



DIVISION OF
CORPORATION FINANCE

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

April 12, 2023

Marc S. Gerber
Skadden, Arps, Slate, Meagher & Flom LLP

Re: Rite Aid Corporation (the "Company")
Incoming letter dated February 13, 2023

Dear Marc S. Gerber:

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

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(f) because the Proponent did not comply with Rule 14a-8(b)(1)(iii). As required by Rule 14a-8(f), the Company notified the Proponent of the problem, and the Proponent failed to adequately correct it. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(b)(1)(iii) and 14a-8(f).

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/2022-2023-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: John Chevedden

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

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BY EMAIL (shareholderproposals@sec.gov)

February 13, 2023

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

RE: Rite Aid Corporation – 2023 Annual Meeting
Omission of Shareholder Proposal of
Kenneth Steiner

Ladies and Gentlemen:

Pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), we are writing on behalf of our client, Rite Aid Corporation, a Delaware corporation (“Rite Aid”), to request that the Staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) concur with Rite Aid’s view that, for the reasons stated below, it may exclude the shareholder proposal and supporting statement (the “Proposal”) submitted by John Chevedden on behalf of Kenneth Steiner (the “Proponent”) from the proxy materials to be distributed by Rite Aid in connection with its 2023 annual meeting of stockholders (the “2023 proxy materials”).

In accordance with Section C of Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”), we are emailing this letter and its attachments to the Staff at shareholderproposals@sec.gov. In accordance with Rule 14a-8(j), we are simultaneously sending a copy of this letter and its attachments to the Proponent as notice of Rite Aid’s intent to omit the Proposal from the 2023 proxy materials.

Rule 14a-8(k) and Section E of SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the shareholder proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponent that if the Proponent submits correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to Rite Aid.

I. The Proposal

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

Shareholders request that the Board seek shareholder approval of any senior manager's new or renewed pay package that provides for severance or termination payments with an estimated value exceeding 2.99 times the sum of the executive's base salary plus target short-term bonus.

II. Basis for Exclusion

We hereby respectfully request that the Staff concur in Rite Aid's view that it may exclude the Proposal from the 2023 proxy materials pursuant to Rule 14a-8(b)(1) and Rule 14a-8(f)(1) because the Proponent failed to provide Rite Aid with a written statement regarding his ability to meet with Rite Aid after receiving notice of such deficiency.

III. Background

Rite Aid received the Proposal by email from Mr. Chevedden on December 14, 2022, along with a cover letter from the Proponent. On December 21, 2022, Rite Aid sent a letter to the Proponent and Mr. Chevedden, by email, requesting (i) a written statement from the record owner of the Proponent's shares verifying that the Proponent had beneficially owned the requisite number of shares of Rite Aid's common stock continuously for at least the requisite period preceding and including the date of submission of the Proposal, (ii) a written statement from the Proponent with respect to his ability to meet with Rite Aid regarding the Proposal in accordance with Rule 14a-8(b)(1)(iii), and (iii) written documentation from the Proponent that includes a statement identifying the specific topic of the Proposal to be submitted and a statement supporting the Proposal in accordance with Rule 14a-8(b)(1)(iv) (the "Deficiency Letter"). On December 22, 2022, Rite Aid received an email from Mr. Chevedden attaching a letter from TD Ameritrade regarding the Proponent's ownership of Rite Aid common stock (the "Broker Letter"). On December 26, 2022, Rite Aid received an email from the Proponent identifying the specific topic of the Proposal and a statement supporting the Proposal. On January 12, 2023, Rite Aid received an email from Mr. Chevedden regarding the Proponent's willingness to

meet with Rite Aid regarding the Proposal, which did not specify the business days and specific times that the Proponent was available to discuss the Proposal with Rite Aid. Copies of the Proposal, cover letter, Deficiency Letter and relevant correspondence are attached hereto as Exhibit A.

IV. The Proposal May be Excluded Pursuant to Rule 14a-8(b)(1) and Rule 14a-8(f)(1) Because the Proponent Failed to Provide Rite Aid with a Written Statement Regarding his Ability to Meet with Rite Aid After Receiving Notice of Such Deficiency.

