

The GLOBAL **ACTIVIST** Letter

A QUARTERLY REVIEW ON ACTIVIST INVESTMENT

JULY 2010, No 11

THE ACTIVIST COLUMN

On July 12th, the FT's Lex column proposed a user's manual of the earning season and 10 popular related misconceptions. False belief number 10 read: "a company's management genuinely cares about the interests of shareholders". Most players in the financial world, including regulators, agree that the replacement of owner-managers by a large base of relatively small investors has left many large corporations without a sense of ownership and, as a result, that enhancing the power of shareholders is badly needed. The recent elimination of majority-voting from the US Dodd-Frank financial reform bill, which makes it more difficult to remove incumbent directors than was originally hoped for, as well as the dilution of the "say on pay" provision, whereby non binding votes will only take place every 2 to 3 years instead of annually as originally planned in the legislation, will only push disappointed large activist investors, including some of the largest pension funds, to look for manager accountability through all available means.

Geneva Partners visited some prominent New York based

activist investors in the first week of July (Pershing Square, Jana, Breeden, Icahn, Trian...). The following trends emerged from the meetings:

1- There is an unusual level of disagreement amongst activist investors on the value of some heavily-owned stocks, BP and Kraft being prominent examples. A likely reflection of the current uncertain economic conditions.

2- Activists have been quick to look at break-up points in order to assess new investment opportunities. As a result, financials and the oil and gas industry will most likely play a larger role in most portfolios in the near future.

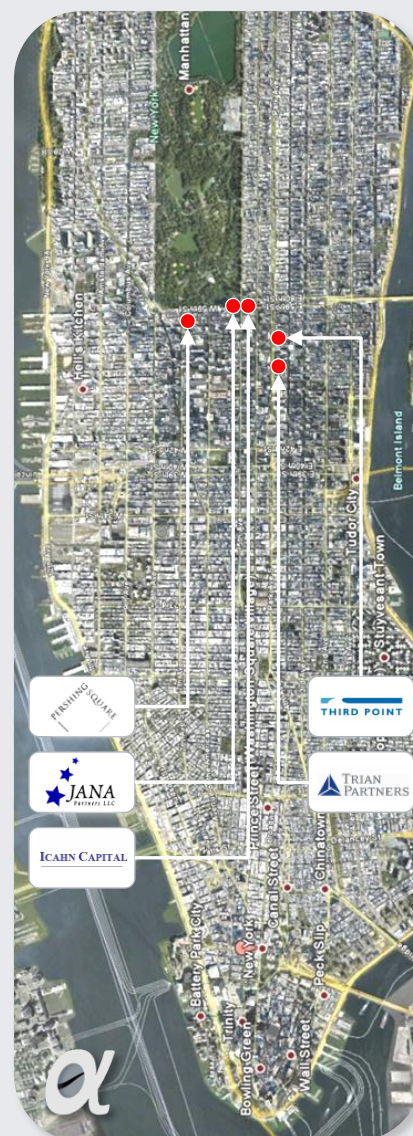
3- M&A will make a comeback; most activist investors believe a significant number of owned stocks will be the subject of an offer by the end of 2010. Both private equity and strategic buyers are viewed as potential buyers.

4- Large successful activists have built such credibility over the last few years that companies have no choice but to listen: "There is no meeting we can't get" was heard several times in our 3 day visit.

We have included, in the

following pages, an update on some of the top global activist investors.

GENEVA PARTNERS



JANA IS DAMING THE RIVER

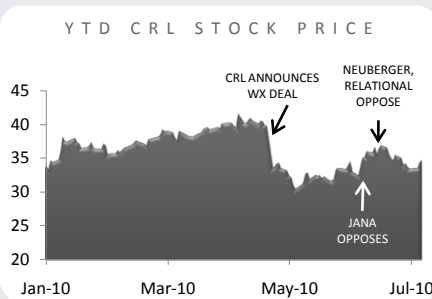


Charles River Laboratories International Inc's (CRL) proposed acquisition of WuXi Pharmatech Inc. (WX) has been met with a growing chorus of disapproval by shareholders, equity research analysts and industry insiders. CRL is the leading provider of animal research models and a leading global provider of outsourced early stage drug development for pharmaceutical and biotechnology companies. On April, 26 2010, CRL announced its proposed acquisition of WX, a Chinese provider of outsourced chemistry discovery services for pharmaceutical and biotechnology companies, billing the combination as transformative and asking for CRL shareholders to approve the issuance of stock to complete the transaction.

