

MUELLER INDUSTRIES INC  
Form DEF 14A  
March 26, 2009

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  Soliciting Material Under Rule 14a-12
- Confidential, For Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials

MUELLER INDUSTRIES, INC.

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(Name of Registrant as Specified In Its Charter)  
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(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(4) and 0-11.

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

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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 (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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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.

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1) Amount previously paid:

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2) Form, Schedule or Registration Statement No.:

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3) Filing Party:

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4) Date Filed:

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**MUELLER INDUSTRIES, INC.**  
**8285 Tournament Drive, Suite 150**  
**Memphis, Tennessee 38125**  
**Telephone (901) 753-3200**

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**Notice of Annual Meeting of  
Stockholders to be Held  
May 7, 2009**

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To the Stockholders of  
Mueller Industries, Inc.

The Annual Meeting of Stockholders of Mueller Industries, Inc. (the "Company" or "Mueller"), will be held at the Company's headquarters at 8285 Tournament Drive, Suite 150, Memphis, Tennessee 38125 on Thursday, May 7, 2009, at 10:00 A.M. local time, for the following purposes:

1. To elect seven directors, each to serve until the next annual meeting of stockholders (tentatively scheduled for May 6, 2010) or until his successor is elected and qualified;
2. To consider and act upon a proposal to approve the appointment of Ernst & Young LLP, independent registered public accountants, as auditors of the Company for the fiscal year ending December 26, 2009;
3. To consider and act upon a proposal to approve the Mueller Industries, Inc. 2009 Stock Incentive Plan which allows for the issuance of a maximum of 750,000 shares of common stock;
4. To consider and act upon a stockholder proposal regarding board membership, if properly presented at the Annual Meeting; and
5. To consider and transact such other business as may properly be brought before the Annual Meeting and any adjournment(s) thereof.

Only stockholders of record at the close of business on March 9, 2009, will be entitled to notice of and vote at the Annual Meeting or any adjournment(s) thereof. A complete list of stockholders entitled to vote at the Annual Meeting will be prepared and maintained at the Company's corporate headquarters at 8285 Tournament Drive, Suite 150, Memphis, Tennessee 38125. This list will be available for inspection by stockholders of record during normal business hours for a period of at least 10 days prior to the Annual Meeting.

**IT IS IMPORTANT THAT YOUR SHARES BE REPRESENTED AT THE ANNUAL MEETING REGARDLESS OF THE SIZE OF YOUR HOLDINGS. WHETHER OR NOT YOU INTEND TO BE PRESENT AT THE MEETING IN PERSON, WE URGE YOU TO MARK, DATE AND SIGN THE ENCLOSED PROXY CARD AND RETURN IT IN THE ENCLOSED SELF-ADDRESSED ENVELOPE, WHICH REQUIRES NO POSTAGE IF MAILED IN THE UNITED STATES.**

Gary C. Wilkerson  
*Corporate Secretary*

March 26, 2009

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**8285 Tournament Drive, Suite 150**  
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**Telephone (901) 753-3200**

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**PROXY STATEMENT**

**Annual Meeting of Stockholders**  
**May 7, 2009**

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## SOLICITATION OF PROXIES

The accompanying proxy is solicited by the Board of Directors of Mueller Industries, Inc., a Delaware corporation (the "Company"), for use at the annual meeting of stockholders (the "Annual Meeting") to be held at the Company's headquarters at 8285 Tournament Drive, Suite 150, Memphis, Tennessee 38125, on Thursday, May 7, 2009, at 10:00 A.M. local time, or at any adjournment(s) thereof.

This Proxy Statement, together with the Company's Annual Report for the fiscal year ended December 27, 2008, is first being mailed to stockholders on or about March 26, 2009. Pursuant to rules recently adopted by the Securities and Exchange Commission, the Company is providing access to its proxy materials over the Internet at <http://www.proxyvote.com>.

When a proxy card is returned properly signed, the shares represented thereby will be voted in accordance with the stockholder's directions appearing on the card. If the proxy card is signed and returned without directions, the shares will be voted for the nominees named herein and in accordance with the recommendations of the Company's Board of Directors as set forth herein. The discretion granted in the accompanying proxy card includes the authority to vote on all additional matters properly coming before the Annual Meeting as the persons named in the proxy deem appropriate. A stockholder giving a proxy may revoke it at any time before it is voted at the Annual Meeting by giving written notice to the secretary of the Annual Meeting or by casting a ballot at the Annual Meeting. Votes cast by proxy or in person at the Annual Meeting will be tabulated by election inspectors appointed for the Annual Meeting. The election inspectors will also determine whether a quorum is present. The holders of a majority of the shares of common stock, \$.01 par value per share ("Common Stock"), outstanding and entitled to vote who are present either

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in person or represented by proxy will constitute a quorum for the Annual Meeting. The election inspectors will treat abstentions as shares that are present and entitled to vote for purposes of determining the presence of a quorum, but as unvoted for purposes of determining the approval of any matter submitted. If a broker indicates on a proxy that it does not have discretionary authority as to certain shares to vote on a particular matter (i.e., a "broker non-vote"), those shares will not be considered as present and entitled to vote with respect to that matter, but will be treated as shares that are present and entitled to vote for purposes of determining the presence of a quorum. A broker is entitled to vote shares held for a beneficial owner on routine matters, such as the election of directors and the ratification of the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm, without instructions from the beneficial owner of those shares; on the other hand, a broker may not be entitled to vote shares held for a beneficial owner on certain non-routine items, such as the stockholder proposal and the approval of the stock incentive plan, absent instructions from the beneficial owners of such shares.

The cost of soliciting proxies will be borne by the Company. In addition to solicitation by mail, directors, officers and employees of the Company may solicit proxies by telephone or otherwise. The Company has also retained MacKenzie Partners, Inc. to provide proxy solicitation services for a fee of approximately \$20,000 plus reimbursement of its out-of-pocket expenses. The Company will reimburse brokers or other persons holding stock in their names or in the names of their nominees for their charges and expenses in

forwarding proxies and proxy material to the beneficial owners of such stock.