Rule 14a-8(b)(1) provides that, in order to be eligible to submit a proposal, a shareholder must satisfy certain requirements, including providing a written statement that he or she is able to meet with the company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal and include contact information as well as business days and specific times of availability to discuss the proposal that are within the regular business hours of the company's principal executive offices. Under Rule 14a-8(f)(1), a company may exclude a shareholder proposal if the proponent fails to meet the eligibility requirements of Rule 14a-8(b), provided that the company notifies the proponent of the deficiency within 14 calendar days of receiving the proposal and the proponent fails to correct the deficiency within 14 days of receiving such notice.

The Staff has consistently permitted exclusion of shareholder proposals under Rule 14a-8(f)(1) where a proponent fails to meet the eligibility requirements of Rule 14a-8(b) to submit a shareholder proposal after receiving a timely deficiency notice from the company, including with respect to the requirement of Rule 14a-8(b)(1)(iii) to provide a written statement of the proponent's ability to meet with the company regarding the proposal. *See, e.g., Textron Inc.* (Jan. 23, 2023) (permitting exclusion of a proposal under Rule 14a-8(f)(1) where the proponent failed to provide a statement regarding the proponent's availability to meet with the company after receiving the company's timely deficiency notice); *American Tower Corp.* (Jan. 17, 2023) (permitting exclusion of a proposal under Rule 14a-8(f)(1) where the proponent provided a statement regarding the proponent's availability to meet with the company 16 days after receiving the company's timely deficiency notice); *Molina Healthcare, Inc.* (Jan. 17, 2023) (permitting exclusion of a proposal under Rule 14a-8(f)(1) where the proponent failed to provide a statement regarding the proponent's availability to meet with the company after receiving the company's timely deficiency notice); *Deere & Company* (Dec. 5, 2022) (permitting exclusion of a proposal under Rule 14a-8(f)(1) where the proponent failed to provide a statement regarding the proponent's availability to meet with the company that was compliant with Rule 14a-8(b)(1)(iii) after receiving the company's timely deficiency notice); *PPL Corp.* (Mar. 9, 2022) (permitting exclusion under Rule 14a-8(f)(1) of a proposal

where the proponent failed to provide a statement regarding the proponent's availability to meet with the company after receiving the company's timely deficiency notice); *American Tower Corp.* (Feb. 8, 2022) (same); *Visa Inc.* (Nov. 8, 2022) (permitting exclusion under Rule 14a-8(f)(1) of a proposal where the proponent failed to supply sufficient evidence of eligibility to submit a shareholder proposal after receiving the company's timely deficiency notice); *Walgreens Boots Alliance, Inc.* (Nov. 8, 2022) (same).

In this instance, the Proponent failed to respond to Rite Aid's timely request to provide evidence of eligibility to submit a shareholder proposal within the 14-day deadline. In this regard, after receiving the Proposal on December 14, 2022, Rite Aid sent the Deficiency Letter to the Proponent and Mr. Chevedden, by email, on December 21, 2022, timely notifying the Proponent of the procedural defects under Rule 14a-8(b). The Deficiency Letter specifically requested "a written statement that the [P]roponent is able to meet with Rite Aid in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the [P]roposal" and "business days and specific times that the Proponent is available to discuss the Proposal with Rite Aid." Consistent with Rule 14a-8(f)(1), the Deficiency Letter requested that the Proponent's written statement of ability to meet with Rite Aid be provided within 14 days of the Proponent's receipt of the Deficiency Letter. The Deficiency Letter was sent to the Proponent and his representative by email during business hours on December 21, 2022. Accordingly, the written statement of ability to meet, to be timely, would have had to be received by Rite Aid by January 4, 2023. Rite Aid has not received the required written statement of the Proponent's ability to meet with Rite Aid, including the business days and specific times, since sending the Deficiency Letter. In addition, even if the email Rite Aid received from Mr. Chevedden on January 12, 2023 had included the business days and specific times the Proponent was available to meet with Rite Aid, such email was received 22 days after the Proponent's receipt of the Deficiency Letter and therefore beyond the 14-day deadline.

