

WENDYS INTERNATIONAL INC
Form DEF 14A
March 07, 2003
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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 Pursuant to Rule 14a-11(c) or Rule 14a-12.

Wendy s International, Inc.

(Name of Registrant as Specified in its Charter)

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

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- No fee required.

- 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:

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 - (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (Set forth the amount on which the filing fee is calculated and state how it was determined):

 - (4) Proposed maximum aggregate value of transaction:

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 - (1) Amount Previously Paid:

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

 - (3) Filing Party:

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WENDY S INTERNATIONAL, INC.

P.O. Box 256

Dublin, Ohio 43017-0256

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS

To the Shareholders of Wendy s International, Inc.:

Notice is hereby given that the Annual Meeting of Shareholders of Wendy s International, Inc. (the Company) will be held at the Veterans Memorial, 300 West Broad Street, Columbus, Ohio 43215, on Wednesday, April 23, 2003, at 10:00 a.m., local time, for the following purposes, all of which are more completely set forth in the accompanying Proxy Statement:

1. To elect four Directors, each for a term of three years.
2. To approve a proposal to amend the Company s 1990 Stock Option Plan.
3. To consider a Shareholder Proposal if presented at the Annual Meeting, as described on pages 24 to 27 of the Proxy Statement.
4. To transact such other business as may properly come before the meeting.

Only shareholders of record at the close of business on February 28, 2003 are entitled to notice of and to vote at the Annual Meeting of Shareholders.

YOUR VOTE IS IMPORTANT

Again this year we are offering registered shareholders the opportunity to vote their shares electronically through the internet or by telephone. Please see the Proxy Statement and the enclosed Proxy for details about electronic voting. You are urged to date, sign and promptly return the enclosed Proxy, or to vote electronically through the internet or by telephone, so that your shares may be voted in accordance with your wishes and so that the presence of a quorum may be assured. Voting promptly, regardless of the number of shares you hold, will aid the Company in reducing the expense of additional Proxy solicitation. Voting your shares by the enclosed Proxy, or electronically through the internet or by telephone, does not affect your right to vote in person in the event you attend the meeting. You are cordially invited to attend the meeting, and we request that you indicate your plans in this respect in the space provided on the enclosed form of Proxy or as prompted if you vote electronically through the internet or by telephone.

LEON M. McCORKLE, JR.

Secretary

Dublin, Ohio

March 4, 2003

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WENDY S INTERNATIONAL, INC.

P.O. Box 256

Dublin, Ohio 43017-0256

(614) 764-3100

PROXY STATEMENT

The enclosed Proxy, for use at the Annual Meeting of Shareholders to be held on Wednesday, April 23, 2003, and any adjournments thereof, is being solicited on behalf of the Board of Directors of the Company. A shareholder may also choose to vote electronically by accessing the internet site or by using the toll-free telephone number stated on the form of Proxy. Without affecting any vote previously taken, the Proxy may be revoked by the shareholder by giving notice of revocation to the Company in writing, by accessing the internet site, by using the toll-free telephone number stated on the form of Proxy, or in open meeting. A shareholder may also change his or her vote by executing and returning to the Company a later-dated Proxy, by a later-dated electronic vote through the internet site, by using the toll-free telephone number stated on the form of Proxy, or by voting at the open meeting. All properly executed Proxies received by the Board of Directors, and properly authenticated electronic votes recorded through the internet or by telephone, will be voted as directed by the shareholder. All properly executed Proxies received by the Board of Directors which do not specify how shares should be voted will be voted **FOR** the election as Directors of the nominees listed below under **ELECTION OF DIRECTORS**, **FOR** approval of the proposal to amend the Company's 1990 Stock Option Plan, and **AGAINST** the Shareholder Proposal, if presented at the Annual Meeting, described on pages 24 to 27 of this Proxy Statement.

Solicitation of Proxies may be made by mail, personal interview and telephone by Officers, Directors and regular employees of the Company, and by employees of the Company's transfer agent, American Stock Transfer and Trust Company. In addition, the Company has retained, at an estimated cost of \$10,000 plus reasonable expenses, Georgeson Shareholder Communications, Inc., a firm specializing in proxy solicitations. The Company will reimburse its transfer agent, banks, brokers, and other custodians, nominees and fiduciaries for their reasonable costs in sending proxy materials to shareholders.

