| This 3DAdvisors Report Covers: |
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| ✓ **Insider Trading**: Insider Trading Behavior<br>**Accounting**: Quality of Earnings Issues<br>**Governance:** Corporate Governance Issues |

# Insider Research Bulletin

**April 14, 2009**

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*Insider Research Bulletin* describes significant insider trading behavior that we have identified at the following companies and is a summary of the first step in our research process. The next step is that these same companies will undergo a review of accounting and governance behavior, and if we identify indicative behavior in one or both areas, then a "full 3DA research report" will be published on that company. Note: Inclusion of a company in this report by itself does not necessarily mean a full research report will be published. The ⬆ symbol indicates that we have observed trading behavior that suggests a bullish sentiment.

Insider Research Bulletin is published periodically and exclusively for 3DA Research subscribers.

## Companies in this Bulletin

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- Darden Restaurants Inc. (NYSE: DRI)
- Dollar Tree Inc. (NASDAQ: DLTR)

Update on Grantor Retained Annuity Trusts (GRATs)

- Gentiva Health Services Inc. (NASDAQ: GTIV) ⬆
- J. Crew Group Inc. (NYSE: JCG) ⬆

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## Discussion of 3DAdvisors Findings

Affiliated Computer Services Inc. (NYSE: ACS)

Those of our clients who have actively followed Affiliated Computer over the years are likely well-acquainted with Chairman **Darwin Deason** and his involvement in the Company's option backdating scandal. Needless to say, Deason benefited handsomely from the Company's loose option grant practices. But these were not the only options the controversial executive used this decade to line his pockets. In an *Insider Research Bulletin* issued on 01/12/04 we highlighted Deason's July 60 call writing that lasted from 12/17/03 to 01/08/04 and encompassed 4,250 calls covering 425,000 shares. He effectively anticipated the momentum that lifted the shares from

$46 to $57 in the six weeks before his activity had run its course. The shares would not gain another 5% over the next six months. A risky play indeed, especially considering the narrow spread between the market and strike prices, but the bet paid off, as did the 53,000-share sale he executed days before he began the call activity. Less than a month after writing his last contracts a report was issued by the Florida Agency for Workforce Innovation's Office of the Inspector General reviewing services provided by the Company. The findings included irregularities in customer case records maintained by ACS amongst other things. The shares were punished, getting clipped 13% in two days, and never got close to the call options' $60 strike price before the July expiration. Deason walked away with hefty premiums.

There seems to be little faith the shares have staying power above $50 around the corporate office and to their credit, the insiders have usually been right. Deason actually resurfaced in late 2004, holding his second largest round of sales on record (605,000 disposed) as soon as the shares reached his magic number of $60. The issue quickly retreated below $50 just months after his actions. Then, last July we covered an aggressive round of June sales that occurred in the mid-$50s by six different executives in an *Insider Research Bulletin* (07/10/08) that included everything from insiders reversing earlier purchases immediately after the expiration of the short-swing period to option skimming and 100% holdings reductions. Although Deason did not participate in this flood of selling, high-level officers such as CEO **Lynn Blodgett** and Executive V.P. of Corporate Development **John Rexford** were involved. Within three months the shares drifted from their peak of $53 down to the $37 to $38 range.

**Figure 1.** ACS Daily Closing Price, 04/01/08 through 04/13/09. Red diamond is where Chairman Darwin Deason sold 20,000 calls covering 2 million shares. Source: Reuters and ACS SEC Filings.


Well, here we are in April and ACS has worked itself back to $50. The insiders are currently prohibited from trading due to a blackout period leading up to the 04/30/09 fiscal third quarter earnings release. But that did not stop Darwin Deason from turning to the option market to generate some cash on his stock holdings. On 03/13/09 Deason sold 20,000 calls covering 2 million of his shares, or 80% of his Class A common (22% of Class A and Class B voting stock combined). The options carried a $61 strike, of course, and will expire in March 2010. This is a very significant transaction that we suspect very few on Wall Street and almost nobody on Main Street are currently aware of. If this were generally known information, investors would not be overreacting if they took precautions to hedge against a possible corporate event that could keep ACS from reaching $60. As history shows, Deason certainly is not timid when it comes to hedging his holdings ahead of unfavorable events. We advise our clients to pay very close attention to this situation.

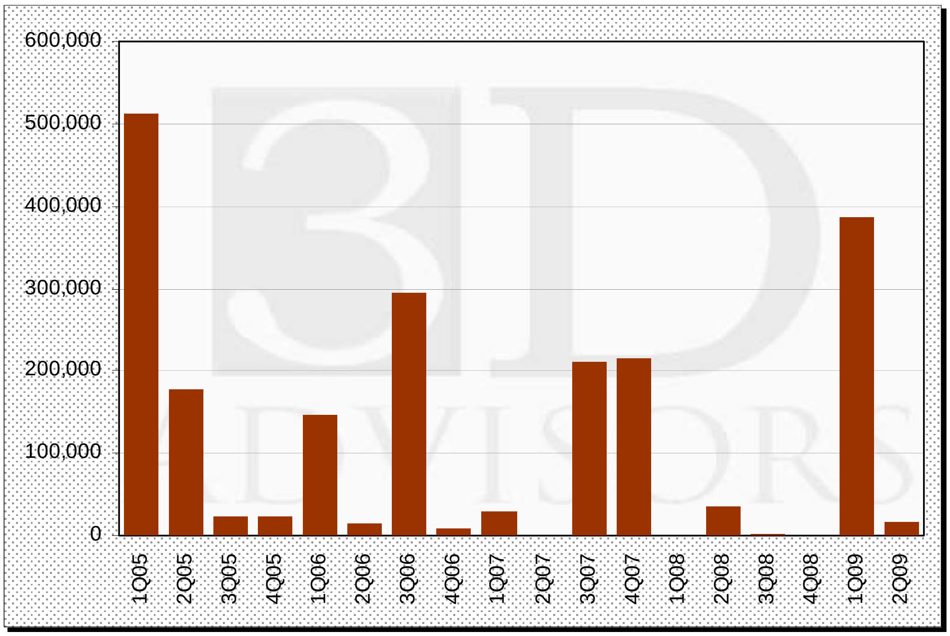
## Darden Restaurants Inc. (NYSE: DRI)

