



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549-3010

February 5, 2008

Don H. Liu
Senior Vice President,
General Counsel and Secretary
Xerox Corporation
45 Glover Avenue
Norwalk, CT 06856

Re: Xerox Corporation

Dear Mr. Liu:

This is in regard to your letter dated February 4, 2008 concerning the shareholder proposal submitted by Lucian Bebchuk for inclusion in Xerox's proxy materials for its upcoming annual meeting of security holders. Your letter indicates that the proponent has withdrawn the proposal, and that Xerox therefore withdraws its January 16, 2008 request for a no-action letter from the Division. Because the matter is now moot, we will have no further comment.

Sincerely,

William A. Hines
Special Counsel

cc: Michael J. Barry
Grant & Eisenhofer P.A.
Chase Manhattan Centre
1201 North Market Street
Wilmington, DE 19801

Don H. Liu
Senior Vice President,
General Counsel and Secretary



January 16, 2008

By electronic mail (cflletters@sec.gov)

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, NE
Washington, DC 20549

Re: Shareholder Proposal Submitted by Lucian Bebchuk

Ladies and Gentlemen:

Xerox Corporation, a New York corporation (“Xerox” or the “Company”), hereby requests confirmation that the staff (the “Staff”) of the Division of Corporation Finance of the U.S. Securities and Exchange Commission (the “Commission”) will not recommend enforcement action to the Commission if, in reliance on certain provisions of rule 14a-8 under the Securities Exchange Act of 1934, Xerox omits the enclosed shareholder proposal (the “Proposal”) and supporting statement (the “Supporting Statement”) submitted by Lucian Bebchuk (the “Proponent”) from Xerox’s proxy materials for its 2008 Annual Meeting of Shareholders (the “2008 Annual Meeting”). The Proponent’s letter setting forth the Proposal and Supporting Statement is attached hereto as Exhibit A.

Pursuant to rule 14a-8(j)(2), we have enclosed six (6) copies of this letter and the related exhibit. A copy of this letter, together with the related exhibit, is being delivered to the Proponent to inform him of Xerox’s intention to omit the Proposal from its proxy materials.

Xerox’s 2008 Annual Meeting of Shareholders is scheduled to be held on May 22, 2008. Xerox intends to file its definitive proxy materials with the Commission on or about April 11, 2008 and to commence mailing those materials to its shareholders on or about that date.

I. Summary of the Proposal

The Proposal recommends that Xerox’s Board of Directors adopt a bylaw under which the Company, to the extent permitted under federal and state law, shall include in its proxy materials any “qualified proposal” for a bylaw amendment (as well as a supporting statement related to that “qualified proposal”) and shall allow a vote of shareholders on that “qualified proposal.” For purposes of the Proposal, a “qualified proposal” would be a proposal that:

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Norwalk, Connecticut 06856

- would be “legally valid” if adopted;
- was submitted “by the deadline specified by the Company for shareholder proposals”;
- was submitted by a proponent that owned \$2,000 of the Company’s common stock for one year, as of the date of submission;
- was submitted by a proponent that did not submit another proposal for inclusion in the Company’s proxy materials;
- along with the supporting statement, does not “exceed 500 words”;
- does not “substantially duplicate” a previously submitted shareholder proposal that will be included in the Company’s proxy materials; and
- is not “substantially similar” to a proposal that was voted on by shareholders in the last three years and received less than 3% support of the votes cast in that vote.

II. Bases for Excluding the Proposal

The Company believes that the Proposal may be properly omitted from its proxy materials for the 2008 Annual Meeting for the following reasons:

- the Proposal may be excluded in reliance on rule 14a-8(i)(3) because it is contrary to the proxy rules, particularly rule 14a-8;
- because the Proposal would create a process by which the Company would be required to include future proposals that may be omitted in reliance on paragraph (i) of rule 14a-8, it would merely do indirectly what a proposal could not do directly—require a shareholder proposal to be included in the Company’s proxy materials even if it could be omitted in reliance on one of the subparagraphs of paragraph (i)—and, as such, the Proposal may be excluded in reliance on rules 14a-8(i)(3), (i)(4), (i)(5), (i)(6), (i)(7), (i)(8), (i)(9), (i)(10), and (i)(13);
- the Proposal may be excluded in reliance on rule 14a-8(i)(7) because it relates to the Company’s ordinary business matters (*i.e.*, would require disclosure of ordinary business matters in Company filings with the Commission beyond that which is required by Commission rules and regulations); and
- the Proposal may be excluded in reliance on rule 14a-8(i)(3) because it is so vague and indefinite that neither shareholders in voting on it, nor the Company in implementing it, would be able to determine with any reasonable certainty what actions are required.

Each of the bases upon which the Company believes it may properly omit the Proposal from its proxy materials for the 2008 Annual Meeting is discussed below.

A. The Proposal may be excluded in reliance on rule 14a-8(i)(3) because it is contrary to the proxy rules, particularly rule 14a-8.

Section 14(a) of the Exchange Act provides the Commission with broad rulemaking authority regarding the regulation of proxy solicitations, stating that “[i]t shall be unlawful for any person, by the use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any security (other than an exempted security) registered pursuant to section 12 of this title.” The Commission exercised its authority under Section 14(a) to adopt rule 14a-8. In adopting rule 14a-8 (and modifying that rule numerous times since its original adoption), the Commission used notice and comment rulemaking to balance the federally-imposed obligations on companies that are soliciting proxy authority with the costs that result from those obligations.¹ In connection with the adoption of the federal proxy rules, the Commission has recognized the interplay between state and federal law in the proxy solicitation context and has adopted a balance between state and federal law that it believes to be appropriate.

Rule 14a-8(i)(3) was adopted in 1976 to codify the formerly assumed ability of companies to exclude shareholder proposals that are contrary to any of the proxy rules. In this regard, when the Commission sought comments on its proposal of what is now rule 14a-8(i)(3), it stated:

“The Commission is aware that on many occasions in the past proponents have submitted proposals and/or supporting statements that contravene one or more of its proxy rules and regulations. Most often, this situation has occurred when proponents have submitted items that contain false or misleading statements. Statements of that nature are prohibited from inclusion in proxy soliciting materials by Rule 14a-9 of the proxy rules. Other rules that occasionally have been violated are Rule 14a-4 concerning the form of an issuer’s proxy card, and Rule 14a-11 relating to contests for the election of directors.

