Foundry’s Am. Interrog. Resp at Resp. No. 21 (“Category 2: Defendant will not provide the information requested in Request No. 21.”).

⁶² *Supra* note 43 (emphasis in original).

under *Gilead* to Defendant, at Defendant's cost, which I would review de novo and make it my own.⁶³ Plaintiff filed his proposed order on June 2.⁶⁴ This is my decision regarding the Motion.

II. ANALYSIS

Delaware courts follow the American Rule that each party is expected to pay its own attorneys' fees regardless of the outcome of the litigation. But this court retains the ability to shift fees when faced with vexatious litigation conduct "to deter abusive litigation and to protect the integrity of the judicial process."⁶⁵ This court may award fees "in its discretion . . . 'where equity requires.'"⁶⁶ To capture the sorts of vexatious activities that the bad-faith exception is intended to address, this court employs the "glaring egregiousness" standard.⁶⁷ Delaware courts have

⁶³ Hr'g Tr. 69 ("Because of the false statements in the opposition brief, I would like to ask Abrams & Bayliss to write the draft opinion and submit that to the Court. The Court will edit it and make it its own *de novo*."); D.I. 54; *Petry v. Gilead Scis., Inc.*, 2020 WL 6870461, at *30 (Del. Ch. Nov. 24, 2020).

⁶⁴ D.I. 55.

⁶⁵ *Montgomery Cellular Hldg. Co. v. Dobler*, 880 A.2d 206, 227 (Del. 2005) (citing *Johnston v. Arbitrium (Cayman Is.) Handels AG (Johnston II)*, 720 A.2d 542, 546 (Del. 1998)).

⁶⁶ *Scion Breckenridge Managing Member, LLC v. ASB Allegiance Real Estate Fund*, 68 A.3d 665, 687 (Del. 2013) (quoting *Burge v. Fidelity Bond & Mortg. Co.*, 648 A.2d 414, 421 (Del. 1994)).

⁶⁷ See, e.g., *RBC Cap. Mkts., LLC v. Jervis*, 129 A.3d 816, 879 (Del. 2015) (affirming this Court's determination to shift fees under the "glaring egregiousness" standard); *Isr. Disc. Bank of N.Y. v. First State Depository Co.*, 2013 WL 2326875, at *28–29 (Del. Ch.

shifted fees for glaringly egregious conduct, such as forcing a plaintiff to file suit to “secure a clearly defined and established right” to inspect the company’s books and records.⁶⁸ In *Petry v. Gilead Sciences, Inc.*, this Court granted the Section 220 plaintiffs leave to move for fee-shifting where the defendant “exemplified the trend of overly aggressive litigation strategies by blocking legitimate discovery, misrepresenting the record, and taking positions for no apparent purpose other than obstructing the exercise of Plaintiff’s statutory rights” to books and records.⁶⁹

After Blue Foundry declined to produce a single document to Plaintiff, forcing him to commence litigation, Blue Foundry took a series of litigation positions that, when viewed collectively, were glaringly egregious.

Blue Foundry pressed that Plaintiff was not entitled to inspection because he could not establish a credible basis for wrongdoing. At oral argument, Blue

May 29, 2013) (applying the “glaring egregiousness” standard in assessing potential fee shifting); *eBay Domestic Hldgs., Inc. v. Newmark*, 16 A.3d 1, 47–48 (Del. Ch. 2010) (same); *In re Charles Wm. Smith Tr.*, 1999 WL 596274, at *2–4 (Del. Ch. July 23, 1999) (same).

⁶⁸ *McGowan v. Empress Ent., Inc.*, 791 A.2d 1, 4 (Del. Ch. 2000) (“[I]f McGowan had a clearly established legal right to inspect Empress’s books and records, and Empress’s conduct forced him to bring this action to secure that right, then the defendant can be found to have acted in bad faith and be ordered to pay the plaintiff’s legal fees and expenses.”); accord *Donnelly v. Keryx Biopharmaceuticals, Inc.*, 2019 WL 5446015, at *6 (Del. Ch. Oct. 24, 2019); *Norman v. US MobilComm, Inc.*, 2006 WL 1229115, at *4 (Del. Ch. Apr. 28, 2006).

⁶⁹ 2020 WL 6870461, at *30.

