

April 21, 2023

By email: ir@tesla.com

Robyn M. Denholm
Ira Ehrenpreis
Board of Directors
Tesla, Inc.
1 Tesla Road
Austin, TX 78725

Dear Ms. Denholm and Mr. Ehrenpreis,

We are a group of long-term investors holding over \$1.5 billion in Tesla shares. We each initially added Tesla to our portfolios because we saw Tesla as a true leader in producing products and services essential for our transition to a sustainable and green economy. Over time, however, we have grown increasingly concerned with governance and leadership issues at the company.

We are concerned that the Board of Directors is failing to adequately represent the interests of Tesla's shareholders. The Board's meager oversight of CEO Elon Musk and other critical aspects of corporate strategy, including the company's approach to human rights and labor rights, exposes the company to substantial legal, operational, and reputational risks, thereby jeopardizing its long-term value. The Board has allowed the CEO to be overcommitted at a time when the company faces critical challenges, including increased competition, regulatory scrutiny, and a stock slide. Therefore, we urge the Board to announce the following:

- A means to ensure Tesla has a CEO that dedicates adequate time and attention to the company – either a policy that limits the CEO's outside commitments or a CEO succession plan.
- A plan to overhaul the composition of the Board, including rolling off directors with close ties to the CEO.

We request a meeting with the Board to discuss our concerns and requested remedies by May 25, 2023.

The Board has failed to ensure that the CEO is appropriately focused on Tesla.

Corporate boards can and should intervene if a chief executive appears to be distracted or overly focused on other ventures. Yet, the Board has permitted Elon Musk to run multiple companies, leading to an inability to address the multiple strategic and competitive issues facing Tesla. Mr. Musk is the founder, CEO, and chief engineer of SpaceX; the CEO and product architect of Tesla, Inc.; the founder of The Boring Company; the co-founder of Neuralink and OpenAI; and the owner and CEO of Twitter, Inc. As of **April 3, 2023** Tesla had lost **\$582.4** billion in market capitalization since Mr. Musk first disclosed his stake in Twitter on April 4, 2022.¹

Meanwhile, Tesla is increasingly losing market share in the high-performance EV market as legacy automakers launch comparable EV models at similar or lower price points. Several equally comparable

¹ https://ycharts.com/companies/TSLA/market_cap; <https://www.forbes.com/sites/dereksaul/2022/12/15/elon-musk-has-now-sold-229-billion-in-tesla-shares-since-buying-twitter-and-dragged-down-teslas-market-cap-by-700-billion-in-the-process/?sh=60bc83c168b6>

EV models are due to launch in 2023, and more are coming,² including Nissan, Hyundai, Jeep, and Mercedes.³ Tesla shareholders need their CEO to be focused exclusively on solving the issues their company is currently facing.

Reports from workers and regulators point to a toxic culture at Tesla factories.

There is ample evidence of poor human capital management at Tesla. Since the start of 2021, the company has faced the following:

- a lawsuit filed by the California Department of Fair Housing and Employment alleging that “Tesla’s Fremont factory is a racially segregated workplace where Black workers are subjected to racial slurs and discriminated against in job assignments, discipline, pay and promotion creating a hostile work environment.”;⁴
- a class action lawsuit by 15 former or current Black employees alleging a hostile work environment at Tesla’s Fremont factory;⁵
- at least eight lawsuits alleging sexual harassment filed by former or current employees;⁶
- an Occupational Safety & Health Administration complaint filed by workers at the Austin, Texas “Gigafactory” alleging unsafe working conditions and falsified certificates of completion for required safety training;⁷
- a complaint with the Department of Labor’s Wage and Hour Division alleging wage theft at the Austin Gigafactory;⁸
- a jury verdict that awarded a former worker \$137M (later reduced to \$3.2M) over racial discrimination and a hostile work environment at the Fremont factory;⁹ and
- a complaint with the National Labor Relations Board, accusing Tesla of retaliatory termination of union-organizing employees in its Buffalo, NY plant.¹⁰

It is also of note that Tesla workers are bound by mandatory arbitration, and the company is believed to also use non-disclosure agreements.¹¹ As a result, investors cannot know the full scope of harassment and discrimination claims raised by employees.