¹ In 1942, the Commission first addressed the issue of shareholder proposals in a formal rulemaking. Specifically, the Commission adopted rule X-14A-7 regarding the duty of management to set forth shareholder proposals in the company’s proxy. See Release No. 34-3347 (Dec. 18, 1942). This rule allowed that “In the event that a qualified security holder of the issuer has given the management reasonable notice that such security holder intends to present for action at a meeting of security holders of the issuer a proposal which is a proper subject for action by the security holders, the management shall set forth the proposal and provide means by which security holders can make a specification as provided in Rule X-14A-2” (*i.e.*, on the proxy card). Since the adoption of this initial rule, the Commission has addressed the proper requirements and balance of shareholder access to management’s proxy and the burden on issuers a number of times, including the adoption of amendments to the rule in Release 34-4037 (Dec. 17, 1947), Release No. 34-4185 (Nov. 5, 1948), Release No. 34-4979 (Jan. 6, 1954), Release No. 34-12999 (Nov. 22, 1976), Release No. 34-20091 (Aug. 16, 1983), Release No. 34-40018 (May 21, 1998), and Release No. 34-56914 (Dec. 6, 2007).

In light of the foregoing, the Commission proposes to add a new subparagraph [(i)(3)] to Rule 14a-8 expressly providing that a proposal or supporting statement may not be contrary to any of the Commission's proxy rules and regulations, including Rule 14a-9. This provision, if adopted, would simply formalize a ground for omission that the Commission believes is inherent in the existing rule."²

In 1982, the Commission proposed amendments to rule 14a-8 that would have permitted companies and their shareholders to establish a company-specific shareholder proposal process that would have been substantially similar to that set forth in the Proposal. In these proposed amendments, the Commission proposed a supplemental rule ("rule 14a-8A") that would have permitted a company and its shareholders to adopt a company-specific alternative procedure to govern the shareholder proposal process.³

In the 1982 Proposing Release, the Commission proposed an additional alternative approach to the rule 14a-8 process whereby all proposals that were proper under state law and not relating to the election of directors would be included in a company's proxy materials, subject to a numerical limitation.⁴ This proposed alternative arose, in part, from the recognition that the security holder proposal process is an important element of shareholder democracy, and a desire to create a simpler and more predictable regulatory process.⁵

In the 1983 release adopting changes to rule 14a-8 based on proposals in the 1982 Proposing Release,⁶ the Commission elected to retain the framework of rule 14a-8, incorporating certain revisions designed principally to remove procedural provisions that were not required to further the purpose of the rule and to clarify and simplify the application of the rule. In taking its action in 1983, the Commission stated:

"After review of the constructive and detailed views of the commentators and after consideration of the issues presented in the [1982] Proposing Release, the Commission has determined that shareholder access to issuers' proxy materials is appropriate and that federal provision of that access is in the best interests of shareholders and issuers alike. Moreover, based on the overwhelming support of the commentators and the Commission's own experience, the Commission has determined that the basic framework of current Rule 14a-8 provides a fair and efficient mechanism for the

² See Exchange Act Release No. 12598 (July 7, 1976).

³ See Proposal II in "Proposed Amendments to Rule 14a-8 Under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders," Exchange Act Release 34-19135 (October 14, 1982) (the "1982 Proposing Release").

⁴ See Proposal III in the 1982 Proposing Release.

⁵ *Id.*

⁶ See Exchange Act Release No. 34-20091 (August 16, 1983).

security holder proposal process, and ... should serve the interests of shareholders and issuers well.”⁷

The Commission’s actions in 1983, as well as its statements explaining the bases for those actions, clearly evidence the Commission’s determination that the Commission adopted rule 14a-8 (and subsequently modified it to include the provisions of paragraph (i)) because the Commission believed that the “basic framework” of the rule “provides a fair and efficient mechanism for the security holder proposal process” and that the “federal provision of the [shareholder] access is in the best interests of shareholders and issuers alike.”

In addressing and reacting to the 2006 Second Circuit decision in *AFSCME v. AIG* (discussed in greater detail in Section II.B below),⁸ the Commission recently reconsidered the proper role of the Commission and rule 14a-8 in the proxy process.⁹ In determining the appropriate response to the Second Circuit’s decision, the Commission again emphasized the importance of the federally established procedures for shareholder access.¹⁰ Indeed, the 2007 release proposing certain amendments to rule 14a-8 began by noting that Congress intended to give the Commission power to control the conditions under which proxies may be solicited, and that this authority encompassed “both disclosure and mechanics.”¹¹ The amendments to rule 14a-8(i)(8) proposed in the 2007 Proposing Release and later adopted by the Commission were intended to prevent shareholders from usurping that authority by establishing the excludability of shareholder proposals creating procedures that would require a company to include certain shareholder nominees in its proxy materials.¹² Making clear that rule 14a-8(i)(8) would bar such proposals, these amendments changed the language of the rule to include not just proposals “relat[ing] to an election for membership on the company’s board...,” but also proposals relating to “procedures” for nomination or election to the board.¹³ In disallowing such proposals, the Commission discussed the “numerous protections of the federal proxy rules,” and also noted the “critical importance” of the anti-fraud protection afforded by rule 14a-9.¹⁴ As it did in 1983, the Commission found that circumvention of the federal proxy rules—even by a shareholder’s own proposal—was not in the best interests of shareholders.

⁷ *Id.* at pages 6-7.

⁸ 462 F.3d 121 (2d Cir. 2006).

⁹ See <http://www.sec.gov/divisions/corpfin/cfroundtables.shtml> for transcripts of the May 2007 Roundtable Discussions Regarding the Proxy Process and <http://www.sec.gov/news/testimony/2007/ts111407cc.htm> for a transcript of Chairman Christopher Cox’s testimony before the U.S. Senate Committee on Banking, Housing, and Urban Affairs on Nov. 14, 2007.

¹⁰ See Exchange Act Release No. 34-56914 (Dec. 6, 2007) (the “2007 Final Release”).

¹¹ Exchange Act Release No. 34-56161 (July 27, 2007) (the “2007 Proposing Release”) at page 3 (internal quotation omitted).

¹² See the 2007 Final Release at pages 16-19.

¹³ *Id.* at pages 16-17.

¹⁴ *Id.* at pages 2-3, 5, 22.

As noted above, the Commission adopted rule 14a-8 pursuant to its authority under Section 14(a) of the Exchange Act and has modified that rule many times. Rule 14a-8 specifies “when a company *must include* a shareholder’s proposal in its proxy statement and...[the] few specific circumstances [under which] the company is *permitted to exclude* [a] proposal, but only after submitting its reasons to the Commission” (emphasis added).¹⁵ Under the current version of rule 14a-8, companies are *required* to include a shareholder proposal in their proxy materials *only if*: (1) the proposal is submitted in accordance with the procedural requirements of rule 14a-8; and (2) rule 14a-8(i) does not *permit* the company to exclude the proposal. Contrary to this intended operation of rule 14a-8, the Proposal attempts to use the rule 14a-8 process, under which companies are required to include proposals unless they are permitted to exclude them pursuant to the terms of the rule, to require the inclusion of *all* “qualified proposals” *permitted by* federal or state law, subject only to certain limitations set forth in the Proposal, namely:

1. certain procedural requirements that are based on those currently set forth paragraphs (b)-(e) of rule 14a-8; and
2. three substantive requirements that:
 - a. the “qualified proposal” for a bylaw amendment would be “legally valid” if adopted;
 - b. the “qualified proposal” does not “substantially duplicate” another proposal previously submitted to the Company by another proponent that will be included in the proxy materials for the same meeting; and
 - c. the “qualified proposal” is not “substantially similar” to any other proposal that was voted upon by the shareholders at any time during the preceding three calendar years and failed to receive at least 3% of the votes cast when so considered.

