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# The Deal



## Activism

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### Ranking the activists for proxy season 2015

 By [The Deal Staff](#) Updated 03:29 PM, Jul-24-2015 ET

Proxy season 2015 was busier than ever for activist investors and their target companies, though the win-loss record when funds went the distance in a proxy fight favored management. Of 24 proxy fights that went to a vote, activists won 9 and lost 15, [Institutional Shareholder Services Inc.](#) special counsel Pat McGurn told The Deal after a recent presentation to the [Securities and Exchange Commission](#).

Also notable, however, was the huge number of settlements where activists got seats on their targeted companies' boards or otherwise got management to accept changes the investors sought, he said.

With that in mind and, as this year's proxy season draws to a close, The Deal looks back over the field and chooses the winners, losers and also-rans among major activist fund managers.

#### Winners

##### Glenn Welling-Engaged Capital LLC

Wins-Medifast Inc. (MED), [TriMas Corp. \(TRS\)](#), [Silicon Image Inc. \(SIMG\)](#), Jamba Juice Inc. (JMBA), [Rovi Corp.](#) (ROVI), Big 5 Sporting Goods Corp. (BGFV)

##### Undecided-[AeroVironment Inc.](#) (AVAV)

In terms of getting directors elected to boards, Engaged Capital's Glenn Welling had a successful 2015. His most contentious battle of the year took place at Rovi, a digital entertainment technology provider that already had a large disgruntled investor base frustrated with the company's executive pay packages. Engaged succeeded in getting two out of three dissidents elected to the company's seven-person board in a bitter proxy fight. And that was despite the insurgent's miniscule 0.6% stake. (Now his directors have to improve the company's flagging stock price).

At diet product company Medifast Inc. and industrial manufacturer TriMas, Engaged got settlements before proxy fights were officially launched. Medifast settled in April to include three independent directors, including Welling. Engaged struck a deal with TriMas in February to add a dissident-backed director to its board with an option for Welling to join the company's board as well in 2016. The fund withdrew its nominees at Big 5 Sporting Goods after the El Segundo-based company agreed to add the CEO of another activist fund.

Welling also got on the board of Jamba in January with a program to have the company sell the vast majority of its company-owned stores and use some of the cash for distributions. Seven months later, Jamba Juice CEO [James White](#) says the company is well positioned to reach its goal of 90% refranchised stores by year's end and an expected \$60 million to \$70 million in cash generated, some of which will go toward the \$40 million share repurchase plan, raised from \$25 million.

One of Engaged's biggest wins was at chipmaker Silicon Image, which agreed to be acquired by [Lattice Semiconductor Corp.](#) (LSCC) for \$606.6 million in late January, only a month after Welling sent the target a letter suggesting the company was undervalued by 48% to 116%-the deal represents a 41% hike from Silicon's trading price on the day Welling's letter was issued.

One held-over campaign is at AeroVironment, where Engaged pressed for the unmanned aircraft maker to de-stagger its board, fully 70% of votes cast at the annual shareholder meeting supported that proposal. Whether the company will follow the shareholder vote and whether Engaged will renew a withhold vote campaign that didn't do that well will await the company's annual meeting likely to be held in October.

-Ronald Orol

Jeff Smith

**Starboard Value**

Wins-**Integrated Silicon Solution Inc.** (ISS), **LSB Industries Inc.** (LXU), **Staples Inc.** (SPLS), **Insperty Inc.** (NSP), **Brinks Co.** (BCO)

Undecided-**RealD Inc. (RLD)**

The tally for Jeffrey Smith's Starboard Value LP is incomplete, as 3D movie-theater technology company RealD stretches out its proxy season. RealD, which Starboard offered to buy for about \$600 million last year, pushed the cut-off date to nominate directors to its board from May to July and then to Aug 31. The company has declined to say whether the move is related to negotiations with Starboard.

But the firm has also notched a series of victories this year.

