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Lindner Peter  
Form PREC14A  
June 17, 2009

Text of Preliminary filing to SEC June 2010

6/15/2010

Lindner Peter PREC14A 1:10 IBM Co

Preliminary Proxy Solicitation Material -- Contested  
Solicitation \* Schedule 14A  
Filing Table of Contents  
Document/Exhibit Description Pages Size

1: PREC14A Peter Lindner 1st Draft of Proxy

PREC14A 1 draftproxy.htm FIRST DRAFT OF NON-MANAGEMENT  
PROXY  
SCHEDULE 14A INFORMATION  
(Rule 14A-101)  
INFORMATION REQUIRED IN PROXY STATEMENT  
SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the Securities  
Exchange Act of 1934

Filed by the Registrant [ ]

Filed by a Party other than the Registrant [X]

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 Pursuant to Rule 14a-12

IBM COMPANY

(Name of Registrant as Specified In Its Charter)  
PETER LINDNER

(Name of Person(s) Filing Proxy Statement, if other than  
the  
Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on the table below per Exchange Act Rule  
14a-  
6(i)(1) and 0-11.

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To Exchange Act Rule 0-11 (Set forth the amount on which

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(4) Proposed maximum aggregate value of transaction:

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[ ] Fee paid previously with preliminary materials.

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Exchange Act Rule

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offsetting

fee

was paid previously. Identify the previous filing by

registration

statement number, or the Form or Schedule and the date of

its

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(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

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Date Filed:

PRELIMINARY COPY, SUBJECT TO COMPLETION

DATED MARCH 27, 2010

PROXY STATEMENT OF

**PETER LINDNER**

IN CONNECTION WITH THE

2010 ANNUAL MEETING OF STOCKHOLDERS

OF

**IBM COMPANY**

**INTRODUCTION**

This Proxy Statement (the "Proxy Statement") and the  
accompanying

form of Proxy are being furnished by Peter Lindner ("Mr.  
Lindner")

to the stockholders (the "Stockholders") of the IBM  
Company (the "Company" or "IBM") in connection with his

solicitation of proxies to be voted at IBM's 2010

Annual Meeting of Stockholders (the "Annual Meeting"). IBM

has announced that the Annual Meeting will be held on

Monday,

April xx, 2010, at 10:00 a.m. Eastern Time local time at:

International Business Machines Corporation

New Orchard Road

Armonk, New York 10504

(914) 499-1900

This Proxy Statement and form of Proxy are being mailed to  
Stockholders on or about April 10, 2010.

Mr. Lindner is soliciting proxies from fellow Stockholders  
and

fellow former Employees to elect Mr. Lindner to the Board  
of

Directors of IBM (the "Board") at the Annual Meeting.

Mr. Lindner is asking Stockholders to enact a Shareholder

Proposal (the "Proposal") on revising IBM's Code of Conduct

(the "Code"). Sometimes (and I have been wrong about this

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in the past), there is a new wave sweeping across the country for a revision of ethics. I wish IBM to lead the country in having a good code of conduct, rather than have incidents occur periodically that cause pain, embarrassment, and social/financial disorder - which has happened in the US Congress and in companies such as Enron.

### WHY YOU SHOULD ADD LINDNER TO THE BOARD OF DIRECTORS

\*

In Mr. Lindner's opinion, the current Code may not be working. Mr. Lindner believes there is no stronger message that can be sent to The Company's Board and management this year than dual approval of a shareholder resolution to fix the Code and to install Mr. Lindner to ensure that this task is done.

### WHY YOU SHOULD VOTE FOR THE LINDNER SHAREHOLDER ETHICS PROPOSAL

\*

Sometimes transparency in words and deeds can have unexpected morale and financial benefits. Your clear message in this election will directly assist Mr. Lindner in convincing the directors that a change in the Code is long overdue. Mr. Lindner believes this will be the shortest path to the restoration of shareholder value and the realization of IBM's promise of ethical behavior. IBM trusts its customers to give their word and stand by it, and billions of dollars are made on that premise. It would be hypocrisy at best for IBM to give its word, yet not carry it out.