The Supporting Statement confirms the Proponent’s intent that a bylaw adopted under the Proposal would require the Company to include shareholder proposals in its proxy materials beyond those that currently are required under rule 14a-8. Specifically, the Supporting Statement states that “[c]urrent and future SEC rules may in some cases allow companies—but do not currently require them—to exclude proposals from the corporate ballot ... [and] even when SEC rules may allow exclusion, it would be desirable for the Company to place on the corporate ballot proposals that satisfy the requirements of the qualified proposal.” Consistent with this language, the Proposal seeks to require the Company to include “qualified proposals” on substantive matters that far exceed the boundaries of rule 14a-8(i). For example, the bylaw amendments that would be permitted under the Proposal would *require* the Company to include any future shareholder “qualified proposal,” which would include proposed bylaw amendments relating to:

¹⁵ See rule 14a-8.

- the redress of a personal grievance against the Company (which otherwise would be excludable in reliance on rule 14a-8(i)(4));
- *de minimus* operations of the Company not otherwise significantly related to the Company's business (which otherwise would be excludable in reliance on rule 14a-8(i)(5));
- the Company's ordinary business operations (which otherwise would be excludable in reliance on rule 14a-8(i)(7)); and
- a nomination or an election for membership on the Company's board of directors or analogous governing body or a procedure for such nomination or election (which otherwise would be excludable in reliance on rule 14a-8(i)(8)).

Because the Proposal would *require* the Company to include bylaw amendment proposals in its proxy materials even where the Company would be permitted to exclude those bylaw amendment proposals in reliance on rule 14a-8, the Proposal is contrary to the federal proxy rules. As such, Xerox believes that it may omit the Proposal from its proxy materials in reliance on rule 14a-8(i)(3) because the Proposal is contrary to the Commission's proxy rules, particularly rule 14a-8.

Consistent with the Company's view that it may omit the Proposal in reliance on rule 14a-8(i)(3), the Staff expressed its view in its 2004 no-action letter to State Street Corporation that the company was permitted to exclude, pursuant to rule 14a-8(i)(3), a proposal seeking an amendment to a company's bylaws that would require any future bylaw amendment proposed by stockholders to be included in the company's proxy statement and every future change to the bylaws to be required to be included in the company's proxy statement for stockholder ratification or rejection.¹⁶ In reaching this position, the Staff concluded that such a proposal, which was substantially similar to the Proposal and had the same effect and intent as the Proposal, was contrary to the Commission's proxy rules, including rule 14a-8.

In the State Street no-action request, the company expressed its view that "[t]he authority to regulate what is required or permitted in a proxy statement or on a form of proxy, however, is vested exclusively in the Commission under Section 14 of the 1934 Act and is expressed in related Rules and in Regulation 14A... [and the proposal's] attempt to clothe stockholders with rights of access to the Company's proxy statement and form of proxy absent compliance with Rule 14a-8 is flatly inconsistent with the scheme for access to the corporate electoral machinery that the Commission has carefully crafted, including under Rule 14a-8."¹⁷ Further, citing to Exchange Act Release No. 34-20091 (Aug. 16, 1983) and Exchange Act Release No. 34-40018 (May 21, 1998), the company expressed its view that the Commission's refusal to adopt rules that reduce its oversight role in favor of more autonomous shareholders would "make no sense" if shareholders could eliminate the Commission's oversight role through submissions such as this proposal. The Staff concurred with the company's belief that the proposal could be omitted from its proxy materials in reliance on rule 14a-

¹⁶ See State Street Corporation (Feb. 3, 2004) ("State Street").

¹⁷ *Id.*

8(i)(3), as contrary to the Commission's proxy rules.

In the current Proposal, the Proponent is seeking to create an end run around rule 14a-8 that is nearly identical to the proposal in State Street. The supporting statement to the proposal in State Street stated that the power to amend the bylaws is “a time-honored tool by which shareholders can protect their investment,” and that State Street's decisions not to include bylaw amendment proposals on its proxy card imposed on shareholders' exercise of these rights.¹⁸ Similarly, the Proponent in his Supporting Statement opines that “the ability to place proposals for By-law amendments on the corporate ballot could in some circumstances be essential for shareholders' ability to use their power under state law to initiate By-law amendments.”

As noted above, the Commission has spoken clearly regarding the role of the federal proxy rules—including rule 14a-8—in the proxy solicitation process, as well as the role of the Staff in the administration of those proxy rules. In 2007, the Commission reassessed the interaction of state and federal law in connection with the solicitation of proxies and reaffirmed its view that it was appropriate to have a nationwide standard—as expressed in rule 14a-8—for the determination of those shareholder proposals that are required to be included in a company's proxy materials. Further, in its letter to State Street, the Staff addressed the operation of rule 14a-8 with regard to a shareholder proposal that, like the Proposal, was intended to establish a process outside of the federal proxy rules that would ease or more readily allow for the exercise of shareholders' rights under state law. In its letter to State Street, consistent with Commission's statements regarding rule 14a-8, the Staff concurred with the view of the company that it could exclude the shareholder proposal in reliance on rule 14a-8(i)(3) as contrary to the federal proxy rules, including rule 14a-8. Based on the Commission's longstanding position regarding the intended operation of rule 14a-8 and its role as a uniform standard for the inclusion of shareholder proposals in a company's proxy materials, including the Commission's reaffirmation of that position in 2007, as well as the previously expressed position of the Staff regarding the application of rule 14a-8 to a substantially similar shareholder proposal, the Company believes that it may exclude the Proposal and Supporting Statement from its proxy materials in reliance on rule 14a-8(i)(3) as contrary to the federal proxy rules, particularly rule 14a-8.

- B. Because the Proposal would create a process by which the Company would be required to include proposals that may be omitted in reliance on paragraph (i) of rule 14a-8, it would merely do indirectly what a proposal could not do directly—require a shareholder proposal to be included in the Company's proxy materials even if it could be omitted in reliance on a subparagraph of paragraph (i)—and, as such, the Proposal may be excluded in reliance on each such subparagraph of paragraph (i).**

In seeking to establish a process by which Xerox would be required to include all future “qualified proposals” in its proxy materials, the Proposal would require the Company to include shareholder proposals that could be omitted in reliance on most, if not all, of the subparagraphs of rule 14a-8(i). We provide a summary of these subparagraphs below. Due to the similarities among the interaction of the Proposal and these subparagraphs of rule 14a-8(i), we have grouped those

¹⁸ *Id.*

subparagraphs for ease of discussion.

