The Activist Report

13D Monitor

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13D Monitor Standstill Analysis

Standstill vs. No Standstill. 13D Monitor has tracked 167 situations in the past six years where an activist has gained a board seat. Of those 167 situations, the activist entered into a standstill agreement 118 times (70.7%). However, of those 118 standstill agreements, 66 just prohibited the activist from commencing a proxy fight or opposing management's slate at the upcoming meeting. I do not consider this to be any real restriction on the activist since the activist would not settle with the company on a board seat and then challenge its own settlement terms. So, of the 118 situations, there were only 52 (44.1%) where the activist was either restricted beyond the current meeting or had material restrictions beyond supporting management's slate at the current meeting.

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HIGHS AND LOWS

The Punch Ali never threw on Liston. In the Pershing Square/Canadian Pacific proxy fight ISS could not have more strongly endorsed Pershing Square over incumbent management. Not only did they recommend for all seven of Pershing's nominees, an unprecedented recommendation for a large cap. company, but they delivered the knockout punch by also recommended that shareholders withhold votes from Chairman Cleghorn and CEO Green.

The Dog that Caught the Car. It looks like CVR Energy's stockholders may be ready to sell the Company to Carl Icahn for $30 per share plus a contingent val-

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In the Cross Hairs

Visteon Corp. (VC) exited bankruptcy on October 1, 2010 with a stock price of $57.95. It had risen to $60.60 by the time Alden Capital targeted it on May 12, 2011. Alden settled with the Company for two board seats and entered into a Standstill Agreement through the 2012 annual meeting. The stock is now at $47.61, down 21.4% over a period when the S&P 500 rose 3.2%. Visteon still has a good enough market capitalization ($2.5B) to attract an activist, a reasonably capitalized balance sheet that you would expect a year and a half after emerging from bankruptcy and some of the lowest operating margins in its industry - an area of activist opportunity. It has an activist-friendly shareholder base who are also largely fed up with management – at last year's election 75% of the board received withhold votes greater than 10%, and the Company does not have a staggered board or a poison pill. The only negative is that the 2012 Annual Meeting is on June 14, too late for a 2012 proxy fight.

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10 Questions with Steve Wolosky

Steve Wolosky is a corporate and securities lawyer who has pioneered the area of shareholder activism. He is one of the leading lawyers in the country advising hedge funds on equity investments in public companies, including activist entities seeking representation on Boards of Directors of public companies in the U.S. and worldwide. Steve leads the Activist Practice Group at Olshan Grundman Frome Rosenzweig & Wolosky LLP in New York which has been involved in seeking board representation at over 300 public companies, including some of the most high-profile activist situations in recent years. Steve has been kind enough to take time of out his busy schedule to sit down with us for this month's edition of 10 Questions.

13DM: You represent many of the top activist investors and are the go-to lawyer for activist investors, but what advice would you give a

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company who was trying to prevent an activist situation?

SW: Simple, don't consistently underperform. In all seriousness, though, the tenor has certainly changed over the past 5 years in terms of how companies approach, or try to avoid, activist situations. It used to be that companies were advised to largely ignore activists, and if one surfaced then they were often advised to be aggressive and consider all options, including litigation. These days, companies are being counseled to appear to be constructive and to engage early and often in dialogue with their largest shareholders. A confluence of factors can lead to an activist being drawn to a company. The best way to prevent an activist from surfacing is by adopting a plan of action that looks at the company through the eyes of an activist. If the company is undervalued, are proactive actions to unlock value being explored? Are there non-strategic assets that are weighing down the stock price? Has the company shifted focus away from its core business strategy? Are the company's expenses out of line with its peers? Has the company successfully integrated recent acquisitions? Are there poor corporate governance practices in place, like excessive pay or inappropriate related party dealings? Do insiders own a sufficient amount of stock to properly align their interests? I can tell you these are the very issues that we carefully assess here at Olshan when evaluating a potential activist situation. Companies are generally doing a better job these days getting ahead of certain issues. No matter how proactive and constructive a company may be, if it's deeply undervalued and maintains questionable corporate governance practices, it shouldn't be surprised when an activist comes knocking.