If you have dined out in recent months you probably noticed restaurant occupancy has been appreciably lower. This might not necessarily hold true for every restaurant or chain across the country, but consumers have definitely cut their restaurant budgets and the casual dining outfits have been some of the hardest hit by the slowing guest traffic. One restaurant trade association insider described the current climate as "the toughest operating environment for the industry in 20 years", and rising food costs, which are up about 9% over the last year according to the Bureau of Labor Statistics, have exacerbated the tenuous conditions. Yet, this has not deterred certain investors from parking their money in the restaurant group, particularly Darden Restaurants, the largest player in casual dining. With a portfolio ranging from the affordable Italian food concept Olive Garden to high-end steakhouse Capital Grille, investors seem to be betting the diversity of Darden's brands will make it a more attractive play than those competitors operating a single concept. But if this is really the case, why have Darden executives' been selling their stock at a historically aggressive pace?

Darden released fiscal third quarter earnings (period ending 02/22/09) after the close on 03/17/09. The Street bit on the report, as continued year-over-year earnings and sales declines were overshadowed by better-than-expected guidance for 2009. The issued spiked 20% the following session, on four times the normal daily volume, making it the largest one-day percentage price gain in Company history. Three days later the floodgates opened as nine insiders sold more shares, 295,000 in all, over the next ten business days (03/20/09 to 04/03/09) than in all but two other rounds during the last 15 years. While we cannot claim this was unprecedented behavior, it was indeed a rare convergence of key operating officers that included record volume for several sellers. Be advised, this is not a holdings reductions story. Because of the infrequency with which this management team sells and the stock holding requirements that have been in place for more than 10 years, DRI executives have amassed sizeable stock and options holdings. Suffice it to say, however, that we feel the insider signals here, from a historical perspective, warrant attention from our clients.

The last time Darden insiders sold in-step was during a three week span in September and October of 2007, right around the closing of the RARE Hospitality acquisition. In that period eight execs and directors, including four who participated in the recent round, dumped 427,000 shares as the issue traded right around its all-time high of $47. Partly due to the acquisition (and also weaker dollar), Darden lowered its fiscal 2008 EPS expectations by 73% just ten weeks after the last insider sale. The shares immediately lost 21% on the news and would find a bottom at $20 by January, as nearly 57% of the issue's value had evaporated since the insider sales just a few months earlier.

**Figure 2.** DRI Quarterly Selling Volume, 1Q06 through 04/13/09 of 2Q09. Source: DRI SEC Filings.




Although we have begun a more comprehensive analysis of the Company's fundamentals and accounting profiles, there are a number of sales trends that make it difficult to believe the issue's recent momentum is sustainable. For one, the key players in casual dining[1] all reported negative same-restaurant comparable store sales in the fourth quarter. Darden is the only company to report Q3 results (period ending 03/31/09) which were not just negative, but down significantly sequentially. In fact, each of the companies in this group has now reported three consecutive quarters of sequential comp sales declines. These conditions show no sign of improvement in the near-term, which has been echoed by the National Restaurant Association which issued its monthly report[2] on the health and outlook of the industry and cited softening sales and traffic levels. The group's Restaurant Performance Index still points towards industry contraction according to the last report issued at the end of March.

Equally interesting are Darden's continuously deteriorating sales (see table below). The numbers indicate this is more of a long-term trend than the perceived temporary speed bump that began in 2008 when consumer sentiment caught up to the economic downturn. Each of the three brands Darden owned prior to the RARE

[1] Brinker International Inc. ( EAT), The Cheesecake Factory Inc. (CAKE), PF Chang's China Bistro Inc. (PFCB), California Pizza Kitchen Inc. (CPKI) and Ruby Tuesday Inc. (RT)

[2] Donohue, Mike. "Restaurant Industry Outlook Remains Uncertain as Restaurant Performance Index Stood Below 100 for 16th Consecutive Month," National Restaurant Association. March 31, 2009. www.restaurant.org

acquisition, Olive Garden, Red Lobster and Bahama Breeze, which accounted for 83% of the Company's consolidated FY 3Q09 sales, experienced retreating year-over-year revenue growth for the last two fiscal years and sequential declines each quarter this year. The Company's guidance implies sales growth from fiscal 2008 to 2009 will be down more than 50% from the 2007 to 2008 gain. Even Olive Garden, which is considered to be the most appealing brand for consumers in this economy, has seen its sales growth steadily decline (although there has been marginal improvement this year) and it reported its first negative same-restaurant comp figure (-1.4%) in quite some time.

| Revenue Growth Year over Year (%) | 2006 | 2007 | 2008 | 1Q09 | 2Q09 | 3Q09 |
|---|---|---|---|---|---|---|
| Olive Garden | 9.0 | 6.6 | 10.0 | 8.1 | 6.2 | 3.0 |
| Red Lobster | 5.9 | 0.9 | 1.0 | -3.5 | 0.2 | -4.3 |
| Longhorn[1] | -- | -- | 6.9[2] | 4.2 | 2.4 | 1.4 |
| Capital Grille[1] | -- | -- | 11.6[2] | 6.7 | 3.0 | -10.0 |
| Bahama Breeze | 1.6 | 0.9 | -1.9 | -3.7 | -8.0 | -9.1 |
| Total | 8.4 | 4.0 | 19.0 | 20.9 | 9.6 | -0.7 |

