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Hank Boerner's

Corporate Governance & Accountability UPDATE™

NEW SEC PROCEDURE FOR COMPENSATION REVIEW BEFORE FILING

As the second year of reporting executive compensation under the new rules approaches, the **Securities & Exchange Commission** (SEC) has established a new procedure for early staff review of corporate *Executive Compensation Disclosure* (in time for the 1994 proxy season).

Issuers may submit the executive compensation disclosures for staff review prior to filing with SEC.

The SEC staff should be provided with all of the disclosure required by Items 402 and 404 of Regulation S-K and Item 10 of Schedule 14-A at least 20 days prior to filing.

Submissions should be directed to:

John Bernas
SEC Corporation
Finance Division
Mail Stop 3-7
450 Fifth Street NW
Washington DC 20549
Fax line: 202-272-7546

Confirm SEC receipt by calling **John Bernas** or **Herb Scholl** at 202-272-3097.

Public Interest and Shareholder Targets:

COUNCIL ON ECONOMIC PRIORITIES NAMES "WORST POLLUTERS" FOR 1993 -- COMPANIES ARE 1994 TARGETS FOR CAMPAIGN FOR CLEANER CORPORATIONS

Since 1991, the **Council on Economic Priorities'** (CEP) researchers have analyzed the environmental records of major corporations and issued 30-to-80-page reports on major companies (more than 110 to date). Hundreds of companies will be examined over the next few years, says the CEP.

Ten large corporations with what CEP terms "the most egregious environmental records" were targeted in 1991 and 1992 for action by stakeholders — investors, employees, government officials, law firms, public interest groups, environmental activists, regulators, financial analysts, and others who regularly follow CEP research.

The 1992 "Least Wanted" List was released in December. This short list of major companies is selected by a panel of independent judges after measurement against their industry and other similar companies. The firms are now targets of ***The Campaign for Cleaner Corporations,*** an activist campaign waged by more than 20 consumer, environmental and shareholder groups which have joined forces with CEP.

These include: **The Sierra Club**; **National Toxics Campaign**; **Worldwatch Institute**; **Interfaith Center on Corporate Responsibility**; **Greenpeace**; **Student Environmental Action Coalition** (220 high schools and college campuses); ***Mother Jones*** magazine (the January 1993 issue had a special pull-out poster on the Campaign for Cleaner Corporations.)

After the December 1992 identification of the worst offenders, these companies became prime targets for 1993 shareholder and public interest group actions.

Through the **Interfaith Center on Corporate Responsibility**, (**ICCR**), religious investor groups simultaneously launched environmentally-related shareholder resolutions at these companies in the 1993 proxy season. The ten companies on the 1993 list are expected to be similarly targeted in the 1994 proxy season.

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1994 Campaign for Cleaner Corporations Targets
Council on Economic Priorities Names Companies It Deems "America's Least Wanted"

1993 "AMERICA'S LEAST WANTED" LIST:
In December 1993, the CEP announced its "1993 America's Least Wanted" list of corporate offenders. The CEP's new list of what the organization terms are "America's worst environmental polluters" for 1994 stakeholder action: **GE, DuPont, Exxon, Commonwealth Edison, International Paper**, **Louisiana-Pacific**, **MAXXAM**, **Rockwell**, **Texaco**.

The CEP noted that of the eight companies listed in 1992, seven met with CEP and judges from the independent panel; four were subsequently removed and improvement acknowledged: **Cargill, GM, Georgia-Pacific and USX Corp.** CEP pointed out that this is that proof citizen activism and constructive engagement can produce positive change. The firms named for 1994 shareholder and public interest group attention and action:

• **General Electric** (Was on 1992 list.) Environmental record cited by CEP: GE inadequately educates consumers on energy efficient lighting; Company is a steam system and turbine supplier for "problematic" nuclear plants; C-3 Campaign recommends that GE improve its nuclear plant safety record. Judges were impressed with GE's compact fluorescent bulbs, which have received the prestigious *Green Seal* award, and want production of more such bulbs and less fluorescent types.

