

CtW Investment Group

Chairman Bert De Graeve
NV Bekaert SA Board of Directors
Bekaertstraat 2
B-8550 Zwevegem
Belgium

December 15, 2015

Dear Mr. Graeve:

In light of the recent conviction of the former CEO of Massey Energy, Don Blankenship, we ask for the removal of Barbara Judge from the NV Bekaert SA (EBR: BEKB) board of directors. She was a director and member of the Safety, Environmental and Public Policy Committee at Massey Energy, an American company, during the massive explosion at the company's Upper Big Branch Mine that killed 29 miners and injured two more. Three separate investigations into the tragedy concluded that the disaster was not only preventable, but that top management intentionally impeded the efforts of safety inspectors, flouted safety regulations, and instilled a long-standing culture of production over safety. As a result of federal investigations into the blast, last Thursday Blankenship was convicted of conspiracy to willfully violate mine safety and health regulations in U.S. criminal court.

Lady Judge and her fellow board members failed the victims and investors by not duly reacting to the mounting evidence that several mines, including Upper Big Branch, were dangerously unsafe and demanding that management bring the company's mines into compliance with federal safety regulations. As a result, we no longer trust her competency in risk assessment and mitigation. Furthermore, in the years leading up to the tragedy there was extensive investor concern that Lady Judge was overcommitted and therefore unable to devote adequate attention to her Massey directorship. After a review of her current commitments, we are concerned that she has once again overextended herself. We sincerely believe that her failures of oversight at Massey were so immense that she should not be on Bekaert's board, nor the board of any other public company.

The CtW Investment Group works with pension funds sponsored by affiliates of Change to Win - a federation of unions representing over six million members to enhance long-term shareholder value through active ownership. These funds have \$250 billion in assets under management, and are Bekaert shareholders.

Investigators faulted deplorable safety conditions and found evidence of a concerted effort by top management to undermine safety in favor of continued production

On April 5, 2010, 29 miners lost their lives in a coal dust explosion at Massey Energy's Upper Big Branch Mine in West Virginia. Investigations by U.S. regulatorsⁱ, a State-sponsored investigative panelⁱⁱ, and a trade unionⁱⁱⁱ found that it was preventable and faulted Massey Energy's abysmal safety conditions at the mine. Regulators had issued numerous citations for safety violations, many of which contributed to the tragedy, for years leading up to the explosion.

Reprehensibly, the investigators also found that the company often put a premium on production over safety. The Mine Safety and Health Administration (MSHA), the United States government agency responsible for one investigation into the disaster, found multiple examples of systematic, intentional, and aggressive efforts by PCC/Massey to avoid compliance with safety and health standards, and to thwart detection of that non-compliance by federal and state regulators. The independent investigation led by the state government concluded, Massey Energy engaged in a

process of 'normalization of deviance' that, in the push to produce coal, made allowances for a faulty ventilation system, inadequate rock-dusting and poorly maintained equipment.+ Finally, the investigation by the trade union, United Mine Workers of America, concluded that Massey Energy and its management were on notice of and recklessly tolerated mining conditions that were so egregious that the resulting disaster constituted a massive slaughter in the nature of an industrial homicide.+

The fact that investigators found substantial evidence that Massey's entrenched culture of flouting safety regulations came directly from the top management did not come as a surprise to many who followed Massey in the news and certainly should not have surprised the board. A 2006 fire that took the lives of two miners at Massey's Aracoma mine led to MSHA and Federal Bureau of Investigation inquiries that resulted in Massey pleading guilty to criminal charges including one felony count for willful violation of mandatory safety standards resulting in death, eight counts for willful violation of mandatory safety standards, and one count for making a false statement. In addition, Massey paid \$4.2 million in criminal fines and civil penalties. Three months prior to the fatal fire, in a well-publicized leaked internal memo Blankenship told miners, "If any of you have been asked by your group presidents, your supervisors, engineers or anyone else to do anything other than run coal (i.e., build overcasts, do construction jobs, or whatever), you need to ignore them and run coal." This is an obvious directive to put production over safety considering an overcast is a ventilation control device.