## VOTING SECURITIES

The Company had 37,143,163 shares of Common Stock outstanding at the close of business on March 9, 2009, which are the only securities of the Company entitled to be voted at the Annual Meeting. The record holder of each share of Common Stock is entitled to one vote on each matter that may properly be brought before the Annual Meeting. Only stockholders of record at the close of business on March 9, 2009 will be entitled to notice of, and to vote at, the Annual Meeting. The Company's Restated Certificate of Incorporation and Amended and Restated Bylaws ("Bylaws") do not provide for cumulative voting for the election of directors.

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## PRINCIPAL STOCKHOLDERS

As of March 9, 2009, the following parties were known by the Company to be the "beneficial owner" of more than five percent of the Common Stock:

Name and Address of Beneficial Owner	Shares Beneficially	
	Owned	Percent of Class
Franklin Resources, Inc. One Franklin Parkway San Mateo, CA 94403-1906	2,616,300(1)	7.04%(2)
Barclays Global Investors, NA 45 Fremont Street San Francisco, CA 94105	2,604,420(3)	7.01%(2)
Wells Fargo & Company 420 Montgomery Street San Francisco, CA 94163	2,114,668(4)	5.69%(2)

- (1) This information is based on a Schedule 13G/A filed by Franklin Resources, Inc. ("FRI") with the Securities and Exchange Commission on February 5, 2009. In the Schedule 13G/A, FRI reported that, with respect to the Company's Common Stock, the shares shown in the table above were beneficially owned by one or more open or closed-end investment companies or other managed accounts that are investment management clients of investment managers that are direct and indirect subsidiaries of FRI. The Schedule 13G/A reported that the investment management subsidiaries of FRI have investment and/or voting power over the securities owned by their investment management clients. Accordingly, such subsidiaries may be deemed to be the beneficial owner of the shares shown in the table. The Schedule 13G/A reported that Charles B. Johnson and Rupert H. Johnson, Jr. (the "FRI Principal Stockholders") (each of whom has the same business address as FRI) each own in excess of 10% of the outstanding common stock of FRI and are the principal stockholders of FRI and may be deemed to be the beneficial owners of securities held by persons and entities for whom or for which the investment management subsidiaries of FRI provide investment management services. The Schedule 13G/A reported that one of the investment management subsidiaries, Franklin Advisory Services, LLC (whose address is One Parker Plaza, 9th Floor, Fort Lee, New Jersey 07024), has sole voting and dispositive power with respect to 2,542,000 and

2,606,300, respectively, of the shares shown. FRI, the FRI Principal Stockholders and the investment management subsidiaries of FRI disclaim any pecuniary interest or beneficial ownership in the shares shown in the table above and indicate that they are of the view that they are not acting as a "group" for purposes of the Securities Exchange Act of 1934, as amended (the "Exchange Act").

- (2) The percent of class shown was based on the shares of Common Stock reported on the Schedule 13G or 13G/A and the total number of shares outstanding as of December 27, 2008. The difference in the total number of shares outstanding on December 27, 2008 and March 9, 2009 does not materially affect the percentage of ownership of the class.

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- (3) This information is based on a Schedule 13G/A filed by Barclays Global Investors, NA with the Securities and Exchange Commission on February 5, 2009. The Schedule 13G was also filed by Barclays Global Fund Advisors, with the same address as Barclays Global Investors, NA; Barclays Global Investors, Ltd., 1 Royal Mint Court, London, EC3N 4HH; Barclays Global Investors Japan Limited, 1-1-39 Hiroo Shibuya-Ku, Tokyo 1500-0012 Japan; Barclays Global Investors Canada Limited, Brookfield Place 161 Bay Street, Suite 2500, P.O. Box 614, Toronto, Ontario, Canada, M5J 2S1; Barclays Global Investors Australia Limited, Level 43, Grosvenor Place, 225 George Street, P.O. Box N43, Sydney, Australia, NSW 1220; and Barclays Global Investors (Deutschland) AG, Apianstrasse 6, D-85774, Unterföhring, Germany.
- (4) This information is based on a Schedule 13G filed by Wells Fargo & Company on January 29, 2009 with the Securities and Exchange Commission. Wells Fargo & Company filed this Schedule 13G as it is a parent holding company or control person of its indirect subsidiary, Evergreen Investment Management Company, LLC.

### **ELECTION OF DIRECTORS**

The size of the Company's Board of Directors is currently seven directors. The Board of Directors proposes to elect the following seven persons, each as nominated by the Board of Directors, at the Annual Meeting to serve (subject to the Company's Bylaws) as directors of the Company until the next Annual Meeting (tentatively scheduled for May 6, 2010), or until the election and qualification of their successors: Alexander P. Federbush, Paul J. Flaherty, Gennaro J. Fulvio, Gary S. Gladstein, Scott J. Goldman, Terry Hermanson, and Harvey L. Karp (collectively, the "Nominees"). If any such person should be unwilling or unable to serve as a director of the Company, which is not anticipated, the persons named in the proxy will vote the proxy for substitute nominees selected by them unless the number of directors has been reduced to the number of nominees willing and able to serve.

Directors are elected by a plurality of the votes cast. "Plurality" means that the individuals who receive the greatest number of votes cast "For" are elected as directors up to the maximum number of directors to be chosen at the Annual Meeting. Consequently, any shares not voted "For" a particular director (whether as a result of a direction to withhold or a broker non-vote) will not be counted in such director's favor.

### **THE BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT STOCKHOLDERS VOTE THEIR SHARES FOR EACH OF THE NOMINEES.**

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**OWNERSHIP OF COMMON STOCK BY DIRECTORS AND EXECUTIVE OFFICERS AND INFORMATION ABOUT DIRECTOR NOMINEES**

The following table sets forth, as of March 9, 2009, information about the 1,014,888 shares of Common Stock (calculated based on 37,143,163 shares outstanding) beneficially owned by each of the Company's current directors, nominees for director, executive officers and named executive officers. The "named executive officers" are those individuals set forth in the "Summary Compensation Table for 2008" included herein. Unless otherwise indicated, all directors, nominees for director, executive officers and named executive officers have sole voting and investment power with respect to the shares of Common Stock reported. The table and the accompanying footnotes set forth the foregoing persons' current positions with the Company, principal occupations and employment over the preceding five years, age and directorships held in certain other publicly-owned companies.