[1] Darden acquired RARE Hospitality (Longhorn, Capital Grille) in October 2007
[2] For the period October 1, 2007 through May 25, 2008

The elemental question we have at this time is whether there is enough evidence to indicate that Darden's fundamentals and operating metrics justify the issue's recent momentum. The insider behavior suggests to us we have not yet reached that point and one could argue that the shares, which are currently outpacing the industry index and S&P by more than 30% on the year, have been bid up by investors on the strength of a single earnings report. It is very possible we are seeing the earliest stages of improving consumer confidence and guest traffic, but to us management has quietly sent its warning that the recent stock price gains are not warranted by any such progress. Below we have provided all the details on the key sellers and their recent trading activity.

- **Andrew Madsen (52)*** – President, Chief Operating Officer. Madsen, who came up through the Olive Garden ranks (last served as the restaurant's President) has been a reserved seller since becoming a Section 16 insider back in 2002. Having previously sold just 21,557 shares, nearly all of which occurred in April 2005 when the issue traded at $30, it seemed somewhat anomalous to see his distribution of nearly 50,000 shares in the first quarter of this year, particularly as his first sale occurred with the shares still well off the highs. Madsen first sold 18,174 shares out of his common stock holdings on 02/06/09 at $29 only to monetize 30,000 non-expiring options (June 2010) on 03/23/09 after the shares rallied to $34 following the FY 3Q earnings release. Though the shares accounted for less than 10% of his actionable holdings, the fact he executed two sales during a challenging quarter and sold them in an unprecedented fashion implies a different story. It is true that the stock recently sold will be replaced entirely by the 128,000 options scheduled to vest in June. After that, however, he'll see no further other derivative equity become actionable until June 2010 (see Appendix A).

- **Eugene Lee, Jr. (47)*** – President of Specialty Restaurant Group. Lee joined the Company in October 2007 when DRI acquired RARE Hospitality, where he served as the President and Chief Operating Officer for nearly seven years. Immediately after the acquisition and conversion of his RARE options, Lee would sell 75,000 shares. He resurfaced shortly after the FY 3Q earnings release, only this time the issue was trading at prices more than 23% lower than his last transaction date. On 03/20/09 Lee sold another 50,000 shares acquired on the same day from the exercise of options not set to expire for another two years. Although the sale covered less than 15% of his actionable holdings, it represents yet another key operating officer taking some chips off the table during this volatile consumer climate. And what's more, his first two sales since joining Darden were each larger in share count and dollar value than any of his 25 sales of RARE stock dating back to 2000. Lee currently does not have any unvested derivative equity and therefore will not have anything become exercisable in the next few years (see Appendix A).

- **Clarence Otis Jr**. **(52)*** – Chairman, Chief Executive Officer. Add Darden's chief executive to the list of insiders making their largest historical sales in the first quarter. Otis monetized 60,000 options on 01/05/09 that were set to expire five months later, selling the shares at $28. He followed up this trade, which matched the sum of the shares sold in all his past dispositions, with a new 35,525-share sale on 03/20/09. This sale, which involved the monetization of non-expiring options (June 2010), occurred after the shares rallied to $34 on the heels of the FY 3Q earnings report. Although the shares diversified in the first quarter accounted for just 10% of his holdings, and will be replenished by the 163,000 options scheduled to vest in June (see Appendix A), Otis stands out as a key member of this rare convergence of sellers. Lastly, Otis sits on the board at both VF Corp. (NYSE: VFC) and Verizon (NYSE: VZ) but has been selling only his DRI shares.

- **Paula Shives (57)** – Senior V.P., General Counsel, Secretary. After selling just 7,000 shares in her first ten years as a registered insider, Shives has sold almost 100,000 shares since (April 2008 to present). This year, she surfaced on 01/27/09 to monetize 30,457 options that would have expired in May. But once the shares rallied on the last earnings release in March, she resurfaced on 03/23/09 to cash in on the issue's momentum, exercising June 2010 options and immediately selling the 30,000 shares at $34.51. Shives has now sold roughly 25% of her holdings since last April, which will not be restocked soon since she will have only 65,000 options vest over the next two years (see Appendix A).

- **C. Bradford Richmond (49)*** – Senior V.P., Chief Financial Officer. Richmond has certainly put in his time at DRI, starting as a food analyst back in 1982 only to work his way up to finance positions at Olive Garden and Red Lobster before joining the corporate office in 2005. Like many of his peers, he trades infrequently, having sold just once before (December 2005) when the issue reached a new all-time high of $38. Now, with the shares working their way back to that earlier level, Richmond has resurfaced, selling 16,152 shares acquired on the same day as the exercise of two separate options series with May 2010 and June 2010 expirations. The sale came at 10% lower prices than he last accepted for his shares. His actionable holdings stand to increase by 26,000 when options become exercisable before year-end. However, most of these are currently under water at the current market price (see Appendix A).

