CHADBOURNE
& PARKE LLP

30 Rockefeller Plaza, New York, NY 10112
tel (212) 408-5100 fax (212) 541-5369

April 10, 2006

Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-9303

Re: File Number S7-03-06; Proposed Amendments to Rules for Executive Compensation and Related Party Disclosure

Dear Ms. Morris:

We are submitting this letter in response to the solicitation by the Securities and Exchange Commission (the "Commission") of comments on the proposed amendments to the Commission's rules for the disclosure of compensation of executive officers and directors, related party transactions, director independence and other corporate governance matters as contained in Release Nos. 33-8655; 34-53185; and IC-27218 (the "Release").

We support and commend the Commission for undertaking an overhaul of the existing rules in an effort to provide greater clarity and transparency for investors. We are submitting comments regarding certain aspects of the proposed phased-in implementation of the rules and proposed Items 402(b), 402(c), 402(i), 402(f)(2), 402(l) and 407(a)(3) of Regulation S-K.

A. Phased-in implementation of the new Summary Compensation Table should not be accompanied by disclosure of compensation for prior years under the current rules.

Pursuant to the Release, the proposed Summary Compensation Table would require disclosure of compensation of named executive officers ("NEOs") for the last three fiscal years, but the Commission would not require companies to "restate" compensation for fiscal years for which they previously were required to apply the current rules. Instead, the new Summary Compensation Table would be required only for the most recent fiscal year for the first year after effectiveness of the new rules, the most recent two fiscal years for the second year and the most recent three fiscal years for the third year and thereafter, resulting in phased-in implementation of the Summary Compensation Table amendments over a three-year period for Regulation S-K companies. Although it is not entirely clear, it appears that during the phase-in period, disclosure of compensation under existing rules for prior years would be required, presumably in a separate table under the existing format.

For purposes of the Summary Compensation Table, we recommend elimination of any requirement to include prior year compensation disclosure determined pursuant to the

current rules. We believe that direct comparison of compensation as reported under the new and existing rules would be difficult and potentially confusing to investors. Disclosure of compensation for prior years under the current rules in many cases would be available in a company's previous filings with the Commission.

B. Proposed Item 402(b): The CD&A should be treated as "furnished" rather than "filed".

Pursuant to the Release, the Compensation Discussion and Analysis (the "CD&A") would be treated as "filed" with the Commission under the federal securities laws, unlike the current compensation committee report and performance graph, which are treated as "furnished" to the Commission. We believe that the CD&A should be deemed "furnished" and not "filed". A principal reason for this view is that the principal executive officer ("PEO") and the principal financial officer ("PFO") who provide required certifications of Exchange Act reports that may incorporate information included in the CD&A may not be in a position to confirm that information. The compensation committee is chiefly responsible for deliberating upon and setting the compensation of the NEOs that will be discussed in the CD&A. The PFO is not normally present at meetings of the compensation committee, and although the PEO may play a role in establishing the compensation of other NEOs, conventional practice as well as the rules of certain stock exchanges preclude PEOs from being present at compensation committee meetings when their own compensation is discussed.

We believe that any deficiencies perceived by the Commission in disclosure contained in compensation committee reports under current rules should not dictate the "furnished" or "filed" status of the CD&A. In our view, the Commission's objective of obtaining more meaningful disclosure with respect to executive compensation objectives and policies in the CD&A is more likely to be achieved if the CD&A is deemed "furnished"; the more specific description of the required CD&A disclosure contained in the proposed rules, coupled with the intense focus on corporate governance and enhanced disclosure practices generally post-Sarbanes-Oxley, should suffice to distinguish future executive compensation disclosure practices from historic practice.

C. Proposed Item 402(c): The Summary Compensation Table

1. Determination of the three highest paid NEOs should continue to be based solely on salary and bonus rather than total compensation.

Pursuant to the Release, the five executives to be named in the Summary Compensation Table are the PEO, the PFO and the three other most highly compensated executive officers determined on the basis of their total compensation. We recommend against determining the three other highest paid executive officers based on total compensation and suggest that the determination should continue to be based solely on salary and bonus. There are many items of compensation disclosed in the Total column that are not truly reflective of whether an executive officer is among the most highly paid. These may include: (i) a one-time hiring or special retention bonus; (ii) increase in actuarial value of a pension benefit as the actuarial value of the same accrual is greater for an older executive officer; and (iii) earnings on nonqualified deferred compensation that are affected by the level of deferrals and an executive officer's investment choices of notional investments. Continuing to determine the identity of the three other highest paid executive officers based solely on salary and bonus will provide for greater consistency in the determination from year to year.

2. The Stock Awards column should disclose performance-based stock awards for the year earned.

The Commission's proposal would require the grant date fair value of equity awards subject to performance-based conditions to be included in the Stock Awards column. We suggest that disclosure of performance-based stock awards instead be included for the year in which the awards are earned in order to be consistent with the proposed disclosure in a separate column of non-stock incentive plan compensation which is to be reported for the year earned. Disclosures of different performance-based awards should utilize the same reporting methods to enable an investor to draw a meaningful comparison.

3. Earnings on deferred compensation to be included in the All Other Compensation column should be limited to such compensation that is above-market or preferential.

