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M E M O R A N D U M

December 14, 2005

To Our Clients and Friends

Re: FTC/DSW Consent Agreement Regarding Breach of Security

The Federal Trade Commission (“FTC”) has announced a proposed consent agreement with DSW, Inc. (“DSW”) which settles allegations of unfair or deceptive acts or practices or unfair methods of competition in connection with DSW’s failure to adequately protect sensitive personal information of its customers.

The FTC alleged that DSW, a large footwear retailer, failed to employ reasonable and appropriate security measures to protect information which it maintained on its computers relating to customer credit and debit card accounts and personal checks. In addition, the FTC stated that there have been fraudulent charges on accounts that consumers had used at DSW stores. Among the practices DSW was charged with having engaged in were the following:

- Creating unnecessary risks by storing customer information in multiple files when it no longer had a business need to keep the information
- Failing to use readily available security measures to limit access to its computer networks through wireless access points
- Storing information in unencrypted files that could be accessed by a commonly known user ID and password
- Failing to sufficiently limit the ability of store computers to connect to each other and to corporate networks
- Failing to employ sufficient methods to detect unauthorized access

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DSW has agreed to a proposed consent agreement that requires the company to implement a comprehensive information security program that contains the following features:

- Designate an employee or employees to coordinate and be accountable for the information security program
- Identify material internal and external risks to the security, confidentiality and integrity of consumer personal information
- Design and implement reasonable safeguards to control the risks identified through risk assessment, and regularly test or monitor the effectiveness of key controls, systems and procedures
- Evaluate and adjust the information security program in light of the results of testing and monitoring, any material changes to its business operation or any circumstances that DSW knows or has reason to know will have an impact on the effectiveness of its information security program.

In addition, DSW is required to obtain within 180 days, and every two years thereafter, a report from an independent third party certifying, among other things, that DSW has in place a security program well in compliance with the provisions required in the agreement and that it is operating sufficiently to protect consumers' personal information.

A copy of the proposed consent agreement can be found on our web site at http://www.schwartzandballen.com/whats_new.html.

If you have any questions, please call Gilbert Schwartz, Robert Ballen or Tom Fox at (202) 776-0700.