Accordingly, consistent with the precedent described above, the Proposal may be excluded pursuant to Rule 14a-8(b)(1) and Rule 14a-8(f)(1) as the Proponent has failed to provide a written statement of ability to meet with Rite Aid to discuss the Proposal after receiving timely notice of such deficiency.

V. Conclusion

Based upon the foregoing analysis, Rite Aid respectfully requests that the Staff concur that it will take no action if Rite Aid excludes the Proposal from its 2023 proxy materials.

Office of Chief Counsel
February 13, 2023
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Should the Staff disagree with the conclusions set forth in this letter, or should any additional information be desired in support of Rite Aid's position, we would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response. Please do not hesitate to contact the undersigned at (202) 371-7233.

Very truly yours,



Marc S. Gerber

Enclosures

cc: Paul Gilbert
Executive Vice President, Secretary and General Counsel
Rite Aid Corporation

Kenneth Steiner

John Chevedden

EXHIBIT A

(see attached)

From: John Chevedden [REDACTED]

Date: Wednesday, December 14, 2022 at 9:37 AM

To: "Paul D. Gilbert" [REDACTED], Sherrie L Hinkle [REDACTED]

Subject: Rule 14a-8 Proposal (RAD)

Rule 14a-8 Proposal (RAD)

Dear Mr. Gilbert,

Please see the attached rule 14a-8 proposal.

Please confirm that this is the correct email address for rule 14a-8 proposals.

John Chevedden



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Kenneth Steiner

[REDACTED]
[REDACTED]
Mr. Paul Gilbert
Corporate Secretary
Rite Aid Corporation (RAD)
1200 Intrepid Avenue
Second Floor
Philadelphia, PA

Dear Mr. Gilbert,

I purchased stock in our company because I believed our company had potential for improved performance. My attached Rule 14a-8 proposal is submitted in support of the long-term performance of our company. This Rule 14a-8 proposal is submitted as a low-cost method to improve company performance.

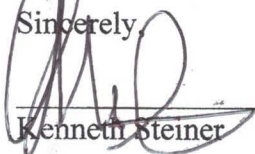
My proposal is for the next annual shareholder meeting. I will meet Rule 14a-8 requirements including the continuous ownership of the required stock value until after the date of the respective shareholder meeting. My submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

This is my proxy for John Chevedden and/or his designee to forward this Rule 14a-8 proposal to the company and to act on my behalf regarding this Rule 14a-8 proposal, and/or modification of it, for the forthcoming shareholder meeting before, during and after the forthcoming shareholder meeting. Please direct all future communications regarding my rule 14a-8 proposal to John Chevedden

[REDACTED]
[REDACTED]
to facilitate prompt and verifiable communications.
Please identify this proposal as my proposal exclusively.

I expect to forward a broker letter soon so if you acknowledge this proposal in an email message it may very well save you from requesting a broker letter from me.

Sincerely,


Kenneth Steiner

10/6/22
Date

cc: Sherrie L Hinkle <[REDACTED]>
PH: [REDACTED]
FX: [REDACTED]

[RAD: Rule 14a-8 Proposal, December 14, 2022]
[This line and any line above it – *Not* for publication.]
Proposal 4 – Shareholder Ratification of Termination Pay

Shareholders request that the Board seek shareholder approval of any senior manager’s new or renewed pay package that provides for severance or termination payments with an estimated value exceeding 2.99 times the sum of the executive’s base salary plus target short-term bonus.

“Severance or termination payments” include cash, equity or other compensation that is paid out or vests due to a senior executive’s termination for any reason. Payments include those provided under employment agreements, severance plans, and change-in-control clauses in long-term equity plans, but not life insurance, pension benefits, or deferred compensation earned and vested prior to termination.

“Estimated total value” includes: lump-sum payments; payments offsetting tax liabilities; perquisites or benefits not vested under a plan generally available to management employees; post-employment consulting fees or office expense; and equity awards if vesting is accelerated, or a performance condition waived, due to termination.