The internet and telephone procedures for voting and for revoking or changing a vote are designed to authenticate shareholders' identities, to allow shareholders to give their voting instructions and to confirm that shareholders' instructions have been properly recorded. Shareholders that vote through the internet should understand that there may be costs associated with electronic access, such as usage charges from internet access providers and telephone companies, that will be borne by the shareholder.

This Proxy Statement, including the Notice of Meeting, was first mailed to shareholders on March 7, 2003.

VOTING SECURITIES AND PRINCIPAL HOLDERS THEREOF

Voting Rights

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The total number of outstanding shares entitled to vote at the meeting is 114,357,572, and only shareholders of record at the close of business on February 28, 2003, are entitled to notice of and to vote at the meeting or any adjournments thereof. Each shareholder is entitled to one vote for each share held and has cumulative voting rights in the election of Directors. A shareholder wishing to exercise cumulative voting must notify the President, a Vice President or the Secretary of the Company in writing not less than 48 hours before the meeting. If cumulative voting is requested and if an announcement of such request is made upon the convening of the meeting by the Chairman or Secretary or by or on behalf of the shareholder requesting cumulative voting, each shareholder will have a number of votes equal to the number of Directors to be elected multiplied by the number of shares owned by such shareholder and will be entitled to distribute votes among the nominees as the shareholder sees fit. If cumulative voting is requested, as described above, the enclosed Proxy, and votes recorded through the internet or by telephone, would grant discretionary authority to the Proxies named therein to cumulate votes and to distribute the votes among the candidates.

Table of Contents**Security Ownership of Certain Beneficial Owners**

The following table sets forth information (based upon filings with the Securities and Exchange Commission) with respect to the persons known to the Company to own beneficially more than five percent of the outstanding common shares of the Company as of February 28, 2003:

(1) Title of class	(2) Name and address of beneficial owner	(3) Amount and nature of beneficial ownership	(4) Percent of class
Common shares	Barrow, Hanley, Mewhinney & Strauss, Inc. One McKinney Plaza 3232 McKinney Avenue 15th Floor Dallas, Texas 75204-2429	6,763,180 (a)	5.9%
Common shares	Ronald V. Joyce 690 Princeton Way SW Calgary, Alberta T2P 5J9 Canada	5,741,262	5.0%

(a) As of December 31, 2002.

Security Ownership of Management

The following table sets forth, as of February 28, 2003, information with respect to the Company's common shares owned beneficially by each Director, by each nominee for election as a Director of the Company, by the Executive Officers named in the Summary Compensation Table set forth on page 9 of this Proxy Statement and by all Directors and Executive Officers as a group:

(1) Title of class	(2) Name of beneficial owner	(3) Amount and nature of beneficial ownership (a) (b)	(4) Percent of class
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(All of these are common shares.)	John T. Schuessler	279,766	.2%
	Kerri B. Anderson	71,924	.1%
	Paul D. House	145,347	.1%
	Ernest S. Hayeck	12,550	
	Janet Hill	13,250	
	Thomas F. Keller	14,044	
	William E. Kirwan (c)	1,425	
	True H. Knowles	10,750	
	David P. Lauer	198,251	.2%
	Andrew G. McCaughey	11,750	
	James F. Millar (d)	0	
	James V. Pickett	80,997	.1%
	Thekla R. Shackelford	29,184	
	Donald F. Calhoon	55,382	
	George Condos	105,677	.1%
	Thomas J. Mueller	114,394	.1%
	All Directors and Executive Officers	1,449,069	1.3%
	as a group (24 persons)		

-
- (a) The amounts reflected in this table include common shares in which there is shared voting and investment power.
- (b) Includes options exercisable within 60 days following February 28, 2003.
- (c) Dr. Kirwan became a Director on February 20, 2001.
- (d) Mr. Millar became a Director on November 1, 2001.

