UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

☒ **Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the fiscal year ended December 31, 2008

OR

☐ **Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the transition period from to

Commission File Number 1-183

Registrant, State of Incorporation, Address and Telephone Number

THE HERSHEY COMPANY

(a Delaware corporation)

100 Crystal A Drive
Hershey, Pennsylvania 17033
(717) 534-4200

I.R.S. Employer Identification Number 23-0691590

Securities registered pursuant to Section 12(b) of the Act:

Title of each class:	Name of each exchange on which registered:
Common Stock, one dollar par value	**New York Stock Exchange**

Securities registered pursuant to Section 12(g) of the Act: **Class B Common Stock, one dollar par value**
(Title of class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☒	Accelerated filer ☐
Non-accelerated filer ☐ (Do not check if a smaller reporting company)	Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter.

Common Stock, one dollar par value—$4,964,867,108 as of June 29, 2008.

Class B Common Stock, one dollar par value—$6,291,863 as of June 29, 2008. While the Class B Common Stock is not listed for public trading on any exchange or market system, shares of that class are convertible into shares of Common Stock at any time on a share-for-share basis. The market value indicated is calculated based on the closing price of the Common Stock on the New York Stock Exchange on June 29, 2008.

Indicate the number of shares outstanding of each of the registrant's classes of common stock as of the latest practicable date.

Common Stock, one dollar par value—166,282,332 shares, as of February 11, 2009.

Class B Common Stock, one dollar par value—60,710,908 shares, as of February 11, 2009.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Company's Proxy Statement for the Company's 2009 Annual Meeting of Stockholders are incorporated by reference into Part III of this report.

PART I

Item 1. *BUSINESS*

Company Overview

The Hershey Company was incorporated under the laws of the State of Delaware on October 24, 1927 as a successor to a business founded in 1894 by Milton S. Hershey. In this report, the terms "Company," "we," "us," or "our" mean The Hershey Company and its wholly-owned subsidiaries and entities in which it has a controlling financial interest, unless the context indicates otherwise.

We are the largest producer of quality chocolate in North America and a global leader in chocolate and sugar confectionery. Our principal product groups include chocolate and confectionery products; food and beverage enhancers, such as baking ingredients, toppings and beverages; and gum and mint refreshment products.

Reportable Segment

We operate as a single reportable segment in manufacturing, marketing, selling and distributing various package types of chocolate and confectionery products, food and beverage enhancers and gum and mint refreshment products under more than 80 brand names. Our five operating segments comprise geographic regions including the United States, Canada, Mexico, Brazil and other international locations, such as India, the Philippines, Korea, Japan, and China. We market confectionery products in approximately 50 countries worldwide.

For segment reporting purposes, we aggregate our operations in the Americas, which comprise the United States, Canada, Mexico and Brazil. We base this aggregation on similar economic characteristics, and similar products and services, production processes, types or classes of customers, distribution methods, and the similar nature of the regulatory environment in each location. We aggregate our other international operations with the Americas to form one reportable segment. When combined, our other international operations share most of the aggregation criteria and represent less than 10% of consolidated revenues, operating profits and assets.

Selling and Marketing Organization

Our selling and marketing organization is comprised of Hershey North America, Hershey International and the Global Marketing Group. This organization is designed to:

- Leverage our marketing and sales leadership in the United States and Canada;
- Focus on key strategic growth areas in global markets; and
- Build capabilities that capitalize on unique consumer and customer trends.

Hershey North America

Hershey North America has responsibility for continuing to build our chocolate and confectionery market position, while capitalizing on our scale in the U.S. and Canada. This organization leverages our ability to capitalize on the unique consumer and customer trends within each country. This includes developing and growing our business in our chocolate, sugar confectionery, refreshment, food and beverage enhancers, and food service product lines.

Hershey International

Hershey International markets confectionery products and food and beverage enhancers worldwide and has responsibility for pursuing profitable growth opportunities in key markets, primarily in Latin America and

Asia. This organization is responsible for international subsidiaries that manufacture, import, market, sell or distribute chocolate, confectionery and beverage products in Mexico, Brazil and India. Hershey International manufactures confectionery products for the markets in Asia, particularly in China, under a manufacturing agreement with Lotte Confectionery Co., Ltd.

A component of Hershey International, International Marketing and Innovation, manages our Hershey's Shanghai retail attraction in Shanghai, China.

Global Marketing Group

Our Global Marketing Group has responsibility for building global brands, developing transformational growth platforms, brand positioning, and portfolio and pricing strategy. This organization also develops market-specific insights, strategies and platform innovation for Hershey North America and Hershey International.

A component of the Global Marketing Group, The Hershey Experience, manages our internet and catalog sales and our retail operations within the United States that include Hershey's Chocolate World in Hershey, Pennsylvania, Hershey's Times Square in New York, New York and Hershey's Chicago in Chicago, Illinois.

Products

United States

The primary chocolate and confectionery products we sell in the United States include the following:

Under the *HERSHEY'S* brand franchise:

HERSHEY'S milk chocolate bar
HERSHEY'S milk chocolate bar with almonds
HERSHEY'S Extra Dark chocolates
HERSHEY'S MINIATURES chocolate candy
HERSHEY'S NUGGETS chocolates
HERSHEY'S STICKS chocolates
HERSHEY'S BLISS chocolates
HERSHEY'S COOKIES 'N' CRÈME candy bar
HERSHEY'S POT OF GOLD boxed chocolates
HERSHEY'S SUGAR FREE chocolate candy
HERSHEY'S HUGS candies

Under the *REESE'S* brand franchise:

REESE'S peanut butter cups
REESE'S PIECES candy
REESE'S BIG CUP peanut butter cups
REESE'S NUTRAGEOUS candy bar
REESE'S Clusters candy
REESE'S SUGAR FREE peanut butter cups
REESE'S crispy crunchy bar
REESE'S WHIPPS nougat bar
REESESTICKS wafer bars
FAST BREAK candy bar

Under the *KISSES* brand franchise:

HERSHEY'S KISSES brand milk chocolates
HERSHEY'S KISSES brand milk chocolates with almonds
HERSHEY'S KISSES brand milk chocolates with cherry cordial crème
HERSHEY'S KISSES brand milk chocolates filled with caramel
HERSHEY'S KISSABLES brand candies

Our other chocolate and confectionery products in the United States include the following:

5th *AVENUE* candy bar
ALMOND JOY candy bar
CADBURY chocolates
CARAMELLO candy bar
MILK DUDS candy
MOUNDS candy bar
MR. GOODBAR candy bar
PAYDAY peanut caramel bar
TAKE5 candy bar
TWIZZLERS candy
WHATCHAMACALLIT candy bar

GOOD & PLENTY candy
HEATH toffee bar
JOLLY RANCHER candy
JOLLY RANCHER sugar free hard candy
KIT KAT wafer bar
ROLO caramels in milk chocolate
SKOR toffee bar
SPECIAL DARK chocolate bar
SYMPHONY milk chocolate bar
SYMPHONY milk chocolate bar with almonds and toffee
WHOPPERS malted milk balls
YORK peppermint pattie
YORK sugar free peppermint pattie
ZAGNUT candy bar
ZERO candy bar

We also sell products in the United States under the following product lines:

Premium products

Our line of premium chocolate and confectionery offerings includes *CACAO RESERVE BY HERSHEY'S* chocolate bars and drinking cocoa mixes, and chocolate products under the *STARBUCKS*® brand. Artisan Confections Company, a wholly-owned subsidiary of The Hershey Company, markets *SCHARFFEN BERGER* high-cacao dark chocolate products, *JOSEPH SCHMIDT* handcrafted chocolate gifts and *DAGOBA* natural and organic chocolate products.

Snack products

Our snack products include *HERSHEY'S SNACKSTERS* snack mix; *HERSHEY'S, ALMOND JOY, REESE'S,* and *YORK* cookies; *HERSHEY'S* and *REESE'S* granola bars; and *MAUNA LOA* macadamia snack nuts and cookies in several varieties.

Refreshment products

Our line of refreshment products includes *ICE BREAKERS* mints and chewing gum, *BREATH SAVERS* mints, *BUBBLE YUM* bubble gum and *YORK* mints.

Food and beverage enhancers

Food and beverage enhancers include *HERSHEY'S BAKE SHOPPE, HERSHEY'S, REESE'S, HEATH,* and *SCHARFFEN BERGER* baking products. Our toppings and sundae syrups include *HEATH* and *HERSHEY'S*. We sell hot cocoa mix under the *HERSHEY'S, HERSHEY'S GOODNIGHT HUGS* and *HERSHEY'S GOODNIGHT KISSES* brand names.

Canada

Principal products we sell in Canada are *HERSHEY'S* milk chocolate bars and milk chocolate bars with almonds; *OH HENRY!* candy bars; *REESE PEANUT BUTTER CUPS* candy; *HERSHEY'S KISSES* candy bars; *KISSABLES* brand candies; *TWIZZLERS* candy; *GLOSETTE* chocolate-covered raisins, peanuts and almonds; *JOLLY RANCHER* candy; *WHOPPERS* malted milk balls; *SKOR* toffee bars; *EAT MORE* candy bars; *POT OF GOLD* boxed chocolates; and *CHIPITS* chocolate chips.

Mexico

We manufacture, import, market, sell and distribute chocolate and confectionery products in Mexico, including *HERSHEY'S, KISSES, JOLLY RANCHER,* and *PELÓN PELO RICO* chocolate, confectionery and beverage items.

Brazil

We manufacture, import and market chocolate and confectionery products in Brazil, including *HERSHEY'S* chocolate and confectionery items and *IO-IO* items.

India

We manufacture, market, sell and distribute confectionery, beverage and cooking oil products in India, including *NUTRINE* and *GODREJ* confectionery and beverage products.

Customers

Full-time sales representatives and food brokers sell our products to our customers. Our customers are mainly wholesale distributors, chain grocery stores, mass merchandisers, chain drug stores, vending companies, wholesale clubs, convenience stores, dollar stores, concessionaires, department stores and natural food stores. Our customers then resell our products to end-consumers in over 2 million retail outlets in North America and other locations worldwide. In 2008, sales to McLane Company, Inc., one of the largest wholesale distributors in the United States to convenience stores, drug stores, wholesale clubs and mass merchandisers, amounted to approximately 26% of our total net sales. McLane Company, Inc. is the primary distributor of our products to Wal-Mart Stores, Inc.

Marketing Strategy and Seasonality

The foundation of our marketing strategy is our strong brand equities, product innovation, the consistently superior quality of our products, our manufacturing expertise and mass distribution capabilities. We also devote considerable resources to the identification, development, testing, manufacturing and marketing of new products. We have a variety of promotional programs for our customers as well as advertising and promotional programs for consumers of our products. We use our promotional programs to stimulate sales of certain products at various times throughout the year. Our sales are typically higher during the third and fourth quarters of the year, representing seasonal and holiday-related sales patterns.

Product Distribution

In conjunction with our sales and marketing efforts, our efficient product distribution network helps us maintain sales growth and provide superior customer service. We plan optimum stock levels and work with our customers to set reasonable delivery times. Our distribution network provides for the efficient shipment of our products from our manufacturing plants to distribution centers strategically located throughout the United States, Canada and Mexico. We primarily use common carriers to deliver our products from these distribution points to our customers.

Price Changes

We change prices and weights of our products when necessary to accommodate changes in manufacturing costs, the competitive environment and profit objectives, while at the same time maintaining consumer value. Price increases and weight changes help to offset increases in our input costs, including raw and packaging materials, fuel, utilities, transportation, and employee benefits.

In August 2008, we announced an increase in wholesale prices across the United States, Puerto Rico and export chocolate and sugar confectionery lines. This price increase was effective immediately, and represented a weighted average 11 percent increase on our instant consumable, multi-pack and packaged candy lines. These changes approximated a 10 percent increase over the entire domestic product line.

In January 2008, we announced an increase in the wholesale prices of our domestic confectionery line, effective immediately. This price increase applied to our standard bar, king-size bar, 6-pack and vending lines and represented a weighted average increase of approximately thirteen percent on these items. These price changes approximated a three percent increase over our entire domestic product line.

In April 2007, we announced an increase of approximately four percent to five percent in the wholesale prices of our domestic confectionery line, effective immediately. The price increase applied to our standard bar, king-size bar, 6-pack and vending lines. These products represent approximately one-third of our U.S. confectionery portfolio.

We announced a combination of price increases and weight changes on certain *JOLLY RANCHER* and *TWIZZLERS* candy and chocolate packaged candy items in November 2005. These changes went into effect in December 2005 and early 2006 and represented a weighted-average price increase of approximately one percent over the entire domestic product line when fully effective in the second quarter of 2006.

Usually there is a time lag between the effective date of list price increases and the impact of the price increases on net sales. The impact of price increases is often delayed because the Company honors previous commitments to planned consumer and customer promotions and merchandising events subsequent to the effective date of the price increases. In addition, promotional allowances may be increased subsequent to the effective date, delaying or partially offsetting the impact of price increases on net sales.

Raw Materials

Cocoa products are the most significant raw materials we use to produce our chocolate products. Cocoa products, including cocoa liquor, cocoa butter and cocoa powder processed from cocoa beans, are used to meet manufacturing requirements. Cocoa products are purchased directly from third party suppliers. These third party suppliers source cocoa beans which are grown principally in Far Eastern, West African and South American equatorial regions. West Africa accounts for approximately 70 percent of the world's supply of cocoa beans.

Historically, there have been instances of weather catastrophes, crop disease, civil disruptions, embargoes and other problems in cocoa-producing countries that have caused price fluctuations, but have never resulted in total loss of a particular producing country's cocoa crop and/or exports. In the event that such a disruption would occur in any given country, we believe cocoa from other producing countries and from current physical cocoa stocks in consuming countries would provide a significant supply buffer.

During 2008, cocoa futures contract prices increased sharply compared with 2007 and 2006, and traded in a range between $.86 and $1.50 per pound, based on the IntercontinentalExchange futures contract. Cocoa futures prices during 2008 were very volatile and traded at prices which were near 30-year highs by mid-year, primarily reflecting speculative commodity fund trading activity. During the fourth quarter of 2008, prices declined somewhat from the mid-year highs as a result of an anticipated decrease in demand associated with deteriorating economic conditions in addition to strengthening of the U.S. dollar in relation to other relevant foreign currencies. The annual average cocoa futures contract price increased 38% in 2008 compared with 2007. The table below shows annual average cocoa prices, and the highest and lowest monthly averages for each of the calendar years indicated. The prices are the monthly averages of the quotations at noon of the three active futures trading contracts closest to maturity on the IntercontinentalExchange.

	Cocoa Futures Contract Prices (dollars per pound)				
	2008	2007	2006	2005	2004
Annual Average	$1.19	$.86	$.70	$.68	$.69
High	1.50	.95	.75	.79	.77
Low	.86	.75	.67	.64	.62

Source: International Cocoa Organization Quarterly Bulletin of Cocoa Statistics

Our costs will not necessarily reflect market price fluctuations because of our forward purchasing and hedging practices, premiums and discounts reflective of varying delivery times, and supply and demand for our specific varieties and grades of cocoa liquor, cocoa butter and cocoa powder. As a result, the average futures contract prices are not necessarily indicative of our average costs.

The Food, Conservation and Energy Act of 2008, which is a five-year farm bill, impacts the prices of sugar, corn, peanuts and dairy products because it sets price support levels for these commodities.

During 2008, dairy prices came down from unprecedented highs set in 2007, starting the year at nearly $.20 per pound and dropping to $.15 per pound on a class II fluid milk basis. Prices have weakened in response to strong production of milk and dairy products, and slowing demand worldwide.

The price of sugar is subject to price supports under U.S. farm legislation. This legislation establishes import quotas and duties to support the price of sugar. As a result, sugar prices paid by users in the U.S. are currently substantially higher than prices on the world sugar market. In 2008, sugar supplies in the U.S. were negatively impacted by a catastrophic explosion at a sugar cane refinery in Georgia and by a smaller sugar beet crop. As a result, refined sugar prices increased from $.29 to $.45 per pound. Our costs for sugar will not necessarily reflect market price fluctuations primarily because of our forward purchasing and hedging practices.

Peanut prices in the U.S. began the year around $.63 per pound, but gradually increased during the year to $.76 per pound due to supply tightness driven by a below average crop during the previous year. Almond prices began the year at $2.25 per pound and declined to $1.90 per pound during the year driven by supply increases reflecting a record crop which produced 9% more volume than the prior year.

We attempt to minimize the effect of future price fluctuations related to the purchase of major raw materials and certain energy requirements primarily through forward purchasing to cover our future requirements, generally for periods from 3 to 24 months. We enter into futures contracts to manage price risks for cocoa products, sugar, corn sweeteners, natural gas, fuel oil and certain dairy products. However, the dairy markets are not as developed as many of the other commodities markets and, therefore, it is not possible to hedge our costs for dairy products by taking forward positions to extend coverage for longer periods of time. Currently, active futures contracts are not available for use in pricing our other major raw material requirements. For more information on price risks associated with our major raw material requirements, see Commodities—Price Risk Management and Futures Contracts on page 38.

Product Sourcing

We are the primary manufacturer of the products we sell. In addition, we contract with third party suppliers to source certain ingredients and finished goods. We enter into manufacturing contracts with third parties to improve our strategic competitive position and ensure the most cost effective sourcing of our products.

Competition

Many of our brands enjoy wide consumer acceptance and are among the leading brands sold in the marketplace. We sell our brands in a highly competitive market with many other multinational, national, regional and local firms. Some of our competitors are much larger firms that have greater resources and more substantial international operations.

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Trademarks, Service Marks and License Agreements

We own various registered and unregistered trademarks and service marks, and have rights under licenses to use various trademarks that are of material importance to our business.

We have license agreements with several companies to manufacture and/or sell certain products. Our rights under these agreements are extendible on a long-term basis at our option. Our most significant licensing agreements are as follows:

Company	Type	Brand	Location	Requirements
Cadbury Ireland Limited	License to manufacture and/or sell and distribute confectionery products	*YORK* *PETER PAUL ALMOND JOY* *PETER PAUL MOUNDS*	Worldwide	None
		CADBURY *CARAMELLO*	United States	Minimum sales requirement exceeded in 2008
Société des Produits Nestlé SA	License to manufacture and distribute confectionery products	*KIT KAT* *ROLO*	United States	Minimum unit volume sales exceeded in 2008
Huhtamäki Oy affiliate	Certain trademark licenses for confectionery products	*GOOD & PLENTY* *HEATH* *JOLLY RANCHER* *MILK DUDS* *PAYDAY* *WHOPPERS*	Worldwide	None

Various dairies throughout the United States produce and sell *HERSHEY'S* chocolate and strawberry flavored milks under license. We also grant trademark licenses to third parties to produce and sell baking and various other products primarily under the *HERSHEY'S* and *REESE'S* brand names.

Backlog of Orders

We manufacture primarily for stock and fill customer orders from finished goods inventories. While at any given time there may be some backlog of orders, this backlog is not material in respect to our total annual sales, nor are the changes from time to time significant.

Research and Development

We engage in a variety of research and development activities. We develop new products, improve the quality of existing products, improve and modernize production processes, and develop and implement new technologies to enhance the quality and value of both current and proposed product lines. Information concerning our research and development expense is contained in Note 1 of the Notes to the Consolidated Financial Statements (Item 8. Financial Statements and Supplementary Data).

Food Quality and Safety Regulation

The manufacture and sale of consumer food products is highly regulated. In the United States, our activities are subject to regulation by various government agencies, including the Food and Drug Administration, the Department of Agriculture, the Federal Trade Commission, the Department of Commerce and the Environmental Protection Agency, as well as various state and local agencies. Similar agencies also regulate our businesses outside of the United States.