The Board shall retain the option to seek shareholder approval after material terms are agreed upon. This proposal gives management maximum flexibility because it places no limit on termination pay. Elevated termination pay simply needs to be subject to a non binding shareholder vote.

Generous performance-based pay can be okay but shareholder ratification of “golden parachute” severance packages with a total cost exceeding 2.99 times base salary plus target bonus better aligns management pay with shareholder interests.

For instance at one company, that does not have this policy, if the CEO is terminated he could receive \$44 million in termination pay – over 10 times his base salary plus short-term bonus. The same person could receive a whopping \$124 million in accelerated equity payouts in the event of a change in control, even if he remained employed.

It is in the best interest of Rite Aid shareholders and the morale of Rite Aid employees to be protected from such lavish management termination packages for one person.

It is important to have this policy in place so that Rite Aid management stays focused on improving company performance as opposed to seeking a merger mostly to trigger a management golden parachute windfall.

Shareholder Ratification of Excessive Termination Pay, the topic of this proposal, received between 51% and 65% support at:

AbbVie (ABBV)
FedEx (FDX)
Spirit AeroSystems (SPR)
Alaska Air (ALK)
Fiserv (FISV)

This proposal is more appropriate at Rite Aid because executive pay was rejected by almost 20% of shares in 2022. A 5% rejection of executive pay is often the norm at well performing companies.

Please vote yes:
Shareholder Ratification of Termination Pay – Proposal 4
[The above line – *Is* for publication.]

Notes:

Please use the title of the proposal in bold in all references to the proposal in the proxy and on the ballot. If there is objection to the title please negotiate or seek no action relief as a last resort.

“Proposal 4” stands in for the final proposal number that management will assign.

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also: Sun Microsystems, Inc. (July 21, 2005).

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. **I intend to continue holding the same required amount of Company shares through the date of the Company’s 2023 Annual Meeting of Stockholders as is or will be documented in my ownership proof.**

Please acknowledge this proposal promptly by email [REDACTED]

It is not intend that dashes (–) in the proposal be replaced by hyphens (-).
Please alert the proxy editor.

The color version of the below graphic is to be published immediately after the bold title line of the proposal at the **beginning** of the proposal and be **center justified**.



FOR

**Shareholder
Rights**

From: Sherrie L Hinkle [REDACTED]
Sent: Wednesday, December 21, 2022 10:22 AM
To: [REDACTED]
Cc: Paul D. Gilbert; ksteiner [REDACTED]
Subject: [Ext] Response to Shareholder Proposal Received December 14, 2022
Attachments: Stockholder Ltr. to John Chevedden and Kenneth Steiner - 12-20-22.DOC.pdf;
Stockholder Ltr. to John Chevedden and Kenneth Steiner - 12-20-22 Exhibit A-Rule
14a-8.DOC.pdf

Good morning Mr. Chevedden –

Attached is Paul Gilbert’s response, including an attachment to his response, to your shareholder proposal which was received December 14, 2022.

Best,

Sherrie L. Hinkle \ Executive Asst. to Paul D. Gilbert
EVP, Chief Legal Officer and Secretary
P [REDACTED]
RiteAid.com



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CORPORATE OFFICE

200 Newberry Commons, Etters, PA 17319

Paul D. Gilbert

Executive Vice President, Chief Legal Officer and
Secretary

December 20, 2022

BY EMAIL

John Chevedden
[REDACTED]
[REDACTED]
[REDACTED]

RE: Notice of Deficiency

Dear Mr. Chevedden:

I am writing to acknowledge receipt on December 14, 2022 of the shareholder proposal submitted by you on behalf of Kenneth Steiner (the “Proponent”) to Rite Aid Corporation pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended, for inclusion in Rite Aid’s proxy materials for the 2023 Annual Meeting of Stockholders (the “Annual Meeting”).

Under Rule 14a-8, in order to be eligible to submit a proposal for the Annual Meeting, a proponent must have continuously held:

- at least \$2,000 in market value of Rite Aid common stock for at least three years, preceding and including the date that the proposal was submitted;
- at least \$15,000 in market value of Rite Aid common stock for at least two years, preceding and including the date that the proposal was submitted; or
- at least \$25,000 in market value of Rite Aid common stock for at least one year, preceding and including the date that the proposal was submitted.