• **DuPont** (On 1992 list.) Cited: continuing deep-well injection of toxic wastes until year 2000; CEP says Company will not disclose toxic releases at international facilities; C-3 recommends that DuPont speed up phase-out of deep-well injection. CEP recognizes that DuPont is committed to reduction of toxic waste with significant reductions after 1995. The Company is committed to eliminating production of its ozone-depleting CFCs in 1994, one year before required. However, this objective could be complicated by a request to DuPont from the **Environmental Protection Agency** to continue production up to the deadline, to meet industry demands. Public policy and shareholder activism seem to be on a collision course here.

• **Exxon** Cited: Exxon's attempts to portray Valdez Alaska cleanup as complete, which the CE and others have criticized; CEP says Company's toxic chemicals releases are increasing; recommends Exxon enter into meaningful dialogue with Alaska fishermen.

• **Commonwealth Edison** Cited: "poor record" on air pollution at fossil-fuel plants; $1.5 million in Nuclear Regulatory Commission fines (1988-1992); recommends improvement of nuclear safety compliance to industry average; Company now has worst overall performance in air emissions among 24 largest investor-owned electric utilities, claims CEP. Positive note: CEP says ComEd issues an annual environmental report and fully disclosed information requested to CEP. (Company serves Chicago and NE Illinois.)

• **International Paper** Cited: second highest level of toxic releases in industry; $1.5 million worker safety penalties (1988-1992); recommends that IP reduce toxic releases and safety violations. IP has the worst record in the paper and forest products industry for compliance with worker health and safety laws, claims CEP.

• **MAXXAM** (Was on 1992 list.) Cited: Company continues deep-well injection; CEP recommends that MAXXAM significantly reduce release of hydrochloric acid. Judges says Company is reluctant to move beyond "merely complying with environmental laws." The Company has doubled its product of timber in recent years, as it paid down debt acquired in the 1980s. Company disputes that the increase is to pay debt or that the debt is a reason for increased harvesting rates. Company disputes that the *Endangered Species Act* is applicable to private land.

• **Rockwell** Was on 1992 list. Company would not meet with CEP, says the organization. Cited: Rockwell was *only* 1992 listed company that did not meet with CEP; oganization says Company mismanaged operations at federal government's Rocky Flats plant; C-3 recommends that Rockwell disclose information to interested parties. CEP is obvious in its hositility toward Rockwell — Company "maintains a stone wall against accountability," says CEP. The organization cites Rockwell's position that it is no longer responsible for cleaning up Rocky Flats since its contract to operate the site expired several years ago.

• **Texaco Rainforest Action Network** will work "aggressively" to turn around Texaco, third largest U.S. oil company. Cited: series of large oil spills and related penalties (which CEP says has "ruined the Company's image and pocketbook"); former operations in Ecuador criticized for environmental impact; recommends release of HBT Agra (Canadian consulting firm) study on Ecuadorean operations, which are the subject of a lawsuit in Southern District of NY Federal Court (brought by the indigenous people of the Amazon Basin rainforest).

• **Texas Utilities** Just added to the list. Cited: While endorsing President Clinton's *Climate Challenge* program, and pledging to reduce the output of global warming gases, CEP says TU will be building several power plants that could boost carbon dioxide emissions by an additional 18 billion pounds per year by 2000. TU has the second worst compliance record for Nuclear Regulatory Commission; recommends that TU significantly expand conservation efforts. Company serves large segment of Texas population, needs new plants to serve population growth areas. CEP thinks fewer plants would result from conservation effort.

The 20 environmental groups in the campaign will continue support the program and will target the listed companies in 1994. **Working Assets** / **Long Distance** will inform its 60,000 subscribers of the environmental records of all target companies and will urge them to directly express their views to Texas Utilities.