Foundry argued Plaintiff was required to demonstrate a credible basis to support not only his investigative purpose but also his communicative purpose because, in Blue Foundry's view, the Demand cabined Plaintiff's communicative purpose to issues relating to mismanagement.⁷⁰ But the Demand states that Plaintiff seeks "to communicate with other Company stockholders *regarding matters relating to their interests as stockholders and as to each of the above topics*, so that stockholders may effectively address any mismanagement or improper conduct, *including without limitation, through litigation, proxy contest or by other corrective measures.*"⁷¹ The Demand therefore made clear that Plaintiff sought to communicate with stockholders not only regarding "each of the above topics" but also regarding "matters relating to their interests as stockholders" in connection with an impending "proxy contest."⁷² And even if the Company was correct in cabining Plaintiff's communicative purpose to mismanagement, Plaintiff's criticism of Blue Foundry's compensation plan was supported by two experts that

⁷⁰ Hr'g Tr. 32; *see also* Opp. ¶ 18 (arguing because Plaintiff's intention to communicate with other stockholders was to "effectively address any mismanagement or improper conduct," means there was "no proper purpose to communicate with stockholders, as there was no 'mismanagement or improper conduct' to address").

⁷¹ Demand at 4 (emphasis added).

⁷² *Id.*

Blue Foundry did not challenge,⁷³ and Plaintiff pressed a disclosure violation based on the Proxy's reference to the Compensation Committee's reliance on a nonexistent peer group analysis.⁷⁴ Standing alone, Blue Foundry's credible basis challenge might not inspire fee-shifting, but Blue Foundry faced an uphill climb.

And Blue Foundry raised more hurdles. Blue Foundry claimed that Plaintiff was not entitled to inspection because any future plenary action challenging the Director Awards would be dismissed under the stockholder ratification doctrine. In so many words, Blue Foundry argued that Plaintiff was required to demonstrate an actionable claim. Delaware law is clear that a books and records proceeding "is not the time for a merits assessment of [a plaintiff's] potential claims against [the corporation's] fiduciaries."⁷⁵ Under *AmerisourceBergen*, a stockholder who demonstrates a credible basis from which the court can infer wrongdoing or mismanagement need not demonstrate that the wrongdoing or mismanagement is actionable.⁷⁶

⁷³ See Seidman Dep. 146–50.

⁷⁴ Proxy at SEIDMAN_00197; D.I. 47, Ex. 13 at 1.

⁷⁵ *AmerisourceBergen Corp. v. Lebanon Cnty. Emps.' Retirement Fund*, 243 A.3d 417, 437 (Del. 2020); *Lavin v. W. Corp.*, 2017 WL 6728702, *10 (Del. Ch. Dec. 29, 2017).

⁷⁶ 243 A.3d at 436 (quoting *Lavin*, 2017 WL 6728702, *9).

Blue Foundry attacked the necessary and essential prong, even with respect to those formal board materials that *AmerisourceBergen* indicates should nearly always be produced.⁷⁷ At the same time, Blue Foundry improperly refused to state what formal board materials existed.⁷⁸

Blue Foundry took aggressive positions in discovery. Despite knowing that Plaintiff was in Florida, Blue Foundry refused to proceed by video deposition and insisted that Plaintiff appear in person for a half-day deposition in Delaware, forcing Plaintiff to obtain a protective order.⁷⁹ After the close of discovery, Blue Foundry sandbagged Plaintiff with an unsupported improper purpose defense, claiming “Plaintiff’s stated purpose [was] not his actual purpose.”⁸⁰ In pressing that defense, Blue Foundry accused Plaintiff of belonging to “the Jewish Mafia,”

⁷⁷ Pre-Trial Tr. at 13.

⁷⁸ *Lebanon Cnty. Emps.’ Retirement Fund v. AmerisourceBergen Corp.*, 2020 WL 132752, at *26 (Del. Ch. Jan. 13, 2020) (“Just as a defendant can serve interrogatories or depose a plaintiff about its proper purpose, so too can a plaintiff serve interrogatories or notice a Rule 30(b)(6) deposition to understand what books and records exist and who has them.” (citing *Wal-Mart Stores, Inc. v. Ind. Elec. Workers Pension Tr. Fund IBEW*, 95 A.3d 1264, 1269 (Del. 2014))).

⁷⁹ D.I. 17; D.I. 22; D.I. 24.

