 November 24, 1986

To Our Clients:

The Attack on the Poison Pill

The reaction to the insider trading scandals has produced some cogent statements that may be useful in addressing the attacks by pension funds and other institutional investors on the poison pill.

In The New York Times of November 23, 1986 on page 3 of Section 3, Professor John Kenneth Galbraith of Harvard said:

> We must not for a moment forget that there is nothing economically useful in this merger activity. It doesn't produce goods, or increased efficiency. It doesn't improve the operation of the system. If anything, it is damaging to the system because it diverts attention from the hard tasks of producing goods and services efficiently.

An editorial on page 152 of the December 1, 1986 Business Week says:

> [A] major Wall Street scandal is unfolding that will probably destroy other careers and leave the financial community, including the stock exchanges, in deep shock. . . . Restoring public confidence in Wall Street . . . should start with some serious thinking about the underlying forces that caused the scandal to erupt.

Today's merger and acquisition mania broke out at a time when the name of the game on the Street had become: Maximize yield and worry about the risks later. The takeover movement was tailor-made to feed that drive. Wealthy individuals and families are free, of course, to speculate as they choose. But competitive pressures also drove many of the fiduciaries that hold most of the country's private capital, including pension funds, into the game. They have farmed out vast sums to middlemen who promised tempting returns. What evolved was buck-passing on a major scale, and some of the people to whom the buck was passed seem likely to wind up in jail. Like the French police captain in Casablanca, the big institutions are now shocked to find that gambling was going on in the back room.

These fiduciaries helped heat up the game, and they now can help cool it down. Pension fund managers, especially, must stop handing cash to anybody who promises a fast profit. They should return to a stricter reading of the prudent-man rule, an uncertain guide but one steeped in common sense.

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