<b>Principal Occupation, Employment, etc.</b>	<b>Common Stock Beneficially Owned as of March 9, 2009</b>	<b>Percent of Class</b>
Alexander P. Federbush Director of the Company since February 17, 2005; age 66 (1)	11,000	*
Paul J. Flaherty Director of the Company since August 2, 2007; age 69 (2)	4,000	*
Gennaro J. Fulvio Director of the Company since May 9, 2002; age 52 (3)	18,336	*
Gary S. Gladstein Director of the Company since July 1, 2000; Director of Jos. A. Bank Clothiers, Inc. and IRSA Inversiones Y Representaciones S.A.; age 64 (4)	35,848	*
Scott J. Goldman Director of the Company since January 1, 2008; age 56 (5)	2,000	*
Terry Hermanson Director of the Company since February 13, 2003; age 66 (6)	12,112	*
Harvey L. Karp Chairman of the Board of Directors since October 8, 1991; Director since August 1991; age 81	241,886	*

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<b>Principal Occupation, Employment, etc.</b>	<b>Common Stock Beneficially Owned as of March 9, 2009</b>	<b>Percent of Class</b>
Gregory L. Christopher Chief Executive Officer of the Company since October 30, 2008; age 46 (7)	209,218	*
Richard W. Corman Vice President-Controller of the Company since October 28, 2004; age 52 (8)	45,033	*
Roy C. Harris	39,660	*

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Vice President and Chief Information Officer of the Company since December 19, 2006; age 66 (9)

Jeffrey A. Martin Vice President - Finance & Corporate Development since August 1, 2008; age 42 (10)	15,714	*
Kent A. McKee Executive Vice President of the Company since October 13, 2005; Chief Financial Officer of the Company since April 1, 1999; age 48 (11)	237,526	*
James H. Rourke President-Industrial Products Division of the Company since December 27, 2003; General Manager-Rod since January 29, 2002; age 60 (12)	109,555	*
Larry J. Stoddard Former President-Standard Products Distribution Business of the Company since February 19, 2008; age 49 (13)	10,000	*
Gary C. Wilkerson Vice President, General Counsel and Secretary of the Company since May 2, 2005; age 62 (14)	23,000	*
Executive Officers and Directors as a Group	1,014,888	2.69%**

\* Less than 1 %

\*\* Includes 605,485 shares of Common Stock which are subject to currently exercisable stock options held by executive officers and directors of the Company.

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- (1) Mr. Federbush served as the President of the Queens West Development Corp., a subsidiary of the Empire State Development Corporation, a public-benefit corporation that is a joint venture among New York State, New York City and the Port Authority of New York and New Jersey, for more than the past five years until his departure from the corporation on December 31, 2007. Mr. Federbush has served as a director of The Varick Realty Group since 1970, including as Chairman since 1976. The number of shares of Common Stock beneficially owned by Mr. Federbush includes (i) 2,000 shares of Common Stock owned by Mr. Federbush's spouse, (ii) 1,000 shares of Common Stock owned by a corporation in which Mr. Federbush is an officer and (iii) 8,000 shares of Common Stock which are subject to currently exercisable stock options.
- (2) Mr. Flaherty has been a member of the Advisory Board of Aon Risk Services, Inc., a subsidiary of Aon Corporation (["Aon"]), the global insurance and risk management firm, since 2001. The number of shares of Common Stock beneficially owned by Mr. Flaherty includes 2,000 shares of Common Stock which are subject to currently exercisable stock options.
- (3) Mr. Fulvio has been a member of Fulvio & Associates, LLP, Certified Public Accountants (formerly Speer & Fulvio, LLP), since 1987. The number of shares of Common Stock beneficially owned by Mr. Fulvio includes 11,112 shares of Common Stock which are subject to currently exercisable stock options and 7,224 shares of Common Stock which are owned by Mr. Fulvio's spouse.
- (4) Mr. Gladstein previously served as a director of the Company from 1990 to 1994. Mr. Gladstein is currently an independent investor and



consultant. From the beginning of 2000 to August 31, 2004, Mr. Gladstein was a Senior Consultant at Soros Fund Management. He was Chief Operating Officer at Soros Fund Management from 1985 until his retirement at the end of 1999. The number of shares of Common Stock beneficially owned by Mr. Gladstein includes 11,112 shares of Common Stock which are subject to currently exercisable stock options.

- (5) Mr. Goldman has served as the co-founder and Chief Executive Officer of TextPower, Inc., which creates business solutions by using a proprietary library of vertical market text messaging software, since February 17, 2009. From 1987 to February 17, 2009, Mr. Goldman served as founder and principal of the Goldman Group, a company that works with Fortune 500 companies in developing and operating wireless systems. The number of shares of Common Stock beneficially owned by Mr. Goldman includes 2,000 shares of Common Stock which are subject to currently exercisable stock options.
- (6) Mr. Hermanson has been the principal and President of Mr. Christmas, Inc., a wholesale merchandising company, for more than the last five years. The number of shares of Common Stock beneficially owned by Mr. Hermanson includes 11,112 shares of Common Stock which are subject to currently exercisable stock options.
- (7) Mr. Christopher served as (i) Chief Operating Officer from October 25, 2007 until October 30, 2008, (ii) President of the Standard Products Division from October 13, 2005 until October 25, 2007, and (iii) Vice President of Sales-Standard Products Division of

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the Company for more than five years prior to October 13, 2005. The number of shares of Common Stock beneficially owned by Mr. Christopher includes (i) 159,255 shares of Common Stock which are subject to currently exercisable stock options, and (ii) 900 shares of Common Stock owned jointly between Mr. Christopher and his spouse.