The Proposal would create a process under which a future “qualified proposal” could establish a procedure for the nomination or election of members on Xerox’s Board of Directors and, as such, may be excluded in reliance on rule 14a-8(i)(8).

The Commission recently amended rule 14a-8(i)(8)¹⁹ in response to the 2006 decision in AFSCME v. AIG—in which the Second Circuit agreed with the Staff’s view that companies were not required to include in their proxy materials any shareholder proposals that would result in an immediate election contest, but disagreed with the Staff’s view that companies were not required to include in their proxy materials any shareholder proposals that would establish a process for shareholders to wage a future election contest.

In the 2007 Final Release, the Commission stated that the phrase “relates to an election” in rule 14a-8(i)(8) cannot be read so narrowly as to refer only to a proposal that relates to the current election, or a particular election, but rather must be read to refer to a proposal that “relates to an election” in subsequent years as well.²⁰ The Commission noted, in this regard, that if one looked only to what a proposal accomplished in the current year, and not to its effect in subsequent years, the purpose of the exclusion could be evaded easily.

We believe that similar analysis should be applied to this Proposal. Specifically, although the effect of inclusion of this Proposal in the Company’s proxy materials would not result in a contested election for the current election, if the Proposal were included in the Company’s proxy materials and the board adopted the Proposal upon approval by the Company’s shareholders, a shareholder would be permitted to submit for inclusion in the Company’s materials for subsequent meetings a proposal to amend the Company’s bylaws to provide for the inclusion of shareholder nominees in the Company’s proxy materials. The Proposal seeks to establish this result, even though a shareholder proposal that would provide for the inclusion of shareholder nominees in the Company’s proxy materials clearly would be excludable under rule 14a-8(i)(8). Therefore, based upon the interpretation and amendments to rule 14a-8(i)(8) recently established by the Commission, the Proposal is excludable pursuant to rule 14a-8(i)(8) because it seeks to indirectly establish a process for shareholders to wage a future election contest.

¹⁹ See the 2007 Final Release. The amendments adopted in the 2007 Final Release went into effect on January 10, 2008. While these amendments became effective after the date the Proposal was submitted to Xerox, the proxy solicitation to which the Proposal relates will commence after the effective date of the amendments.

²⁰ Moreover, the Commission stated that the purpose of rule 14a-8(i)(8), and its interpretation of that rule, is to ensure that contests for election of directors are not conducted without compliance with the Commission’s disclosure rules applicable to contested elections. See the 2007 Final Release at pages 2-6.

Rules 14a-8(i)(3), (i)(4), (i)(5), (i)(6), (i)(7), (i)(9), (i)(10), and (i)(13) - The Proposal seeks to establish a procedure to evade the purpose of the substantive exclusions in rule 14a-8(i).

The Proposal, if adopted, would require any future shareholder bylaw amendment proposal that would be “legally valid” if adopted to be included in the Company’s proxy materials, so long as it was not substantially duplicative of another shareholder proposal or had received less than 3% of the votes cast if voted upon by shareholders during the preceding three years. Following the interpretation of rule 14a-8(i)(8) set forth by the Commission in the 2007 Final Release, the determination of whether the Proposal seeks to evade the purpose of the substantive provisions of rule 14a-8(i) requires the consideration of the Proposal’s effect in both the current year and “in any subsequent year” to determine whether it is seeking to evade the purpose of the substantive exclusions under rule 14a-8(i). The effect and intent of the Proposal are to establish a process under which, in future years, the Company would be required to include “qualified proposals” in its proxy materials, even though rule 14a-8(i) would permit the exclusion of those future proposals from the Company’s proxy materials. As such, the Proposal would establish a procedure that would evade most of the substantive requirements of rule 14a-8(i), including rule 14a-8(i)(3), (i)(4), (i)(5), (i)(6), (i)(7), (i)(9), (i)(10), and (i)(13). In this regard, if the Proposal was adopted, all “qualified proposals” would be required to be included in the Company’s proxy materials. As such, under the Proposal, the Company would be required to include any future “qualified proposal” in its proxy materials, including any “qualified proposals” relating to:

- the redress of a personal grievance against the Company (which otherwise would be excludable in reliance on rule 14a-8(i)(4));
- *de minimus* operations of the Company not otherwise significantly related to the Company’s business (which otherwise would be excludable in reliance on rule 14a-8(i)(5));
- a policy or requirement (*e.g.*, requiring directors’ independence without providing a mechanism to cure) that the Company lacks the power or authority to implement (which otherwise would be excludable in reliance on rule 14a-8(i)(6));
- the Company’s ordinary business operations (which otherwise would be excludable in reliance on rule 14a-8(i)(7));
- a proposal that directly conflicts with one of the Company’s own proposals to be submitted to shareholders at the same meeting (which otherwise would be excludable in reliance on rule 14a-8(i)(9));
- the policies or corporate governance matters that the Company has substantially implemented (which otherwise would be excludable in reliance on rule 14a-8(i)(10)); and
- specific amounts of cash or stock dividends (which otherwise would be excludable in reliance on rule 14a-8(i)(13)).

Moreover, the Proposal states that both the “qualified proposal” and any supporting statement must be included in the Company’s proxy materials. This requirement could result in the inclusion in the Company’s proxy materials of “qualified proposals” and supporting statements containing impugning or derogatory statements regarding the Company’s officers and directors or statements that are materially false and misleading (which otherwise would be excludable in reliance on rule 14a-8(i)(3)).

Therefore, not only does this Proposal violate rule 14a-8(i)(8), as established and interpreted by the Commission, but it also violates the other substantive bases under which a “qualified proposal” would no longer be excludable by the Company should this Proposal be implemented. Therefore, the Company believes that the Proposal and Supporting Statement may be omitted from the proxy materials in reliance on rules 14a-8(i)(3), (i)(4), (i)(5), (i)(6), (i)(7), (i)(8), (i)(9), (i)(10), and (i)(13), both individually and collectively.

C. The Proposal may be excluded in reliance on rule 14a-8(i)(7) because it relates to the Company’s ordinary business matters (i.e., the required disclosure of ordinary business matters in Company filings with the Commission beyond that required by the Commission’s rules and regulations).

