

UNIVERSAL HEALTH SERVICES INC
Form DEF 14A
April 18, 2003

SCHEDULE 14A

(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 (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

UNIVERSAL HEALTH SERVICES, INC.

(Name of Registrant as Specified in Its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

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

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

2. Aggregate number of securities to which transaction applies:

3. Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (1):

4. Proposed maximum aggregate value of transaction:

5. Total fee paid:

Fee paid previously with preliminary materials:

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

1. Amount previously paid:

2. Form, Schedule or Registration Statement No.:

3. Filing Party:

4. Date Filed:

- (1) Set forth the amount on which the filing fee is calculated and state how it was determined.

UNIVERSAL HEALTH SERVICES, INC.

April 18, 2003

Dear Stockholder:

You are cordially invited to attend the Annual Meeting of Stockholders of Universal Health Services, Inc. to be held at the offices of the Company, Universal Corporate Center, 367 South Gulph Road, King of Prussia, Pennsylvania, on May 21, 2003, at 10:00 a.m., Eastern Daylight Time, for the following purposes:

- (1) the election of two directors by the holders of Class A and Class C Common Stock; and
- (2) the adoption of the Amendments to the 2001 Employees Restricted Stock Purchase Plan.

Detailed information concerning these matters is set forth in the attached Notice of Annual Meeting of Stockholders and Proxy Statement.

Whether or not you plan to attend the meeting, please either vote by telephone, internet, or promptly sign and return your proxy card in the enclosed envelope. If you then attend and wish to vote your shares in person, you still may do so. In addition to the matters noted above, we will discuss the business of the Company and be available for Stockholders' comments and discussion relating to the Company.

I look forward to seeing you at the meeting.

Sincerely,

Alan B. Miller

Chairman, President and

Chief Executive Officer

UNIVERSAL HEALTH SERVICES, INC.

UNIVERSAL CORPORATE CENTER

367 SOUTH GULPH ROAD

KING OF PRUSSIA, PENNSYLVANIA 19406

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

May 21, 2003

Notice is hereby given that the Annual Meeting of Stockholders of Universal Health Services, Inc. (the Company) will be held on Wednesday, May 21, 2003 at 10:00 a.m., at the offices of the Company, Universal Corporate Center, 367 South Gulph Road, King of Prussia, Pennsylvania for the following purposes:

- (1) To have the holders of Class A and Class C Common Stock elect two Class I directors, to serve for a term of three years until the annual election of directors in the year 2006 and election and qualification of their respective successors.
- (2) To have the holders of Class A, B, C and D Common Stock vote upon the proposal to adopt certain Amendments to the 2001 Employees Restricted Stock Purchase Plan.
- (3) To transact such other business as may properly come before the meeting or any adjournment thereof.

Only stockholders of record at the close of business on April 10, 2003, are entitled to vote at the Annual Meeting.

All stockholders are cordially invited to attend the meeting in person. **IN ANY EVENT, PLEASE VOTE BY TELEPHONE, INTERNET OR MARK YOUR VOTES, THEN DATE AND SIGN THE ENCLOSED FORM OF PROXY AND RETURN IT PROMPTLY IN THE ENCLOSED POSTAGE-PAID ENVELOPE WHETHER OR NOT YOU CURRENTLY PLAN TO ATTEND THE ANNUAL MEETING. YOU MAY REVOKE YOUR PROXY IF YOU DECIDE TO ATTEND THE ANNUAL MEETING AND WISH TO VOTE YOUR SHARES IN PERSON.**

BY ORDER OF THE BOARD OF DIRECTORS

STEVE G. FILTON, *Secretary*

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King of Prussia, Pennsylvania

April 18, 2003

UNIVERSAL HEALTH SERVICES, INC.

Universal Corporate Center

367 South Gulph Road

King of Prussia, PA 19406

PROXY STATEMENT

GENERAL

This Proxy Statement and enclosed forms of Proxy (first mailed to stockholders on or about April 18, 2003) are furnished in connection with the solicitation by the Board of Directors of Universal Health Services, Inc. (the Company) of proxies for use at the Annual Meeting of Stockholders, or at any adjournment thereof. The meeting will be held on Wednesday, May 21, 2003 at 10:00 a.m., at the offices of the Company, Universal Corporate Center, 367 South Gulph Road, King of Prussia, Pennsylvania. The Annual Meeting is being held (1) to have the holders of Class A and C Common Stock elect two Class I directors of the Company, to serve for a term of three years until the annual election of directors in 2006 and the election and qualification of their respective successors; (2) to have the holders of Class A, B, C and D Common Stock vote upon the adoption of the Amendments to the 2001 Employees Restricted Stock Purchase Plan; and (3) to transact such other business as may properly be brought before the meeting or any adjournment thereof.