\*

Mr. Lindner has first hand knowledge of IBM's technology and of its operations and its culture. Mr. Lindner has spent nine years working at IBM, Travel Related Services (TRS), and IBM Bank. His resume (and much more detail) are on the website:

[www.IBMethics.com](http://www.IBMethics.com)

(It stands for IBM Truth commission - the shareholder proposal to investigate whether IBM has a few or has many incidents of where the IBM Code of Conduct has been violated.)

Mr. Lindner has handled mailings, reviewed credit histories of the millions of cardmembers, and potential c/m's, as well as work with

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mathematical modeling, risk management, securitization of our portfolio, modernization of the Banking system, and has even helped (with his manager/director) save a key product line by showing its viability/profitability.

At IBM, Mr. Lindner has worked with customer databases of several thousand customers, and even several million.

\*

\*

THIS SOLICITATION IS BEING MADE BY  
MR. LINDNER  
AND NOT ON BEHALF OF THE BOARD

Mr. Lindner is a former Senior Manager of IBM. He is an experienced computer programmer, modeler, database marketing specialist - and is literate.

PLEASE DISREGARD ANY PROXY CARD YOU RECEIVE FROM  
IBM.

MR. LINDNER ENCOURAGES YOU TO RETURN ONLY THE ENCLOSED  
[Tan? COLOR??] PROXY CARD.

### RECOMMENDATIONS IF LINDNER IS ELECTED

If elected, Mr. Lindner plans to make the following recommendations to the Board, which Mr. Lindner believes are in the best interests of IBM and its Stockholders:

\*

Work closely with the various stakeholders at IBM - the shareholders, the employees, the customers and the vendors - to get reasonable solutions to the ethical demands in a modern business. Ethics is the fancy way of saying doing right when personal gains may say to choose a different path. Lies, pandering, obfuscation, hypocrisy - why these are the very things that the Securities and Exchange Acts sought to get rid of in the 1930's, and from those beginnings, a strong NY Stock Exchange was created, to the envy of the world. We can make money and not lose our morality or ethics. I am actually saying that perhaps we will make more money with ethical conduct than by not having ethics.

\*

This proposal is directly related to an incident that stemmed from Mr. Lindner being laid off in 2003. That was resolved. However, Mr. Lindner alleged that IBM had spoken to a prospective employer, and in violation of Title VII of the US Civil Rights Act of 1964, and in violation of the laws of NY State and NYC, IBM retaliated against Mr. Lindner.

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Moreover, when the case 06cv4751 entitled -- Peter W. Lindner v IBM, Robert Vanderheyden, Heather Christo Higgins, John Doe #1, And John Doe #2 -- went to discovery, IBM wrote in a submission to the Magistrate Judge that some of the discovery requests require interviewing 'hundred of thousands of employees'. And IBM suggested that it did not have any ESI (Electronically Stored Information) in all of IBM that was responsive to the discovery request.

(This document is a letter from IBM on June 5, 2009 to Magistrate Judge Eaton, cc: Peter Lindner, and will be posted on this SEC site as a pdf, which requires that it be typed up first as per SEC filing regulations, which Mr. Lindner intends to follow.)

Surely no one in data processing believes that if IBM kept all their records -- as IBM promised -- that there is no record on any of their computers or any of their electronic storage media.

So, this shareholder proposal is to stop IBM from making such absurd statements to a Federal Court.

Furthermore, IBM was apprised the week of June 15 2009 that indeed a single document was found that proved that the prospective employer of Mr. Lindner had spoken to an IBM employee, IBM did not (as of this writing) inform the Court that it spoke wrongly.

To summarize: IBM said it had no ESI, when in fact it did.

Thoroughly investigate all instances of ethical quandaries faced by IBM over the last fifteen years. Some people say there is nothing to be done, but I say that others have faced greater problems than dealing with the ethics of an already pretty good company. Getting rid of slavery for one (okay, that was 150 years ago), resolving death squads and apartheid by having Truth Commissions, handling sexual improprieties in the US Congress, balancing the rights of poor and wealthy citizens.