⁸⁰ D.I. 7 at 11–12; *supra* note 38; *compare, e.g.*, D.I. 34 at 35 (“[T]he *only* purpose for the requested inspection is for leverage against the Company so that Plaintiff can extort it for his own personal gain.” (emphasis in original)), *with, e.g.*, Seidman Dep. 75–76 (testifying that he never even “suggest[ed] any arrangement by which [he] or an[y] entity of [his] would be compensated for the origination loans by Blue Foundry” and only wanted to place his designee on the board) (emphasis added).

even after Plaintiff resisted Blue Foundry's mistaken characterization of his conversation with Nesci and his deposition.⁸¹ And Blue Foundry insisted on calling Plaintiff as a live witness in this books and records proceeding that typically would have, and plainly could have, proceeded on a paper record.⁸²

After the Court invoked *Gilead* and Plaintiff moved for fees, Blue Foundry and its counsel dug further into the mud: their brief opposing fee-shifting made four demonstrably false statements.⁸³ First, that Blue Foundry did not accuse Plaintiff of belonging to the "Jewish Mafia"; second, that Blue Foundry did not know Plaintiff was in Florida when it noticed his deposition for Delaware; third, that it had identified whether responsive board materials existed; and fourth, that it was Plaintiff, not Blue Foundry, who insisted on Plaintiff's live appearance.

Blue Foundry's litigation conduct was glaringly egregious. Blue Foundry:
(i) forced Plaintiff to file suit to "secure a clearly defined and established right" to

⁸¹ *Supra* note 58.

⁸² PTO ¶ 81(a).

⁸³ Incredibly, when the Court challenged Blue Foundry's wielding of the term "Jewish Mafia," Blue Foundry's counsel contended they were taking the high road by not asserting Mr. Nesci, who counsel described as Italian American, was offended by the term. Hr'g Tr. 47-48 ("If he were going to play the faux outrage game like plaintiff, we would be asserting that we're deeply offended that Mr. Seidman brought up the term 'Mafia' in a meeting with Mr. Nesci, an Italian American."). To be clear, this is the low road.

inspect the Company's books and records;⁸⁴ (ii) "unnecessarily prolonged or delayed litigation" by refusing to produce any documents;⁸⁵ (iii) "increased the litigation's cost" by, among other things, insisting in bad faith on an in-person deposition leading to motion practice;⁸⁶ (iv) "completely change[d] [its] legal argument" in a way which would prevent Plaintiff from taking discovery to which he was entitled;⁸⁷ and (v) made multiple misrepresentations to the Court.⁸⁸ Justice requires fee shifting as mitigation for such serious "vexatious behavior."⁸⁹

"Delaware law dictates that, in fee shifting cases, a judge determines whether the fees requested are reasonable."⁹⁰ The Court "has broad discretion in

⁸⁴ *Supra* note 68.

⁸⁵ *RBC Cap. Mkts., LLC v. Educ. Loan Tr. IV*, 2016 WL 703852, at *3 (Del. Super. Feb. 17, 2016) (quoting *Johnston II*, 720 A.2d at 546).

⁸⁶ *ASB Allegiance Real Estate Fund v. Scion Breckenridge Managing Member, LLC*, 2013 WL 5152295, at *10 (Del. Ch. Sept. 16, 2013) (quoting *Scion*, 68 A.3d at 687).

⁸⁷ *In re SS & C Techs., Inc. S'holders Litig.*, 948 A.2d 1140, 1151 (Del. Ch. 2008) (citation omitted); *Gilead*, 2020 WL 6870461, at *30 ("Gilead exemplified the trend of overly aggressive litigation strategies by blocking legitimate discovery, misrepresenting the record, and taking positions for no apparent purpose other than obstructing the exercise of Plaintiffs' statutory rights.").

⁸⁸ *Gilead*, 2020 WL 6870461, at *30.

⁸⁹ *Id.* at *30 n.280 (internal quotation marks omitted) (quoting *Martin v. Harbor Diversified, Inc.*, 2020 WL 568971, at *1 (Del. Ch. Feb. 5, 2020)).

