



MEMO

To: Board of Directors
From: Company Secretary
Subject: **PROXY SOLICITATION**

Directors, for your information a shareholder has contacted me to advise that he has received the undermentioned correspondence from another shareholder asking him to provide a proxy for the AGM, and asks "is it legal?".

In my opinion, tangible/obvious shareholder support to help drive corporate actions is desirable, as they are the 'owners' of the company. Yet many do not bother to be involved in any way, let alone provide proxy votes for the AGM.

So, securing enough votes/support to enable resolutions covering corporate actions to be passed can be a challenge for companies in light of increasing agitation/influence from dissident shareholders, lack of 'transparency' in some shareholdings, and proxy response rates average only around 10-12%.

Some companies use a specialist proxy solicitation firm that uses its database, contacts, institutional relationships, understanding of investor behaviour/thinking and knowledge of the proxy process to design and implement a program through identifying, locating and direct contact with shareholders to generate responses and valid proxy votes.

Perhaps the board would like to consider this. I have checked with our lawyers who tell me there is nothing in the Corporations Act – or any other legislation – to prohibit/restrict proxy solicitation. So I can advise the shareholder of this – and obtain a quote from a solicitation firm to have them act on your behalf if you wish to proceed that way.

Solicitation Letter

Dear Shareholder,

This year's AGM of the Company promises to be a lively one with multiple candidates for the various positions on the board.

You should receive in the mail shortly a package with names of candidates and a voting paper/proxy form, as well as recommendations from current Chairman and one of the non-executive directors. We ask you to support us for the Company to have continuing, strong and stable directorship by giving one of 'our' team your vote or your proxy.

You can print out this email (it has another copy of the proxy form below) print your name and the name of the person you wish to give your proxy to, sign it and fax it back to (07) 9000



0000 or scan the completed form and send it back to my email concern@shareholder.com.au or to the office admin@office.com.au

If your shareholding is registered as a company, business or as a body corporate, please make the form out in the same shareholder name that is registered. If you are not sure of the name, phone me on (07) 8000 000 so I can check the name is correct. A returning officer will be checking proxies and voting papers at the AGM.

We believe your help is vital - otherwise the Company will be taken over and all the present executive will be gone.

Sorry to have to bother you with this. I would much rather be doing other things rather than being involved in lobbying to prevent a 'hostile takeover'. Feel free to contact me to discuss this matter, either by return email or phone (07) 8000 000.

Regards,

A Concerned Shareholder

Legal Comments

As noted above, there are no real legal impediments to proxy solicitation, as such. However, in one of the 'high profile' Australian takeovers (of MIM by Xstrata in 2003) the court noted several procedural actions conducted by various of the parties in relation to proxies that they opined were questionable under the Act – and suggested reforms for the future in such matters.

DISCLAIMER

The comments in this memo reflect some commercial aspects and observations on the matter experienced or observed by the writer in practice as he understands them. The information is given as a guide only and does not represent a definitive or legal view of any of the issues raised, covered or referred to and the reader is urged to seek his own professional advice on all aspects of, or pertaining to, this and any related matter.