

# SEC Staff Rejects Apple's Attempts to Exclude Shareholder Proposal Submitted by "Proxy"

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The SEC Staff has [denied](#) Apple's request to exclude a shareholder proposal on the basis that Rule 14a-8 does not permit a "proxy," in this case, John Chevedden, to submit a proposal on behalf of a shareholder. Apple had also claimed that the authorization to Chevedden from Jim McRitchie, as the shareholder, was not properly presented.

We previously discussed Apple's no-action letter [here](#). In its determination, the SEC staff did not address any of Apple's specific allegations, or Chevedden's 10 letters in defense. The staff simply indicated in its response letter that Chevedden submitted the proposal on behalf of McRitchie, and a written statement was provided from McRitchie verifying ownership.

Another company, National Fuel Gas, had similarly written a letter to the SEC maintaining that the proponent, Trillium, and the shareholder it represented, failed to provide sufficient evidence of whether either entity held voting authority or investment discretion over the company's securities. The company, which previously brought a lawsuit last season against another proponent under the same theory – before the shareholder proponent in that case ultimately withdrew – has ceased fighting the proposal and will include it in its 2014 proxy materials.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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