intention to vote against the proposed acquisition of WX and called for CRL to abandon the transaction and pursue alternative value creating options. In opposing the transaction, Jana Partners cited WX's high price tag (nearly two times the standalone valuation of CRL), lack of strategic fit and synergies, and CRL's poor track record of capital allocation and acquisition integration.

fight against the deal and announced a 4% interest in CRL in an interview with Reuters.

Research analysts have also come out against the deal, with an analyst from Lazard Capital Markets stating that "[WX] stands to benefit from this transaction more than [CRL]" and estimating that the transaction would reduce CRL's value by approximately 10% or \$4 per share. Negative views of the transaction were also echoed by industry insiders. As a research analyst at Raymond James & Associates notes, "During our conversations with industry participants, the subject of the Charles River-Wuxi proposed merger often emerged. From the strategic perspective of synergies between discovery services and existing preclinical capabilities, we did not encounter a single individual who agreed with the transaction and/or thought that it would clearly provide a benefit to the resulting entity."



BARRY ROSENSTEIN IS JANA'S FOUNDER

The WX acquisition was poorly received by the market, sending CRL's stock down 16% day of the announcement. Shortly thereafter, Barry Rosenstein's Jana Partners began accumulating a position in CRL, and on June 7, 2010 filed a 13D with a 7% ownership stake. In its 13D Jana Partners made public its

While a shareholder vote will not take place until August 5, 2010, shareholders already appear heavily against the deal. Other significant shareholders have followed Jana Partners' lead in publicly opposing the deal. On June 16, 2010, Neuberger Berman, traditionally a passive long-only investor, converted its roughly 6% passive holding to a 13D and wrote a letter to CRL's board calling for them to abandon the WX acquisition. On June 18, 2010 Relational Investors LLC, a governance oriented fund, joined the

"CRL"; Stephen Unger, William Hite; Lazard Capital Markets, June 15, 2010.

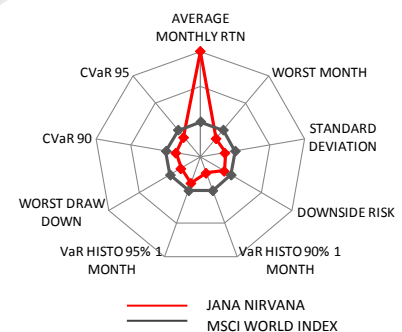
"PHARMA SERVICES: INDUSTRY TIDBIT"; Alexander Draper, Jake Hausman; Raymond James & Associates, June 17, 2010.