The information with respect to beneficial ownership is based upon information furnished by each Director, nominee or Executive Officer, or information contained in filings made with the Securities and Exchange Commission.

Table of Contents**Section 16(a) Beneficial Ownership Reporting Compliance**

Section 16(a) of the Securities Exchange Act of 1934 requires the Company's Directors and Executive Officers to file reports of ownership and changes of ownership with the Securities and Exchange Commission and the New York Stock Exchange. The Company assists its Directors and Executive Officers in completing and filing those reports. The Company believes that all filing requirements applicable to its Directors and Executive Officers were complied with during the last completed fiscal year.

ELECTION OF DIRECTORS

The Board of Directors has designated the following nominees for election as Directors of the Company with their terms to expire in 2006:

Name	Age	Directors and Their Principal Occupations / Business Experience	Director Since
James V. Pickett	61	Chairman, The Pickett Realty Advisors Inc.; Principal, Stonehenge Financial Holdings, Inc., Dublin, Ohio. Mr. Pickett has served as President and Chief Executive Officer of various companies generally known as The Pickett Companies since 1969. The Pickett Companies are involved in real estate development, ownership and management. Mr. Pickett was also the Vice Chairman of Banc One Capital Corporation from February 1, 1993 to August 4, 1999. He became a Principal of Stonehenge Financial Holdings, Inc. on August 6, 1999. Stonehenge Financial Holdings, Inc. is an investment management firm. (1)	1982
Thomas F. Keller	71	R.J. Reynolds Professor of Business Administration, Fuqua School of Business, Duke University, Durham, North Carolina. Dr. Keller was also Dean of the Fuqua School of Business at Duke University until he retired from that position on May 31, 1996. He was also Dean of the Fuqua School of Business Europe from July 1, 1999 to June 30, 2001. (1)	1991
David P. Lauer	60	Retired President and Chief Operating Officer, Bank One, Columbus, NA, Columbus, Ohio. Mr. Lauer was Office Managing Partner of the Columbus office of Deloitte & Touche LLP from January, 1989 until he retired in June, 1997. He was also a member of the board of directors of Deloitte & Touche LLP from 1988 to 1995. He was appointed to his former position with Bank One, Columbus, NA in June, 1997. Mr. Lauer retired from that position in January, 2001. He has been a Certified Public Accountant since 1968. (1)	2000
James F. Millar	55	President and Chief Operating Officer - Pharmaceutical Distribution and Medical Products, Cardinal Health, Inc., Dublin, Ohio. Mr. Millar has been President and Chief Operating Officer Pharmaceutical Distribution and Medical Products of Cardinal Health, Inc. since 1987. Cardinal Health, Inc. provides products and	2001

services to healthcare providers and manufacturers.

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The following Directors will continue to serve after the 2003 Annual Meeting:

Terms Expiring in 2004

Name	Age	Directors and Their Principal Occupations / Business Experience	Director Since
Ernest S. Hayeck	78	Retired Judge, Trial Court of Massachusetts. Judge Hayeck was a Trial Court Justice for the State of Massachusetts, from January 27, 1970 until he retired on January 26, 1993. Judge Hayeck was awarded the American Bar Association Franklin N. Flaschner Judicial Award in 1992. He is also a faculty member of the National Judicial College	1993
Janet Hill	55	Vice President, Alexander & Associates, Inc., Washington, D.C. Mrs. Hill 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. Alexander & Associates, Inc. is a corporate consulting firm. (1)	1994
True H. Knowles	65	Retired President and Chief Operating Officer, Dr Pepper Company, and Retired Executive Vice President, Dr Pepper/Seven-Up Companies, Inc., Dallas, Texas. Mr. Knowles was President and Chief Operating Officer of the Dr Pepper Company and Executive Vice President of Dr Pepper/Seven-Up Companies, Inc., from January, 1992 until he retired in June, 1995. (1)	1997
Paul D. House	59	President and Chief Operating Officer, The TDL Group Ltd., Oakville, Ontario, Canada. Mr. House has been the Chief Operating Officer of The TDL Group Ltd. since January, 1992. He assumed his current position on December 29, 1995. The TDL Group Ltd. franchises and operates Tim Hortons restaurants.	1998

