

December 13, 1982

To Our Clients:

Takeovers: Protecting Shareholders Against Front-End Loaded Tender Offers and Bust-Up Proxy Fights

For the past year we have been recommending that corporations consider protecting against front-end loaded tender offers by amending their charters to include a requirement that the second step in a hostile takeover be for cash at the same price as the first step.

We have also been recommending that corporations protect against raiders who purchase 5 to 20% of the stock of a target in the market and then seek to have the target ransom the shares or run to a white knight in order to avoid a proxy fight in which the raider will seek control on the promise of a takeover, liquidation, self-tender, special dividend or other transaction that would presumably enhance the value of the stock of the target.

As the annual meeting season approaches we renew those recommendations. Front-end loaded takeovers and bust-up proxy fights are not in the best interests of shareholders. Given the present frequency of these transactions, we believe every corporation should consider our recommendations. In that connection it should be noted that our recommendations are not shark repellants -- they will not deter an all cash bid for all of the shares of a corporation, but they do deter the types of raids they are designed to protect against. It should also be noted that while there is a significant possibility that many institutional shareholders will not vote for our recommendations, if there is any possibility of obtaining the requisite vote there is at present almost no downside risk to seeking shareholder approval. These amendments reflect strength rather than weakness and sophistication rather than naivete. The large number of corporations that will submit these types of charter amendments to shareholders in 1983 and the current absence of significant takeover activity (with almost no likelihood of imminent revival) indicate that even the failure to obtain the requisite vote is not going to attract takeover proposals. In essence this is a window period in which the potential benefits of our recommendations far outweigh any detriments. We think that almost all corporations should attempt to take advantage of this opportunity.

M. Lipton