For your reference, a copy of Rule 14a-8 is attached to this letter as Exhibit A.

Our records indicate that the Proponent is not a registered holder of Rite Aid common stock. Please provide a written statement from the record holder of the Proponent's shares (usually a bank or broker) and a participant in the Depository Trust Company (DTC) verifying that, at the time you submitted the Proposal, which was December 14, 2022, the Proponent had beneficially held the requisite number of shares of Rite Aid common stock continuously for at least the requisite period preceding and including December 14, 2022.

In order to determine if the bank or broker holding the Proponent's shares is a DTC participant, the Proponent can check the DTC's participant list, which is currently available on the Internet at <http://www.dtcc.com/client-center/dtc-directories>. If the bank or broker holding the Proponent's shares is not a DTC participant, the Proponent also will need to obtain proof of ownership from the DTC participant through which the shares are held. The Proponent should be able to find out who this DTC participant is by asking the Proponent's broker or bank. If the DTC participant knows the Proponent's broker or bank's holdings, but does not know the Proponent's holdings, the Proponent can satisfy Rule 14a-8 by obtaining and submitting two proof of ownership statements verifying that, at the time the Proposal was submitted, the required amount of shares were continuously held for at least the requisite period – one from the Proponent's broker or bank confirming the Proponent's ownership, and the other from the DTC participant confirming the broker or bank's ownership. For additional information regarding the acceptable methods of proving the Proponent's ownership of the minimum number of shares of Rite Aid common stock, please see Rule 14a-8(b)(2) in Exhibit A.

In addition, Rule 14a-8 requires a proponent to provide Rite Aid with a written statement that the proponent is able to meet with Rite Aid in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the proposal. The Proponent has not provided such a statement. Accordingly, please provide Rite Aid with this statement, which must include the Proponent's contact information as well as business days and specific times that the Proponent is available to discuss the proposal with Rite Aid. The Proponent must identify times that are within the regular business hours of Rite Aid's principal executive offices.

Also, Rule 14a-8 requires a proponent using a representative to submit a shareholder proposal to provide written documentation that:

- identifies the company to which the proposal is directed;
- identifies the annual or special meeting for which the proposal is submitted;
- identifies the proponent and the person acting on the proponent's behalf as a representative;
- includes the proponent's statement authorizing the designated representative to submit the proposal and otherwise act on the proponent's behalf;

John Chevedden
December 20, 2022
Page 3

- identifies the specific topic of the proposal to be submitted;
- includes the proponent's statement supporting the proposal; and
- is signed and dated by the proponent.

The Proponent's letter does not satisfy Rule 14a-8(b) in that it fails to identify the specific topic of the proposal to be submitted and fails to include the Proponent's statement supporting the proposal. Accordingly, please submit documentation consistent with the requirements of Rule 14a-8.

Rule 14a-8 requires that the documentation be postmarked or transmitted electronically to us no later than 14 calendar days from the date you receive this letter. Once we receive your response, we will be in a position to determine whether the Proposal is eligible for inclusion in the proxy materials for the Annual Meeting. Rite Aid reserves the right to seek relief from the Securities and Exchange Commission as appropriate.

Very truly yours,

DocuSigned by:


Paul D. Gilbert
Executive Vice President, Chief Legal
Officer and Secretary

Enclosure

cc: Kenneth Steiner (via email at [REDACTED])

From: John Chevedden [REDACTED]
Sent: Thursday, January 12, 2023 8:11 PM
To: Paul D. Gilbert [REDACTED]
Cc: Kenneth Steiner [REDACTED]; Sherrie L Hinkle [REDACTED]
Subject: Rule 14a-8 Proposal (RAD)

Mr. Gilbert,

Mr. Steiner is willing to meet with you.

If you do not wish to meet it could be taken as a sign that you have no interest in a meeting and only see the management request for a meeting as a means to submit a no action request.

John Chevedden

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