Our Product Excellence Program provides us with an effective product quality and safety program. This program assures that all products purchased, manufactured and distributed by our Company are safe, of high quality and comply with all applicable laws and regulations.

Through our Product Excellence Program, we evaluate the supply chain including ingredients, packaging, processes, products, distribution and the environment to determine where product quality and safety controls are necessary. We identify risks and establish controls to assure product quality and safety. Various government agencies, third party firms and our quality assurance staff conduct audits of all facilities that manufacture our products to assure effectiveness and compliance with our program and all applicable laws and regulations.

Environmental Considerations

We made routine operating and capital expenditures during 2008 to comply with environmental laws and regulations. These expenditures were not material with respect to our results of operations, capital expenditures, earnings or competitive position.

Employees

As of December 31, 2008, we employed approximately 12,800 full-time and 1,600 part-time employees worldwide. Collective bargaining agreements covered approximately 5,400 employees for which agreements covering approximately 47% of these employees, primarily outside of the United States, will expire during 2009. We believe that our employee relations are good.

Financial Information by Geographic Area

Our principal operations and markets are located in the United States. The percentage of total consolidated net sales for our businesses outside of the United States was 14.4% for 2008, 13.8% for 2007 and 10.9% for 2006. The percentage of total consolidated assets outside of the United States as of December 31, 2008 was 16.0% and as of December 31, 2007 was 16.2%. Operating profit margins vary among individual products and product groups.

Corporate Social Responsibility

Our founder, Milton S. Hershey, established an enduring model of responsible citizenship while creating a successful business. Making a difference in our communities, driving sustainable business practices and operating with the highest integrity are vital parts of our heritage and shapes our future.

Milton Hershey School, established by Milton and Catherine Hershey, lies at the center of our unique heritage. Mr. Hershey donated and bequeathed almost his entire fortune to the Milton Hershey School, which remains our primary beneficiary and provides a world-class education and nurturing home to nearly 2,000 children in need annually.

In addition, we have developed a Corporate Social Responsibility (“CSR”) program, with a focus on current and past employee involvement, to advance this legacy. Key elements of this program include:

- *Integrity in Business*
- *Investing in our Communities*

- *Commitment to Youth*
- *Environmental Stewardship*
- *CSR through our Supply Chain*
- *Supporting our Employees*

Building on this foundation, we play an active role in improving the communities where we work, live and do business around the world through our efforts in community relations, supply chain sustainability and environmental stewardship.

Our employees and retirees share their time and resources generously in their communities. Both directly and through the United Way, we contribute to hundreds of agencies that deliver much needed services and resources. Our focus on "Kids and Kids at Risk" is supported through the Children's Miracle Network, Family Health International and a children's burn center in Guadalajara, Mexico, to name a few of the organizations we support.

We're a leader in working to improve the lives of cocoa farming families through our active engagement and financial support for the World Cocoa Foundation, the International Cocoa Initiative, Farmer Field Schools, the Sustainable Tree Crops program and other key initiatives.

We practice environmental stewardship by reducing our natural resource use, waste and greenhouse gas emissions, improving the environmental sustainability of our packaging and supporting environmentally sound cocoa farming and environmental organizations.

Through our business, we educate and engage employees and customers about these efforts to maximize their returns for society as well as financial stakeholders.

More information is provided under *Making a Difference* on our website, *www.hersheys.com*.

Available Information

We are subject to the reporting requirements of the Securities Exchange Act of 1934, as amended. We file or furnish annual, quarterly and current reports, proxy statements and other information with the United States Securities and Exchange Commission ("SEC"). You may obtain a copy of any of these reports, free of charge, from the Investor Relations section of our website, *www.hersheys.com* shortly after we file or furnish the information to the SEC.

You may obtain a copy of any of these reports directly from the SEC. Contact the SEC via e-mail at *PublicInfo@sec.gov*, via fax at 202-772-9295 or by submitting a written request to U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, 100 F Street N.E., Washington, D.C. 20549-0213. These documents are also available electronically from the SEC internet website at *www.sec.gov*. You can obtain additional information on how to request public documents from the SEC on their website. The phone number for information about the operation of the SEC Office of Investor Education and Advocacy is 202-551-8090.

Our Company has a Code of Ethical Business Conduct that applies to our Board of Directors, all company officers and employees, including, without limitation, our Chief Executive Officer and "senior financial officers" (including the Chief Financial Officer, Chief Accounting Officer and persons performing similar functions). You can obtain a copy of our Code of Ethical Business Conduct from the Investor Relations section of our website, *www.hersheys.com*. If we change or waive any portion of the Code of Ethical Business Conduct that applies to any of our directors, executive officers or senior financial officers, we will post that information on our website within four business days. In the case of a waiver, such information will include the name of the person to whom the waiver applied, along with the date and type of waiver.

We also post our Corporate Governance Guidelines and Charters for each of the Board's standing committees in the Investor Relations section of our website, *www.hersheys.com*. The Board of Directors adopted each of these guidelines and charters. If you are a beneficial owner of Common Stock or Class B Common Stock ("Class B Stock"), we will provide you with a free copy of the Code of Ethical Business Conduct, the Corporate Governance Guidelines or the Charter of any standing committee of the Board of Directors, upon request. We will also give any stockholder a copy of one or more of the Exhibits listed in Part IV of this report, upon request. We charge a small copying fee for these exhibits to cover our costs. To request a copy of any of these documents, you can contact us at—The Hershey Company, Attn: Investor Relations Department, 100 Crystal A Drive, Hershey, Pennsylvania 17033-0810.

Item 1A. *RISK FACTORS*

We are subject to changing economic, competitive, regulatory and technological risks and uncertainties because of the nature of our operations. In connection with the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995, we note the following factors that, among others, could cause future results to differ materially from the forward-looking statements, expectations and assumptions expressed or implied in this report. Many of the forward-looking statements contained in this document may be identified by the use of words such as "intend," "believe," "expect," "anticipate," "should," "planned," "projected," "estimated" and "potential," among others. Among the factors that could cause our actual results to differ materially from the results projected in our forward-looking statements are the risk factors described below.

Issues or concerns related to the quality and safety of our products, ingredients or packaging could cause a product recall and/or result in harm to the Company's reputation, negatively impacting our operating results.

In order to sell our iconic, branded products, we need to maintain a good reputation with our customers and consumers. Issues related to quality and safety of our products, ingredients or packaging, could jeopardize our Company's image and reputation. Negative publicity related to these types of concerns, or related to product contamination or product tampering, whether valid or not, might negatively impact demand for our products, or cause production and delivery disruptions. We may need to recall products if any of our products become unfit for consumption. In addition, we could potentially be subject to litigation or government actions, which could result in payments of fines or damages. Costs associated with these potential actions could negatively affect our operating results.

Increases in raw material and energy costs could affect future financial results.

We use many different commodities for our business, including cocoa products, sugar, dairy products, peanuts, almonds, corn sweeteners, natural gas and fuel oil.

Commodities are subject to price volatility and changes in supply caused by numerous factors, including:

- Commodity market fluctuations;
- Currency exchange rates;
- Imbalances between supply and demand;
- The effect of weather on crop yield;
- Speculative influences;
- Trade agreements among producing and consuming nations;
- Political unrest in producing countries; and
- Changes in governmental agricultural programs and energy policies.

Although we use forward contracts and commodity futures and options contracts, where possible, to hedge commodity prices, commodity price increases ultimately result in corresponding increases in our raw material

and energy costs. If we are unable to offset cost increases for major raw materials and energy, there could be a negative impact on our results of operations and financial condition.

Price increases may not be sufficient to offset cost increases and maintain profitability.

We may be able to pass some or all raw material, energy and other input cost increases to customers by increasing the selling prices of our products or decreasing the size of our products; however, higher product prices or decreased product sizes may also result in a reduction in sales volume. If we are not able to increase our selling prices or reduce product sizes sufficiently to offset increased raw material, energy or other input costs, including packaging, direct labor, overhead and employee benefits, or if our sales volume decreases significantly, there could be a negative impact on our results of operations and financial condition.

During 2008 we announced substantial increases in wholesale prices across our chocolate and sugar confectionery product lines to partially offset significant increases in our input costs. Since we are honoring previously committed promotions and merchandising events, price increases will not be fully effective until the second half of 2009. If our sales volume decreases significantly or if we need to substantially increase promotional spending as a result of these price increases, there could be a negative impact on our revenue, profitability and cash flows.

Market demand for new and existing products could decline.

We operate in highly competitive markets and rely on continued demand for our products. To generate revenues and profits, we must sell products that appeal to our customers and to consumers. Continued success is dependent on product innovation, including maintaining a strong pipeline of new products, effective retail execution, appropriate advertising campaigns and marketing programs, and the ability to secure adequate shelf space at retail locations. In addition, success depends on our response to consumer trends, consumer health concerns, including obesity and the consumption of certain ingredients, and changes in product category consumption and consumer demographics.

Our largest customer, McLane Company, Inc., accounted for approximately 26% of our total net sales in 2008 reflecting the continuing consolidation of our customer base. In this environment, there continue to be competitive product and pricing pressures, as well as challenges in maintaining profit margins. We must maintain mutually beneficial relationships with our key customers, including retailers and distributors, to compete effectively. McLane Company, Inc. is one of the largest wholesale distributors in the United States to convenience stores, drug stores, wholesale clubs and mass merchandisers, including Wal-Mart Stores, Inc.

Increased marketplace competition could hurt our business.

The global confectionery packaged goods industry is intensely competitive, as is the broader snack market. Some of our competitors are much larger firms that have greater resources and more substantial international operations. In order to protect our existing market share or capture increased market share in this highly competitive retail environment, we may be required to increase expenditures for promotions and advertising, and continue to introduce and establish new products. Due to inherent risks in the marketplace associated with advertising and new product introductions, including uncertainties about trade and consumer acceptance, increased expenditures may not prove successful in maintaining or enhancing our market share and could result in lower sales and profits. In addition, we may incur increased credit and other business risks because we operate in a highly competitive retail environment.

Changes in governmental laws and regulations could increase our costs and liabilities or impact demand for our products.

Changes in laws and regulations and the manner in which they are interpreted or applied may alter our business environment. This could affect our results of operations or increase our liabilities. These negative

impacts could result from changes in food and drug laws, laws related to advertising and marketing practices, accounting standards, taxation requirements, competition laws, employment laws and environmental laws, among others. It is possible that we could become subject to additional liabilities in the future resulting from changes in laws and regulations that could result in an adverse effect on our results of operations and financial condition.

Political, economic, and/or financial market conditions in the United States and abroad could negatively impact our financial results.

Our operations are impacted by consumer spending levels and impulse purchases which are affected by general macroeconomic conditions, consumer confidence, employment levels, availability of consumer credit and interest rates on that credit, consumer debt levels, energy costs and other factors. Continued volatility in food and energy costs, a sustained global recession, rising unemployment, and continued declines in personal spending could adversely impact the Company's revenues, profitability and financial condition.

Domestic and international financial institutions have reported significant losses as a result of asset write-offs. In addition, short and long-term debt investors have become increasingly cautious in providing financing to companies. As a result of these two events, our Company, our customers and our suppliers could face difficulty in securing debt financing. While governments around the world are enacting measures to support financial institutions and the credit markets, there are no guarantees that these efforts will ultimately succeed. If they do not, increased volatility and disruption in the global capital and credit markets could continue. This could result in reduced liquidity for our Company, our customers and our suppliers. If current credit market conditions continue, the Company could experience an increase in bad debt expense or liquidity may be reduced and short-term financing costs could increase. These conditions could impair our ability to access credit markets on commercially acceptable terms, resulting in higher interest expense, or reduced cash flows.

International operations could fluctuate unexpectedly and adversely impact our business.

In 2008, we derived approximately 14.4% of our net sales from customers located outside the United States. Some of our assets are also located outside of the United States. As part of our global growth strategy, we are increasing our investments outside of the United States, particularly in India and China. As a result, we are subject to numerous risks and uncertainties relating to international sales and operations, including:

- Unforeseen global economic and environmental changes resulting in business interruption, supply constraints, inflation, deflation or decreased demand;
- Difficulties and costs associated with complying with, and enforcing remedies under a wide variety of complex laws, treaties and regulations;
- Different regulatory structures and unexpected changes in regulatory environments;
- Political and economic instability, including the possibility of civil unrest;
- Nationalization of our properties by foreign governments;
- Tax rates that may exceed those in the United States and earnings that may be subject to withholding requirements and incremental taxes upon repatriation;
- Potentially negative consequences from changes in tax laws;
- The imposition of tariffs, quotas, trade barriers, other trade protection measures and import or export licensing requirements;
- Increased costs, disruptions in shipping or reduced availability of freight transportation;
- The impact of currency exchange rate fluctuations between the U.S. dollar and foreign currencies; and
- Failure to gain sufficient profitable scale in certain international markets resulting in losses from impairment or sale of assets.

Future developments related to the investigation by government regulators of alleged pricing practices by members of the confectionery industry could impact our reputation, the regulatory environment under which we operate, and our operating results.

Government regulators are investigating alleged pricing practices by members of the confectionery industry in certain jurisdictions. We are cooperating fully with all relevant authorities. These allegations could have a negative impact on our Company's reputation. We also may be required to incur defense costs in litigation or government action and/or be subject to fines or damages. In addition, our costs could increase if we became subject to new or additional government-mandated regulatory controls. These possible actions could negatively impact our future operating results.

Pension costs or funding requirements could increase at a higher than anticipated rate.

Changes in interest rates or in the market value of plan assets could affect the funded status of our pension plans. This could cause volatility in our benefits costs and increase future funding requirements of our pension plans. Additionally, we could incur pension settlement losses if a significant number of employees who have retired or have left the company decide to withdraw substantial lump sums from their pension accounts. Pension settlement losses of approximately $15.3 million and $11.8 million were incurred during 2008 and 2007, respectively, and we anticipate additional settlement costs in 2009. As of December 31, 2008, our pension benefits obligations exceeded the fair value of our pension plan assets by $40.8 million. A significant increase in pension expense or in future funding requirements could have a negative impact on our results of operations, financial condition and cash flows. For more information, refer to page 42.

Annual savings from initiatives to transform our supply chain and advance our value-enhancing strategy may be less than we expect.

In February 2007, we announced a comprehensive global supply chain transformation program which includes a phased three-year plan to enhance our manufacturing, sourcing and customer service capabilities. We expect ongoing annual savings from this program and previous initiatives to generate significant savings to invest in our growth initiatives and to advance our value-enhancing strategy. If ongoing annual savings do not meet our expectations, we may not obtain the anticipated future benefits.

Implementation of our global supply chain transformation program may not occur within the anticipated timeframe and/or may exceed our cost estimates.

Completion of the global supply chain transformation program is subject to multiple operating and executional risks, including coordination of manufacturing changes, production line startups, cross-border legal, regulatory and political issues, and foreign currency exchange risks, among others. If we are not able to complete the program initiatives within the anticipated timeframe and within our cost estimates, our results of operations and financial condition could be negatively impacted. We estimate that the global supply chain transformation program will incur pre-tax charges and non-recurring project implementation costs at the upper end of a $575 million to $600 million range over the three-year implementation period, excluding possible increases in pension settlement charges as discussed on pages 49 and 50.

Item 1B. ***UNRESOLVED STAFF COMMENTS***

None.

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Item 2. ***PROPERTIES***

Our principal properties include the following:

Country	Location	Type	Status (Own/ Lease)
United States	Hershey, Pennsylvania (3 principal plants)	Manufacturing—confectionery products and food and beverage enhancers	Own
	Lancaster, Pennsylvania	Manufacturing—confectionery products	Own
	Robinson, Illinois	Manufacturing—confectionery and snack products, and food and beverage enhancers	Own
	Stuarts Draft, Virginia	Manufacturing—confectionery products and food and beverage enhancers	Own
	Edwardsville, Illinois	Distribution	Own
	Palmyra, Pennsylvania	Distribution	Own
	Redlands, California	Distribution	Lease*
Canada	Smiths Falls, Ontario	Manufacturing—confectionery products and food and beverage enhancers	Own**
	Mississauga, Ontario	Distribution	Lease
Mexico	Monterrey, Mexico	Manufacturing—confectionery products	Own

* We sold the Redlands, California facility in March 2008 as part of our global supply chain transformation program and entered into a leasing arrangement for a period of fifteen months, terminating on June 30, 2009.

** The Smiths Falls, Ontario manufacturing facility ceased production in December 2008 and is being held for sale.

In addition to the locations indicated above, we are constructing a distribution facility in Ogden, Utah which will begin operations in 2009. We also own or lease several other properties and buildings worldwide which we use for manufacturing and for sales, distribution and administrative functions. Our facilities are well maintained. These facilities generally have adequate capacity and can accommodate seasonal demands, changing product mixes and certain additional growth. The largest facilities are located in Hershey and Lancaster, Pennsylvania and in Stuarts Draft, Virginia. Many additions and improvements have been made to these facilities over the years and they include equipment of the latest type and technology.

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Item 3. *LEGAL PROCEEDINGS*

In connection with its pricing practices, the Company is the subject of an antitrust investigation by the Canadian Competition Bureau. In addition, the U.S. Department of Justice notified the Company that it opened an inquiry but has not requested any information or documents. The European Commission had requested information and informed the Company that it had closed its file. The Company is also party to approximately 92 related civil antitrust suits in the United States and nine in Canada. Certain of these claims contain class action allegations, instituted on behalf of direct purchasers of our products as well as indirect purchasers that purchase our products for use or for resale. These suits allege conspiracies in restraint of trade in connection with the pricing practices of the Company. Several other chocolate confectionery companies are the subject of investigations and/or inquiries by the government entities referenced above and have also been named as defendants in the same litigation. One Canadian wholesaler is also a subject of the Canadian investigation and is a defendant in certain of the lawsuits. While it is not feasible to predict the final outcome of these proceedings, in our opinion they should not have a material adverse effect on the financial position, liquidity or results of operations of the Company. The Company is cooperating with the government investigations and inquiries and intends to defend the lawsuits vigorously.

We have no other material pending legal proceedings, other than ordinary routine litigation incidental to our business.

Item 4. *SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS*

Not applicable.

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PART II

Item 5. ***MARKET FOR THE REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES***

We paid $262.9 million in cash dividends on our Common Stock and Class B Stock in 2008 and $252.3 million in 2007. The annual dividend rate on our Common Stock in 2008 was $1.19 per share.

On February 17, 2009, our Board of Directors declared a quarterly dividend of $.2975 per share of Common Stock payable on March 13, 2009, to stockholders of record as of February 25, 2009. It is the Company's 317th consecutive Common Stock dividend. A quarterly dividend of $.2678 per share of Class B Stock also was declared.

Our Common Stock is listed and traded principally on the New York Stock Exchange ("NYSE") under the ticker symbol "HSY." Approximately 458.6 million shares of our Common Stock were traded during 2008. The Class B Stock is not publicly traded.

The closing price of our Common Stock on December 31, 2008 was $34.74. There were 40,549 stockholders of record of our Common Stock and our Class B Stock as of December 31, 2008.

The following table shows the dividends paid per share of Common Stock and Class B Stock and the price range of the Common Stock for each quarter of the past two years:

	Dividends Paid Per Share		Common Stock Price Range*	
	Common Stock	Class B Stock	High	Low
2008				
1st Quarter	**$ .2975**	**$ .2678**	**$39.45**	**$33.54**
2nd Quarter	**.2975**	**.2678**	**40.75**	**32.47**
3rd Quarter	**.2975**	**.2678**	**44.32**	**32.31**
4th Quarter	**.2975**	**.2678**	**40.55**	**32.10**
Total	**$1.1900**	**$1.0712**		

	Dividends Paid Per Share		Common Stock Price Range*	
	Common Stock	Class B Stock	High	Low
2007				
1st Quarter	$ .2700	$ .2425	$56.37	$49.70
2nd Quarter	.2700	.2425	56.75	49.81
3rd Quarter	.2975	.2678	51.29	44.03
4th Quarter	.2975	.2678	47.41	38.21
Total	$1.1350	$1.0206		

* NYSE-Composite Quotations for Common Stock by calendar quarter.