The evidence presented in the recent criminal trial added to the already grim picture of the safety culture that existed at Massey. Prosecutors presented a memo written less than a year before the explosion to the jurors in the case. In the memo, which was clearly sent to Blankenship and other top management officials, a Massey safety expert gave the following warning regarding management's disregard for the rising safety violations: "Does it matter to anyone? Sooner or later, we will pay the price, especially if there is a serious injury or fatality.+"

The Safety, Environmental, and Public Policy Committee failed to respond to the ample evidence that safety deficiencies were reaching catastrophic levels

The Safety, Environmental, and Public Policy Committee (SEPPC) was formed in 2006 following the Aracoma fire. The committee's mandates were significantly strengthened in 2008 as part of a settlement agreement to a shareholder derivative suit alleging that the Massey board had failed in its duty to keep Massey mines in compliance with federal safety and environmental laws. Lady Judge joined the board shortly thereafter and was a member of the SEPPC for the entirety of her tenure. Unfortunately, the tragedy at Upper Big Branch exposed the SEPPC for failing to perform the safety related mandates required in the settlement agreement.

The SEPPC was charged with reviewing, assessing the associated risks, and making recommendations to the board regarding Massey's safety policies and practices. Furthermore, it was tasked with creating and presenting a quarterly report on the company's compliance with safety standards. There was ample evidence of severe safety problems at Massey leading up to the disaster that the board failed to address:

- " Massey had the highest number of safety violations among U.S. mining companies between the years 2000 and 2009.
- " The number of MSHA issued citations and orders for safety violations at Massey mines increased every year beginning in 2005 and culminating with 10,653 in 2009.

- “ In 2009, ten Massey mines had above-average injury rates and these mines alone received 2,400 safety citations. The injury rates at four of these mines were at least double the national rate.
- “ The Upper Big Branch Mine suffered from a serious spike in safety violations beginning in 2009 and culminating with the deadly explosion in April, 2010. MSHA issued 515 safety-related citations and orders in 2009. Of these, over 39% were for significant and substantial hazards. The elevated number of safety violations continued with MSHA issuing 124 safety-related citations and orders in the first quarter of 2010. These violations were both more numerous and more serious than the average U.S. mine.
- “ In 2009, safety inspectors issued 48 withdrawal orders at the Upper Big Branch Mine for repeated significant and substantial violations that the mine operator either knew, or should have known, constituted a hazard. This was nearly 19 times the national rate.

The citations and orders issued to Massey were publicly available on MSHA's website and should have been regularly reviewed by the SEPPC. Moreover, MSHA's investigation into the explosion found that Massey was operating an illegal system of advance notice of inspections by federal safety inspectors and uncovered an ongoing failure to perform required examinations of mine conditions and remedy hazards.

The SEPPC also failed in its duty to improve the monitoring and reporting of safety incidents. Investigators found that Massey kept two sets of books: one for the company's own records that documented the true safety hazards and one that omitted them for the state and federal mine inspectors. Additionally, MSHA discovered that Massey was underreporting the injuries at Upper Big Branch.

Another responsibility of the SEPPC was to annually review safety training, recommend improvements, and report findings to the board and yet MSHA's investigation revealed serious deficiencies in safety training. The agency found 177 instances of the company failing to give miners the required training at Upper Big Branch in the years prior to the explosion. MSHA's investigation report also noted that the company was well aware of the training shortcomings, having uncovered many of them through an internal audit, and yet failed to resolve the problem.

Another mandate of the SEPPC was consulting with senior management regarding their duty and authority to create, implement and oversee a system by which corporate employees, suppliers, customers and advisors professionals can, on a confidential basis and without fear or reprisal, provide information concerning possible illegal or unethical conduct regarding our compliance with safety. This was a well-known problem at Massey. In 2007, a Massey internal safety inspector was awarded \$2 million in a whistleblower lawsuit after being terminated in retaliation for reporting safety problems to MSHA. The board failed to resolve this problem, however, and federal investigators found that senior management was intimidating workers so that they would not report the hazardous conditions. Reportedly, a mine foreman, who was one of the victims of the explosion, pulled his crew out of the mine fearing the dangerous conditions just weeks before the disaster. He was reportedly told, "If you can't go up there and run coal, just bring your bucket outside and go home."