- (8) Mr. Corman served as the Company's Corporate Controller for more than five years prior to October 28, 2004. The number of shares of Common Stock beneficially owned by Mr. Corman includes 33,807 shares of Common Stock which are subject to currently exercisable stock options.
- (9) Mr. Harris served (i) as Vice President and Chief Information Officer of the Standard Products Division of the Company from October 13, 2005 until December 19, 2006, (ii) as Vice President and Chief Information Officer of the Company from July 5, 2000 until October 13, 2005, (iii) as Division Manager of the Company's Standard Products Division from May 1, 1997 through July 5, 2000 and (iv) as Controller, Standard Products Division, from December 1995 to May 1, 1997. The number of shares of Common Stock beneficially owned by Mr. Harris includes 24,668 shares of Common Stock which are subject to currently exercisable stock options.
- (10) Mr. Martin served (i) as Vice President-Operations, Standard Products Division of the Company from November 20, 2006 to August 1, 2008, (ii) as Vice President-Finance of the Company from October 28, 2004 to November 20, 2006, (iii) as Director of Corporate Finance of the Company from January 1, 2002 to October 28, 2004, (iv) as Manager of Corporate Finance of the Company from January 1, 2001 to December 31, 2001, (v) as Manager of Corporate Accounting of the Company from January 15, 1996 to December 31, 2000 and (vi) as a Manager and other positions in audit services with PricewaterhouseCoopers LLP, a public accounting firm, from September 1989 to January 1996. The number of shares of Common Stock beneficially owned by Mr. Martin includes 15,714 shares of Common Stock which are subject to currently exercisable stock options.

- (11) Mr. McKee served (i) as Vice President of the Company from February 11, 1999 until October 13, 2005, (ii) as Vice President-Business Development/Investor Relations of the Company from December 14, 1995 to February 11, 1999, (iii) as Treasurer of the Company from November 8, 1991 to December 14, 1995 and (iv) as Assistant Secretary of the Company from August 28, 1991 to December 14, 1995. The number of shares of Common Stock beneficially owned by Mr. McKee includes 191,376 shares of Common Stock which are subject to currently exercisable stock options.
- (12) Mr. Rourke served (i) as Vice President-Industrial Products Division of the Company from December 14, 1995 to December 27, 2003, (ii) as Vice President and General Manager-Industrial Division of the Company from November 4, 1993 to December 14, 1995 and (iii) prior thereto as Vice President and General Manager, Industrial Products, for Mueller Brass Co. in Port Huron, Michigan. The number of shares of Common Stock beneficially owned by Mr. Rourke includes 102,329 shares of Common Stock which are subject to currently exercisable stock options.

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- (13) As previously reported by the Company, Mr. Stoddard is no longer employed by the Company, effective March 16, 2009. Prior to joining the Company in 2008, Mr. Stoddard served in various executive positions for Wolseley plc (Wolseley) for the past 26 years. Most recently, Mr. Stoddard served (i) as the Chief Operations Officer of Wolseley from January 2006 until his hiring by the Company, (ii) as Senior Vice President of Business Development of Wolseley from 2005-2006, (iii) as Senior Vice President of Business Development for Wolseley North America from 2005-2006 and (iv) as Senior Vice President of Branch Operation of Ferguson Enterprises, a Wolseley company, from 2001 until 2005. The number of shares of Common Stock beneficially owned by Mr. Stoddard includes 10,000 shares of Common Stock which are subject to currently exercisable stock options.
- (14) Mr. Wilkerson served (i) as Of Counsel to the Memphis law firm of Pietrangelo Cook, LLP from April 2002 to May 2005 and (ii) as Vice President and General Counsel for Louisiana-Pacific Corporation from 1997 to January 2002. The number of shares of Common Stock beneficially owned by Mr. Wilkerson includes 23,000 shares of Common Stock which are subject to currently exercisable stock options.

### **Meetings and Committees of the Board of Directors**

During 2008, the Board of Directors held five meetings and acted by written consent on one occasion. The Board of Directors established a standing Audit Committee and a Compensation Committee at its organizational meeting on February 13, 1991. On May 13, 1991, the Board of Directors created two committees (the "Plan Committees") to be responsible for administering the Company's 1991 Employee Stock Purchase Plan and the Company's 1991 Incentive Stock Option Plan. On November 16, 1993, the Board of Directors established a standing Nominating Committee. On May 12, 1994, the Board of Directors created two committees to be responsible for administering the Company's 1994 Stock Option Plan and the Company's 1994 Non-Employee Director Stock Option Plan, on February 12, 1998 created a committee to be responsible for administering the Company's 1998 Stock Option Plan and on February 12, 2002 created a committee to be responsible for administering the Company's 2002 Stock Option Plan (collectively, the "Option Plan Committees"). On February 12, 2004, the Board of Directors changed the name of the Nominating Committee to the Nominating and Corporate Governance Committee. During 2008, no director attended fewer than 75% of the total number of meetings of the Board and all committees on which he served.

The Audit Committee is composed of three directors who are not officers or employees of the Company: Gennaro J. Fulvio (Chairman), Alexander P. Federbush and Gary S. Gladstein. Each member of the Audit Committee has been determined by the Board of Directors to meet the standards for independence required of audit

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committee members by the New York Stock Exchange (the "NYSE") and applicable SEC rules. For more information on the NYSE standards for independence, see "Corporate Governance-Director Independence" in this Proxy Statement. The Board of Directors has further determined that (i) all members of the Audit Committee are financially literate and (ii) Gary S. Gladstein and Gennaro J. Fulvio each possess accounting and related financial management expertise within the meaning of the listing standards of the NYSE, and are each audit committee financial experts within the meaning of applicable SEC rules. The Audit Committee (i) appoints the Company's independent accountants, (ii) reviews and approves any major change in the Company's accounting policies, (iii) reviews the scope and results of the independent audit, (iv) reviews and considers the independence of the accountants, (v) reviews the effectiveness of the Company's internal audit procedures and personnel, (vi) reviews the Company's policies and procedures for compliance with disclosure requirements concerning conflicts of interest and the prevention of unethical, questionable or illegal payments and (vii) makes such reports and recommendations to the Board of Directors as it may deem appropriate. The Audit Committee held seven formal meetings during the last fiscal year, all of which were attended by the Company's independent auditors. At such meetings, the Audit Committee discussed the scope and results of the annual audit and issues of accounting policy and internal controls.