GOOD NEWS FOR 4 COMPANIES:
Four of the eight companies named by CEP in December 1993 and targeted for shareholder activism in 1993 have been removed and praised by the organization:

• **Cargill** Largest privately-held U.S. company; CEP says it set a new standard for public disclosure by large, privately-held firms. Cargill will soon issue its first environmental report and has implemented an impressive array of measures to prevent phosphoric acid spills. Company reported a 30% decrease in toxic releases, 1988-1991; Cargill instituted an ergonomic program to prevent recurrence of worker injuries.

Quote: *Working with CEP was a positive learning experience in how to measure our environmental performance and ultimately, how to better our commitment to our customers. Our meetings with the CEP staff was time well spent.* **Joseph P. Botos**, Vice President - Environment, Health and Safety, Cargill.

• **General Motors** Under new corporate leadership, General Motors was credited with joining with other car makers, defense laboratories and the Clinton Administration to develop a super-efficient automobile. GM also endorses a phased-in gasoline tax (10 cents per year over the next five years). An employee at GM-Hughes Aircraft developed a lemon-based substitute for CFC's to clean circuit boards. Company is committed to its existing environmental programs despite harsh economic climate.

• **Georgia-Pacific** The new CEO hand-picked a new chief environmental officer — he is former EPA administrator **Lee Thomas** — and gave him a mandate to turn around the company's environmental policies. G-P will issue an annual environmental report with specific goals, timetables and publicly-disclosed annual monitoring of progress. Much of the quantitative content was given to CEP researchers and the C-3 judges. G-P will also extend environmental audits to vendors and will continue to improve the Company's worker health and safety records.

Quote: *I believe that dialogue between industry and organizations such as CEP is important for continued progress on environmental issues.* **Lee M. Thomas**, Senior VP - Environmental and Government Affairs, Georgia-Pacific.

• **USX** Cited for rare disclosure of substantive information and for winning a U.S. Department of Labor award for worker safety. USX took major steps to reduce toxic releases by closing its Fairless Works and shifting production to less-polluting facilities.

Quote: *USX made a good faith effort by supplying all of the information CEP needed to review our environmental record and most aspects of our social and corporate performance. The judges' findings are a welcome acknowledgment.* **Jim Hamilton**, General Manager-Public Affairs, USX.

1993 JUDGES:
The 1993 independent judges were: **Mike McCloskey** of **The Sierra Club**; astrophysicst **Dr. Carl Sagan**; **Dr. Ariane van Buren**, **Interfaith Center on Corporate Responsibility**; **Anthony Carfang**, **Covenant Investment Management**; **Susan Cohen**, **Stern School of Business, NYU**; **Sophia Collier**, **Working Assets Capital Management**; **Dr. Andy Smith**, **National Ministries**, **American Baptist Churches**; author **Paul Hawken**; **Kristin Finn**, **United States Trust Company**.

Reports on the companies cited for improvements and the 1993 "worst polluters" will be contained in the annual book, *Shopping for a Better World* (Ballantine Books.

Rebecca Leopold, Marketing Director, CEP's *Corporate Environmental Data Clearinghouse (CEDC),* explains that CEP was founded in 1969 and now has 6,500 members and an annual budget of $1.4 million. The CEP is an independent, non-profit public interest research organization that focuses on issues related to corporate social responsibility, the environment and conversion to a peaceful (non-defense) economy.

CEP researches, compiles and disseminates information on the social responsibility of corporations, in such areas as employment practices, the environment, safety, political influence. The organization develops criteria by which it rates and compares corporate performance in various areas.

Subscribers to the CEP's publications include corporations, institutional investors, brokers, lawmakers, foundations, banks, universities, unions, federal agencies, public interest groups.

The Corporate Environmental Data Clearinghouse (CEDC) was created by CEP in 1991 to research and analyze the environmental practices and policies of major U.S. corporations.

CEDC OBJECTIVES:
To provide detailed, comprehensive information about corporations' impact on the environment (publication of CEDC company reports, environmental ratings, SCREEN investor service, awards, Campaign for Cleaner Corporations).

