

WENDY'S/ARBY'S GROUP, INC.
Form DEF 14A
April 14, 2009

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

SCHEDULE 14A

**Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934
(Amendment No.)**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material under Rule 14a-12

Wendy's/Arby's Group, Inc.

Name of the Registrant as Specified In Its Charter

Payment of Filing Fee (Check the appropriate box):

No fee required.

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1. Title of each class of securities to which transaction applies:

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-

**Notice of 2009 Annual Meeting of
Stockholders and Proxy Statement**

WENDY S/ARBY S GROUP, INC.
1155 Perimeter Center West
Atlanta, Georgia 30338
(678) 514-4100

April 14, 2009

Dear Stockholders:

It is my pleasure to invite you to join me at the 2009 Annual Meeting of Stockholders of Wendy s/Arby s Group, Inc., which will be held at 11:00 a.m., local time, on Thursday, May 28, 2009, at the W New York, 541 Lexington Avenue, New York, New York 10022. The Board of Directors and management hope that you will be able to attend in person.

At the Annual Meeting, you will be asked to consider and vote on the election of twelve directors, several proposals to amend the Company s certificate of incorporation, a proposal to re-approve the performance goal bonus awards portion of the Company s 1999 Executive Bonus Plan, and a proposal to ratify the appointment of Deloitte & Touche LLP as the Company s independent registered public accountants. The Board of Directors recommends that you vote **FOR** each of these proposals.

The Notice of Annual Meeting and Proxy Statement follow. It is important that your shares be represented and voted, regardless of the size of your holdings. Accordingly, whether or not you plan to attend the Annual Meeting in person, please promptly complete and return your proxy card in the enclosed envelope, or submit your proxy by telephone or by Internet as described in the instructions included with your proxy card. If you attend the Annual Meeting and wish to vote your shares in person, you may revoke your proxy.

Sincerely,

ROLAND C. SMITH
President and Chief Executive Officer

WENDY S/ARBY S GROUP, INC.
NOTICE OF 2009 ANNUAL MEETING OF STOCKHOLDERS
To be Held on Thursday, May 28, 2009
11:00 a.m., Local Time

The 2009 Annual Meeting of Stockholders of Wendy s/Arby s Group, Inc. will be held on Thursday, May 28, 2009, at 11:00 a.m., local time, at the W New York, 541 Lexington Avenue, New York, New York 10022, for the following purposes:

- (1) to elect twelve directors to hold office until the Company s next annual meeting of stockholders;
- (2) to adopt an amendment and restatement of the Company s certificate of incorporation (the Certificate of Incorporation) to refer to Class A Common Stock as Common Stock and make other conforming changes;
- (3) to adopt an amendment and restatement of the Certificate of Incorporation to provide that, in the absence of the

Chairman of the Board, the alternate presiding chairman at a meeting of the Company's stockholders would be, in order, the Vice Chairman, the Chief Executive Officer or a person designated by a majority of the Board of Directors;

- (4) to adopt an amendment and restatement of the Certificate of Incorporation to change the advance notice procedures for stockholder proposals and director nominations;
- (5) to adopt an amendment and restatement of the Certificate of Incorporation to provide that directors may be removed only by the affirmative vote of the holders of two-thirds of the voting

power of the
Company's
capital stock;

- (6) to adopt an amendment and restatement of the Certificate of Incorporation to repeal Article VI thereof, which imposes super-majority stockholder approval requirements for certain business combination transactions between the Company and an interested stockholder;

(A copy of the proposed Amended and Restated Certificate of Incorporation described above is set forth in Annex A to this Proxy Statement, with deletions indicated by strikeout and additions indicated by underline. For more details about the proposed Amended and Restated Certificate of

Incorporation,
see Proposals
2-6 in the
Proxy
Statement.)

- (7) to re-approve the Performance Goal Bonus Awards portion of the Company's 1999 Executive Bonus Plan;
- (8) to ratify the appointment of Deloitte & Touche LLP as the Company's independent registered public accountants for 2009; and
- (9) to transact such other business as may properly come before the meeting or any adjournment or postponement thereof.

Stockholders entitled to vote at the Annual Meeting or any adjournment or postponement thereof are holders of record of the Company's Class A Common Stock at the close of business on March 31, 2009. All such stockholders of record are invited to attend the Annual Meeting. Admission to the Annual Meeting will be by ticket only and packages and bags may be inspected and required to be checked in at the registration desk. You also will be required to present identification containing a photograph. If you are a registered stockholder (your shares are held in your name) and plan to attend the Annual Meeting, please check the appropriate box on the proxy card and retain the top portion of your proxy card, which serves as your admission ticket. If you are a beneficial owner (your shares are held by a bank, broker or other holder of record) and you plan to attend the Annual Meeting, your

admission ticket is either your notice regarding the availability of proxy materials or the top portion of your voting instruction form, whichever you have received. The Proxy Statement also includes information on how to obtain a ticket from the Company. Stockholders who do not obtain tickets in advance may obtain them upon verification of ownership at the registration desk on the day of the Annual Meeting.

By Order of the Board of Directors

NILS H. OKESON

Secretary

April 14, 2009

Important Notice Regarding the Availability of Proxy Materials for the Stockholders Meeting to be held on May 28, 2009: the proxy statement and the annual report are available at www.wendysarbys.com.

Your vote is important! Stockholders are cordially invited to attend the meeting. Whether or not you plan to attend, please promptly complete and return your proxy card in the enclosed envelope, or submit your proxy by telephone or by Internet as described in the instructions included with your proxy card. You may nevertheless vote in person if you attend the meeting.

WENDY S/ARBY S GROUP, INC.
1155 Perimeter Center West
Atlanta, Georgia 30338
(678) 514-4100

PROXY STATEMENT

INTRODUCTION

The accompanying proxy is solicited by the Board of Directors (the Board of Directors or the Board) of Wendy s/Arby s Group, Inc. (Wendy s/Arby s or the Company) in connection with the 2009 Annual Meeting of Stockholders of the Company (the Annual Meeting), to be held on Thursday, May 28, 2009, at 11:00 a.m., local time, at the W New York, 541 Lexington Avenue, New York, New York 10022, and at any adjournment or postponement thereof. This Proxy Statement and a proxy are first being mailed to stockholders on April 17, 2009. The mailing address of the Company s principal executive office is 1155 Perimeter Center West, Atlanta, Georgia 30338.