Let us go the extra distance and make IBM's Code of Conduct a document to be proud of, which reflects the honest aspirations of its best employees, its worthy management and directors, and of course its shareholders who care for these concerns and more. I ask for your vote for Director in IBM's Board and for the Shareholder Proposal to revise the Code of Conduct in the coming year in an open and honest fashion, using the best minds of not just IBM's constituents, but

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also  
of scholars, academics, business leaders and politicians.  
This  
will be a Code of Conduct that can work in the 21st  
century. No  
more will the powerful IBM fight just people who are racist  
and who do not pay their bills, but also chide and penalize  
those  
who break the honest standards set by IBM. This will  
not be like Enron, where Ken Lay allowed a transgression by  
a "top performer," thus abandoning his supposed ethics. The  
film "Enron: The Smartest Guys in the Room[2005]" details  
how  
this path led to Enron's ruin, and that of its hardworking  
employees, the community, and many hapless investors.

EVEN AFTER YOU HAVE SUBMITTED YOUR PROXY, YOU MAY CHANGE  
YOUR VOTE  
AT ANY TIME BEFORE THE MEETING BY SENDING A DULY EXECUTED  
PROXY WITH A LATER DATE TO  
\_\_\_\_\_ AT THE ADDRESS ON THE BACK COVER.

### NOMINEE FOR DIRECTOR GENERAL

The by-laws of IBM provide that the exact number of  
directors shall be fixed by resolution of the Board.  
According to  
public information, the Board currently consists of ten  
members having one-year terms.

### THE LINDNER NOMINEE

The information below concerning age and principal  
occupation has  
been furnished by Peter Lindner

NAME AGE PRINCIPAL OCCUPATION  
Peter Lindner 59 Computer Programmer

Mr. Lindner is currently an employee of Time Warner Cable  
Company  
in NYC, and has been at TWC since 2007. (This year, March  
2009,  
TWC became a separate company from Time Warner.) He  
programs in  
SAS (a statistical language used among many companies,  
including  
IBM), and Excel, among other computer  
languages. Mr. Lindner has been a professional computer  
person  
for over 35 years, a SAS programmer for 25 years, and an  
Excel (and Lotus 123) programmer/user for 15 years.

In between 2003 and 2007, Mr. Lindner worked as an  
independent  
consultant, after being laid off from IBM in 2003. Mr.  
Lindner  
had 10 years worth of tenure at IBM, since Mr. Lindner  
originally worked at IBM from 1973 to 1978, as a salesman  
trainee, systems engineer, and also as a BAL (Basic  
Assembly Language) mainframe programmer for IBM's operating  
system (ACP Airline Control Program,  
now known as TPF for Transaction Processing Facility) and

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with a forgotten language APL. In the past fifteen years, Mr. Lindner's specialty has been statistical programming, risk management, direct mail, and systems analysis.

Mr. Lindner joined American Express (Amex) in 1990, worked in Amex Travel Related Services, then Amex Bank Headquarters in NYC, and then back to TRS for Risk Management. Mr. Lindner helped with various models, including working with his manager to create Amex's first Bankruptcy Model, which became operational even at its early stages, and was later productionized with a team of consultants into its current form. Mr. Lindner used Continuous Process Improvement (CPI) to build a small reporting system into a quickly responsive production system of 90+ measures of credit card performance - this latter lead to saving the Optima card which was to have been killed by conventional average losses. The reporting system showed that the losses were less each year, and were now positive with its learning curve (a slight reference to this was made in Amex's Annual Report).

Mr. Lindner has two degrees from the Massachusetts Institute of Technology (MIT), both undergraduate and from their business school, with a concentration in both finance and management information systems.

Peter Lindner

DATE OF TRANSACTION AMOUNT OF COMMON SHARES PURCHASED (P) / SOLD (S)  
1990-1998 34\* (P)

\*approximately

PETER LINDNER RECOMMENDS THAT STOCKHOLDERS VOTE IN FAVOR OF THE PETER LINDNER LISTED BELOW AND IN FAVOR OF THE ETHICS PROPOSAL AND NOT RETURN IBM'S PROXY CARD TO IBM AND NOT VOTE IN FAVOR OF THE NOMINEES OF IBM.