13DM: You have represented activists in hundreds of campaigns. What is the main factor that distinguishes a winning campaign from a losing campaign?

SW: The key is making the case so as to get the necessary votes. Given the wide variety of activist campaigns, it is difficult to name one primary factor that distinguishes a winning campaign from a losing one. These days proxy contests are settling in record numbers. At Olshan, we stress the following to our clients in activist campaigns -- communicate effectively, engage constructively and prepare thoroughly. Each client and campaign has a different end-game. The key is identifying the paramount issues and concerns with the target and effectively communicating the message to the intended audience, be it management, the Board, other shareholders or the market. Often times, as in the case of the Starboard-Regis Corp. contest, that's the main distinguishing factor -- the message speaks for itself.

"The exponential growth of our activist practice here at Olshan over the past few years speaks to the trend of increasing shareholder activism, and there are no signs it's letting up." - Steve Wolosky

13DM: You recently represented Starboard when they received 70 – 80% of the votes in their proxy fight at Regis Corp. How early on in a campaign do you know what the turnout will be? How often are you surprised by the results of a vote?

SW: Regis Corp. represented one of the most lopsided proxy victories of my career. Starboard did an excellent job of communicating its fundamental concerns to shareholders and the proxy advisory firms, and why its candidates were better qualified to serve than the targeted incumbents. Starboard also did a very good job of showing how Regis' responsive governance changes were reactive, reluctant and did not go far enough. Starboard tried on multiple occasions to cooperate with Regis to reach a mutually agreeable settlement, but to no avail. Even in the Regis contest, it's difficult to tell early in a campaign how the shareholders will vote. Our clients typically have a pretty good handle on the shareholder base in any proxy contest. After meeting with large shareholders and institutions, you can get a sense of whether they are generally supportive of the platform and that knowledge might inform our strategy, but nothing is ever guaranteed. We have found that institutional holders rarely tip their hat as to how they'll be voting. You always have to assume that the company is also engaging with its largest holders and making certain assurances and promises in an attempt to inspire confidence in the board and win over their vote.

At various stages in a contest, you begin to form more concrete expectations for how the vote will turn out. For example, in Regis things turned after ISS and the other proxy advisory firms issued their reports and voting recommendations. The Company rolled the dice with ISS and lost. We had a very good idea after the ISS report came out that Starboard

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would get all three nominees elected. That is not always the case. The vote begins to come into clearer focus after the proxy advisory firms' reports are issued and it's at this time that the last-minute wrangling for votes really begins. In tight situations, it's these eleventh hour maneuverings in the days leading up to an annual meeting that could dictate how a vote turns out and many end up in settlements brokered by a large holder playing "kingmaker."

13DM: Advance notice bylaws are a crucial part of how companies deal with activists. What trends have you been seeing regarding advance notice bylaws?

SW: We've certainly seen some aggressive, shareholder-unfriendly amendments to advance notice bylaw provisions of late. We've also seen some companies questionably manipulate their nomination deadlines to flush out an activist shareholder as far as six months before an annual meeting date and months before the usual deadline. For example, most advance notice provisions provide if a company sets its annual meeting for a date that is outside of a 30-day window keyed off of the one-year anniversary date of its previous year's meeting, then nominations would become due within 10 days of the public announcement of such annual meeting date. In one instance late last year, a Company announced many months before its annual meeting that it had set a meeting date that would be more than 30 days before the anniversary of its 2011 annual meeting, thereby triggering an early acceleration of the nomination deadline by more than 3 months to December 31, 2011. This hard-line approach left our client with just 10 days right during the holidays to decide first whether to nominate to preserve its rights, and if so, to then be left to coordinate all of the nomination information while many people are hard to get a hold of. Did the company know what it was doing here? We think the answer's pretty clear.

