


Fall 2012

Shareholder Activism and its Impact on Corporate Behavior; with Special Reference to Australian Ethical's Climate Advocacy Fund

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**Shareholder activism and its impact on corporate behavior; with special reference to
Australian Ethical's Climate Advocacy Fund**

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Submitted in partial fulfillment of the requirements for Australia: Sustainability and
Environmental Action, SIT Study Abroad, Fall 2012

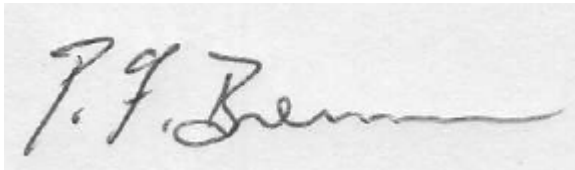
ISP Ethics Review

This ISP paper by __Elias Springer_____ (student) has
been reviewed by _Peter Brennan_____ (Academic Director)
and does/ * conform to the ethical standards of the local community and the
ethical and academic standards outlined in the SIT student and AD handbooks.

*This paper does not conform to standards for the following reasons:

Academic Director: Peter Brennan

Signature:

A handwritten signature in black ink, appearing to read "P. Brennan", written on a light-colored background.

Program: Australia: Sustainability and Environmental Action

Date: December 7th 2012

Abstract

Given that the single driving force behind our current myopic markets is their pursuit of maximal profits, there is a dire need for increased shareholder activism to hold these corporations accountable for the social and environmental repercussions of their single-bottom line modus operandi. This study analyzes the effectiveness of shareholder activism as a tool for changing corporate behavior, and makes a more in-depth assessment of the extent to which Australian Ethical's Climate Advocacy Fund impacts corporate behavior.

The data collected and analyzed from five interviews was used to supplement the data collected through literature review. Two interviews were conducted on corporate board members. The other three interviews were conducted on ethical investors at the head of current Australian shareholder activism issues, and the data collected from these three interviews was used to illustrate the opposite perspective to that offered through the first two interviews. The dichotomy between interviewees was used in congruence with the studies literature findings to create a balanced assessment of the effectiveness of shareholder activism.

The study concluded that while current Australian legislation on shareholder rights and their rights to resolution proposals makes it unusually difficult for shareholders activists to create concrete changes in corporate behavior, shareholder activism is one tool among many that is creating a systematic shift in corporate behavior as corporate transparency is increasing, and awareness on environmental, social, and corporate governance issues are spreading. Though the Climate Advocacy Fund has been dormant for over a year, it has recently opened up engagements with corporations and has already effectively changed corporate behavior. In short, while shareholder activism is an effective tool for creating responsible corporate behavior, it can't be the only tool as corporate social responsibility continues to improve.

ISP Topic Codes: 511; 512; 522

Corporate Governance; Shareholder Activism; Mutual Fund Operations

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Acknowledgements

I would first like to thank my advisor, Louise Crossley, for giving me the freedom and support to pursue my interests, and always pushing me to go for a little more. She also helped me structure my title and study question. I would like to thank Ruth Peters for her hospitality and willingness to reach out to her connections on my behalf. I would also like to thank Silvana Cibeï for her hospitality. I wish to extend deep gratitude to the busy professionals who took the time to sit down with me and be my interviewees: Wayne Seabrook, Ross Lane, Tom May, Trevor Thomas, and Paul Smith. A lot of what I learned, I learned from you. I would like to thank my family for staying in touch with me throughout the process and offering their support. Lastly, I would like to thank Peter Brennan for his steady support and advice, and for always answering my questions without making them seem like overly frivolous, though they often were.

List of Figures, Tables, and Abbreviations

ESG - Environmental, Social, and corporate Governance

AGM – Annual General Meeting

ASA – Australian Shareholder’s Association

ACCR – Australian Center for Corporate Responsibility

CAMAC -Corporations and Markets Advisory Committee

KPI – Key Performance Indicators

1.0 Introduction

1.1 Study Goal

To assess shareholder activism and its impact on corporate behavior, while making special reference to Australian Ethical's Climate Advocacy Fund.

1.2 Focus and Justification of Study

Given corporations current stranglehold on the economic and political systems in place, there is increasing need for an effective method of keeping corporate behavior in check. One external method for placing pressure on corporations is through shareholder rights received through investments made into targeted corporations. This engagement with corporations on issues of environmental, social, and corporate governance (ESG) is known as shareholder activism. In most instances, this activism occurs as a reaction to the corporation's failure to deliver on the expectations of investments, or the corporation's intent to take a course of action that the investor sees as negatively affecting their returns. However, there has been an increase in shareholder activism as a tool for changing corporation's social governance and environmental impact without the emphasis for concern placed on investor's returns. Fittingly, returns usually respond well to improved social governance and environmental policies and thus economic leverage can often be used to achieve social gains.

Given the enormous global power of corporations, the management of these corporations along with the allocation of their power amongst all shareholders and stakeholders will play a pivotal role in the creation of a sustainable world. Sustainability is a personal and systematic approach to improving and maintaining the quality of life for the future of one's planet. Shareholder activism can be an example of a systematic approach brought together by many individuals sharing a personal wish for a sustainable future. In addition to this, sustainability can be any approach to a problem using the triple bottom line method, balancing the ecological, social and economic costs and benefits. It is therefore imperative that corporations begin to assess situations using the triple bottom line approach, and shareholder activism is a potential method for moving corporate behavior away from the

common economic single bottom line method towards a mutually beneficial one that harmonizes ecological, social, and economic costs.

1.3 The Literature on Shareholder Activism

In analyzing the extent to which shareholder activism and more specifically the Climate Advocacy Fund changes corporate behavior, it is important to observe the progression of shareholder activism throughout time, as it has developed into a well-respected tool in creating social change through its effect on corporate governance. Shareholder activism has been used for hundreds of years. While it is unclear exactly when shareholder activism began, it is clear that as long as companies have been around, there has been some form of shareholder activism. Many scholars, including Koppell (2012, p. 827), point to “Isaac Le Maire’s letter of protest to the Dutch East India Company (VOC)” as one of the earliest examples of shareholder activism. This letter “argued that the board was trampling on the rights of shareholders,” according to Koppell (2012, p. 827). While this more than 400-year-old letter may or may not be the first of its kind, it is clear that shareholder activism far predates our economic fathers Adam Smith and John Maynard Keynes, and certainly predates present day investor corruption. (Koppell 2012, p. 829).

Despite this, shareholder activism as it is known today began in the United States in the 1980s. Even with a recent upswing in the popularity of shareholder activism, largely due to an increasing awareness of corporate corruption and greed, shareholder activism/advocacy remains a relatively small portion of ethical investing, as only 20% of environmental, social, and governance invested money is used in shareholder advocacy (Rice, DiMeo, & Porter 2012, p. 146) Shareholder advocacy uses three main avenues to create change in corporate behavior. The first step generally taken is corporate dialogue. By opening up dialogue about pressing issues within the corporation, investors have the opportunity to create governance changes within that corporation. However, when this more diplomatic approach goes unrecognized by the corporation, a shareholder resolution must be requested. A shareholder resolution is a formal request made to the corporation by an individual shareholder or more commonly by an institutional shareholder (Rice, DiMeo, & Porter 2012, p. 147). The aim of the resolution is to push the issue to the third avenue for change. This avenue is a proxy vote where all other shareholders have the opportunity to vote on the issue presented in the

shareholder resolution (Rice, DiMeo, & Porter 2012, p. 147). These votes are non-binding and the corporation may choose to ignore or implement a resolution regardless of shareholder support. Of course, the vote does carry weight, as an ignored issue with high support amongst shareholders puts the corporation in danger of losing significant funding if these ignored shareholders sell their shares (Rice, DiMeo, & Porter 2012, p. 147).

Keeping up with all proxy voting issues can be difficult for shareholders and therefore there are many nonprofit organizations that help shareholders stay informed. In Australia, according to the Australian Shareholder's Association website (2012), the Australian Shareholder's Association (ASA) does this by listing all annual general meetings (AGM) for many Australian corporations and also keeping up with current issues within these corporations. Additionally, the ASA releases a monthly magazine, *Equity*, aimed at keeping investors informed. The ASA also sends a member to many shareholder meetings to vote on behalf of many shareholders as their proxy (Australian Shareholder's Association 2012). It is important to have not-for-profit organizations like this filled with professionals dedicated to giving a trusted voice to shareholders as many large corporations have professionals dedicated to reducing this voice.

The most efficient way to analyze the effectiveness of shareholder advocacy as a means of creating changes in corporate behavior is through the use of a framework. This framework would be used to determine the level of corporate governance after particular shareholder activism occurs. Given the time limitations of this study, this paper was not able to use a framework to create a before and after comparison of a specific company as there was not enough time to find a resolution, assess the corporation prior to the resolution, and then re-assess the corporation following the resolution. However, this paper will present specific examples of effective shareholder activism. There are three key factors that lead to "successful shareholder engagement;" "power, legitimacy, and urgency" (James & Gifford 2010, p. 79). It is up to the shareholders within the Climate Advocacy Fund to demonstrate to corporations the legitimacy and urgency of climate change and additionally demonstrate that there are enough shareholders concerned with climate change to hold significant weight and deserve attention.