The biggest one was when Starboard replaced the entire board at Darden Restaurants, the proprietor of the Olive Garden, LongHorn Steakhouse, Capital Grille and other chains. Darden has since said it will package many of its dining spots into a real estate investment trust, providing the company with an extra source of cash.

After Starboard and hedge fund Oliver Press Partners LLC launched a campaign against Integrated Silicon Solution late last year, the chipmaker became the target in a bidding war between **Cypress Semiconductor Corp.** (CY) and **Uphill Investment Co.** Chinese consortium Uphill investment prevailed with a bid of \$23 per share, or about \$730.5 million. The stock was under \$16 when Starboard publicly disclosed a stake in December.

Chemical and climate control manufacturer **LSB Industries** appointed three of five board candidates that Starboard nominated.

Staples agreed to buy **Office Depot Inc.** for \$6.3 billion in February after prodding from Starboard. The company also allowed Smith's hedge fund to nominate a director.

And, after Starboard questioned Insperty's ownership of corporate jets and other expenses, the human resources outsourcing company agreed in March to name two directors affiliated with the hedge fund and to appoint another of the investor's choosing later.

Armored car operator Brink's disclosed earlier this year that it would phase out three-year staggered terms of board members, though that was before Starboard disclosed a stake in May.

Even when RealD's case is resolved, the drama will continue for the activist. Starboard said it took a small position in **Macy's Inc.** (M), and the playbook may well be similar to Darden. Smith cited the value in **Macy's** real estate at a July conference. While his latest sally will await next year's proxy season, as Macy's already held its annual meeting, investors appear to be signing onto Smith's thesis. Shares of Macy's have increased from \$67 before the mid-July comments to nearly \$72 per share.

-Chris Nolter

Loser

Nelson Peltz-Trian Fund Management LP

Losses-**E.I. du Pont de Nemours and Co.** (DD)

Undecided-**Pentair plc** (PNR)

Nelson Peltz is fond of pointing out how rare it is for his Trian Fund Management to go hostile, insisting he is usually successful in working with companies. His experience with **DuPont** is a reminder of the risks of going to war with the board.

The pieces seemed to be falling into place for Peltz after the two main proxy advisory firms recommended shareholders back his campaign to join the board. But the investor suffered a high-profile loss when shareholders instead backed the existing board, with large index holders and other passive investors seemingly concluding that DuPont's management team and the board were making pro-shareholder moves on their own and granting them leeway to continue their efforts.

DuPont in retrospect was always a difficult target-according to FactSet, it was the largest U.S. company to have a proxy fight go to a vote. Peltz argued after the vote that his involvement in the company helped spark some of the portfolio changes that management ultimately made. It is unclear whether the activist was caught off guard by DuPont's unwillingness to settle, or whether the famed septuagenarian investor anticipated the battle could eventually go for a shareholder vote.

Peltz so far has had a better reception from Pentair, a company that Trian would like to see consolidate its pump, valve and filtration markets instead of split. That's a position that management had already advocated on its own, though Peltz is also seeking for Pentair to take steps to improve margins and warned he could seek board representation. If talks between the two sides break down, it will be interesting to see what lessons from DuPont that Peltz can apply to Pentair. -Lou Whiteman

Also-rans

Barry Rosenstein-Jana Partners LLC

Wins-[ConAgra Foods Inc.](#) (CAG), [Computer Sciences Corp.](#) (CSC)

Undecided-[Qualcomm Inc.](#) (QCOM)

Only 12 days passed between the launch of Barry Rosenstein's public campaign at [ConAgra](#) and the packaged foods company's decision to do what Jana Partners wanted: spin off its private brands business. A week later, the \$19 billion market capitalization company struck a deal with Rosenstein to expand its board and add two Jana-backed nominees. To similar effect, outsourcing tech company Computer Sciences in May announced it would split into two businesses, only a few months after Jana Partners launched a public activist campaign at the company urging them to consider "strategic alternatives" (code for breaking into two).