The Proposal requests that the Company adopt a bylaw amendment that would require the Company to include disclosure (i.e., “qualified proposals” and any supporting statements) in its proxy statement beyond those required to be disclosed/included by rule 14a-8. However, due to the minimal substantive requirements with regard to the subject matter of a “qualified proposal,” the Proposal provides no limitation on, and almost certainly would result in the Company being required to include in its proxy a “qualified proposal” and supporting statement that related to the Company’s ordinary business matters (as defined under rule 14a-8(i)(7)).²¹

In its no-action letter to Johnson Controls (Oct. 26, 1999), the Staff expressed its view that proposals “requesting additional disclosures in Commission-prescribed documents should not be omitted under the ‘ordinary business’ exclusion solely because they relate to the preparation and content of documents filed with or submitted to the Commission,” but stated that it would “consider whether the subject matter of the additional disclosure sought in a particular proposal involves a matter of ordinary business; where it does, we believe it may be excluded under rule 14a-8(i)(7).”²² As mentioned above, the Proposal would require the Company to include all future “qualified proposals” meeting the procedural requirements, regardless of whether the subject matter of the proposal related to ordinary business matters. As such, the Proposal requires the inclusion of information (i.e., “qualified proposals” and any supporting statements) in a document required by Commission rules, and such requested information may relate to ordinary business matters that are not *required* to be

²¹ Under these limited substantive requirements, a “qualified proposal” must be “legally valid,” not “substantially duplicate” a previously submitted shareholder proposal that will be included in the Company’s proxy materials, and not be “substantially similar” to any other proposal that was voted upon by the shareholders at any time during the preceding three calendar years that failed to receive at least 3% of the votes cast when so considered.

²² See also Exxon Mobil Corporation (Mar. 3, 2007) (omitting pursuant to rule 14a-8(i)(7) a proposal requesting the company to list all proposals, including shareholder proposals, by title on the Notice page of the proxy statement, as relating to ordinary business operations).

disclosed in the proxy under the federal proxy rules, including rule 14a-8. Therefore, the Proposal would require the Company to include disclosure in its proxy materials beyond that required under the Commission's rules and that information may relate to the Company's ordinary business matters. As such, consistent with the Staff's position in the Johnson Controls and Exxon Mobil no-action letters, the Company believes that the Proposal may be excluded in reliance on rule 14a-8(i)(7), as relating to the Company's ordinary business matters.

D. The Proposal may be excluded in reliance on rule 14a-8(i)(3) because it is so vague and indefinite that neither shareholders in voting on it, nor the Company in implementing it (if adopted), would be able to determine with any reasonable certainty what actions are required.

As evidenced by the rule changes proposed in 1982 that would have amended rule 14a-8 to permit companies to adopt alternative approaches to shareholder proposals, absent amendment to that rule, companies are not permitted to "opt out" of rule 14a-8. Given that companies may not "opt out" of rule 14a-8 and that the Proposal would (if implemented) establish an alternative, company-specific approach to shareholder proposals, such a company-specific approach would appear to be intended to operate concurrently with rule 14a-8. The dual operation of rule 14a-8 and a company-specific approach to shareholder proposals under the Proposal raises a number of fundamental issues regarding the operation of the Proposal that cause the proposal to be so vague and indefinite that neither shareholders in voting on it, nor the Company in implementing it, would be able to determine with any reasonable certainty those actions that are required under the Proposal.

The fundamental uncertainties created by the language of the Proposal include the following:

- The Proposal contains no language indicating whether it would supersede entirely or operate concurrently with rule 14a-8. As discussed above, it is the Company's view that a company may not "opt out" of the federal proxy rules, even if such an "opt out" were to be proposed by shareholders. However, such an "opt out" may be the intended purpose of the Proposal and shareholders may understand that to be the effect of the Proposal. Unfortunately, it is not possible to ascertain whether the Proposal is intended to supersede rule 14a-8 in its entirety, as neither the Proposal nor the Supporting Statement provide any guidance to shareholders as to its effect in this regard. As such, neither the shareholders nor the Company will be able to determine with any reasonable certainty whether the Proposal is to supersede rule 14a-8 or operate concurrently with that rule.
- The Proposal requires that a "qualified proposal" be "legally valid." However, the Proposal does not provide any context for the meaning of "legally valid" or provide any guidance as to either the manner in which that term should be interpreted or the manner in which any disagreements regarding the implementation of that term would be resolved.²³ As such, neither

²³ "Legally valid" is not a term defined in rule 14a-8; however, paragraphs (i)(1)-(i)(3) relate to the exclusion of proposals that are improper under state law, could cause the company to violate any state, federal, or foreign law, and/or are contrary to the Commission's proxy rules. Presumably, "legally valid" is intended to mean that a qualified proposal would not violate (or cause the Company to violate) state, federal (including Commission rules

the shareholders nor the Company will be able to determine with any reasonable certainty the meaning of the primary substantive requirement of the Proposal—that a “qualified proposal” must be “legally valid.”²⁴

- The Proposal requires that a “qualified proposal” must be submitted by “the deadline specified by the Company for shareholder proposals for inclusion in the proxy materials for the Annual Meeting.” From this language (or any other language in the Proposal or Supporting Statement), it is not possible to determine whether this “deadline” refers to the deadline for shareholder proposals that is established by rule 14a-8(e) or whether the Company would be permitted to establish a different deadline for submitting “qualified proposals.”²⁵ The adoption of a submission deadline that is fundamentally different from that in rule 14a-8 (for example, requiring “qualified proposals” to be submitted one year before an annual meeting) would have a significant effect on the operation of the Proposal, and neither the shareholders nor the Company will be able to determine with any certainty the meaning of the “deadline” that is to be established under the Proposal.
- The Proposal requires that a “qualified proposal” must meet procedural requirements that are similar to those in rule 14a-8 (for example, the proposal may not exceed 500 words, the proponent must have owned \$2000 of the company’s common stock for at least one year prior to submission of the proposal, the proponent may not submit more than one proposal for an annual meeting, etc.). While these procedural requirements are similar to those in rule 14a-8, they are fundamentally different, in that the Proposal’s procedural requirements do not include the provisions in rule 14a-8(f) that require a company to provide a timely notice of a procedural deficiency and permit an opportunity for the proponent to remedy such a deficiency before it may exclude a proposal, and it is not clear how these procedural requirements would interact with rule 14a-8.²⁶ Due to this absence of guidance in the Proposal, neither the

and regulations), or foreign law, thereby encompassing some or all of the substantive restrictions in paragraphs (i)(1)-(i)(3).

²⁴ See also Peoples Energy Corporation (Nov. 23, 2004) (proposal urging the board of directors to take the necessary steps to amend Peoples Energy’s articles of incorporation and bylaws to provide that officers and directors shall not be indemnified from personal liability for acts or omissions involving gross negligence or “reckless neglect” omitted under (i)(3) because the term “reckless neglect” was central to the purpose and intent of the resolution, but had no common meaning and was undefined by the proposal or supporting statement).

²⁵ Moreover, rule 14a-5 dictates the presentation of information in a proxy statement and paragraph (e) of that rule requires the disclosure of the “deadline for submitting shareholder proposals for inclusion in the registrant’s proxy statement and the form of proxy for the next annual meeting calculated *in the manner provided in [rule] 14a-8(e)* (Question 5)” (emphasis added).