1.4 Introduction to the Climate Advocacy Fund

Shareholder advocacy and more specifically the Climate Advocacy Fund attempt to work within the system already in place, and modify it in a way that encourages sustainable action, and fosters positive attitudes towards corporate governance. Not only does the Climate Advocacy Fund make investors more aware of the uses of their money, but it also attempts to mold their behaviors, and those of the corporations in which they invest, to follow more sustainable practices. This is important; because it is these large corporations included within the fund, all members of the ASX 200, that hold the greatest responsibility for the pollution of the planet. The initial focus of the fund is improved carbon emission disclosure as well as high carbon capital investment decisions for these corporations. The Climate Advocacy Fund hopes to accomplish these goals through questions raised at shareholder meetings as well as letters from concerned investors, sent to the senior management of these companies.

According to Reid & Toffel (2009), other forms of shareholder activism such as direct appeals to management as well as collaborative efforts with nongovernmental organizations have focused on climate change, but according to the Climate Advocacy Fund Website (2012) the Climate Advocacy Fund is the first fund developed to focus on shareholder advocacy as a tool to change corporate behaviors to more closely align with practices necessary to slow anthropogenic climate change. In its first year, the Climate Advocacy Fund “proposed resolutions to four companies requesting disclosure of carbon emissions, strategies to reduce emissions, and capital investment assumptions around future carbon prices and their impact on long-term investment decisions” with varying degrees of success (2012). Several companies increased transparency in these areas following these engagements and one resolution became the first ever climate change resolution to be voted on at an AGM in Australian history (Australian Ethical 2012). These are merely the early accomplishments of this fund, and it appears this fund has the potential to be a leader in the development of a tool to slow anthropogenic climate change. This paper will go into a more in depth analysis of the extent to which this fund has been successful in creating this change.

1.5 Research Project for the Climate Advocacy Fund

Australian Ethical is invested in a Norwegian company called Tomra, which they love. Tomra recently bought up a smaller company that makes tobacco-grading machines. While Australian Ethical has a zero tolerance policy for tobacco, they feel that this grading company makes up a small enough portion of Tomra that they are ok with this acquisition as long as Tomra doesn't expand the company. Tomra is, of course, very enticed by the money they could make in the tobacco industry. Australian Ethical is just beginning the engagement process with Tomra. Given the fact that these tobacco-grading machines can be used for other purposes, and this is partly why Tomra purchased them in the first place, Australian Ethical is asking Tomra not to expand the use of this machinery for tobacco grading. Australian Ethical doesn't know if they will need a resolution, but they don't know any of the laws in Norway surrounding putting up resolutions, so research must be conducted to determine the appropriate manner of putting forth a resolution, if necessary.

1.6 Framework

The most efficient way to analyze the effectiveness of shareholder advocacy as a means of creating changes in corporate behavior is through the use of a framework. A framework is necessary to determine the baseline corporations will be gauged on, so as to make a comparison of individual corporations before a particular shareholder engagement and then after. The original methodology of this project aimed to use a model developed by Donna Wood as a framework to analyze corporate social performance (1991, p. 693). Given the brevity of this project, the framework could not be used to determine the level of corporate governance after particular shareholder activism occurs. However, this paper still uses this framework as a baseline by which to gauge good corporate governance.

2.0 Methods

2.1 Interviews with Board Members

I conducted a total of two interviews with board members. These interviews were conducted on Wayne Seabrook and Ross Lane, two board members of public companies within Australia. I had also hoped to interview Gary Flowers the COO of Mirvac and the previous CEO of the Rugby Union, but due to his corporate responsibilities our exchanged emails and brief in-person conversation did not lead to an interview despite several long conversations with his assistant, Nancy. Additionally, much was learned through conversations with Filo Sedillo, who has decades of experience in the financial sector, as well as conversations with several other businessmen. None of these conversations are used in this report, as none of them were formal interviews, but all contributed to my overall understanding of the multiple angles shareholder activism can be viewed from and the multiple arguments for and against shareholder activism that different workplace settings and backgrounds lead individuals to embrace.

In order to truly understand any controversial issue or tool, grasping both sides of the argument is a necessity. It was therefore imperative that I interviewed several board members/Chairmen about their experience with and understanding of shareholder activism. Though I tried to avoid going into these interviews with the preconceived notion that all board members/Chairmen share an aversion to shareholder activism, I did anticipate that they would shed a different light on the subject as opposed to that shed by activists themselves. One could hardly expect board members/Chairmen, the targets of shareholder activism, to give this method of activism a ringing endorsement. Nonetheless, their arguments were critical in order to tell the full story of shareholder activism.

2.1.1 Interview with Wayne Seabrook

I interviewed Wayne Seabrook over coffee at his home in Manly, NSW at 11:15 am on November 2nd 2012. Wayne Seabrook is a current board member of Apollo Gas, and he founded Titan Energy Services and Ironstone Capital. In short, he is involved with resource extraction and energy production. I used previously drafted questions to help guide me

through the interview while also trying to go along with the course that the interview ran (A list of general interview questions drafted prior to the interview can be found in Appendix B. The interview really took off without much prompting, as Wayne and I had met previously at an afternoon barbecue and had spoken about my project for approximately twenty minutes. I used an audio recording device so that I could focus on the interview rather than taking notes. I also found this method of data collection to be far more accurate as I could later return to the recording and write down everything that was said. This allowed me to listen to the entire interview as I analyzed the data, which I found helpful. Additionally, it allowed me to focus on the interview while it was occurring, which in turn allowed me to focus on extracting the information I wanted, and it allowed me to then later take accurate notes on the process. I used this formal interview to allow Wayne to reiterate his main points from the barbecue and then extrapolate on them. The interview lasted approximately an hour.

I chose Wayne Seabrook as an interviewee because his views will be very helpful in gauging the extent to which the Climate Advocacy Fund changes corporate behavior. As a board member on a publicly owned mining company in Australia, he is in the exact position as those the Climate Advocacy Fund initially engaged with, and his opinions on the effectiveness of a small fund such as the Climate Advocacy Fund demonstrate a glimpse into the minds of those targeted. Additionally, Wayne has decades of experience in the equity market, having founded his own investment firm, and he was therefore an excellent source of information on this market, which is the backbone of shareholder activism. An interview seemed to be the most effective method of extracting in-depth information from him. Therefore, the information gleaned through this interview should be given significant weight.

There were several shortcomings of Wayne Seabrook as a source. First, he had never actually been targeted by shareholder activism, and this allowed him to take the high road throughout the interview and say that it shouldn't even be necessary, as companies should already be acting appropriately. Second, he was an extremely charismatic businessman. This was a problem because I often found myself believing his opinions as facts, and this resulted in a reduction of probing questions. Thirdly, Wayne of course, had a very biased opinion on the issue of shareholder activism. Shareholder activism directly targets CEO and Chairman's decisions, both of which are positions Wayne has fielded, so you can hardly expect him to be in favor of this approach. As with many shortcomings, my awareness of these shortcomings

mitigates many of their repercussions. Additionally, there were no shortcomings with the process of collecting the data.

2.1.2 Interview with Ross Lane

I interviewed Ross Lane at his home in Manly, NSW at 1:30 pm on November 11th 2012. Ross is the current Chairman of Oroton, a publicly owned retail store in Australia. I drafted some questions based on my previously drafted questions for Wayne Seabrook's interview as well as additional questions that arose from the interview. These questions can be found in Appendix B. Ross required an in-depth description of exactly what my project was about as I had never met him and the little he did know had come from a brief typed up summary that mutual friend Ruth Peters had passed along via email. I again used an audio recording device, given its success in my first interview, and discussed my project as well as his paleo-diet fast food restaurant he was launching November 13th 2012. This interview was much shorter as Ross was much less informed on the subject of shareholder advocacy. It lasted approximately 25 minutes. Upon analyzing the recorded interview, I realized Ross did solidify my knowledge on the basic steps necessary to undertake shareholder activism, which was certainly beneficial.

I chose Ross as an interview subject because I wanted an interview with a board member not associated with resources or energy business. I wanted a subject that I could use to make inferences on board member perceptions of shareholder activism in an area that the Climate Advocacy Fund would not target. Given that Ross worked in retail, he was an appropriate candidate to achieve this. Additionally, Ross was the chairman of his board, which further distinguished him from my previous interview with Wayne Seabrook.

Ross was limited as a source because it turned out he had little knowledge on the current activity surrounding shareholder activism despite his position as chairman of the board. Regardless, he was able to provide background information, which turned out to be helpful. Similar to Wayne Seabrook, he had never been targeted by shareholder activism so he had no direct experience with it. Additionally, he likely carried many of the same biases as Wayne Seabrook, except potentially less so in talking about the CAF as Ross's retail company, Oroton, would be less likely to be the target of the CAF, whereas Wayne's mining companies could easily be targeted. However, due to Ross's lack of experience and

knowledge surrounding funds partaking in shareholder activism, this difference in bias did not play out. Again, these shortcomings are largely mitigated by my awareness of them, and the only limitation associated with my data collection was that my questions were less well aligned with his area of expertise because I had never met him before. Overall, Ross proved to be a valuable compliment to the data collected through my interview with Wayne Seabrook.