When a proxy is returned properly dated and signed, the shares represented thereby will be voted by the persons named as proxies in accordance with each stockholder s directions. Stockholders may specify their choices by marking the appropriate boxes on the enclosed proxy. If a proxy is dated, signed and returned without specifying choices, the shares will be voted as recommended by the Board of Directors **FOR** the election of each of the twelve nominees for director named below and **FOR** Proposals 2, 3, 4, 5, 6, 7, and 8. The Company does not have cumulative voting. Under the Company s By-Laws (the By-Laws), business transacted at the Annual Meeting is confined to the purposes stated in the Notice of the Annual Meeting. The proxy being solicited does, however, convey discretionary authority to the persons named therein as proxies to vote on matters incident to the conduct of the Annual Meeting. The proxy may be revoked by the stockholder at any time prior to the time it is voted by giving notice of such revocation either personally or in writing to the Corporate Secretary of the Company at the address provided above.

Only holders of the Company s Class A Common Stock, par value \$.10 per share (the Class A Common Stock), at the close of business on March 31, 2009, their authorized representatives and guests of the Company will be able to attend the Annual Meeting. For your comfort and security, admission to the Annual Meeting will be by ticket only. If you are a registered stockholder (your shares are held in your name) and plan to attend the Annual Meeting, please check the appropriate box on the enclosed proxy card. Your admission ticket can be detached from the bottom portion of the proxy card. If you are a beneficial owner (your shares are held in the name of a bank, broker or other holder of record) and plan to attend the Annual Meeting, your admission ticket is either your notice regarding the availability of proxy materials or the top portion of your voting instruction form, whichever you have received. In addition, you can obtain an admission ticket in advance by writing to Corporate Secretary, Wendy s/Arby s Group, Inc., 1155 Perimeter Center West, Atlanta, Georgia 30338. Please be sure to enclose proof of ownership, such as a bank or brokerage account statement or a letter from the bank or broker verifying such ownership. Stockholders who do not obtain tickets in advance may obtain them upon verification of ownership at the registration desk on the day of the Annual Meeting.

Tickets may be issued to others at the discretion of the Company.

QUESTIONS AND ANSWERS ABOUT THE ANNUAL MEETING

Q: Who is soliciting my proxy?

A: Wendy's/Arby's Board of Directors, in connection with the Board's solicitation of proxies for use at the Annual Meeting. Certain of our directors, officers and employees also may solicit proxies on the Board's behalf by mail, telephone, email, fax or in person. We have hired Innisfree M&A Incorporated, 501 Madison Avenue, 20th Floor, New York, NY 10022, to assist in soliciting proxies from brokers, bank nominees and other stockholders. We will pay the costs and expenses of the solicitation. Our directors, officers and employees will not receive additional remuneration for soliciting proxies. We expect that we will pay Innisfree M&A Incorporated not more than \$15,000, plus reasonable out-of-pocket expenses, and also will reimburse banks, brokers, custodians, nominees and fiduciaries for their reasonable costs and expenses to forward our proxy materials to the beneficial owners of our Class A Common Stock.

Q: Why did I receive a notice regarding the availability of proxy materials rather than the printed proxy statement and annual report?

A: As permitted by Securities and Exchange Commission rules, we are making our proxy materials available electronically via the Internet on the Company's website at www.wendysarbys.com. On April 17, 2009, we began mailing a notice to our stockholders containing information on how to access these materials and vote online. If you received that notice, then you will not receive a printed copy of the proxy materials unless you request it by following the instructions for requesting such materials contained on the notice. Adopting this process allows the company to reduce its overall costs and the environmental impact of printing and mailing these materials.

Q: Who is entitled to vote?

A: All holders of record of the Company's Class A Common Stock at the close of business on March 31, 2009 are entitled to vote on all business transacted at the Annual Meeting.

Q: What is the difference between a registered stockholder and a street name holder?

A: If your shares are registered directly in your name with American Stock Transfer & Trust Company, LLC, our stock transfer agent, you are considered a stockholder of record for those shares.

If your shares are held by a broker or other nominee, you are considered the beneficial owner of the shares, and your shares are said to be held in street name. Your broker or other nominee does not have authority to vote your shares on Proposal 7 without instructions from you. Your broker or other nominee should have enclosed, or should provide, a notice regarding the availability of proxy materials or a voting instruction form for you to use in directing it how to vote your shares.

Q: What should I do with these materials?

A: Please carefully read and consider the information contained in this Proxy Statement, and then vote your shares as soon as possible to ensure that your shares will be represented at the Annual Meeting. You may vote your shares prior to the meeting even if you plan to attend the meeting in person.

Q: How do I vote?

A: You may vote before the Annual Meeting in one of the following ways:

Visit the website shown on your proxy card, notice of availability of proxy materials or voting instruction form to vote via the Internet;

Use the toll-free number shown on your proxy card or voting instruction form; or
Complete, sign, date and return the enclosed proxy card or voting instruction form in the enclosed
postage-paid envelope if you have requested and received those items by mail.

You may also vote your shares in person at the meeting.

Q: What does it mean if I receive more than one proxy card or notice regarding the availability of proxy materials or voting instruction form?

A: It means that you have multiple accounts at the transfer agent and/or with stockbrokers. Please follow the instructions set forth on each proxy card, notice or voting instruction form to ensure that all your shares are voted.

Q: What is the deadline for submitting a proxy?

A: In order to be counted, proxies submitted by telephone or the Internet must be received by 11:59 p.m. on May 27, 2009. Proxies submitted by mail must be received prior to the start of the Annual Meeting.

Q: What constitutes a quorum?

A: At the close of business on March 31, 2009, the Company had 466,249,838 shares of Class A Common Stock outstanding and entitled to vote at the Annual Meeting. Each share of Class A Common Stock entitles the holder to one vote per share. The presence, in person or by proxy, of stockholders entitled to cast at least a majority of the votes that all stockholders are entitled to cast will constitute a quorum. Broker non-votes and the shares as to which a stockholder abstains are included for purposes of determining whether a quorum of shares is present at the Annual Meeting.

Q: What are abstentions and broker non-votes and how do they affect voting?

A: *Abstentions* If you specify on your proxy card that you abstain from voting on an item, your shares will be counted present and entitled to vote for purpose of establishing a quorum, but are not counted for purpose of determining the number of votes cast. Abstentions are not included in the tabulation of voting results on the election of directors (Proposal 1) or items requiring approval of a majority of the votes cast (Proposal 7), but will be the equivalent of an against vote on items that require the affirmative vote of a majority or super-majority of the total voting power of the Company's outstanding voting shares, or the affirmative vote of a majority of the voting power present. Therefore, abstentions will count as votes against Proposals 2-6 and 8.