⁹⁰ *Mahani v. Edix Media Grp., Inc.*, 935 A.2d 242, 245 (Del. 2007) (citing Del. Lawyers' R. Prof'l Conduct 1.5(a)(1)(a)); *see also Aveta v. Bengoa*, 2010 WL 3221823, at *4 (Del. Ch. Aug. 13, 2010) (noting that the Court assesses fee awards for reasonableness).

determining the amount of fees and expenses to award.”⁹¹ The Court reviews a fee application pursuant to the factors set forth in Rule 1.5(a) of the Delaware Lawyers’ Rules of Professional Conduct.⁹² “Determining reasonableness does not require that this Court examine individually each time entry and disbursement.”⁹³ Nor does it “require the Court to assess independently whether counsel appropriately pursued and charged for a particular motion, line of argument, area of discovery, or other litigation tactic.”⁹⁴ “For a Court to second-guess, on a hindsight basis, an attorney’s judgment” as to whether work was necessary or

⁹¹ *Black v. Staffieri*, 2014 WL 814122, at *4 (Del. Feb. 27, 2014) (TABLE) (citing *Kaung v. Cole Nat’l Corp.*, 884 A.2d 500, 506 (Del. 2005)).

⁹² See *Mahani*, 935 A.2d at 245–46. Del. Lawyers’ R. Prof’l Conduct 1.5(a) (“(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; [and] (8) whether the fee is fixed or contingent.”).

⁹³ *Aveta*, 2010 WL 3221823, at *6 (citing, among other cases, *M & G Polymers USA, LLC v. Carestream Health, Inc.*, 2010 WL 1611042, at *76 (Del. Super. Apr. 21, 2010) (finding no authority that “requires this Court to engage in a line-by-line analysis of the components of an attorneys’ fee application when an award of fees is based upon the bad faith exception to the American Rule”).

⁹⁴ *Weil v. VEREIT Operating P’ship, L.P.*, 2018 WL 834428, at *12 (Del. Ch. Feb. 13, 2018) (quoting *Danenberg v. Fittracks, Inc.*, 58 A.3d 991, 997 (Del. Ch. 2012)).

appropriate “is hazardous and should whenever possible be avoided.”⁹⁵

“When awarding expenses as a contempt sanction or for bad faith litigation tactics, this Court takes into account the remedial nature of the award.”⁹⁶ In those cases, the fee award “is designed to make whole the party who was injured by the other side’s contumely. The remedial nature the award commends putting primary emphasis on reimbursing the injured party. The results achieved are of secondary importance.”⁹⁷ And when assessing the aggregate fees requested in situations involving contempt or bad faith, this Court considers whether they “are within the range of what a party reasonably could incur over the course of . . . pursuing an

⁹⁵ *Arbitrium (Cayman Is.) Handels AG v. Johnston (Johnston I)*, 1998 WL 155550, at *4 (Del. Ch. Mar. 30, 1998), *aff’d*, 720 A.2d 542 (Del. 1998); *accord Sparton Corp. v. O’Neil*, 2018 WL 3025470, at *6 (Del. Ch. June 18, 2018) (noting that “the hourly rates charged by Defendants’ counsel are not excessive, and the staffing of attorneys appears appropriate” and should not be second-guessed); *Aveta*, 2010 WL 3221823, at *8 (expanding the rationale and noting where “staffing appears appropriate” it “need not be second-guessed”). Still, the Court may consider “whether the number of hours devoted to litigation was excessive, redundant, duplicative or otherwise unnecessary,” *Fitracks*, 58 A.3d at 996 (quoting *Mahani*, 935 A.2d at 247–48), and may decrease an award where the applicant’s “own litigation efforts have in some ways been less than ideal in terms of timeliness or prudent focus,” *Auriga Cap. Corp. v. Gatz Props.*, 40 A.3d 839, 882 (Del. Ch. 2012), *aff’d*, 59 A.3d 1206 (Del. 2012).

⁹⁶ *Aveta*, 2010 WL 3221823, at *6 (citing *In re SS & C Techs., Inc. S’holders Litig.*, 2008 WL 3271242, at *3 n.14 (Del. Ch. Aug. 8, 2008), and *Johnston I*, 1998 WL 155550, at *3).

