

## SHAREHOLDER PROPOSAL

RESOLVED, that shareholders of \_\_\_\_\_ (the "Company") urge the Board to take all steps necessary under applicable law to cause the Company to opt out of Maryland's Unsolicited Takeover Act (Title 3, subtitle 8 of the Maryland General Corporation Law, the "Act"), and to require a majority vote of shareholders before opting back into the Act.

### **Supporting Statement:**

This proposal urges the Board to initiate the actions required for the Company to opt out of provisions of Maryland's Unsolicited Takeover Act. The Act permits the Board, without shareholder approval, to implement various takeover defenses, such as classifying the board, expanding the size of board while filling new vacancies through the votes of directors only, and requiring a two-thirds vote for removal of a director. The statute essentially acts as a poison pill; these defenses, if implemented by the board, may adversely affect shareholder value by discouraging offers to acquire the Company that could be beneficial to shareholders.

The US hotel industry has witnessed improved operating fundamentals for two consecutive years. If the previous cycle is any indication, shareholders can expect to see stepped-up merger activity in the coming years:

- In November 2005, Carl Icahn made a tender offer to purchase 51% of Fairmont Hotels' stock at \$40 per share, 23% higher than the average trading price during October 2005.
- In February 2006, Blackstone acquired Meristar REIT for a \$10.45 per share consideration, 20% above the average trading price the day before the announcement.
- In 2007, Blackstone acquired Hilton Hotels at a price of per \$47.50 share, a 32% premium above the closing price the day the agreement closed. Eagle Hospitality REIT was acquired by an Apollo affiliate for \$13.36 per share, a 42% premium over share prices the eve of the announcement.
- JER Realty acquired Highland Hospitality Corporation, a REIT, for \$19.50 a share, a premium of approximately 15% over Highland's three-month average closing share price.

Research on anti-takeover statutes such as the Act indicates that these statutes fail to protect shareholder interests. Empirical studies have shown that state anti-takeover statutes harm shareholders by failing to maximize profit and by leading to uncertainty for shareholders (Macey, 1988). Robust econometric data shows that anti-takeover statutes increase agency managerial cost and reduce shareholder wealth (Subramanian, 2002). Further, studies have shown that because they protect managers from removal, they reduce incentives for managers to operate as profitably as possible (Booth, 1988).

We urge shareholders to ask the board to protect shareholder value by similarly opting out of the Unsolicited Takeover Act, and vote FOR this proposal.