Broker Non-Votes Under New York Stock Exchange rules, if your shares are held in street name then your broker has discretion to vote your shares without instructions from you on certain routine items, including the election of directors, the amendment and restatement of the Certificate of Incorporation and the ratification of the appointment of the independent registered public accounting firm. Your broker does not, however, have such discretion on non-routine items such as the re-approval of the performance goal bonus awards portion of the Company's 1999 Executive Bonus Plan (Proposal 7). If you do not provide your broker with voting instructions for non-routine items, then the broker can not vote on those items and will report your shares as non-votes on those items. Like abstentions, broker non-votes are counted as present and entitled to vote for quorum purposes, but are not counted for purpose of determining the number of votes cast. Broker non-votes are not included in the tabulation of voting results on non-discretionary items requiring approval of a majority of the votes cast such as Proposal 7, but would be the equivalent of an against vote on items that require the affirmative vote of a majority or super-majority of the total voting power of the Company's outstanding voting shares.

Q: What am I being asked to vote on?

A: You are being asked to vote on the following eight proposals:

- (1) to elect twelve directors to hold office until the Company's next annual meeting of stockholders (Item 1 on the Company's proxy card);
- (2) to adopt an amendment and restatement of the Certificate of Incorporation to refer to Class A Common Stock as Common Stock and make other conforming changes (Item 2 on the Company's proxy card);
- (3) to adopt an amendment and restatement of the Certificate of Incorporation to provide that, in the absence of the Chairman of the Board, the alternate presiding chairman at a meeting of the Company's stockholders would be, in order, the Vice Chairman, the Chief Executive Officer or a person designated by a majority of the Board of Directors (Item 3 on the Company's proxy card);
- (4) to adopt an amendment and restatement of the Certificate of Incorporation to change the advance notice procedures for stockholder proposals and director nominations (Item 4 on the Company's proxy card);
- (5) to adopt an amendment and restatement of the Certificate of Incorporation to provide that directors may be removed only by the affirmative vote of the holders of two-thirds of the voting power of the Company's capital stock (Item 5 on the Company's proxy card);
- (6) to adopt an amendment and restatement of the Certificate of Incorporation to repeal Article VI thereof, which imposes super-majority stockholder approval requirements for certain business combination transactions between the Company and an interested stockholder (Item 6 on the Company's proxy card);
- (7) to re-approve the Performance Goal Bonus Awards portion of the Company's 1999 Executive Bonus Plan (Item 7 on the Company's proxy card);
- (8) to ratify the appointment of Deloitte & Touche LLP as the Company's independent registered public accountants for 2009 (Item 8 on the Company's proxy card); and
- (9) to transact such other business as may properly come before the meeting or any adjournment or postponement thereof.

Q: What vote is needed to elect the nominees for director?

A: The affirmative vote of a plurality of the total voting power present in person or represented by proxy is required to elect the twelve nominees as directors.

Q: Why is the Company proposing to amend and restate its Certificate of Incorporation?

A: Wendy's/Arby's is restating its Certificate of Incorporation because its Certificate of Incorporation has been amended several times since its formation in 1994, and the numerous amendments without a restatement have made the Certificate of Incorporation cumbersome and difficult to navigate. In connection with undertaking a restatement of the Certificate of Incorporation, the Board of Directors formed a committee comprised solely of independent directors for the purpose of reviewing potential amendments to the Certificate of Incorporation and By-Laws. Following the conclusion of its review process, the committee unanimously recommended the proposed Amended and Restated Certificate of Incorporation set forth in Annex A to this Proxy Statement to the Board of Directors and, following such recommendation, the proposed Amended and Restated Certificate of Incorporation was unanimously approved and declared advisable by the Board of Directors.

The new amendments set forth in the proposed Amended and Restated Certificate of Incorporation are intended to make certain conforming changes, resolve certain inconsistencies and modernize and conform the Certificate of Incorporation to current practices of peer Delaware corporations. For a more complete discussion of the Company's reasons for proposing each of the new amendments in the proposed Amended and Restated Certificate of Incorporation see Proposals 2-6 beginning on page 56.

The committee also unanimously recommended, and the board unanimously approved, an amendment and restatement of the Company's By-Laws that would conform Article II, Section 11 of the

By-Laws to Proposal 3 with respect to the determination of the person to preside as chairman of a meeting of the Wendy s/Arby s stockholders in the absence of the Chairman of the Board of Directors.

Wendy s/Arby s also intends to conform the indemnification provisions in its By-Laws to those contained in its Certificate of Incorporation.

Q: What amendments to the Certificate of Incorporation are being proposed?

A: Wendy s/Arby s is proposing to amend and restate its Certificate of Incorporation to give effect to the following amendments: (a) to refer to Class A Common Stock as Common Stock and make other conforming changes, (b) to provide that, in the absence of the Chairman of the Board, the alternate presiding

chairman at a meeting of the Company's stockholders would be, in order, the Vice Chairman, the Chief Executive Officer or a person designated by a majority of the Board of Directors, (c) to change the advance notice procedures for stockholder proposals and director nominations, (d) to provide that directors may be removed only by the affirmative vote of the holders of two-thirds of the voting power of the Wendy's/Arby's capital stock and (e) to repeal Article VI of the Certificate of Incorporation, which imposes super-majority stockholder approval requirements for certain business combination transactions between Wendy's/Arby's and an interested stockholder. In addition, the proposed Amended and

Restated Certificate of Incorporation would incorporate into a unified document the amendments to the Certificate of Incorporation that have previously been adopted and become effective.

For a more complete discussion of the proposed amendments to the Certificate of Incorporation, see Proposals 2-6 beginning on page 56.

Q: What votes are needed for the proposed Amended and Restated Certificate of Incorporation to be approved?

A: The affirmative vote of a majority of the total voting power of the outstanding voting shares of the Company entitled to vote at the Annual Meeting or any adjournment or postponement thereof is required for approval of each of the following amendments to the Certificate of Incorporation:

(a) to refer to Class A Common Stock as Common Stock and make other conforming changes, (b) to provide that, in the absence of the Chairman of the Board, the alternate presiding chairman at a meeting of the Company's stockholders would be, in order, the Vice Chairman, the Chief Executive Officer or a person designated by a majority of the Board of Directors, (c) to change the advance notice procedures for stockholder proposals and director nominations and (d) to provide that directors may be removed only by the affirmative vote of the holders of two-thirds of the voting power of the Wendy's/Arby's capital stock. The affirmative vote of two-thirds of the total voting power of the outstanding voting shares of

the Company
entitled to vote at
the Annual
Meeting or any
adjournment or
postponement
thereof is
required for
approval of the
repeal of Article
VI of the
Certificate of
Incorporation,
which imposes
super-majority
stockholder
approval

requirements for certain business combination transactions between Wendy's/Arby's and an interested stockholder.

