

Street Name Shareowners: Rights Denied

I thought it might be useful to create a simple table of known instances where Street Name shareowners are being denied rights readily available to registered shareowners. It also points up the fact that those writing the regulations didn't seem to understand how street name registration works either. Do you know of other similar situations? Please share your information by e-mailing James McRitchie at jm@corp.gov.net.

SEC Rule	How Street Name Owner Rights are Violated
<p>Rule 14a-8 (b)(2)(i) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own. Otherwise submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year.</p>	<p>In the case of Apache v Chevedden, Chevedden submitted evidence of ownership from his broker, RAM Trust and their custodian Northern Trust. Apache claims neither are record holders. Deep-pocketed Apache may hope to keep Chevedden tied in legal knots until he runs out of money or gives up. In January 2009, Depository Trust Company (DTC) began implementing a change to the "Withdrawal-by-transfer" (WT) procedures. A WT occurs when a broker holding an investor's shares in street name transfers the shares out to record ownership. In addition, it is apparent that SEC staff, who drafted the rule don't understand that Cede & Co., under DTC, is the shareowner of record, not "usually a broker or bank." More details at http://corp.gov.net/wordpress/?p=576 and http://corp.gov.net/wordpress/?p=550.</p>
<p>Rule 14a-4(b)(1) requires that when the security holder does not specify a choice, a proxy may confer discretionary authority "provided that the form of proxy states in bold-face type how it is intended to vote the shares represented by the proxy in each such case."</p>	<p>Broadridge claims they don't have to follow these rules required for proxies because they use a voter information form (VIF), not a proxy. Blank votes go to management with little warning. More details in McRitchie's rulemaking petition to the SEC at http://www.sec.gov/rules/petitions/2009/petn4-583.pdf. The SEC doesn't appear to recognize retail shareowners are getting VIFs, not proxies. Again, the only current solution appears to require transferring shares out to record.</p>
<p>Rule 14a-4(a)(3) states the proxy "shall identify clearly and impartially each separate matter intended to be acted upon, whether or not related to or conditioned on the approval of other matters, and whether proposed by the registrant or by security holders."</p>	<p>Again, Broadridge claims they don't have to follow rules required for proxies because they use a VIF. Broadridge can simply reference "a shareholder proposal described in the proxy statement," rather than clearly describing the resolution, as is required for proxies. See http://corp.gov.net/wordpress/?p=365 and http://investorsagainstgenocide.net/2009-1012%20Problems%20with%20voting%20at%20American%20Funds.pdf. The SEC doesn't appear to recognize retail shareowners are getting VIFs, not proxies. Again, the only current solution appears to require transferring shares out to record.</p>