SELECTED DEALS OPPOSED BY ACQUIRER SHAREHOLDERS

Announced Target	Acquirer	Dissident	Outcome
Jul-04 King Pharma	Mylan	Carl Icahn	Cancelled
Dec-04 LSE	Deutsche Boerse	CTI/Atticus/Fidelity/Union Investment	Cancelled
Jul-05 IMS Health	VNU NV	Fidelity	Cancelled
Aug-05 Eyetech	OSI Pharma	Orbimed	Closed; disaster deal; sold target drug for pennies on the dollar
May-06 NRG Energy	Miran	Pirate	Cancelled; Miran exploring strategic alternatives
Jun-06 Inco	Phelps Dodge	Atticus	Cancelled; PD bought by Freeport-McMoRan
Nov-06 Phelps Dodge	Freeport-McMoRan	SAC	Closed
Feb-07 Celunol	Diversa	T.Flowe	Closed
May-07 ICE	Deutsche Boerse	Atticus	Closed
May-07 Alcan	Alcoa	Jana	Cancelled
Jul-07 Bausch & Lomb	Advanced Medical Optics	ValueAct	Cancelled
Jul-07 Pogo Producing	Plains Exploration & Production	Fir Tree	Closed; settled with dissident
Jul-07 Gemstar-TV	Macrovision	Loeb Partners	Closed
Oct-07 Pinnacle Gas Resources	Quest Resources	Advisory Research	Cancelled
Nov-07 Raven biotechnologies	VaxGen	MedCap; MPM BioEquities	Cancelled; shareholders vote down
Jul-08 Alpha Natural Resources	Cleveland-Cliffs	Harbinger	Cancelled
Jun-08 Corn Products	Bunge	N/A	Cancelled
May-09 Foundation Coal	Alpha Natural Resources	Duquesne Capital	Closed
Sep-09 Cadbury	Kraft	Warren Buffett	Closed
Sep-09 ACS	Xerox	Private opposition	Closed

SOURCE: RISKMETRICS

JANA NIRVANA'S RISK RETURN MAP



FROM APRIL 2007 (fund inception) to JUNE 2010

SOURCE: GENEVA PARTNERS

PERSHING SQUARE



MANAGER PROFILE

Bill Ackman, Managing Partner, CIO



Prior to founding the firm, Mr. Ackman, founded Section H Partners and Gotham Funds. Previously Mr. William

Ackman was employed at his family's real estate company. Mr. Ackman, through Pershing Square, has a consistent track record of identifying opportunities and working with companies to implement strategies that create value for shareholders. Pershing Square has played a significant role in creating shareholder value at such companies as Plains

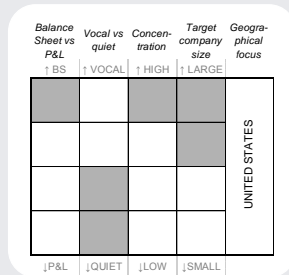
Resources, Sears Roebuck & Company, Wendy's International, McDonald's, Sears Canada, Ceridian Corporation, and most recently General Growth Property. Mr. Ackman is a member of the Board of Dean's Advisors of Harvard Business School and a Trustee of the Pershing Square Foundation which has funded grants in areas including inner

city education, global health care delivery, poverty, human rights, venture philanthropy, urban planning and beautification, and the arts. Mr. Ackman received an MBA from Harvard Business School and a Bachelor of Arts magna cum laude from Harvard College.

SOURCE : 13DMONITOR/THE ACTIVISTDATABASE.COM

STYLE BOX

Pershing Square is a very well-respected and successful activist. While they do not take as many activist positions compared to other activists, the positions they do take are generally large, well conceived and fully-committed. Ackman's form of



activism is using the "carrot" more than the "stick." He does not generally need to commence proxy fights, because he can often convince management of his view and usually works with management. This investment fits Pershing's thesis of "knowability" – having a good

idea of what the company will look like in ten years. Pershing as a shareholder and board member, has a history of being very constructive and supportive in both good and bad times.

SOURCE : GENEVA PARTNERS/13DMONITOR/THE ACTIVISTDATABASE.COM

SEC PUBLIC FILINGS ANALYSIS

13D FILINGS

” Strong outperformance generated by ValueAct 13D public targets

Average return per 13D filing	S&P 500 average return
209.80%	-6.40%

From February 2004 to July 2010 (10 cases, see below)

Company	13D Date	Exit Date
Landrys	11.13.09	Live
General Growth Properties	11.25.08	Live
Longs Drug Stores	08.05.08	10.31.08
Borders Group	10.09.07	Live
Target	7.16.07	11.08.09
Ceridian	1.18.07	09.11.07
Sizeler Property	3.28.06	11.24.06
Wendy's/Arby's	4.26.05	3.20.06
Atlantic Realty Trust	4.21.04	12.07.04
Plains Resources	2.23.04	7.24.04

SOURCE : 13DMONITOR/THE ACTIVISTDATABASE.COM

13F FILINGS

PERFORMANCE ATTRIBUTION BASED ON 13F FILINGS ANALYSIS

” A long only portfolio, passively replicating Pershing's 13F reportable holdings, with a quarterly rebalancing, would have outperformed the market by 56% since January 2006. 2/3 of this relative return is generated though stock-picking effect.