QUESTIONS CONCERNING THIS PROXY STATEMENT OR THE ENCLOSED Gold PROXY CARD SHOULD BE DIRECTED TO:

\_\_\_\_\_  
\_\_\_\_\_,  
\_\_\_\_\_

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CALL  
1-212-979-9647

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### VOTING

Based on public information, the Board has fixed the close of business on February 27, 2010 as the record date for the determination of the Stockholders entitled to notice of and to vote at the Annual Meeting. Based the latest available public information, there were approximately 1,320 million shares of common stock outstanding on June 2009. The holders of a majority of such shares, represented in person or by proxy, shall constitute a quorum at the Annual Meeting. A quorum is necessary before business may be transacted at the Annual Meeting except that, even if a quorum is not present, the Stockholders present in person or by proxy shall have the power to adjourn the meeting from time to time until a quorum is present. Each Stockholder entitled to vote shall have the right to one vote for each share of common stock outstanding in such Stockholder's name. Directors are to be elected by a plurality of the votes cast at the Annual Meeting. With respect to any other matter that may properly be brought before the Annual Meeting, the affirmative vote of a majority of the votes cast by Stockholders entitled to vote thereon is required to take action, unless a greater percentage is required either by law or by IBM's certificate of incorporation or by-laws. In determining the number of votes cast with respect to any voting matter, only those cast "for" or "withhold authority" are included.

Abstentions will be considered present and entitled to vote at the Annual Meeting but will not be counted as votes cast. Accordingly, abstentions will have no effect on the vote. Similarly, where brokers submit proxies but are prohibited and thus refrain from exercising discretionary authority in voting shares on certain matters for beneficial owners who have not provided voting instructions with respect to such matters (commonly referred to as "broker non-votes"), those shares will be considered present and entitled to vote at the Annual Meeting but will not be counted as votes cast as to such matters and thus will have no effect on the vote. Execution and return of the enclosed Gold Proxy Card



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will not affect a Stockholder's right to attend the Annual Meeting and vote in person. Any Stockholder that executes and returns a Proxy Card has the right to revoke it by giving notice of revocation to the Secretary of IBM at any time before the Proxy is voted.

Unless contrary instructions are indicated on the enclosed Gold Proxy Card, all shares of common stock represented by valid Proxies received pursuant to this solicitation (which have not been revoked as described above) will be voted

(a) FOR the election of Peter Lindner, and  
(b) in favor of the Lindner shareholder proposal to revise the IBM Code of Conduct and  
(c) to vote against a director at the discretion of the Proxy holder(s), on such other business as may properly come before the Annual Meeting, including any adjournment(s) or postponements(s) thereof.

IF YOU WISH TO VOTE FOR PETER LINDNER, YOU MUST EXECUTE AND RETURN THE ENCLOSED Gold PROXY CARD AND SHOULD NOT EXECUTE OR RETURN IBM'S PROXY CARD. DO NOT RETURN ANY PROXY CARD OTHER THAN THE Gold PROXY CARD. IF YOU RETURN MORE THAN ONE PROXY CARD THERE IS A RISK THAT YOUR SHARES WILL NOT BE VOTED AS YOU DESIRE, BECAUSE ONLY THE LATEST DATED PROXY CARD YOU SUBMIT COUNTS.

EVEN AFTER YOU HAVE SUBMITTED YOUR PROXY, YOU MAY CHANGE YOUR VOTE AT ANY TIME BEFORE THE MEETING BY SENDING A DULY EXECUTED PROXY WITH A LATER DATE TO \_\_\_\_\_ AT THE ADDRESS ON THE BACK COVER. IF YOUR SHARES ARE HELD IN THE NAME OF A BROKERAGE FIRM, BANK OR NOMINEE ON THE RECORD DATE, ONLY IT CAN VOTE YOUR SHARES AND ONLY UPON RECEIPT OF YOUR SPECIFIC INSTRUCTIONS.

PLEASE CONTACT THE PERSON RESPONSIBLE FOR YOUR ACCOUNT AND GIVE INSTRUCTIONS FOR YOUR SHARES TO BE VOTED ON THE Gold PROXY CARD FOR PETER LINDNER. YOUR VOTE AT THIS YEAR'S ANNUAL MEETING IS ESPECIALLY IMPORTANT.