However, Rosenstein's \$2 billion investment and activist campaign at semiconductor company Qualcomm this year took a bit longer. Even though Jana never threatened a proxy contest, the possibility was always there and likely helped drive a July 22 settlement that included two Jana-backed directors being added to the board, major spending cuts, executive compensation changes and a review of strategic alternatives, including a "possible business separation."

The agreement comes four months after Rosenstein in April urged executives to consider whether a partial or full separation of its chipmaking and tech licensing business made sense, arguing that there clearly was a "sum of the parts" discount in the stock. The company in recent months raised its share repurchase program-another demand from Jana. Yet, many analysts said they believe a divestiture of the chip business doesn't make sense and is unlikely. Rosenstein said that his firm's thesis is not "predicated" on a partial or full separation of the licensing or chipset business but don't expect him to be happy if Qualcomm's strategic review-expected to be completed by year's end-concludes that the pieces stay together. -Ronald Orol

[Paul Singer-Elliott Management Corp.](#)

Wins-Juniper Inc. (JNPR), [EMC Corp.](#) (EMC), [CorMedix Inc.](#) (CRMD), Informatica Inc. (INFA)

Losses-Family Dollars [Stores Inc.](#), (FDO), [Samsung C&T Corp.](#)

Undecided-[Citrix Systems Inc.](#) (CTXS), [Bank of East Asia Ltd.](#), [Axis Communications AB](#)

Paul Singer's hedge fund, Elliott Management, in business since 1977, has strategies ranging from equities to merger-arb to distressed debt. That kind of wide-ranging mandate means that the fund, with about \$24 billion in assets under management, often takes a proactive stance in a variety of situations-witness Elliott's long struggle with [Argentina](#) over the restructuring of that country's debt. His activism ranges across continents and sectors and his win-loss record reflects that.

In the U.S., Elliott Management Corp. chimed in on the fight over the acquisition of Family Dollar Stores by [Dollar Tree Inc.](#) (DLTR) on the side of spoiler bidder [Dollar General Corp.](#) (DG). The deal preferred by the activist didn't materialize as Family Dollar mounted an antitrust defense-saying the Dollar Tree was more likely to make it past regulators. When Dollar General flinched at the number of stores it might have to divest, shareholders voted for Dollar Tree.

Abroad, Elliott did not fare well with its fight to keep an \$8.5 billion merger between related companies [Chell Industries Inc.](#) and Samsung C&T. [Shareholders](#) approved the deal, controlled by a Korean chaebol, or conglomerate, owned by the [Lee family](#). Elliott has vowed to fight on in court, however. Elliott is also in court with Bank of East Asia of Hong Kong over a share sale Japan's [Sumitomo Mitsui Banking Corp.](#), the investor claims was being done to entrench the family-owned bank's management.

At Swedish spy camera maker Axis Communications, Elliott built up a 10% stake and then objected to the terms of a \$2.7 billion takeover offer from [Canon Inc.](#), and asked for a special dividend for minority shareholders. The deal has not been finalized, and though the company agreed to a dividend, it was less than Elliott was asking for.

In the U.S., Elliott racked up a number of wins, especially in technology where the hedge fund has had success over the years. Networking technology company Juniper Inc. (JNPR) settled with the activist, as did EMC Corp. (EMC), putting investor nominees on their boards. [Informatica Corp.](#) (INFA) was also a win, as the software company agreed to a \$5.3 billion buyout by [Permira](#) and [Canada Pension Plan Investment Board](#) a few months after the hedge fund showed its hand.

Another win was more of a distressed situation as medtech company CorMedix in March said it had tapped [Evercore Partners Inc.](#), to lead a strategic review of the company, after Elliott said it would provide \$4.5 million in backstop financing and the activist gained board seats in return for the financing.

Software developer Citrix Systems Inc. (CTXS), where Elliott has a 7.1% stake, has yet to devolve into a proxy fight, but stay tuned. n-Paula Schaap

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