Even if companies aren't in the business of manipulating their meeting dates and regularly hold their annual meetings in late April or early May, if one of these companies has an advance notice deadline of 120 or 150 days in advance of the meeting, an activist will find that it needs to commit to a course of action by mid to late January at the latest or it will find itself on the sidelines. Additionally, many companies have amended advance notice provisions to require of the nominees a completed D&O questionnaire and representation in the form provided by the company. So, now an activist has to provide advance notice of its advance notice of nominations since reaching out to the corporate secretary to get nominee forms alerts a company to forthcoming nominations.

This relatively new construct of requiring a company's form of D&O questionnaire to be filled out be an activist's nominees is a part of a larger trend we've been seeing -- companies asking for everything, including the kitchen sink, in terms of information required to be included in a nomination letter. It appears companies have been counseled to use their advance notice provisions to go well beyond the disclosure that would otherwise be required under the Proxy Rules or 13d rules. Some even appear to be using information requirements such as social security numbers as a "tool" to assist the company in completing a more detailed background check on nominees conducted by private investigations firms. Companies seem intent on obtaining a level of control over activists' future activities and communications regarding their investment and the ensuing proxy contest. I would not at all be surprised if there is litigation in the next year involving one of these overreaching advance notice provisions.

"I WOULD NOT AT ALL BE SURPRISED IF THERE IS LITIGATION IN THE NEXT YEAR INVOLVING ONE OF THESE OVERREACHING ADVANCE NOTICE PROVISIONS."

13DM: What advice do you give your activist clients about approaching management? When should they first approach them and what should the tone of that conversation be?

SW: We typically advise our clients to commence a meaningful and constructive dialogue in the early stages of their investment. You can learn quite a bit about a management team and board from their body language during an initial meeting. You can get a sense of whether the board and management is truly amenable to certain changes or merely using the constructive dialogue as a pretense. The level of engagement really depends on the situation and the ultimate goal. Is the client reaching out to management to get a sense of how the board operates? Is the client contacting management to verify that the board is willing to engage with the potential shareholder nominees? The client will likely have to work with the board in some capacity in the future. Accordingly, irrespective of the reasons underlying contact with management, the conversation should always be constructive and never adversarial.

13DM: What do you think the most pressing corporate governance issues will be over the next five years?

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10 Questions with Steve Wolosky (cont'd. from pg. 3)

SW: Poison pills will continue to be a hot-button corporate governance issue. We expect to see an increase in the number of poison pills being adopted by companies, ostensibly as protection for net operating losses (NOLs). Given that Delaware courts have generally upheld the validity of NOL pills and that ISS will consider these pills on a case-by-case basis, we expect to see an uptick in their adoption by companies. In fact, we are currently amidst a situation where a company agreed to a pill waiver for our client under its NOL pill only to later adopt a traditional pill without any waiver so as to prevent our client from accumulating additional shares. This is the first instance we can think of where one poison pill wasn't enough for a company. While some companies have a legitimate reason for adopting an NOL pill, these pills, which often limit ownership to below 5%, can have a chilling effect on activist activity. It is not a stretch to imagine the board and management of poorly performing companies exploiting these pills to their advantage in the face of activist pressure. It will then be up to the activist investor to conduct their own ownership change analysis to determine if the NOL pill may have been adopted for ulterior reasons.

I believe the proxy access hype will eventually fade out. Truthfully, we never really viewed the proposed proxy access regime as presenting a viable alternative for our activist clients seeking board representation.

Another interesting corporate governance development to watch is with this new wave of high-profile IPO's, including Facebook, Zynga and Groupon, who seem to be turning back the clock in terms of their corporate governance structures. As these newly public companies break from the trend of giving shareholders greater say, we could again find ourselves in a situation not too different from the days of Enron and Tyco where management and the board largely operated in an environment of zero accountability to shareholders.