Poor workplace equity practices are linked to lower returns.¹² Tesla’s human capital management challenges seem to be driving higher than average rates of costly and disruptive employee turnover. Both Tesla and SpaceX were cited in a study by MIT Sloan School of Management Review for having attrition rates 3 standard deviations higher than industry average. The study also concluded that workers are 3.8 times more likely to leave Tesla than Ford.¹³ Research suggests that direct replacement

² <https://www.consumerreports.org/cars/hybrids-evs/why-electric-cars-may-soon-flood-the-us-market-a9006292675/>

³ <https://www.kbb.com/best-cars/electric-cars-coming-in-2023/>

⁴ <https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/02/TeslaPR2.10.22.pdf>

⁵ <https://www.reuters.com/business/autos-transportation/tesla-hit-by-new-lawsuit-alleging-racial-abuse-against-black-workers-2022-07-01/>

⁶ <https://www.businessinsider.com/spacex-and-tesla-workers-are-still-raising-sexual-harassment-issues-2022-5>

⁷ <https://www.theguardian.com/technology/2022/nov/14/tesla-texas-construction-workers-gigafactory-lawsuit-labor-violations>

⁸ <https://www.reuters.com/legal/litigation/tesla-hit-with-complaints-wage-safety-violations-texas-plant-2022-11-15/>

⁹ <https://www.reuters.com/legal/jury-orders-tesla-pay-32-mln-black-ex-worker-us-race-bias-case-2023-04-03/>

¹⁰ <https://www.bloomberg.com/news/articles/2023-02-16/tesla-tsla-fires-unionizing-workers-after-labor-campaign-complaint-alleges#xj4y7vzkg> Except as noted above, the matters cited in this paragraph appear to be pending at this time.

¹¹ <https://www.hrdiver.com/news/tech-workers-at-tesla-intel-say-ndas-have-silenced-them/532024/>

¹² <https://www.asyousow.org/our-work/social-justice/workplace-equity>

¹³ <https://sloanreview.mit.edu/article/toxic-culture-is-driving-the-great-resignation/>

costs can reach as high as 50%-60% of an employee's annual salary, with total costs associated with turnover ranging from 90% to 200% of annual salary.¹⁴

Tesla appears to be embracing a broader culture of being “above the law.”

In addition to the allegations detailed above, Tesla currently faces three criminal probes by the US Department of Justice and investigations by the National Highway Traffic Safety Administration and the California Department of Vehicles over Tesla's Autopilot system.¹⁵ Instead of working to address problems with regulators, CEO Musk has made derogatory tweets and comments, fueling tensions.¹⁶

Tesla is exposed to significant human rights risks that have not been meaningfully addressed.

It is unclear if Tesla's Board made a strategic decision or was aware of the human rights implications of the company's decision to open a showroom in Urumqi, China. Human rights abuses in Urumqi are sufficiently disturbing and well-documented that the US has put in place sanctions, yet Tesla chose to expand its business footprint there.¹⁷

With increased public attention on child labor and forced labor in supply chains, and the ever-expanding promulgation and enforcement of the governing regulatory framework, Tesla's sourcing policies and practices expose the Company to significant material risk.

Despite Tesla's claims that it prohibits its suppliers from using child labor,¹⁸ it continues to source cobalt from the Democratic Republic of the Congo, where child labor is pervasive. A February 2023 report by NYU and the Geneva School for Economics and Management echoes that “it is virtually impossible to separate the flow of artisanal and small-scale mined cobalt from the larger supply of industrially mined cobalt.”¹⁹ Apart from assurances, Tesla has not demonstrated its cobalt is free from child labor. Tesla was sued in 2019 for links to child labor in cobalt mining, and the case is currently on appeal.²⁰

Tesla also faces material risks from forced labor in the Xinjiang Uyghur Autonomous Region (XUAR), where forced labor and other human rights abuses of the Uyghur and other Muslim-minority groups have been well-documented.²¹ Most recently, Tesla was mentioned in a report published by Sheffield Hallam University, which concluded Tesla's supply chain in China, and those of other major automakers, have been “substantially tainted with forced labor.”²² The Senate Finance Committee recently opened an inquiry into whether Tesla and other automakers have been using parts or materials produced with forced labor in China's XUAR.²³ There is growing momentum in the US to prioritize the enforcement of import bans on goods produced with forced labor. For example, the recently enacted Uyghur Forced