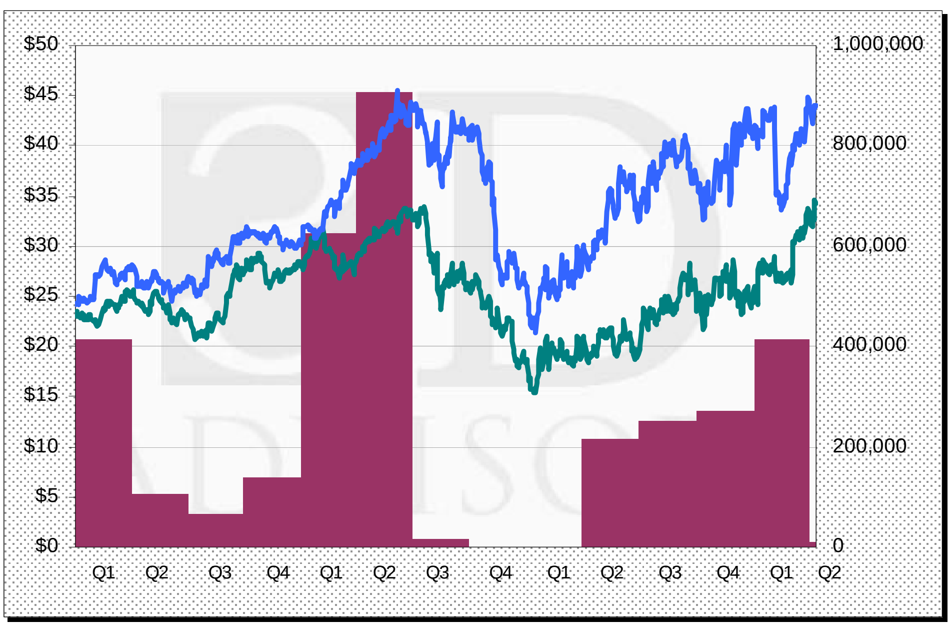
* Indicates that the individual is a Named Executive in the Company's most recent Proxy.

Dollar Tree Inc. (NASDAQ: DLTR)

We recently covered a rare convergence of insider sales at Family Dollar Stores Inc. (NYSE: FDO) in a Full Report dated 03/30/09. At that time we had moved the retailer to the top of our research list when it became clear a number of key mid-level executives were exercising options with strike prices very close to the market price (i.e. 'skimming') months ahead of the expiration dates. This behavior seems to contradict the thesis that companies in the "Dollar Store" category are a "Safe Haven" from the weak economic environment plaguing so many stocks. If so, why would insiders settle for 4% to 7% profits on their options unless they were concerned the options were in jeopardy of slipping under water?

Our bearish leanings on FDO were strengthened when insiders at rival Dollar Tree Inc. began taking profits. With the exception of one key DLTR insider who we will discuss later in the report, this management team has been early with their sales over the years and we suspect the same holds true with the latest trades. This is the same conclusion we came to for Family Dollar which subsequently announced on 04/09/09 that it hit its fiscal second quarter earnings and sales projections of 33% and 9% increases, respectively, as a result of consumers having become more cost-conscious in the current climate. Be advised, we suspect these sales are early. Our intention however, is to get this information into our clients' hands immediately as recent market strength could make these recession play names less intriguing to investors sooner than we anticipated.

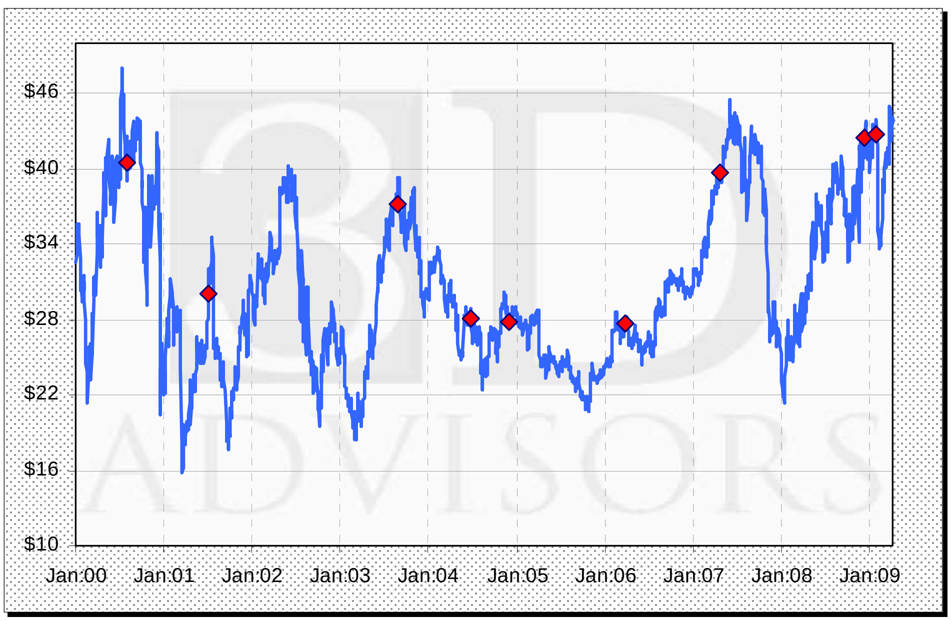
**Figure 3.** FDO (Green Line, Left Scale) and DLTR (Blue Line, Left Scale) Daily Closing Price, Q106 through 04/13/09 of Q209 and Quarterly Combined Selling by FDO and DLTR Insiders, Shares. Source: Reuters and FDO and DLTR SEC Filings.




The signals from Dollar Tree insiders are not yet as strong as those of the Family Dollar managers we covered in the earlier report. In all, the 256,000 shares sold by four insiders between 01/29/09 and 04/08/09 were in line with their volume during the prior three quarters. Different now, however, is that we are seeing consensus activity in this insider group for the first time since mid-2007. At that time, FDO and DLTR shares had run to all-time high levels to which related insiders reacted with record selling. The fact that all four of the recent Dollar Tree sellers took part in that very timely round of sales and three unloaded more than 40% of their holdings serves to increase our interest in this trading profile.