If you are a Wendy's/Arby's stockholder and you fail to respond with a vote or fail to instruct your broker or other nominee how to vote on the five proposals relating to the adoption of the Amended and Restated Certificate of Incorporation, it will have the same effect as a vote against these proposals.

Q: What vote is needed to re-approve the Performance Goal Bonus Awards portion of the Company's 1999 Executive Bonus Plan?

A: The Treasury Regulations under Section 162(m) of the Internal Revenue Code require the affirmative vote of a majority of the votes cast on this item to approve it.

Q: What vote is needed to ratify

the appointment of Deloitte & Touche LLP as the Company's independent registered public accountants for 2009?

A: The affirmative vote of a majority of the voting power present (in person or by proxy) is required to approve this item.

Q: What if I deliver my proxy or voting instruction card but do not indicate how I want to vote on the proposals?

A: If you respond but do not indicate how you want to vote on the proposals, your proxy will be counted as a vote in accordance with the recommendation of the Board of Directors **FOR** the election of each of the twelve nominees for director and **FOR** Proposals 2, 3, 4, 5, 6, 7, and 8.

Q: May I change my vote after I have delivered my proxy or voting instruction card?

A: Yes. You may change your vote at any time before

your proxy is
voted at the
Annual Meeting.

You may revoke
your proxy by
giving notice of
revocation in
writing, by
accessing the
Internet site stated
on the form of
proxy, by using
the toll-free
telephone number
stated on the form
of proxy, or by
attending, and
voting at, the
Annual Meeting.

Your attendance at
the Annual
Meeting alone will
not revoke any
proxy.

If your shares are
held in an account
at a broker or
other nominee,
you should contact
your broker or
other nominee to
change your vote.

**Q: How do Messrs.
Nelson Peltz and
Peter W. May
intend to vote?**

A: The Company has
been informed that
the 101,274,344
shares of Class A
Common Stock
beneficially
owned as of the
record date by
Nelson Peltz and
Peter W. May
representing, in
the aggregate,
approximately
22% of votes

entitled to be cast at the Annual Meeting, will be voted in accordance with the recommendation of the Board of Directors **FOR** the election of each of the twelve (12) nominees for director and **FOR** Proposals 2, 3, 4, 5, 6, 7, and 8.

Q: Whom should I call with questions?

A: Please call Innisfree M&A Incorporated, the Company's proxy solicitor, at (877) 750-9498 with any questions about the Annual Meeting. Banks and brokers can call collect at (212) 750-5833.

PROPOSAL 1.
ELECTION OF DIRECTORS
(Item 1 on the Company's Proxy Card)

Each of the twelve nominees, if elected, will hold office until the next annual meeting of the Company's stockholders and until his or her successor is elected and qualified or until his or her prior death, resignation or removal.

The persons named in the accompanying proxy will vote for the election of the nominees named below unless a Wendy's/Arby's stockholder directs otherwise. Each nominee has consented to be named and to continue to serve if elected. If any of the nominees become unavailable for election for any reason, the proxies will be voted for the other nominees and for any substitutes.

Nominees for Director

There are currently twelve directors on the Board of Directors.

It is recommended that the twelve nominees named below be elected as directors of the Company. All of the twelve nominees are presently serving as directors of the Company and all except Ms. Hill and Mr. Lewis were elected directors at the Company's annual meeting of stockholders held on September 15, 2008. Ms. Hill and Mr. Lewis were directors of Wendy's International, Inc. (Wendy's), and were appointed as directors of Wendy's/Arby's upon the Company's merger with Wendy's, in accordance with the terms of the merger agreement. Each member of the Board of Directors serves until the next annual meeting of the Company's stockholders and until such director's successor is duly chosen and qualified or until his or her prior death, resignation or removal. The Company is unaware of any reason why any of the nominees named herein would be unwilling or unable to serve as a director. Should, however, any nominee for director be unwilling or unable to serve at the time of the Annual Meeting or any adjournment or postponement thereof, the persons named in the proxy will vote for the election of such other person for such directorship as the Board of Directors may recommend as a substitute.

Certain information regarding each person nominated by the Board of Directors, including his or her principal occupation during the past five years and current directorships, is set forth below. Unless otherwise indicated, all nominees have had the indicated principal occupations for the past five years.

Name of Director	Business Experience During Past Five Years, Age and Other Information
Nelson Peltz	Mr. Peltz has been a director of the Company since April 1993 and non-executive Chairman since June 2007. He also served as Chairman and Chief Executive Officer of the Company and as a director or manager and officer of certain of the Company's subsidiaries from April 1993 through June 2007. Additionally, Mr. Peltz has been Chief Executive Officer and a founding partner of Trian Fund Management, L.P. (Trian Partners), a management company for various investment funds and accounts, since November 2005. Mr. Peltz has also been Chairman of the Board of Trian Acquisition I Corp. since its inception in October 2007. Trian Acquisition I Corp. is a publicly traded blank check company formed to effect a business combination. From its formation in

**Name of
Director**

**Business Experience During Past
Five Years, Age and Other Information**

January 1989 to April 1993, Mr. Peltz was Chairman and Chief Executive Officer of Trian Group, Limited Partnership (Trian Group), which provided investment banking and management services for entities controlled by Mr. Peltz and Mr. May. From 1983 to December 1988, he was Chairman and Chief Executive Officer and a director of Triangle Industries, Inc. (Triangle), which, through wholly-owned subsidiaries, was, at that time, a manufacturer of packaging products, copper electrical wire and cable and steel conduit and currency and coin handling products. Mr. Peltz has also served as a director of H.J. Heinz Company since September 2006. Mr. Peltz is the father-in-law of Edward P. Garden. Mr. Peltz is 66 years of age.

Peter W. May Mr. May has been a director of the Company since April 1993 and has served as non-executive Vice Chairman since June 2007. He served as the President and Chief Operating Officer of the Company and also as a director or manager and officer of certain of the Company s subsidiaries from April 1993 through June 2007. Additionally, Mr. May has been President and a founding partner of Trian Partners since November 2005. Mr. May has also been Vice Chairman and a Director of Trian Acquisition I Corp. since its inception in October 2007. From its formation in January 1989 to April 1993, Mr. May was President and Chief Operating Officer of Trian Group. He was President and Chief Operating Officer and a director of Triangle from 1983 until December 1988. Mr. May has also served as a director of Tiffany & Co. since May 2008 and of Deerfield Capital Corp. since December 2007. Mr. May is 66 years of age.