¹⁴ www.shrm.org/hr-today/trends-and-forecasting/special-reports-and-expert-views/documents/retaining-talent.pdf

¹⁵ <https://www.motortrend.com/news/tesla-autopilot-full-self-driving-fsd-safety-department-of-justice-doj/>

¹⁶ <https://twitter.com/elonmusk/status/1278764736876773383>; <https://www.npr.org/2022/06/04/1102327987/elon-musk-sec-tweets-lawsuit-power>

¹⁷ [Tesla criticised for opening showroom in Xinjiang despite human rights abuses | Xinjiang | The Guardian](https://www.theguardian.com/world/2022/feb/23/tesla-criticised-for-opening-showroom-in-xinjiang-despite-human-rights-abuses)

¹⁸ https://www.sec.gov/Archives/edgar/data/1318605/000156459022022992/tsla-pre14a_20220804.htm

¹⁹ https://static1.squarespace.com/static/5b6df958f8370af3217d4178/t/63e2dc7bad25b047da9100d7/1675811964954/NYU+C BHR+Cobalt+Mining_FINAL+Feb7.pdf

²⁰ <https://www.internationalrightsadvocates.org/cases/cobalt>

²¹ www.ohchr.org/sites/default/files/documents/countries/2022-08-31/22-08-31-final-assesment.pdf;

<https://www.aspi.org.au/report/uyghurs-sale>

²² <https://acrobat.adobe.com/link/track?uri=urn%3Aaaid%3Aascds%3AUS%3A69ce4867-d7e7-4a6a-a98b-6c8350ceb714&viewer%21megaVerb=group-discover>

²³ <https://www.wsj.com/articles/tesla-gm-among-car-makers-facing-senate-inquiry-into-possible-links-to-uyghur-forced-labor-11671722563>

Labor Prevention Act (UFLPA) exposes Tesla to financial risk, as parts produced in whole or in part, in the XUAR are presumed to be tainted by forced labor.²⁴

The Tesla Board lacks sufficient independence and accountability mechanisms.

We believe that Tesla's current governance structure - specifically its staggered elections, supermajority voting requirements, board composition, and director compensation practices - is one of the primary causes of its poor oversight. It has been reported that several of Tesla's directors have close personal relationships with Elon Musk, some dating back decades. In addition to his brother Kimbal Musk, CEO Elon Musk has long-standing friendships with directors Ira Ehrenpreis and James Murdoch.²⁵ Over the years, Tesla directors have received exceptionally high compensation for their work, getting paid millions in stock options compared to the average director pay of \$300,000 annually. We are concerned that these close personal ties and extraordinary pay reduces the Boards' objectivity, independence, and ability to prioritize the needs of Tesla and its shareholders.

Tesla needs a Board that will ensure that the CEO is focused on addressing its challenges.

Due to the Board's failure to restrict the CEO's outside commitments and ensure he is focused on solving the many challenges the company faces, we have lost confidence in its members. Without a fulltime CEO and a Board willing to provide meaningful oversight, we are concerned that Tesla will not be prepared to effectively navigate the increasingly competitive environment for EV sales, the evolving global regulatory landscape, shifting consumer preferences, ongoing supply chain challenges, and investors' expectations.

While each signatory to this letter will act independently regarding proxy voting, we are aligned in our belief that board oversight and director independence are relevant to director re-election voting decisions.

As we indicated, we request a meeting with the Board to discuss our concerns and requested remedies by May 25, 2023. For correspondence, please reach out to hello@whistlestop.capital.

Sincerely,

Amalgamated Bank

AP7 (Sjunde AP-fonden)

Sisters of St. Joseph of Carondelet, Albany Province

Friends Fiduciary Corporation

Investor Advocates for Social Justice

NEI Investments

Nia Impact Capital

Nordea Asset Management

NYC Comptroller's Office

PensionDanmark

SHARE

Sisters of the Good Shepherd

SOC Investment Group

Socially Responsible Investment Coalition

The Dominican Sisters ~ Grand Rapids

Tulipshare Ltd.

United Church Funds

²⁴ <https://www.cbp.gov/trade/forced-labor/UFLPA>

²⁵ <https://www.cnn.com/2022/11/17/business/elon-musk-board-friends>