At the center of the first quarter selling is Dollar Tree Executive Chairman **Macon Brock**. More often than not, Brock's sales over the years have called the tops of many Dollar Tree rallies. This career retail exec co-founded the Company back in 1986 with fellow board members **J. Douglas Perry** and **H. Ray Compton** and was the chief executive for a ten-year term that began in 1993. Brock's trading history is actually quite fascinating to us. In nine of the last ten years Brock has carried out one round of sales per year that coved at least 200,000 shares. Each of these rounds preceded share price losses between 11% and 35% in the three months following his activity. There was not one occasion when he sold more than 200,000 shares in the last ten years and the issue failed to decline shortly after his activity. To say he has displayed even a reasonable understanding of Dollar Tree shares' fair value would be selling him short.

**Figure 4.** DLTR Daily Closing Price, 01/03/00 through 04/13/09. Red diamonds are dates where Chairman Macon Brock sold 200,000 or more shares. Source: Reuters and DLTR SEC Filings.




Brock's latest round of sales, which actually began back in December, was carried out with a 10b5-1 plan we know very little about since the Company has never disclosed *any* plan information for its Section 16 filers. One piece of information we can glean from his actual trades is that it would seem Brock's plan called for sales to be executed when the shares traded to $44. The shares reached $44 only on four separate dates between December and March and a sale was placed on each session. It almost appears as though this $42 to $44 price range serves as a tacit ceiling for this management team as they sold aggressively at the exact same prices back in June

2007. Highlighted below are detailed accounts of the trading histories of the selling insiders:

- **Macon Brock (67)*** – Executive Chairman. Brock sold a total of 460,000 shares, **equal to 22% of his actionable holdings**, between 12/17/08 and 03/30/09. As we mentioned above, each of the sales was executed at $44 under a 10b5-1 plan which we suspect was new and commenced in December. These were the most shares distributed under any of his prior sales plans which date back to 2001. It seems to us this sales plan may have expired at the end of March as the issue has traded above $44 for most of April and no trades have since occurred. Another possible explanation, however, is the existence of a higher price floor that may trigger another wave of sales. Brock does not currently hold any unvested derivative equity scheduled to vest in the next 52 weeks (see Appendix B).

- **Robert Rudman (58)*** – Chief Merchandising Officer. Rudman's recent activity reminds us of his profit taking from March to June of 2007, when he cleared out nearly his entire position as the shares rallied to prices last seen in late 2000. The momentum ended shortly after his last sale as the shares would go on to lose 40% of their value within five months. With the issue having returned to prices that inspired Rudman to cash out in 2007, he has acted accordingly. Between 03/27/09 and 04/01/09 Rudman sold a total of 16,286 shares at an average price of $44. The volume might not seem all that impressive, but most of the stock and all of the options monetized during this period had vested during this short window. We also find it extremely curious he executed two sales on 03/27/09; one of which involved options and was the lone sale executed through an undisclosed 10b5-1 plan while the other disposition of common stock was clearly distinguished as not having been part of the same plan. This likens to out of plan selling which can jeopardize the safe harbor protection afforded by the Rule and call into question the insiders' claim the plan is part of a pre-planned diversification strategy.

  The only equity Rudman has left untouched consists of one partially vested series with a $38 strike price that would yield a 13% profit at the current market price. While he has a history of selling shares immediately upon vesting, he has not moved so quickly on stock options before. The shares sold, which **accounted for nearly 60% of his ownership**, will not begin to be replenished until next February and March when he will have 34,000 options become actionable (see Appendix B).

- **James Fothergill (age not disclosed)** – Chief People Officer. Although the 8,333 shares Dollar Tree's head of human resources sold on 03/26/09 might not seem overly significant, the trade did **deplete his holdings by 36%**. Fothergill's ownership took a severe hit when he cleared out the majority of his options in June 2007 and sold 92,500 shares. As we mentioned earlier, this trade was quite timely as the shares would close out the year down 50% from his sale date. Every sale since has proven even more meaningful as further profit taking is another setback to his holdings restoration. This recent sale, which happened to be the third largest in terms of volume and dollar value, involved the monetization of two option series with expiration dates seven and nine years out. Half of the options had just become actionable two weeks before he exercised them. Although the 23,000 options and shares scheduled to vest within the next 52 weeks will fully replace what he just sold, none of these will be actionable until next February and March (see Appendix B).

- **Gary Philbin (52)* –** Chief Operating Officer. Since filing as a Section 16 insider back in 2001, Philbin has traded exclusively with predetermined sales plans. Well, exclusively except for the time he unloaded 40% of his holdings outside of a plan in June 2007 along with the rest of his peers. That uncharacteristic disposition caught the shares at an all-time high just before they would descend to a two-year low by year-end (2007). Philbin would next sell 22,500 shares in August 2008 at $40 before the issue would trade back down to $32 by October due to general market volatility, and then resurface with what looks to be a sale under a new and undisclosed sales plan. Philbin monetized 7,000 options on 04/08/09 that had seven years remaining before expiration (March 2016). The sale was his smallest to date and covered only 16% of his holdings, but he represents another insider taking profits at these prices and the presence of his sales plan could indicate further sales to come. Philbin will have 34,000 options and shares vest in 1Q10 (see Appendix B).

  * Indicates that the individual is a Named Executive in the Company's most recent Proxy.