Unregistered Sales of Equity Securities and Use of Proceeds

None.

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Issuer Purchases of Equity Securities

Purchases of equity securities during the fourth quarter of the fiscal year ended December 31, 2008:

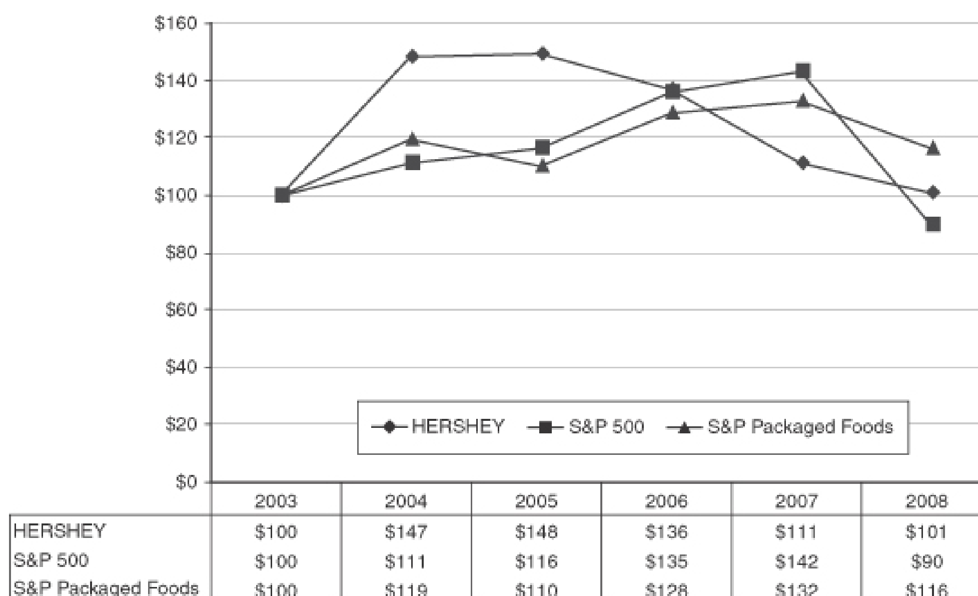
Period	(a) Total Number of Shares Purchased	(b) Average Price Paid per Share	(c) Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	(d) Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs[(1)] (in thousands of dollars)
September 29 through October 26, 2008	80,000	$ 35.98	—	$ 100,017
October 27 through November 23, 2008	60,000	$ 35.48	—	$ 100,017
November 24 through December 31, 2008	—	$ —	—	$ 100,017
Total	140,000	$ 35.76	—	

(1) In December 2006, our Board of Directors approved a $250 million share repurchase program.

Performance Graph

The following graph compares our cumulative total stockholder return (Common Stock price appreciation plus dividends, on a reinvested basis) over the last five fiscal years with the Standard & Poor's 500 Index and the Standard & Poor's Packaged Foods Index.

Comparison of Five Year Cumulative Total Return*
The Hershey Company, S&P 500 Index and
S&P Packaged Foods Index



*Hypothetical $100 invested on December 31, 2003 in Hershey Common Stock, S&P 500 Index and S&P Packaged Foods Index, assuming reinvestment of dividends.

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Item 6. *SELECTED FINANCIAL DATA*

SIX-YEAR CONSOLIDATED FINANCIAL SUMMARY
All dollar and share amounts in thousands except market price and per share statistics

	5-Year Compound Growth Rate	2008	2007	2006	2005	2004	2003
Summary of Operations							
Net Sales	4.3%	**$ 5,132,768**	4,946,716	4,944,230	4,819,827	4,416,389	4,162,987
Cost of Sales	5.9%	**$ 3,375,050**	3,315,147	3,076,718	2,956,682	2,672,716	2,539,469
Selling, Marketing and Administrative	5.0%	**$ 1,073,019**	895,874	860,378	912,986	867,104	841,105
Business Realignment and Impairment Charges, Net		**$ 94,801**	276,868	14,576	96,537	—	23,357
Gain on Sale of Business(a)		**$ —**	—	—	—	—	8,330
Interest Expense, Net	9.0%	**$ 97,876**	118,585	116,056	87,985	66,533	63,529
Provision for Income Taxes	(6.8)%	**$ 180,617**	126,088	317,441	277,090	235,399	257,268
Income before Cumulative Effect of Accounting Change	(7.0)%	**$ 311,405**	214,154	559,061	488,547	574,637	446,589
Cumulative Effect of Accounting Change		**$ —**	—	—	—	—	7,368
Net Income	(6.6)%	**$ 311,405**	214,154	559,061	488,547	574,637	439,221
Net Income Per Share:							
—Basic—Class B Stock	(3.9)%	**$ 1.27**	.87	2.19	1.85	2.11	1.55
—Diluted—Class B Stock	(3.8)%	**$ 1.27**	.87	2.17	1.84	2.09	1.54
—Basic—Common Stock	(3.8)%	**$ 1.41**	.96	2.44	2.05	2.31	1.71
—Diluted—Common Stock	(3.9)%	**$ 1.36**	.93	2.34	1.97	2.24	1.66
Weighted-Average Shares Outstanding:							
—Basic—Common Stock		**166,709**	168,050	174,722	183,747	193,037	201,768
—Basic—Class B Stock		**60,777**	60,813	60,817	60,821	60,844	60,844
—Diluted		**228,697**	231,449	239,071	248,292	256,934	264,532
Dividends Paid on Common Stock	6.4%	**$ 197,839**	190,199	178,873	170,147	159,658	144,985
Per Share	10.5%	**$ 1.19**	1.135	1.03	.93	.835	.7226
Dividends Paid on Class B Stock	10.4%	**$ 65,110**	62,064	56,256	51,088	46,089	39,701
Per Share	10.4%	**$ 1.0712**	1.0206	.925	.84	.7576	.6526
Net Income as a Percent of Net Sales, GAAP Basis		**6.1%**	4.3%	11.3%	10.1%	13.0%	10.6%
Non-GAAP Income as a Percent of Net Sales(b)		**8.4%**	9.7%	11.5%	11.7%	11.6%	11.0%
Depreciation	7.4%	**$ 227,183**	292,658	181,038	200,132	171,229	158,933
Advertising	2.1%	**$ 161,133**	127,896	108,327	125,023	137,931	145,387
Payroll	2.0%	**$ 645,456**	645,083	645,480	647,825	614,037	585,419
Year-end Position and Statistics							
Capital Additions	3.7%	**$ 262,643**	189,698	183,496	181,069	181,728	218,650
Capitalized Software Additions	2.0%	**$ 20,336**	14,194	15,016	13,236	14,158	18,404
Total Assets	0.3%	**$ 3,634,719**	4,247,113	4,157,565	4,262,699	3,794,750	3,577,026
Short-term Debt and Current Portion of Long-term Debt	109.2%	**$ 501,504**	856,392	843,998	819,115	622,320	12,509
Long-term Portion of Debt	9.2%	**$ 1,505,954**	1,279,965	1,248,128	942,755	690,602	968,499
Stockholders' Equity	(24.9)%	**$ 318,199**	592,922	683,423	1,016,380	1,137,103	1,328,975
Full-time Employees		**12,800**	12,400	12,800	13,750	13,700	13,100
Return Measures							
Operating Return on Average Stockholders' Equity, GAAP Basis(c)		**68.4%**	33.6%	65.8%	45.4%	46.6%	32.0%
Non-GAAP Operating Return on Average Stockholders' Equity(c)		**94.5%**	75.5%	66.7%	52.2%	41.6%	33.2%
Operating Return on Average Invested Capital, GAAP Basis(c)		**19.0%**	12.4%	26.4%	23.6%	25.7%	18.3%
Non-GAAP Operating Return on Average Invested Capital(c)		**25.1%**	25.0%	26.8%	26.8%	23.2%	18.9%
Stockholders' Data							
Outstanding Shares of Common Stock and Class B Stock at Year-end		**227,035**	227,050	230,264	240,524	246,588	259,059
Market Price of Common Stock at Year-end	(2.0)%	**$ 34.74**	39.40	49.80	55.25	55.54	38.50
Range During Year		**$44.32–32.10**	56.75–38.21	57.65–48.20	67.37–52.49	56.75–37.28	39.33–30.35

(a) Includes the gain on the sale of gum brands in 2003.
(b) Non-GAAP Income as a Percent of Net Sales is calculated by dividing Non-GAAP Income excluding Items Affecting Comparability by Net Sales. A reconciliation of Net Income presented in accordance with U.S. generally accepted accounting principles ("GAAP") to Non-GAAP Income excluding items affecting comparability is provided on pages 19 and 20, along with the reasons why we believe that the use of Non-GAAP Income provides useful information to investors.
(c) The calculation method for these measures is described on page 48 under RETURN MEASURES. The Non-GAAP Operating Return measures are calculated using Non-GAAP Income excluding items affecting comparability. A reconciliation of Net Income presented in accordance with GAAP to Non-GAAP Income excluding items affecting comparability is provided on pages 19 and 20, along with the reasons why we believe the use of Non-GAAP Income provides useful information to investors.

Item 7. *MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS*

EXECUTIVE OVERVIEW

Our results for the year ended December 31, 2008 were in line with our expectations and reflect the progress we are making toward implementing our major strategic initiatives. Net sales grew at an annual rate of 3.8%. Marketplace performance improved in response to our continued investment in our core brands. We are investing to strengthen our position in the chocolate and confectionery markets in which we compete and build on our marketplace results.

The net sales increase was driven by favorable price realization, improved U.S. marketplace performance for our products, and sales gains from our international businesses, offset somewhat by reduced sales volume in the United States. Incremental sales from the full-year results of Godrej Hershey Ltd. also contributed to the net sales increase, as results for 2007 only included the seven months subsequent to the acquisition of the business. Net income and earnings per share-diluted increased substantially compared with 2007 due to lower costs resulting from our business realignment initiatives.

Non-GAAP Financial Measures—Items Affecting Comparability

Our "Management's Discussion and Analysis of Financial Condition and Results of Operations" section includes certain measures of financial performance that are not defined by U.S. generally accepted accounting principles ("GAAP"). For each of these non-GAAP financial measures, we are providing below (1) the most directly comparable GAAP measure; (2) a reconciliation of the differences between the non-GAAP measure and the most directly comparable GAAP measure; (3) an explanation of why our management believes these non-GAAP measures provide useful information to investors; and (4) additional purposes for which we use these non-GAAP measures.

We believe that the disclosure of these non-GAAP measures provides investors with a better comparison of our year-to-year operating results. We exclude the effects of certain items from Income before Interest and Income Taxes ("EBIT"), Net Income and Income per Share-Diluted-Common Stock ("EPS") when we evaluate key measures of our performance internally, and in assessing the impact of known trends and uncertainties on our business. We also believe that excluding the effects of these items provides a more balanced view of the underlying dynamics of our business.

Items affecting comparability include the impacts of charges or credits in 2008, 2007, 2006, 2005 and 2003 associated with our business realignment initiatives and a reduction of the income tax provision in 2004 resulting from adjustments to income tax contingency reserves.

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For the years ended December 31,	2008			2007		
In millions of dollars except per share amounts	EBIT	Net Income	EPS	EBIT	Net Income	EPS
Results in accordance with GAAP	**$ 589.9**	**$ 311.4**	**$ 1.36**	$ 458.8	$ 214.2	$ .93
Items affecting comparability:						
Business realignment charges included in cost of sales	**77.8**	**53.4**	**.23**	123.1	80.9	.35
Business realignment charges included in selling, marketing and administrative (“SM&A”)	**8.1**	**4.9**	**.02**	12.6	7.8	.03
Business realignment and impairment charges, net	**94.8**	**60.8**	**.27**	276.9	178.9	.77
Non-GAAP results excluding items affecting comparability	**$ 770.6**	**$ 430.5**	**$ 1.88**	$ 871.4	$ 481.8	$ 2.08

For the years ended December 31,	2006			2005		
In millions of dollars except per share amounts	EBIT	Net Income	EPS	EBIT	Net Income	EPS
Results in accordance with GAAP	$ 992.6	$559.1	$2.34	$853.6	$488.5	$1.97
Items affecting comparability:						
Business realignment (credits) charges included in cost of sales	(3.2)	(2.0)	(.01)	22.5	13.4	.05
Business realignment charges included in SM&A	.3	.2	—	—	—	—
Business realignment and impairment charges, net	14.5	9.3	.04	96.5	60.7	.25
Non-GAAP results excluding items affecting comparability	$1,004.2	$566.6	$2.37	$972.6	$562.6	$2.27

For the years ended December 31,	2004			2003		
In millions of dollars except per share amounts	EBIT	Net Income	EPS	EBIT	Net Income	EPS
Results in accordance with GAAP	$ 876.6	$ 574.6	$ 2.24	$ 767.4	$ 439.2	$ 1.66
Items affecting comparability:						
Business realignment charges included in cost of sales	—	—	—	2.1	1.3	—
Business realignment and impairment charges, net	—	—	—	23.4	14.2	.05
Gain on sale of business	—	—	—	(8.3)	(5.7)	(.02)
Tax provision adjustment	—	(61.1)	(.24)	—	—	—
Cumulative effect of accounting change	—	—	—	—	7.4	.03
Non-GAAP results excluding items affecting comparability	$ 876.6	$ 513.5	$ 2.00	$ 784.6	$ 456.4	$ 1.72

	Actual Results Excluding Items Affecting Comparability		
Key Annual Performance Measures	2008	2007	2006
Increase in Net Sales	**3.8%**	0.1%	2.6%
(Decrease) increase in EBIT	**(11.6)%**	(13.2)%	3.2%
(Decline) improvement in EBIT Margin in basis points (“bps”)	**(260)bps**	(270)bps	10 bps
(Decrease) increase in EPS	**(9.6)%**	(12.2)%	4.4%

SUMMARY OF OPERATING RESULTS

Analysis of Selected Items from Our Income Statement

For the years ended December 31, In millions of dollars except per share amounts	2008	2007	2006	Percent Change Increase (Decrease) 2008-2007	2007-2006
Net Sales	**$5,132.8**	$4,946.7	$4,944.2	3.8%	0.1%
Cost of Sales	**3,375.1**	3,315.1	3,076.7	1.8	7.7
Gross Profit	**1,757.7**	1,631.6	1,867.5	7.7	(12.6)
Gross Margin	***34.2%***	*33.0%*	*37.8%*		
SM&A Expense	**1,073.0**	895.9	860.3	19.8	4.1
SM&A Expense as a percent of sales	***20.9%***	*18.1%*	*17.4%*		
Business Realignment and Impairment Charges, Net	**94.8**	276.9	14.6	(65.8)	N/A
EBIT	**589.9**	458.8	992.6	28.6	(53.8)
EBIT Margin	***11.5%***	*9.3%*	*20.1%*		
Interest Expense, Net	**97.9**	118.6	116.1	(17.5)	2.2
Provision for Income Taxes	**180.6**	126.0	317.4	43.2	(60.3)
Effective Income Tax Rate	***36.7%***	*37.1%*	*36.2%*		
Net Income	**$ 311.4**	$ 214.2	$ 559.1	45.4	(61.7)
Net Income Per Share—Diluted	**$ 1.36**	$ .93	$ 2.34	46.2	(60.3)

Net Sales

2008 compared with 2007

The increase in net sales was attributable to favorable price realization from list price increases, substantially offset by sales volume decreases primarily in the United States. Increased sales in the United States were primarily attributable to our core brands, particularly *Hershey's* and *Reese's*, and incremental sales of new products, primarily *Hershey's Bliss*. Sales volume increases from our international businesses, particularly in India, China and the Philippines, also contributed to the sales increase, although were offset somewhat by the impact of unfavorable foreign currency exchange rates. Net sales for our Godrej Hershey Ltd. business increased $37.2 million, or 0.8%, in 2008 reflecting incremental sales for the full-year compared with results for 2007 which included only the seven months subsequent to the acquisition of the business.

2007 compared with 2006

Net sales for 2007 were essentially even with 2006. Sales increased for our international businesses, primarily exports to Asia and Latin America, as well as sales in Canada and Mexico. The acquisition of Godrej Hershey Ltd. increased net sales by $46.5 million, or 0.9%, in 2007. Favorable foreign currency exchange rates also had a positive impact on sales. These increases were substantially offset by lower sales volume for existing products in the U.S., reflecting increased competitive activity and reduced retail velocity. Decreased price realization from higher rates of promotional spending and higher allowances for slow-moving products at retail more than offset increases in list prices contributing to the sales decline in the U.S.

Key U.S. Marketplace Metrics

For the 52 weeks ended December 31,	2008	2007	2006
Consumer Takeaway Increase	**3.3%**	1.3%	4.0%
Market Share Decrease	**(0.2)**	(1.3)	(0.2)

Consumer takeaway is provided for channels of distribution accounting for approximately 80% of our U.S. confectionery retail business. These channels of distribution include food, drug, mass merchandisers, including Wal-Mart Stores, Inc., and convenience stores. The change in market share is provided for channels measured by syndicated data which include sales in the food, drug, convenience store and mass merchandiser classes of trade, excluding sales of Wal-Mart Stores, Inc.

Cost of Sales and Gross Margin

2008 compared with 2007

The cost of sales increase compared with 2007 was primarily associated with higher input and energy costs, and the full-year cost of sales for Godrej Hershey Ltd. which in 2007 included cost of sales for only the seven months subsequent to the acquisition of the business. These cost increases were offset partially by favorable supply chain productivity. Lower business realignment charges included in cost of sales in 2008 compared with 2007 also partially offset the cost of sales increases. Business realignment charges of $77.8 million were included in cost of sales in 2008, compared with $123.1 million in the prior year.

Gross margin increased primarily as a result of lower business realignment charges recorded in 2008 compared with 2007. Favorable price realization and improved supply chain productivity also contributed to the increase, but were offset substantially by higher input and energy costs.

2007 compared with 2006

Business realignment charges of $123.1 million were included in cost of sales in 2007, compared with a credit of $3.2 million included in cost of sales in 2006. The remainder of the cost of sales increase was primarily associated with significantly higher input costs, particularly for dairy products and certain other raw materials, and the Godrej Hershey Ltd. business acquired in May 2007, offset somewhat by favorable supply chain productivity.

The gross margin decline was primarily attributable to the impact of business realignment initiatives recorded in 2007 compared with 2006, resulting in a reduction of 2.6 percentage points. The rest of the decline reflected substantially higher costs for raw materials, offset somewhat by improved supply chain productivity. Also contributing to the decrease was lower net price realization due to higher promotional costs.

Selling, Marketing and Administrative

2008 compared with 2007

Selling, marketing and administrative expenses increased primarily as a result of higher costs associated with employee-related expenses, including higher incentive compensation expense, increased levels of retail coverage primarily in the United States and expansion of our international businesses. Higher advertising, marketing research and merchandising expenses also contributed to the increase. Expenses of $8.1 million related to our 2007 business realignment initiatives were included in selling, marketing and administrative expenses in 2008 compared with $12.6 million in 2007.

2007 compared with 2006

Selling, marketing and administrative expenses increased primarily as a result of higher administrative and advertising expenses, partially offset by lower consumer promotional expenses. Project implementation costs related to our 2007 business realignment initiatives contributed $12.6 million to the increase. Higher administrative costs were principally associated with employee-related expenses from the expansion of our international businesses, including the impact of the acquisition of Godrej Hershey Ltd.