2.2 Interviews with Shareholder Advocates

I conducted a total of three interviews with shareholder advocates. These interviews were conducted on Trevor Thomas, Tom May, and Paul Smith. They are all ethical investors and manage assets that they use to back their shareholder advocacy. These asset managers represented the opposite perspective on shareholder activism and advocacy. I used these interviews to contrast the interviews I had conducted of Wayne Seabrook and Ross Lane as well as to gain an understanding of the steps that go into this form of activism and the laws and regulations that surround it. Additionally, I anticipated gaining a large portion of my overall knowledge on shareholder activism from these interviews, as it was the line of work for these sources and they would therefore have a far greater understanding of it as compared to the board members for whom it is just a nuisance. Given that all three ethical investors are employed as shareholder advocates, I anticipated they would have a much more positive outlook on the usefulness of shareholder activism. Despite this, I tried to avoid using leading questions to reach this conclusion, and instead waited for them to reveal their persuasion independently. Regardless, these interviews were instrumental resources in gauging the effectiveness of shareholder activism.

2.2.1 Interview with Trevor Thomas

I interviewed Trevor Thomas over coffee at a café next to 1 Bligh Street, Sydney at 9:00 am on November 23rd 2012. Trevor Thomas is the current Managing Director at Ethinvest, a small Sydney-based ethical investment firm. Before meeting with Trevor, I drafted some interview questions based on my previously drafted questions for my interview with Tom May as well as additional questions that arose from that interview (these previously

drafted questions can be found in Appendix C). I left out all questions focused on the Climate Advocacy Fund and only focused on shareholder activism as a whole. We established an initial rapport discussing Trevor's schooling in the US and his path to where he is today. I shared my story as well, before beginning. I used an audio recording device so as to remain present in the interview, and then went back and analyzed the data after the completion of the interview. The interview lasted nearly an hour, and was incredibly informative. I used the data collected from my interview with Trevor Thomas to highlight many of the laws and regulations surrounding shareholder activism as well as to gain an understanding of why he thought shareholder activism was a useful and successful tool.

I chose Trevor as a subject because I wanted to hear from a shareholder advocate that was not directly related to the Climate Advocacy Fund. While my interviews with members of Australian Ethical's team working on the Climate Advocacy Fund served to offer the views of shareholder advocates, I wanted to ensure that I heard from someone outside this fund given that it was likely that the fund operated as a more or less successful catalyst of corporate change as compared to shareholder activism as a whole. It was therefore imperative to have someone outside the fund to provide insights into shareholder activism and advocacy occurring elsewhere.

There were very few shortcomings of using Trevor as a source. Of course, as with all of my interview sources, Trevor was biased. Trevor's bias stemmed from the fact that his line of work involved shareholder advocacy, and as is the case with many, there is the hope that the work they are accomplishing is meaningful work. This hope would lead Trevor Thomas to promote shareholder activism and advocacy as a successful method of creating change. Again, given that I am aware of this bias, the significance of it is very small. The only limitations of the way in which the data was collected was that Trevor Thomas was interviewed at a very busy time when he had many other more pressing issues on his mind. However, he never seemed distracted, and this may be inconsequential given that Trevor may always be busy with his line of work.

2.2.2 Interview with Tom May

I interviewed Tom May in his office on Bligh Street in Sydney at 3:00 pm on November 15th 2012. Tom is the General Council and Company Secretary for Australian

Ethical and he is the General Council for investment decisions and operational decisions for the Climate Advocacy Fund within Australian Ethical. I drafted all new questions for my interview with Tom, which can be found in Appendix D, and angled these questions around shareholder activism as a whole but tried to create a focus on the Climate Advocacy Fund. We established an initial rapport as Tom talked about his trip to New Guinea and tried to get caught up on the details involved in my report. I used an audio recording device so that I could give Tom my full attention, and then used this recording after the interview to write-up and analyze the data. The interview lasted approximately 45 minutes. This was very generous on Tom's part as he had an assortment of paperwork to get to on his desk. I used the data collected from my interview with Tom as my only source of information on the general operations of the Climate Advocacy Fund as well as all investment decisions and legal issues. There is little to no literature on this topic so Tom was a vital resource for my project. Tom also passed along a small discrete project for me to work on, as a way for me to help the company and get a flair for the kind of research that is necessary in this line of work.

I chose Tom as an interview subject because he is in charge of the operations of the Climate Advocacy Fund and was therefore a crucial resource for my determination on the extent to which the Climate Advocacy Fund successfully changes corporate behavior. Additionally, Tom served as a well informed shareholder advocate and was able to convey many of the issues surrounding shareholder advocacy in general.

One shortcoming of using Tom May as a source was that he was biased towards favoring shareholder advocacy in the whole and especially towards proclaiming the Climate Advocacy Fund as a successful tool for changing corporate behavior. Despite this, Tom seemed to give a neutral account of the fund's successes and struggles. Additionally, because I was aware of this bias, it played a less significant role in my analysis of the data. One limitation of my collection of data was that Tom was extremely busy and needed to get back to his work. Despite this, he talked with me until all my questions had been answered, so it did not seem that this was a significant limitation.

2.2.3 Interview with Paul Smith

I interviewed Paul Smith over coffee at a café inside the building at 1 Bligh Street in Sydney at 9:00 am on November 28th 2012. Paul is the General Manager of Strategy and

Communications at Australian Ethical, and he serves a similar purpose working within the Climate Advocacy Fund. I drafted questions for Paul Smith that focused on the marketing of the Climate Advocacy Fund as well as several questions that had arisen through my analysis of my previous interview with Tom May (these questions can be found in Appendix E). We developed an initial rapport around the goals of my project so that Paul had an idea how to tailor the responses he gave to best relate to my study question. I again used an audio recording device, which I later used to write-up and analyze the interview process.

The data collected from my interview with Paul served as my only source of data on the marketing of the Climate Advocacy Fund. Similar to my interview with Tom, this interview was of vital importance due to the lack of literature about the fund. Paul also talked with me about publishing my research paper on their website. The interview lasted a little over an hour, as I was lucky enough to gain more time with Paul due to the cancellation of his meeting immediately following my interview.

I chose Paul for an interview because he is in charge of the marketing for the Climate Advocacy Fund, and would therefore be able to tell a very different story than that told by Tom May. I felt that between interviews with the two of them, I would have data that covered the majority of the topics on the Climate Advocacy Fund. Paul was also able to explain marketing and its role in the broader scheme of shareholder activism. He also filled-in the gaps in my knowledge I had become aware of following my interview with Tom May, and answered all my specific questions about the Climate Advocacy Fund.

Paul Smith shared similar biases to Tom May in that they both worked within the Climate Advocacy Fund, and therefore had a predisposition to glamorize the effectiveness of the fund. Most investors in this line of work, would like to believe they are making change, and they therefore have the before mentioned predisposition. One limitation of my data collection was that because Tom May and Paul Smith had been so busy, they had not had the opportunity to talk about my project. This meant that Paul Smith had very little idea what Tom May had covered in his interview and what he hadn't. While there were brief spells of repeated facts, Paul and I focused more on the marketing side of the funds activities and this helped us avoid unnecessary replication. On top of this, due to the depth of the data that I was collecting, there was so much information that could be shared, that it was unlikely that Tom's same examples and stories would be used by Paul.

2.3 Evaluation of Alternative Data Collection Techniques

The reason I used interviews as my data collection technique was that it was the most efficient way to collect in-depth data from the few knowledgeable sources I met. I contemplated using a survey to compliment my data received through interviews, but given the detail of this project; a survey would have been a poor method of collecting data given that the majority of individuals in Sydney do not have adequate knowledge on this area of research. This is why it was important to use interviews on the subjects that did have adequate knowledge, as interviews are the best method for receiving large quantities of data from a single source. Additionally, I originally anticipated using a framework to look at corporations prior to and after a particular engagement of shareholder activism. I had hoped to use content analysis to then gauge whether change had occurred. This was not possible, because the low levels of transparency that most corporations operate under significantly limits the amount of literature on corporate behavior to the point where content analysis would have been near impossible. If I completed this research over a much longer time period, there would be the possibility for the use of direct audits of a corporation prior to an engagement of shareholder activism, and then a second audit following this engagement. I could then use a framework to gauge whether there had been a change in corporate governance. This would still have been extremely difficult given my lack of expertise in the field of auditing.

2.4 Research Project for Australian Ethical

My research for this project was done completely online, and involved the exploration of many foreign, often Norwegian, regulatory sites. Given that there are legal regulations that must be followed when proposing a resolution, it was imperative to find credible sources. This was the most difficult part, as all credible government sites and documents that I found were written in Norwegian. Everything that was written in English on shareholder proposals in Norway seemed to lack credibility.