⁹⁷ *Id.* (citation omitted).

adversary engaged in a mix of open defiance, evasion and obstruction.”⁹⁸

Blue Foundry did not dispute the reasonableness of Plaintiff’s fees and expenses in its Opposition or at the May 9 hearing, and the Court finds Plaintiff’s fee request reasonable under the circumstances.⁹⁹

III. CONCLUSION

For the foregoing reasons, Plaintiff’s Motion for an Award of Attorneys’ Fees and Expenses is **GRANTED**. Plaintiff’s counsel shall file a Rule 88 affidavit identifying Plaintiff’s reasonable attorneys’ fees and expenses incurred in connection with preparing the draft opinion within five business days of this opinion.¹⁰⁰

Sincerely,

/s/ Morgan T. Zurn

Vice Chancellor

MTZ/ms

cc: All Counsel of Record, via *File & ServeXpress*

⁹⁸ *Id.* (internal quotation marks omitted) (citing *Aveta Inc. v. Bengoa*, 986 A.2d 1166, 1178 (Del. Ch. 2009)).

⁹⁹ Seaman Aff.; D.I. 54 ¶ 2 (“Plaintiff is hereby awarded attorneys’ fees and expenses in the amount of \$223,651.60 to be paid by Defendant Blue Foundry Bancorp within five (5) business days of the entry of this Order.”).

¹⁰⁰ D.I. 54 ¶ 3.

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January 30, 2024

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

**Re: Blue Foundry Bancorp: Stockholder Proposal of Lawrence B. Seidman –
Securities Exchange Act of 1934, Rule 14a-8**

Ladies and Gentlemen:

Blue Foundry Bancorp (the “Company”) has received a copy of Lawrence B. Seidman’s (the “Proponent”) letter to the Securities and Exchange Commission (the “Commission”), dated January 25, 2024 (“Proponent’s Response Letter”), in response to the Company’s request for a no-action letter from the staff of the Division of Corporation Finance (the “Staff”), dated January 22, 2024, regarding the Company’s intent, pursuant to Rules 14a-8(d) and 14a-8(f)(1), to exclude from its 2024 proxy materials the Proponent’s revised proposal (the “Revised Proposal”).

In the Proponent’s Response Letter, the Proponent claims that the Company was required to provide, in its deficiency notice dated November 17, 2023 (the “Deficiency Notice”), “detailed information” on how the Company arrived at its word count for the proposal in order for the Company to be able to avail itself of the right to exclude the Revised Proposal from its proxy materials and claims that the Company failed to provide such information. The Company respectfully disagrees with the Proponent’s claims that such a requirement exists. The Company was then and remains now unaware of any such requirement pursuant to the Commission’s guidance, interpretations and previous no-action letters on the matter. Moreover, the Company further notes that, in the Deficiency Notice, it did provide detail to the Proponent that the Company’s word count was based on the guidance and administrative rulings from the Commission regarding what could constitute a word for purposes of Rule 14a-8(d). This is more detail than has been provided by certain other companies in similar instances where the Staff has granted the requested no-action letter. *See, e.g., Danaher Corp.* (avail. Jan. 19, 2010) (in its deficiency notice, *Danaher Corp.* informed the proponent that the proposal exceeded 500 words and therefore was not in compliance with Rule 14a-8(d), without providing any detail or further information as to the methodology it used for counting words).

The Proponent’s Response Letter cites *Duke Energy Corp.* (avail. March 6, 2019) to support his claims, and states that in revising his proposal he had presumed that the Company

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used the conservative word count method utilized therein. However, *Duke Energy Corp.* discusses and cites to no-action precedents under Rule 14a-8(d) for counting words in a proposal that include the methodologies utilized by the Company in its no-action request. *Duke Energy Corp.* ultimately used a “conservative word count” methodology as a means to further emphasize how far over the word limit its proponent’s proposal was. As importantly, and similar to *Danaher Corp.*, in its deficiency notice *Duke Energy Corp.* did not provide any of the “details” regarding its word count methodology that the Proponent here is claiming is required of the Company for the Company to be able to exclude the Revised Proposal. *Duke Energy Corp.*, like *Danaher Corp.* and the Company, only provided such detail regarding its methodology in its no-action request letter to the Commission. The Company further notes that, until the Proponent’s Response Letter (including between the time the Company delivered the Deficiency Notice and before the Proponent delivered the Revised Proposal), the Proponent had not indicated to the Company that he believed the Company’s Deficiency Notice was itself deficient and had not requested any clarification regarding how the Company had arrived at its word count.

