



DIVISION OF
CORPORATION FINANCE

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

April 15, 2024

John Chevedden

Re: The Kraft Heinz Company (the "Company")
Incoming letter dated March 13, 2024

Dear John Chevedden:

This letter is in response to your correspondence concerning the shareholder proposal submitted to the Company by Kenneth Steiner. In response to a December 29, 2023 request from the Company, on March 13, 2024 we issued a letter expressing our informal views on the matter. You have asked us to reconsider our position.

We have reviewed the information contained in your correspondence, find no material information that has not been previously furnished, and have determined not to reconsider our position. *See* Statement of Informal Procedures for the Rendering of Staff Advice with Respect to Shareholder Proposals, Exchange Act Release No. 34-12599 (July 7, 1976).

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,

Michael P. Seaman
Chief Counsel
Division of Corporation Finance

cc: Lori Zyskowski
Gibson, Dunn & Crutcher LLP

March 13, 2024

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

5 Rule 14a-8 Proposal
The Kraft Heinz Company (KHC)
Independent Board Chairman
Kenneth Steiner
472876
Request for Reconsideration

Ladies and Gentlemen:

This is a request for reconsideration regarding the December 29, 2023 no-action request. This is submitted on behalf of Kenneth Steiner.

This is to request that the text that the Staff objected to in *The Kraft Heinz Company* (March 13, 2024) be permitted to be removed from the proposal according to the attached exhibit in order to allow the proposal to appear in the 2024 proxy. The Staff has long had a practice of directing specific text to be omitted from rule 14a-8 proposals when such text was determined to be misleading. Thus many rule 14a-8 proposals were allowed to go forward by omitting certain text. This is to request that this same practice be applied to this proposal. This proposal is still a complete proposal with the cited text removed.

I have also asked the Company hours ago whether Mr. John Pope, age 74, has been nominated by the Board for another director term at the 2024 annual meeting. If Mr. Pope is not nominated then there is an additional basis to ask for reconsideration.

I hope to supplement this request for reconsideration.

Sincerely,



John Chevedden

cc: Kenneth Steiner

Heidi Miller

[KHC – Rule 14a-8 Proposal, October 22, 2023]
[This line and any line above it – *Not* for publication.]

Proposal 4 – Independent Board Chairman

Shareholders request that the Board of Directors adopt an enduring policy, and amend the governing documents as necessary in order that 2 separate people hold the office of the Chairman and the office of the CEO.

Whenever possible, the Chairman of the Board shall be an Independent Director.

The Board has the discretion to select a Temporary Chairman of the Board who is not an Independent Director to serve while the Board is seeking an Independent Chairman of the Board on an expedited basis.

It is best practice to adopt this proposal soon. However this policy could be phased in when there is a contract renewal for our current CEO or for the next CEO transition.

This proposal topic won 52% support at Boeing and 54% support at Baxter International in 2020. Boeing then adopted this proposal topic in 2020.

~~This proposal is important to Kraft Heinz because the current Kraft Heinz lead director, John Pope, does not seem to have enough stature to be lead director and seems lucky to have such a title. If a person has an exalted title compared to his qualifications that person is likely to be happy to just go along for the ride.~~

~~Mr. Pope's Career Highlight for the last 30 years is a position with a firm that has less than \$5 million in annual revenue according to at least one source. Kraft Heinz has annual revenue of \$26 billion.~~

Please vote yes:

Independent Board Chairman – Proposal 4

[The line above – *Is* for publication. Please assign the correct proposal number in the 2 places.]

March 15, 2024

VIA ONLINE SUBMISSION

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

Re: *The Kraft Heinz Company*
Stockholder Proposal of Kenneth Steiner
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

By letter submitted March 13, 2024, John Chevedden, on behalf of Kenneth Steiner (the “Proponent”), requested that the staff of the Division of Corporation Finance (the “Staff”) of the Securities and Exchange Commission (the “Commission”) reconsider its decision, dated March 13, 2024, concurring that The Kraft Heinz Company (the “Company”) may omit a stockholder proposal that Mr. Chevedden submitted on behalf of the Proponent (the “Proposal”) from the Company’s proxy statement and form of proxy for its 2024 Annual Meeting of Stockholders (the “2024 Proxy Materials”) under Rule 14a-8(i)(8) and allow the Proponent to revise the Proposal to remove certain text (the “Request for Reconsideration”). As discussed further below, the Company believes the Proponent’s request should be denied as it is untimely.

By way of background, we submitted a no-action request (the “No-Action Request”) on behalf of the Company and with a copy to the Proponent on December 29, 2023, no later than 80 days prior to the date that the Company intended to file its definitive 2024 Proxy Materials with the Commission. Mr. Chevedden subsequently submitted to the Staff multiple letters on behalf of the Proponent, dated December 31, 2023, January 7, 2024, January 7, 2024, and January 21, 2024. The Staff responded to the No-Action Request on March 13, 2024, concurring that the Company could exclude the Proposal under Rule 14a-8(i)(8).

