WACHTELL, LIPTON, ROSEN & KATZ

December 5, 1988

To Our Clients:

Repo Rights II
Share Price Protection Preferred Stock

In discussions with U.K. counsel as to adapting repo rights for use in the U.K., a variation evolved. While the concept still presents problems in the U.K. (probably solvable), it is attractive in the U.S. It has the same desirable features of demonstrating confidence in the future and alleviating pressure for immediate restructuring. It has less adverse impact on the balance sheet and credit rating.

Using the repo rights illustration in our December 1, 1988 memo, Growth Co., whose common has a market price of $50, would, instead of distributing a dividend of repo rights, distribute a dividend of share price protection preferred stock ("protect preferred"). One share of protect preferred would be issued for each share of outstanding common.

Each share of protect preferred would be exchangeable for one share of common upon payment of $100 in cash. In this respect the protect preferred is similar to a long-term call with a strike price at a 100% premium to market. The protect preferred would have a relatively low cash dividend until five years from the date of issuance. At that date the protect preferred would pay a one-time cash dividend equal to the difference between $100 and the average market price of the common during the 60 days prior to the end of the five-year period. In this respect the protect preferred provides downside protection similar to the deep-in-the-money put of the repo right that cannot be exercised for a long period. If Growth does not pay the one-time cash dividend, the protect preferred would accumulate at an annual rate of 10% based on the amount of the unpaid one-time dividend and would elect one-third of the board of directors.

In addition to shareholders having benefited from the downside protection aspect of the protect preferred through the payment of the one-time cash dividend, the protect preferred can have continued value as a call. If the protect preferred is structured so that it remains outstanding after payment of the one-time cash dividend and thereafter the market price of the common increases to more than $100, the protect preferred would be in the money to the extent of that spread.

To reduce dilution from the exchange feature of the protect preferred, it can provide that if the one-time cash dividend is paid, the $100 exchange price would be increased by the amount of that dividend.

The tax and accounting treatment of the protect preferred present unique issues and are somewhat uncertain. They may vary depending upon the circumstances of each company. They are not expected to be a major impediment to the use of protect preferred. If desirable for tax purposes, the protect preferred can be made exchangeable for subordinated debentures.

As with the repo rights all the provisions of the protect preferred would be specially crafted for each company that used it.

M. Lipton