Table of Contents**Terms Expiring in 2005**

Name	Age	Directors and Their Principal Occupations / Business Experience	Director Since
Thekla R. Shackelford	68	Owner / President, School Selection Consulting, Columbus, Ohio. Mrs. Shackelford is an educational consultant and served as President of the National Professional Association for Education Consultants from 1987 to 1988. Prior to 1987, she was Director of Development of the Buckeye Boys Ranch located in Columbus, Ohio. She currently is serving as Chair of the I KNOW I CAN and Project GRAD boards in Columbus, Ohio, and on the board of the Ohio State University Foundation. Mrs. Shackelford is the recipient of numerous awards for community service and educational achievements. (1)	1984
John T. Schuessler	52	Chairman of the Board, Chief Executive Officer and President. Mr. Schuessler joined the Company in 1976 and has been promoted several times. He was Executive Vice President, U.S. Operations from February 20, 1995 until February 19, 1997, when he became President and Chief Operating Officer, U.S. Operations. He became Chief Executive Officer and President on March 16, 2000. He assumed his current position on May 1, 2001.	2000
Kerrii B. Anderson	45	Executive Vice President and Chief Financial Officer. Mrs. Anderson joined the Company on September 1, 2000. Prior to joining the Company, Mrs. Anderson had held the titles of Senior Vice President and Chief Financial Officer of M/I Schottenstein Homes, Inc. since 1987. She was also Secretary of M/I Schottenstein Homes, Inc. from 1987 to 1994 and Assistant Secretary from 1994 until she joined the Company. (1)	2000
William E. Kirwan	65	Chancellor, University System of Maryland, Adelphi, Maryland. Dr. Kirwan assumed this position effective August 1, 2002. He had previously served as President of The Ohio State University for four years and as President of the University of Maryland for nine years.	2001

- (1) Mr. Pickett serves as a director of Metatec Corporation; Dr. Keller serves as a director of Hatteras Income Securities, Inc., Nations Funds, Inc., Nations Fund Trust, Nations Government Income Term Trust 2003, Inc., Nations Government Income Term Trust 2004, Inc., Nations Balanced Target Maturity Fund Inc., DIMON International and Biogen Inc.; Mr. Lauer serves as a director of AirNet Systems, Inc., Metatec Corporation, Diamond Hill Investment Group and Huntington Preferred Capital, Inc.; Mrs. Hill serves as a director of The Progressive Corporation, Dean Foods Company and Nextel Communications, Inc.; Mr. Knowles serves as a director of Cott Corporation; Mrs. Shackelford serves as a director of Fiserv Inc.; and Mrs. Anderson serves as a director of Lancaster Colony Corporation.

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Mr. Andrew G. McCaughey is currently a Director of the Company. Mr. McCaughey, age 80, was formerly Chairman and Chief Executive Officer of Scott's Hospitality Inc. from April 30, 1989 to September 3, 1992. Scott's Hospitality Inc. operated restaurants and hotels, and was also involved with the school bus and retail photography industries. Scott's Hospitality Inc. had been a Canadian franchisee operating both Wendy's and Tim Hortons restaurants since 1987. Mr. McCaughey announced his retirement as a Director effective April 23, 2003, and is not standing for re-election as a Director.

Unless otherwise directed, the persons named in the Proxy will vote the Proxies for the election of Messrs. Pickett, Keller, Lauer and Millar, as Directors of the Company, each to serve for a term of three years and until their successors are elected. While it is contemplated that all nominees will stand for election, in the event any person nominated fails to stand for election, the Proxies will be voted for such other person or persons as may be designated by the Directors. Management has no reason to believe that any of the above-mentioned persons will not stand for election or serve as a Director.

Under Ohio law and the Company's Regulations, the nominees receiving the greatest number of votes will be elected as Directors. Shares as to which the authority to vote is withheld and broker non-votes are not counted toward the election of Directors or toward the election of the individual nominees specified on the Proxy.