Hugh L. Carey Mr. Carey has been a director of the Company since June 1994. He was an Executive Vice President of W.R. Grace & Co. (Grace) from 1987 through December 1995. From 1993 to December 1995, he served Grace as director of its Government Relations Division, and from 1987 until 1993, he ran Grace s office of environmental policy. Mr. Carey was the Governor of the State of New York from 1975 until 1983 and a member of Congress from 1960 until 1975. From 1991 until 1993, he was Chairman of the National Institute of Former Governors. Mr. Carey is also a director of Chinatrust Bank (U.S.A.), and a partner of Harris Beach LLP, a law firm. Mr. Carey is 89 years of age.

Clive Chajet Mr. Chajet has been a director of the Company since June 1994. He has been Chairman of Chajet Consultancy, L.L.C., a consulting firm specializing in identity and image management, since January 1997. Prior to that time, Mr. Chajet was Chairman of Lippincott & Margulies Inc., also a consulting firm specializing in identity and

**Name of
Director**

**Business Experience During Past
Five Years, Age and Other Information**

	image management, from 1983 to January 1997. Mr. Chajet is 72 years of age.
Edward P. Garden	Mr. Garden has been a director of the Company since December 2004. He served as Vice Chairman from December 2004 through June 2007 and Executive Vice President from August 2003 until December 2004. Additionally, Mr. Garden has been Vice Chairman and a founding partner of Trian Partners since November 2005. Mr. Garden has also been President, Chief Executive Officer and a Director of Trian Acquisition I Corp. since its inception in October 2007. From 1999 to 2003, Mr. Garden was a managing director of Credit Suisse First Boston, where he served as a senior investment banker in the Financial Sponsors Group. From 1994 to 1999, he was a managing director at BT Alex Brown where he was a senior member of the Financial Sponsors Group and, prior to that, co-head of Equity Capital Markets. Mr. Garden is the son-in-law of Nelson Peltz. Mr. Garden is 47 years of age.
Janet Hill	Ms. Hill has been a director of the Company since September 2008. She served as a director of Wendy's from 1994 until its merger with a subsidiary of the Company in September 2008. Ms. Hill is currently Vice President of Alexander & Associates, Inc., a corporate consulting firm in Washington, D.C. She provides corporate planning, advice and analysis to directors, executives and managers in the areas of human resource planning, corporate responsibility, corporate communications and government consultation. Ms. Hill also serves as a director of Dean Foods Company and Sprint Nextel Corporation. Ms. Hill is 61 years of age.
Joseph A. Levato	Mr. Levato has been a director of the Company since June 1996. Mr. Levato served as Executive Vice President and Chief Financial Officer of the Company and certain of its subsidiaries from April 1993 to August 1996. He was Senior Vice President and Chief Financial Officer of Trian from January 1992 to April 1993. From 1984 to December 1988, he served as Senior Vice President and Chief Financial Officer of Triangle. Mr. Levato is 68 years of age.
J. Randolph Lewis	Mr. Lewis has been a director of the Company since September 2008. He served as a director of Wendy's from 2004 until its merger with a subsidiary of the Company in September 2008. Mr. Lewis is Senior Vice President, Distribution and Logistics, Walgreen Co., Deerfield, Illinois. Walgreen Co. is the nation's largest drugstore chain. Mr. Lewis joined Walgreen Co. in March, 1992 as Divisional Vice President, Logistics and Planning. He was promoted to his current position in 1999. Prior to joining Walgreen Co. he was a

Name of Director	Business Experience During Past Five Years, Age and Other Information
David E. Schwab II	partner in the consulting division of Ernst & Young. Mr. Lewis is 59 years of age. Mr. Schwab has been a director of the Company since October 1994. Mr. Schwab has been a Senior Counsel of Cowan, Liebowitz & Latman, P.C., a law firm, since January 1998. Prior to that time, he was a partner of Schwab Goldberg Price & Dannay, a law firm, for more than five years. Mr. Schwab also serves as Chair Emeritus of the Board of Trustees and Chair of the Executive Committee of Bard College. Mr. Schwab is 77 years of age.
Roland C. Smith	Mr. Smith has been a director and the Chief Executive Officer of the Company since June 2007, and he has also served as President of the Company and Chief Executive Officer of Wendy's since September 2008. Mr. Smith served as the Chief Executive Officer of Arby's Restaurant Group, Inc. (ARG) from April 2006 to September 2008. Mr. Smith also served as President of ARG from April 2006 to June 2006. Mr. Smith served as President and Chief Executive Officer of American Golf Corporation and National Golf Properties from February 2003 to November 2005. Prior thereto, Mr. Smith served as President and Chief Executive Officer of AMF Bowling Worldwide, Inc. from April 1999 to January 2003. Mr. Smith served as President and Chief Executive Officer of ARG's predecessor, Arby's, Inc., from February 1997 to April 1999. Mr. Smith also serves as a director of Carmike Cinemas, Inc. Mr. Smith is 54 years of age.
Raymond S. Troubh	Mr. Troubh has been a director of the Company since June 1994. He has been a financial consultant since prior to 1989. Mr. Troubh is a director of Diamond Offshore Drilling, Inc., General American Investors Company and Gentiva Health Services, Inc. Mr. Troubh is 82 years of age.
Jack G. Wasserman	Mr. Wasserman has been a director of the Company since March 2004. Mr. Wasserman has practiced law as a solo practitioner since September 2001. Prior to that time, he was a senior partner of Wasserman, Schneider, Babb & Reed (and its predecessors) from 1966 until September 2001. Mr. Wasserman serves as a director of Icahn Enterprises G.P., Inc., the general partner of Icahn Enterprises L.P., and Cadus Inc. Mr. Wasserman is 72 years of age.

THE BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE FOR THE ELECTION OF THE TWELVE NOMINEES FOR DIRECTOR IN THIS PROPOSAL 1

EXECUTIVE OFFICERS

The following table sets forth certain information regarding the current executive officers of the Company, all of whom are U.S. citizens.

Name	Age	Positions
Roland C. Smith	54	Director; President and Chief Executive Officer
Stephen E. Hare	55	Senior Vice President and Chief Financial Officer
J. David Karam	50	President, Wendy's International, Inc.
Thomas A. Garrett	47	President and Chief Executive Officer Arby's Restaurant Group, Inc.
Sharron L. Barton	57	Senior Vice President and Chief Administrative Officer
Nils H. Okeson	43	Senior Vice President, General Counsel and Secretary
John D. Barker	46	Senior Vice President and Chief Communications Officer
Steven B. Graham	55	Senior Vice President and Chief Accounting Officer

Set forth below is certain additional information concerning the persons listed above (other than Mr. Smith, for whom such information has been provided under "Nominees for Director," above).