To encourage corporations to improve their environmental policies and practices; to provide a sound basis for evaluating environmental policies; to develop criteria by which practices affecting the environment will be judged.

To ensure CEDC reports are available to: investors; corporations; professionals; non-profits; citizens; activists; public officials; academics.

CEP bestows annual *Corporate Conscience Awards.*

In-depth CEDC reports cover companies in these sectors: aerospace/defense; agribusiness; apparel; autos; beverages; chemicals; electric utilities; electrical equipment; footwear; forest products; household consumer products; oil; tobacco. All *S&P 500* firms will be analyzed; also other firms of significant size and impact.

Each CEDC report takes four months to prepare; sources include: government databases; industry and environmental experts; publications; legal databases; information provided by the company being analyzed.

Target companies get detailed questionnaires to complete; they also ask for telephone interviews and/or meetings with senior managers. Draft reports are submitted to the corporation and to an advisory panel for review and comments.

Fortune magazine calls the CEDC reports "a major source of information" for determining which companies score best on the environment.

Reports cover:

• In-depth environmental profile on the corporation as a whole and on facility basis.

• Toxic releases; waste management; health risks; energy use; natural resources; accidents and incidents; legal and political issues; Superfund involvement; compliance; litigation; PAC contributions; lobbying; corporate structure; environmental policies.

• Company performance over time (improvement or worsening of trend lines).

• Environmental performance compared to the rest of the industry (competitors), with graphs (toxic releases, air permit compliance, OSHA violations, environmental soundness, political contributions).

• Data on Company's proactive environmental activities related to products, technologies, operations, corporate strategies.

Who reads the reports? CEP says: consulting firms; financial institutions; corporations; law firms; universities; non-profits; environmental service organizations.

Total number of reports through 11/93: 110 companies

THE SCREEN PROGRAM FOR WALL STREET
Is a company heading for trouble on issues? Check with SCREEN, advises Director **Steve Dyott**. He heads the **Corporate Social Responsibility Research for Investors** service, which is designed to keep investors informed about the environment, labor, community outreach, equal opportunity; its focus is on SRI: *Socially Responsible Investing.*

Dyott explains: Investors can eliminate companies with poor performance, using negative screening; positive screening enables investors to identify companies with strong records in environmental stewardship, advancement of women and minorities, or community involvement. Pension and mutual funds use both services. More than $625 billion is now invested using some type of social screening, says CEP.

Issues monitored include: disclosure practices; charitable giving; the environment; South Africa; labor relations; women's advancement; minority advancement; military contracts; family benefits; animal testing.

SCREEN's research measures 11 issue areas and then is summarized in a rating system. The service issues 20 company-specific alerts (nuclear power, tobacco, product liability, Third World concerns).

SCREEN gathers information from:
- Government agencies, including **OSHA**, **EPA**, **NLRB**.
- Labor unions, trade unions, non-profits, women's issue groups, minority groups, consumers, investors, activists.
- Experts in specific issue areas.
- The media.
- Individual companies.

The SCREEN database includes 700 companies (all *Standard & Poor's 500* firms) and smaller firms with "exemplary" records in social performance, international firms, and 150 British and Japanese corporations.

SCREEN service includes: detailed company reports and profiles; news updates; customized research; corporate environmental data clearinghouse; international ratings.

CEDC Reports are also distributed to SCREEN subscribers.

The participants in the "C-3" Campaign are:
- **Citizen Action**
- **Citizen's Clearinghouse for Hazardous Waste**
- **Citizens for a Better Environment**
- **Co-Op America**
- **Earth Island Institute**
- **Environmental Research Foundation**
- **Good Neighbor Project**
- **Government Accountability Project**
- **Greenpeace**
- **Interfaith Center on Corporate Responsibility**
- **Institute for Agriculture and Trade Policy**
- **National Toxics Campaign Fund**
- **Rainforest Action Network**
- **Sierra Club**
- **Student Environmental Action Coalition**
- **20/20 Vision**
- **Women's Environment & Development Organization**
- **Working Assets Long Distance**
- **Worldwatch Institute**

Campbell Soup Pension Fund— Watch for Continuing Activist Role in 1994 In Drive For Performance and Greater Accountability

HIGHLIGHTS:
Campbell Soup Company's employee pension fund became the first large activist corporate employee pension fund in 1993 — and fund managers are now lining up their targets for the 1994 proxy season.