OTHER DIRECTOR INFORMATION AND COMMITTEES OF DIRECTORS

In February, 2001 the Board of Directors adopted Principles of Governance and Governance Guidelines that address Board structure, membership, performance, operations and management oversight. Pursuant to the Principles of Governance and Governance Guidelines, the Board of Directors meets quarterly in executive session (without management present). The discussion leader for these meetings generally is the Chair of the Nominating and Corporate Governance Committee, although the Chairs of the Audit and Compensation Committees lead discussions on matters within the purview of those Committees. The Company's investor website contains more information about the Principles of Governance and Governance Guidelines.

The Company's investor website also contains a description of its strategic plan, including the elements of the plan and the role of the Directors in the development, formulation and oversight for future performance and refinement of the plan.

A total of 10 meetings of the Board of Directors of the Company were held during 2002. No Director attended less than 75 percent of the aggregate of (i) the total number of meetings of the Board of Directors, and (ii) the total number of meetings held by all committees of the Board of Directors on which that Director served during the period each served as a Director, except for Mr. House.

Directors who are not employees of the Company or its subsidiaries are paid \$7,000 quarterly, plus \$1,500 for each Board meeting and \$1,000 for each qualified committee meeting attended, including telephonic meetings, for all services, plus expenses. If more than one qualified meeting is held on the same day, a separate fee is paid for each meeting attended. Meetings of the Audit, Compensation and the Nominating and Corporate Governance Committees are qualified meetings, as are meetings of any special committees established from time to time. In addition, the Chairs of those committees are paid a retainer of \$1,250 quarterly.

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Directors who are not employees of the Company or its subsidiaries also receive grants of stock options under Part II of the Company's 1990 Stock Option Plan. Each Director who is not an employee of the Company receives an annual grant of options to purchase 2,500 common shares. The option exercise price is 100% of the fair market value of the Company's common shares on the date of grant. Options are granted on the date on which the regularly scheduled Board meeting is held during the Company's third fiscal quarter. Each option is granted for a period of 10 years. 25% of the options granted each year become exercisable on each of the first four anniversaries of the grant date for such options. If the proposed amendments to the 1990 Stock Option Plan are approved by shareholders, beginning in 2003, each Director who is not an employee of the Company or its subsidiaries will receive an annual grant of options to

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purchase 5,500 common shares and such grants will be made on the date on which the regularly scheduled Board meeting is held during the Company's second fiscal quarter, except that in 2003 such grants will be made on April 23, 2003, the date of the Annual Meeting of Shareholders. The proposed amendments will not affect the other terms described in this paragraph.

Pursuant to the Board's Governance Guidelines, which were adopted in 2001 and specify a maximum age for Directors at the time of election or re-election, Mr. McCaughey is not standing for re-election as a Director. Since Mr. McCaughey will not be able under the terms of the 1990 Stock Option Plan to exercise certain options granted to him for service as a Director, the Company has agreed to make a cash payment to Mr. McCaughey equal to the difference between the closing price for the Company's common shares on the date of the Annual Meeting of Shareholders and the exercise price for unexercisable options granted to Mr. McCaughey while he was a Director.

The Board of Directors has a Nominating and Corporate Governance Committee, a Compensation Committee and an Audit Committee, all of which are comprised solely of independent Directors.

The members of the Nominating and Corporate Governance Committee are Messrs. Pickett (Chair), Knowles, Lauer and Millar, and Mrs. Shackelford. The Committee met four times during 2002. Its function is to recommend candidates for membership to the Board of Directors. The Committee also discussed various corporate governance matters during 2002. The Nominating and Corporate Governance Committee will consider nominees recommended by shareholders for the 2004 Annual Meeting of Shareholders, provided that the names of such nominees are submitted in writing, not later than November 7, 2003, to James V. Pickett, P.O. Box 256, Dublin, Ohio 43017-0256. Each such submission must include a statement of the qualifications of the nominee, a consent signed by the nominee evidencing a willingness to serve as a Director, if elected, and a commitment by the nominee to meet personally with the Committee members.