PLEASE SIGN AND DATE THE ENCLOSED Gold PROXY CARD AND RETURN IT IN THE ENCLOSED POSTAGE-PAID ENVELOPE PROMPTLY.

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### INFORMATION CONCERNING PERSONS WHO MAY SOLICIT PROXIES

Under the applicable regulations of the Securities and Exchange Commission, Mr. Lindner is deemed to be a "participant" in our solicitation of proxies. The name, business address and principal occupation of each of Mr. Lindner appears earlier in this Proxy Statement. Except as described in this Proxy Statement, neither the Participant nor any of his respective affiliates or associates (together, the "Participant Affiliates"), (i) directly or indirectly beneficially owns any securities of IBM or of any subsidiary of IBM or (ii) has had any relationship with IBM in any capacity other than as a Stockholder, with the exception of the lawsuit filed in Federal Court mentioned in the Shareholder Proposal. Furthermore, except as described in this Proxy Statement, neither the Participant nor any Participant Affiliate is a party to any transaction or series of transactions since January 1, 2006, or has knowledge of any currently proposed transaction or series of transactions, (i) to which IBM or any of its subsidiaries was or is to be a party, (ii) in which the amount involved exceeds \$100,000, and (iii) in which the Participant or Participant Affiliate had or will have, a direct or indirect material interest. Except as described in this Proxy Statement, neither the Participant nor any Participant Affiliate has entered into any agreement or understanding with any person respecting any (i) future employment by IBM or its affiliates or (ii) any transactions to which IBM or any of its affiliates will or may be a party. Except as described in this Proxy Statement, there are no contracts, arrangements or understandings by the Participant or Participant Affiliates within the past year with any person with respect to any capital stock of IBM.

### COST AND METHOD OF SOLICITATION

Mr. Lindner will bear the cost of this solicitation. While no precise estimate of this cost can be made at the present time, we currently estimate that we collectively will spend a total of approximately \$5,000 for our solicitation of proxies, including expenditures for attorneys, solicitors and advertising, printing, transportation and related expenses. As of June 12,

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2009, we have incurred proxy solicitation expenses and legal expenses of approximately \$8,000 (precise number confidential).

We expect to seek reimbursement from IBM for our expenses in connection with this solicitation. In addition to soliciting proxies by mail, proxies may be solicited in person or by telephone, telecopy, e-mail or the Internet. We will also reimburse brokers, fiduciaries, custodians and other nominees, as well as persons holding stock for others who have the right to give voting instructions, for out-of-pocket expenses incurred in forwarding this Proxy Statement and related materials to, and obtaining instructions or authorizations relating to such materials from, beneficial owners of Company capital stock. We will pay for the cost of these solicitations, but these individuals will receive no additional compensation for these solicitation services. We have retained the proxy solicitation firm of ADP at customary fees, plus reasonable out-of-pocket expenses, to participate in the solicitation of proxies and revocations, up to \$1,000. We also have agreed to indemnify \_\_\_\_\_ against certain liabilities and expenses.

We estimate that no employees of IBM will be involved in the solicitation of proxies on my behalf, since IBM has successfully filed in Federal Court to stop communication between Mr. Lindner and any employee of IBM, and has further required that there be no oral communication but if there is written communication, it must be censored and passed through IBM's attorney (the firm of Kelley Drye & Warren LLP).

### ADDITIONAL INFORMATION

Certain information regarding common stock held by IBM's directors, nominees, management and 5% stockholders is contained in IBM's proxy statement and is incorporated herein by reference.

Information concerning the date by which proposals of security holders intended to be presented at the next annual meeting of stockholders of IBM must be received by IBM for inclusion in IBM's proxy statement and form of proxy for that meeting is also contained in IBM's proxy statement and is incorporated herein by reference. We assume no responsibility for the accuracy or completeness of any

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information contained herein which is based on, or incorporated by reference to, IBM's proxy statement.

PETER LINDNER

[June 12, 2009]

IMPORTANT

PLEASE REVIEW THIS DOCUMENT AND THE ENCLOSED MATERIALS CAREFULLY.

YOUR VOTE IS VERY IMPORTANT, NO MATTER HOW MANY OR HOW FEW SHARES OF COMMON STOCK YOU OWN.

