

2715.7760 DIRECTORS AND EXECUTIVE OFFICERS.

If action is to be taken with respect to the election of directors, furnish the information required by items A to K, in tabular form to the extent practicable, with respect to each person nominated for election as a director and each other person whose term of office as a director will continue after the meeting. If the solicitation is made on behalf of persons other than the issuer, the information required need be furnished only as to nominees of the persons making the solicitation.

A. List the names and ages of all directors and officers of the issuer and all persons nominated or chosen to become directors or officers; indicate all positions and offices with the issuer held by each person; state the person's term of office as director or officer and any period during which the person has served as officer or director; briefly describe any arrangement or understanding between him or her and any other person pursuant to which he or she was or is to be selected as a director, officer, or nominee, and name this other person.

The information regarding officers need not be furnished in proxy or information statements if the information is furnished in a separate item in the issuer's annual report to stockholders.

B. State the nature of any family relationship not more remote than first cousin between any director, officer, or person nominated or chosen by the issuer to become a director or officer and also any similar family relationship between the person and any officer or director of any of the issuer's parents, subsidiaries or other affiliates.

C. State the principal occupations and employment during the past five years of each director and each person nominated or chosen to become a director or officer and the name and principal business of any corporation or other organization in which the occupations and employment were carried on.

D. Indicate other directorships held by each director or person nominated or chosen to become a director.

E. Describe any legal proceedings which have occurred during the past five years or which are pending which are material to an evaluation of the ability or integrity of any director or person nominated to become a director or officer of the issuer.

F. Describe any of the following relationships which exist:

(1) if the nominee or director is, or has within the last two full fiscal years been, an officer, director or employee of, or owns, or has within the last two full fiscal

years owned, directly or indirectly, in excess of a one percent equity interest in any firm, corporation or other business or professional entity:

(a) which has made payments to the issuer or its subsidiaries during the issuer's last full fiscal year or which proposes to make payments to the issuer or its subsidiaries during the current fiscal year in excess of one percent of the issuer's consolidated gross revenues for its last full fiscal year;

(b) to which the issuer or its subsidiaries were indebted at any time during the issuer's last fiscal year in an aggregate amount in excess of one percent of the issuer's total consolidated assets at the end of the fiscal year;

(c) to which the issuer or its subsidiaries have made payments during the entity's last fiscal year or to which the issuer or its subsidiaries propose to make payments during the entity's current fiscal year in excess of one percent of the entity's consolidated gross revenues for its last full fiscal year;

(d) in order to determine whether payments made or proposed to be made exceed one percent of the consolidated gross revenues of any entity other than the issuer for the entity's last full fiscal year, it is appropriate to rely on information provided by the nominee or director;

(e) in calculating payments for property and services the following may be excluded:

i. payments where the rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a public utility at rates or charges fixed in conformity with law or governmental authority;

ii. payments which arise solely from the ownership of securities of the issuer and no extra or special benefit not shared on a pro rata basis by all holders of the class of securities is received;

(f) in calculating indebtedness for purposes of subitem (b), debt securities which have been publicly offered, admitted to trading on a national securities exchange, or quoted on the automated quotation system of a registered securities association may be excluded;

(2) the nominee or director is a member or employee of, or is associated with, a law firm which the issuer has retained in the last two full fiscal years or proposes to retain in the current fiscal year where fees paid or anticipated to be paid by the issuer are material to either the law firm, the issuer, or both;

(3) the nominee or director is a director, partner, officer or employee of any investment banking firm which has performed services for the issuer other than as a

participating underwriter in a syndicate in the last two full fiscal years or which the issuer proposes to have perform services in the current year; or

(4) the nominee or director is a control person of the issuer, other than solely as a director of the issuer.

G. State whether or not the issuer has standing audit, nominating, and compensation committees of the board of directors, or committees performing similar functions. If the issuer has the committees, however designated, identify each committee member, state the number of committee meetings held by each committee during the last fiscal year and describe briefly the functions performed by the committees. If the issuer has a nominating or similar committee, state whether the committee will consider nominees recommended by shareholders and describe the procedures to be followed by shareholders in submitting these recommendations.

H. State the total number of meetings of the board of directors, including regularly scheduled and special meetings, which were held during the last full fiscal year. Name each incumbent director who during the last full fiscal year attended fewer than 75 percent of the aggregate of the total number of meetings of the board of directors held during the period for which that person has been a director, and the total number of meetings held by all committees of the board on which the director served during the periods that he or she served.

I. If a director has resigned or declined to stand for reelection to the board of directors since the date of the last annual meeting of shareholders because of a disagreement with the issuer on any matter relating to the issuer's operations, policies or practices, and if the director has furnished the issuer with a letter describing the disagreement and requesting that the matter be disclosed, the issuer shall state the date of resignation or declination to stand for reelection and summarize the director's description of the disagreement.

If the issuer believes that the description provided by the director is incorrect or incomplete, it may include a brief statement presenting its views of the disagreement.

J. With respect to those classes of voting stock which participated in the election of directors at the most recent meeting at which directors were elected:

(1) state the percentage of shares present at the meeting and voting or withholding authority to vote in the election of directors; and

(2) disclose in tabular format, the percentage of total shares cast for and withheld from the vote for or, where applicable, cast against, each nominee, which respectively were voted for and withheld from the vote for, or voted against, the nominee. When groups of classes or series of classes vote together in the election of a director or directors, they shall be treated as a single class for the purpose of the preceding sentence.

K. Instructions:

(1) Calculate the percentage of shares present at the meeting and voting or withholding authority to vote in the election of directors, referred to in item J, subitem (1) by dividing the total shares cast for and withheld from the vote for or, where applicable, voted against, the director in respect of whom the highest aggregate number of shares was cast by the total number of shares outstanding which were eligible to vote as of the record date for the meeting.

(2) No information need be given in response to item J unless, with respect to any class of voting stock or group of classes which voted together, five percent or more of the total shares cast for and withheld from the vote for or, where applicable, cast against any nominee were withheld from the vote for or cast against the nominee.

(3) If an issuer elects less than the entire board of directors annually, disclosure is required as to all directors if five percent or more of the total shares cast for and withheld from the vote for or, where applicable, cast against any incumbent director were withheld from or cast against the vote for the director at the meeting at which the director was most recently elected.

(4) No information need be given in response to item J if the issuer has previously furnished to its security holders a report of the results of the most recent meeting of security holders at which directors were elected which includes a description of each matter voted upon at the meeting and a statement of the percentage of the shares voting which were voted for and against each matter and the information which would be called for by item J. If an issuer has previously furnished these results to its security holders, this fact should be set forth in a letter accompanying the filing of preliminary proxy materials with the commissioner.

Statutory Authority: *MS s 60A.22*

History: *17 SR 1279*

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