Also, as public companies continue to declassify their boards in droves and take certain other ostensible actions in furtherance of good corporate governance, we are seeing some companies resorting to other artful, less obvious defensive measures for keeping shareholders at bay. In fact, just recently there was a company that waited until after the nomination deadline passed to announce it would not be re-nominating two director candidates that were run by an activist and elected by shareholders at the previous year's annual meeting. As noted before, we have recently seen several shareholder-unfriendly maneuvers by companies in connection with advance notice provisions.

13DM: If you could add or change one corporate governance rule, what would it be?

SW: We would like to see a regime in place governing the adoption of poison pills by companies. For example, in situations where a company is adopting a poison pill other than to protect NOLs, we would like to see the minimum threshold for triggering the pill be set at 20%. Many states already have built-in statutory protections in the form of "interested shareholder" statutes and "control share" statutes with 10% or 15% thresholds, such as Delaware's Section 203 and Tennessee's Investor Protection and Control Share Acquisition Acts. For those companies adopting NOL poison pills to purportedly protect valuable tax assets, we would like to see a requirement that such companies disclose their 382 limitation so investors can determine how vulnerable the company is to an "ownership change", as defined in the Internal Revenue Code, that could limit the company's ability to use its NOLs to offset future taxable income. We further believe companies should be made to update their 382 limitation computation at the end of every fiscal quarter for as long as they maintain the NOL pill. The adoption of such a restrictive and potentially "chilling" measure should necessarily entail this level of transparency.

Further, we believe in the context of an all cash tender offer to acquire all of the outstanding shares of common stock of the company that the company should not be able to use the shareholder rights plan as a way to prohibit the tender offer from being consummated. Shareholders should have the right to make their own decision whether to tender and the company can make its case when it provides its recommendation to shareholders. Some courts in defending the use of shareholders' rights plans have taken the "directors know better than shareholders"

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mantra a bit too far in recent years.

13DM: The Canadian Pacific/Pershing Square proxy fight will be utilizing a form of universal ballot. What are your thoughts about adopting universal ballots more widely?

SW: Adopting universal ballots clearly makes sense from a shareholder perspective. As a practical matter, universal ballots would help alleviate some of the confusion for shareholders when proxy advisors such as ISS or Glass-Lewis recommend on a dissident's proxy card, but for less than the full slate of nominees. A universal ballot would allow shareholders to fully follow the recommendation of their proxy advisor while voting for a full slate of nominees. Additionally, in instances where an activist runs a short-slate campaign, nominating less than a full slate of directors, a universal ballot would enable shareholders to put together the slate that in their mind constitutes the most qualified slate of directors. Universal ballots would provide shareholders with a simple straightforward way to choose the best directors. Instead of being forced to choose between two slates of candidates, a universal ballot would enable shareholders to put together the slate that in its mind constitutes the most qualified slate of directors.

13DM: There has been much discussion about changing the 13D rules as allowed by the Dodd-Frank Act, particularly in shortening the 10 day filing period. What are your thoughts on this?

SW: I've heard the arguments both for and against shortening the reporting time-frame and, frankly, I do not see a real benefit to shortening the 10-day disclosure period. Much of the argument for shortening the disclosure period, from what I've seen, focuses on eliminating "bad" acts (such as market manipulation and "abusive tactics") by activist hedge funds out to generate short-term profits at the expense of other shareholders. However, in my experience, the vast majority of 13D filers tend to be long-term investors with an eye towards the underlying health of the subject company and unlocking intrinsic value. Often times these investors are looking to protect or enhance their investment by placing representatives on the board. These are representatives who, once appointed to the board, have fiduciary duties to all shareholders.

"INSTEAD OF BEING FORCED TO CHOOSE BETWEEN TWO SLATES OF CANDIDATES, A UNIVERSAL BALLOT WOULD ENABLE SHAREHOLDERS TO PUT TOGETHER THE SLATE THAT IN ITS MIND CONSTITUTES THE MOST QUALIFIED SLATE OF DIRECTORS."