Stephen E. Hare has served as Senior Vice President and Chief Financial Officer of the Company since September 2007. Mr. Hare also serves as Chief Financial Officer of ARG, a position he has held since June 2006, and as Chief Financial Officer of Wendy's, a position he has held since December 2008. Previously, he served as Executive Vice President of Cadmus Communications Corporation (Cadmus) and President of Publisher Services Group, a division of Cadmus, from January 2003 to June 2006. Prior thereto, Mr. Hare served as Executive Vice President, Chief Financial Officer of Cadmus from September 2001 to January 2003.

J. David Karam has served as President of Wendy's since September 2008. From 1989 to September 2008, Mr. Karam served as the President of Cedar Enterprises, Inc., a 133-unit franchisee of Wendy's that has operations in Las Vegas, San Antonio, Indianapolis, Seattle and Hartford. Mr. Karam served as Vice President of Finance for Cedar Enterprises, Inc. from 1986 to 1989. Prior to joining Cedar Enterprises, Inc. Mr. Karam was a Senior Auditor with Touche Ross & Company.

Thomas A. Garrett has served as President and Chief Executive Officer of ARG since September 2008. He served as Executive Vice President and Chief Operating Officer of the Company from September 2007 to September 2008. Mr. Garrett also served as President and Chief Operating Officer of ARG from June 2006 to September 2008. Mr. Garrett served as Chief Operating Officer of ARG following the Company's acquisition of RTM Restaurant Group, Inc. (RTM) in July 2005 to June 2006. From June 2003 to July 2005, Mr. Garrett served as President of RTM, and from May 2000 to June 2003, he served as Chief Operating Officer of RTM.

Sharron L. Barton has served as Chief Administrative Officer of the Company since September 2008. She has also served as Chief Administrative Officer of ARG since July 2005. Prior thereto, she served as RTM's Senior Vice President, General Counsel and Chief Administrative Officer from June 2001 to July 2005. Ms. Barton began her career with RTM in 1977.

Nils H. Okeson has served as Senior Vice President and Secretary of the Company since September 2007. Mr. Okeson served as Associate General Counsel of the Company from September 2007 through December 2007, and he has served as General Counsel since then. Mr. Okeson also serves as General Counsel of ARG, a position he has held since October 2005, and as General Counsel of

Wendy's, a position he has held since September 2008. Prior to joining ARG, he was a partner of Alston & Bird, LLP, a law firm he joined in 1990.

John D. Barker has served as Senior Vice President and Chief Communications Officer of the Company since September 2008. Mr. Barker previously served as Senior Vice President, Corporate Affairs and Investor Relations at Wendy's, and joined Wendy's in May 1996 as Vice President of Investor Relations. Mr. Barker was Manager of Investor Relations and Financial Communications for American Greetings Corp. in Cleveland from 1992 to 1996. He held positions as a business editor for The Plain Dealer newspaper in Cleveland, Business Editor for The Beaver County Times near Pittsburgh, and News Desk Editor for The Observer-Reporter in Washington, PA. Mr. Barker is a trustee of the Dave Thomas Foundation for Adoption.

Steven B. Graham has served as Senior Vice President and Chief Accounting Officer of the Company since September 2007. Mr. Graham also serves as Senior Vice President, Corporate Controller of ARG, a position he has held since January 2007, and as Senior Vice President and Chief Accounting Officer of Wendy's, a position he has held since February 2009. From October 2006 through December 2006, he served as Vice President, Assistant Corporate Controller of ARG. Mr. Graham served as Corporate Controller at Princeton Review LLC from April 2004 to September 2006. Prior thereto, he served as Vice President Controller of Sbarro, Inc. from January 2000 to March 2004 and as Controller of Sbarro, Inc. from April 1994 to January 2000.

The term of office of each executive officer is until the organizational meeting of the Board following the next annual meeting of Wendy's/Arby's stockholders and until his or her successor is elected and qualified or until his or her prior death, resignation or removal.

CORPORATE GOVERNANCE

Independence of Directors

Under the New York Stock Exchange's listing requirements, the Board of Directors must have a majority of directors who meet the criteria for independence required by the New York Stock Exchange. Pursuant to Wendy's/Arby's Corporate Governance Guidelines (the "Corporate Governance Guidelines"), the Board is to determine whether each director satisfies the criteria for independence based on all of the relevant facts and circumstances. No director qualifies as independent unless the Board of Directors affirmatively determines that such director has no material relationship with the Company. In accordance with the New York Stock Exchange listing requirements and the Corporate Governance Guidelines, the Board of Directors has adopted categorical standards ("Independence Standards") to assist it in determining the independence of Wendy's/Arby's directors. Pursuant to the Independence Standards, any relationship described below will be deemed to be material if:

the director is,
or has been
within the last
three years, an
employee of
Wendy's/Arby's,
or an immediate
family member
of the director
is, or has been
within the last
three years, an
executive

officer of
Wendy s/Arby s;

the director has
received, or has
an immediate
family member
who has
received, during
any
twelve-month
period within
the last three
years, more
than \$120,000
in direct
compensation
from
Wendy s/Arby s
as an executive
officer, other
than director
and committee
fees and
pension or other
forms of
deferred
compensation
for prior service
(provided that
such
compensation is
not contingent
in any way on
continued
service);

(i) the director is a current partner or employee of a firm that is Wendy's/Arby's internal or external auditor; (ii) the director has an immediate family member who is a current partner of such a firm; (iii) the director has an immediate family member who is a current employee of such a firm and personally works on Wendy's/Arby's audit; or (iv) the director or an immediate family member of the director was within the last three years (but is no longer) a partner or employee of such a firm and personally worked on Wendy's/Arby's audit within that time;

the director or an immediate family member of the director is, or has been within the last

three years,
employed as an
executive
officer of
another
company
where any of
Wendy's/Arby's
present
executive
officers at the
same time
serves or
served on the
compensation
committee of
that company's
board of
directors;

the director is a
current
employee, or
an immediate
family member
of the director
is a current
executive
officer, of
another
company that
has made
payments to, or
received
payments from,
Wendy's/Arby's
for property or
services in an
amount that, in
any of the last
three fiscal
years, exceeds
the greater of
\$1.0 million or
2% of such
other
company's
consolidated
gross revenues.
Both the
payments and

the consolidated gross revenues to be measured will be those of such other company's last completed fiscal year. Also, the three year look-back period referred to above applies only to the financial relationship between Wendy's/Arby's and the director's or immediate family member's current employer (i.e., former employment of the director or immediate family member need not be considered); or

the director, or an immediate family member of the director, is employed as an executive officer of a non-profit organization, foundation or university to which, within the last three years, Wendy's/Arby's has made discretionary contributions

(excluding for this purpose matching funds paid by Wendy's/Arby's as a result of contributions by Wendy's/Arby's directors and employees) that, in any fiscal year of such non-profit organization, foundation or university, exceeded the greater of \$1.0 million or 2% of such entity's consolidated gross revenues.