²⁶ See also Berkshire Hathaway Inc. (Mar. 2, 2007) (proposal seeking to restrict Berkshire from investing in securities of any foreign corporation that engages in activities prohibited for U.S. corporations by Executive Order of the President of the United States omitted under (i)(3) as vague and indefinite— because, in part, the proposal was drafted broadly so as to encompass all past and future Executive Orders, while the supporting statement focused almost exclusively on Sudan). Similarly here, the Proposal tracks the language and terminology of rule 14a-8 (giving rise to the impression that such terms and phrases should be interpreted as they are under that rule), all the while seeking to implement a shareholder proposal process wholly inconsistent with the framework of the rule.

shareholders nor the Company will be able to determine with any reasonable certainty the operation of the procedural requirements in the Proposal.

- As discussed above, the Proposal is very clear in its intention to override rule 14a-8 with regard to the substantive bases upon which a company may exclude a shareholder proposal. However, there is no indication as to whether or not the procedural requirements in the definition of “qualified proposal” are intended to similarly override those in paragraphs (b)-(e) of rule 14a-8. The override of the procedural requirements of rule 14a-8 does not appear to be the legal effect of the Proposal because it is likely that the rule 14a-8 procedural requirements (including the notice and remedy provisions) would continue to apply.²⁷ In this regard, the language of the Proposal and the Supporting Statement is so vague and uncertain as to the interaction between the Proposal and rule 14a-8 that neither shareholders nor the Company will be able to determine with reasonable certainty the effect of adoption of the Proposal on the procedural rights provided to shareholders under rule 14a-8.

For the reasons stated above, both individually and collectively, the Company believes that the Proposal and Supporting Statement may be properly omitted from Xerox’s proxy materials in reliance on rule 14a-8(i)(3) as they are so vague and indefinite that neither shareholders in voting on the Proposal, nor the Company in implementing it (if adopted), would be able to determine with any reasonable certainty what actions are required.

III. Conclusion

On the basis of the foregoing, the Company respectfully requests the concurrence of the Staff that the Proposal may be excluded from the Company’s proxy materials for the 2008 Annual Meeting.

If you have any questions or would like any additional information regarding the foregoing, please do not hesitate to contact Robert Plesnarski or Rebekah Toton of O’Melveny & Myers LLP, counsel representing the Company, at 202-383-5107 or the undersigned at 203-849-2529. Please transmit your response by fax to the undersigned at 203-849-5152. The fax number for the Proponent is 617-812-0554.

²⁷ In this regard, rule 14a-8 specifically addresses “when a company *must include* a shareholder’s proposal in its proxy statement.” And paragraph (a) of rule 14a-8 defines a “proposal” as a shareholder’s “recommendation or requirements that the company and/or its board of directors take action, which [a shareholder] intend[s] to present at a meeting of the company’s shareholders.” Therefore, the Company would have to treat a “qualified proposal” submitted by a shareholder to the Company for inclusion in the proxy, and who intended to present it at the annual meeting, as a rule 14a-8 proposal and any exclusion of the qualified proposal from the proxy for procedural deficiencies would have to meet the procedural requirements of rule 14a-8.

Don H. Liu
Senior Vice President,
General Counsel and Secretary



Please acknowledge receipt of this letter by stamping and returning the enclosed receipt copy of this letter. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to be "D. Liu", written over a horizontal line.

DHL:eck
Attachment

cc: Lucian Bebhuk
1545 Massachusetts Avenue
Cambridge, MA 02138

Robert Plesnarski
Rebekah Toton
O'Melveny & Myers LLP
1625 Eye Street, NW
Washington, DC 20006

Exhibit A

GRANT & EISENHOFER, P.A.

CHASE MANHATTAN CENTRE ■ 1201 MARKET STREET ■ 21st FLOOR ■ WILMINGTON, DELAWARE 19801
302-622-7000 ■ FAX: 302-622-7100

485 LEXINGTON AVENUE ■ 29TH FLOOR ■ NEW YORK, NEW YORK 10017
646-722-8500 ■ FAX: 646-722-8501

FACSIMILE TRANSMITTAL FORM

December 11, 2007

RECEIVED

DEC 11 2007

Don H. Liu

TO:	DON H. LIU CORPORATE SECRETARY	FIRM:	XEROX CORPORATION
PHONE:		Fax:	(203) 849-5152

If you experience problems with a transmission, please call (646) 722-8500 between 9:30 a.m. and 6:00 p.m.

FROM:	Ananda N. Chaudhuri	FAX:	(646) 722-8501
PHONE:	(646) 722-8517	Pages (including cover sheet):	3
RE:	Lucian Behchuk		

COVER MESSAGE:

Please see attached.

Thank you.

ck ownership

CONFIDENTIALITY NOTE:

The documents accompanying this facsimile transmission contain information which may be confidential and/or legally privileged, from the law firm of Grant & Eisenhofer, P. A. The information is intended only for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this faxed information is strictly prohibited, and that the documents should be returned to this firm immediately. If you have received this in error, please notify us by telephone immediately at (302) 622-7000 collect, so that we may arrange for the return of the original documents to us at no cost to you. The unauthorized disclosure, use, or publication of confidential or privileged information inadvertently transmitted to you may result in criminal and/or civil liability.

Lucian Bebhuk
1545 Massachusetts Avenue
Cambridge, MA 02138
Telefax (617)-812-0554

December 10, 2007

VIA TELECOPY AND VIA OVERNIGHT MAIL

Corporate Secretary
Xerox Corporation
P.O. Box 1600
Stamford, CT 06904

Re: Shareholder Proposal of Lucian Bebhuk

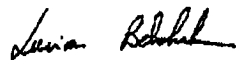
To: Corporate Secretary

I am the owner of 200 shares of common stock of Xerox Corporation (the "Company"), which I have continuously held for more than 1 year as of today's date. I intend to continue to hold these securities through the date of the Company's 2008 annual meeting of shareholders.

Pursuant to Rule 14a-8, I enclose herewith a shareholder proposal and supporting statement (the "Proposal") for inclusion in the Company's proxy materials and for presentation to a vote of shareholders at the Company's 2008 annual meeting of shareholders.

Please let me know if you would like to discuss the Proposal or if you have any questions.

Sincerely,



Lucian Bebhuk

RESOLVED that shareholders of Xerox Corporation recommend that the Board of Directors adopt a By-Law provision under which the Company, to the extent permitted under federal law and state law, shall include in its proxy materials for an annual meeting of shareholders any qualified proposal for an amendment of the By-Laws submitted by a proponent, as well as the proponent's supporting statement if any, and shall allow shareholders to vote with respect to such a qualified proposal on the Company's proxy card. A qualified proposal refers in this resolution to a proposal that satisfies the following requirements:

- (a) The proposed amendment of the By-Laws would be legally valid if adopted;
- (b) The proponent submitted the proposal and supporting statement to the Company's Secretary by the deadline specified by the Company for shareholder proposals for inclusion in the proxy materials for the Annual Meeting;
- (c) The proponent beneficially owned at the time of the submission at least \$2,000 of the Company's outstanding common stock for at least one year, and did not submit other shareholder proposals for the Annual Meeting;
- (d) The proposal and its supporting statement do not exceed 500 words;
- (e) The proposal does not substantially duplicate another proposal previously submitted to the Company by another proponent that will be included in the Company's proxy materials for the same meeting; and
- (f) The proposal is not substantially similar to any other proposal that was voted upon by the shareholders at any time during the preceding three calendar years and failed to receive at least 3% of the votes cast when so considered.