The members of the Compensation Committee are Mmes. Shackelford (Chair) and Hill, and Messrs. Kirwan, Knowles, McCaughey and Millar. The Compensation Committee met five times during 2002. The Compensation Committee's function is to examine the levels and methods of compensation employed by the Company with respect to the individuals named or to be named in the Company's proxy statement, to review and evaluate alternative and additional compensation programs for these individuals, and to make recommendations to the Board of Directors on such matters. The Compensation Committee has the authority to make all decisions regarding the individuals to whom options are to be granted under the Company's stock option plans, and the timing, pricing, number of options to be granted and the other terms of such grants (the Compensation Committee does not have the authority to amend the terms of the stock option plans or to adopt new stock option plans). In addition, the Compensation Committee has the authority to adopt one or more cash bonus plans, subject to shareholder approval, which will qualify compensation paid thereunder as performance-based compensation within the meaning of Section 162(m) of the Internal Revenue Code of 1986, as amended, and to implement and administer such plans.

The members of the Audit Committee are Messrs. Keller (Chair), Hayeck, Lauer and Pickett. The Committee met nine times during 2002. Its function is to provide assistance to the Board of Directors in fulfilling its oversight responsibility relating to the Company's financial statements and the financial reporting process, the Company's system of internal controls, the Internal Audit function, the annual independent audit of the Company's financial statements, and the Company's code of ethical conduct.

AUDIT COMMITTEE REPORT

Each member of the Audit Committee is independent within the meaning of applicable New York Stock Exchange rules. In 2001 the Committee recommended, and the Board of Directors approved, a revised Audit Committee Charter, which was attached as an appendix to the 2001 Proxy Statement.

In performing its responsibilities, the Committee, in addition to other activities, (i) reviewed and discussed the Company's audited financial statements with management; (ii) discussed with PricewaterhouseCoopers LLP the matters required to be discussed by Statement on Auditing Standards 61 (Communication with Audit

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Committees), as modified or supplemented; and (iii) received the letter from PricewaterhouseCoopers LLP required by Independence Standards Board Standard No. 1 (Independence Discussions with Audit Committees), as modified or supplemented, and discussed with PricewaterhouseCoopers LLP the firm's independence. Based on these reviews, discussions and activities, the Committee recommended to the Board of Directors that the audited financial statements be included in the Company's Annual Report on Form 10-K for fiscal 2002 for filing with the Securities and Exchange Commission.

Audit Fees

The aggregate fees for the audit of the Company's annual consolidated financial statements for the most recent fiscal year and the reviews of the consolidated financial statements included in the Company's Forms 10-Q were \$649,300.

Financial Information Systems Design and Implementation Fees

There were no fees for professional services described in paragraph (c)(4)(ii) of Rule 2-01 of Regulation S-X rendered by PricewaterhouseCoopers LLP for the most recent fiscal year.

All Other Fees

The aggregate fees for services rendered by PricewaterhouseCoopers LLP, other than the services covered in the two preceding paragraphs, for the most recent fiscal year were as follows.

Audit related fees	\$ 409,600(1)
Tax service fees	\$ 899,600
Other service fees	\$ 19,500
Total	\$1,328,700

- (1) Includes primarily services rendered in connection with acquisitions and investments made by the Company during the year, accounting services rendered in connection with the Company's Senior Notes offering and benefit plan audits.

The Audit Committee considered whether the provision of non-audit services by PricewaterhouseCoopers LLP was compatible with maintaining such firm's independence.

Respectfully submitted,

Audit Committee

Thomas F. Keller, Chair

Ernest S. Hayeck

David P. Lauer

James V. Pickett

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COMPENSATION OF MANAGEMENT

The following table summarizes compensation awarded or paid to, or earned by, each of the named Executive Officers during each of the Company's last three fiscal years.

SUMMARY COMPENSATION TABLE

Name and Principal Position	Year	Annual Compensation			Long Term Compensation	All Other Compensation (\$)(1)
		Salary (\$)	Bonus (\$)	Other Annual Compensation (\$)	Securities Underlying Options (#)	
John T. Schuessler, Chairman of the Board, Chief Executive Officer and President (2)	2002					
	2001					