	Pershing "13F" portfolio	Dow Jones Index
Total return	58.02%	1.96%

SOURCE : BLOOMBERG

PUBLICLY DISCLOSED HOLDINGS (source March 31st 13F SEC filings)

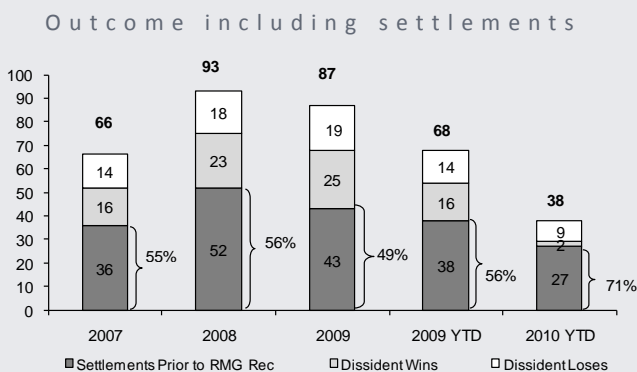
Company Name	Market Value (in mios)	% of company	March 31st vs Dec. 31st
Target Corp.	1'088.0	2.80%	▼
Kraft Foods Inc	991.9	1.88%	new
Yum! Brands Inc	582.6	3.25%	▲
General Growth Properties Inc	385.4	7.55%	new
Corrections Corp. Of America	217.0	9.62%	=
Landrys Restaurants Inc	27.8	9.57%	=
Borders Group Inc	18.2	17.72%	=
Greenlight Capital RE Limited	6.7	0.69%	=

RISKMETRICS ON ACTIVISM

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TRENDS IN ACTIVIST PUBLIC CAMPAIGNS

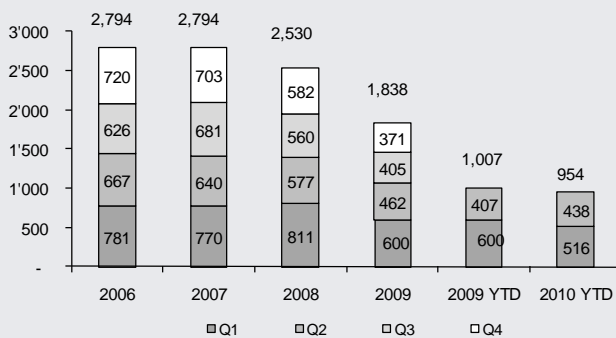
Activist public campaigns have dropped dramatically in 2010 YTD vs. the same period last year. The number of cases in the US has fallen from 54 in 2009 including settlements to 32 in 2010. The number of 13D filings (see chart on the top right), a leading indicator of proxy fight activity, was already indicating a sharp contraction in 2009, so this shouldn't have come as a surprise. One could argue that 2009 numbers were unusual as some activists were seeking to cash out of certain investments and wind down their funds.



Some investment funds have changed focus or left activism, while others have left behind the heavy withdrawals faced since 2008. The current environment with limited opportunities for M&A and financial engineering activism may hinder exit opportunities, but, at the same time, it is one that presents attractively-valued and cash-strong companies. In these situations, activists might not

feel compelled to run an expensive campaign to realize immediate value. There should also be a lag from the recovery of activist funds until we see new public campaigns. This is what 13D filings seem to be indicating: even with less dedicated activists, the number of 13Ds seems to have stabilized this year or even to have grown slightly in the 2Q10.

13D Filings, canaries in a coal mine



In summary, there are signs that the number of activist campaigns are stabilizing and maybe returning to more "normal" pre-bubble levels. However, as the economy recovers with rebounded M&A activity, the return of M&A and balance sheet activism could spur more potential proxy contests, especially given that cash balances at most companies are at historical highs.



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