SUPPORTING STATEMENT:

Statement of Professor Lucian Bebchuk: In my view, the ability to place proposals for By-Law amendments on the corporate ballot could in some circumstances be essential for shareholders' ability to use their power under state law to initiate By-Law amendments. In the absence of ability to place such a proposal on the corporate ballot, the costs involved in obtaining proxies from other shareholders could deter a shareholder from initiating a proposal even if the proposal is one that would obtain shareholder approval were it to be placed on the corporate ballot. Current and future SEC rules may in some cases allow companies to but do not currently require them to exclude proposals from the corporate ballot. In my view, even when SEC rules may allow exclusion, it would be desirable for the Company to place on the corporate ballot proposals that satisfy the requirements of a qualified proposal. I urge even shareholders who believe that no changes in the Company's By-Laws are currently desirable to vote for my proposal to facilitate shareholders' ability to initiate proposals for By-Law amendments to be voted on by their fellow shareholders.

I urge you to vote for this proposal.



Grant & Eisenhofer PA.

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New York, NY 10017
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Chase Manhattan Centre
1201 North Market Street
Wilmington, DE 19801
Tel: 302-622-7000 • Fax: 302-622-7100

Direct Dial: 302-622-7065
Email: mbarry@gelaw.com

January 30, 2008

VIA FACSIMILE AND OVERNIGHT MAIL

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

RECEIVED
2008 JAN 31 PM 3:33
OFFICE OF CHIEF COUNSEL
CORPORATION FINANCE

Re: Shareholder Proposal Submitted by Lucian Bebchuk for Inclusion in Xerox Corporation's 2008 Proxy Statement

Ladies and Gentlemen:

This letter is to inform you that our client Lucian Bebchuk has determined to withdraw his proposal submitted to Xerox Corporation ("Xerox" or the "Company") on December 10, 2007, for inclusion in the Company's proxy materials for its 2008 annual meeting of shareholders (the "Annual Meeting"), and attached as Exhibit A. A copy of Lucian Bebchuk's letter informing Xerox is attached as Exhibit B.

Sincerely,

Michael J. Barry

cc: Don H. Liu, Esquire (via fax)

RECEIVED
2008 JAN 31 PM 3:33
OFFICE OF CHIEF COUNSEL
CORPORATION FINANCE

Exhibit A

RESOLVED that shareholders of Xerox Corporation recommend that the Board of Directors adopt a By-Law provision under which the Company, to the extent permitted under federal law and state law, shall include in its proxy materials for an annual meeting of shareholders any qualified proposal for an amendment of the By-Laws submitted by a proponent, as well as the proponent's supporting statement if any, and shall allow shareholders to vote with respect to such a qualified proposal on the Company's proxy card. A qualified proposal refers in this resolution to a proposal that satisfies the following requirements:

- (a) The proposed amendment of the By-Laws would be legally valid if adopted;
- (b) The proponent submitted the proposal and supporting statement to the Company's Secretary by the deadline specified by the Company for shareholder proposals for inclusion in the proxy materials for the Annual Meeting;
- (c) The proponent beneficially owned at the time of the submission at least \$2,000 of the Company's outstanding common stock for at least one year, and did not submit other shareholder proposals for the Annual Meeting;
- (d) The proposal and its supporting statement do not exceed 500 words;
- (e) The proposal does not substantially duplicate another proposal previously submitted to the Company by another proponent that will be included in the Company's proxy materials for the same meeting; and
- (f) The proposal is not substantially similar to any other proposal that was voted upon by the shareholders at any time during the preceding three calendar years and failed to receive at least 3% of the votes cast when so considered.

SUPPORTING STATEMENT:

Statement of Professor Lucian Bebchuk: In my view, the ability to place proposals for By-Law amendments on the corporate ballot could in some circumstances be essential for shareholders' ability to use their power under state law to initiate By-Law amendments. In the absence of ability to place such a proposal on the corporate ballot, the costs involved in obtaining proxies from other shareholders could deter a shareholder from initiating a proposal even if the proposal is one that would obtain shareholder approval were it to be placed on the corporate ballot. Current and future SEC rules may in some cases allow companies – but do not currently require them – to exclude proposals from the corporate ballot. In my view, even when SEC rules may allow exclusion, it would be desirable for the Company to place on the corporate ballot proposals that satisfy the requirements of a qualified proposal. I urge even shareholders who believe that no changes in the Company's By-Laws are currently desirable to vote for my proposal to facilitate shareholders' ability to initiate proposals for By-Law amendments to be voted on by their fellow shareholders.

I urge you to vote for this proposal.

Exhibit B

Lucian Bebhuk
1545 Massachusetts Avenue
Cambridge, MA 02138
Fax: (617)-812-0554

January 30, 2008

VIA FACSIMILE

Don H. Liu, Esquire
Senior Vice President, General Counsel and Secretary
Xerox Corporation
45 Glover Avenue
Norwalk, CT 06856

Re: Shareholder Proposal of Lucian Bebhuk

To Don H. Liu:

This is to inform you that I am withdrawing my proposal submitted to Xerox Corporation (the "Company") on December 10, 2007, and attached as Exhibit A (the "Proposal"). Accordingly, I request that the Proposal not be included in the Company's proxy materials for its 2008 annual meeting of shareholders (the "Annual Meeting") and I do not intend to appear in person or by proxy at the Annual Meeting to present the Proposal.

Sincerely,



Lucian Bebhuk

Don H. Liu
Senior Vice President,
General Counsel and Secretary



By electronic mail (cfletters@sec.gov)

February 4, 2008

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, NE
Washington, DC 20549


Re: Shareholder Proposal Submitted by Lucian Bebchuk

Ladies and Gentlemen:

Xerox Corporation (the "Company") hereby withdraws its request, dated January 16, 2008, for a no-action letter regarding its intention to exclude a shareholder proposal and supporting statement submitted by Lucian Bebchuk (the "Proponent") from the Company's proxy materials for its 2008 Annual Meeting of Shareholders. The Proponent has withdrawn his proposal in a letter dated January 30, 2008, which is attached hereto as Attachment A. A letter from Proponent's counsel dated January 30, 2008 confirming the withdrawal of the proposal is attached hereto as Attachment B.

If you have any questions or would like any additional information regarding the foregoing, please do not hesitate to contact Robert Plesnarski or Rebekah Toton of O'Melveny & Myers LLP, counsel representing the Company, at 202-383-5107 or the undersigned at 203-849-2529. Please transmit your acknowledgement of the withdrawal of the Company's request by fax to the undersigned at 203-849-5152. The fax number for the Proponent is 617-812-0554.

