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March 8, 2006

Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-9303

RE: File Number S7-03-06
Executive Compensation and Related Party Disclosures
Proposed Rule

Dear Ms. Morris:

This letter presents the comments of Gerald A. Miller, Executive Vice President and Chief Operating Officer of Ben S. Cole Financial Incorporated, a prominent executive compensation consulting firm, headquartered in Boston, Massachusetts, with regard to the above referenced File Number.

Our comments are limited to five key aspects of the Proposed Rule: (a) good corporate governance practices; (b) "filed" status of the Compensation Discussion and Analysis, Option Exercises and Stock Vesting table; (c) clarification of the Beneficial Ownership Disclosure; (d) elimination of the Performance Graph and addition of Peer Group information; and (e) compensation of directors.

Good Corporate Governance

Good public disclosures and good corporate governance practices are complimentary. The Proposed Rule provides significant motivation following the Sarbanes-Oxley Act of 2002 and the adoption of the Financial Accounting Standards Board Statement of Financial Accounting Standards No. 123 (revised 2004) Share-Based Payment (FAS 123R) for companies to govern better through forthright public disclosures of their executive and director compensation practices.

The Proposed Rule provides further impetus for independent members of boards of directors to structure executive and director compensation packages that more clearly incorporate and balance the interests of the company, its executives and directors, and its shareholders. We believe that direct, timely and accurate disclosures of these matters will provide shareholders and investors with a clear, more complete picture of executive and director compensation.

“Filed” Status of Compensation Discussion and Analysis

The disclosures contained in the Compensation and Analysis should not be covered by certifications of the Principal Executive Officer and Principal Financial Officer. While the intent of making these disclosures subject to Regulations 14A and 14C and to liabilities of Section 18 of the Exchange Act is admirable, the certification requirement may have the unintended consequence of eroding independent directors’ oversight and fiduciary responsibility.

Clearly, the Sarbanes-Oxley Act of 2002 has fostered more independence in Compensation Committee deliberations and actions. The positive trends in improved oversight include such actions as closed sessions without executives and retention of independent consultants. The laissez-fair era of *rubber stamping* management proposals is generally over.

By inserting the Principal Executive Officer and Principal Financial Officer into the certification process, the growing independence of Compensation Committees could be eroded. In the worst cases, as has occurred in the recent spate of corporate scandals, conflicts of interest could be heightened.

We recommend that certification by the Principal Executive Officer and Principal Financial Officer should not be required.

Option Exercise and Vesting Table

An important aspect of stock option grants and exercises is the extent to which “flipping” of shares occurs (whereby an executive or director exercises stock options relatively soon after becoming vested and all, or almost all, of the shares are sold). In some instances, there may be appropriate reasons for this type of action. In other instances, shareholders and investors may feel that repeated “flipping” is not in their best interests.

We recommend that the dates of vesting, exercise and sale be added to the Option Exercise and Vesting Table.

Clarification of the Beneficial Ownership Disclosure

The Beneficial Ownership table sets forth the number of shares “owned” by executives and directors, including shares that are exercisable in the next sixty days. If these exercisable shares are *underwater*, i.e., the exercise price is below the current stock price, the shares would not be exercised and, therefore, owned by the executive or executive. To determine how many shares are actually owned by executives and directors, shareholders and investors need to read the footnotes for the table and then subtract the exercisable stock options. Both amounts - shares actually owned with and without exercisable stock options - are important information.

In the spirit of Plain English and more candor in disclosure, we recommend that a column be added to the Beneficial Ownership Table that sets forth shares owned net of exercisable stock options.

Elimination of the Performance Graph and Addition of Peer Group Information

We agree that the Performance Graph does not provide adequate information regarding any linkage between compensation and company performance as reflected by stock price. Historical stock price information is readily available on the Internet.

Although not strongly correlated, the Performance Graph could, at times, provide shareholders and investors with insight into a Peer Group of companies that the Compensation Committee may have used to benchmark executive pay. Sometimes, the Peer Group is discussed in the Compensation Committee Report, but most often it is not disclosed.

While the Peer Group may or may not include competitor companies, listing the compensation comparing Peer Group would provide insight into the benchmarking process by allowing shareholders and investors to compare similarities and differences in size, business scope, financial performance and other factors that shape the deliberations of the Compensation Committee. A direct consequence of this information would be to dissuade Compensation Committees from "cherry-picking" a Peer Group to enhance compensation levels. A key question to address in the proposed Compensation Discussion and Analysis section would be why the selection of the firms in the Peer Group was appropriate from the standpoint of competition for executive talent.

We recommend that a discussion of any Peer Group used for benchmarking executive and director compensation be included in the proposed Compensation Discussion and Analysis disclosure.

Compensation of Directors

Our comments above regarding the Option Exercise and Vesting Table apply also to directors' compensation.



If there are any hearings or roundtable discussions, I wish to be a considered for inclusion.

Sincerely yours,

Gerald A. Miller
Executive Vice President and
Chief Operating Officer