A copy of the Company's Annual Report to Stockholders, including financial statements for the year ended December 31, 2002 is enclosed herewith.

A separate form of Proxy applies to the Company's Class A and Class C Common Stock and a separate form of Proxy applies to the Company's Class B and Class D Common Stock. Enclosed is a Proxy for the shares of stock held by you on the record date. Unless otherwise indicated on the Proxy, shares represented by any Proxy will, if the Proxy is properly executed and received by the Company prior to the Annual Meeting, be voted FOR each of the nominees for directors. Any Proxy executed and returned to the Company is revocable by delivering a later signed and dated Proxy or other written notice to the Secretary of the Company at any time prior to its exercise. A Proxy is also subject to revocation if the person executing the Proxy is present at the meeting and chooses to vote in person.

VOTING

Only stockholders of record as of the close of business on April 10, 2003 are entitled to vote at the Annual Meeting. On that date, 3,328,404 shares of Class A Common Stock, par value \$.01 per share, 335,800 shares of Class C Common Stock, par value \$.01 per share, 54,777,693 shares of Class B Common Stock, par value \$.01 per share, and 35,133 shares of Class D Common Stock, par value \$.01 per share, were outstanding.

The Company's Restated Certificate of Incorporation provides that, with respect to the election of directors, holders of Class A Common Stock vote as a class with the holders of Class C Common Stock, and holders of

Class B Common Stock vote as a class with holders of Class D Common Stock, with holders of all classes of Common Stock entitled to one vote per share. Each holder of Class A Common Stock may cumulate his votes for directors giving one candidate a number of votes equal to the number of directors to be elected, multiplied by the number of shares of Class A Common Stock, or he may distribute his votes on the same principle among as many candidates as he shall see fit. For a holder of Class A Common Stock to exercise his cumulative voting rights, the stockholder must give notice at the meeting of his intention to cumulate his votes.

As to matters other than the election of directors, including the adoption of the Amendments to the 2001 Employees Restricted Stock Purchase Plan, the Company's Restated Certificate of Incorporation provides that holders of Class A, Class B, Class C and Class D Common Stock all vote together as a single class, except as otherwise provided by law. Each share of Class A Common Stock entitles the holder thereof to one vote; each share of Class B Common Stock entitles the holder thereof to one-tenth of a vote; each share of Class C Common Stock entitles the holder thereof to 100 votes (provided the holder of Class C Common Stock holds a number of shares of Class A Common Stock equal to ten times the number of shares of Class C Common Stock that holder holds); and each share of Class D Common Stock entitles the holder thereof to ten votes (provided the holder of Class D Common Stock holds a number of shares of Class B Common Stock equal to ten times the number of shares of Class D Common Stock that holder holds). In the event a holder of Class C or Class D Common Stock holds a number of shares of Class A or Class B Common Stock, respectively, less than ten times the number of shares of Class C or Class D Common Stock that holder holds, then that holder will be entitled to only one vote for every share of Class C, or one-tenth of a vote for every share of Class D Common Stock, which that holder holds in excess of one-tenth the number of shares of Class A or Class B Common Stock, respectively, held by that holder. The Board of Directors, in their discretion, may require beneficial owners to provide satisfactory evidence that such owner holds ten times as many shares of Class A or Class B Common Stock as Class C or Class D Common Stock, respectively, if such facts are not apparent from the stock records of the Company.

Stockholders entitled to vote for the election of directors can withhold the authority to vote for any one or more nominees.

As of April 10, 2003, the shares of Class A and Class C Common Stock constituted 6.3% of the aggregate outstanding shares of the Company's Common Stock, had the right to elect six members of the Board of Directors and constituted 82.4% of the general voting power of the Company; and as of that date the shares of Class B and Class D Common Stock (excluding shares issuable upon exercise of options), constituted 93.7% of the outstanding shares of the Company's Common Stock, had the right to elect two members of the Board of Directors and constituted 17.6% of the general voting power of the Company.