The fund will vote in support of actions that are designed to make companies more responsive to shareowner concerns and to develop good governance practices.

For Campbell Soup, good governance is good business.

BACKGROUND:
In summer 1993, Campbell Soup Company's employee pension fund announced that it would begin voting shares of other companies' stock (that it holds) in the 1994 proxy season in line with its own corporate governance practices — which it considers to be a style of *progressive, shareholder-sensitive governance.*

Campbell Soup Company claims it is a leader in Corporate Governance, which it defines as just another term for corporate accountability: *At Campbell, we believe that policies and practices that emphasize corporate accountability lead to superior business performance. Simply stated: Good Governance is Good Business.*

Linked with Campbell's prime purpose of increasing long-term shareowner wealth is a firm commitment to adhere to and promote key corporate governance principles. By example of the Campbell Soup Company board itself, these include:

- All directors are independent except for one Campbell executive (15 of 16 are not employed as executives by Campbell). No former executives should be on the board of directors.
- No staggered board; all directors stand for election by shareowners every year.
- The Company doesn't have a poison pill provision — the way to remain independent is through superior performance in building shareowner wealth.
- Directors own beneficially more than half of all outstanding shares.
- Directors are required to own at least 1,000 shares within a year of election to the board.
- By year-end 1994, all officers and other executives (total of 70) will be required to own Campbell stock valued at one-half to three times their base salary (excluding options and restricted stock).
- The Campbell Board has a Corporate Governance Committee charged with determining the role and effectiveness of the Board and each of the committees.
- Audit, Compensation and Organization, and Governance committees consist entirely of independent directors.
- Committee members are appointed by the Board.
- No interlocking directorships (i.e., no major suppliers or customers on the Board) are allowed.
- Equal voting rights for all shareowners.
- Board evaluation of CEO performance twice annually (with the CEO absent).

Campbell Soup Company's executive Compensation guidelines:
- Its Pay-for-Performance standards are among the toughest in the U.S. Bonus awards only earned if strict financial goals set by the Board are achieved.

- Campbell pays competitive compensation for results.

- Independent design and goal-setting (by the Board's Compensation & Organization Committee).

- High portion of compensation (60 to 75%) at risk, tied to Company performance.

- Tight focus on quantitative measures; bonuses depend on quantifiable results that are specific and ambitious (when compared to peer companies).

- Beating the performance of peers increases rewards for executives.

1994 PROXY SEASON:
Comments Senior VP and CFO **Frank E. Weise**: "In the 1994 proxy season, shares held by the fund will be voted in favor of executive compensation policies where pay is clearly linked to measured results for shareholders; *against* repricing of executive stock options; *against* the election of more than three insiders (employees as directors) on the board."

FUND PHILOSOPHY: HIGH ACCOUNTABILITY
John Coleman, Senior Vice President of Campbell, was a panel member at the IRRC October 1993 forum in Washington. His comments:

The goal of Campbell's corporate governance actions is *high accountability.* Holding people accountable motivates the company and builds shareowner wealth. For five years, the Campbell Soup Pension Fund has maintained an activist approach. There are four basic principles involved —

a. **The Board of Directors must be independent.** Of the 16 Campbell Soup Company directors, 15 are independent. Selection to the board is according to a written criteria. Committee assignments determined by the Board; Board evaluates the CEO.

b. **Everyone must be in the same boat** — if shareowner wealth increases, executives are rewarded. Executives must also share risks of ownership. Managers must own 1,000 shares or more (average is $200,000). General rule is 1X to 3X salaries for officers. Performance is linked to salary; Campbell has the strongest connection in U.S. industry for pay/performance.

c. **There are no artificial fences between managers, the board and shareowners**.

d. **Lead by example** — the corporate governance policies of Campbell Soup Pension Fund and Campbell Soup Company are identical in concept and mechanics.