Since receiving the Staff’s response to the No-Action Request, the Company has finalized and authorized printing of its form of proxy card, has finalized its proxy statement, and has signed off on printing of its proxy statement, which printing and mailing must occur in short order in order to utilize notice and access under Rule 14a-16. Therefore, granting the Request for Reconsideration would impose significant burdens and expense on the Company. Likewise,

Office of Chief Counsel
Division of Corporation Finance
March 15, 2024
Page 2

if required, mailing supplemental proxy materials and soliciting revised proxies for the 2024 Annual Meeting of Stockholders would impose substantial time and expense burdens on the Company and create potential confusion among stockholders. As such, it would be unfair and unduly burdensome for the Staff to consider the Request for Reconsideration at this time.

The Request for Reconsideration asks the Staff to allow the Proponent to amend the Proposal to exclude certain text that was the basis for the No-Action Request and to require that the Proposal as so amended appear in the Company's 2024 Proxy Materials. For the reasons described above, this request is untimely. The Request for Reconsideration also suggests that there would be an additional basis for reconsideration if the Board's current Lead Director, John Pope, has not been nominated by the Company's Board of Directors for election at the 2024 Annual Meeting of Stockholders. However, the Company has confirmed to us that Mr. Pope has been nominated for election at the Company's 2024 Annual Meeting of Stockholders and will be named in the Company's 2024 Proxy Materials. In light of these considerations, the Staff should deny the Proponent's Request for Reconsideration.

If we can be of any further assistance in this matter, please do not hesitate to call me at (212) 351-2309 or Heidi Miller, the Company's Corporate Secretary and Deputy General Counsel, Corporate Governance and Securities, at (847) 646-6016. Correspondence regarding this letter should be sent to shareholderproposals@gibsondunn.com.

Sincerely,



Lori Zyskowski

cc: Heidi Miller, The Kraft Heinz Company
John Chevedden
Kenneth Steiner

March 17, 2024

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

6 Rule 14a-8 Proposal
The Kraft Heinz Company (KHC)
Independent Board Chairman
Kenneth Steiner
472876
Request for Reconsideration

Ladies and Gentlemen:

This is a supplement to the Request for Reconsideration regarding the December 29, 2023 no-action request.

Rule 14a-8(i)(8) (relevant page attached) requires that the “proposal” deal with “the competence, business judgment, or character of one or more nominees or directors” in order to be excluded. There is no footnote that would purportedly say that in certain cases the “proposal” can be excluded if only the supporting statement deals with the “competence” of a director.

Here the resolved statement only deals with an independent board chairman. The resolved statement has nothing to do with the “competence” of a director. The entire thrust of the proposal is in the resolved statement. And the supporting statement only gives reasons why a particular director may not be the best selection for the elevated role of lead director. Perhaps the original text of the proposal should have added that the text regarding the lead director does not mean that the lead director is not qualified to be a director.

The initial no action request did not claim the “proposal” related to the election of a specific director. The initial no action request had the misleading heading that “The Proposal and Supporting Statement Relate To The Election Of A Specific Director” since only the supporting statement could be claimed to relate to an election of a director.

Modifying a resolved statement seems to be a higher hurdle than omitting a succinct part of a supporting statement. The Staff has allowed proponents to modify the resolved statement of declassification proposals to allow directors to sever out their remaining 3-years terms.

The Staff also allows misleading supporting statements to be omitted so that proposals can be published in proxies.

It would seem to follow that if the Staff allows the modification of a resolved statement that deletion of succinct supporting statement text would be a lesser accommodation.

This Request for Reconsideration was submitted on the same day that the Staff letter was dated.

Many companies have published rule 14a-8 proposals in their proxies and then reached an agreement with the proponent that then made the proposal moot. Companies have simply made an announcement that the matter will not come to vote. Here the Company can publish this Proposal in its proxy and then potentially announce that the matter will not come to a vote if applicable.

Sincerely,



John Chevedden

cc: Kenneth Steiner

Heidi Miller

NOTE TO PARAGRAPH (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law*: If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

NOTE TO PARAGRAPH (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules*: If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including §240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest*: If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance*: If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority*: If the company would lack the power or authority to implement the proposal;

(7) *Management functions*: If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Director elections*: If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

(9) *Conflicts with company's proposal*: If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

NOTE TO PARAGRAPH (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented*: If the company has already substantially implemented the proposal;

[KHC – Rule 14a-8 Proposal, October 22, 2023]
[This line and any line above it – *Not* for publication.]

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~~Mr. Pope's Career Highlight for the last 30 years is a position with a firm that has less than \$5 million in annual revenue according to at least one source. Kraft Heinz has annual revenue of \$26 billion.~~

Please vote yes:

Independent Board Chairman – Proposal 4

[The line above – *Is* for publication. Please assign the correct proposal number in the 2 places.]