The Compensation Committee is composed of three directors who are not officers or employees of the Company: Terry Hermanson (Chairman), Paul J. Flaherty and Gary S. Gladstein. Each member of the Compensation Committee has been determined by the Board of Directors to meet the NYSE's standards for independence. These same directors also serve as members of the Plan Committee and the Option Plan Committees. The Compensation Committee (i) provides assistance to the Board of Directors in discharging the Board of Directors' responsibilities relating to management organization, performance, compensation and succession and (ii) makes such recommendations to the Board of Directors as it deems appropriate. During the fiscal year 2008, the Compensation Committee and the Option Plan Committee held six formal meetings.

The Nominating and Corporate Governance Committee is composed of three directors who are not officers or employees of the Company: Alexander P. Federbush (Chairman), Gennaro J. Fulvio and Scott J. Goldman. Each member of the Nominating and Corporate Governance Committee has been determined by the Board of Directors to meet the NYSE's standards for independence. The Nominating

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and Corporate Governance Committee is responsible for the recommendation to the Board of Directors of director nominees for election to the Board of Directors. In addition, the Nominating and Corporate Governance Committee is responsible for recommending committee assignments and responsibilities to the Board of Directors, overseeing the evaluation of Board of Directors and management effectiveness, developing and recommending to the Board of Directors corporate governance guidelines, and generally

advising the Board of Directors on corporate governance and related matters. The Nominating and Corporate Governance Committee held two formal meetings during fiscal year 2008.

## **CORPORATE GOVERNANCE**

The Company operates within a comprehensive plan of corporate governance for the purpose of defining independence, assigning responsibilities, setting high standards of professional and personal conduct and assuring compliance with such responsibilities and standards. The Company regularly monitors developments in the area of corporate governance. In July 2002, Congress passed the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley") which, among other things, established, or provided the basis for, a number of new corporate governance standards and disclosure requirements. In addition, following the passage of Sarbanes-Oxley, the NYSE adopted changes to its corporate governance and listing requirements.

### **Director Independence**

The standards relied upon by the Board of Directors in affirmatively determining whether a director is "independent," in compliance with the rules of the NYSE, are comprised, in part, of those objective standards set forth in the NYSE rules, which generally provide that (a) a director who is an employee, or whose immediate family member (defined as a spouse, parent, child, sibling, father- and mother-in-law, son- and daughter-in-law and anyone, other than a domestic employee, sharing the director's home) is an executive officer of the Company, would not be independent for a period of three years after termination of such relationship; (b) a director who has received, or whose immediate family member has received, during any twelve-month period within the last three years, more than \$120,000 per year in direct compensation from the Company, except for certain permitted payments, would not be independent; (c) a director or an immediate family member who is a current partner of a firm that is the Company's internal or external auditor, a

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director who is a current employee of such a firm, a director who has an immediate family member who is a current employee of such a firm and who personally works on the Company's audit, or a director or an immediate family member who was within the last three years (but is no longer) a partner or employee of such a firm and personally worked on the Company's audit within that time would not be independent; (d) a director or an immediate family member who is, or has been within the last three years, employed as an executive officer of another company where any of the Company's present executive officers at the same time serves or served on the other company's compensation committee would not be independent; and (e) a director who is a current employee, or an immediate family member is a current executive officer, of a company that has made payments to, or received payments from, the Company for property or services in an amount which, in any of the last three fiscal years, exceeds the greater of \$1 million, or 2% of such other company's consolidated gross revenues, would not be independent. In addition to these objective standards and in compliance with NYSE rules, no director will be considered independent who has any other material relationship with the Company that could interfere with the director's ability to exercise independent judgment. The Board of Directors exercises appropriate discretion in identifying and evaluating the materiality of any relationships directors may have with the Company.

The Board of Directors, in applying the above-referenced standards and after considering all of the relevant facts and circumstances, has affirmatively determined that the Company's current independent directors are: Alexander P. Federbush, Paul J. Flaherty, Gennaro J. Fulvio, Gary S. Gladstein, Scott J. Goldman and Terry Hermanson. In the course of the Board of Director's determination regarding the independence of each non-management director, the Board considered for:

- Mr. Flaherty, the fact that the Company has utilized certain services of Aon and its affiliates, but recognizing the arms-length nature of such transactions, the absence of any managerial role or specific pecuniary interest of Mr. Flaherty in such matters, and the de minimis percentage such transactions represented in respect of the annual revenues and assets of each of those companies; and
- Mr. Goldman, the fact that Mr. Goldman is married to the niece of Harvey L. Karp, the Chairman of the Board, but recognizing the distance of this relationship.

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### **Independent Directors**

- A majority of the members of the Company's Board of Directors have been determined to meet the NYSE's standards for independence. See "Director Independence" above.
- The Company's Corporate Governance Guidelines provide that the Company's non-management directors shall hold annually at least two formal meetings independent from management. The non-management directors will choose a non-management director, as appropriate, to preside at these executive sessions of the Board of Directors.

### **Audit Committee**

- All members of the Audit Committee have been determined to meet the standards of independence required of audit committee members by the NYSE and applicable SEC rules. See "Director Independence" above.
- In accordance with the rules and regulations of the SEC, the above paragraph regarding the independence of the members of the Audit Committee shall not be deemed to be "soliciting material" or to be "filed" with the SEC or subject to Regulation 14A or 14C of the Exchange Act or to the liabilities of Section 18 of the Exchange Act and shall not be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended (the "Securities Act"), or the Exchange Act, notwithstanding any general incorporation by reference of this Proxy Statement into any other filed document.
- The Board of Directors has determined that all members of the Audit Committee are financially literate. Further, the Board of Directors has determined that Gary S. Gladstein and Gennaro J. Fulvio each possess accounting or related financial management expertise, within the meaning of the listing standards of the NYSE, and are each audit committee financial experts within the meaning of applicable SEC rules.

- Ernst & Young LLP, the Company's independent auditors, reports directly to the Audit Committee.
- The Audit Committee, consistent with the Sarbanes-Oxley Act of 2002 and the rules adopted thereunder, meets with management and the Company's independent auditors prior to the filing of officers' certifications with the

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SEC to receive information concerning, among other things, significant deficiencies in the design or operation of internal control over financial reporting.