Another reason we want our clients to be aware of the budding trading profile is because we anticipate seeing additional selling in the next few weeks before the next blackout period ostensibly begins at the end of April. CEO **Bob Sasser** is the only registered officer who has yet to take profits. Given the Company's guarded approach to 10b5-1 disclosure, we are unsure if any of the three 10b5-1 sales plans in effect in March still have shares reserved for sale. But it is possible that any of these plans could trigger further sales before the next earnings release, due out the last week of May. On a final note, we include some governance and fundamental concerns below which might not necessarily tie in to the trading profile but we find pretty interesting nonetheless:

- **Repurchase (Non)-Activity**: Dollar Tree could not buy back its stock fast enough in 2006 and 2007, paying upwards of $40 per share and spending a total of $721 million during the two year period. In a matter of eight months, from December 2006 to August 2007, Dollar Tree even carried out three accelerated stock repurchases with two different financial institutions. For the first time in five years the Company did not repurchase any stock in 2008 despite the board having authorized the repurchase of an additional $500 million in October 2007. Last November CEO Sasser commented on the 3Q conference call that they intended to preserve cash through year-end (February). The following quarter he contended the Company planned to "review share repurchases opportunistically". We would be very surprised to see any repurchase activity reported for the current quarter while insiders have actively taken profits.

- **Stock Ownership Guidelines or Guidelines for Stock Awards?** In 2006 the Compensation Committee engaged compensation consultant Towers Perrin to help revise its executive compensation policies and packages. One of the many changes made in 2007 was the implementation of stock ownership guidelines for its executives (and directors). But at the same time these were put into place, restricted stock awards, which have been part of the comp mix for a number of years, were increased substantially. For example, CEO Sasser received grants covering a total of 15,000 restricted shares in 2005 and 2006. The following two years, under the new compensation guidelines, he received 57,000 shares. Similarly, COO **Gary Philbin's** stock grants increased nearly 200%. At the current rate these stock awards vest and accumulate, no senior officer will have to purchase stock on the open market or retain any shares in option transactions to meet their targets by 2011.

- **Likely Voting Blocks Due to Director Relationships**: The board is currently comprised of 13 members. Three of these members, co-founders Brock, Perry and Compton, owned and managed mall-based toy store K&K Toys before selling it to Kay-Bee in 1991. Brock and Perry are also brothers-in-law. Current lead director **Thomas Saunders** was one of the trio's initial investors as early as 1993 and currently has the second largest ownership stake of any executive or director. Saunders' business partner, **John Megrue**, was on DLTR's board for 14 years through June 2007. And lastly, Saunders was replaced as chairman of the Nominating Committee by Richard Lesser in 2007. Lesser, a DLTR board member since 1999, was a 25 year employee (and later board member) at TJX Companies until his retirement in 2005. It seems to be quite a conflict that the newest addition to Dollar Tree's board, **Arnold Barron** (March 2008), is a former TJX top executive who just retired from the discount retailer after 30 years.

<u>Update on Grantor Retained Annuity Trusts (GRATs)</u>

Back in the 1990s when a big part of our business involved working with the media, we recall the time that the CEO of what was then North Fork Bank called our offices to compliment us on a phenomenon he had discovered. It seemed that each time we commented on his buying of North Fork stock, the shares would rally. His comment, "I can't buy this kind of great publicity", has remained ingrained in our memory for the ages.

Ever-mindful of what has evolved into a series rather ubiquitous instances of insider buys prompted by other-than-investment motives, we remain drawn towards situations where subtle insider actions speak with bullish tones. Perhaps none of these subtle-but-significant clues has intrigued us more than situations relating to certain insider behaviors relating to Grantor Retained Annuity Trust (GRAT) contributions.

The seemingly-inconsequential GRAT contribution takes on a different light once one understands certain mechanics involved in the process. The GRAT is a vehicle that enables an owner of assets (in our case, an insider with stock) to transfer any significant appreciation in their value to designated beneficiaries (usually children or grandchildren) without incurring gift or inheritance taxes. Not all appreciation transfers, however. Only the appreciation in excess of an IRS-established "Hurdle Rate" (or, more specifically, a Section 7520 Rate) which is set monthly and tracks federal interest rates, goes to the beneficiary of the trust tax free. This Hurdle Rate is locked in for the life of a GRAT at the time of its creation.

In order for the strategy to be successful, the appreciation in the contributed assets must exceed the Section 7520 rate (Hurdle Rate) and the contributor must outlive the life of the GRAT (a GRAT must have a specified term). If there is a weakness in relying on a GRAT as a bullish signal it is that the insider that sets up the GRAT has little skin in the game. If the assets in the trust eventually do not appreciate more than the

Hurdle Rate, the assets simply revert back to the grantor (insider) or his/her estate. No harm, no foul. In such a case the grantor is out only the administration fees.[3]

On the other hand, it is highly likely that an insider will be inclined to set up a GRAT not only when they believe his/her stock is truly undervalued but it is also a pretty good indication the insider sees no negative news lurking on their Company's horizon. It is simply counter-intuitive that an insider would set up a GRAT while suspecting lower prices are imminent for his/her shares.

With stock prices still depressed and Hurdle Rates near historical lows, it comes as no surprise that the number of new GRAT filings is increasing rapidly. Also fueling growth may be fear of an overhaul of estate tax and related rules. But even before the current environment emerged, there were enough GRAT filings that handicapping the significance was not easy. What we have come to, however, is that there seems to be a strong correlation between GRAT formation and future stock performance when the insider forming the GRAT is a very large shareholder and often in a position to make or influence a firm's most important strategic decisions. We are particularly interested in situations where such an insider places a large piece and sometimes the majority of their holdings in a GRAT.

Prior to the late 2008 market chaos, such examples (albeit rare) appeared to consistently presage impressive share gains. But once we entered the extreme volatility of 4Q08, the correlation seemed to break down. For example, the repeated GRAT contributions made by J. Crew Group Inc. Chairman and CEO **Milliard "Mickey" Drexler** seemed initially highly predictive, but that broke down during the ensuing market collapse. To expect Drexler to have foreseen what was to come, however, clearly would have been unrealistic.