3.0 Results

3.1 Results of Interview with Wayne Seabrook

Through my interview with Wayne Seabrook it became clear that while he had no aversion to shareholder activism, he viewed most corporate governance issues as the responsibility of corporations, and in extreme cases the responsibility of politicians and the regulations in place. Though he did agree that there were instances where shareholder activism could be an effective and necessary tool, especially with larger corporations, he believed that shareholder activism in its formal sense (direct corporate dialogue, shareholder resolutions, and even proxy votes) was outdated given the fast-paced exposure of all issues in the age of social media (2012, pers. comm., 2 November). In particular he believed “shareholder meetings aren’t as important as they used to be” (2012, pers. comm., 2 November).

Wayne believed that shareholder activism was not an effective tool to use to increase transparency, because companies already attempted to keep shareholders informed to avoid liability issues and the possibility of a class action suit (2012, pers. comm., 2 November). When I asked him whether shareholder activism was an effective tool for increasing transparency on issues where it is not legally required like with green house gas emissions, Wayne said he thought this was an issue for the government to deal with and that advocates for increased corporate publicity surrounding their carbon footprint should talk to the government (2012, pers. comm., 2 November). However, Wayne did agree that shareholder activism could be used to increase awareness on issues such as corporations reporting their carbon footprint, but he then became skeptical of these corporations making reports that they are not legally required to make. Wayne believed that many companies would claim to be carbon neutral through the trading of carbon credits but in reality, these credits would just get passed along and nothing would ever come of them. Wayne then asked, “Whose responsibility is it to follow these credits all the way down the chain to see where they actually end up?” (2012, pers. comm., 2 November) I could see his point but found it to be a very negative outlook, though likely his experiences had lead him to this outlook. He continued, “If a corporation is supporting a green organization to increase their carbon neutrality whose responsibility is it to make sure the organization they are supporting is

actually doing what it is supposed to be doing?” (2012, pers. comm., 2 November) It seemed to me that Wayne felt that it needed to be government regulated so that companies were actually legally forced to do what they claimed to be doing. In the end, this would have to be done by government sponsored independent audits. But Wayne concluded that there could be a role for shareholders to put pressure on boards and ask them how they are reducing their carbon footprint and if they’re doing it through a third party what is that third party actually doing (2012, pers. comm., 2 November).

Wayne then transitioned to the Climate Advocacy Fund saying that as far as a company deciding whether their actions are right for the company as well as the environment, the company is not going to be looking at socially responsible funds, but will instead be looking at its stakeholders, as well as making sure they’re managing their public perceptions as they are predominantly concerned with their social license (2012, pers. comm., 2 November). Wayne was especially skeptical of the Climate Advocacy Fund given that it only has approximately \$10 million invested within it. Wayne elaborated, “A fund must diversify its investments, and therefore it is unlikely that more than 5% of the funds total capital would be invested in a single corporation. That’s half a million dollars. A decent sized company these days is going to have a market value of \$5 billion dollars, so a small fund like this will hold zero weight” (2012, pers. comm., 2 November). This had been a big concern of mine as well, given that the larger funds in the US easily had \$50 billion dollars invested in them. Why was the Climate Advocacy Fund so small? And why were they targeting large mining companies where they would hold zero weight? Wayne did make it clear that these larger funds in the US can’t afford to have all the social philosophy of the Climate Advocacy Fund, because otherwise they wouldn’t make their returns, which is the most important thing for the majority of investors. These funds just want to show that they have a high funds alpha. Wayne concluded that the problem is “there isn’t a large enough pool of social investors to take out the big mining companies” (2012, pers. comm., 2 November).

Wayne then explained how his companies operate as an example of why shareholder activism shouldn’t be necessary. He explained that his company takes a more proactive approach as opposed to a reactive one (2012, pers. comm., 2 November). He explained that his resource companies interact with the community for two to three years before they begin any groundwork. “We find this more satisfying, and ultimately more responsible, and it’s better for us as well” (2012, pers. comm., 2 November). This approach allows his company

to maintain a good social license. However, Wayne did acknowledge that his resource company is on the smaller side of things, and therefore they can't afford to let issues escalate to the point where a shareholder resolution would be put forward at an AGM. He did recognize that some of the larger, more heavy-handed mining companies could do this, and perhaps this would be an area where shareholder activism would be necessary (2012, pers. comm., 2 November).

Wayne returned to his beliefs on how effective he thought a fund like the Climate Advocacy Fund could truly be, and said that he believed the reason why the fund was so small was because it was targeting such a specific area, and the more limitation you put on a fund, the less people you will attract and the more difficult it can be to create good returns if the fund is only investing in a specific area (2012, pers. comm., 2 November). While the Climate Advocacy Fund only invests in one of Australia's large corporation indexes, it certainly seemed valid that the reason the fund was so small was that it was attempting to target the very specific area of climate change issues. Wayne concluded that funds were likely more effective before the age of social media, but that boards and corporations were more concerned with social media, and local politicians, so he believed that with time, even the larger socially responsible funds would begin losing their ability to effectively use shareholder advocacy to change corporate behavior (2012, pers. comm., 2 November).

3.2 Results of Interview with Ross Lane

Ross Lane was interestingly unaware of much of the current shareholder activist issues surrounding the environment and social governance as well as the rules and regulations surrounding shareholder activism. This was interesting to me because he is the chairman on a very large, publicly owned, retail store here in Australia. Essentially, were shareholder activism ever to target his company, he would be the chairman of the board they were targeting. However, Ross was clear that if his company were to be targeted, it would likely be for issues in the company's remuneration report, so he was up to speed on some of the laws and regulations surrounding this (2012, pers. comm., 11 November). For instance, Ross was aware that on his board, only two of the six board members were identified as independent, but when abiding by good corporate governance, over half of the board should be independent (2012, pers. comm., 11 November). Since the CEO was on the board he

automatically did not meet the independent classification. Ross, as well as another board member, owned more than 5% of the company, and therefore they were not independent. And a fourth board member had been a director for over five years and was therefore no longer independent. He said this was the type of issue where shareholder activism could come into play. His company was not breaking the law, but was instead not following one of the codes that fall under good corporate governance. In their corporate governance statement they write that they are independent's of mind, and so far no shareholder group has approached his corporation with an objection to this.

Ross continued by outlining several processes, which fall under a standard case of shareholder activism. He explained that as shareholder activism has become more common, so to have third party organizations that "look at proxy forms for AGM's and advise the institutions on how to vote" (2012, pers. comm., 11 November). This makes it so that institutional investors and shareholder advocating funds don't have to look into different companies that they own shares within, but instead they can pay these third party organizations to do the work for them. This works because these third party organizations are providing independent advice for these investors, so their advice is trustworthy.

Additionally, Ross made clear that while some issues must be made transparent, corporations make very conscious efforts to keep other areas not transparent (2012, pers. comm., 11 November). He said the main reason for this is to keep customer confidence high. For instance, while he said Oroton happily divulges information on number of females in the workplace, they would never make their KPI for next year transparent. So Ross argued that while shareholders often want increased transparency because they want to know just what they are investing in, this increased transparency can sometimes be detrimental to the corporation, so there is a conflict of interest between the two parties surrounding transparency, and this is where issues arise.

Contradictory to Wayne Seabrook's beliefs on the issue, Ross believed that most of the issues surrounding good corporate governance don't fall into areas that would concern the same group of people that would be using social media (2012, pers. comm., 11 November). A lot of the issues are dry accounting type issues, and these issues wouldn't take off on social media sites. However, social media could play a role in reducing social license in the more extreme environmental cases, but similar to Wayne Seabrook, he believed these remained

areas where government regulation would play the predominant role (2012, pers. comm., 11 November).

3.3 Results of Interview with Trevor Thomas

Trevor Thomas clearly believed in allowing the market to create change. He was a strong advocate of the carbon tax and the soon to be instigated cap and trade system, and explained in detail how each operated. While he maintained that shareholder activism should certainly target corporate disclosure issues surrounding carbon emissions, he seemed even more excited by the fact that he believed the cap and trade system was going to drive all corporations to be carbon neutral, and this was the free-market working under government regulation at its finest (2012, pers. comm., 23 November).

Trevor Thomas was also very adamant about the need for legislation to change around shareholder activism and corporate disclosure. He said that the requirements of corporate reporting are extremely low surrounding financial governance and social governance (2012, pers. comm., 23 November). “The bottom line for legislation on corporate governance in Australia is quite low, however, many companies are now issuing a sustainability report along with a fiduciary report” (2012, pers. comm., 23 November). The sustainability report focuses on a whole range of issues from carbon emissions to workplace safety. As this becomes more common, companies with good corporate governance are not only having an independent auditor come look at their financials, but also their sustainability report. And it is competition within the market that is driving corporations to want to achieve this sustainability-focused public perception.

Similarly, on the investment side of things, Trevor again saw the market as the driving force behind change (2012, pers. comm., 23 November). Trevor originally saw the United Nations Principles for Responsible Investments (UNPRI), with its low threshold, as a negative. But he soon realized that because there were very few “teeth” in the UNPRI, and therefore a majority of investors became signatories and followed its guidelines to responsible investing, there was now a tool to create change. “Now that most all the major financial managers have signed up to this, the next step is then to develop some harder criteria and have this independently audited” (2012, pers. comm., 23 November). In fact while the trillions of UNPRI certified invested dollars means little today, “in a few years time

[this] will mean that there is independent auditing of certain criteria and the bar will be raised” (2012, pers. comm., 23 November). It is through competition within the market that Trevor sees the investment world headed in a more sustainable future.