Business Realignment Initiatives and Impairment Charges

In February 2007, we announced a comprehensive, three-year supply chain transformation program (the "global supply chain transformation program") and, in December 2007, we recorded impairment and business realignment charges associated with our business in Brazil (together, "the 2007 business realignment initiatives").

When completed, the global supply chain transformation program will greatly enhance our manufacturing, sourcing and customer service capabilities, reduce inventories resulting in improvements in working capital and generate significant resources to invest in our growth initiatives. These initiatives include accelerated marketplace momentum within our core U.S. business, creation of innovative new product platforms to meet customer needs and disciplined global expansion. Under the program, which will be implemented in stages over three years, we will significantly increase manufacturing capacity utilization by reducing the number of production lines by more than one-third, outsource production of low value-added items and construct a flexible, cost-effective production facility in Monterrey, Mexico to meet current and emerging marketplace needs. The program will result in a total net reduction of 1,500 positions across our supply chain over the three-year implementation period.

The original estimated pre-tax cost of the program announced in February 2007 was from $525 million to $575 million over three years. The total included from $475 million to $525 million in business realignment costs and approximately $50 million in project implementation costs. Total costs of $130.0 million were recorded in 2008 and $400.0 million were recorded in 2007 for this program. Excluding possible pension settlement charges in 2009 and 2010, we now expect total charges for the global supply chain transformation program to be at the upper end of the $575 million to $600 million range, reflecting our latest estimates for the cost of the original program and an expansion in scope of the program approved in December 2008. The expansion in the scope of the program will include approximately $25.0 million associated with the closure of two subscale manufacturing facilities of Artisan Confections Company, a wholly-owned subsidiary, and consolidation of the associated production into existing U.S. facilities, along with costs associated with the rationalization of other select portfolio items. The affected facilities are located in Berkeley and San Francisco, California. These additional business realignment charges will be recorded in 2009 and include severance for approximately 150 impacted employees. For more information, see Outlook for Global Supply Chain Transformation Program on page 49.

In 2001, we acquired a small business in Brazil, Hershey do Brasil, that through 2007 had not gained profitable scale or adequate market distribution. In an effort to improve the performance of this business, in January 2008 Hershey do Brasil entered into a cooperative agreement with Pandurata Alimentos LTDA ("Bauducco"), a leading manufacturer of baked goods in Brazil whose primary brand is Bauducco. In the fourth quarter of 2007, we recorded a goodwill impairment charge and approved a business realignment program associated with initiatives to improve distribution and enhance the financial performance of our business in Brazil. Business realignment and impairment charges of $4.9 million were recorded in 2008 and $12.6 million were recorded in 2007.

In July 2005, we announced initiatives intended to advance our value-enhancing strategy (the "2005 business realignment initiatives"). The 2005 business realignment initiatives consisted primarily of U.S. and Canadian Voluntary Workforce Reduction Programs and the closure of the Las Piedras, Puerto Rico plant. Charges (credits) for the 2005 business realignment initiatives were recorded during 2005 and 2006 and the 2005 business realignment initiatives were completed by December 31, 2006.

Charges (credits) associated with business realignment initiatives and impairment recorded during 2008, 2007 and 2006 were as follows:

For the years ended December 31, In thousands of dollars	2008	2007	2006
Cost of sales			
2007 business realignment initiatives:			
Global supply chain transformation program	**$ 77,767**	$123,090	$ —
2005 business realignment initiatives	**—**	—	(1,599)
Previous business realignment initiatives	**—**	—	(1,600)
Total cost of sales	**77,767**	123,090	(3,199)
Selling, marketing and administrative			
2007 business realignment initiatives:			
Global supply chain transformation program	**8,102**	12,623	—
2005 business realignment initiatives	**—**	—	266
Total selling, marketing and administrative	**8,102**	12,623	266
Business realignment and impairment charges, net			
2008 impairment of trademarks	**45,739**	—	—
2007 business realignment initiatives:			
Global supply chain transformation program:			
Net (gain on sale)/impairment of fixed assets	**(4,882)**	47,938	—
Plant closure expense	**23,415**	13,506	—
Employee separation costs	**11,469**	176,463	—
Pension settlement loss	**12,501**	12,075	—
Contract termination costs	**1,637**	14,316	—
Brazilian business realignment:			
Goodwill impairment	**—**	12,260	—
Employee separation costs	**1,581**	310	—
Fixed asset impairment charges	**754**	—	—
Contract termination and other exit costs	**2,587**	—	—
2005 business realignment initiatives:			
U.S. voluntary workforce reduction program	**—**	—	9,972
U.S. facility rationalization	**—**	—	1,567
Streamline international operations (primarily Canada)	**—**	—	2,524
Previous business realignment initiatives	**—**	—	513
Total business realignment and impairment charges, net	**94,801**	276,868	14,576
Total net charges associated with business realignment initiatives and impairment	**$180,670**	$412,581	$11,643

Global Supply Chain Transformation Program

The 2008 charge of $77.8 million recorded in cost of sales for the global supply chain transformation program related primarily to the accelerated depreciation of fixed assets over a reduced estimated remaining useful life and start-up costs associated with the global supply chain transformation program. The $8.1 million recorded in selling, marketing and administrative expenses related primarily to project administration for the global supply chain transformation program. In determining the costs related to fixed asset impairments, fair value was estimated based on the expected sales proceeds. The $4.9 million of gains on sale of fixed assets resulted from the receipt of proceeds in excess of the carrying value primarily from the sale of a warehousing and distribution facility. The $23.4 million of plant closure expenses for 2008 related primarily to the preparation of plants for sale and production line removal costs.

Certain real estate with a carrying value of $15.8 million was being held for sale as of December 31, 2008. The global supply chain transformation program employee separation costs were related to involuntary terminations at the North American manufacturing facilities which are being closed. The global supply chain transformation program had identified six manufacturing facilities which would be closed. As of December 31, 2008, the facilities located in Dartmouth, Nova Scotia; Montreal, Quebec; and Oakdale, California have been closed and sold. The facilities located in Naugatuck, Connecticut and Smiths Falls, Ontario have been closed and are being held for sale. The facility in Reading, Pennsylvania is being held and used pending closure, following which it will be offered for sale.

The 2007 charge of $123.1 million recorded in cost of sales for the global supply chain transformation program related primarily to the accelerated depreciation of fixed assets over a reduced estimated remaining useful life and costs related to inventory reductions. The $12.6 million recorded in selling, marketing and administrative expenses related primarily to project management and administration. In determining the costs related to fixed asset impairments, fair value was estimated based on the expected sales proceeds. Certain real estate with a carrying value of $40.2 million was being held for sale as of December 31, 2007. Employee separation costs included $79.0 million primarily for involuntary terminations at the six North American manufacturing facilities which are being closed. The employee separation costs also included $97.5 million for charges relating to pension and other post-retirement benefits curtailments and special termination benefits.

2008 Impairment of Trademarks

As a result of our annual impairment tests of intangible assets with useful lives determined to be indefinite, we recorded total impairment charges of $45.7 million in the fourth quarter of 2008. Certain trademarks, primarily the *Mauna Loa* brand, were determined to be impaired as a result of a decrease in the fair value of the brands resulting from reduced expectations for future sales and cash flows compared with the valuations of these trademarks at the acquisition dates. For more information, refer to pages 46 and 47.

Brazilian Business Realignment

The 2008 Brazilian business realignment charges and the 2007 employee separation costs were related to involuntary terminations and costs associated with office consolidation related to the cooperative agreement with Bauducco. During the fourth quarter of 2007, we completed our annual impairment evaluation of goodwill and other intangible assets. As a result of reduced expectations for future cash flows resulting primarily from lower expected profitability, we determined that the carrying amount of our wholly-owned subsidiary, Hershey do Brasil, exceeded its fair value and recorded a non-cash impairment charge of $12.3 million in December 2007. There was no tax benefit associated with this charge.

2005 Business Realignment Initiatives

The 2006 charges (credits) recorded in cost of sales relating to the 2005 business realignment initiatives included a credit of $1.6 million resulting from higher than expected proceeds from the sale of equipment from the Las Piedras plant. The charge recorded in selling, marketing and administrative expenses in 2006 resulted from accelerated depreciation relating to the termination of an office building lease. The net business realignment charges included $7.3 million for involuntary terminations in 2006.

The 2006 charges (credits) relating to previous business realignment initiatives which began in 2003 and 2001 resulted from the finalization of the sale of certain properties, adjustments to liabilities which had previously been recorded, and the impact of the settlement of litigation in connection with the 2003 business realignment initiatives.

Liabilities Associated with Business Realignment Initiatives

The liability balance as of December 31, 2008 relating to the 2007 business realignment initiatives was $31.0 million for employee separation costs to be paid primarily in 2009. The liability balance as of

December 31, 2007 was $68.4 million, primarily related to employee separation costs. Charges for employee separation and contract termination costs of $12.9 million were recorded in 2008. During 2008 and 2007, we made payments against the liabilities recorded for the 2007 business realignment initiatives of $46.9 million and $13.2 million, respectively, principally related to employee separation and project administration. The liability balance as of December 31, 2008 was reduced by $3.4 million as a result of foreign currency translation adjustments.

Income Before Interest and Income Taxes and EBIT Margin

2008 compared with 2007

EBIT increased in 2008 compared with 2007 as a result of lower net business realignment charges. Net pre-tax business realignment charges of $180.7 million were recorded in 2008 compared with $412.6 million in 2007. The increase in EBIT resulting from lower business realignment charges and an increase in gross profit was substantially offset by higher selling, marketing and administrative expenses.

EBIT margin increased from 9.3% in 2007 to 11.5% in 2008. Net business realignment and impairment charges reduced EBIT margin by 3.5 percentage points in 2008 and 8.3 percentage points in 2007, resulting in an improvement in EBIT margin of 4.8 percentage points from 2007 to 2008. This impact was substantially offset by higher selling, marketing and administrative expense as a percentage of sales.

2007 compared with 2006

EBIT decreased in 2007 compared with 2006, principally as a result of higher net business realignment and impairment charges recorded in 2007. Net pre-tax business realignment and impairment charges of $412.6 million were recorded in 2007 compared with $11.6 million recorded in 2006, an increase of $400.9 million. The remainder of the decrease in EBIT was attributable to lower gross profit resulting primarily from higher input costs and higher selling, marketing and administrative expenses.

EBIT margin declined from 20.1% in 2006 to 9.3% in 2007. Net business realignment and impairment charges reduced EBIT margin by 8.3 percentage points in 2007. Net business realignment charges reduced EBIT margin by 0.2 percentage points in 2006. The remainder of the decrease primarily resulted from the lower gross margin, in addition to higher selling, marketing and administrative expense as a percentage of sales.

Interest Expense, Net

2008 compared with 2007

Net interest expense was lower in 2008 than in 2007 primarily due to lower interest rates and reduced borrowings as compared to the prior year.

2007 compared with 2006

Net interest expense was higher in 2007 than in 2006 primarily reflecting increased borrowings partially offset by lower interest rates.

Income Taxes and Effective Tax Rate

2008 compared with 2007

Our effective income tax rate was 36.7% in 2008, and was increased by 0.7 percentage points as a result of the effective tax rate associated with business realignment charges recorded during the year.

2007 compared with 2006

Our effective income tax rate was 37.1% for 2007 and 36.2% for 2006. The impact of tax rates associated with business realignment and impairment charges increased the effective income tax rate for 2007 by 1.1 percentage points.

Net Income and Net Income Per Share

2008 compared with 2007

As a result of net charges associated with our business realignment initiatives, net income in 2008 was reduced by $119.1 million or $0.52 per share-diluted. After considering the impact of business realignment charges in each period, earnings per share-diluted in 2008 decreased $0.20 as compared with 2007.

2007 compared with 2006

Net income in 2007 was reduced by $267.7 million, or $1.15 per share-diluted, and in 2006 was reduced by $7.6 million, or $0.03 per share-diluted, as a result of net business realignment and impairment charges. Excluding the impact of these charges, earnings per share-diluted in 2007 decreased by $0.29 as compared with 2006 as a result of lower EBIT, offset somewhat by reduced interest expense and the impact of lower weighted-average shares outstanding in 2007.

FINANCIAL CONDITION

Our financial condition remained strong during 2008. Solid cash flow from operations and our liquidity, leverage and capital structure contributed to our continued investment grade credit rating by recognized rating agencies. The financial market turmoil and credit crisis, to date, have not had a material affect on our business operations or liquidity.

Acquisitions and Divestitures

In January 2008, our Brazilian subsidiary, Hershey do Brasil, entered into a cooperative agreement with Bauducco. In the fourth quarter of 2007, we recorded a goodwill impairment charge and approved a business realignment program associated with initiatives to improve distribution and enhance performance of our business in Brazil. In the first quarter of 2008, we received approximately $2.0 million in cash and recorded an other intangible asset of $13.7 million associated with the cooperative agreement with Bauducco in exchange for our conveying to Bauducco a 49% interest in Hershey do Brasil. We will maintain a 51% controlling interest in Hershey do Brasil.

In May 2007, we entered into an agreement with Godrej Beverages and Foods, Ltd., one of India’s largest consumer goods, confectionery and food companies, to manufacture and distribute confectionery products, snacks and beverages across India. Under the agreement, we invested $61.5 million during 2007 and own a 51% controlling interest in Godrej Hershey Ltd. Total liabilities assumed were $51.6 million. Effective in May 2007, this business acquisition was included in our consolidated results, including the related minority interest.

Also in May 2007, our Company and Lotte Confectionery Co., LTD., entered into a manufacturing agreement in China that will produce Hershey products and certain Lotte products for the markets in Asia, particularly in China. We invested $39.0 million in 2007 and own a 44% interest. We are accounting for this investment using the equity method.

In October 2006, our wholly-owned subsidiary, Artisan Confections Company, purchased the assets of Dagoba Organic Chocolates, LLC based in Ashland, Oregon, for $17.0 million. Dagoba is known for its high-quality organic chocolate bars, drinking chocolates and baking products that are primarily sold in natural food and gourmet stores across the United States.

Results subsequent to the dates of acquisition were included in the consolidated financial statements. Had the results of the acquisitions been included in the consolidated financial statements for each of the periods presented, the effect would not have been material.

Assets

A summary of our assets is as follows:

December 31, In thousands of dollars	2008	2007
Current assets	**$ 1,344,945**	$ 1,426,574
Property, plant and equipment, net	**1,458,949**	1,539,715
Goodwill and other intangibles	**665,449**	740,575
Deferred income taxes	**13,815**	—
Other assets	**151,561**	540,249
Total assets	**$ 3,634,719**	$ 4,247,113

- The change in current assets from 2007 to 2008 was primarily due to the following:
  - Lower cash and cash equivalents in 2008 primarily as a result of decisions to reduce short-term borrowings;
  - A decrease in accounts receivable primarily resulting from the timing of sales and cash collections in November and December 2008 as compared with November and December 2007, along with a decrease in extended dated receivables associated with sales of seasonal items and new products;
  - An increase in prepaid expenses and other current assets primarily reflecting assets associated with certain commodity and treasury hedging transactions.
- Property, plant and equipment was lower in 2008 primarily due to depreciation expense of $227.2 million and asset retirements. Accelerated depreciation of fixed assets at facilities which are being closed as well as certain asset retirements resulted primarily from the global supply chain transformation program.
- Goodwill and other intangibles decreased as a result of total impairment charges of $45.7 million associated with certain trademarks and the effect of currency translation adjustments, offset partially by the $13.7 million intangible asset associated with the cooperative agreement with Bauducco.
- The decrease in other assets was primarily associated with the change in the funded status of our pension plans in 2008, resulting from a significant reduction in the fair value of pension plan assets.

Liabilities

A summary of our liabilities is as follows:

December 31, In thousands of dollars	2008	2007
Current liabilities	**$ 1,270,212**	$ 1,618,770
Long-term debt	**1,505,954**	1,279,965
Other long-term liabilities	**504,963**	544,016
Deferred income taxes	**3,646**	180,842
Total liabilities	**$ 3,284,775**	$ 3,623,593

- Changes in current liabilities from 2007 to 2008 were primarily the result of the following:
  - Higher accounts payable reflecting the effect of working capital improvement initiatives and higher costs of goods and services;
  - Lower accrued liabilities primarily associated with the 2007 business realignment initiatives and certain executive retirement benefit payments in 2008, partially offset by higher expected incentive compensation payments in 2009;
  - A decrease in short-term debt reflecting repayments of commercial paper borrowings using the proceeds of the $250 million of Notes issued in March 2008 as well as cash provided from operations.
- The increase in long-term debt in 2008 primarily resulted from the issuance of $250 million of Notes in March 2008, discussed further in the Liquidity and Capital Resources section.
- The decrease in other long-term liabilities primarily reflects the impact of favorable claims experience and a higher discount rate used in determining the liability for our post-retirement benefit plans.
- The decrease in deferred income tax liabilities was principally associated with the change in the funded status of our pension plans in 2008 and the tax effect of impairment charges related to certain trademarks.

Capital Structure

We have two classes of stock outstanding, Common Stock and Class B Stock. Holders of the Common Stock and the Class B Stock generally vote together without regard to class on matters submitted to stockholders, including the election of directors. Holders of the Common Stock have one vote per share. Holders of the Class B Stock have ten votes per share. Holders of the Common Stock, voting separately as a class, are entitled to elect one-sixth of our Board of Directors. With respect to dividend rights, holders of the Common Stock are entitled to cash dividends 10% higher than those declared and paid on the Class B Stock.

Hershey Trust Company, as trustee for the benefit of Milton Hershey School (the "Milton Hershey School Trust" or the "Trust") maintains voting control over The Hershey Company. Historically, the Milton Hershey School Trust had not taken an active role in setting our policy, nor had it exercised influence with regard to the ongoing business decisions of our Board of Directors or management. However, in October 2007, the Chairman of the Board of the Milton Hershey School Trust issued a statement indicating that the Trust continues to be guided by two key principles: first, that, in its role as controlling stockholder of the Company, it intends to retain its controlling interest in The Hershey Company and, second, that the long-term prosperity of the Company requires the Board of Directors of the Company and its management to build on its strong U.S. position by aggressively pursuing strategies for domestic and international growth. He further stated that the Milton Hershey School Trust had communicated to the Company's Board that the Trust was not satisfied with the Company's results and that, as a result, the Trust was "actively engaged in an ongoing process, the goal of which has been to ensure vigorous Company Board focus on resolving the Company's current business challenges and on implementing new growth strategies." In that release, the Trust board chairman reiterated the Trust's longstanding position that the Company Board, and not the Trust board, "is solely responsible and accountable for the Company's management and performance."

On November 11, 2007 we announced that all of the members of our Board of Directors had resigned except for Richard H. Lenny, who was at that time our Chairman of the Board and Chief Executive Officer, David J. West, who was at that time President of the Company and currently serves as our President and Chief Executive Officer, and Robert F. Cavanaugh, who is also a member of the board of directors of Hershey Trust Company and board of managers (governing body) of Milton Hershey School. In addition, we announced that the Milton Hershey School Trust through stockholder action effected by written consent had amended the By-laws of the Company to allow the Company's stockholders to fix the number of directors to serve on our Board of Directors and from time to time to increase or decrease such number of directors, expanded the size of our Board of Directors from 11 directors to 13 directors, and appointed eight new directors, including two who are also members of the board of directors of Hershey Trust Company and board of managers of Milton Hershey School.