As of March 31, 2003, the Company's current directors and officers as a group, including Kirk E. Gorman, owned of record or beneficially 3,321,004 shares of Class A Common Stock, 757,822 shares of Class B Common Stock (excluding shares issuable upon exercise of options), 335,040 shares of Class C Common Stock and 1,260 shares of Class D Common Stock, representing 99.8%, 1.4%, 99.8% and 3.6%, respectively, of the outstanding shares of each class and constituting 82.5% of the general voting power of the Company on that date.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth as of March 31, 2003, the number of shares of equity securities of the Company and the percentage of each class owned beneficially, within the meaning of Securities and Exchange Commission Rule 13d-3, and the percentage of the general voting power of the Company currently held, by (i) all stockholders known by the Company to own more than 5% of any class of the Company's equity securities, (ii) all directors and nominees of the Company who are stockholders, (iii) the executive officers named in the Summary Compensation Table and (iv) all directors and executive officers as a group. Except as otherwise specified, the named beneficial owner has sole voting and investment power.

<u>Name and Address of Beneficial Owner(1)</u>	<u>Class A Common Stock(2)</u>	<u>Class B Common Stock(2)</u>	<u>Class C Common Stock(2)</u>	<u>Class D Common Stock(2)</u>	<u>Percentage of General Voting Power(3)</u>
Leatrice Ducat National Disease Research Interchange 645 N. Michigan Avenue Ste. 800 Chicago, IL 60611		14,700(5)(10)			(5)
John H. Herrell 1021 10th Street, S.W. Rochester, MN 55902		9,500(5)(10)			(5)
Robert H. Hotz Houlihan Lokey		52,500(5)(10)			(5)
Howard & Zukin 685 Third Avenue, 15th Floor New York, NY 10017					
Alan B. Miller	3,287,300(6) (98.8%)	5,208,034(4)(6)(10) (9.5%)	330,844 (98.5%)		81.2%
Anthony Pantaleoni Fulbright & Jaworski L.L.P. 666 Fifth Avenue New York, NY 10103	8,904(5)	42,396(4)(5)(7)(10)	1,096(5)	560(5)	(5)
John F. Williams, Jr., M.D. George Washington University 2300 Eye Street, N.W. Suite 713E Washington, DC 20037		5,300(5)			(5)

Name and Address of Beneficial Owner(1)	Class B				Percentage of General Voting Power(3)
	Class A Common Stock(2)	Common Stock(2)	Class C Common Stock(2)	Class D Common Stock(2)	
Kirk E. Gorman		127,427(5)			(5)
Debra K. Osteen		137,201(5)(10)			(5)
O. Edwin French		7,027(5)(10)			(5)
Steve G. Filton		171,922(5)(10)			(5)
Richard C. Wright	24,800(5)	92,299(4)(5)(10)	3,100(5)	700(5)	(5)
Westport Asset Management, Inc. 253 Riverside Avenue Westport, CT 06880		3,341,088(8) (6.1%)			(5)
Private Capital Management 3003 Tamiami Trail North Naples, FL 33940		3,734,780(9) (6.8%)			(5)
All directors & executive officers as a group (10 persons)	3,321,004 (99.8%)	5,740,879(4)(10) (10.5%)	335,040 (99.8%)	1,260 (3.6%)	82.5%