Beginning in summer 1993, the fund began voting proxies on corporate governance issues. There are three issues for the 1994 proxy season:

A. Independent boards — the standards of many American corporations are much too lax. Too many former executives serve on their company board.

The laws and the regulations need tightening to better define "independence," says Coleman. The law defines it somewhat, but mostly related to the question of committees of independent directors. Congress will probably end up defining independence, thinks Coleman. The SEC will better define the role of independent directors.

B. Stock options should not be repriced — Campbell will vote **no** on these.

C. Corporations should pay for performance. The executives' pay should be at risk. The **Eastman-Kodak** plan (announced by former Chairman **Kay Whitmore** in summer 1993) is the "best I've seen in 1993."

Campbell fund will vote on these issues but will not itself introduce shareowner resolutions.

In the 1980s, Coleman pointed out, Campbell Soup performance was lackluster. Corporate governance has helped in the turnaround — outside directors are involved; the CEO performs better with a better board. There is more accountability. *You should manage as long as you can show you can. The CEO vision level should be lifted.* Coleman told the IRRC panel: *Good governance on the part of the fund is just the right thing to do. Other corporate pension funds should get involved in the governance activities of their holdings. Corporate funds own 20% of large corporations.* (Campbell's fund holds $1 billion in assets.)

Corporate funds have fiduciary responsibilities to their beneficiaries. This is not a static situation.

High accountability is responsible — it builds greater shareowner wealth. While this is difficult to study and quantify, in my judgment and experience, good governance is good for business.

DOWNSIDES OF ACTIVISM?
There are downsides to consider. Will there be retaliation? Will corporations retaliate against Campbell Soup Pension Fund activism? Coleman thinks it won't happen — *and there are plenty of remedies if it does.*

Does high accountability mean shareowner micromanagement of the corporation? *No — there is zero fear. High accountability is a corporate asset, not a liability.*

Is activism an administrative nightmare for fund managers? *Not if the company selects a few important issues, gives guidelines to the managers, focuses governance demands on performance (not social issues) and delivers this message: Good Governance is Good Business.*

It is time to use the voting power of the corporate pension funds, maintains John Coleman. "In fact, it is an idea long overdue."

# # #

Note: The Campbell Soup plan is a defined benefit plan.

PUBLIC PENSION ACTIVIST'S FAREWELL AND FORECAST — NYCPERS' CAROL O'CLEIREACAIN ON PENSION FUND ACTIVISM

Two important public pension fund activists leave office in January. In the November 1993 elections, New York City Comptroller **Elizabeth Holtzman** was defeated by Assemblyman **Alan Hevesi**. The City's budget director, **Carol O'Cleireacain** will also be stepping down. Holtzman and O'Cleireacain are among the nation's most active players in the spreading institutional shareholder activist movement.

In recent proxy seasons the pair targeted such companies as **Sears**; **Champion International**; **Polaroid Co**; **GM**; **Dow Chemical Co**; **Goodyear Tire & Rubber Co**; **Federal Express Co**; **Grumman Corp**; **Dial Corp**; **McDonnell Douglas Corp**; **Westinghouse Electric Corp**; **General Dynamics Corp**; **Aetna Life & Casualty Co**; **IBM**; **Occidental Petroleum Corp.**

Farewell Words:

In December 1993 budget director and pension fund trustee Carol O'Cleireacain addressed the members of the New York City Chapter of the **National Investor Relations Institute**. Her comments:

"Keep in mind that what I say today is not 'forever;' in corporate governance, many events are determined by economic realities — what is going on in the markets, in the national economy.