The Milton Hershey School Trust decided to explore a sale of The Hershey Company in June 2002, but subsequently decided to terminate the sale process in September 2002. After terminating the sale process, the Trustee of the Milton Hershey School Trust advised the Pennsylvania Office of Attorney General in September 2002 that it would not agree to any sale of its controlling interest in The Hershey Company without approval of the court having jurisdiction over the Milton Hershey School Trust following advance notice to the Office of Attorney General. Subsequently, Pennsylvania enacted legislation that requires that the Office of Attorney General be provided advance notice of any transaction that would result in the Milton Hershey School Trust no longer having voting control of the Company. The law provides specific statutory authority for the Attorney General to intercede and petition the Court having jurisdiction over the Milton Hershey School Trust to stop such a transaction if the Attorney General can prove that the transaction is unnecessary for the future economic viability of the Company and is inconsistent with investment and management considerations under fiduciary obligations. This legislation could have the effect of making it more difficult for a third party to acquire a majority of our outstanding voting stock and thereby delay or prevent a change in control of the Company.

In December 2000, our Board of Directors unanimously adopted a Stockholder Protection Rights Agreement ("Rights Agreement"). The Milton Hershey School Trust supported the Rights Agreement. This

action was not in response to any specific effort to acquire control of The Hershey Company. Under the Rights Agreement, our Board of Directors declared a dividend of one right ("Right") for each outstanding share of Common Stock and Class B Stock payable to stockholders of record at the close of business on December 26, 2000. The Rights will at no time have voting power or receive dividends. The issuance of the Rights has no dilutive effect, will not affect reported earnings per share, is not taxable and will not change the manner in which our Common Stock is traded. We discuss the Rights Agreement in more detail in Note 15 to the Consolidated Financial Statements.

LIQUIDITY AND CAPITAL RESOURCES

Our principal source of liquidity is operating cash flows. Our net income and, consequently, our cash provided from operations are impacted by: sales volume, seasonal sales patterns, timing of new product introductions, profit margins and price changes. Sales are typically higher during the third and fourth quarters of the year due to seasonal and holiday-related sales patterns. Generally, working capital needs peak during the summer months. We meet these needs primarily by issuing commercial paper.

Global capital and credit markets, including the commercial paper markets, have recently experienced increased volatility and disruption. Despite this volatility and disruption, we have continued to have full access to the tier 1 commercial paper market. We believe that our operating cash flow, together with our unsecured committed revolving credit facility, lines of credit and other available debt financing, will be adequate to meet current operating, investing and financing needs, although there can be no assurance that continued or increased volatility and disruption in the global capital and credit markets will not impair our ability to access these markets on commercially acceptable terms.

Cash Flows from Operating Activities

Our cash flows provided from (used by) operating activities were as follows:

For the years ended December 31, In thousands of dollars	2008	2007	2006
Net income	**$ 311,405**	$ 214,154	$559,061
Depreciation and amortization	**249,491**	310,925	199,911
Stock-based compensation and excess tax benefits	**22,196**	9,526	16,323
Deferred income taxes	**(17,125)**	(124,276)	4,173
Business realignment and impairment charges, net of tax	**119,117**	267,653	7,573
Contributions to pension plans	**(32,759)**	(15,836)	(23,570)
Working capital	**65,791**	148,019	(40,553)
Changes in other assets and liabilities	**(198,555)**	(31,329)	275
Net cash provided from operating activities	**$ 519,561**	$ 778,836	$723,193

- Over the past three years, total cash provided from operating activities was approximately $2.0 billion.
- Depreciation and amortization expenses decreased in 2008 principally as the result of lower accelerated depreciation charges related to the 2007 business realignment initiatives compared with accelerated depreciation charges recorded in 2007. Accelerated depreciation recorded in 2008 was approximately $60.6 million compared with approximately $108.6 million recorded in 2007. Depreciation and amortization expenses represent non-cash items that impacted net income and are reflected in the consolidated statements of cash flows to reconcile cash flows from operating activities.
- Cash used by deferred income taxes in 2008 and 2007 versus cash provided by deferred income taxes in 2006, primarily reflected the deferred tax benefit related to the 2007 business realignment and impairment charges recorded during 2008 and 2007.

- We contributed $72.2 million to our pension plans over the past three years to improve the plans' funded status and to pay benefits under the non-funded plans. As of December 31, 2008, our pension benefit obligations exceeded the fair value of our pension plan assets by $40.8 million.
- Over the three-year period, cash provided from or used by working capital tended to fluctuate due to the timing of sales and cash collections during November and December of each year and working capital management practices, including initiatives implemented during 2007 and 2008 to reduce working capital.
- During the three-year period, cash used by or provided from changes in other assets and liabilities primarily reflected the impact of business realignment initiatives and the related tax effects, as well as the effect of hedging transactions.
- The decrease in income taxes paid in 2008 compared with 2007 primarily reflected the impact of lower taxable income for 2008.

Cash Flows from Investing Activities

Our cash flows provided from (used by) investing activities were as follows:

For the years ended December 31, In thousands of dollars	2008	2007	2006
Capital additions	**$ (262,643)**	$ (189,698)	$ (183,496)
Capitalized software additions	**(20,336)**	(14,194)	(15,016)
Proceeds from sales of property, plant and equipment	**82,815**	—	—
Business acquisitions	**—**	(100,461)	(17,000)
Proceeds from divestitures	**1,960**	—	—
Net cash used by investing activities	**$ (198,204)**	$ (304,353)	$ (215,512)

- Capital additions associated with our global supply chain transformation program were approximately $162.6 million. Other capital additions were primarily related to modernization of existing facilities and purchases of manufacturing equipment for new products.
- Capitalized software additions were primarily for ongoing enhancement of our information systems.
- In 2008, we received $82.8 million in proceeds from the sale of manufacturing and distribution facilities under the global supply chain transformation program.
- We anticipate total capital expenditures of approximately $175 million to $185 million in 2009 of which approximately $40 million to $50 million is associated with our global supply chain transformation program.
- In January 2008, our Brazilian subsidiary, Hershey do Brasil, entered into a cooperative agreement with Bauducco. We received approximately $2.0 million in cash associated with the cooperative agreement in exchange for a 49% interest in Hershey do Brasil.
- In May 2007, we entered into an agreement with Godrej Beverages and Foods, Ltd. to manufacture and distribute confectionery products, snacks and beverages across India. Under the agreement, we invested $61.5 million in this business during 2007.
- In May 2007, our Company and Lotte Confectionery Co. LTD. entered into a manufacturing agreement to produce Hershey products and certain Lotte products for markets in Asia, particularly in China. We invested $39.0 million in this business during 2007.
- In October 2006, our wholly-owned subsidiary, Artisan Confections Company, acquired the assets of Dagoba Organic Chocolates, LLC for $17.0 million.

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Cash Flows from Financing Activities

Our cash flows provided from (used by) financing activities were as follows:

For the years ended December 31, In thousands of dollars	2008	2007	2006
Net change in short-term borrowings	**$ (371,393)**	$ 195,055	$ (163,826)
Long-term borrowings	**247,845**	—	496,728
Repayment of long-term debt	**(4,977)**	(188,891)	(234)
Cash dividends paid	**(262,949)**	(252,263)	(235,129)
Exercise of stock options	**38,383**	59,958	46,386
Repurchase of Common Stock	**(60,361)**	(256,285)	(621,648)
Net cash used by financing activities	**$ (413,452)**	$ (442,426)	$ (477,723)

- We use short-term borrowings (commercial paper and bank borrowings) to fund seasonal working capital requirements and ongoing business needs. Additional information on short-term borrowings is included under Borrowing Arrangements below.
- In March 2008, we issued $250 million of 5.0% Notes due in 2013. The Notes were issued under a shelf registration statement on Form S-3 filed in May 2006 described under Registration Statements below.
- In March 2007, we repaid $150.0 million of 6.95% Notes due in 2007.
- In August 2006, we issued $250 million of 5.3% Notes due in 2011 and $250 million of 5.45% Notes due in 2016 under the shelf registration statement on Form S-3 filed in May 2006.
- We paid cash dividends of $197.8 million on our Common Stock and $65.1 million on our Class B Stock in 2008.
- Cash used for the repurchase of Common Stock was partially offset by cash received from the exercise of stock options.

Repurchases and Issuances of Common Stock

For the years ended December 31,	2008		2007		2006	
In thousands	Shares	Dollars	Shares	Dollars	Shares	Dollars
Shares repurchased under pre-approved share repurchase programs:						
Open market repurchases	**—**	**$ —**	2,916	$ 149,983	9,912	$ 524,387
Milton Hershey School Trust repurchases	**—**	**—**	—	—	689	38,482
Shares repurchased to replace Treasury Stock issued for stock options and employee benefits	**1,610**	**60,361**	2,046	106,302	1,096	58,779
Total share repurchases	**1,610**	**60,361**	4,962	256,285	11,697	621,648
Shares issued for stock options and employee benefits	**(1,595)**	**(51,992)**	(1,748)	(56,670)	(1,437)	(44,564)
Net change	**15**	**$ 8,369**	3,214	$ 199,615	10,260	$ 577,084

- We intend to continue to repurchase shares of Common Stock in order to replace Treasury Stock shares issued for exercised stock options. The value of shares purchased in a given period will vary based on stock options exercised over time and market conditions.
- During 2006, we completed share repurchase programs of $250 million approved in April 2005 and $500 million approved in December 2005. In December 2006, our Board of Directors approved an additional $250 million share repurchase program. As of December 31, 2008, $100.0 million remained available for repurchases of Common Stock under this program.

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Cumulative Share Repurchases and Issuances

A summary of cumulative share repurchases and issuances is as follows:

	Shares	Dollars
	In thousands	
Shares repurchased under authorized programs:		
Open market repurchases	57,436	$ 1,984,431
Repurchases from the Milton Hershey School Trust	11,918	245,550
Shares retired	(1,056)	(12,820)
Total repurchases under authorized programs	68,298	2,217,161
Privately negotiated purchases from the Milton Hershey School Trust	67,282	1,501,373
Shares reissued for stock option obligations, supplemental retirement contributions, and employee stock ownership trust obligations	(29,090)	(762,543)
Shares repurchased to replace reissued shares	26,377	1,053,940
Total held as Treasury Stock as of December 31, 2008	132,867	$ 4,009,931

Borrowing Arrangements

We maintain debt levels we consider prudent based on our cash flow, interest coverage ratio and percentage of debt to capital. We use debt financing to lower our overall cost of capital which increases our return on stockholders' equity.

- In December 2006, we entered into a five-year agreement establishing an unsecured committed revolving credit facility to borrow up to $1.1 billion, with an option to increase borrowings to $1.5 billion with the consent of the lenders. During the fourth quarter of 2007, the lenders approved an extension of this agreement by one year in accordance with our option under the agreement. The five-year agreement will now expire in December 2012. As of December 31, 2008, $1.1 billion was available to borrow under the agreement. The unsecured revolving credit agreement contains certain financial and other covenants, customary representations, warranties, and events of default. As of December 31, 2008, we complied with all of these covenants. We may use these funds for general corporate purposes, including commercial paper backstop and business acquisitions.
- In August 2007, we entered into an unsecured revolving short-term credit agreement to borrow up to an additional $300 million because we believed at the time that seasonal working capital needs, share repurchases and other business activities would cause our borrowings to exceed the $1.1 billion borrowing limit available under our five-year credit agreement. We used the funds borrowed under this new agreement for general corporate purposes, including commercial paper backstop. Although the new agreement was scheduled to expire in August 2008, we elected to terminate it in June 2008 because we determined that we no longer needed the additional borrowing capacity provided by the agreement.
- In March 2006, we entered into a short-term credit agreement establishing an unsecured revolving credit facility to borrow up to $400 million through September 2006. In September 2006, we entered into an agreement amending the short-term facility. The amended agreement reduced the credit limit from $400 million to $200 million and expired on December 1, 2006. We used the funds for general corporate purposes, including commercial paper backstop. We entered into this agreement because we expected borrowings to exceed the $900 million credit limit available under the revolving credit agreement in effect at that time.
- In addition to the revolving credit facility, we maintain lines of credit with domestic and international commercial banks. As of December 31, 2008, we could borrow up to approximately $67.1 million in various currencies under the lines of credit and as of December 31, 2007, we could borrow up to $57.0 million.

Registration Statements

- In May 2006, we filed a shelf registration statement on Form S-3 that registered an indeterminate amount of debt securities. This registration statement was effective immediately upon filing under Securities and Exchange Commission regulations governing “well-known seasoned issuers” (the “WKSI Registration Statement”).
- In August 2006, we issued $250 million of 5.3% Notes due September 1, 2011, and $250 million of 5.45% Notes due September 1, 2016. These Notes were issued under the WKSI Registration Statement.
- In March 2008, we issued $250 million of 5.0% Notes due April 1, 2013. The Notes were issued under the WKSI Registration Statement.
- Proceeds from the debt issuances and any other offerings under the WKSI Registration Statement may be used for general corporate requirements. These may include reducing existing borrowings, financing capital additions, funding contributions to our pension plans, future business acquisitions and working capital requirements.

OFF-BALANCE SHEET ARRANGEMENTS, CONTRACTUAL OBLIGATIONS AND CONTINGENT LIABILITIES AND COMMITMENTS

As of December 31, 2008, our contractual cash obligations by year were as follows:

	Payments Due by Year In thousands of dollars						
Contractual Obligations	**2009**	**2010**	**2011**	**2012**	**2013**	**Thereafter**	**Total**
Unconditional Purchase Obligations	$ 1,103,400	$ 492,400	$ 122,100	$ 84,900	$ —	$ —	$ 1,802,800
Non-cancelable Operating Leases	14,857	11,188	8,911	7,960	4,269	13,919	61,104
Long-term Debt	18,384	2,990	253,298	151,799	250,000	847,867	1,524,338
Total Obligations	$ 1,136,641	$ 506,578	$ 384,309	$ 244,659	$ 254,269	$ 861,786	$ 3,388,242

In entering into contractual obligations, we have assumed the risk that might arise from the possible inability of counterparties to meet the terms of their contracts. We mitigate this risk by performing financial assessments prior to contract execution, conducting periodic evaluations of counterparty performance and maintaining a diverse portfolio of qualified counterparties. Our risk is limited to replacing the contracts at prevailing market rates. We do not expect any significant losses resulting from counterparty defaults.

Purchase Obligations

We enter into certain obligations for the purchase of raw materials. These obligations were primarily in the form of forward contracts for the purchase of raw materials from third-party brokers and dealers. These contracts minimize the effect of future price fluctuations by fixing the price of part or all of these purchase obligations. Total obligations for each year presented above, consists of fixed price contracts for the purchase of commodities and unpriced contracts that were valued using market prices as of December 31, 2008.

The cost of commodities associated with the unpriced contracts is variable as market prices change over future periods. We mitigate the variability of these costs to the extent we have entered into commodities futures contracts to hedge our costs for those periods. Increases or decreases in market prices are offset by gains or losses on commodities futures contracts. This applies to the extent that we have hedged the unpriced contracts as of December 31, 2008 and in future periods by entering into commodities futures contracts. Taking delivery of and making payments for the specific commodities for use in the manufacture of finished goods satisfies our obligations under the forward purchase contracts. For each of the three years in the period ended December 31, 2008, we satisfied these obligations by taking delivery of and making payment for the specific commodities.

Asset Retirement Obligations

Our Company has a number of facilities that contain varying amounts of asbestos in certain locations within the facilities. Our asbestos management program is compliant with current applicable regulations. Current regulations require that we handle or dispose of this type of asbestos in a special manner if such facilities undergo major renovations or are demolished. We believe we do not have sufficient information to estimate the fair value of any asset retirement obligations related to these facilities. We cannot specify the settlement date or range of potential settlement dates and, therefore, sufficient information is not available to apply an expected present value technique. We expect to maintain the facilities with repairs and maintenance activities that would not involve or require the removal of asbestos.

As of December 31, 2008, certain real estate associated with the closure of facilities under the global supply chain transformation program is being held for sale. We are not aware of any significant obligations related to the environmental remediation of these facilities which has not been reflected in our current estimates.

Income Tax Obligations

We base our deferred income taxes, accrued income taxes and provision for income taxes upon income, statutory tax rates, the legal structure of our Company and interpretation of tax laws. We are regularly audited by Federal, state and foreign tax authorities. From time to time, these audits result in assessments of additional tax. We maintain reserves for such assessments. We adjust the reserves, from time to time, based upon changing facts and circumstances, such as receiving audit assessments or clearing of an item for which a reserve has been established. Assessments of additional tax require cash payments. We are not aware of any significant income tax assessments. The amount of tax obligations is not included in the table of contractual cash obligations by year on page 35 because we are unable to reasonably predict the ultimate amount or timing of settlement of our reserves for income taxes.

ACCOUNTING POLICIES AND MARKET RISKS ASSOCIATED WITH DERIVATIVE INSTRUMENTS

We use certain derivative instruments, from time to time, including interest rate swaps, foreign currency forward exchange contracts and options, and commodities futures and options contracts, to manage interest rate, foreign currency exchange rate and commodity market price risk exposures, respectively. We enter into interest rate swap agreements and foreign exchange forward contracts and options for periods consistent with related underlying exposures. These derivative instruments do not constitute positions independent of those exposures. We enter into commodities futures and options contracts for varying periods. These futures and options contracts are intended to be, and are effective as hedges of market price risks associated with anticipated raw material purchases, energy requirements and transportation costs. We do not hold or issue derivative instruments for trading purposes and are not a party to any instruments with leverage or prepayment features. In entering into these contracts, we have assumed the risk that might arise from the possible inability of counterparties to meet the terms of their contracts. We mitigate this risk by performing financial assessments prior to contract execution, conducting periodic evaluations of counterparty performance and maintaining a diverse portfolio of qualified counterparties. We do not expect any significant losses from counterparty defaults.

Accounting Under Statement of Financial Accounting Standards No. 133

We account for derivative instruments in accordance with Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities*, as amended (“SFAS No. 133”). SFAS No. 133 provides that we report the effective portion of the gain or loss on a derivative instrument designated and qualifying as a cash flow hedging instrument as a component of other comprehensive income. We reclassify the effective portion of the gain or loss on these derivative instruments into income in the same period or periods during which the hedged transaction affects earnings. The remaining gain or loss on the derivative instrument resulting from hedge ineffectiveness, if any, must be recognized currently in earnings.

Fair value hedges pertain to derivative instruments that qualify as a hedge of exposures to changes in the fair value of a firm commitment or assets and liabilities recognized on the balance sheet. For fair value hedges, we reflect the gain or loss on the derivative instrument in earnings in the period of change together with the offsetting loss or gain on the hedged item. The effect of that accounting is to reflect in earnings the extent to which the hedge is not effective in achieving offsetting changes in fair value.

As of December 31, 2008, we designated and accounted for all derivative instruments, including foreign exchange forward contracts and commodities futures contracts, as cash flow hedges. Additional information regarding accounting policies associated with derivative instruments is contained in Note 5 to the Consolidated Financial Statements, Derivative Instruments and Hedging Activities.

The information below summarizes our market risks associated with long-term debt and derivative instruments outstanding as of December 31, 2008. Note 1, Note 5 and Note 7 to the Consolidated Financial Statements provide additional information.

Long-Term Debt

The table below presents the principal cash flows and related interest rates by maturity date for long-term debt, including the current portion, as of December 31, 2008. We determined the fair value of long-term debt based upon quoted market prices for the same or similar debt issues.

	Maturity Date							
In thousands of dollars except for rates	2009	2010	2011	2012	2013	Thereafter	Total	Fair Value
Long-term Debt	$18,384	$2,990	$253,298	$151,799	$250,000	$847,867	$1,524,338	$1,594,973
Interest Rate	10.0%	8.5%	5.4%	7.0%	5.0%	6.2%	6.0%	

We calculated the interest rates on variable rate obligations using the rates in effect as of December 31, 2008.

Interest Rate Swaps

In order to minimize financing costs and to manage interest rate exposure, from time to time, we enter into interest rate swap agreements.