- (1) Unless otherwise shown, the address of each beneficial owner is c/o Universal Health Services, Inc., Universal Corporate Center, 367 South Gulph Road, King of Prussia, PA 19406.
- (2) Each share of Class A, Class C and Class D Common Stock is convertible at any time into one share of Class B Common Stock.
- (3) As to matters other than the election of directors, holders of Class A, Class B, Class C and Class D Common Stock vote together as a single class. Each share of Class A Common Stock entitles the holder thereof to one vote; each share of Class B Common Stock entitles the holder thereof to one-tenth of a vote; each share of Class C Common Stock entitles the holder thereof to 100 votes (provided the holder of Class C Common Stock holds a number of shares of Class A Common Stock equal to ten times the number of shares of Class C Common Stock that holder holds); and each share of Class D Common Stock entitles the holder thereof to ten votes (provided the holder of Class D Common Stock holds a number of shares of Class B Common Stock equal to ten times the number of shares of Class D Common Stock that holder holds).
- (4) Includes shares issuable upon the conversion of Classes A, C and/or D Common Stock.
- (5) Less than 1%.
- (6) Includes 200,000 shares of Class A Common Stock which are beneficially owned by Mr. Miller and are held by Mr. Miller in Trust for the benefit of his spouse; 566,619 shares which are held by three Trusts of which Mr. Miller and Mr. Pantaleoni are Trustees, for the benefit of Mr. Miller's family; 933,381 shares which are held by A. Miller Family, LLC whose members are three previously mentioned Trusts. The Trustees have appointed Marc Miller (who is the son of Alan B. Miller) as the manager of the A. Miller Family, LLC. During the tenure of such appointment (which is at the discretion of the Trustees), Marc Miller has voting and dispositive power with respect to the Class A Common Stock held by the A. Miller Family, LLC.
- (7) Includes 5,556 shares of Class B Common Stock and 560 shares of Class D Common Stock which are beneficially owned by Mr. Pantaleoni and are held by Mr. Pantaleoni in trust for the benefit of certain members of his family.
- (8) These securities are held by Westport Asset Management, Inc., a registered investment advisor. Information is based on Amendment No. 3 to Schedule 13G dated February 14, 2003.
- (9) These securities are held by Private Capital Management, Inc. a registered investment advisor. Information is based on Schedule 13G dated February 14, 2003.
- (10) Includes 1,453,000 shares issuable pursuant to stock options to purchase Class B Common Stock held by directors and officers of the Company and exercisable within 60 days of March 31, 2003 as follows: Leatrice Ducat (12,500); John H. Herrell (7,500); Robert H. Hotz (22,500); Alan B. Miller (1,210,000); Anthony Pantaleoni (22,500); John F. Williams, Jr., M.D. (5,000); Debra K. Osteen (57,500); Steve Filton (69,250); O. Edwin French (5,000); and Richard C. Wright (41,250).

PROPOSAL NO. 1**ELECTION OF DIRECTORS**

The Company's Restated Certificate of Incorporation provides for a Board of Directors of not fewer than three members nor more than nine members. The Board of Directors is currently fixed at six members, and is divided into three classes, with members of each class serving for a three-year term. At each Annual Meeting of Stockholders, directors are chosen to succeed those in the class whose term expires at such Annual Meeting. Under the Company's Restated Certificate of Incorporation, holders of shares of the Company's outstanding Class B and Class D Common Stock are entitled to elect 20% (but not less than one) of the directors, currently two directors, one in each of Class II and Class III, and the holders of Class A and Class C Common Stock are entitled to elect the remaining directors, currently four directors, two in Class I, one in Class II, and one in Class III.

The persons listed below currently constitute the Company's Board of Directors. The term of the Class I directors, Mr. John H. Herrell and Ms. Leatrice Ducat, expires at the 2003 Annual Meeting. Mr. John H. Herrell and Ms. Leatrice Ducat have been nominated to be elected by the holders of Class A and Class C Common Stock. The Company has no reason to believe that any of the nominees will be unavailable for election; however, if any nominee becomes unavailable for any reason, the shares represented by the Proxy will be voted for the person, if any, who is designated by the Board of Directors to replace the nominee. All nominees have consented to be named and have indicated their intent to serve if elected.

The following information is furnished with respect to each of the nominees for election as a director and each member of the Board of Directors whose term of office will continue after the meeting.

<u>Name</u>	<u>Class of Director</u>	<u>Class of Stockholders</u>		<u>Age</u>	<u>Principal Occupation During the Last Five Years</u>	<u>Director Since</u>
		<u>Entitled to Vote</u>				
NOMINEES WHOSE TERMS						
EXPIRE IN 2003						
John H. Herrell	I	A Common C Common		62	Former Chief Administrative Officer of Mayo Foundation from 1993 through 2002; Chief Financial Officer of Mayo Foundation from 1984 until 1993 and various other capacities since 1968.	1993
Leatrice Ducat	I	A Common C Common		70	President and Founder, National Disease Research Interchange since 1980; President and Founder, Human Biological Data Interchange since 1988; Founder, Juvenile Diabetes Foundation, National and International Organization of the Juvenile Diabetes Foundation.	1997