Lady Judge and her fellow members of the SEPPC should have demanded that management improve safety conditions at Upper Big Branch and other dangerous Massey mines. If Don Blankenship and his management team refused, the board should have replaced him. Unfortunately, the committee chose to simply tolerate these safety risks and failed to act.

Lady Judge was overextended at the time of the catastrophe and we are concerned that she has once again spread herself too thin

A year before the explosion, at the May 2009 Massey Energy AGM, Lady Judge received majority opposition (59%) to her re-election. Despite this resounding rejection by shareholders (the lowest level of support for all directors at S&P 500 companies that year), she remained on the board. Shareholders' chief concern was that she was overcommitted and did not have the time to devote the attention necessary to Massey Energy. The company's 2009 Proxy Statement disclosed that Lady Judge was a director on eight additional public company boards.

While Judge currently sits on only four public company boards, below the threshold that usually raises shareholder concern, this does not reflect the whole picture of her commitments. An investigation into her work outside of public company board reveals the extent of her commitments. Our research indicates that she currently serves in all of the following positions:

- Director of 4 public company boards: Magna, Lixil Group, Portmeirion Group, and Bekaert;
- Chairman of the British Institute of Directors;
- Chairman of the UK's Pension Protection Fund;
- Deputy Chairman of Tokyo Electric Power Company's (TEPCO) Nuclear Reform Monitoring Committee;
- Member of the European Board at C3 Energy, a private company;
- International Advisory Council member at ECO Capacity Exchange, a private company;
- Chairman of the board of Executive Alumni, a non-profit;
- Board member of 3 nonprofit organizations: Asia House, The Ditchley Foundation, and Dementia UK;
- Chair of the University College London Energy Institute's International Advisory Board;
- Chair of the University of London's SOAS London Middle East Institute's Advisory Council;
- European Member of the Trilateral Commission;
- Visiting Fellow at Oxford's Center for Corporate Reputation;
- International Steering Committee member of the Istanbul International Climate & Energy Committee; and
- Member of the Board of Governors for the Lauder Institute at the University of Pennsylvania.

Not only are these positions numerous for one person, but they are geographically dispersed and require a considerable amount of travel time. We are very concerned that once again Ms. Judge is overcommitting herself and is therefore unable to devote adequate attention to oversight at Bekaert.

Lady Judge's tendency to overcommit herself and her failures of oversight at Massey make her a poor choice for Bekaert's board

The evidence was clear that Massey mines suffered from pervasive safety problems when Lady Judge joined the board and the SEPPC in 2008. The SEPPC's very creation stemmed from Massey's ongoing difficulties complying with safety regulations. With her extraordinarily high level of commitments, Ms. Judge should have either turned down the directorship position or resigned from numerous other positions so that she could devote adequate time to such a challenging task. Incredibly, she did neither and the problem continued to grow during her tenure, escalating to catastrophic levels and culminating in the deaths of 29 miners in an explosion at Upper Big Branch. The investigations into the tragedy further exposed the board's failures of oversight with the discovery of two sets of safety records, an illegal system of advance notice of inspections, inadequate training, and management's intimidation of workers who questioned safety at Massey

mines. Given this history, we have lost faith in Lady Judge's judgment to determine when a risk has escalated to a threshold where action must be taken as well as her strength of character to demand that management work to resolve the problem and minimize the risk. We therefore ask that you immediately begin a search for a director candidate to replace Lady Judge as a director of the board.

If you would like to discuss our concerns directly with us, please contact my colleague Emma Bayes at +1 (202) 721-6065 or emma.bayes@changetowin.org.

Sincerely,



Dieter Waizenegger
Executive Director

ⁱ Report of Investigation Fatal Underground Mine Explosion April 5, 2010. US Department of Labor Mine Safety and Health Administration. December 2011. <http://www.msha.gov/Fatals/2010/UBB/FTL10c0331.pdf>

ⁱⁱ UPPER BIG BRANCH The April 5, 2010, explosion: a failure of basic coal mine safety practices. Governor's Independent Investigation Panel. May 2011. <http://www.npr.org/documents/2011/may/giip-massey-report.pdf>

ⁱⁱⁱ Industrial Homicide: Report on the Upper Big Branch Mine Disaster. United Mine Workers of America. October 2011. <http://www.umwa.org/files/documents/134334-Upper-Big-Branch.pdf>