

NEED TO KNOW

“Get Outta Here!”

Don't feel too safe in your director seat. Many unhappy shareholders are trying to eject entire boards — and some are succeeding.

Here comes proxy season 2001, so be prepared to hear all the usual shareholder complaints about classified boards, poison pills, CEO pay and severance packages, the environment, and diversity.

You'd also better get ready to hold onto your seats—literally. Many shareholders, including such giants as Calpers, the California public employees' pension fund, are trying to oust directors they don't like as their terms expire. The ultimate goal: a whole new board that's more to their liking. Unlike other shareholder resolutions, votes to elect or fire a director are binding.

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The Internet is coming into play in proxy battles. Last year, Les Greenberg, a lawyer from Culver City, California, posted a complaint on the Yahoo! Business message board about the performance of Luby's, a Houston-based chain of cafeterias. Greenberg, who owns 5,300 shares in the company, proposed himself as a candidate for the board and asked fellow shareholders to volunteer as directors, too. "If you are interested in doing something other than just blowing smoke into the cyberspace wind, let me know. Thanks. Time is of the essence," he wrote.

It didn't take long for supporters to sign on. He got responses from several, including Elisse Jones Freeman, daughter of the company's founder; two former vice presidents of Luby's, Davis W. Simpson and William P. Snyder; and Tom Palmer, an investment manager from Tyler, Texas. Ultimately, the Committee of Concerned Luby's Shareholders, as these five rebels called their group, proposed themselves as directors at January's meeting, when that many of Luby's board seats came open.

They lost, receiving only 25% of the votes cast. But a majority of the shareholders did vote in favor of the dissidents' proposal to declassify the board, so that all of the directors must be elected annually, and also to remove all antitakeover defenses. While that vote isn't binding on the board, it represented a victory of sorts to Greenberg. When asked if the group will run its slate again next year, Palmer replied, "That depends on how the company does. We certainly can afford it."

According to the Securities and Exchange Commission, this was the first grassroots proxy fight organized via the Internet—an open window on corporate America. As Tom Palmer says, "There are a lot more eyes watching what's going on in the boardroom

these days." Adds Greenberg, who wrote almost all of the group's proposals, "Everything I learned about how to draft the proxies, I found over the Web and by looking at proxies done by other people. Without the Internet, none of this would have been possible." ®