Pursuant to the Release, the All Other Compensation column of the proposed Summary Compensation Table would include, among other things, earnings on deferred compensation that is not tax-qualified, including under non-tax qualified defined contribution retirement plans. We suggest that such earnings should be disclosed in this column only to the extent they are above-market or preferential. Disclosure of all earnings on deferred

compensation makes this column (and the Total column) subject to distortion for the following reasons: (i) an executive with a long period of service with the issuer is likely to have greater aggregate deferrals and thus higher earnings than an executive with shorter service; (ii) an executive who elects greater deferrals will have more earnings on those deferrals than a similarly compensated executive who defers less; and (iii) as many deferred compensation plans allow executives to choose among notional investments, the level of earnings will also be dependent on the executive's investment skill. Thus, a true presentation of comparable compensation of executive officers may not be reflected. We also note that earnings on deferred compensation will be disclosed pursuant to the Nonqualified Defined Contribution and Other Deferred Compensation Plans table required by proposed Item 402(j).

D. Proposed Item 402(i): The annual retirement amount to be disclosed under a defined benefit plan should not be dependent on the form of benefit currently elected by the NEO.

The Commission proposes a new table that would include estimated retirement benefits payable at normal retirement and early retirement to each NEO under tax-qualified defined benefit plans, supplemental employee retirement plans and cash balance plans. The amount to be included in this table would be calculated based on the form of benefit "currently elected" by the NEO, such as a joint and survivor annuity or single life annuity. For plans subject to ERISA, however, the election (or waiver) of certain qualified (i.e., spousal) joint and survivor annuity benefits may only be made within 90 days prior to the annuity starting date. A NEO who is many years away from retirement could make a "current" election of a joint and survivor annuity benefit and thereby significantly reduce the benefit payable to him individually, even though the election would not be effective unless it is again made many years later.

Disclosure of the amount of retirement benefit based on an optional form of benefit elected by a NEO would require disclosure of different amounts of compensation for similarly compensated executives based solely on the election. These differences could be significant (depending on the age of the surviving recipient of the annuity) and could even make a difference as to whether an executive officer has sufficient total compensation to be listed in the proposed Summary Compensation Table at all, assuming the Commission adopts its proposal to base NEO status on total compensation. We believe it may be desirable to require uniformity in presentation so that the disclosure will be more comparable among executives and more meaningful to investors.

E. Proposed Item 402(f)(2): Disclosure of total compensation for up to three non-executive employees should not be required.

We recommend that the Commission eliminate the proposed requirement to disclose total compensation and job description for up to three non-executive employees whose total compensation was greater than that of any NEO in the last fiscal year. We do not believe such disclosure would provide meaningful information to investors. Moreover, we believe that compliance with this proposed disclosure requirement would require an inordinate undertaking in terms of time and expense. Significant costs will be incurred because a company, in many circumstances, will need to monitor and calculate the compensation of a potentially large number of employees in order to determine who may constitute the top three non-executive employees; this task would be even more onerous if this determination is made on the basis of total compensation as proposed.

F. Proposed Item 402(l): The Non-Stock Incentive Compensation column should be omitted because directors typically do not receive cash incentive compensation.

The Commission proposes a new director compensation table similar to the Summary Compensation Table for NEOs, but which would only include information for the last fiscal year. Like the Summary Compensation Table, the director compensation table would include a new Non-Stock Incentive Compensation column to report the dollar value of all other amounts earned during the applicable fiscal year under non-stock based incentive plans. We suggest that the Commission omit this new column because directors typically do not receive cash incentive compensation.

G. Proposed Item 407(a)(3): Disclosure of transactions, relationships or arrangements that were considered not to impair director independence should not be required.

We recommend that the Commission eliminate the proposed requirement to disclose transactions, relationships or arrangements not disclosed pursuant to Item 404(a) that were considered by the board of directors under the applicable independence definitions in determining that a director is independent. We do not believe such disclosure would provide meaningful information to investors. Moreover, we believe that compliance with this proposed disclosure requirement would result in the disclosure of immaterial information and may discourage boards from eliciting, and prospective directors from providing, comprehensive and candid information about transactions, relationships or arrangements that go beyond the disclosure requirements of Item 404(a) and the applicable independence standards.

We believe that the new principles-based disclosure standard contained in proposed Item 404(a) and the requirement that reporting companies employ the independence standard of a national securities exchange or an inter-dealer quotation system, which contain objective disqualification standards, provide sufficient assurance that a reporting company will not designate a director as independent when the director is not in fact independent. The Commission's proposed disclosure requirement seems to require disclosure of information that is immaterial in relation to the requirements of Item 404(a) and the relevant independence definition. Reporting companies may feel compelled to disclose whatever immaterial information came to the attention of the board of directors in order to comply with this requirement.

We believe that it is common for reporting companies to elicit information about transactions, relationships or arrangements from incumbent and prospective directors through the use of questionnaires or similar arrangements. The requests for information are often expressed in terms that are broader than the minimum disclosure requirements to increase the likelihood that a director or prospective director will not overlook potentially significant information. It has also been our experience that directors and prospective directors will often disclose information that exceeds the information requested by the reporting company. We believe that these approaches are desirable because they promote an open and candid dialogue between individual directors and prospective directors, on the one hand, and the entire board of directors, on the other hand. A requirement to disclose information that is determined to be immaterial may discourage a board of directors from eliciting, and directors and prospective directors from providing, comprehensive and candid information.

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We appreciate the opportunity to comment on the Release, and would be happy to discuss any questions the Commission or its staff may have with respect to our comments. Any such questions may be directed to Edward P. Smith (212-408-5371) or Dorothy Wisniowski (212-408-1087).

Very truly yours,

Chadbourne & Parke LLP

CHADBOURNE & PARKE LLP

VIA E-MAIL