Name	Class of Director	Class of Stockholders		Age	Principal Occupation During the Last Five Years	Director Since
		Entitled to Vote				
DIRECTORS WHOSE TERMS EXPIRE IN 2004						
Anthony Pantaleoni	II	A Common C Common		63	Of Counsel to the law firm of Fulbright & Jaworski L.L.P., New York, New York. Director of AAON, Inc. The Company utilized during the year ended December 31, 2002 and currently utilizes the services of Fulbright & Jaworski L.L.P. as outside counsel.	1982
Robert H. Hotz	II	B Common D Common		58	Senior Managing Director, Head of Investment Banking, Head of the Board of Directors Advisory Service; Member of the Board of Directors, Houlihan Lokey Howard & Zukin, New York, NY; former Senior Vice Chairman, Investment Banking for the Americas, UBS Warburg, LLC, New York, NY.	1991
DIRECTORS WHOSE TERMS EXPIRE IN 2005						
Alan B. Miller	III	A Common C Common		65	Chairman of the Board, President and Chief Executive Officer of the Company since 1978. Prior thereto, President, Chairman of the Board and Chief Executive Officer of American Medicorp, Inc. Trustee of Universal Health Realty Income Trust. Director of Penn Mutual Life Insurance Company, CDI (NYSE) Corp. and Broadlane, Inc.	1978
John F. Williams, Jr., M.D., Ed.D.	III	B Common D Common		54	Vice President for Health Affairs and Dean of George Washington University since 1997; Prior thereto, Medical Director of The George Washington University Hospital, and Associate Vice President for Graduate Medical Education at the School of Medicine and Health Sciences; Member of the American Public Health Association, the American Medical Association, the New York Academy of Sciences, the American Society of Anesthesiologists and the Society of Critical Care Medicine.	1999

Vote Required

The nominee receiving the highest number of affirmative votes of the shares of Class A and Class C Common Stock, voting as a class, present in person or represented by proxy and entitled to vote, a quorum being present, shall be elected as the Class I Directors. Only votes cast for a nominee will be counted, except that the accompanying proxy will be voted for all nominees in the absence of instruction to the contrary. Abstentions, broker non-votes and instructions on the accompany proxy card to withhold authority to vote for one or more nominees will result in the respective nominees receiving fewer votes. However, the number of votes otherwise received by the nominee will not be reduced by such action.

The Board of Directors recommends a vote FOR the election of these nominees as Directors

PROPOSAL NO. 2

AMENDMENTS TO THE 2001 EMPLOYEES

RESTRICTED STOCK PURCHASE PLAN

On September 30, 2002, the Board of Directors adopted certain amendments (the 2002 amendments) to the 2001 Employees Restricted Stock Purchase Plan (the Restricted Stock Plan), subject to stockholder approval. The amendments will enable the Company to make performance-based Restricted Stock Plan awards that are exempt from the executive compensation deduction limitations of Section 162(m) of the Code. The text of the amendments is set forth in bold faced type in the amended plan document annexed as Exhibit A. The material features of the Restricted Stock Plan, including the proposed amendments, are described below.

The Restricted Stock Plan provides for the sale of shares of Class B Common Stock (Company Stock) to eligible personnel for a purchase price equal to par value. The Company has the right to repurchase the shares for the same purchase price (par value) if specified vesting conditions are not met. Shares may be sold under the Restricted Stock Plan to any employee of or consultant to the Company. A total of 600,000 shares of Company Stock may be issued under the Restricted Stock Plan, determined without regard to shares that are repurchased by the Company. The 2002 amendments provide that no more than 400,000 shares may be sold under the Restricted Stock Plan to any individual in any calendar year.

Prior to the third quarter of 2002, the Company loaned employees funds (Loan Program) to pay the income tax liabilities incurred upon the exercise of their stock options. Advances pursuant to the Loan Program were secured by full recourse promissory notes that were forgiven after three years, if the borrower remained employed by the Company. If the forgiveness criteria were not met, the employee was required to repay the loan at the time of separation.

During the third quarter of 2002, this Loan Program was terminated. As a replacement long-term incentive plan, the Compensation Committee of the Company s Board of Directors approved the issuance of 575,997 shares (net of cancellations) of restricted stock at \$51.15 per share (\$29.5 million in the aggregate) to various officers and employees pursuant to the Company s 2001 Employees Restricted Stock Purchase Plan (Restricted Stock). The number of shares and the current value of the Restricted Stock issued to each employee were based on the estimated benefits lost by that employee as a result of the termination of the Loan Program. The Restricted Stock is scheduled to vest ratably on the third, fourth and fifth anniversary dates of the award. Included in the Restricted Stock granted was 319,490 restricted shares issued to the Company s Chief Executive Officer which are also scheduled to vest ratably on the third, fourth and fifth anniversary dates of the award. However, subject to stockholder approval of certain amendments to the Restricted Stock Purchase Plan, the shares issued to the Company s Chief Executive Officer will vest only if the Company achieves a 14% cumulative increase in earnings during the two-year period ended December 31, 2004, as compared to the year ended December 31, 2002.