These are not investors interested in gutting companies for short-term profits. As an example, in a lengthy post arguing for the elimination of the 10-day filing period by David Katz of Wachtell, Katz cites the activist activity at JCPenny's in 2010 as a prime example of the exploitation of the current system. However, two years later JCP stock is trading significantly higher than when the activists began building their stake in the company, and these activists have maintained both their ownership positions and their seats on the board.

My fear is that shortening or eliminating the filing period, as has been suggested, would tilt the playing field even further in favor of boards and management at the types of underperforming companies that tend to benefit from the presence of activist investors. These companies could exploit such early disclosure, in conjunction with other current corporate governance provisions such as lengthy advance notice provisions, poison pills and the like, to further entrench incumbents and maintain the status-quo.

13DM: Do you see the level of shareholder activism increasing or decreasing over the next five to ten years?

SW: The exponential growth of our activist practice here at Olshan over the past few years speaks to the trend of increasing shareholder activism, and there are no signs it's letting up. We're seeing a tremendous increase in first-time activist clients with an appetite for dabbling in letter-writing campaigns and other activist techniques, including full blown contests. We have taken on in excess of 15 new clients this year alone looking for strategic counsel in navigating their first activist situation. I think the trend of activists going after larger market cap companies will continue over the next 5-10 years, and we have positioned our activist practice here at Olshan to be able to respond fully to this expected growth in our area. Over the past two years, activist hedge funds have reportedly pulled in over $2 billion in new assets from institutional investors. As these large institutional investors continue to pour money into activist funds, I think these activists will continue to go after larger, higher market cap companies. Companies are also finding themselves sitting on large stockpiles of cash, and I would expect an uptick in merger-related activism over the next several years. Regardless of what the current economic climate may be, there will always be companies that are deeply undervalued and that's about all it takes for shareholder activism to continue to thrive as a means to catalyze change and unlock value.

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Highs and Lows (cont'd. from pg. 1)

ue right. If Icahn receives the required amount of tenders (36%) and cannot get the Company sold soon, this could effectively leave him with 15 months of potential downside on the entire company and upside on only the 14.5% he currently owns.

The Board Who Cried Wolf. On March 13, the Great Wolf Board accepted a $5.00 per share offer from Apollo for the Company, stating that this is the best offer they could get. On April 4, KSL Capital offered $6.25 per share with the Company still preferring the Apollo bid for some reason. After a critical 13D filing by HG Vora Capital. Apollo raised its offer to $6.75 per share only to be out bid by KSL three days later with a $7.00 bid, which Apollo matched. KSL went to $7.25 and Apollo eventually won on April 20 with a $7.85 per share bid. The Board thought $5.00 was the right price. Shareholders of Great Wolf can thank their lucky stars for shareholder activism.

Microsoft to the Rescue. This month Microsoft has done more for activist investors since I don't know when (it is hard to think of another time anyone has done anything for activist investors). First they buy AOL's patent portfolio, giving Starboard Value a nice return when AOL's stock jumps 43% on the news, and then they joint venture with Barnes & Noble a week after JANA Partners discloses an 11.6% position, giving BKS's stock a 52% bump. On to Yahoo!?

The Water is at Yahoo!'s Levee. There is an old story about a religious man who is in the valley when the floods roll in. As the water keeps rising, he turns down the aid of two boats and a helicopter, each time asserting that God will save him. When he drowns and goes to Heaven he asks God why he let him drown and God says, I sent you two boats and a helicopter. Yahoo! shareholders – as your stock continues to decline, you have been sent Carl Icahn, David Einhorn and Dan Loeb – what are you waiting for?

Just Asking. Why is there so much talk among large, institutional, passive shareholders about executive compensation and not enough talk about executive competence?

Now I have heard it All. On a recent activism panel, Adam Chinn of Centerview Partners compared activist investors who exploit the ten day filing window to "serial killers," arguing that like serial killers, such conduct needs to be regulated even if it is infrequent.