"The newspapers are filled with governance challenges — today's story is the called off merger between **Volvo** and **Renault**. There are many aspects to this story; in France, as the government privatizes companies (Renault, **Rhone Poulenc**), there are questions about pension liabilities. There is a shortage of capital, in terms of the scope of the deals to be done. Where do the French go? To the large pension funds. That brings America's active corporate governance players to France. The matrix of issues the French government faces includes privatizing, access to capital and return on investment.

"I've been observing these intriguing connections of issues for the past five or six years and I have learned that we must place various events in the context of being *reactions* or *actions,* or *macro* and *micro* forces at work. Here are the basic forces as I see them —

• The state of the markets and the economy determines some events in corporate governance.

• Modern portfolio theories — such as indexing funds — will determine some of the events.

• Experience gained by active large public funds — the New York City and California state funds, for example — creates more activism. Information is shared with smaller public funds. All funds learn how to better deal with corporations.

• The public environment is changing rapidly."

Point One: Markets and Economies

Ms. O'Cleireacain continues: "The markets and the economic picture are different in 1993 than in 1980s, the go-go years when you made money as if by accident. During the 1980s the institutional investor came of age. Four trillion dollars is now invested, representing1/4 of all **NYSE** equities and 50% of the daily trades. The rate of return on the institutional holdings was 12% to 15% annually in a time of 5% inflation. The institutional holdings grew by three times in the 1980's.

"But there were negative forces turned loose — the corporate raiders, hostile takeovers, the emergence of greenmail, development of poison pills and golden and tin parachutes, the profiliferation of junk bonds, overleveraged LBO's, among these. Share value was affected. Disequilibrium developed. The relationships of bonds, equity and debt [to each other] became confused.

"The traditional lines between ownership and management were equally blurred. The funds began to feel vulnerable, unprotected by management. In 1984 three funds took the lead in calling on corporations to avoid greenmail — the New York City Funds (led by Comptroller **Harrison Golden**); **CalPERS** (California State Treasurer **Jess Unruh**); and **New Jersey** (Pension Fund Director **Roland Machold**). This was the beginning of today's pension fund activisism.

"Because it was relatively easy to make money in the 1980s in the market, this type of activism was not widespread and it was more on a case-by-case basis — based on individual transactions. There was no consensus opinion on takeovers. Is a company worth more whole or broken up? No agreement. The fund managers' fiduciary responsibilties were met by doing an analysis — not by the outcome.

"Then the market crashed and corporate governance began to come of age. The *Standard & Poor 500* performance fell to 7% in 1992. Pension fund investments were huge, in individual companies and as a percentage of the equity marketplace. The Wa*ll Street Walk* was not so simple.

"While in the 1980s some funds concentrated on social issues — South Africa, the environment, equal opportunity — soon the funds were converging on the same major corporations to affect performance.

"The pension funds' strategies were simple: talk to the management, gain lots of publicity, introduce resolutions, demand changes. The targets were the biggest and most visible of the American corporations: **General Motors**, **American Express**, **Westinghouse**, **IBM**, **Sears**. All lost share value and were no longer competitive. All were dubbed "under-performers." Ultimately, the CEOs had to go. The funds' rallying cry became "performance!". The analysis of performance was important, and so was the proxy vote, determined to be an asset of the fund by the **U.S. Department of Labor**.

Point Two: Modern Portfolio Theory

"How do you target under-performing companies? Why not take the *Wall Street Walk?* The simple answer is because the investments are too large, the public funds no longer have the option of walking away from the companies they have invested in.

"This would depress prices and violate fiduciary responsibilities. Because so many funds are indexed it would also affect the indexes and other equity investments throughout the market. The individual stock became less important in this context; now the corporate governance movement could affect many stocks, indexes, and indeed, the entire market. Every index contains dogs; to improve things, you must teach old dogs new tricks. *Corporate governance is now the tool.*

"So like many other funds, New York City became the long-term owners of many companies. Investments became relationships. And in relationship investing, corporate governance is the best tool for helping companies to improve performance.