1. If your shares are registered in your own name, please sign, date and mail the enclosed Gold Proxy Card to \_\_\_\_\_ in the postage- paid envelope provided today.

2. If you have previously signed and returned a proxy card to IBM., you have every right to change your vote. Only your latest dated card will count. You may revoke any proxy card already sent to IBM Inc. by signing, dating and mailing the enclosed Gold Proxy Card in the postage- paid envelope provided. Any proxy may be revoked at any time prior to the 2010 Annual Meeting by sending a new proxy card to \_\_\_\_\_ or the Secretary of IBM, Inc., or by voting in person at the 2010 Annual Meeting.

3. If your shares are held in the name of a brokerage firm, bank nominee or Other institution, only it can sign a Gold Proxy Card with respect to your shares and only after receiving your specific instructions. Accordingly, please sign, date and mail the enclosed Gold Proxy Card in the postage- paid envelope provided, and to ensure that your shares are voted, you should also contact the person responsible for your account and give instructions for a Gold Proxy Card to be issued representing your shares.

4. After signing the enclosed Gold Proxy Card do not sign or return IBM's proxy card unless you intend to change your vote, because only your latest dated proxy card will be counted.

If you have any questions about giving your proxy or require assistance,

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please call Mr. Lindner at

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1-212-979-9647

Moreover, the website mentioned above:  
www.IBMTruth.com  
will have additional documents, evidence, transcripts, etc,  
subject  
only to what IBM can get the Court to disallow, as IBM has  
tried  
in the past (and succeeded in April 2007) to stop me from  
speaking  
at the Shareholder Meeting, and has tried again this year  
to stop  
me (details upon request).

IN OPPOSITION TO THE BOARD OF DIRECTORS OF  
IBM COMPANY  
PROXY FOR THE 2010 ANNUAL MEETING OF STOCKHOLDERS  
THIS PROXY IS SOLICITED ON BEHALF OF PETER LINDNER

The undersigned hereby appoints Peter Lindner as proxy for  
the  
undersigned with full power of substitution, to vote all  
shares of  
beneficial interest of IBM, Inc. (the "Company")  
which the undersigned is entitled to vote at IBM's  
2010 Annual Meeting of Stockholders, and any postponements  
or  
adjournments thereof, hereby revoking all prior proxies, on  
the matters set forth below as follows:

PETER LINDNER RECOMMENDS A VOTE FOR SHAREHOLDER ETHICS  
PROPOSAL

5.  
THIS PROXY WHEN PROPERLY EXECUTED WILL BE VOTED IN THE  
MANNER  
DIRECTED. IF A CHOICE IS NOT SPECIFIED, THE PROXY WILL BE  
VOTED  
FOR  
THE NOMINEE LISTED BELOW.

[X] Please mark your votes as in this example.

1.  
Election of Peter Lindner as Director whose term expires in  
2008:

[ ]FOR nominee (except as marked below)  
[ ]FOR Shareholder Ethics Proposal (except as marked below)  
\* WITHHOLD AUTHORITY for all nominees  
\* FOR AUTHORITY for CERTAIN nominees

(INSTRUCTION: To withhold authority to vote for one or more  
nominees, mark  
FOR  
above and print the name(s) of the person(s) with respect  
to whom  
you wish to withhold authority OR for other nominees in the  
space provided below.)

2.

To act upon any other matters that may properly come before the meeting.

PLEASE MARK YOUR VOTES (ON REVERSE SIDE), SIGN, DATE AND RETURN THE PROXY CARD PROMPTLY USING THE ENCLOSED POSTAGE-PAID ENVELOPE.

Please sign exactly as your name appears on this Proxy. When shares are held by joint tenants, both should sign. When signing as attorney, executor, administrator, trustee or guardian, please give your full title. If a corporation, please sign in full corporate name by President or other authorized officer. If a partnership, please sign in partnership name by the authorized person.

Date: April \_\_\_\_\_, 2010

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Signature of Stockholder

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Signature of Stockholder

Dates Referenced Herein and Documents Incorporated By Reference  
This PREC14A Filing

Date

Other Filings