The Activist Giveth and the Activist Taketh Away. On April 30 Starboard Value portfolio company Integrated Device Technology, Inc. announced it was acquiring Balch Hill portfolio company PLX Technology, Inc. in a deal valued at $330 million. Upon the news, PLXT's stock shot up 67% while IDTI's stock dropped by 9.6%.

Oh Canada! The United States can learn a little something from our friends to the north. In the Canadian Pacific proxy fight, both sides are using a universal ballot. The reason this is possible is because, unlike the US, Canadian incumbent directors do not have to consent to their names being used on a dissident's ballot. So with the Pershing Square giving shareholders the option to mix and match all 21 nominees, the Company decided to offer the same option. Whatever the outcome of the proxy fight, it is a victory for shareholders who for once are getting the largest selection of candidates to choose from to elect the best board possible.

Standstill Analysis (cont'd. from pg. 1)

Voting Restrictions. 40 (33.9%) out of the 118 standstill agreements provided for the activist to support management's proposals beyond the slate of nominees. Of those 40, 31 were only through the current year (not much of a sacrifice since the activist already knows what is going to be voted on and what management's position is) and only 9 times (7.6%) did this restriction apply beyond the current year.

Corporate Governance Restrictions (i.e., proxy fights, etc.). In 103 (87.3%) of the 118 standstills, there was some sort of a corporate governance restriction. 60 of the 103 were for the current year only, which is not much of a sacrifice since an activist is not going to settle a proxy fight only to start another proxy fight at the same meeting. In 28 (23.7%) of the standstills did the corporate governance restriction extend to the next annual meeting and rarely (12.7%) did it extend beyond the next annual meeting.

Stock Acquisition Restrictions. In only 41 of the 118 standstills did the activist restrict itself from acquiring common stock. Those provisions were somewhat evenly split over a term extending to the current meeting (36.6%) and a term extending for a year beyond the current meeting (43.9%), with fewer provisions (19.5%) having a longer term.

Conclusion. In conclusion, it seems standard that in connection with being granted Board representation, activists agree to corporate governance standstill provisions for the upcoming meeting. While longer standstill periods, voting agreements (beyond the slate at the upcoming meeting) and stock purchasing restrictions are negotiated and agreed to from time to time, they certainly are not standard. The attached chart gives more detail on their frequency.

(see chart on page 7)

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13D Monitor Standstill Analysis

April 1, 2006 - April 13, 2012

	#	%
Situations where an Activist received a board seat	167	100.00%
No Standstill Agreement	49	29.34%
Standstill Agreement	118	70.66%

	#	% of Total	% of Standstills	% of Group
Total Standstill Agreements:	118	70.66%	100.00%	
Only Restrictions are to support slate (that includes activist) and/or Corporate Governance (i.e., proxy fights) at the upcoming meeting	66	39.52%	55.93%	
Agreement to Vote with Board	105	62.87%	88.98%	100.00%
Through current year	83	49.70%	70.34%	79.05%
Just for Slate of Nominees that includes Activist	52	31.14%	44.07%	49.52%
Agree to Support Nominees and Proposals	31	18.56%	26.27%	29.52%
1 year	11	6.59%	9.32%	10.48%
Just for Slate of Nominees that includes Activist	7	4.19%	5.93%	6.67%
Agree to Support Nominees and Proposals	4	2.40%	3.39%	3.81%
2 year	6	3.59%	5.08%	5.71%
Just for Slate of Nominees that includes Activist	4	2.40%	3.39%	3.81%
Agree to Support Nominees and Proposals	2	1.20%	1.69%	1.90%
3 years	-	0.00%	0.00%	0.00%
As long as have Board representation:	5	2.99%	4.24%	4.76%
Just for Slate of Nominees that includes Activist	2	1.20%	1.69%	1.90%
Agree to Support Nominees and Proposals	3	1.80%	2.54%	2.86%
Corporate Governance Restrictions (i.e., proxy fights, etc.)	103	61.68%	87.29%	100.00%
Through current year	60	35.93%	50.85%	58.25%
1 year	28	16.77%	23.73%	27.18%
2 year	8	4.79%	6.78%	7.77%
3 years	1	0.60%	0.85%	0.97%
Board representation	6	3.59%	5.08%	5.83%
Restrictions on Acquiring Stock	41	24.55%	34.75%	100.00%
Through current year:	15	8.98%	12.71%	36.59%
1 year	18	10.78%	15.25%	43.90%
2 year	6	3.59%	5.08%	14.63%
3 years	1	0.60%	0.85%	2.44%
Board representation	1	0.60%	0.85%	2.44%