"The lesson is this: We are here to stay. We have no choice. You have no choice. We will always own some part of your business."

Point Three: The Funds Got Smarter
"As the market slide continued, and the full effects of LBOs and the junk bond market collapse were felt, the public funds really got organized. The **Council of Institutional Investors** was formed. After five years of discussion, a *Shareholder Bill of Rights* emerged under CII's sponsorship. The players are now in place. They're experienced. The benefits are beginning to flow to the public funds. They are learning and they are teaching others. Keep in mind that public funds are managed by people exposed to the electoral process. They are reimposing the democratic model on the corporation. They want secret ballots, no accumulated voting (one person/one vote), more accountability, and more democracy in the way institutions (the board) operates.

"The early struggles over South Africa and the environment have led to more issues being added — Northern Ireland, baby formula marketing, board and workforce diversity — and to this social portfolio is now added financial accountability and greater performance. This greatly complicates the life of the CEO."

Point Four: The Public Environment
"Funds are the ultimate capitalists. They exercise their rights as capitalists and owners in very public ways, in the democratic traditions, harnessing the power of two other important institutions: the press and the regulators. For years the press treated corporate governance as a MEGO story — *My Eyes Glaze Over.* No more.

"The excesses of the 1980s moved from the financial pages to the front pages. Publishers discovered gold in governance: "Liars Poker" and "Barbarians at the Gate" are good examples. **CNBC-TV** was created and **Michael Bloomberg** launched his news radio programs in NYC.

"Public funds know how to use the media. That is part of their electoral process awareness. Corporate governance is to some degree corporate change effected by publicity — this was true at **GM**, **IBM**, **Sears** and **Westinghouse**. Funds propose to the corporation, put pressure on the board, create widespread publicity. Boards began to react faster. The **SEC** enacted rule changes (October 1992) that made shareholder communication more effective. The SEC is moving faster now to create more a hospitable environment for shareholders. "

1994 Proxy Season
"In the 1994 proxy season we will see more pressure for adoption of points made in the **Council of Institutional Investors**' *Shareholder Bill of Rights.* There is going to be pressure for more open boards which in themselves should be more diverse. If performance at corporations is "bad", we will ask for better boards. We want to streamline some of the process. We will focus on the shareowner voting process. The events of 1993 were intolerable. Votes were not counted. I think that this will become a regulatory issue. Our fiduciary responsibility requires us to exercise our vote. The system today was not designed to handle today's voting methods. We must make the proxy and voting system better.

Corpoate Response to Sharehold Agenda Creates "Communication Opportunities"

"I see opportunities for enhanced communication between corporations and shareholders," said **Louis M. Thompson, Jr**., President of the **National Investor Relations Institute**, in examining the new SEC shareholder communciation rules. "The rules give institutional investors the opportunity to communicate informally out of the sunlight of disclosure. This new spirit of communication is a greater awareness in corporate America of its shareholders' desires and motivations."

Thompson addressed the *Forum on Cooperation Between Shareholders and Corporations*, sponsored by the **Investor ResponsibilityResearch Center** in Washington. The NIRI chief's observations:

• In less than a decade, we have witnessed the transition from institutions taking the Wall Street Walk to protest corporate actions to one of maintaining their investments and fighting for corporate change.

• The issues have changed from social concerns to corporate governance to corporate performance and pay-for-performance.

• It is now important for companies to understand not only the agenda of major shareholders but also what motivates them to take a more active role.

• Investors' growing concerns over executive compensation is emphasized thorugh the SEC's executive compensation disclosure requirements. In 1994, legislation will require shareholder approval of compensation over $1 million should companies seek the tax deducation for executive compensation.

• To a degree, the adversarial relationship between companies and their shareholders is healthy and need not be antagonistic. There is a spirit growing between companies and investor activists to work toward resolution of issues.

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