The J. Crew Group Inc. experience was still fresh in our minds when, in December of 2008, Best Buy Co. Inc. Founder and Chairman **Richard Schulze** made a 3.8 million share GRAT contribution on the 16th of the month with BBY shares trading in the $27 range. The shares had already rallied from their November lows of around $17 when he acted and, remembering the drubbing taken by J. Crew Group Inc. months earlier due to the market chaos, we had become hesitant about highlighting a GRAT in another retailer so close on the heels of the retail sector's meltdown. But that was before the Chapter 11 filing of Circuit City and now, with BBY shares thirteen points and 50% higher, we will no longer hold back from future reporting of what we consider significant GRAT contributions.

With that said, we highlight a new GRAT situation that may be significant at Gentiva Health Services Inc. (NASDAQ: GTIV) and provide a brief update on the GRAT situation at J. Crew Group Inc. (NYSE: JCG):

[3] See following article on GRATs, the mechanics of how they work and how insiders can successfully use them for estate planning purposes: http://www.bizval.com/index.cfm?action=page&id=633

Gentiva Health Services Inc. (NASDAQ: GTIV)

Gentiva Health made news in early March when five board members abruptly informed Company chairman **Ronald Malone** that they would not stand for re-election following a telephone board meeting, held on March 22nd that was hastily called by Malone. Little detail has been divulged about the meeting itself but the communication (below) from departing Director **Josh Westin** does not attempt to sugar coat the situation:

> Ron:
>
> Please be advised that I do not wish to be re-nominated for next year's Board. I believe I am the fifth independent Board member to do so in the last couple of days, triggered by your awful behavior prior to and during last Sunday's sudden and very surprising Board meeting.
>
> I will have more to say in the near future. In summary, I have been on very many boards over the past forty years, and have never even remotely encountered the total lack of candor, courtesy, and transparency that you and a few other non-independent directors have demonstrated towards a majority of the independent directors.
>
> You also had gone so far as to keep our Corporate Secretary (and General Counsel), Steve Paige, in the dark about your last minute Sunday Board meeting which revised the charter and constituency of the Governance and Nominating Committee, with no prior communication with either the Committee Chair or the Board's Lead Director.
>
> However, I pointedly exempt from criticism our relatively new CEO and most recent Board addition, Tony Strange, for whom I have great confidence, respect, and high hopes. I also exempt from criticism our Board secretary whom I just learned was kept in the dark about the plans and legal preparations for that Sunday meeting.
>
> With regret,
>
> Josh

Prior to the meeting, GTIV shares had suffered serious body blows upon the release of the new Administration's healthcare initiatives and their effect on Medicare reimbursement rates. The impact of the news served to drop the shares in short order from the $27 range down to the $14 to $16 range where they remain as of this writing.

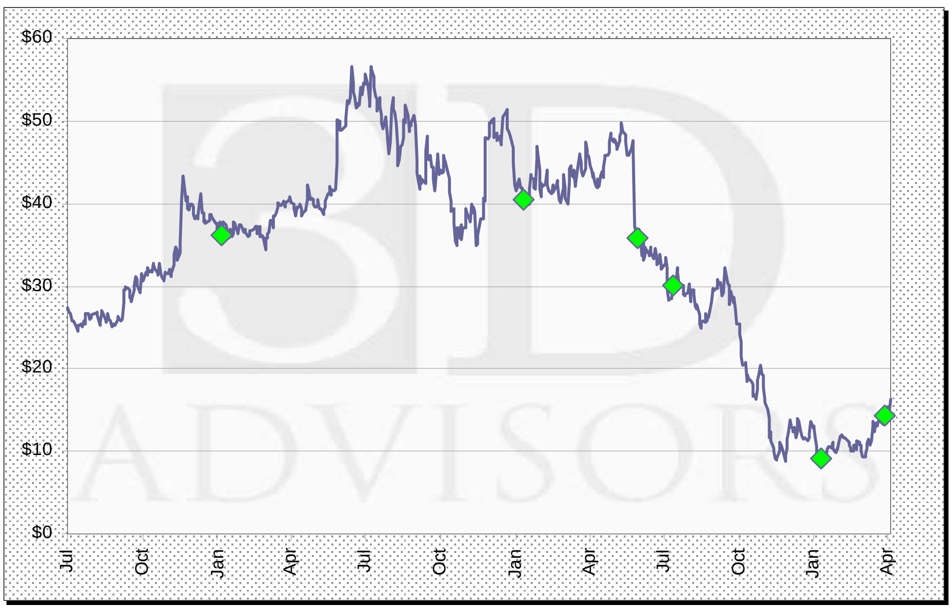
On March 27th, the week following the above-described board meeting that resulted in the Director resignations, the Company's Vice Chairman and largest shareholder, **Rodney Windley**, moved 900,000 of his shares into various GRATs. His decision amounted to the majority of his holdings which now show 77% having been contributed to such trusts. It should be noted that Gentiva CEO **Tony Strange**, who is seemingly exonerated in the above communication, is a co-owner, with Windley, of a block of just under 88,000 GTIV shares.

J. Crew Group Inc. (NYSE: JCG)

As mentioned earlier, we had been tracking multiple instances of Mickey Drexler's GRAT contributions over the past two years. He has consistently thrown 1 million shares into such trusts on each occasion as can be seen from Figure 5 below. His pace picked up in 2008, however, as the market meltdown intensified. Though his first two efforts proved profitable to mimic, his two latter-2008 efforts clearly were ill-timed. Drexler's GRAT activity, however, has persisted in 2009 with two separate 1 million share contributions so far this year. Making this more interesting is the fact that his March effort, entered into on the 31st, was contributed with JCG shares trading in the $13 range, up 30% from his earlier January GRAT contribution, also 1 million shares.