After explaining his love for the market as a tool for creating change, and shareholder activism as a compliment to this, Trevor moved on to sharing the details on his current shareholder activism engagement with ANZ. He explained that in working with Greenpeace, they had actually engaged with ANZ and Westpac, but that they remain engaged with ANZ (2012, pers. comm., 23 November). His firm wrote these banks about their concern with the banks investments into coal-fired power stations; because they were concerned these could become distressed assets under the carbon tax. According to Trevor, “Westpac said we haven’t calibrated our lending to quite the extent that we can give you the figures, but we will work on that and we will have it to you by next year” (2012, pers. comm., 23 November). ANZ was much less responsive given their legacy ties to these coal-fired power stations so Greenpeace proposed a resolution. ANZ refused to allow the resolution to be at its AGM because it did not believe it was an issue that was of shareholders concern, but ANZ allowed for one question to be asked at its AGM on the subject. The question was asked, a board member answered, and that was the end of it. Trevor believed this was a perfect example of legislative shortcomings being the reason why it is so difficult to get shareholder resolutions circulated and voted on at AGM’s.

Trevor was also very excited about a new group forming in Australia called the Australian Center for Corporate Responsibility (ACCR) that is meant to imitate the services of the ICCR in the US (2012, pers. comm., 23 November). This group will challenge current legislation and attempt to take some of the power away from the corporations and give it to the shareholder activists. At the same time the federal government established a committee called the Corporations and Markets Advisory Committee (CAMAC), which is responsible for looking at AGM’s and seeing if there are more efficient alternatives to them. So there is a lot of potential in Australia, and legislative change will happen, and this will allow shareholder activists to make more concrete changes to corporate behavior.

Trevor classed social media as a valuable compliment to shareholder activism but not a replacement (2012, pers. comm., 23 November). He pointed to the current resolution put forth at Woolworth’s AGM by Getup as a perfect example of how social media can be used to aid shareholder activism. But he also made clear that there are many companies that don’t

relate directly to consumers, like mining companies. People don't buy coal from the mining companies, so in areas like this, Trevor didn't see social media affecting mining companies and therefore shareholder activism will remain an important tool for changing corporate behavior (2012, pers. comm., 23 November).

In conclusion, Trevor said that he believed shareholder activism would be part of a change in corporate behavior and he believed this made it an effective tool for creating change (2012, pers. comm., 23 November). He said there will be examples where shareholder activism straight up stops something that would have otherwise happened, but this is very rare, and it will more frequently be through raising awareness, creating corporate discomfort, and other forms of pressure, that shareholder activism will subtly change corporate behavior (2012, pers. comm., 23 November). Regardless, Trevor was convinced that corporate behavior was headed in a more socially and environmentally responsible direction, and shareholder activism was certainly aiding in this change.

3.4 Results of Interview with Tom May

My interview with Tom May contributed nearly all of the data on the operations of the Climate Advocacy Fund. Given the lack of literature on the fund, and Tom's role as the general council for investment decisions and operational decisions, Tom was the only credible source for how the fund operates. Tom first explained that for himself and the few other members of Australian Ethical, working on the Climate Advocacy Fund is a side project (2012, pers. comm., 15 November). This is due to the fact that Australian Ethical doesn't have the resources to hire full time workers for the fund. He explained that "there's no real investment involvement in this fund because it invests in a real index, which is copied after a certain principle, and it's got a bank account with cash in it. The investment decision was deliberately done this way so that we could focus on the advocacy side of things. So we are invested in the ASX 200 index" (2012, pers. comm., 15 November). The theory in picking the index took into account the corporate economic footprint, domination of the industry they were in, sales, etc., so Australian Ethical felt good about it. On top of this, there is another group called CARE who does the ethical analysis for the Climate Advocacy Fund, and passes this advice on to the fund. "At the beginning of the year, we pick a theme that we are interested in pursuing and then we do some screening of the companies in the ASX 200 to

figure out which companies might be good to target. When the fund first began operating in 2010, we decided we wanted to look at carbon disclosures” (2012, pers. comm., 15 November). Eventually, Australian Ethical narrowed it down to about 20 companies with no disclosure at all in terms of climate admissions and then they” analyzed the impact of these companies from their economic activity, and what [they] did, and [then they] chose four mining companies since they likely had high emissions” (2012, pers. comm., 15 November).

From there, the Climate Advocacy Fund wrote letters to all four companies telling them that they wanted to talk to them about the particular issue that related to that company, and then if the response wasn’t satisfactory they bought up shares in the company in order to reach the required 100 shareholders necessary to propose a resolution. Then under the provision where shareholders can propose resolutions, they used that method to make the proposal. For two of the companies, they asked why the companies were not disclosing their carbon emissions, and tried to get them to begin this disclosure. With another company they asked them what plan they had in place to deal with emissions, and then they engaged with another company, and this engagement is ongoing, asking them about their assumptions on carbon pricing.

After wrapping up his explanation on the processes the Climate Advocacy Fund went through, Tom answered some concerns I had with the funds effectiveness. Tom acknowledged that were they a larger fund they would likely get more attention from corporations that they engaged with (2012, pers. comm., 15 November). Despite this, he said the possibility that there might be a shareholder sponsored resolution at their AGM is often quite disturbing for corporations so they are generally quite happy to talk to us despite our size (2012, pers. comm., 15 November). Additionally, Tom said that in his experience with the fund, they have actually had best results with larger companies (2012, pers. comm., 15 November). Even though the fund doesn’t have enough shares to cause the company concern that they might divest these shares, these large corporations still listen, so as to avoid having a resolution at their AGM’s. Perhaps most important is that these large corporations have the resources to create disclosure statements whereas in smaller companies, even though they might be happy to work with the Climate Advocacy Fund and disclose their carbon, they might not have the resources to accomplish this. It is difficult because somebody has to do the work to create the disclosure statement, and someone has to pay for this work. Tom went

on to say that they also like to target larger corporations because it leads to greater publicity, which is often the most effective tool for change (2012, pers. comm., 15 November).

Tom May closed the interview by talking about the current state of the Climate Advocacy Fund. Tom said the reason there was no literature online after the early engagement of the fund in its first year is that it had run into a few roadblocks. It was not financially feasible for Australian Ethical to run a fund like the Climate Advocacy Fund so they needed to take a year to re-evaluate the fund and make changes where necessary (2012, pers. comm., 15 November). The fund is getting back on its feet as it is currently engaged with many corporations, including public engagement with ANZ. It is currently being renamed the Advocacy Fund to allow for a broader approach in the issues it targets.

3.5 Results of Interview with Paul Smith

During our initial discussion on how Australian Ethical could use my research paper, we decided that due to the formatting of this write-up, I would continue to work on a more appropriate research paper for their website after the conclusion of the ISP. Due to the fact that this paper would receive a lot of exposure on their website, I also wanted to take the time to re-write my findings in several drafts, so as to perfect them. Paul said he would work with me on this process, agreeing to at least look over a draft of my paper for factual errors (2012, pers. comm., 28 November).

Paul next discussed his view on the need for the fund to be separated from Australian Ethical. He said it was necessary due to losses Australian Ethical was incurring from the fund. The costs of the fund were being covered by all investors not just those invested in the fund, and additionally, most of the companies invested in by the fund didn't meet Australian Ethical's criteria for investments. Though this is the point of the fund, we still wanted to separate the funding for it (2012, pers. comm., 28 November).

There are other changes to the fund that have been made. It is now invested into Australian Ethical's large-corporations fund, not the ASX200. Five percent of investments allocated to the fund are maintained as cash, and this cash can then be used to buy up shares in large corporations that Australian Ethical decides to engage (Smith 2012, pers. comm., 28 November). The reason for this is that Australian Ethical did not feel it was ethical to be investing in the ASX200 index because nearly all-200 companies

within the index were companies that they would not ordinarily invest in given their ethical focus, and they were only engaging a handful of these companies. While they feel good about using the fund to invest in corporations with poor social governance as a means to engage with them, they did not feel it was appropriate to be supporting all the other companies within the ASX200 that they were not engaging with.

In terms of the marketing of the fund, Paul said his main focus would be using stories of what the fund was currently doing to raise awareness (2012, pers. comm., 28 November). The Climate Advocacy Fund is back up and running as it is currently engaged with quite a few corporations that must remain unnamed. Paul will tell the stories of these engagements, if they go public, and he will spread the funds accomplishments through multiple media outlets. He additionally attempts to maintain relationships with other asset managers as well as individual investors who may choose the Climate Advocacy Fund as an investment option (2012, pers. comm., 28 November). Given that the fund has been out of operation for the last year as it underwent a necessary makeover, Paul is really just beginning to market for the fund again, and he must additionally wait for some of its engagements to be successful and public before he can begin in earnest.