- The Audit Committee has adopted procedures for the receipt, retention and treatment of complaints by Company employees regarding the Company's accounting, internal accounting controls or auditing matters.
- The Audit Committee operates under a formal charter adopted by the Board of Directors that governs its duties and standards of performance. Copies of the charter can be obtained free of charge from the Company's website at [www.muellerindustries.com](http://www.muellerindustries.com) or may be requested in print by any shareholder.

### **Compensation Committee**

- All members of the Compensation Committee have been determined to meet the NYSE standards for independence. See "Director Independence" above.
- The Compensation Committee operates under a formal charter adopted by the Board of Directors that governs its duties and standards of performance. Copies of the charter can be obtained free of charge from the Company's website at [www.muellerindustries.com](http://www.muellerindustries.com) or may be requested in print by any shareholder.

### **Nominating and Corporate Governance Committee**

- All members of the Nominating and Corporate Governance Committee have been determined to meet the NYSE standards for independence. See "Director Independence" above.
- The Nominating and Corporate Governance Committee recommends to the Board of Directors as director nominees individuals of established personal and professional integrity, ability and judgment, and who are chosen with the primary goal of ensuring that the entire Board of Directors collectively serves the interests of the Company's stockholders. Due consideration is given to assessing the qualifications of potential nominees and any potential conflicts with the Company's interests. The Nominating and Corporate Governance Committee also assesses the contributions of the Company's incumbent directors in connection with their potential

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re-nomination. In identifying and recommending director nominees, the Committee members take into account such factors as they determine appropriate, including recommendations made by the Board of Directors.

- Once the Nominating and Corporate Governance Committee has identified prospective nominees, background information is elicited about the candidates, following which they are investigated, interviewed and evaluated by the Committee which then reports to the Board of Directors.
- The Nominating and Corporate Governance Committee operates under a formal charter adopted by the Board of Directors that governs its duties and standards of performance. Copies of the charter can be obtained free of charge from the Company's website at [www.muellerindustries.com](http://www.muellerindustries.com) or may be requested in print by any shareholder.

The Nominating and Corporate Governance Committee does not consider individuals nominated by stockholders for election to the Board. However, under the Company's Bylaws, nominations for the election of directors may be made by a qualifying stockholder, but only if written notice of such stockholder's intent to make such nomination has been received by the Secretary of the Company at the Company's principal place of business (8285 Tournament Drive, Suite 150, Memphis, Tennessee 38125) not less than 60 days and not more than (i) with respect to an election to be held at an annual meeting of stockholders, 90 days prior to the anniversary date of the immediately preceding annual meeting (unless the annual meeting date is advanced by more than thirty days or delayed by more than sixty days, in which case different deadlines apply) and (ii) with respect to an election to be held at a special meeting of stockholders for the election of directors, not earlier than 90 days prior to the special meeting and not later than the later of (a) 60 days prior to such special meeting or (b) the tenth day following the day on which public announcement is first made of the date of the special meeting, provided that in the event that the number of directors to be elected to the Board is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board made by the Company at least 70 days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it is delivered to the Secretary of the Company not later than the tenth day following the day on which such public announcement is

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first made by the Company. To be a qualifying stockholder, the stockholder must be a stockholder of record at the time the notice was delivered to the Secretary of the Company. Each such notice shall set forth: (a) as to each person whom the stockholder proposes to nominate for election or reelection as a director, all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A (or successor provisions) under the Exchange Act, including such person's written consent to be named in the proxy statement as a nominee and to serve as a director if elected; (b) as to any other business that the stockholder desires to be brought before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (c) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made

(i) the name and address of such stockholder, as they appear on the Company's books, and of such beneficial owner and (ii) the class and number of shares of Common Stock which are owned beneficially and of record by such stockholder and such beneficial owner. The presiding officer of the meeting may refuse to acknowledge the nomination of any person not made in compliance with the foregoing procedure. See "Stockholder Nominations for Board Membership and Other Proposals for 2010 Annual Meeting."

### **Compensation Committee Interlocks and Insider Participation**

During fiscal year 2008, Terry Hermanson, Alexander P. Federbush and Gennaro J. Fulvio served on the Compensation Committee. No member of the Compensation Committee was, during fiscal year 2008, an officer or employee of the Company or was formerly an officer of the Company, or had any relationship requiring disclosure by the Company as a related party transaction under Item 404 of Regulation S-K. No executive officer of the Company served on any board of directors or compensation committee of any other company for which any of the Company's directors served as an executive officer at any time during fiscal year 2008.

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### **Corporate Governance Guidelines**

- The Company has adopted a set of Corporate Governance Guidelines, including specifications for director qualification and responsibility, director access to officers and employees, director compensation, director orientation and continuing education and the annual performance evaluation of the Board of Directors.
- Copies of the guidelines can be obtained free of charge from the Company's website at [www.muellerindustries.com](http://www.muellerindustries.com) or may be requested in print by any shareholder.

### **Code of Business Conduct and Ethics**

- The Company has adopted a Code of Business Conduct and Ethics, which is designed to help officers, directors and employees resolve ethical issues in an increasingly complex business environment. The Code of Business Conduct and Ethics is applicable to all of the Company's officers, directors and employees, including the Company's principal executive officer, principal financial officer, principal accounting officer or controller and other persons performing similar functions. The Code of Business Conduct and Ethics covers topics, including but not limited to, conflicts of interest, confidentiality of information and compliance with laws and regulations.
- Waivers from the Code of Business Conduct and Ethics are discouraged. Any waivers from the Code of Business Conduct and Ethics that relate to the Company's directors and executive officers must be approved by the Board of Directors and will be posted on the Company's website at [www.muellerindustries.com](http://www.muellerindustries.com).
- Copies of the Code of Business Conduct and Ethics can be obtained free of charge from the Company's website at [www.muellerindustries.com](http://www.muellerindustries.com) or may be requested in print by any shareholder.

### **Policies and Procedures for Approval of Related Party Transactions**



Related party transactions may present potential or actual conflicts of interest and create the appearance that Company decisions are based on considerations other than the best interests of the Company and its shareholders. Management carefully reviews all proposed related party transactions (if any), other than routine banking

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transactions, to determine if the transaction is on terms comparable to terms that could be obtained in an arms-length transaction with an unrelated third party. Management reports to the Audit Committee and then to the Board of Directors on all proposed material related party transactions. Upon the presentation of a proposed related party transaction to the Audit Committee or the Board, the related party is excused from participation in discussion and voting on the matter.