Section 162(m) of the Internal Revenue Code imposes an annual \$1,000,000 limitation on the amount of compensation the Company may deduct with respect to each of its five most highly paid executives. It is intended that the amendments to the 2001 Employees Restricted Stock Purchase Plan, if approved by the stockholders of the Company, will enable the Company to comply with Section 162(m) limitations with respect

to annual incentive compensation awards pursuant to a performance-based compensation exception afforded by the Internal Revenue Code.

The Restricted Stock Plan is administered by a committee of directors (the Committee) appointed by the Board of Directors. The members of the Committee must qualify as non-employee directors within the meaning of Rule 16b-3(b)(3) under the Securities Exchange Act of 1934. The 2002 amendments provide that the designated members of the Committee must also qualify as outside directors within the meaning of the regulations issued under Section 162(m) of the Code. The Committee has full authority and discretion in the administration of the Restricted Stock Plan, including the authority to determine who will be entitled to purchase shares of Company Stock and the vesting and other terms and conditions of such purchase.

Vesting conditions on shares sold under the Restricted Stock Plan may consist of continuing employment for a specified period of time following the purchase date. Alternatively, under the 2002 amendments, vesting may be tied to the satisfaction of specific performance objectives established by the Committee based upon any one or more of the following criteria:

attainment of certain target levels of, or a specified percentage increase in, revenues, income before taxes and extraordinary items, net income, earnings before income tax, earnings before interest, taxes, depreciation and amortization or a combination of any or all of the foregoing,

attainment of certain target income levels of, or a percentage increase in, after-tax or pre-tax profits;

attainment of certain target levels of, or a specified increase in, operational cash flow;

achievement of a certain level of, reduction of, or other specified objectives with regard to limiting the level of increase in, all or a portion of, the Company's bank debt or other long-term or short-term public or private debt or other similar financial obligations of the Company, which may be calculated net of such cash balances and/or other offsets and adjustments as may be established by the Committee;

attainment of a specified percentage increase in earnings per share or earnings per share from continuing operations;

attainment of certain target levels of, or a specified increase in return on capital employed or return on invested capital;

attainment of certain target levels of, or a percentage increase in, after-tax return on stockholders' equity;

attainment of certain target levels of, or a specified increase in, economic value added targets based on a cash flow return on investment formula;

attainment of certain target levels in the fair market value of the shares of the Company's Common Stock; and

growth in the value of an investment in the Company's Common Stock assuming the reinvestment of dividends.

In general, a vesting condition based upon any of the above performance criteria will qualify for the exception to the Section 162(m) deduction limitation if it is imposed in writing by the Committee within 90 days of the beginning of the applicable performance period, and it is sufficiently objective to enable a third party having knowledge of the relevant facts to determine whether the condition is met. The Committee is solely responsible for determining whether a performance-based vesting condition is satisfied at the end of the applicable performance period.

In general, for federal income tax purposes, an individual who purchases shares under the Restricted Stock Plan will realize ordinary income if and when the shares vest i.e., when the shares are no longer subject to the Company's repurchase right and the Company will be entitled to a corresponding deduction. The Company's deduction may be affected by the \$1 million executive compensation deduction limitation of Section 162(m) with respect to shares sold under the Restricted Stock Plan that are subject to service-based vesting conditions. It is anticipated, however, that the Company's deduction will not be limited in the case of shares sold under the Restricted Stock Plan subject to performance-based vesting conditions imposed in accordance with the 2002 amendments.

Shares may be sold under the Restricted Stock Plan at any time prior to March 8, 2010, unless terminated as of an earlier date by the Board of Directors. The Board of Directors may amend the Restricted Stock Plan at any time. No amendment may adversely affect the rights of an individual with respect to outstanding restricted shares. Any amendment that would increase the number of shares that may be sold under the Restricted Stock Plan will require stockholder approval if and to the extent necessary or desirable in order to comply with applicable law or stock exchange requirements.

Plan Benefits Granted To Date

Restricted Stock Plan

<u>Name and Position</u>	<u>Dollar Value(1)</u>	<u>Number of Shares(4)</u>
Alan B. Miller (2)	\$ 16,843,324	