3.6 Results of Research Project for Australian Ethical

I found it impossible to find a comprehensive listing of all the regulations and requirements for proposing a shareholder resolution in Norway. It seems likely that such a list does exist, and given more time, I would have researched more government databases that could have had translated, credible government documents. Tom May, who passed this project along to me, said that this would likely be a yearlong process and that he didn't anticipate my making much headway in the short amount of time I had to research. Nonetheless, I did manage to present Australian Ethical with several articles with areas of interest highlighted and notes along the margins. None of these articles included enough information for Australian Ethical to move forward with proposing a resolution in Norway, if they chose to do so, but they did offer some broader facts about shareholder resolutions in Norway. For example, a shareholder must put forward a written report on a matter they wish

to put on the agenda at a general meeting at least seven days prior to the meeting (Norwegian public limited liabilities act 2012). A draft resolution can be included with this. While it is a start, it is certainly just touching on the information necessary in this yearlong process.

4.0 Discussion

4.1 The Framework of Socially Responsible Corporations

For several decades, experts have attempted to create a framework on which corporate social performance can be gauged. To this day, new frameworks tend to build off older frameworks, and newer yet frameworks backtrack on these frameworks. In essence, academic papers continue to be written displaying their dissatisfaction with current frameworks and how they need to change. Yet no one seems capable of coming up with an all-encompassing framework that is generally supported by others. However, most recent frameworks (Pierick et al. 2004; de Graaf & Herkstroter 2007; Jamali & Mirshak 2007; Schuler & Cording 2006) attempt to build off the framework established by Donna Wood (1991). Therefore this paper used Wood's (1991, p. 693) given definition of corporate social performance, which is as follows:

A business organization's configuration of principles of social responsibility, processes of social responsiveness, and policies, programs, and observable outcomes as they relate to the firm's societal relationships.

While this definition, and most all definitions that take into account social responsibility, social responsiveness, and corporate social behavior do consider nature under the assumption that detrimental behavior towards nature would result in societal outcries; they neglect to take into account nature's intrinsic value. Even from a strictly economic standpoint, the intrinsic value of nature should play a role in the pricing of carbon as well as other methods of putting a price on the environment such as contingent valuation, and therefore a framework assessing corporate social performance should be added to, so as to include an assessment of a corporations performance from an environmental and sustainable standpoint not merely because it affects human societal relationships but partially because it affects nature, which has a value simply by being. Aside from this minor addition, I found the Wood's (1991, p. 693) definition to be the most succinct and all encompassing.

It is important to base good corporate governance on ethical decisions. Many people view ethical investments as investment decisions that factor in environmental, social, and corporate governance, commonly known as ESG. While it is true that these principles are the foundation for socially responsible investing, the reality of the situation is that the branding “ESG” merely means that a corporation’s environmental and social practices do not present a danger to their market value (Smith 2012, pers. comm., 28 November). For instance, a gas company that has a high likelihood of incurring losses through an oil spill, would not meet ESG investment criteria because these environmental damages would result in a company loss in market value. But it doesn’t take any account of the ethics of issues. Companies can have an assortment of practices that are detrimental to the environment, but so long as these practices don’t threaten the market value of the company, they meet ESG criteria. This is unfortunate as ESG is quickly becoming mainstream. This ascension to the norm is in actuality prohibiting the development of sound ethical corporate behaviors, because it is allowing investors to continue to support corporations with poor environmental and social governance under the façade that their investments are going towards corporations abiding by good corporate governance. It is therefore imperative that awareness is raised on the ethical shortcomings of ESG investing so that the ethical investment sector can continue to grow and support corporations that are truly abiding by sound social and environmental governance. These ethical investments will in turn be one of the preeminent conductors of continued corporate change.

4.2 Strategies and Limitations of Present Day Shareholder Activism in Australia

Current Australian legislation makes it far more difficult for shareholder activism to create change than it should be. Australian shareholders rights are listed under the Corporations Act 2001(2001, sect. 248-250) from section 248 through section 250. The key legislation for shareholder activism is that though there are different types of shares that can be bought within some companies, in general, each share gives that shareholder one vote on resolutions put forward at meetings. In order to file your own resolution, it must be backed by either 100 members who are entitled to vote at a

general meeting, or be backed by at least 5% of the total votes that can be cast at a general meeting (Corporations Act 2001, sect. 249N). While it is common for countries to have basic regulations like these so as to avoid frivolous resolutions, it is the minute regulations that make it difficult for shareholder activism to effectively change corporate behavior. Tom May explained that due to the fact that these regulations are not clear, the interpretation of the law lies in the hands of the corporation, so they can generally pick from a long list of excuses for why they are not going to put the resolution up at their AGM, and most often these excuses fall into the category of it being none of the business of the shareholders (2012, pers. Comm., 15 November). This weakness in the Australian legislature allows corporations to take a very conservative approach. In contrast, US corporations that wish to reject putting a resolution to shareholders must report the basis for the rejection to the Securities and Exchange Commission (SEC), and the SEC has to arbitrate on it within 24 hours, and if the shareholder is not satisfied, they can appeal (Thomas 2012, pers. comm., 23 November). So there's a mechanism in the US where if a shareholder doesn't agree with a certain corporate practice, it is very easy for them to get a resolution. According to Trevor, there are dozens of resolutions put forward every year to US corporations around sustainability, not that any of them are fully voted in, but if 25% of shareholders support something, it lets the board know that they need to take it a bit more seriously (2012). In contrast, there has only been a handful put forward in Australia in the last decade or so. Trevor extrapolated on this saying that he believes the US has found a balance between allowing resolutions to easily make their way to shareholders, while also having a mechanism in place, the SEC, to prevent "frivolous claims constantly put forward every year by one shareholder" (2012).

Despite the stricter regulations, Australian shareholder activists still find a degree of success using the traditional methods of what Doron Levit calls "voice" and "exit" (2012, p. 2). Additionally, these activists are finding ways to create corporate change through other, less traditional means of shareholder activism. "Voice" refers to the using of shareholder resolutions to create changes in corporate behavior, while "exit" refers to using the threat of selling shares within the corporation to create change (Levit 2012, p. 2). And as we move towards a period where there is an increased

awareness of socially responsible investing and corporate governance, there is a “movement that is creating momentum for change, and every opportunity created by this movement is used to reach up and let legislators know that this truly is a concern of our times” (Thomas 2012, pers. comm., 23 November).

4.3 The Direction of Shareholder Activism in Australia

It goes without saying that proposals increase on issues that people find important. For example, according to James Copeland, during this past election year in the US, there was a 20% increase in “proposals seeking to increase the disclosure of or to limit the companies’ lobbying or spending on political purposes” as compared to 2011, and there were twice as many as compared to 2010 (2012). It is therefore largely up to the general public to raise and support ethical issues about corporate behavior that are important to them, as this will lead to a greater awareness of these issues, and in turn, a likely increase in shareholder proposals on the issue. This leads to the exciting prospect that shareholder proposals will become an increasingly viable tool for creating corporate change, because there is an increasing awareness on social and environmental issues that the world is facing, and as these issues become more mainstream, more investors will begin to wonder what types of corporations their investments are supporting. This will lead to increased socially responsible investing as well as increased shareholder activism.

For those that are unperturbed by the ethics surrounding their investments, there are an increasing number of studies coming out that point to the catastrophic financial repercussions climate change could have on invested assets. According to the Climate Institute, “climate change risk requires investors to consider more than mere volatility with respect to portfolio risk” (2012, p. 7). There are three key areas where this risk may play out; technological impacts, physical impacts, and law and policy development (Climate Institute 2012, p. 7-11). As investors become more aware of the effects climate change could have on their investments, they will become more conscious, active investors. So there will be both ethical and economic forces driving

investors to become more proactive with their investments, and use them to create corporate changes that will help slow down anthropogenic climate change.

Additionally, as corporations become more aware of the overall financial implications of climate change they will become increasingly likely to take measures to reduce green house gas emission. In fact, the Stern Review found that worldwide consumption could decrease by approximately 20% as a direct result of climate change if action is not taken quickly (Stern Review 2007, p. 162). Though there remains the issue of the tragedy of the commons in that corporations have little incentive to reduce carbon unless other corporations are as well, the implemented carbon tax with help mitigate this issue. Additionally, as increased corporate transparency is pushed forward through outside pressure by shareholder activism, and forward thinking corporations begin to become more carbon neutral, market competition will push other corporations to follow. In fact many forward thinking Australian corporations have already begun releasing a sustainability report alongside their remuneration report (Thomas 2012, pers. comm., 23 November). This is important because “companies can’t manage what they haven’t measured” (Lindblom & Campos 2010, p. 9).