### **Directors' Attendance at Annual Meetings of Stockholders**

It is the policy of the Company's Board of Directors to expect that all directors attend annual meetings of Stockholders except where the failure to attend is due to unavoidable circumstances or conflicts discussed in advance with the Chairman of the Board. All members of the Board of Directors attended the Company's 2008 Annual Meeting of Stockholders.

### **Communication With the Board of Directors**

Any stockholder or interested party who wishes to communicate with the Board of Directors, or specific individual directors, including the non-management directors as a group, may do so by directing a written request addressed to such directors or director in care of the Chairman of the Nominating and Corporate Governance Committee, Mueller Industries, Inc., 8285 Tournament Drive, Suite 150, Memphis, Tennessee 38125. Communication(s) directed to members of the Board who are not non-management directors will be relayed to the intended Board member(s) except to the extent that it is deemed unnecessary or inappropriate to do so pursuant to the procedures established by a majority of the independent directors. Communications directed to non-management directors will be relayed to the intended Board member(s) except to the extent that doing so would be contrary to the instructions of the non-management directors. Any communication so withheld will nevertheless be made available to any non-management director who wishes to review it.

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## **COMPENSATION DISCUSSION AND ANALYSIS**

### **Compensation Policies and Objectives**

The compensation programs for our executive officers, including the executive officers named in the Summary Compensation Table for 2008 below, are designed to (i) motivate these key employees to achieve certain strategic and financial goals and reward them for achieving such goals, (ii) align the long-term financial interests of our named executive officers with those of our stockholders, (iii) encourage these employees to continue their service with our Company, and (iv) provide a means to attract additional talented executive officers when necessary.

We believe in a pay for performance philosophy □ that the performance of our named executive officers in managing our Company, considered in light of general economic and specific Company, industry, and competitive conditions, should be the basis for determining the level and composition of their compensation. This incentive element of total compensation provides a significant portion of each named executive officer□s compensation potential.

### **Determination of Compensation**

Compensation for our Chairman of the Board and Chief Executive Officer is determined by our Compensation Committee. Compensation decisions for our other named executive officers are made by our Compensation Committee based on the joint recommendations of our Chairman of the Board and Chief Executive Officer. Our Compensation Committee meets at least annually to determine the adjustments, if any, which will be made to all elements of compensation, including base salary, annual bonus compensation, and long-term equity awards.

In determining the levels of compensation, including the amount of base salary increases from year to year, if any, the target levels of the annual cash bonuses and the amounts payable thereby at the end of each year, and the number of stock options to be awarded and when such awards will be granted, we generally do not rely on formulaic guidelines but rather maintain a flexible compensation program that allows us to adapt components and levels of compensation to motivate and reward individual executives within the context of the Company□s desire to attain certain strategic and financial goals and control compensation cost. This requires that we consider subjective factors including (i) an executive□s performance against corporate objectives in recent years, (ii) the value of the executive□s skills and capabilities

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in supporting the long-term performance of the Company, (iii) performance of each executive□s specific management responsibilities, (iv) each executive□s contribution as a member of the executive management team, and (v) whether each executive□s total compensation potential and structure is sufficient to ensure the retention of the executive when considering the compensation potential that may be available elsewhere. As such, we make reasoned subjective determinations about compensation levels. Our decisions regarding the various elements of compensation are generally independent of one another in that the decisions we make with respect to any one element do not necessarily affect decisions we make with respect to any other element.

In making compensation decisions, our Compensation Committee does not undertake any formal benchmarking or review any formal surveys of compensation for our competitors but rather relies on the members□ general knowledge of our industry, supplemented by advice from our Chairman and Chief Executive Officer based on their knowledge of our industry in markets in which we participate.

The targets for annual bonus programs are generally determined by the Compensation Committee in December for the upcoming year. Various factors are considered when determining the specific targets including estimated actual results for the fiscal year being concluded, the plan for the upcoming year, economic conditions then currently prevailing as well as expected in the upcoming year, among others.

## Elements of Compensation

Our compensation program is composed of six elements: (i) base salary, (ii) annual bonus compensation, (iii) long-term equity incentive compensation, (iv) traditional welfare benefits, (v) perquisites, and (vi) post-employment and change-in-control compensation.

Each element of compensation plays a part in our overall compensation policies and objectives.

- We provide base salary and traditional benefits such as group health, disability, and life insurance benefits, as well as matching contributions to the Mueller Industries, Inc. 401(k) Plan, as a means of providing a base

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level of compensation for services performed, to encourage the continued service of our named executive officers and to attract additional talented executive officers when necessary.

- We offer annual cash bonus compensation to our named executive officers to reward their success in attaining short-term operating objectives, such as sales, operating earnings and earnings per share. From time to time, we award discretionary bonuses to recognize and reward individual performance regardless of corporate-wide performance.
- Our long-term equity incentive compensation rewards our named executive officers for achievement of our long-term financial success as measured by our stock price. As such, it aligns the financial interests of our named executive officers with our stockholders and rewards our named executive officers for increased stockholder value. We generally grant stock options with ten-year terms that vest ratably over a five-year period. This long-term vesting schedule provides continued motivation and rewards executives in line with our stockholders over the vesting period. Moreover, we generally provide for periodic option grants to ensure that vesting periods will overlap and continue to provide incentive and motivation over the longer term. We also believe that stock options continue to provide long-term shareholder value beyond the vesting dates because of the continued upside financial potential for executives and the fact that stock options can be retained beyond the vesting date without adverse tax consequences to the executive. Because of the five-year vesting schedule, we regard our stock option program as a significant factor in retaining our named executive officers.
- We view our perquisites as an added element of our executive compensation program designed to attract, retain and reward our named executive officers.
- We provide employment agreements as a reward for achieving a certain level of seniority and accomplishments based on a subjective determination of the executive's past service and current responsibilities. We believe that providing employment agreements at the top executive level is generally in line with market practice and allows us to be competitive and retain our top executives.