* **Through current year:** The standstill provisions apply only through the upcoming annual meeting in the year of the standstill agreement
1 year: The provisions apply through the current year and for the next year's annual meeting
2 year: The provisions apply through the current year and for the next two annual meetings
3 years: The provisions apply through the current year and for the next three annual meetings
Board representation: The provisions apply as long as the investor has board representation.

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New Filings for April

Company Name	Investor	Mkt. Cap.	Filing Date	%	Cost	Item 4 Action
Twin Disc Inc (TWIN)	GAMCO	$299.6M	4/3/12	8.3%	$28.6	vote on poison pill
Corrections Corp. (CXW)	Corvex	$2.7B	4/5/12	7.0%	$25.6	REIT conversion
Great Wolf (WOLF)	HG Vora	$220M	4/6/12	12.3%	$3.4	oppose merger
Orchids Paper (TIS)	Hillson	$135.6M	4/13/12	5.6%	n/a	submit proposal
Integrated Device (IDTI)	Starboard	$975.6M	4/19/12	6.5%	$6.8	n/a
KIT digital, Inc. (KITD)	Costa Brava	$331.8M	4/27/12	5.0%	n/a	board representation

One to Watch

Company	*Investor*	*Ticker Investment*
Corrections Corp. of America (CXW)	**Corvex Management LP**	**Date of 13D: 4/5/12**
Market Cap.: $2.8B ($29.8/share)	**13F Holdings: $512.8M**	**Beneficial Ownership: 7.6%**
Enterprise Value: $4.1B	**# of 13F Positions: 30**	**Average Cost: $25.85**
Cash: $55.8M	**Largest Position: $195.3M**	**Amount Invested: $195.3M**
Debt: $1.3B	**Avg. Return on 13Ds: 24.1%**	**Highest price paid: $27.2**

This is a group filing between Corvex Management, founded by Keith Meister, former lieutenant of Carl Icahn, and Marcato Capital Management, founded by Mick Maguire, former lieutenant of Bill Ackman. Mick Maguire is probably very familiar with this company as it was a portfolio company of Pershing Square when he worked there. Pershing Square is a very real estate intensive fund and Maguire likely has been doing this analysis for a while and continued to analyze this conversion with Corvex. What is different now is that there has been legal and business developments that make converting to a REIT easier than in the past and Corvex and Marcato believe it can be done "without material disruption or changes to the Issuer's current operations," which likely means without separating into two different companies. If this company were converted into a REIT, it could save $75 - $100 million in annual taxes and trade at 13-17 times adjusted funds from operations (AFFO), giving it a stock price of over $50 per share. This is consistent with a report done by Barclays that gave it a price range of $45 - $55 win a REIT structure, despite the fact that the Barclays report failed to account for the cash tax savings inherent in a REIT. Both Marcato and Corvex are deep research and analysis investors and you can be sure that they did their homework here. If they think it can be done, it likely can be and now their job is to convince management. Their style would be to work with management and help them implement any structural changes that could be done to enhance shareholder value, while leaving the operation of the Company to management and the Board. But if management ignores them or resists their overtures without good reason, both Meister and Maguire have considerable experience in all forms of shareholder activism, including proxy fights.

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