The foregoing clauses are to be interpreted by the Board of Directors taking into account any commentary or other guidance provided by the New York Stock Exchange with respect to Section 303A of the New York Stock Exchange Listed Company Manual.

The Independence Standards further provide that the relationship between Wendy's/Arby's and an entity for which a director serves solely as a non-management director is not material. The Independence Standards also provide that employment as an interim Chairman or CEO or other executive officer will not disqualify a director from being considered independent following that employment. In addition, any other relationship not described above will not be deemed material unless (i) the director would have thereby a direct or indirect material interest within the meaning of Item 404(a) of Regulation S-K and the material terms of the relationship were materially more favorable than those that would be offered at the time and in comparable circumstances to persons unaffiliated with Wendy's/Arby's or (ii) the Board of Directors, in exercising its judgment in light of all the facts and circumstances, determines that the relationship should be considered to be material and to affect the independence of the director in question. For purposes of the Independence Standards, the term "Company" includes any subsidiary in Wendy's/Arby's consolidated group.

In March 2009, the Nominating and Corporate Governance Committee and the Board of Directors considered and reviewed the various commercial and charitable transactions and relationships identified through directors' responses to annual questionnaires that they are required to complete, as well as data collected by management and presented to the Nominating and Corporate Governance Committee and

to the Board of Directors related to transactions during the last three years between Wendy's/Arby's and a director, immediate family member of a director or business or charitable affiliate of a director. As a result of this review, the Board of Directors determined that none of the identified transactions or relationships with Messrs. Carey, Chajet, Levato, Lewis, Schwab, Troubh and Wasserman, and Ms. Hill, was material and that each of such nominees is independent of Wendy's/Arby's. In making its independence determinations, the Board considered the following transactions that occurred during the last three years, each of which, as noted above, was deemed not to be material: for Mr. Chajet, contributions to a charity for which he or his spouse serves as a director; for Ms. Hill, payments for telecommunications services from Sprint Nextel Corporation, for which she serves as a director; and for Mr. Troubh, contributions to a charity for which his spouse serves as a director.

As indicated in Ms. Hill's biographical information above, she is also a director of Dean Foods Company, which is one of the leading food and beverage companies in the United States. Both Wendy's and Arby's, through independent distributors, purchase products of Dean Foods Company.

Board Meetings and Certain Committees of the Board

Thirteen meetings of the full Board of Directors were held during the fiscal year ended December 28, 2008. Each incumbent director who served on the Board of Directors in 2008 and is a nominee for reelection, attended at least 75% or more of the meetings of the Board of Directors and its committees, as applicable, in 2008. While the Company does not have a formal policy requiring them to do so, directors are expected to attend the Company's annual meeting of stockholders. All persons then serving as directors attended the 2008 Annual Meeting of Stockholders.

The Company has standing audit, nominating and corporate governance and compensation committees whose current functions and members are described below. As noted above, the Board of Directors has determined that each of the current members of such committees is independent as required by the New York Stock Exchange listing requirements. In addition, the Company has standing ERISA, capital and investment, corporate social responsibility and executive committees, the current functions and members of which are also described below. It is anticipated that at its first meeting following the Annual Meeting, the Board will designate the directors to serve on each of these committees until the next annual meeting of stockholders.

Audit Committee. The Audit Committee is composed of Messrs. Joseph A. Levato (Chairman), David E. Schwab II, Raymond S. Troubh and Jack G. Wasserman. The primary purpose of the Audit Committee is to assist the Board of Directors in fulfilling its oversight responsibility relating to: (i) the integrity of the Company's financial statements and financial reporting process, the Company's systems of internal accounting and financial controls and other financial information provided by the Company; (ii) the performance of the internal audit function; (iii) the annual independent audit of the Company's financial statements, the engagement of the independent registered public accounting firm and the evaluation of the independent registered public accounting firm's qualifications, independence and performance; (iv) the compliance by the Company with legal and regulatory requirements, including the Company's disclosure controls and procedures; (v) the evaluation of risk assessment and risk management policies; and (vi) the fulfillment of the other responsibilities set out in its charter. The Board of Directors has determined that each of the committee members are financially literate and at least one member, Mr. Levato, qualifies as an audit committee financial expert within the meaning of the regulations of the Securities and Exchange Commission. The Audit Committee met fifteen times

during 2008. The formal report of the Audit Committee with respect to fiscal year 2008 begins on page 51.

Nominating and Corporate Governance Committee. The Nominating and Corporate Governance Committee is composed of Messrs. Raymond S. Troubh (Chairman), Hugh L. Carey and David E. Schwab II, and Ms. Janet Hill. This committee is charged with the responsibility of: (i) identifying individuals qualified to become members of the Board of Directors, consistent with any guidelines and criteria approved by the Board of Directors; (ii) considering and recommending director nominees for the Board to select in connection with each annual meeting of stockholders; (iii) considering and recommending nominees for election to fill any vacancies on the Board of Directors and to address related matters; (iv) developing and recommending to the Board of Directors corporate governance principles applicable to the Company; and (v) overseeing an annual evaluation of the Board of Directors and management's performance.

The Board of Directors has adopted general criteria for nomination to the Board of Directors, which, as part of the Corporate Governance Guidelines, can be found on Wendy's/Arby's website at www.wendysarbys.com. The Board of Directors seeks members from diverse professional and personal backgrounds who combine a broad spectrum of experience and expertise with a reputation for integrity. The Board's assessment of potential candidates includes consideration of diversity, age, educational background, other board experience and commitments, business and professional achievements, skills and experience in the context of the needs of the Board. The Nominating and Corporate Governance Committee considers suggestions from any source, including stockholders, regarding possible candidates for directors. Possible candidates who have been suggested by stockholders are evaluated by the Nominating and Corporate Governance Committee in the same manner as are other possible candidates.