Sincerely,


Don H. Liu

DHL:eck
Attachments

45 Glover Avenue
Norwalk, Connecticut 06856

203-948-2529

Exhibit A

RESOLVED that shareholders of Xerox Corporation recommend that the Board of Directors adopt a By-Law provision under which the Company, to the extent permitted under federal law and state law, shall include in its proxy materials for an annual meeting of shareholders any qualified proposal for an amendment of the By-Laws submitted by a proponent, as well as the proponent's supporting statement if any, and shall allow shareholders to vote with respect to such a qualified proposal on the Company's proxy card. A qualified proposal refers in this resolution to a proposal that satisfies the following requirements:

- (a) The proposed amendment of the By-Laws would be legally valid if adopted;
- (b) The proponent submitted the proposal and supporting statement to the Company's Secretary by the deadline specified by the Company for shareholder proposals for inclusion in the proxy materials for the Annual Meeting;
- (c) The proponent beneficially owned at the time of the submission at least \$2,000 of the Company's outstanding common stock for at least one year, and did not submit other shareholder proposals for the Annual Meeting;
- (d) The proposal and its supporting statement do not exceed 500 words;
- (e) The proposal does not substantially duplicate another proposal previously submitted to the Company by another proponent that will be included in the Company's proxy materials for the same meeting; and
- (f) The proposal is not substantially similar to any other proposal that was voted upon by the shareholders at any time during the preceding three calendar years and failed to receive at least 3% of the votes cast when so considered.

SUPPORTING STATEMENT:

Statement of Professor Lucian Bebchuk: In my view, the ability to place proposals for By-Law amendments on the corporate ballot could in some circumstances be essential for shareholders' ability to use their power under state law to initiate By-Law amendments. In the absence of ability to place such a proposal on the corporate ballot, the costs involved in obtaining proxies from other shareholders could deter a shareholder from initiating a proposal even if the proposal is one that would obtain shareholder approval were it to be placed on the corporate ballot. Current and future SEC rules may in some cases allow companies – but do not currently require them – to exclude proposals from the corporate ballot. In my view, even when SEC rules may allow exclusion, it would be desirable for the Company to place on the corporate ballot proposals that satisfy the requirements of a qualified proposal. I urge even shareholders who believe that no changes in the Company's By-Laws are currently desirable to vote for my proposal to facilitate shareholders' ability to initiate proposals for By-Law amendments to be voted on by their fellow shareholders.

I urge you to vote for this proposal.

Attachment B



Grant & Lischerhoffer P.A.

187 LEADBURY AVENUE
NEW YORK, NY 10017
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www.gelaw.com

Direct Dial: 302-622-7065
E-mail: mbarry@gelaw.com

January 30, 2008

Chase Manhattan Center
1201 North Market Street
Wilmington, DE 19801
TEL: 302 622 7060 • FAX: 302 622 7100

1020 I Street, NW, Suite 400
Washington, DC 20004
TEL: 202 783 6091 • FAX: 202 350 3008

VIA FACSIMILE AND OVERNIGHT MAIL

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: **Shareholder Proposal Submitted by Lucian Bebehuk for Inclusion in
Xerox Corporation's 2008 Proxy Statement**

Ladies and Gentlemen:

This letter is to inform you that our client Lucian Bebehuk has determined to withdraw his proposal submitted to Xerox Corporation ("Xerox" or the "Company") on December 10, 2007, for inclusion in the Company's proxy materials for its 2008 annual meeting of shareholders (the "Annual Meeting"), and attached as Exhibit A. A copy of Lucian Bebehuk's letter informing Xerox is attached as Exhibit B.

Sincerely,

Michael J. Barry

cc: Don H. Liu, Esquire (via fax)

Exhibit A

RESOLVED that shareholders of Xerox Corporation recommend that the Board of Directors adopt a By-Law provision under which the Company, to the extent permitted under federal law and state law, shall include in its proxy materials for an annual meeting of shareholders any qualified proposal for an amendment of the By-Laws submitted by a proponent, as well as the proponent's supporting statement if any, and shall allow shareholders to vote with respect to such qualified proposal on the Company's proxy card. A qualified proposal refers in this resolution to a proposal that satisfies the following requirements:

- (a) The proposed amendment of the By-Laws would be legally valid if adopted;
- (b) The proponent submitted the proposal and supporting statement to the Company's Secretary by the deadline specified by the Company for shareholder proposals for inclusion in the proxy materials for the Annual Meeting;
- (c) The proponent beneficially owned at the time of the submission at least \$2,000 of the Company's outstanding common stock for at least one year, and did not submit other shareholder proposals for the Annual Meeting;
- (d) The proposal and its supporting statement do not exceed 500 words;
- (e) The proposal does not substantially duplicate another proposal previously submitted to the Company by another proponent that will be included in the Company's proxy materials for the same meeting; and
- (f) The proposal is not substantially similar to any other proposal that was voted upon by the shareholders at any time during the preceding three calendar years and failed to receive at least 3% of the votes cast when so considered.

SUPPORTING STATEMENT:

Statement of Professor Lucian Bebchuk: In my view, the ability to place proposals for By-Law amendments on the corporate ballot could in some circumstances be essential for shareholders' ability to use their power under state law to initiate By-Law amendments. In the absence of ability to place such a proposal on the corporate ballot, the costs involved in obtaining proxies from other shareholders could deter a shareholder from initiating a proposal even if the proposal is one that would obtain shareholder approval were it to be placed on the corporate ballot. Current and future SEC rules may in some cases allow companies - but do not currently require them - to exclude proposals from the corporate ballot. In my view, even when SEC rules may allow exclusion, it would be desirable for the Company to place on the corporate ballot proposals that satisfy the requirements of a qualified proposal. I urge even shareholders who believe that no changes in the Company's By-Laws are currently desirable to vote for my proposal to facilitate shareholders' ability to initiate proposals for By-Law amendments to be voted on by their fellow shareholders.

I urge you to vote for this proposal.

Exhibit B

Lucian Bebehuk
1545 Massachusetts Avenue
Cambridge, MA 02138
Fax: (617)-812-0554

January 30, 2008

VIA FACSIMILE

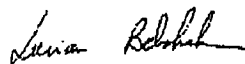
Don H. Liu, Esquire
Senior Vice President, General Counsel and Secretary
Xerox Corporation
45 Glover Avenue
Norwalk, CT 06851

Re: Shareholder Proposal of Lucian Bebehuk

To Don H. Liu:

This is to inform you that I am withdrawing my proposal submitted to Xerox Corporation (the "Company") on December 10, 2007, and attached as Exhibit A (the "Proposal"). Accordingly, I request that the Proposal not be included in the Company's proxy materials for its 2008 annual meeting of shareholders (the "Annual Meeting") and I do not intend to appear in person or by proxy at the Annual Meeting to present the Proposal.

Sincerely,



Lucian Bebehuk