After the Company had duly met its requirement to provide the Proponent with the Deficiency Notice, the rules and guidance of the Commission set forth no obligation for the Company to further correspond or establish a working relationship with the Proponent (including no obligation to further notify the Proponent of any defects regarding the number of words used in the Revised Proposal) prior to requesting a no-action letter from the Staff or for the Company to avail itself of the right to exclude the Proponent’s proposal from its proxy materials pursuant to Rules 14a-8(d) and 14a-8(f)(1).

With regard to the Proponent’s request that the Commission allow him the opportunity to now further revise his proposal to bring it into compliance with Rule 14a-8(d), while the Proponent is correct that the Commission has stated that it may in certain limited circumstances permit a proponent to further revise its proposal where a company would otherwise be able to exclude the proposal, the Commission’s guidance on such circumstances does not list Rule 14a-8(d), or its predecessor, as an example of when the Commission would typically allow a proponent such further opportunity to revise a proposal (*see Staff Legal Bulletin No. 14 at B.12.a and E.5*). Accordingly, the Company notes that such an allowance has not historically been granted by the Commission in these circumstances, even when a proposal is only a few words over the 500-word limit.

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The Company maintains its request that the Staff concur that the Revised Proposal may be excluded from the Company's 2024 proxy materials pursuant to Rule 14a-8(d) and Rule 14a-8(f)(1) because, after proper notice from the Company that the Proponent's initial proposal was deficient for being over the 500-word limit, the Revised Proposal was still over the 500-word limit.¹

If we can be of any further assistance in this matter, please do not hesitate to contact me at (202) 274-2001 or jgorman@luselaw.com.

Sincerely,



John J. Gorman

cc: Lawrence B. Seidman
James D. Nesci, President and CEO – Blue Foundry Bancorp

¹ The Proponent's Response Letter also includes a claim that the Company has "animosity" toward him, which is not only irrelevant, but as importantly, incorrect. In fact, the Proponent has it backwards. The Company completed a mutual-to-stock conversion and a related initial public offering in July 2021. Almost immediately thereafter, the Proponent began communicating his dissatisfaction with the Company's performance. He ultimately threatened to actively oppose any equity compensation plan presented to the Company's shareholders unless the Company agreed to appoint his personal accountant and friend for 25 years to the Board of Directors and give him a full equity allocation. When the Company refused this demand, the Proponent conducted a solicitation in opposition to the equity plan presented to shareholders in August 2022. The shareholders overwhelmingly approved the equity plan. In 2023 he again sought the appointment of his personal accountant and friend for 25 years, and threatened a full-blown proxy contest if the Company refused. The Company again declined his demand, and in May 2023 after a proxy contest conducted by the Proponent, the shareholders overwhelmingly rejected the Proponent's candidates and elected the Board's nominees. In late 2023, the Proponent once more demanded the appointment of his personal accountant and friend for 25 years to the Board with a full equity award allocation, and this time threatened to submit a shareholder proposal to sell the Company and take other actions against the Company if it refused his demand. Thus, the proposal submitted to the Company by the Proponent and our no-action request. The Delaware decision he provides relates to a request for books and records, as to which Delaware counsel advised the Company there were reasonable grounds to oppose, based on Proponent's pattern of harassment.

LAWRENCE B. SEIDMAN
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lseidman@seidman-associates.com
tel. 973-952-0405

January 31, 2024

Online submission

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

Re: Blue Foundry Bancorp: Stockholder Proposal of Lawrence B. Seidman – Securities Exchange Act of 1934, Rule 14a-8

Ladies and Gentlemen:

I am writing in response to the January 30, 2024 letter Mr. Gorman wrote as counsel for Blue Foundry Bancorp (the “Company”) seeking Securities and Exchange Commission (“Commission”) concurrence with the Company omitting my Stockholder Proposal from the Company’s 2024 proxy statement. The primary purpose of the Securities Laws is to provide full disclosure. This has been the overriding principle advanced by the Commission since its creation as a regulatory agency.

The Company violated its obligation for full disclosure by not detailing how it counted the words in my Stockholder Proposal, and by failing to confer in person or by telephone with me to discuss the issue. Rule 14a-8 requires the shareholder proponent to provide the Company with a written statement of the proponent’s willingness to meet in person or by teleconference with the Company including available dates and times. The purpose of such a requirement is to provide a low-cost procedure to resolve issues to a Stockholder Proposal without the need for a protracted or expensive process and without burdening the Commission’s Staff to resolve disputes. Full disclosure or a very short phone call would have resolved the word count issue.

