WACHTELL, LIPTON, ROSEN & KATZ

February 15, 1979

To Our Clients:

Takeovers

The Tiger International attempt to takeover Seaboard World Airlines has produced another interesting court decision.

Tiger commenced the takeover attempt through open market purchases when Seaboard stock was $4. Seaboard tried a modified reverse bearhug and offered to consider a merger at $20 per share. Tiger rejected the proposal and continued open market purchases. The CAB said Tiger could go to 25% if it put all the shares in a trust. Tiger having bought 15.6% in the market, made a tender offer for 9.4%.

The tender offer disclosed the offer to negotiate at $20 and said "Tiger regarded Seaboard's suggested price as unrealistic." The tender offer did not disclose a Tiger internal analysis showing a value of $22 per share for Seaboard. The court found a material disclosure violation and issued a preliminary injunction. Seaboard World Airlines, Inc. v. Tiger International, Inc., Bench Opinion 79 Civ. 668 (CBM)(S.D.N.Y. Feb. 9, 1979).

This is another illustration of the serious mistake (from a litigation strategy standpoint) in failing to disclose soft information that the raider has about the target and the foolishness of making a qualitative statement about a target's own evaluation of its worth.

M. Lipton