

November 8, 1988

To Our Clients:

Just Say No

In the Pillsbury case, decided yesterday, the Delaware Court of Chancery endorsed the "just say no" response to a cash tender offer for all shares that the target's board acting in good faith and on a reasonable basis determined to be inadequate. The Court said that the target's "exploration of alternatives may go on indefinitely" and a poison pill may be kept in place to protect the target's ability to continue the exploration. The Court read the Interco case (now on appeal to the Delaware Supreme Court) as holding that a pill must be redeemed only when the target has selected an alternative and the tender offer is "arguably comparable" to the alternative. The Pillsbury decision did not take into account the spin-off alternative Pillsbury announced yesterday and the bidder for Pillsbury is going back to the Court to argue that since an alternative -- valued in the market at less than the cash bid -- has now been selected, the Court should now order the pill redeemed.

M. Lipton