The Company is without question in possession of a Stockholder Proposal that is less than 500 words. The Company does not challenge this representation. Instead, the Company asserts that this situation is not one of the examples provided for in Staff Legal Bulletin No. 14 (“Bulletin”) (July 13, 2001) at B 12.a and E.5. However, this Bulletin does not state that the examples given are exclusive situations where further revision are permissible. Instead, the Bulletin states that in certain limited circumstances it would permit a proponent to further revise its proposal where a company would otherwise be able to exclude the proposal. The Bulletin specifically states that the Commission has “a long-standing practice of issuing no-action responses that permit shareholders to make revisions that are minor in nature and do not alter the substance of the proposal.” This statement describes Proposal 3 exactly (enclosed herewith).

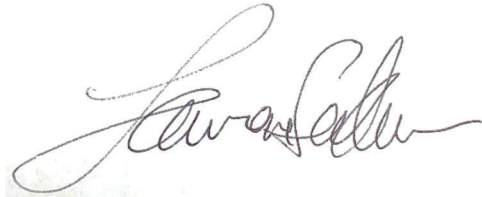
The Company now seeks the Commission's aid to its "hide the pea" conduct in detriment to the Company's Stockholders right to express their voice to management on the Company's fundamental business conduct.

The Company's statement that "such an allowance has not historically been granted by the Commission in these circumstances, even when a proposal is only a few words over the 500-word limit" is lacking a cite to any legal or regulatory authority.

I maintain that allowing the revised Stockholder Proposal 3, which is less than 500 words, fits into the dictates of the above Bulletin and provides the Company's stockholders an opportunity to voice their opinion on how the Company is performing.

If you wish to discuss any issues in more detail, please call me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence B. Seidman", written in a cursive style.

LAWRENCE B. SEIDMAN

cc: John Gorman (via email jgorman@luselaw.com)
Sandra Bossert (via email sbossert@bluefoundrybank.com)

STOCKHOLDER PROPOSAL

Stockholder Proposal Recommending Sale or Merger of the Company

Resolved that the Stockholders of Blue Foundry Bancorp (the “Company”) strongly recommend that the Board of Directors immediately engage an investment banking firm experienced in community bank mergers and acquisitions to guide the Company in promptly (after the three-year sale prohibition ends on July 15, 2024) taking steps to merge or sell the Company on terms that will maximize stockholder value.

Supporting Statement for Recommending the Sale or Merger of Blue Foundry Bancorp

The Company has failed to earn a satisfactory return on stockholders’ invested capital. It is unlikely the Company’s stockholders will receive an acceptable return on their investment in the foreseeable future through the Company’s independent operation. Book value and franchise value will continue to erode the longer the Company exists as an independent company. In contrast, the sale or merger of the Company with a larger financial institution likely will provide stockholders with a substantial premium over present market value.

Banks similar to the Company have merged with larger financial institutions, and stockholders of the acquired banks have received significant premiums over the pre-merger market price of their shares.

The Company’s Tangible Book Value per share declined from \$15.71 on September 30, 2021, its first quarter as a public company, to \$14.24 (\$1.47 reduction) at September 30, 2023. For the fiscal years ended on December 31, 2020 and 2021, the Company had net losses of \$31,506,024 and \$36,342,000 respectively.

In the first three quarters of 2023, the Company continued to lose money. The Company’s loss was \$4,466,000. A significant contributor to the Company’s poor financial performance is its poor efficiency ratio.

The Company’s disappointing performance is evidenced in the price of its stock. Its closing price on July 16, 2021 was \$12.90 and on November 2, 2023 (the day before this stockholder proposal was submitted) the Company’s closing price was \$7.83, a 39.30% decline.

Based upon the Company’s Efficiency Ratio, Return on Average Assets, and Return on Average Equity for calendar years 2021 and 2022, and the first three quarters of 2023, the Company is one of the worst performing publicly traded financial institutions between \$1 and \$3 billion in assets reported by S&P Global.

The greatest long-term value for the Company’s stockholders will be realized through the prompt sale or merger of the Company.

Please vote FOR this proposal.