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In Re: **Comments From Investors on Mutual Fund Governance**

Mr. William H. Donaldson, Chairman
and
Mr. Jonathan G. Katz, Secretary
U.S. Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0609

One Copy to Chairman Donaldson

Three Copies to Secretary Katz

Dear Messrs. Donaldson and Katz:

The Wall Street Journal, Thursday, July 8, 2004, Page A14, contains an article entitled "***Fair Shake or Shakedown?***" by Mr. John C. Bogle. If you haven't read that article, you should. Mr. Bogle's article is instructive and includes some suggestions for additional mutual fund governance changes that must be made in order to protect mutual fund shareholder's interests. I agree 100% with the comments in Mr. Bogle's article.

I am a retired small investor with a portion of my life's savings invested in mutual funds. The regulatory bodies, such as the SEC and attorneys general, are the small individual investor's only effective means of protection against the greed and self-interests of mutual fund managers and brokers. If the SEC and our Attorneys General are genuinely interested in protecting the small investor, do more about it! Do more that will in fact further protect the small investor from the uncontrolled greed and self-serving actions and abuses of mutual fund company managers, brokers, and boards of directors.

For your benefit and convenience, I am providing the following quotations directly from Mr. Bogle's July 8, 2004 article:

- "...1940, the Investment company Act...requires that funds be 'organized, operated, and managed' in the interests of fund shareholders, rather than in the interests of their managers and distributors."
- Last month the SEC took the ... " first major step ... adopting a rule that requires the chairman of a fund's board of directors to be unaffiliated with...the management company."
- "But standing alone, it is not enough to redress the existing structure in which the manager controls the fund, dictating the contractual terms under which it provides all of the services the fund requires in order to exist. It will also take further restructuring in fund governance."
- "An ideal governance structure requires,
  - + First, a far heavier representation of independent directors, and the new SEC rule requires that at least 75% of a board be independent, another forward step.
  - + Second, fund directors need an independent staff to provide the board unbiased information that includes analysis of the investment returns, risks, management fees, expense ratios and capital flows for each of the funds in the complex. (The new rule

authorizes, but does not require, such a staff.)

+ Third, this structure must be buttressed by a statutory standard of fiduciary duty added to the 1940 Act requiring directors to assure that funds are, yes, 'organized, operated, and managed' in the interests of their owners. Such a standard should also provide guidelines for aiding directors in carrying out their trusteeship responsibilities."

- "...these [mutual fund] scandals represent only the tip of the iceberg in which the interests of fund owners are subservient to those of fund managers."
- **With emphasis** - "...if one believes that the stewardship responsibility for other people's money is a sacred trust, it is high time for structural reform in the fund industry. For by allowing funds to be organized, operated and managed in the interests of their management companies rather than their owners, the fund industry has defied the principles of the 1940 Act."
- **With emphasis** - "Capitalism ought to be about capturing the benefits of equity investment for those who put up the capital and take the risks. The record makes it impossible for fund managers to assert that they have achieved that goal for our 91 million citizens who own mutual funds. It is high time to put their interests front and center, rather than allowing the self-interest of fund managers to prevail. It's all about giving the shareowner a fair shake."

Mr. Bogle's article also cites a study by Fidelity Management. I'm sure you've heard the phrase, "Figures don't lie, liars figure." In my opinion that phrase fits the "results" reported by Fidelity – one more deliberate attempt to mislead the investing public, to overstate fund performance.

The SEC should solicit more input from people like John C. Bogle, former Chairman and Chief Executive Officer of The Vanguard Group. Mr. Bogle has long been criticized by most of the mutual fund industry when, in fact, his views have been a lone voice in favor of the small mutual fund investor. He could undoubtedly give the SEC some valuable advice on effective and reasonable management of the mutual fund industry.

The SEC must be willing to make some decisions that will be very unpopular with the mutual fund and brokerage industries and in favor of small investors who must place their trust in the SEC.

<u>THE SEC SHOULD FURTHER INVESTIGATE MUTUAL FUND MANAGER'S INTERESTS THAT ARE OPPOSED TO INVESTORS INTERESTS</u>: The interests of most mutual fund companies' managers and brokers and the small investor are directly opposed. The **mutual fund and brokerage industries are interested only in**

+ **passing** all **costs, no matter that they are unnecessary or the result of inefficient operation,** directly **to** mutual fund or other **investors**;
+ **maximizing profits** to mutual fund managers, distributors and brokers;
+ **minimizing investor information** on costs, rates of return, gain or loss position;
+ **overstating** the **real returns** of mutual funds and investments offered;
+ **confusing and disguising** their **operations and** the **costs** their investors must bear;
+ **complicating** their **voting processes** so much that investors must rely too heavily on management's recommendations in casting their votes.

The small (mutual fund) investor has little choice and very little effective representation.

The SEC must be willing to look at the way mutual fund owners and brokers operate and ask themselves whether small investors' interests are being adequately protected. Where that is not the case, the **SEC must be willing to act to protect the small investors' interests**.

THE SEC CANNOT SERVE TWO MASTERS – THE SEC MUST REPRESENT THE SMALL INVESTOR: The SEC cannot "rubber stamp" the recommendations made by the brokers and mutual funds industry and protect the small investor at the same time. The violations of trust and confidence and the breaches of fiduciary duty by many mutual fund companies have been reprehensible, significant and motivated solely by greed and self-interest.

The mutual fund industry has clearly and emphatically demonstrated that they cannot be relied upon to police or regulate themselves. They have proven themselves to be unworthy of the trust of their investors. The SEC can no longer allow the "fox to guard the hen house". The actions of several mutual fund companies have been corrupt and have so tainted the remainder of the industry that many investors have completely lost faith in them. The SEC cannot allow the brokerage and mutual fund industry to run roughshod over the small investor. The SEC must tailor their regulations of the brokerage and mutual fund industry toward the protection of the small investor.

Thank you for the opportunity to provide my comments. It is my hope that the SEC and the regulatory bodies governing the brokerage and mutual fund industries will hear, and act upon, the voices of investors like me.

Yours truly,

Thomas R. Reeves

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