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January 9, 1997

Mr. Arthur Levitt  
Chair  
Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, D.C. 20549

Dear Arthur:

The recent highly publicized case involving employment discrimination at Texaco clearly demonstrates the critical impact of employment-related issues on shareholder interest. The precipitous loss of \$800 million in stock value, the \$176 million settlement of the case, and the widespread negative image of the company cumulatively diminished shareholder vote.

While the high profile of the Texaco case has re-opened the debate on how corporate employment practices impact shareholder value, other companies such as Chevron, Denny's and Shoney's have settled similar employment lawsuits - Chevron, for \$8.5 million, Denny's, for \$45 million, and Shoney's, for \$120 million.

These developments compel me to reiterate my appeal to you for the reversal of the Securities and Exchange Commission's ("SEC") current interpretation of Rule 14a-8(c)(7), that employment-related shareholder resolutions are matters of ordinary business, and therefore may be excluded from proxy statements by corporations.

I, along with The Interfaith Center on Corporate Responsibility and the Calvert Group, Ltd., petitioned the SEC for a rule change on July 27, 1995. Now you have before you an appeal of a staff decision to permit Shoney's to omit a shareholder proposal calling on the company to report on its efforts to reverse discriminatory employment and purchasing practices. It is of critical importance that the SEC use this opportunity to reverse an ill-advised policy.

As you know, on January 15, 1993, the SEC affirmed the SEC staff's determination which permitted Cracker Barrel Old Country Stores, Inc. ("Cracker Barrel") to exclude from its proxy statement a New York City Employees' Retirement System shareholder proposal requesting that the company implement non-discriminatory policies relating to sexual orientation and add explicit prohibitions against such discrimination to its corporate employment policy

statement. In permitting Cracker Barrel to exclude NYCERS' proposal, the staff decision stated that:

the Division has determined that the fact that a shareholder proposal concerning a company's employment policies and practices for the general workforce is tied to a social issue will no longer be viewed as removing the proposal from the realm of ordinary business operations of the registrant. Rather, determinations with respect to any such proposals are properly governed by the employment-based nature of the proposal.

In the past, the SEC repeatedly had held that proposals involving equal employment opportunities for racial and religious minorities and proposals regarding affirmative action with respect to racial minorities and women were beyond the realm of ordinary business. See American Telephone & Telegraph Co. (January 5, 1990) (proposal of White rights organization relating to phase-out of affirmative action program was not excludable under 14a-8(c) (7) because the program, "designed to assure equal employment opportunities for minority group members, involves policy issues that preclude its exclusion under that provision"). See also American Telephone & Telegraph Co. (December 21, 1988) (proposal asking company to describe hiring and performance appraisal processes, including safeguards to assure non-discrimination, describe company promotion policy, including efforts to ensure fair employment of minorities and women, and revise company's affirmative action program to ensure that minorities and women were not under-represented in management and executive positions was not excludable for same reasons as noted in January 5, 1990 AT&T Staff determination; Dayton Hudson Corporation (March 5, 1991) ("questions with respect to equal employment opportunity and affirmative action involve policy decisions beyond those personnel matters that constitute the Company's ordinary business"); CBS, Inc (March 7, 1991) (same); General Electric Company (January 25, 1991) (same); Figgie International Inc. (March 23, 1989) (proposal for report to investors and employees regarding safety and health benefits available to women employees was not excludable under 14a-8(c) (7) because it involved "substantial corporate policy considerations"); Ruddick Corporation (November 20, 1989) (proposal involving company taking steps to ensure that one of its subsidiaries adhere to employees' federal rights in employment discrimination and union participation not excludable under 14a-8(c) (7) because it "addresses policy matters with respect to the Company's attitude regarding compliance with federal employment discrimination, equal opportunity and labor laws that preclude omission as a matter of ordinary business"); V.F Corporation (February 14, 1991) (proposal for report on company's equal employment and affirmative action programs not excludable under 14a-8(c) (7) because it related to "matters involving general policy decisions which are beyond the conduct of the Company's day-to-day operations"); Fruehauf Corp. (February 24, 1989) (proposal for report on religious discrimination in employment in Northern Ireland operations not excludable because it raised "questions with significant policy implications that are beyond the realm of ordinary business"); The Boeing Company (February 8, 1989) (proposal for report on extent to which a supplier adhered to company's religious non-discrimination employment policies not excludable under 14a-8(c) (7) because it involved "corporate policy considerations that go beyond the conduct of the Company's ordinary business operations").

Therefore, the SEC's January 15, 1993 action permitting the exclusion from proxy statement of employment-related shareholder proposals, even if such proposals involve social

policy issues, represented an abrupt policy shift from the SEC's prior rulings and official statements with enormous policy implications.

In light of the situation at Texaco, there can be no doubt that corporate employment practices significantly impact the interests of shareholders. Therefore, the SEC's continued classification of employment-related shareholder proposals as "ordinary business" denies shareholders the right to offer, for consideration and vote, recommendations for corporate policy which potentially could safeguard their interests.

I appeal again for your reversal of the SEC's current interpretation of Rule 14a-8(c) (7).

Sincerely,

Alan G. Hevesi

AGH:kbs