The Nominating and Corporate Governance Committee has adopted the following rules with respect to considering nominations by stockholders: (i) the nominating stockholder must have owned, for at least six months prior to the date the nomination is submitted, shares of Class A common stock or other classes of common or preferred stock, if any, entitled to vote for directors; (ii) the nomination must be received by the Nominating and Corporate Governance Committee at least 120 days before the anniversary of the mailing date for proxy material mailed in connection with the previous year's annual meeting; and (iii) a detailed statement setting forth the qualifications, as well as the written consent, of each party nominated must accompany each nomination submitted. The Nominating and Corporate Governance Committee met once during 2008.

Compensation Committee and Performance Compensation Subcommittee. The Compensation Committee is composed of Messrs. David E. Schwab II (Chairman), Clive Chajet, Joseph A. Levato, J. Randolph Lewis and Jack G. Wasserman. The Compensation Committee is charged with discharging the responsibility of the Board of Directors relating to compensation of Wendy's/Arby's directors and executive officers, administering the Company's Amended and Restated 1997 Equity Participation Plan (the 1997 Plan), such other salary, compensation or incentive plans as the Compensation Committee is designated to administer, and related matters. The Compensation Committee met seven times during 2008, each time in a joint meeting with the Performance Compensation Subcommittee.

The Performance Compensation Subcommittee (the Subcommittee or the Performance Committee) is composed of Messrs. David E. Schwab II (Chairman), Clive Chajet, J. Randolph Lewis and Jack G. Wasserman. The Subcommittee was established in August 1997 to assume certain functions that were previously the responsibility of the Compensation Committee. The purpose of the

Subcommittee is limited to administering Wendy s/Arby s compensation plans that are intended to meet the requirements of Section 162(m) of the Internal Revenue Code of 1986, as amended (the Code), including the Amended and Restated 1998 Equity Participation Plan (the 1998 Plan), the Amended and Restated 2002 Equity Participation Plan, as amended (the 2002 Plan), the 1999 Executive Bonus Plan (the 1999 Executive Bonus Plan or the 1999 Plan), certain Wendy s legacy equity plans, such other salary, compensation or incentive plans as the Subcommittee is designated to administer, and related matters. The Subcommittee met ten times in 2008, including seven times in joint meetings with the Compensation Committee.

The processes and procedures that are employed in connection with the consideration and determination of the compensation of Wendy s/Arby s executives are discussed in the section below entitled, Corporate Governance Matters Activities of the Compensation Committee.

Charters for the Audit Committee and the Nominating and Corporate Governance Committee, the joint charter for the Compensation Committee and Performance Committee, as well as the Corporate Governance Guidelines and Wendy s/Arby s Code of Business Conduct and Ethics (including code of ethics provisions that apply to Wendy s/Arby s principal executive, financial and accounting officers) may be found under the Investor Relations section of Wendy s/Arby s website [at www.wendysarbys.com](http://www.wendysarbys.com) and are also available in print, free of charge, to any stockholder who requests them.

ERISA Committee. The ERISA Committee is composed of Messrs. Hugh L. Carey (Chairman) and Joseph A. Levato. This committee has general oversight responsibility with respect to the operation of each pension, profit sharing, thrift or other retirement plan and each ERISA welfare benefit plan maintained by the Company or any direct or indirect subsidiary of the Company that is at least 80% owned by the Company, excluding any plan of a subsidiary that is organized under the laws of a jurisdiction other than the United States or a state or territory thereof and the plans of which are not subject to ERISA.

Capital and Investment Committee. In August 2007, in connection with a corporate restructuring, the Board formed a Capital and Investment Committee to be responsible for (i) approving the investment of excess funds (*i.e.*, funds not currently required for operations or acquisitions) of Wendy s/Arby s and its direct and indirect subsidiaries and (ii) exercising approval authority for certain transactions (such as capital expenditures, acquisitions, dispositions and borrowings) within amounts specified by the Board. The Capital and Investment Committee is composed of Messrs. Nelson Peltz (Chairman), Peter W. May and Roland C. Smith.

Corporate Social Responsibility Committee. In January 2008, the Board formed a Corporate Social Responsibility Committee with responsibility for reviewing and approving the charitable contributions to be made on behalf of Wendy s/Arby s (subject to the review and approval by the Audit Committee of any proposed charitable contribution that would constitute a related party transaction) and recommending to the Board such changes to the maximum amount of charitable contributions that may be made by Wendy s/Arby s in any fiscal year as such committee may deem appropriate. The Corporate Social Responsibility Committee is composed of Messrs. Nelson Peltz (Chairman), Peter W. May and Joseph A. Levato.

Executive Committee. The Executive Committee is composed of Messrs. Nelson Peltz (Chairman), Hugh L. Carey, Clive Chajet and Peter W. May. During intervals between meetings of the Board of Directors, the Executive Committee has and may exercise all the powers and authority of the Board in the management of the business and affairs of the Company including, without limitation, all such

powers and authority as may be permitted under Section 141(c)(2) of the Delaware General Corporation Law.

Executive Sessions of the Board of Directors

The Board of Directors holds executive sessions whereby non-management directors meet in regularly scheduled sessions without any members of the Company's management present. Mr. Nelson Peltz or, in his absence, Mr. Peter W. May, presides over these sessions. In addition, the Board also meets at least once a year in executive session with only independent directors present. The chairpersons of the Audit Committee, the Compensation Committee and the Nominating and Corporate Governance Committee rotate presiding over these sessions.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934, as amended (the Exchange Act), requires the Company's directors, executive officers, and persons who own more than 10% of the Company's common stock, to file reports of ownership and changes in ownership on Forms 3, 4 and 5 with the Securities and Exchange Commission and the New York Stock Exchange. Directors, executive officers and greater than 10% stockholders are required by Securities and Exchange Commission regulations to furnish the Company with copies of all Forms 3, 4 and 5 they file.

Based solely on the Company's review of the copies of such forms it has received, including amendments thereto, or written representations from certain reporting persons regarding Form 5s required for those persons, the Company believes that all its directors, executive officers and greater than 10% beneficial owners complied with all filing requirements applicable to them with respect to 2008, with three exceptions. During 2008 it was determined that the following were inadvertently filed late: (i) a Form 4 filed on January 30, 2008, reporting the issuance of shares to Russell V. Umphenour, Jr. (then a director of the Company) pursuant to the 2002 Plan in lieu of a retainer fee that would otherwise be payable in cash; (ii) a Form 4 filed on January 31, 2008, reporting the issuance of shares to Mr. Schwab pursuant to the 2002 Plan in lieu of a retainer fee that would otherwise be payable in cash; and (iii) a Form 4 filed on April 18, 2008, reporting forfeiture of unvested performance-based restricted stock resulting from elimination of a cumulative catch-up feature in a March 26, 2007 restricted stock award to Mr. Smith.