In December 2005, we entered into forward swap agreements to hedge interest rate exposure related to $500 million of term financing to be executed during 2006. In February 2006, we terminated a forward swap agreement hedging the anticipated execution of $250 million of term financing because the transaction was no longer expected to occur by the originally specified time period or within an additional two-month period of time thereafter. We recorded a gain of $1.0 million in the first quarter of 2006 as a result of the discontinuance of this cash flow hedge. In August 2006, a forward swap agreement hedging the anticipated issuance of $250 million of 10-year notes matured resulting in cash receipts of $3.7 million. The $3.7 million gain on the swap will be amortized as a reduction to interest expense over the term of the $250 million of 5.45% Notes due September 1, 2016.

As of December 31, 2008 and 2007 we were not a party to any interest rate swap agreements.

Foreign Exchange Forward Contracts

We enter into foreign exchange forward contracts to hedge transactions denominated in foreign currencies. These transactions are primarily purchase commitments or forecasted purchases of equipment, raw materials and finished goods. We also may hedge payment of forecasted intercompany transactions with our subsidiaries outside the United States. These contracts reduce currency risk from exchange rate movements. We generally hedge foreign currency price risks for periods from 3 to 24 months.

Foreign exchange forward contracts are effective as hedges of identifiable, foreign currency commitments. We designate our foreign exchange forward contracts as cash flow hedging derivatives. The fair value of these contracts is classified as either an asset or liability on the Consolidated Balance Sheets. We record gains and losses on these contracts as a component of other comprehensive income and reclassify them into earnings in the same period during which the hedged transaction affects earnings.

A summary of foreign exchange forward contracts and the corresponding amounts at contracted forward rates is as follows:

December 31,	2008		2007	
In millions of dollars	Contract Amount	Primary Currencies	Contract Amount	Primary Currencies
Foreign exchange forward contracts to purchase foreign currencies	**$0.8**	Euros Swiss francs Mexican pesos	$13.8	British pounds Australian dollars Euros
Foreign exchange forward contracts to sell foreign currencies	**$68.1**	Canadian dollars Australian dollars	$86.7	Canadian dollars Brazilian reais Mexican pesos

We define the fair value of foreign exchange forward contracts as the amount of the difference between the contracted and current market foreign currency exchange rates at the end of the period. We estimate the fair value of foreign exchange forward contracts on a quarterly basis by obtaining market quotes of spot and forward rates for contracts with similar terms, adjusted where necessary for maturity differences.

A summary of the fair value and market risk associated with foreign exchange forward contracts is as follows:

December 31, In millions of dollars	2008	2007
Fair value of foreign exchange forward contracts, net—asset (liability)	**$10.3**	$(2.1)
Potential net loss in fair value of foreign exchange forward contracts of ten percent resulting from a hypothetical near-term adverse change in market rates	**$ 1.0**	$ .2

Our risk related to foreign exchange forward contracts is limited to the cost of replacing the contracts at prevailing market rates.

Commodities—Price Risk Management and Futures Contracts

Our most significant raw material requirements include cocoa products, sugar, dairy products, peanuts and almonds. The cost of cocoa products and prices for related futures contracts historically have been subject to wide fluctuations attributable to a variety of factors. These factors include:

- the effect of weather on crop yield;
- imbalances between supply and demand;
- currency exchange rates;
- political unrest in producing countries; and
- speculative influences.

We use futures and options contracts in combination with forward purchasing of cocoa products, sugar, corn sweeteners, natural gas, fuel oil and certain dairy products primarily to provide favorable pricing opportunities and flexibility in sourcing our raw material and energy requirements. We attempt to minimize the effect of future price fluctuations related to the purchase of raw materials by using forward purchasing to cover future manufacturing requirements generally for 3 to 24 months. However, the dairy futures markets are not as developed as many of the other commodities markets and, therefore, there are limited opportunities to hedge our costs by taking forward positions to extend coverage beyond three to six months. We use fuel oil futures contracts to minimize price fluctuations associated with our transportation costs. Our commodity procurement practices are intended to reduce the risk of future price increases and provide visibility to future costs, but also may potentially limit our ability to benefit from possible price decreases.

During 2008, cocoa prices traded in a range between $.86 and $1.50 per pound, based on the prices of IntercontinentalExchange futures contracts. Cocoa futures traded at prices which were near 30-year highs by mid-year primarily reflecting speculative commodity fund trading activity. During the fourth quarter of 2008, a reduction in anticipated demand associated with deteriorating economic conditions in addition to strengthening of the U.S. dollar in relation to other relevant foreign currencies resulted in the significant liquidation of cocoa futures positions by speculative commodity funds. This resulted in a substantial decrease in cocoa futures market prices near the end of the year.

During 2008, dairy prices have come down from unprecedented highs set in 2007, starting the year at nearly $.20 per pound and dropping to $.15 per pound on a class II fluid milk basis. Prices have weakened in response to strong production of milk and dairy products and slowing demand worldwide.

We account for commodities futures contracts in accordance with SFAS No. 133. We make or receive cash transfers to or from commodity futures brokers on a daily basis reflecting changes in the value of futures contracts on the IntercontinentalExchange or various other exchanges. These changes in value represent unrealized gains and losses. We report these cash transfers as a component of other comprehensive income. The cash transfers offset higher or lower cash requirements for the payment of future invoice prices of raw materials, energy requirements and transportation costs. Futures held in excess of the amount required to fix the price of unpriced physical forward contracts are effective as hedges of anticipated purchases.

Sensitivity Analysis

The following sensitivity analysis reflects our market risk to a hypothetical adverse market price movement of ten percent, based on our net commodity positions at four dates spaced equally throughout the year. Our net commodity positions consist of the amount of futures contracts we hold over or under the amount of futures contracts we need to price unpriced physical forward contracts for the same commodities. Inventories, priced forward contracts and estimated anticipated purchases not yet under contract were not included in the sensitivity analysis calculations. We define a loss, for purposes of determining market risk, as the potential decrease in fair value or the opportunity cost resulting from the hypothetical adverse price movement. The fair values of net commodity positions reflect quoted market prices or estimated future prices, including estimated carrying costs corresponding with the future delivery period.

For the years ended December 31,	2008		2007	
In millions of dollars	Fair Value	Market Risk (Hypothetical 10% Change)	Fair Value	Market Risk (Hypothetical 10% Change)
Highest long position	**$(357.1)**	**$ 35.7**	$(112.5)	$ 11.3
Lowest long position	**(574.1)**	**57.4**	(460.9)	46.1
Average position (long)	**(440.6)**	**44.1**	(317.0)	31.7

The decrease in fair values from 2007 to 2008 primarily reflected a decrease in net commodity positions, which more than offset the impact of higher prices in 2008. The negative positions primarily resulted as unpriced physical forward contract futures requirements exceeded the amount of commodities futures that we held at certain points in time during the years.

Sensitivity analysis disclosures represent forward-looking statements which are subject to certain risks and uncertainties that could cause our actual results to differ materially from those presently anticipated or projected. Factors that could affect the sensitivity analysis disclosures include:

- significant increases or decreases in market prices reflecting fluctuations attributable to the effect of weather on crop yield;
- imbalances between supply and demand;
- currency exchange rates;
- political unrest in producing countries;
- speculative influences; and
- changes in our hedging strategies.

USE OF ESTIMATES AND OTHER CRITICAL ACCOUNTING POLICIES

Our consolidated financial statements are prepared in accordance with GAAP. In various instances, GAAP requires management to make estimates, judgments and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. We believe that our most critical accounting policies and estimates relate to the following:

- Accounts Receivable—Trade
- Accrued Liabilities
- Pension and Other Post-Retirement Benefits Plans
- Goodwill and Other Intangible Assets
- Commodities Futures Contracts

Management has discussed the development, selection and disclosure of critical accounting policies and estimates with the Audit Committee of our Board of Directors. While we base estimates and assumptions on our knowledge of current events and actions we may undertake in the future, actual results may ultimately differ from these estimates and assumptions. For a discussion of our significant accounting policies, refer to Note 1 of the Notes to Consolidated Financial Statements.

Accounts Receivable—Trade

In the normal course of business, we extend credit to customers that satisfy pre-defined credit criteria based upon the results of our recurring financial account reviews and our evaluation of the current and projected economic conditions. Our primary concentration of credit risk is associated with McLane Company, Inc., one of the largest wholesale distributors in the United States to convenience stores, drug stores, wholesale clubs and mass merchandisers. McLane Company, Inc. accounted for approximately 27.3% of our total accounts receivable as of December 31, 2008. As of December 31, 2008, no other customer accounted for more than 10% of our total accounts receivable. We believe that we have little concentration of credit risk associated with the remainder of our customer base.

Accounts Receivable—Trade, as shown on the Consolidated Balance Sheets, were net of allowances and anticipated discounts. An allowance for doubtful accounts is determined through analysis of the following:

- Aging of accounts receivable at the date of the financial statements;
- Assessments of collectibility based on historical trends; and
- Evaluation of the impact of current and projected economic conditions.

We monitor the collectibility of our accounts receivable on an ongoing basis by analyzing aged accounts receivable, assessing the credit worthiness of our customers and evaluating the impact of reasonably likely changes in economic conditions that may impact credit risks. Estimates with regard to the collectibility of accounts receivable are reasonably likely to change in the future.

Information on our Accounts Receivable—Trade, related expenses and assumptions is as follows:

For the three-year period In millions of dollars, except percents	2006-2008
Average expense for potential uncollectible accounts	$1.0
Average write-offs of uncollectible accounts	$1.1
Allowance for doubtful accounts as a percentage of gross accounts receivable	1% – 2%

- We recognize the provision for uncollectible accounts as selling, marketing and administrative expense in the Consolidated Statements of Income.
- If we made reasonably possible near-term changes in the most material assumptions regarding collectibility of accounts receivable, our annual provision could change within the following range:
  - A reduction in expense of approximately $4.5 million; and
  - An increase in expense of approximately $4.8 million.
- Changes in estimates for future uncollectible accounts receivable would not have a material impact on our liquidity or capital resources.

Accrued Liabilities

Accrued liabilities requiring the most difficult or subjective judgments include liabilities associated with marketing promotion programs and potentially unsaleable products.

Liabilities associated with marketing promotion programs

We recognize the costs of marketing promotion programs as a reduction to net sales along with a corresponding accrued liability based on estimates at the time of revenue recognition.

Information on our promotional costs and assumptions is as follows:

For the years ended December 31, In millions of dollars	2008	2007	2006
Promotional costs	**$766.6**	$702.1	$631.7

- We determine the amount of the accrued liability by:
  - Analysis of programs offered;
  - Historical trends;
  - Expectations regarding customer and consumer participation;
  - Sales and payment trends; and

    - Experience with payment patterns associated with similar, previously offered programs.
- The estimated costs of these programs are reasonably likely to change in the future due to changes in trends with regard to customer and consumer participation, particularly for new programs and for programs related to the introduction of new products.
- Reasonably possible near-term changes in the most material assumptions regarding the cost of promotional programs could result in changes within the following range:
    - A reduction in costs of approximately $14.5 million
    - An increase in costs of approximately $6.0 million
- Changes in these assumptions would affect net sales and income before income taxes.
- Over the three-year period ended December 31, 2008, actual promotion costs have not deviated from the estimated amounts by more than 4%.
- Changes in estimates related to the cost of promotional programs would not have a material impact on our liquidity or capital resources.

Liabilities associated with potentially unsaleable products

- At the time of sale, we estimate a cost for the possibility that products will become aged or unsaleable in the future. The estimated cost is included as a reduction to net sales.
- A related accrued liability is determined using statistical analysis that incorporates historical sales trends, seasonal timing and sales patterns, and product movement at retail.
- Estimates for costs associated with unsaleable products may change as a result of inventory levels in the distribution channel, current economic trends, changes in consumer demand, the introduction of new products and changes in trends of seasonal sales in response to promotional programs.
- Over the three-year period ended December 31, 2008, costs associated with aged or unsaleable products have amounted to approximately 2% of gross sales.
- Reasonably possible near-term changes in the most material assumptions regarding the estimates of such costs would have increased or decreased net sales and income before income taxes in a range from $.9 million to $1.8 million.
- Over the three-year period ended December 31, 2008, actual costs have not deviated from our estimates by more than approximately 1%.
- Reasonably possible near-term changes in the estimates of costs associated with unsaleable products would not have a material impact on our liquidity or capital resources.

Pension and Other Post-Retirement Benefit Plans

Overview

We sponsor a number of defined benefit pension plans. The primary plans are The Hershey Company Retirement Plan and The Hershey Company Retirement Plan for Hourly Employees. These are cash balance plans that provide pension benefits for most domestic employees hired prior to January 1, 2007. We monitor legislative and regulatory developments regarding cash balance plans, as well as recent court cases, for any impact on our plans. We also sponsor two primary post-retirement benefit plans. The health care plan is contributory, with participants' contributions adjusted annually, and the life insurance plan is non-contributory.

We fund domestic pension liabilities in accordance with the limits imposed by the Employee Retirement Income Security Act of 1974 and Federal income tax laws. Beginning January 1, 2008, we complied with the

funding requirements of the Pension Protection Act of 2006. We fund non-domestic pension liabilities in accordance with laws and regulations applicable to those plans. We broadly diversify our pension plan assets, consisting primarily of domestic and international common stocks and fixed income securities. Short-term and long-term liabilities associated with benefit plans are primarily determined based on actuarial calculations. These calculations consider payroll and employee data, including age and years of service, along with actuarial assumptions at the date of the financial statements. We take into consideration long-term projections with regard to economic conditions, including interest rates, return on assets and the rate of increase in compensation levels. With regard to liabilities associated with post-retirement benefit plans that provide health care and life insurance, we take into consideration the long-term annual rate of increase in the per capita cost of the covered benefits. In compliance with the provisions of Statement of Financial Accounting Standards No. 87, *Employers' Accounting for Pensions*, and Statement of Financial Accounting Standards No. 106, *Employers' Accounting for Postretirement Benefits Other Than Pensions*, we review the discount rate assumptions and may revise them annually. The expected long-term rate of return on assets assumption ("asset return assumption") for funded plans is by its nature of a longer duration and revised only when long-term asset return projections demonstrate that need.

In September 2006, the FASB issued Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans*, an amendment of FASB Statements No. 87, 88, 106, and 132 (R) ("SFAS No. 158"). SFAS No. 158 requires an employer that is a business entity and sponsors one or more single-employer defined benefit plans to:

- Recognize the funded status of a benefit plan—measured as the difference between plan assets at fair value and the benefit obligation—in its statement of financial position. For a pension plan, the benefit obligation is the projected benefit obligation; for any other post-retirement benefit plan, such as a retiree health care plan, the benefit obligation is the accumulated post-retirement benefit obligation.
- Recognize as a component of other comprehensive income, net of tax, the gains or losses and prior service costs or credits that arise during the period but are not recognized as components of net periodic benefit cost.
- Measure defined benefit plan assets and obligations as of the date of the employer's fiscal year-end statement of financial position.
- Disclose in the notes to financial statements additional information about certain effects on net periodic benefit cost for the next fiscal year that arise from delayed recognition of the gains or losses, prior service costs or credits, and transition asset or obligation.

We adopted the recognition and related disclosure provisions of SFAS No. 158 as of December 31, 2006.

Pension Plans

Our pension plan costs and related assumptions were as follows:

For the years ended December 31, In millions of dollars	2008	2007	2006
Net periodic pension benefit (income) costs	**$(17.4)**	$(9.0)	$25.3
Assumptions:			
Average discount rate assumptions—net periodic benefit cost calculation	**6.3%**	5.8%	5.4%
Average discount rate assumptions—benefit obligation calculation	**6.4%**	6.2%	5.7%
Asset return assumptions	**8.5%**	8.5%	8.5%

Net Periodic Pension Benefit Costs

We recorded net periodic pension benefit income in 2008 primarily due to the modifications announced in October 2006 which reduced future benefits under The Hershey Company Retirement Plan, The Hershey Company Retirement Plan for Hourly Employees and the Supplemental Executive Retirement Plan and the impact of a higher discount rate assumption as of December 31, 2007. We expect to incur periodic pension benefit costs in 2009 of approximately $50 million compared with income of approximately $17.4 million in 2008, principally as a result of the significant decline in the value of pension plan assets during 2008 reflecting the unprecedented volatility and deterioration in financial market and economic conditions.

Actuarial gains and losses may arise when actual experience differs from assumed experience or when we revise the actuarial assumptions used to value the plans' obligations. We only amortize the unrecognized net actuarial gains/losses in excess of 10% of a respective plan's projected benefit obligation, or the fair market value of assets, if greater. The estimated recognized net actuarial loss component of net periodic pension benefit expense for 2009 is $33.6 million. The 2008 recognized net actuarial gain component of net periodic pension benefit income was $.5 million. Projections beyond 2009 are dependent on a variety of factors such as changes to the discount rate and the actual return on pension plan assets.

Average Discount Rate Assumption—Net Periodic Benefit (Income) Costs

The discount rate represents the estimated rate at which we could effectively settle our pension benefit obligations. In order to estimate this rate for 2008 and 2007, a single effective rate of discount was determined by our actuaries after discounting the pension obligation's cash flows using the spot rate of matching duration from the Citigroup Pension Discount Curve.

The use of a different discount rate assumption can significantly affect net periodic benefit (income) cost:

- A one-percentage point decrease in the discount rate assumption would have decreased 2008 net periodic pension benefit income by $9.3 million.
- A one-percentage point increase in the discount rate assumption would have increased 2008 net periodic pension benefit income by $2.6 million.

Average Discount Rate Assumption—Benefit Obligations

The discount rate assumption to be used in calculating the amount of benefit obligations is determined in the same manner as the average discount rate assumption used to calculate net periodic benefit (income) cost as described above. We increased our 2008 discount rate assumption due to the increasing interest rate environment consistent with the duration of our pension plan liabilities.

The use of a different discount rate assumption can significantly affect the amount of benefit obligations:

- A one-percentage point decrease in the discount rate assumption would have increased the December 31, 2008 pension benefits obligations by $96.6 million.
- A one-percentage point increase in the discount rate assumption would have decreased the December 31, 2008 pension benefits obligations by $81.8 million.

Asset Return Assumptions

We based the expected return on plan assets component of net periodic pension benefit (income) costs on the fair market value of pension plan assets. To determine the expected return on plan assets, we consider the current and expected asset allocations, as well as historical and expected returns on the categories of plan assets. The historical geometric average return over the 21 years prior to December 31, 2008 was approximately 7.7%. The actual return on assets was as follows:

For the years ended December 31,	2008	2007	2006
Actual (loss) return on assets	**(24.1)%**	7.1%	15.7%

The use of a different asset return assumption can significantly affect net periodic benefit (income) cost:

- A one-percentage point decrease in the asset return assumption would have decreased 2008 net periodic pension benefit income by $13.2 million.
- A one-percentage point increase in the asset return assumption would have increased 2008 net periodic pension benefit income by $13.0 million.

Our asset investment policies specify ranges of asset allocation percentages for each asset class. The ranges for the domestic pension plans were as follows:

Asset Class	Allocation Range
Equity securities	58% – 85%
Debt securities	15% – 42%
Cash and certain other investments	0% – 5%

As of December 31, 2008, actual allocations were within the specified ranges. We expect the level of volatility in pension plan asset returns to be in line with the overall volatility of the markets and weightings within the asset classes. As of December 31, 2008, the benefit plan fixed income assets were invested primarily in conventional instruments benchmarked to the Barclays Capital U.S. Aggregate Bond Index and direct exposure to highly volatile, risky sectors, such as sub-prime mortgages, was minimal.

For 2008 and 2007, minimum funding requirements for the plans were not material. However, we made contributions of $32.8 million in 2008 and $15.8 million in 2007 to improve the funded status of our qualified plans and for the payment of benefits under our non-qualified pension plans. These contributions were fully tax deductible. A one-percentage point change in the funding discount rate would not have changed the 2008 minimum funding requirements significantly for the domestic plans. For 2009, there are no significant minimum funding requirements for our pension plans.

