



OFFICE OF
STATE TREASURER
DENISE L. NAPIER

NEWS

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Statement by State Treasurer Denise L. Nappier RE: Stanley Works Reincorporation

(see attached letter from Stanley Works Chairman and CEO John Trani)

"I appreciate the consideration by Stanley Works Chairman and CEO John Trani of the issues I raised last week in asking the company's Board to reconsider their decision to reincorporate in Bermuda.

While our meeting and conversations have been amicable, the answers to the serious concerns we raised are unconvincing and incomplete.

First, I remain concerned that the tax savings the company projects today may be gone tomorrow. I view very seriously the increasing interest of the United States Congress and the United States Treasury in the growing phenomenon of American companies reincorporating overseas.

The proxy statement itself talks about potential risks in the reincorporation, and points out that "the benefits of the reorganization could be reduced or eliminated if there are unfavorable changes in or interpretation of tax laws."

Shareholders ought to know whether the company would proceed with plans to reincorporate should Congress pass legislation that would eviscerate or eliminate the tax savings anticipated when the reincorporation plan was developed. And if the response from Stanley Works is that the company would proceed, even if the tax advantages of doing so were removed, shareholders deserve to know the economic rationale for such a decision.

Secondly, while in some instances Connecticut and Bermuda law regarding shareholder rights may be similar, the overall weight of the differences results in a substantial reduction in the rights of shareholders. Basic shareholder rights that we take for granted in the United States are either non-existent or vague in a number of critical areas. Some examples:

- In the Enron case, in an effort to recover whatever they can of lost savings, shareholders and employees have filed suit, not only against the company, but against the Directors of Enron. If Enron were a Bermuda, and not a Houston company, those **shareholders would have severely limited ability to even try to get some of their money back.** (In Bermuda, shareholders would not be able to assert derivative claims on behalf of the company against officers and directors for breaches of fiduciary duty with the exception of fraudulent claims.)
- In Bermuda, shareholders could not rely on enforcement of a favorable decision of a U.S. Court. In Connecticut, they can. The basic fact -- as pointed out in the company's proxy

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statement -- hasn't changed: "a judgment for the payment of money rendered by a court in the United States based on civil liability would not be automatically enforceable in Bermuda."

- **Bermuda law does not permit** a majority or even a super-majority **of shareholders to act by written consent** in lieu of a meeting. Connecticut law requires unanimous consent for action without a meeting, but allows companies to provide a lower threshold in the charter.
- **Bermuda law does not require shareholder approval for a corporation to sell, lease, or exchange all or substantially all of the corporation's assets.** Therefore, a Bermuda company can substantially change its business without authorization from shareholders. In Connecticut law, shareholder approval is required.
- In Connecticut, there are strict rules **governing transactions between officers or directors and the corporation.** Bermuda's corporate law statute contains no such rules.

Stanley Works has said it is inconceivable that a public company would sell all or substantially all of its assets without shareholder approval, which would be permitted under Bermuda law. I would observe that it was similarly inconceivable, a few short months ago, that a company that prided itself on its Main Street image in Connecticut's Hardware City would propose reincorporating in a foreign land, or that one of the nation's leading energy companies would declare bankruptcy.

While I do not in any way impugn Mr. Trani's desire or intent to reincorporate without reducing or compromising shareholder rights, I believe the burden is on Stanley Works to show shareholders how it this stated desire can be achieved in a legally binding manner in Bermuda.

Additionally, while I do not question his personal commitment to "do everything in my power to achieve this goal," I believe that a corporate executive has no power to supersede or circumvent the laws of the jurisdiction in which the corporation maintains legal residence.

Unless and until these issues are resolved, it is my opinion that The Stanley Works has failed to demonstrate that the potential gain is commensurate with the legal risk to shareholders.