

October 25, 2000

Online Grousing Over Luby's Escalates to Proxy Solicitation

By AARON ELSTEIN
WSJ.COM

At first, Les Greenberg had little patience for people he thought had nothing better to do than post online messages criticizing Luby's Cafeterias, a food-services company whose stock has slumped 75% in the last three years.

In December 1999, the 57-year-old lawyer from Culver City, Calif., was defending the San Antonio, Texas, company on Internet message boards. He argued that Luby's was financially sound and its turnaround was under way.

But now Mr. Greenberg has changed his tune, expressing frustration with Luby's struggling stock and management's attempts to boost profits. He is seeking to get himself and four other dissidents elected to Luby's 12-member board in January over the company's slate of nominees.

To that end, Mr. Greenberg filed documents with the Securities and Exchange Commission last week to formalize his proxy fight. Although shareholder revolts are nothing new on the Internet, experts say this appears to be the furthest along a proxy solicitation organized over the Internet has come. They say none has ever reached the SEC stage.

Mr. Greenberg an arbitrator for the National Association of Securities Dealers, and his wife own 5,300 Luby's shares. He has attracted some prominent supporters for his cause through postings on a Yahoo! message board (quote.yahoo.com). His slate includes former Luby's vice-presidents, Davis W. Simpson and William P. Snyder; Elise Jones Freeman, daughter of company co-founder Henry O. Jones; and Thomas C. Palmer, an investment manager. Ms. Freeman owns 53,562 Luby's shares.

If the SEC approves the solicitation, Mr. Greenberg's group plans to lobby votes from other shareholders. "Without the Internet, none of this would have been possible," he says. "The members of the committee and the nominees met due to [our] Yahoo postings and information exchanged via e-mail."

...

Traditionally, proxy fights have been organized by big, institutional shareholders disgruntled with management. The time and money involved in reaching enough shareholders to vote against management usually ruled out such crusades.

...

Grassroots revolts traditionally are doomed unless supported by major shareholders. ...

It is unclear whether Luby's institutional owners, such as Dimensional Fund Advisors of Santa Monica, Calif., and Pimco Advisors, Newport Beach, Calif., will be sympathetic to Mr. Greenberg's cause. ...

...

The Luby's group seems have learned from that mistake, filing properly with the SEC.

"As long as there are no material misstatements in the proxy solicitation, it seems the group has covered their tracks legally," says Alan Bromberg, professor of securities law at Southern Methodist University in Dallas. "You can be sure someone on the other side will be looking for any misstatements, of course."

....

On Sept. 25, the company said Mr. Parker would resign. Luby's stock, which reached \$21.25 shortly after he assumed the reins, was at \$5.44 the day his departure was announced and closed down 25 cents, to \$5.13, Tuesday on the New York Stock Exchange.

Luby's has said Mr. Parker's resignation was subject to finalizing a "separation agreement." The company has not disclosed how much Mr. Parker stands to receive, but the prospects that he will get a generous separation package doesn't sit well with the dissident committee, Mr. Greenberg says.

Among other things, Mr. Greenberg's says his group will push shareholders to approve a proposal to have CEO's awarded bonuses only when the prior year's financial performance is exceeded.

Regulatory filings show that Luby's executives and directors collectively own about 6% of the company's stock, and 34% is held by institutions.... Mr. Greenberg says he hopes the individuals who own the remaining 60% will be sufficiently disappointed with management to vote their shares in favor of his group.

...

Mr. Greenberg says bringing back some of the people who helped establish Luby's could restore the company's fortunes. "Families have been taking their kids to Luby's for years, but now this is a company in some trouble, and we aren't going to let it slide any longer."

###