However, there are still many CEO’s, Chairmen, and board members who simply don’t bother to educate themselves on these issues. For these individuals government regulations will be necessary to create corporate change. These regulations will either need to incorporate emission-reducing measures like the carbon tax, or they will need to restructure the legislation surrounding shareholder activism so as to give some of the power to the shareholders, and allow resolutions to be voted on at general meetings. Neither Ross Lane nor Wayne Seabrook claimed that shareholder activism was an ineffective tool for creating corporate change, but they seemed to believe it was an inappropriate tool (Lane 2012, pers. comm., 11 November; Seabrook 2012, pers. comm., 2 November). It seemed that, ironically, they did not believe that shareholder activism was ethically correct, because they felt it was the corporations responsibility to run an effective company and that the shareholders should be happy with their returns, or they could exit the corporation. If laws were being broken, then government should step in (Lane 2012, pers. comm., 11 November; Seabrook 2012, pers. comm., 2 November). In short, Ross and Wayne believed that most issues boiled down to being political and

government responsibility (2012, pers. comm., November 11; 2012, pers. comm., 2 November). Additionally, in analyzing Ross Lane's (2012, pers. comm., 11 November) lack of knowledge on current shareholder activist issues, the implication was that perhaps shareholder advocacy was not very effective at changing corporate behavior because chairmen don't even take the approach seriously enough to educate themselves on it. In the end, Tom agrees with Ross and Wayne that government should certainly play a key role, but for very different reasons. Ross and Wayne believe that corporations will operate effectively and efficiently on their own, and if laws are being broken it is the business of the politicians and government to enforce corporate changes, whereas Tom simply believes that if the government believes anthropogenic climate change is occurring and corporate behavior is influencing this change, then of course they need to act on it (2012, pers. comm., 15 November). Tom is in no way taking away from shareholder activism, he is just more concerned that corporate change occurs, no matter who initiates it, and he sees the value in shareholder activism as one of a multitude of tools for creating corporate change.

One of the fastest growing aspects of shareholder activism is the dialogue process without the follow up resolution proposal (Smith 2012, pers. comm., 28 November; Logsdon & Van Buren III 2009, p. 353). While dialogue has always been a large part of shareholder activism, it receives very little attention because it is done completely behind closed doors. Paul Smith believes that respectful dialogue with a corporation is often more effective than the more publicly talked about phases of shareholder activism; the proposal of resolutions and the ensuing voting by shareholders at general meetings (2012, pers. comm., 28 November). In fact, according to Paul Smith, the Climate Advocacy Fund is currently in dialogue with over 20 corporations, but because of agreements they have with these corporations, which aim to promote open dialogue between the fund and the corporation, the names of these corporations cannot be divulged (2012, pers. comm., 28 November). The dialogue is in essence the little talked about, but crucial aspect of, shareholder advocacy, and it is continuing to increase in use.

An area where all phases of shareholder activism is increasing is in hedge fund advocacy. According to Peter Promnitz, a business leader for Mercer, "activist hedge

funds have been operating for some time in both the UK and US,” but they are relatively new to Australia (undated). Hedge funds have several advantages, which make them increasingly successful as shareholder advocates. According to Promnitz, the following four are the most relevant (Promnitz undated). First, they are less restricted as they can invest a larger portion of their outstanding securities in one corporation. Second, they have more flexible ownership. Third, they are paid for their performance, thereby standing to personally gain by improving a corporation through shareholder activism. And fourth, they can invest over a longer period of time. It is clear that given these beneficial attributes and given the trillions of dollars invested in hedge funds, they have a large part to play within Australian shareholder advocacy.

According to Trevor Thomas, there is an additional drive that is leading corporations to exhibit more sustainable practices. In order to attract the top young graduates, corporations strive to be employers of choice (Thomas 2012, pers. comm., 23 November). Part of this includes having a public perception of a sustainability focus, as well as a healthy workplace environment, which can be achieved through sustainable offices. This is exemplified by the fact that the financial sector in Sydney is moving down into the Darling Harbor area in approximately five years, when renovations are completed on all five and six star green corporate buildings (Thomas 2012, pers. comm., 23 November). Again, this demonstrates how competition is leading corporations to out due each other, as they move towards more sustainable practices. This is happening because corporations now see sustainability as something that consumers and prospective employees look for, so they strive to create the perception. Though corporations may merely be creating the perception, as corporate transparency continues to increase, corporations will need to back up these perceptions with cold-hard facts in order to maintain them.

It is clear that there is a movement of corporations changing their behavior to meet more socially and environmentally responsible practices. While there are many initiators of this movement, it is safe to say that shareholder activism is one of them. As legislation begins to shift to make the process of shareholder activism easier for the activists, the effectiveness with which they change corporate behavior will only increase.

4.4 The Structural Changes of the Climate Advocacy Fund

The fund is actually currently being renamed the Advocacy Fund so that it can target a broader range of issues. According to Paul Smith, one of the main reasons for the change in name is that Australian Ethical realized given their size, it was not financially feasible for them to operate a fund of the likes of the Climate Advocacy Fund (Smith 2012, pers. comm., 28 November). They therefore realized they needed to be able to collaborate their shareholder advocacy with other organizations to make the operational costs of the fund less significant. In order to achieve this, they needed to expand the breadth of the issues that the fund targeted. Additionally, there were many issues outside of climate change, which they realized they wanted to engage corporations on. This helped solidify the name change and the change in breadth of the funds engagement.

There are some peculiar problems under Australian law which are far too detailed for this paper, but in short, they led to financial losses for the fund in 2010, its first year of operation. As was mentioned before, you have to have 100 shareholders in Australia in order to sponsor a resolution for a company. Australian Ethical set up these structures where about 110 people said they were willing to work with the Climate Advocacy Fund, and then they bought shares in the corporations they wanted to engage with, and were able to propose resolutions because they had over 100 shareholders (May 2012, pers. Comm., 15 November). However, for technical reasons around custody arrangements, who would cover investment losses, and who would pay for the brokerage, the fund ran into trouble. Additionally, there was all the administration behind running 110 little accounts as opposed to just running one big account, so they found that the structure was really unwieldy, very expensive, and Australian Ethical took an investment loss from the shares they had to buy in these four companies in order to engage in corporate resolution (May 2012, pers. Comm., 15 November). So Australian Ethical took a year to try to change the operations of the Climate Advocacy Fund, but in the end, decided it would not be feasible to run the fund as it was, so the fund underwent a complete remodeling.

4.5 The Current and Future Prospects of the Advocacy Fund

4.5.1 Working with Greenpeace

The future looks bright for the Advocacy Fund. According to Paul Smith (2012, Pers. comm., 28 November), the fund is currently engaged in dialogue with over 20 corporations. While the fund still engages in dialogue independently, it no longer does shareholder proposed resolutions by itself. The Advocacy Fund now uses its shares in cooperation with other organizations, and sponsors resolutions in this way. Tom (2012, pers. comm., 15, November) elaborated, stating the following:

What's happened is we've done a joint shareholder sponsored resolution with Greenpeace and a group of investors that go through an investment advisor called Ethinvest based here in Sydney. Since Ethinvest is focused on ethical investment, its shareholders are happy to use their shares for agitation and creating change. So the resolution that we did with them was towards ANZ and we asked the bank to disclose the amount of money it was investing into coal fired gas.

Trevor Thomas, who worked on this case with Ethinvest, explained how they pitched the issue to ANZ. He was adamant that it is imperative to find economic leverage when making a shareholder resolution so that the resolution is on terms that the corporation can understand (Thomas 2012, pers. comm., 23 November). The line was that the bank was helping coal fired power plants by investing in them and these power plants are effectively distressed investments because the carbon tax is coming into effect and they're polluters, so with time the value of these assets will become zero. "So we wanted the bank to tell its shareholders the amount that it is investing in these companies" (Thomas 2012, pers. comm., 23 November). According to As You Sow's updated report on the financial risks of investments in coal, the five key concerns are as follows: regulatory risk due to the costs incurred from the carbon tax, commodity risk as natural gas competes with coal, commodity risk as coal prices rise along with price volatility, construction as costs for plant maintenance escalate, and alternatives as renewable energy becomes more prevalent (As You Sow 2012). While ANZ refused to put up the resolution despite the very strong economic case made by the resolution, they did allow for Greenpeace to ask a question at the general meeting. Interestingly, the

chairman had Greenpeace ask their question first. It seems likely that ANZ strategically slotted this question in the first position, as other issues quickly washed it away. ANZ answered that they had legacy ties to these coal fire power stations that they could not walk away from, but that their loans to coal-fired power plants were insignificant in terms of their total investments and they could afford to write them off if they did happen to become distressed assets. Additionally, they stated that coal-fired power stations were old technology, so their investments were naturally moving away from coal. Greenpeace, Eth Invest, and the Advocacy fund are still engaged with ANZ, as they were not satisfied with the outcome. Alternatively, the Advocacy Fund in coordination with others engaged with Westpac on the same issue but took down their resolution because Westpac agreed to disclose their investments in coal-fired power stations next year, once they had run the numbers. This was an example of a successful engagement for the Advocacy Fund, as this disclosure will be the first step in moving Westpac's investments away from coal.

4.5.2 Working with Getup

The Advocacy Fund also worked with a company called Getup in their recent resolution put forward against Woolworths. Woolworths is the largest owner of poker machines in Australia. So Getup proposed a resolution on November 22nd 2012 asking Woolworths to put in place a one-dollar bet limit on all its gambling machines. Under Australian law, any resolution that attempts to change the constitution of a corporation must be voted on at the general meeting. Getup proposed its resolution as a constitutional change stating that Woolworths needed to add its one-dollar bet limit on all poker machines to its constitution. This was, of course, a completely ridiculous resolution, but Getup ensured that the resolution would be voted on. The vote was 2.5% in favor of Getup's resolution. However, there was massive media coverage and it served as a reminder to everyone that Woolworth has these gambling machines in many low-income areas. Though Woolworths will not likely make any changes to their gambling machines as a result of this resolution, it certainly got people talking about the issue and may be the instigator for future change to come.

