

**Subject:** Comments on "Corporate Governance – After the Financial Crisis"

**From:** Les Greenberg <plgreen@att.net>

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**To:** profbainbridge@gmail.com

Dear Professor Bainbridge:

After speaking with you Thursday morning, I received a copy of *UCLA Law - The Magazine of UCLA School of Law* that contains your article entitled *Corporate Governance – After the Financial Crisis*. The topic is interesting to me as I led the only grass-roots-internet-implemented proxy contest against a NYSE listed company, which resulted in the removable of an incompetent CEO and the resignation of an ineffective COB, while incurring out-of-pocket costs of less than \$15,000. We received 25% of the votes cast. With that background, my views differ greatly from those expressed in the article.

Reliance upon a “recent [2003] report commissioned by the New York Stock Exchange ... finding that ‘the current corporate governance system generally works well’” is suspect. The NYSE has a vested interest in claiming that the status quo “works well,” and any report concluding otherwise would probably not have seen the light of day. Further, an examination of the commissioning contract’s terms might be in order. Furthermore, the statement of “works well” is not explained, nor does it specify for whom it “works well.”

The label “so-called reformers” is somewhat pejorative. Additionally, it is a truism that “reformers” “tend to be critics of ... corporations.”

“What is the link between shareholder involvement and corporate performance?” The article does not state how one measures “corporate performance” or “firm performance.” Hopefully, one of the “few special cases,” includes our efforts with Luby’s Cafeterias.

The “high costs” or “expend[ing] substantial resources” of activism is not explained. As stated above, our out-of-pocket cost for a full proxy contest was less than \$15,000. One might wonder whether the high-cost myth is designed to dissuade shareholder activism.

One could easily argue that corporate governance should be redesigned to encourage “altruistic public service” by activist shareholders rather than the “private rent seeking” obliquely denigrated in the article.

The article blames lack of competence of BOD members on the theory that seeking “independent” directors eliminates those with industry-specific competence. The example of “financial institutions” not having directors with “experience in their industry” or “basic competence and good judgment” is unavailing. That can be explained by a restricted director-selection process and shareholder lack of access to the corporate proxy statement. The article presents no information that the selectors-in-chief attempted to recruit industry-competent Director-candidates, but were unsuccessful. Until there is shareholder recourse, e.g., removal from office, for recruiting incompetent Director-candidates, the lack-of-competency issue will remain.

I have no objection if you post the aforesaid comments on your blog and attribute them to me.

Very truly yours,

Les Greenberg, Chairman  
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