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### *Base Salary*

Base salary adjustments are determined by making reasoned subjective determinations about current economic conditions such as general wage inflation as well as the executive's qualifications, experience, responsibilities, and past performance. For 2008, base salary increases ranged from 0% to 68% for our named executive officers. Mr. Christopher's base salary for the 2007 fiscal year was \$265,225, which was increased to \$445,000 for the 2008 fiscal year in connection with his appointment to the position of Chief Operating Officer. See "Employment and Consulting Agreements - Gregory L. Christopher" for information regarding Mr. Christopher's base salary as Chief Executive Officer.

### *Annual Bonus Compensation*

Each of our named executive officers participates in one of two annual bonus programs. In 2008, Messrs. Karp and O'Hagan participated in the Annual Bonus Plan that was approved by stockholders at the May 2005 Annual Meeting of Stockholders. Our other named executive officers participate in the Company's Annual Incentive Plan as do other salaried employees.

*Annual Bonus Plan.* Early in 2008, the Compensation Committee established a performance target for the year based upon EBITDA (earnings before interest, taxes, depreciation and amortization) less certain adjustments. The Compensation Committee established graduated EBITDA targets that ranged from \$107 million (earning zero bonus) to \$172 million (earning a 200% bonus) with a maximum bonus of \$2,500,000; the actual earned percentages applied to base salary for determination of the award were linear for actual EBITDA results between the graduated scale. These performance targets were exceeded and resulted in the maximum payment allowed under the plan for 2008. Although Mr. Karp was entitled to receive his full bonus in the amount of \$2,500,000, he declined to accept the payment of his full bonus and instead accepted a bonus equal to \$1,750,000.

*Annual Incentive Plan and Bonus Awards.* At the beginning of 2008, our Compensation Committee adopted our 2008 Annual Incentive Plan. We designed our 2008 Annual Incentive Plan to award cash bonuses for achievement of certain corporate goals. We calculate the awards by multiplying the employee's actual base salary paid during the year, by the employee's incentive grade level factor, which in turn, is multiplied by a consolidated company and/or operating unit performance factor each of which was set by our Compensation Committee at the beginning of

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the fiscal year. For 2008, the incentive grade level factors for all salaried employees ranged from 7.5% to 125% and were approved by our Compensation Committee based upon the recommendations of Mr. O'Hagan who based his recommendations on a subjective determination of each individual employee's past performance and responsibilities. The incentive grade level factor for the named executive officers was established at 125%. Based upon the recommendation of Mr. O'Hagan, the Compensation Committee established operating income of \$160 million subject to certain adjustments, as the consolidated company performance factor for the 2008 Annual Incentive Plan, which includes Messrs. Christopher and McKee, and established \$28 million subject to certain adjustments, as the Industrial Products Division performance factor, which includes Mr. Rourke. As such, the performance factors were set at 100% for achieving operating income of \$160 million for the

consolidated company and \$28 million for the Industrial Products Division. The company and operating unit performance factors are subject to increase by 2 percentage points for each 1 percentage point that actual performance exceeds the target (capped at 150%), and decreased by 3 percentage points for each 1 percentage point that actual performance is less than the target. For 2008, the payments under the plan to Messrs. Christopher and McKee were 73% (125% grade level factor times 58% performance factor), and for Mr. Rourke was 159% (125% grade level factor times 127% performance factor).

As an inducement for joining the company, Mr. Stoddard was paid a \$160,000 signing bonus, and Mr. Stoddard's guaranteed bonus for 2008 was set at 125% of his base wage earnings during 2008. In addition, both Mr. Christopher and Mr. McKee were awarded discretionary bonus payments by the Compensation Committee during 2008, which are reflected in the Summary Compensation Table below. These discretionary bonuses were awarded in recognition of these individuals' contributions to the Company in light of economic uncertainty and a downturn in financial markets during the 2008 fiscal year.

### *Long-Term Equity Incentive Program*

*Stock Option Awards Granted in 2008.* In determining which named executive officers will receive option awards and the size of these awards, our Compensation Committee makes reasoned subjective determinations based upon the prior performance of the named executive officers, the importance of retaining their services, and the potential for their performance to help us attain our long-term goals. There is no set formula for the granting of awards to individual named

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executive officers. During fiscal year 2008, the named executive officers received stock options to acquire an aggregate of 280,000 shares or 62% of the total options granted under the long-term equity incentive program in fiscal 2008.

*Timing of Option Grants.* Stock option awards to our named executive officers, other than our Chief Executive Officer, are typically granted annually by our Compensation Committee based on the recommendations of our Chief Executive Officer and Chairman of the Board. Stock option awards to our Chief Executive Officer are granted annually based on the recommendations of our Chairman of the Board.

### **Other Compensation**

The other compensation provided to our named executive officers is composed of the Company's matching contribution to the Mueller Industries, Inc. 401(k) Plan (except for Mr. Karp) and various perquisites. The perquisites we provided in fiscal 2008 were as follows: estate and tax planning, certain club memberships, and personal use of our company airplane and company boat.

Estate and tax planning is provided to certain named executive officers to complement our various compensation elements for the purpose of ensuring the named executive officers understand the complexity of the long-term equity incentives and are thereby able to maximize the value of such benefits. We provide certain club memberships in part to facilitate networking with and entertainment of our business clients. Because of the nature of such memberships, our named executive officers gain some personal benefits. We

maintain a company-owned airplane primarily to provide efficient transportation to certain employees and customers for business travel. From time to time, when our plane is not being used for business purposes, we allow certain named executive officers to use the plane for personal travel. We also maintain a company-owned boat. Our boat is primarily for the purpose of entertaining business clients, and, as of October 2008, is used exclusively for that purpose. From time to time in the past, when our boat was not being used for business reasons, we allowed our Chief Executive Officer to use our boat for personal reasons.

### **Post-Employment and Change-in-Control Compensation**

We believe that providing employment agreements at the top executive level is generally in line with market practice and allows us to be competitive and retain our top executives. We have entered into employment agreements with Messrs.

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Karp, O'Hagan, Christopher and McKee. The agreements provide that upon a resignation for "good reason" or termination without "cause" (as