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MEMORANDUM

TO: Alex Cohen, Reuters

FROM: Alexandra N. Farmer
Sara K. Orr

DATE: July 14, 2021

RE: Reuters Sustainability Scenario: Kirkland & Ellis Response

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Reuters Sustainability Scenario: Brighton Tractor Supply Company (BTSC) is a publicly traded American company with \$1 billion in annual revenue. BTSC provides goods and services to industrial farm and factory operations across the country. Its supply chains are multifaceted and international. BTSC also has hazardous waste legal issues resulting from improper storage and disposal of used batteries returned to its rental and service business.

The BTSC Board has reached out to your law firm because it is getting questions from investors and customers about how sustainable the company is. Also, BTSC is now considering having one of its vice presidents co-designated as BTSC's Chief Sustainability Officer.

To provide the best service to BTSC, what are the three key things you would recommend to help the company get started in prioritizing its environmental, social, and/or governance issues?

Three simple words, yet the execution can be quite complex: (1) Hire, (2) Assess, and (3) Focus.

First, try to avoid the mistake of starting to frame out the house before you have an architect. Based on the bandwidth, interest and expertise of your Vice President (who could wear another hat as Chief Sustainability Officer (CSO)) and whether BTSC

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wishes to be a sustainability leader or ‘middle of the pack’, consider what additional resources are needed to set BTSC up for success. Is a dual role within the capacity of your Vice President or would a dedicated CSO be a better fit? If BTSC wants to be a sustainability leader, this could be a big job and difficult to fit into one’s spare time without substantial additional internal or external resources. A variety of options exist, including leveraging external counsel, management consultants, sustainability consultants, and/or accountants. It may need to be a combination of several such options, as well as hiring additional internal resources to support the CSO. Leverage the connections and recommendations of your existing advisors and industry associations to find the right fit. Ensure that your CSO has experience navigating evolving regulatory environments or has robust legal support, given the growing focus by U.S. regulators and investors on sustainability reporting. Take the time to define how this role will interact with the BTSC’s legal, finance and operational leads and how often they will report to senior management and the Board of Directors. These details can help your CSO be most effective. The time spent up front is well worth it.

Second, perform an audit to benchmark the BTSC’s current sustainability gaps and vulnerabilities. Using frameworks such as the Sustainability Accounting Standards Board (“SASB”) and any specific industry standards, define the material issues applicable to the BTSC’s business. Diversity, climate change, and human rights in supply chains are common areas of focus at the moment. Add to the list any specific issues that pose significant reputational risk to BTSC, such as the aforementioned used battery disposal, as well as any issues that have resulted in negative media attention towards BTSC’s peers. Once these topics are defined, assess BTSC’s current reporting and performance in these areas. Evaluate whether there is sufficient governance (i.e., policies and programs) in place to manage the issues going forward and whether quantitative data is available to measure performance. Then, conduct a peer assessment of BTSC’s primary peers and how they are performing in these areas. Review the peers’ ESG reports, public annual reports and proxy statements, as well as their websites and recent press releases for this information.

Finally, present the results of the benchmarking audit to senior management, as well as the Board of Directors after management has provided input, to help define and focus BTSC’s priorities into a roadmap and timeline. Supply chain, diversity and climate initiatives in particular can take several years to get started, so consider whether there are any shorter term improvements that can be made in the meantime.

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For example, consider whether the Company's ESG policies and procedures can be bolstered. If not already covered, we would recommend that BTSC incorporate in its Code of Conduct and Business Ethics high-level standards for confidentiality and external communication, conflicts of interest, anti-bribery and corruption and trade compliance, data security and privacy, environmental stewardship, political contributions and lobbying, and whistleblower protections, as well as, for public companies, robust ESG records management. Supplemental policies could be developed covering sustainability issues such as diversity, equity and inclusion; supplier code of conduct; and environmental stewardship. In addition, BTSC should consider up front what types of sustainability data management systems might fit best with its existing IT and operational systems, as well as its supplier and customer management software (if any), so that it can start gathering baseline sustainability data most efficiently.

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