

April 20, 1989

To Our Clients:

Golden Parachutes

The recent decision in the Natomas case emphasizes the importance of careful pre-planning by companies that wish to protect their executives through severance agreements that are triggered by a change of control.

The Natomas parachutes were adopted after a takeover bid and while merger negotiations were in progress. The court held that the business judgment rule did not apply and that there should be a trial to determine if the board's approval of the parachutes was justified under the circumstances.

The lessons taught by Natomas are clear:

First: Parachutes should be adopted before there is a takeover bid.

Second: The compensation committee and the outside directors should consider the business benefits of parachutes and make a complete record of what they considered.

Third: The parachutes should be structured to in fact give the company the business benefits considered by the compensation committee and the outside directors.

We have called attention to these matters a number of times. If your parachute situation was not reviewed in light of our April 15, 1988 memorandum "Change of Control Employment Agreements and Other Employee Benefit Protections", now is the time to do so.

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