Post-Retirement Benefit Plans

Other post-retirement benefit plan costs and related assumptions were as follows:

For the years ended December 31, In millions of dollars	2008	2007	2006
Net periodic other post-retirement benefit cost	**$21.6**	$24.7	$28.7
Assumptions:			
Average discount rate assumption	**6.3%**	5.8%	5.4%

The use of a different discount rate assumption can significantly affect net periodic other post-retirement benefit cost:

- A one-percentage point decrease in the discount rate assumption would have decreased 2008 net periodic other post-retirement benefit cost by $.6 million.
- A one-percentage point increase in the discount rate assumption would have increased 2008 net periodic other post-retirement benefit cost by $1.0 million.

Other post-retirement benefit obligations and assumptions were as follows:

December 31, In millions of dollars	2008	2007
Other post-retirement benefit obligation	**$315.4**	$362.9
Assumptions:		
Benefit obligations discount rate assumption	**6.4%**	6.2%

- A one-percentage point decrease in the discount rate assumption would have increased the December 31, 2008 other post-retirement benefits obligations by $28.1 million.
- A one-percentage point increase in the discount rate assumption would have decreased the December 31, 2008 other post-retirement benefits obligations by $23.8 million.

Goodwill and Other Intangible Assets

We account for goodwill and other intangible assets in accordance with Statement of Financial Accounting Standards No. 142, *Goodwill and Other Intangible Assets*. This standard classifies intangible assets into three categories: (1) intangible assets with definite lives subject to amortization; (2) intangible assets with indefinite lives not subject to amortization; and (3) goodwill. For intangible assets with definite lives, the standard requires impairment testing if conditions exist that indicate the carrying value may not be recoverable. For intangible assets with indefinite lives and for goodwill, the standard requires impairment testing at least annually or more frequently if events or circumstances indicate that these assets might be impaired.

We use a two-step process to evaluate goodwill for impairment. In the first step, we compare the fair value of each reporting unit with the carrying amount of the reporting unit, including goodwill. We estimate the fair value of the reporting unit based on discounted future cash flows. If the estimated fair value of the reporting unit is less than the carrying amount of the reporting unit, we complete a second step to determine the amount of the goodwill impairment that we should record. In the second step, we determine an implied fair value of the reporting unit's goodwill by allocating the reporting unit's fair value to all of its assets and liabilities other than goodwill (including any unrecognized intangible assets). We compare the resulting implied fair value of the goodwill to the carrying amount and record an impairment charge for the difference.

The assumptions we used to estimate fair value are based on the past performance of each reporting unit and reflect the projections and assumptions that we use in current operating plans. We also consider assumptions that market participants may use. Such assumptions are subject to change due to changing economic and competitive conditions.

Our other intangible assets consist primarily of customer-related intangible assets, patents and trademarks obtained through business acquisitions. We amortize customer-related intangible assets and patents over their estimated useful lives. The useful lives of trademarks were determined to be indefinite and, therefore, we do not amortize them. We evaluate our trademarks for impairment by comparing the carrying amount of the assets to their estimated fair value. The fair value of trademarks is calculated using a "relief from royalty payments" methodology. This approach involves two steps. In the first step, we estimate reasonable royalty rates for each

trademark. In the second step, we apply these royalty rates to a net sales stream and discount the resulting cash flows to determine fair value. This fair value is then compared with the carrying value of each trademark. If the estimated fair value is less than the carrying amount, we record an impairment charge to reduce the asset to its estimated fair value. The estimates of future cash flows are generally based on past performance of the brands and reflect net sales projections and assumptions for the brands that we use in current operating plans. We also consider assumptions that market participants may use. Such assumptions are subject to change due to changing economic and competitive conditions.

The Company performs annual impairment tests in the fourth quarter of each year or when circumstances arise that indicate a possible impairment might exist. Due to reduced expectations for future sales and cash flows compared with the valuations at the acquisition dates, we determined that the carrying amounts of certain trademarks, primarily the *Mauna Loa* brand, exceeded their estimated fair value and recorded total non-cash impairment charges of $45.7 million in December 2008.

As a result of reduced expectations for future cash flows resulting from lower expected profitability, we determined that the carrying amount of our wholly-owned subsidiary, Hershey do Brasil, exceeded its fair value and recorded a non-cash impairment charge of $12.3 million in December 2007. There was no tax benefit associated with these charges. We discuss the impairment testing results in more detail in Note 1 and Note 17 to the Consolidated Financial Statements. We determined that none of our goodwill or other intangible assets, with the exception of the aforementioned trademarks and Brazil goodwill, were impaired as of December 31, 2008 and 2007 based on our annual impairment evaluation.

Commodities Futures and Options Contracts

We use futures and options contracts in combination with forward purchasing of cocoa products and other commodities primarily to reduce the risk of future price increases, provide visibility to future costs and take advantage of market fluctuations. Accounting for commodities futures and options contracts is in accordance with SFAS No. 133. Additional information with regard to accounting policies associated with commodities futures and options contracts and other derivative instruments is contained in Note 5, Derivative Instruments and Hedging Activities.

Our gains (losses) on cash flow hedging derivatives were as follows:

For the years ended December 31, In millions of dollars	2008	2007	2006
Net after-tax gains on cash flow hedging derivatives	**$ 11.5**	$6.8	$11.4
Reclassification adjustments from accumulated other comprehensive loss to income	**(34.1)**	.2	(5.3)
Hedge ineffectiveness (losses) gains recognized in cost of sales, before tax	**(.1)**	(.5)	2.0

- We reflected reclassification adjustments related to gains or losses on commodities futures and options contracts in cost of sales.
- No gains or losses on commodities futures and options contracts resulted because we discontinued a hedge due to the probability that the forecasted hedged transaction would not occur.
- We recognized no components of gains or losses on commodities futures and options contracts in income due to excluding such components from the hedge effectiveness assessment.

The amount of net losses on cash flow hedging derivatives, including foreign exchange forward contracts and commodities futures and options contracts, expected to be reclassified into earnings in the next twelve months was approximately $17.0 million after tax as of December 31, 2008. This amount is primarily associated with commodities futures contracts.

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RETURN MEASURES

We believe that two important measures of profitability are operating return on average stockholders' equity and operating return on average invested capital. These operating return measures calculated in accordance with GAAP are presented on the SIX-YEAR CONSOLIDATED FINANCIAL SUMMARY on page 18 with the directly comparable Non-GAAP operating return measures. The Non-GAAP operating return measures are calculated using Non-GAAP Income excluding items affecting comparability. A reconciliation of Net Income presented in accordance with GAAP to Non-GAAP Income excluding items affecting comparability is provided on pages 19 and 20, along with the reasons why we believe that the use of Non-GAAP Income in these calculations provides useful information to investors.

Operating Return on Average Stockholders' Equity

Operating return on average stockholders' equity is calculated by dividing net income by the average of beginning and ending stockholders' equity. To calculate Non-GAAP operating return on average stockholders' equity, we define Non-GAAP Income as net income adjusted to exclude certain items. These items include the following:

- After-tax effect of the business realignment and impairment charges in 2008, 2007, 2006, 2005 and 2003
- Adjustment to income tax contingency reserves which reduced the provision for income taxes in 2004
- After-tax gain on the sale of a group of our gum brands in 2003

Our operating return on average stockholders' equity, GAAP basis, was 68.4% in 2008. Our Non-GAAP operating return on average stockholders' equity was 94.5% in 2008. The increase in operating return on average stockholders' equity in 2008 compared with 2007 was principally due to a reduction in equity related to reduced pension plan assets and the impact of cumulative translation adjustments. Over the last six years, our Non-GAAP operating return on stockholders' equity has ranged from 33.2% in 2003 to 94.5% in 2008.

Operating Return on Average Invested Capital

Operating return on average invested capital is calculated by dividing earnings by average invested capital. Average invested capital consists of the annual average of the beginning and ending balances of long-term debt, deferred income taxes and stockholders' equity.

For the calculation of operating return on average invested capital, GAAP basis, earnings is defined as net income adjusted to add back the after-tax effect of interest on long-term debt. For the calculation of the Non-GAAP operating return measure, we define earnings as net income adjusted to add back the after-tax effect of interest on long-term debt excluding the following:

- After-tax effect of the business realignment and impairment charges in 2008, 2007, 2006, 2005 and 2003
- Adjustment to income tax contingency reserves on the provision for income taxes in 2004
- After-tax gain on the sale of a group of our gum brands in 2003

Our operating return on average invested capital, GAAP basis, was 19.0% in 2008. Our Non-GAAP operating return on average invested capital was 25.1% in 2008. Over the last six years, our Non-GAAP operating return on average invested capital has ranged from 18.9% in 2003 to 26.8% in 2005 and 2006.

OUTLOOK

The outlook section contains a number of forward-looking statements, all of which are based on current expectations. Actual results may differ materially. Refer to Risk Factors beginning on page 10 for information concerning the key risks to achieving our future performance goals.

During 2008, we announced a new consumer-driven business model with a comprehensive approach intended to deliver sustainable growth over the coming years. Our financial targets include long-term consolidated net sales growth in the three to five percent range and increases in earnings per share-diluted, excluding items affecting comparability, at an annual rate of six to eight percent. Items affecting comparability include business realignment and impairment charges and credits, gains or losses on the sale of certain businesses, and certain other items.

Our net sales growth will primarily leverage our core portfolio of brands in the United States. We expect to improve our price-value equation through package and product upgrades and merchandising innovation resulting in increased price realization. We also expect growth from our international businesses primarily in faster-growing emerging markets.

For 2009, we expect net sales growth of two to three percent from our pricing actions and core brand sales growth. We expect unit sales volume to decline in the United States due to the elasticity effects of price increases implemented during 2008 which will result in higher everyday and promoted prices for consumers. The impact of the declines in unit sales volume is expected to be more than offset by price realization. We expect growth in net sales for our international business at rates greater than in the United States, offset somewhat by the impact of unfavorable foreign currency exchange rates.

Considering the significant increases in raw material prices and other input costs and the extreme volatility in market prices, we expect substantial cost increases in 2009. While commodity spot prices have moderated somewhat, we expect costs for our key inputs to remain volatile and above historical averages on a spot basis. We now expect our commodity cost basket to increase by approximately $175 million in 2009 compared with 2008. The financial market and credit crisis have not had a material affect on our business operations or liquidity to-date. However, the extraordinary decline in the financial markets in 2008 significantly reduced the fair value of our pension plan assets which is expected to result in an increase in 2009 pension expense of approximately $70 million. Despite these increases we plan to continue to invest in our core brands in the U.S. and key international markets to build on our momentum. Specifically, advertising expense is expected to increase by $30 million to $35 million in 2009. These cost increases will be more than offset by higher net pricing, savings from the global supply chain transformation program and on-going operating productivity improvement. Earnings per share-diluted, excluding items affecting comparability, is expected to increase in 2009, however, due to the significant commodity and pension cost increases, higher levels of core brand investment spending and current macroeconomic conditions, we expect growth to be at a rate below our long-term objective of six to eight percent.

For 2009, we expect total pre-tax business realignment and impairment charges for our global supply chain transformation program, including the increase in the scope of the program, to be in the range of $45 million to $70 million, excluding possible increases in pension settlement charges discussed below. Total charges associated with our business realignment initiatives in 2009 are expected to reduce earnings per share-diluted by $0.13 to $0.20.

Outlook for Global Supply Chain Transformation Program

We expect total pre-tax charges and non-recurring project implementation costs for the global supply chain transformation program to be at the upper end of the $575 million to $600 million range. This includes pension settlement charges recorded in 2007 and 2008 as required in accordance with Financial Accounting Standards

Board Statement of Financial Accounting Standards No. 88, *Employers' Accounting for Settlements and Curtailments of Defined Benefit Pension Plans and for Termination Benefits* (as amended) ("SFAS No. 88"). Pension settlement charges are non-cash charges for the Company. Such charges accelerate the recognition of pension expenses related to actuarial gains and losses resulting from interest rate changes and differences in actual versus assumed returns on pension assets. The Company normally amortizes actuarial gains and losses over a period of about 13 years.

The global supply chain transformation program charges recorded in 2007 and in 2008 have included pension settlement charges of approximately $24.6 million as employees leaving the Company under the program have been withdrawing lump sums from the defined benefit pension plans. These charges are included in the current global supply chain transformation program estimates of $575 million to $600 million.

In addition to the settlement charges reflected above, additional SFAS No. 88 pension settlement charges of up to $65 million may be incurred depending on decisions of impacted hourly employees to withdraw funds during 2009 and 2010. The amount of the potential charges has increased significantly as a result of the recent declines in the financial markets. The likely range of possible additional charges for 2009` is zero to $50 million. There would be no charge if withdrawals by hourly employees are below the SFAS No. 88 settlement threshold level and $50 million, based on current market conditions, if they are above the threshold level.

SUBSEQUENT EVENT

On February 16, 2009, we announced that Kenneth L. Wolfe, our non-executive Chairman of the Board of Directors, had resigned from our Board effective immediately. His resignation followed a request from the Milton Hershey School Trust that he not stand for re-election at our annual meeting of stockholders on April 30, 2009. The Milton Hershey School Trust indicated that it wanted to have one of its representatives on our Board serve as Chairman of the Board.

Our Board of Directors also announced its unanimous election of Director James E. Nevels to succeed Mr. Wolfe as non-executive Chairman of our Board of Directors. Mr. Nevels has served on our Board since November 2007.

NEW ACCOUNTING PRONOUNCEMENTS

In December 2007, the FASB issued Statement of Financial Accounting Standards No. 141 (revised 2007), *Business Combinations* ("SFAS No. 141(R)"). The objective of SFAS No. 141(R) is to improve the relevance, representational faithfulness, and comparability of the information that a reporting entity provides in its financial reports about a business combination and its effects. SFAS No. 141(R) establishes principles and requirements for how the acquirer:

- Recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed and any noncontrolling interest in the acquiree;
- Recognizes and measures the goodwill acquired in the business combination or a gain from a bargain purchase;
- Determines what information to disclose to enable users of the financial statements to evaluate the nature and financial effects of the business combination.

SFAS No. 141(R) is effective for our Company as of January 1, 2009. We currently do not expect any significant impact on our results of operations, financial position or cash flows as a result of the adoption of this new accounting standard. However, the adoption of SFAS No. 141(R) will impact the accounting for any business combinations occurring subsequent to December 31, 2008.

In December 2007, the FASB also issued Statement of Financial Accounting Standards No. 160, *Noncontrolling Interests in Consolidated Financial Statements, an amendment of ARB No. 51* ("SFAS No. 160"). The objective of SFAS No. 160 is to improve the relevance, comparability and transparency of the financial information that a reporting entity provides in its consolidated financial statements by establishing accounting and reporting standards for the noncontrolling interest in a subsidiary and for the deconsolidation of a subsidiary. SFAS No. 160 is effective for our Company as of January 1, 2009. We do not expect any significant impact on financial accounting or reporting as a result of the adoption of this new accounting standard.

In March 2008, the FASB issued Statement of Financial Accounting Standards No. 161, *Disclosures about Derivative Instruments and Hedging Activities —an amendment of FASB Statement No. 133* ("SFAS No. 161"). SFAS No. 161 requires enhanced disclosures about an entity's derivative and hedging activities. Entities will be required to provide enhanced disclosures about how and why an entity uses derivative instruments, how these instruments are accounted for, and how they affect the entity's financial position, financial performance and cash flows. This new standard is effective for our Company as of January 1, 2009 and we are currently evaluating the impact on disclosures associated with our derivative and hedging activities.

In May 2008, the FASB issued Statement of Financial Accounting Standards No. 162, *The Hierarchy of Generally Accepted Accounting Principles* ("SFAS No. 162"). SFAS No. 162 identifies the sources of accounting principles and the framework for selecting the principles used in the preparation of financial statements of nongovernmental entities that are presented in conformity with generally accepted accounting principles in the United States. We do not expect any significant changes to our financial accounting and reporting as a result of the issuance of SFAS No. 162.

Item 7A. *QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK*

The information required by this item with respect to market risk is set forth in the section entitled "Accounting Policies and Market Risks Associated with Derivative Instruments," found on pages 36 through 40.

Item 8. ***FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA***

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RESPONSIBILITY FOR FINANCIAL STATEMENTS

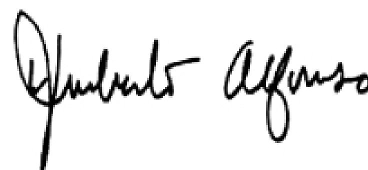
The Hershey Company is responsible for the financial statements and other financial information contained in this report. The Company believes that the financial statements have been prepared in conformity with U.S. generally accepted accounting principles appropriate under the circumstances to reflect in all material respects the substance of applicable events and transactions. In preparing the financial statements, it is necessary that management make informed estimates and judgments. The other financial information in this annual report is consistent with the financial statements.

The Company maintains a system of internal accounting controls designed to provide reasonable assurance that financial records are reliable for purposes of preparing financial statements and that assets are properly accounted for and safeguarded. The concept of reasonable assurance is based on the recognition that the cost of the system must be related to the benefits to be derived. The Company believes its system provides an appropriate balance in this regard. The Company maintains an Internal Audit Department which reviews the adequacy and tests the application of internal accounting controls.

The 2008, 2007 and 2006 financial statements have been audited by KPMG LLP, an independent registered public accounting firm. KPMG LLP's report on the Company's financial statements is included on page 54.

The Audit Committee of the Board of Directors of the Company, consisting solely of independent, non-management directors, meets regularly with the independent auditors, internal auditors and management to discuss, among other things, the audit scopes and results. KPMG LLP and the internal auditors both have full and free access to the Audit Committee, with and without the presence of management.

David J. West
Chief Executive Officer



Humberto P. Alfonso
Chief Financial Officer

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
The Hershey Company:

We have audited the accompanying consolidated balance sheets of The Hershey Company and subsidiaries (the "Company") as of December 31, 2008 and 2007, and the related consolidated statements of income, cash flows and stockholders' equity for each of the years in the three-year period ended December 31, 2008. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of The Hershey Company and subsidiaries as of December 31, 2008 and 2007, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2008, in conformity with U.S. generally accepted accounting principles.

As discussed in Note 1, the Company adopted Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pensions and Other Postretirement Plans,* at December 31, 2006.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of the Company's internal control over financial reporting as of December 31, 2008, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), and our report dated February 19, 2009 expressed an unqualified opinion on the effectiveness of the Company's internal control over financial reporting.

KPMG LLP

New York, New York
February 19, 2009

THE HERSHEY COMPANY

CONSOLIDATED STATEMENTS OF INCOME

For the years ended December 31, In thousands of dollars except per share amounts	2008	2007	2006
Net Sales	**$ 5,132,768**	$ 4,946,716	$ 4,944,230
Costs and Expenses:			
Cost of sales	**3,375,050**	3,315,147	3,076,718
Selling, marketing and administrative	**1,073,019**	895,874	860,378
Business realignment and impairment charges, net	**94,801**	276,868	14,576
Total costs and expenses	**4,542,870**	4,487,889	3,951,672
Income before Interest and Income Taxes	**589,898**	458,827	992,558
Interest expense, net	**97,876**	118,585	116,056
Income before Income Taxes	**492,022**	340,242	876,502
Provision for income taxes	**180,617**	126,088	317,441
Net Income	**$ 311,405**	$ 214,154	$ 559,061
Net Income Per Share—Basic—Class B Common Stock	**$ 1.27**	$ .87	$ 2.19
Net Income Per Share—Diluted—Class B Common Stock	**$ 1.27**	$ .87	$ 2.17
Net Income Per Share—Basic—Common Stock	**$ 1.41**	$ .96	$ 2.44
Net Income Per Share—Diluted—Common Stock	**$ 1.36**	$ .93	$ 2.34
Cash Dividends Paid Per Share:			
Common Stock	**$ 1.1900**	$ 1.1350	$ 1.030
Class B Common Stock	**1.0712**	1.0206	.925

The notes to consolidated financial statements are an integral part of these statements.