The Getup campaign also served as a reminder of the powers of using social media as a complimentary tool for shareholder activism. According to Forbes Magazine writer Richard

Levick (2011), 2007 “was the year we first really saw the immense potential for change – good or bad, depending on perspective – when activist shareholders engage in social media.” While Wayne Seabrook (2012, pers. comm., 2 November) made the argument that social media would replace shareholder activism, both Ross Lane and Trevor Thomas did not see this happening but each for different reasons. Ross argued that most issues of shareholder activism are dry accounting type issues that would not gain traction with the group of people on social media (Lane 2012, pers. comm., 11 November). Trevor proposed a second reason. He said that there are too many corporations that consumers never directly purchase from, like mining companies for instance, and so it is really only shareholder activists that would address issues within these corporations (2012, pers. comm., 23 November). Tom May shared Forbes Magazine writer Richard Levick’s sentiment that social media is a complimentary tool for shareholder activism, and “only makes it more powerful” (2012, pers. Comm., 15 November). It would seem that the two of them were most on point with their arguments. Social media has come a long way since 2007, and the Getup campaign demonstrated just how effectively it could compliment shareholder activism.

Getup has a staff of approximately five volunteers and three paid workers (Thomas 2012, pers. comm., 23 November). Yet because it is completely social media driven, it has over 600,000 members (Getup 2012). In the case of its resolution against Woolworth’s, Getup organized 257 Woolworth Shareholders to back up their resolution. At the same time, while the shareholder activism was going on, Getup used social media to ask its hundreds of thousands of members to take a written letter, discussing what their campaign was about, to their local Woolworth’s and hand it to the store manager. Additionally, Getup used online advertising to create support for their campaign. They attacked Woolworths from multiple angles and created enormous publicity. Social media allows for smaller parties of activists to have a larger and more diverse audience. Social media is just another example of a tool that is continuing to grow, that can be used to increase the effectiveness of shareholder activism at changing corporate behavior.

5.0 Conclusion

5.1 Conclusions and Relation to Study Question

Given that the single driving force behind our current myopic markets is their pursuit of maximal profits, there is a dire need for increased shareholder activism to hold these corporations accountable for the social and environmental repercussions of their single-bottom line modus operandi. The financial system drives so much in this world and it is therefore of extreme importance that humans realize the role this system plays through whom it supports. If the entire equity market became ethically focused instead of profit focused, it would completely change the world, and everyone and everything would have to react and mold to it. Needless to say, corporate behavior would change instantly. This won't happen overnight, but we are slowly headed in this direction, and shareholder activism is certainly one of the tools that can be used within the equity market to effectively create corporate change. Change takes time, and it will take a blending of many tools and methods to create this change. Similar to our need to make use of an assortment of renewable energy sources in order to replace the energy production of fossil fuel, it will take an amalgamation of tools to effectively herd corporations towards a sustainable future. Shareholder activism is one of many corporate shepherds.

5.2 Recommendations

Though the aims of this study were to gauge the effectiveness of shareholder activism at changing corporate behavior, ultimately, it is the fact that corporate behavior is changing that is important not what is initiating this change. Given this, I would use social media and lobbying to attempt to create changes in corporate law. I would lobby for the implementation of additional laws that mold corporate behavior through market operations similar to the carbon tax. In combination with this, I would lobby for changes in regulations on the process of proposing a resolution and the

corporation's ability not to put the resolution up for voting. Some of the power needs to be taken away from the corporations and given to the shareholder.

Outside of changes to corporate law and regulations, I would recommend that all shareholder advocacy groups hire a single social media specialist whose sole job is to raise awareness for the group's projects, as well as to pressure the targeted corporations through social media avenues.

5.3 Recommendations for Future Research

Given enough time and the correct qualifications, a research project could be done in which the researcher used a predetermined framework to assess a particular corporation on its corporate social behavior before a number of shareholder engagements occurred, and then assess the corporation following these shareholder engagements, again using the same framework. By using the same framework, a direct comparison could be made between corporate behavior pre and post-shareholder engagement. The project would, of course, have to factor in possible outside influences, such as the corporations potential independent movement towards or away from "good" corporate social behavior. Additionally, this project would be challenging because the researcher would need to be qualified to perform an independent audit of the assessed corporation, and it would be difficult to receive corporate approval to do this strictly for a research project.

An additional area for future research would be to analyze climate specific resolutions and assess the progression of these resolutions over time as they became more or less aggressive in their requests and more or less effective at having their requests met. Data would likely need to be pulled from the United States where climate focused resolutions are far more common.

A third topic for future research would be to hone in on shareholder activism, and assess the different levels of activism for how effective they are. This could be done through a comparison of shareholder engagement and public proposals of resolutions by shareholders. Again the researcher would run into similar difficulties in assessing just how effective each method was at changing corporate behavior.

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7.0 Appendices

7.1 Appendix A: Interview Schedule

Wayne Seabrook, board member of Apollo Gas	2 November 2012
Ross Lane, Chairman of Oroton	11 November 2012
Tom May, General Council and Company Secretary for Australian Ethical	15 November 2012
Trevor Thomas, Managing Director of Eth Invest	23 November 2012
Paul Smith, General Manager, Strategy and Communications for Australian Ethical	28 November 2012

7.2 Appendix B: Draft Questions for In-person Interview with Wayne Seabrook and Ross Lane

Are you a member of these corporate boards that shareholders attempt to target?

Has your board ever been targeted by shareholders?

Have shareholders for an environmental incident ever targeted you, or do you try to take care of these issues before they would ever arise in an AGM?

Does the size of the fund directly affect how much weight you give the fund's arguments?

Would you even give any time of day to a smaller fund?

Are you more concerned with social media as opposed to shareholder advocacy?

Have you ever operated a fund?

What are the different positions etc.?

What level of transparency do you think companies owe their investors? For example, should a company's carbon footprint be required to be public knowledge?

Do you work within the US at all, and if so are you aware of any laws and regulations that may make it more difficult for shareholder advocacy to be effective in the US?

7.3 Appendix C: Draft Questions for In-person Interview with Trevor Thomas

What are distressed investments?

How do you see the carbon tax affecting coal these coal companies?

Did ANZ say why they were not going to put the resolution up at the AGM?

If ANZ is only concerned about their returns, do they see these as risky long-term investments given the carbon tax, or do they plan to keep these as short-term investments?

Do you see social media as a part of shareholder advocacy or a replacement?

Could you talk about the 1,000-word statement that shareholders may issue?

Can you explain how through shareholder advocacy it gets to the point where a hostile takeover becomes the thing to do? What are the steps to get to that extreme point?

7.4 Appendix D: Draft Questions for In-person Interview with Tom May

How many people work on the fund and what does it look like? Is there a team assigned to analyzing company's behaviors and deciding which ones to target?

How do you raise awareness for the fund and attempt to increase investors in the fund?

In talking to a chairman of a mining company in Australia, he was of the belief that as social media becomes more and more prevalent, shareholder advocacy will become less effective, as everything will be so public and happen so fast that by the time it gets to the AGM it is already too late for the company and they are therefore more concerned with their image on social media sites. Do you think this is a fair assessment of the future of shareholder advocacy?

Do you think shareholder advocacy is an effective tool for increasing the transparency of companies, in particular in making public their carbon footprint, or do you think this falls more on government regulations? OR does there have to be a balance between the two?

What is your role within the Climate Advocacy Fund?

Do you find the size of your fund to prohibit your ability to change corporate behavior?
Do you find that companies don't really give you the time of day that they might give to a larger fund?

I understand that you invest in mainly large companies because you feel that they have the greatest negative impact on climate change, but do you worry that since these companies are so large, they won't give a small fund like yourselves any weight in their decisions, and perhaps might you be more effective targeting smaller companies?

I read online that the CAF outperforms the market by nearly 3%. Do you simply invest in the ASX 200 and this index happened to do well or do you invest some outside of this to increase your performance?

7.5 Appendix E: Draft Questions for In-person Interview with Paul Smith

What does your day-to-day work look like in terms of operating the fund?

Do you raise awareness for the fund? Or how do you attract people to it?

Do you ever use social media to increase awareness, and do you see this increasingly becoming a complimentary tool to use alongside shareholder advocacy?

Are there only large companies in the ASX 200?

Does CARE do ethical analysis for other funds or institutional investors?

Do corporations ever try to bribe third party organizations that advise shareholders how to vote?

Do you think that legislation in Australia makes it more difficult for shareholder advocates to pass proposals and make change as compared to the US?

Can you explain the difference between a proxy vote and a resolution?

Is the fund still currently engaged with the mining company that you asked about their assumptions on carbon pricing?

Can you talk more about assumptions on carbon pricing?

So you put forward two resolutions in the first year. One got 6% of the vote. how did the other do?