

Cahill Gordon & Reindel LLP
Eighty Pine Street
New York, New York 10005-1702
Telephone: (212) 701-3000
Facsimile: (212) 269-5420

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**Re: SEC Amends Executive Compensation Disclosure
to More Closely Align with FAS 123R**

On December 22, 2006, the Securities and Exchange Commission (“SEC”) adopted, as interim final rules, amendments to the disclosure requirements for executive and director compensation.¹

The amendments to Item 402 of Regulations S-K and S-B revise Summary Compensation Table and Director Compensation Table (collectively, the “Compensation Tables”) disclosure with respect to stock awards and option awards to provide disclosure of the compensation cost of awards over the requisite service period, as described in Financial Accounting Standards Board Statement of Financial Accounting Standards No. 123 (revised 2004) Share-Based Payment (“FAS 123R”). FAS 123R defines a requisite service period as the period or periods over which an employee is required to provide service in exchange for a sharebased payment. The revised disclosure replaces disclosure in the Summary Compensation Table and Director Compensation Table of the aggregate grant date fair value of awards computed in accordance with FAS 123R.

The amendments revise the Grants of Plan-Based Awards Table to add a column showing, on an grant-by-grant basis, the full grant date fair value of awards computed in accordance with FAS 123R. The amendments also revise the Grants of Plan-Based Awards Table to include information concerning repriced or materially modified options, stock appreciation rights and similar option-like instruments, disclosing the incremental fair value computed as of the repricing or modification date computed in accordance with FAS 123R. The amendments to the Di-

¹ Release Nos. 33-8765; 34-55009; File No. S7-03-06 (December 22, 2006) [71 FR 78338], available at <http://www.sec.gov/rules/final/2006/33-8765.pdf> (the “Adopting Release”).

rector Compensation Table in Item 402 of Regulation S-K require footnote disclosure corresponding to the new Grants of Plan-Based Awards Table fair value disclosures.

The SEC intended the amendments to provide investors with more complete and useful disclosure about executive compensation. Disclosing the compensation cost of stock and option awards over the requisite service period is intended to give investors a better idea of the compensation earned by an executive or director during a particular reporting period, consistent with the principles underlying the financial statement disclosure; and retaining the requirement to disclose the grant date fair value is intended to give investors useful information about the total impact of compensation decisions made by a company in a particular reporting period.

The amendments reflect a change from the disclosure approach taken in the executive and director compensation disclosure rules adopted by the SEC in July 2006.² As adopted in July, the Compensation Tables disclosure of stock awards and stock option awards would have required the disclosure of the aggregate grant date fair value of stock awards and stock option awards in the relevant columns of the Compensation Tables. The SEC received numerous comments on this aspect of the rules. Those in support of the rule were, in large part, institutional investors.³ Other commenters, among them members of the accounting profession, expressed the view that disclosure of amounts attributable to these awards in the Compensation Tables should be tied to the amounts recognized in an issuer's financial statements for the relevant fiscal year. Still others such as the Chamber of Commerce, observed that including the entire aggregate value of such awards would overstate compensation earned related to the service rendered for the year and "might confuse the discussion and analysis of compensation policies and practices."⁴

The amendments adopted accepted the view that the Compensation Tables disclosure should tie to the amounts recognized in the financial statements for the year reported. This approach will result in a lower dollar amount being reported for stock awards and stock option awards in the Compensation Tables than would have been the case under the rules adopted in

² Release No 33-8732, replaced by Release Nos. 33-8732A; 34-54302A; IC-27444A; FILE NO. S7-03-06 RIN 3235-AI80 (August 29, 2006) [71 FR 53158] available at <http://www.sec.gov/rules/final/2006/33-8732a.pdf>.

³ An illustrative list of this group of commenters is set forth in the Adopting Release at 5, note 13.

⁴ See Adopting Release at 5, notes 14 and 15 and related text.

July 2006. The aggregate value of such awards will now be required to be reported in a new column to the Grants of Plan-Based Awards Table.

The amendments became effective December 29, 2006.

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If you have any questions about the issues addressed in this memorandum or if you would like a copy of any of the materials mentioned, please do not hesitate to call or e-mail Jonathan I. Mark at (212) 701-3100 or jmark@cahill.com.