**Figure 5.** JCG Daily Closing Price, 07/06/06 through 04/09/09. Green diamonds are the dates where Mickey Drexler transferred shares to GRATs. Source: Reuters and JCG SEC Filings.




Since Drexler's recent GRAT contribution, TPG has sold its remaining 2.8 million share position in the $14 range. So we have the overhang related to the TPG holdings now out of the picture and Drexler, with about 42% of his holdings contributed to GRATs, continuing to behave as if he feels J. Crew shares will be heading higher.

# Appendix A

Common Stock and Option Holdings for Selected Darden Restaurants Inc. (DRI) Insiders

| Name | Actionable Position as of 04/14/09: Common | Options [1] | Total [2] | Derivative Equity Expected to Vest in Next 12 Months: Grant Date | Strike Price | Vesting Dates | # Vesting |
|---|---|---|---|---|---|---|---|
| **Eugene Lee**<br>President of Specialty Restaurant Group | 38,813 | 296,581 | **335,394** | none | | | 0 |
| | | | | | | | **0** |
| **Andrew Madsen**<br>President, COO | 116,556 | 448,921 | **565,477** | 06/15/06 | $35.81 | 06/15/09 | 56,198 |
| | | | | 06/16/05 | $33.10 | 06/16/09 | 72,500 |
| | | | | | | | **128,698** |
| **Clarence Otis Jr.**<br>Chairman, CEO | 204,059 | 612,318 | **816,377** | 06/15/06 | $35.81 | 06/15/09 | 76,356 |
| | | | | 06/16/05 | $33.10 | 06/16/09 | 87,500 |
| | | | | | | | **163,856** |
| **David Pickens**<br>President of Olive Garden | 55,116 | 254,850 | **309,966** | 06/15/06 | $35.81 | 06/15/09 | 29,715 |
| | | | | 06/16/05 | $33.10 | 06/16/09 | 33,250 |
| | | | | | | | **62,965** |
| **C. Bradford Richmond**<br>SVP, CFO | 23,444 | 134,583 | **158,027** | 06/15/06 | $35.81 | 06/15/09 | 7,381 |
| | | | | 06/16/05 | $33.10 | 06/16/09 | 6,917 |
| | | | | 12/01/06 | $40.03 | 12/01/09 | 11,557 |
| | | | | | | | **25,855** |
| **Paula Shives**<br>SVP, General Counsel, Secretary | 60,978 | 234,063 | **295,041** | 06/15/06 | $35.81 | 06/15/09 | 15,144 |
| | | | | 06/16/05 | $33.10 | 06/16/09 | 22,500 |
| | | | | | | | **37,644** |

[1] Total number of vested, in-the-money options.

[2] Total actionable position includes common stock plus vested in-the-money options.

Note: Red text indicates series is currently out-of-the-money

# Appendix B

Common Stock and Option Holdings for Selected Dollar Tree Inc. (DLTR) Insiders

| Name | Actionable Position as of 04/14/09: | | | Derivative Equity Expected to Vest in Next 12 Months | | | |
|---|---|---|---|---|---|---|---|
| | Common | Options [1] | Total [2] | Grant Date | Strike Price [3] | Vesting Dates | # Vesting |
| **Macon Brock** | 1,377,301 | 221,000 | **1,598,301** | none | | | 0 |
| Chairman | | | | | | | |
| | | | | | | | **0** |
| **James Fothergill** | 2,235 | 12,500 | **14,735** | 03/18/09 | N/A | 02/14/10 | 13,000 |
| Chief People Officer | | | | 03/14/08 | $26.73 | 03/14/10 | 4,167 |
| | | | | 03/14/08 | N/A | 03/14/10 | 1,109 |
| | | | | 03/30/07 | $38.24 | 03/30/10 | 4,167 |
| | | | | 03/30/07 | N/A | 03/30/10 | 1,109 |
| | | | | | | | **23,551** |
| **Gary Philbin** | 13,646 | 22,500 | **36,146** | 03/18/09 | N/A | 02/14/10 | 17,500 |
| Chief Operating Officer | | | | 03/14/08 | $26.73 | 03/14/10 | 6,334 |
| | | | | 03/14/08 | N/A | 03/14/10 | 2,834 |
| | | | | 03/30/07 | $38.24 | 03/30/10 | 5,333 |
| | | | | 03/30/07 | N/A | 03/30/10 | 2,833 |
| | | | | | | | **34,833** |
| **Robert Rudman** | 136 | 12,000 | **12,136** | 03/18/09 | N/A | 02/14/10 | 17,000 |
| Chief Merchandising Officer | | | | 03/14/08 | $26.73 | 03/14/10 | 6,000 |
| | | | | 03/14/08 | N/A | 03/14/10 | 2,667 |
| | | | | 03/30/07 | $38.24 | 03/30/10 | 6,000 |
| | | | | 03/30/07 | N/A | 03/30/10 | 2,667 |
| | | | | | | | **34,334** |
| **Bob Sasser** | 41,517 | 83,999 | **125,516** | 03/18/09 | N/A | 02/14/10 | 34,000 |
| Chief Executive Officer, Director | | | | 03/14/08 | $26.73 | 03/14/10 | 21,334 |
| | | | | 03/14/08 | N/A | 03/14/10 | 9,500 |
| | | | | 03/30/07 | $38.24 | 03/30/10 | 21,334 |
| | | | | 03/30/07 | N/A | 03/30/10 | 9,500 |
| | | | | | | | **95,668** |

[1] Total number of vested, in-the-money options.

[2] Total actionable position includes common stock plus vested in-the-money options.

[3] Strike Price N/A indicates the series is restricted stock, not options.