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THE HERSHEY COMPANY

CONSOLIDATED BALANCE SHEETS

December 31, In thousands of dollars	2008	2007
ASSETS		
Current Assets:		
Cash and cash equivalents	$ **37,103**	$ 129,198
Accounts receivable—trade	**455,153**	487,285
Inventories	**592,530**	600,185
Deferred income taxes	**70,903**	83,668
Prepaid expenses and other	**189,256**	126,238
Total current assets	**1,344,945**	1,426,574
Property, Plant and Equipment, Net	**1,458,949**	1,539,715
Goodwill	**554,677**	584,713
Other Intangibles	**110,772**	155,862
Deferred Income Taxes	**13,815**	—
Other Assets	**151,561**	540,249
Total assets	**$ 3,634,719**	$ 4,247,113
LIABILITIES, MINORITY INTEREST AND STOCKHOLDERS' EQUITY		
Current Liabilities:		
Accounts payable	$ **249,454**	$ 223,019
Accrued liabilities	**504,065**	538,986
Accrued income taxes	**15,189**	373
Short-term debt	**483,120**	850,288
Current portion of long-term debt	**18,384**	6,104
Total current liabilities	**1,270,212**	1,618,770
Long-term Debt	**1,505,954**	1,279,965
Other Long-term Liabilities	**504,963**	544,016
Deferred Income Taxes	**3,646**	180,842
Total liabilities	**3,284,775**	3,623,593
Commitments and Contingencies	**—**	—
Minority Interest	**31,745**	30,598
Stockholders' Equity:		
Preferred Stock, shares issued: none in 2008 and 2007	**—**	—
Common Stock, shares issued: 299,190,836 in 2008 and 299,095,417 in 2007	**299,190**	299,095
Class B Common Stock, shares issued: 60,710,908 in 2008 and 60,806,327 in 2007	**60,711**	60,806
Additional paid-in capital	**352,375**	335,256
Retained earnings	**3,975,762**	3,927,306
Treasury—Common Stock shares, at cost: 132,866,673 in 2008 and 132,851,893 in 2007	**(4,009,931)**	(4,001,562)
Accumulated other comprehensive loss	**(359,908)**	(27,979)
Total stockholders' equity	**318,199**	592,922
Total liabilities, minority interest and stockholders' equity	**$ 3,634,719**	$ 4,247,113

The notes to consolidated financial statements are an integral part of these balance sheets.

THE HERSHEY COMPANY

CONSOLIDATED STATEMENTS OF CASH FLOWS

For the years ended December 31, In thousands of dollars	2008	2007	2006
Cash Flows Provided from (Used by) Operating Activities			
Net income	**$ 311,405**	$ 214,154	$ 559,061
Adjustments to reconcile net income to net cash provided from operations:			
Depreciation and amortization	**249,491**	310,925	199,911
Stock-based compensation expense, net of tax of $13,265, $10,634 and $14,524, respectively	**23,583**	18,987	25,598
Excess tax benefits from exercise of stock options	**(1,387)**	(9,461)	(9,275)
Deferred income taxes	**(17,125)**	(124,276)	4,173
Business realignment and impairment charges, net of tax of $61,553, $144,928 and $4,070, respectively	**119,117**	267,653	7,573
Contributions to pension plans	**(32,759)**	(15,836)	(23,570)
Changes in assets and liabilities, net of effects from business acquisitions and divestitures:			
Accounts receivable—trade	**31,675**	40,467	(14,919)
Inventories	**7,681**	45,348	(12,461)
Accounts payable	**26,435**	62,204	(13,173)
Other assets and liabilities	**(198,555)**	(31,329)	275
Net Cash Provided from Operating Activities	**519,561**	778,836	723,193
Cash Flows Provided from (Used by) Investing Activities			
Capital additions	**(262,643)**	(189,698)	(183,496)
Capitalized software additions	**(20,336)**	(14,194)	(15,016)
Proceeds from sales of property, plant and equipment	**82,815**	—	—
Business acquisitions	**—**	(100,461)	(17,000)
Proceeds from divestitures	**1,960**	—	—
Net Cash (Used by) Investing Activities	**(198,204)**	(304,353)	(215,512)
Cash Flows Provided from (Used by) Financing Activities			
Net change in short-term borrowings	**(371,393)**	195,055	(163,826)
Long-term borrowings	**247,845**	—	496,728
Repayment of long-term debt	**(4,977)**	(188,891)	(234)
Cash dividends paid	**(262,949)**	(252,263)	(235,129)
Exercise of stock options	**36,996**	50,497	37,111
Excess tax benefits from exercise of stock options	**1,387**	9,461	9,275
Repurchase of Common Stock	**(60,361)**	(256,285)	(621,648)
Net Cash (Used by) Financing Activities	**(413,452)**	(442,426)	(477,723)
(Decrease) Increase in Cash and Cash Equivalents	**(92,095)**	32,057	29,958
Cash and Cash Equivalents as of January 1	**129,198**	97,141	67,183
Cash and Cash Equivalents as of December 31	**$ 37,103**	$ 129,198	$ 97,141
Interest Paid	**$ 97,364**	$ 126,450	$ 105,250
Income Taxes Paid	**197,661**	253,977	325,451

The notes to consolidated financial statements are an integral part of these statements.

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THE HERSHEY COMPANY

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

In thousands of dollars	Preferred Stock	Common Stock	Class B Common Stock	Additional Paid-in Capital	Unearned ESOP Compensation	Retained Earnings	Treasury Common Stock	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Equity
Balance as of January 1, 2006	$ —	$ 299,083	$ 60,818	$ 252,374	$ (3,193)	$3,641,483	$(3,224,863)	$ (9,322)	$ 1,016,380
Net income						559,061			559,061
Other comprehensive income								9,105	9,105
Comprehensive income									568,166
Adjustment to initially apply SFAS No. 158, net of tax								(137,972)	(137,972)
Dividends:									
Common Stock, $1.03 per share						(178,873)			(178,873)
Class B Common Stock, $.925 per share						(56,256)			(56,256)
Conversion of Class B Common Stock into Common Stock		2	(2)						—
Incentive plan transactions				840			3,250		4,090
Stock-based compensation				34,374					34,374
Exercise of stock options				9,732			39,992		49,724
Employee stock ownership trust/benefits transactions				923	3,193		1,322		5,438
Repurchase of Common Stock							(621,648)		(621,648)
Balance as of December 31, 2006	—	299,085	60,816	298,243	—	3,965,415	(3,801,947)	(138,189)	683,423
Net income						214,154			214,154
Other comprehensive income								110,210	110,210
Comprehensive income									324,364
Dividends:									
Common Stock, $1.135 per share						(190,199)			(190,199)
Class B Common Stock, $1.0206 per share						(62,064)			(62,064)
Conversion of Class B Common Stock into Common Stock		10	(10)						—
Incentive plan transactions				1,426			2,082		3,508
Stock-based compensation				29,790					29,790
Exercise of stock options				5,797			54,588		60,385
Repurchase of Common Stock							(256,285)		(256,285)
Balance as of December 31, 2007	—	299,095	60,806	335,256	—	3,927,306	(4,001,562)	(27,979)	592,922
Net income						311,405			311,405
Other comprehensive loss								(331,929)	(331,929)
Comprehensive loss									(20,524)
Dividends:									
Common Stock, $1.19 per share						(197,839)			(197,839)
Class B Common Stock, $1.0712 per share						(65,110)			(65,110)
Conversion of Class B Common Stock into Common Stock		95	(95)						—
Incentive plan transactions				(422)			12,989		12,567
Stock-based compensation				18,161					18,161
Exercise of stock options				(620)			39,003		38,383
Repurchase of Common Stock							(60,361)		(60,361)
Balance as of December 31, 2008	$ —	$ 299,190	$ 60,711	$ 352,375	$ —	$3,975,762	$(4,009,931)	$ (359,908)	$ 318,199

The notes to consolidated financial statements are an integral part of these statements.

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Significant accounting policies employed by our Company are discussed below and in other notes to the consolidated financial statements.

Items Affecting Comparability

In September 2006, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans*, an amendment of FASB Statements No. 87, 88, 106, and 132(R) ("SFAS No. 158"). SFAS No. 158 requires an employer that is a business entity and sponsors one or more single-employer defined benefit plans to:

- Recognize the funded status of a benefit plan—measured as the difference between plan assets at fair value and the benefit obligation—in its statement of financial position. For a pension plan, the benefit obligation is the projected benefit obligation; for any other post-retirement benefit plan, such as a retiree health care plan, the benefit obligation is the accumulated post-retirement benefit obligation.
- Recognize as a component of other comprehensive income, net of tax, the gains or losses and prior service costs or credits that arise during the period but are not recognized as components of net periodic benefit cost.
- Measure defined benefit plan assets and obligations as of the date of the employer's fiscal year-end statement of financial position.
- Disclose in the notes to financial statements additional information about certain effects on net periodic benefit cost for the next fiscal year that arise from delayed recognition of the gains or losses, prior service costs or credits, and transition assets or obligations.

Effective December 31, 2006, we adopted SFAS No. 158. The provisions of SFAS No. 158 require that the funded status of our pension plans and the benefit obligations of our other post-retirement benefit plans be recognized in our balance sheet. Appropriate adjustments were made to various assets and liabilities as of December 31, 2006, with an offsetting after-tax effect of $138.0 million recorded as an adjustment to the ending balance of accumulated other comprehensive loss.

The consolidated financial statements include the impact of our business realignment initiatives as described in Note 3. Cost of sales included a pre-tax charge resulting from the business realignment initiatives of $77.8 million in 2008, $123.1 million in 2007 and a pre-tax credit of $3.2 million in 2006. Selling, marketing and administrative expenses included a pre-tax charge resulting from the business realignment initiatives of $8.1 million in 2008, $12.6 million in 2007 and $.3 million in 2006.

Our effective income tax rate was 36.7% in 2008, 37.1% in 2007 and 36.2% in 2006. The effective income tax rate for 2008 was higher by 0.7 percentage points and for 2007 was higher by 1.1 percentage points resulting from the impact of tax rates associated with business realignment and impairment charges.

Principles of Consolidation

Our consolidated financial statements include the accounts of the Company and our majority-owned subsidiaries and entities in which we have a controlling financial interest after the elimination of intercompany accounts and transactions. We have a controlling financial interest if we own a majority of the outstanding voting common stock and minority shareholders do not have substantive participating rights or we have significant control over an entity through contractual or economic interests in which we are the primary beneficiary.

In May 2007, we entered into an agreement with Godrej Beverages and Foods, Ltd., to manufacture and distribute confectionery products, snacks and beverages across India. Under the agreement, we own a 51%

controlling interest in Godrej Hershey Ltd. (formerly Godrej Hershey Foods and Beverages Company). This business acquisition is included in our consolidated financial results, including the related minority interest.

In January 2008, our Brazilian subsidiary, Hershey do Brasil, entered into a cooperative agreement with Pandurata Alimentos LTDA ("Bauducco"), a leading manufacturer of baked goods in Brazil whose primary brand is Bauducco. Under this agreement we will manufacture and market, and they will sell and distribute our products. The agreement conveyed a 49% interest in Hershey do Brasil to Bauducco. We maintain a 51% controlling interest in Hershey do Brasil.

Equity Investments

We use the equity method of accounting when we have a 20% to 50% interest in other companies and exercise significant influence. Under the equity method, original investments are recorded at cost and adjusted by our share of undistributed earnings or losses of these companies. Equity investments are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of the investments may not be recoverable. In May 2007, we entered into a manufacturing agreement in China with Lotte Confectionery Company, LTD to produce Hershey products and certain Lotte products for the markets in Asia, particularly China. We own a 44% interest in this entity and are accounting for this investment using the equity method.

Use of Estimates

The preparation of financial statements in conformity with U.S. generally accepted accounting principles ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements, and revenues and expenses during the reporting period. Critical accounting estimates involved in applying our accounting policies are those that require management to make assumptions about matters that are highly uncertain at the time the accounting estimate was made and those for which different estimates reasonably could have been used for the current period. Critical accounting estimates are also those which are reasonably likely to change from period to period and would have a material impact on the presentation of our financial condition, changes in financial condition or results of operations. Our most critical accounting estimates pertain to accounting policies for accounts receivable—trade, accrued liabilities and pension and other post-retirement benefit plans.

These estimates and assumptions are based on management's best estimates and judgment. Management evaluates its estimates and assumptions on an ongoing basis using historical experience and other factors, including the current economic environment, which management believes to be reasonable under the circumstances. We adjust such estimates and assumptions when facts and circumstances dictate. Illiquid credit markets, volatile equity, foreign currency, commodity and energy markets, and declines in consumer spending have combined to increase the uncertainty inherent in such estimates and assumptions. As future events and their effects cannot be determined with precision, actual results could differ significantly from these estimates. Changes in those estimates resulting from continuing changes in the economic environment will be reflected in the financial statements in future periods.

Revenue Recognition

We record sales when all of the following criteria have been met:

- a valid customer order with a fixed price has been received;
- the product has been delivered to the customer;
- there is no further significant obligation to assist in the resale of the product; and
- collectibility is reasonably assured.

Net sales include revenue from the sale of finished goods and royalty income, net of allowances for trade promotions, consumer coupon programs and other sales incentives, and allowances and discounts associated with aged or potentially unsaleable products. Trade promotions and sales incentives primarily include reduced price features, merchandising displays, sales growth incentives, new item allowances and cooperative advertising.

Our operations are impacted by consumer spending levels and impulse purchases which are affected by general macroeconomic conditions, consumer confidence, employment levels, availability of consumer credit and interest rates on that credit, consumer debt levels, energy costs and other factors over which the Company has little or no control. Continued volatility in food and energy costs, a sustained recession in the United States, rising unemployment, and continued declines in personal income could significantly affect the Company's revenues and profitability in the future.

Cost of Sales

Cost of sales represents costs directly related to the manufacture and distribution of our products. Primary costs include raw materials, packaging, direct labor, overhead, shipping and handling, warehousing and the depreciation of manufacturing, warehousing and distribution facilities. Manufacturing overhead and related expenses include salaries, wages, employee benefits, utilities, maintenance and property taxes.

Selling, Marketing and Administrative

Selling, marketing and administrative expenses represent costs incurred in generating revenues and in managing our business. Such costs include advertising and other marketing expenses, salaries, employee benefits, incentive compensation, research and development, travel, office expenses, amortization of capitalized software and depreciation of administrative facilities.

Cash Equivalents

Cash equivalents consist of highly liquid debt instruments, time deposits and money market funds with original maturities of three months or less. The fair value of cash and cash equivalents approximates the carrying amount.

Commodities Futures and Options Contracts

In connection with the purchasing of cocoa products, sugar, corn sweeteners, natural gas, fuel oil and certain dairy products for anticipated manufacturing requirements and to hedge transportation costs, we enter into commodities futures and options contracts to reduce the effect of price fluctuations.

We account for commodities futures and options contracts in accordance with Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities*, as amended ("SFAS No. 133"). SFAS No. 133 provides that the effective portion of the gain or loss on a derivative instrument designated and qualifying as a cash flow hedging instrument be reported as a component of other comprehensive income and be reclassified into earnings in the same period or periods during which the hedged transaction affects earnings. The remaining gain or loss on the derivative instrument, if any, must be recognized currently in earnings. For a derivative designated as hedging the exposure to changes in the fair value of a recognized asset or liability or a firm commitment (referred to as a fair value hedge), the gain or loss must be recognized in earnings in the period of change together with the offsetting loss or gain on the hedged item attributable to the risk being hedged. The effect of that accounting is to reflect in earnings the extent to which the

hedge is not effective in achieving offsetting changes in fair value. All derivative instruments which we are currently utilizing, including commodities futures and options contracts, are designated and accounted for as cash flow hedges. Additional information with regard to accounting policies associated with derivative instruments is contained in Note 5, Derivative Instruments and Hedging Activities.

Property, Plant and Equipment

Property, plant and equipment are stated at cost and are depreciated on a straight-line basis over the estimated useful lives of the assets, as follows: 3 to 15 years for machinery and equipment; and 25 to 40 years for buildings and related improvements. Maintenance and repair expenditures are charged to expense as incurred. Applicable interest charges incurred during the construction of new facilities and production lines are capitalized as one of the elements of cost and are amortized over the assets' estimated useful lives.

We review long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. We measure the recoverability of assets to be held and used by a comparison of the carrying amount of long-lived assets to future undiscounted net cash flows expected to be generated, in accordance with Statement of Financial Accounting Standards No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*. If such assets are considered to be impaired, we measure the impairment to be recognized as the amount by which the carrying amount of the assets exceeds the fair value of the assets. Assets to be disposed of are reported at the lower of the carrying amount or fair value less cost to sell.

Asset Retirement Obligations

We account for asset retirement obligations in accordance with Statement of Financial Accounting Standards No. 143, *Accounting for Asset Retirement Obligations*, and FASB Interpretation No. 47, *Accounting for Conditional Asset Retirement Obligations*—an interpretation of FASB Statement No. 143. Asset retirement obligations generally apply to legal obligations associated with the retirement of a tangible long-lived asset that result from the acquisition, construction or development and the normal operation of a long-lived asset.

We assess asset retirement obligations on a periodic basis. We recognize the fair value of a liability for an asset retirement obligation in the period in which it is incurred if a reasonable estimate of fair value can be made. We capitalize associated asset retirement costs as part of the carrying amount of the long-lived asset.

Goodwill and Other Intangible Assets

We account for goodwill and other intangible assets in accordance with Statement of Financial Accounting Standards No. 142, *Goodwill and Other Intangible Assets*. Other intangible assets primarily consist of trademarks, customer-related intangible assets and patents obtained through business acquisitions. We determined that the useful lives of trademarks are indefinite and, therefore, these assets are not being amortized. We are amortizing customer-related intangible assets over their estimated useful lives of approximately ten years. We are amortizing patents over their remaining legal lives of approximately twelve years.

We conduct an impairment evaluation for goodwill annually, or more frequently if events or changes in circumstances indicate that an asset might be impaired. The evaluation is performed by using a two-step process. In the first step, the fair value of each reporting unit is compared with the carrying amount of the reporting unit, including goodwill. The estimated fair value of the reporting unit is generally determined on the basis of discounted future cash flows. If the estimated fair value of the reporting unit is less than the carrying amount of the reporting unit, then a second step must be completed in order to determine the amount of the goodwill

impairment that should be recorded. In the second step, the implied fair value of the reporting unit's goodwill is determined by allocating the reporting unit's fair value to all of its assets and liabilities other than goodwill (including any unrecognized intangible assets) in a manner similar to a purchase price allocation. The resulting implied fair value of the goodwill that results from the application of this second step is then compared with the carrying amount of the goodwill and an impairment charge is recorded for the difference.

The assumptions we use to estimate fair value are generally consistent with the past performance of each reporting unit and are also consistent with the projections and assumptions that are used in current operating plans. We also consider assumptions which may be used by market participants. Such assumptions are subject to change as a result of changing economic and competitive conditions.

We conduct an impairment evaluation of the carrying amount of intangible assets with indefinite lives annually, or more frequently if events or changes in circumstances indicate that an asset might be impaired. We evaluate our trademarks for impairment by comparing the carrying amount of the assets to their estimated fair value. The fair value of trademarks is calculated using a "relief from royalty payments" methodology. This approach involves two steps. In the first step, we estimate reasonable royalty rates for each trademark. In the second step, we apply these royalty rates to a net sales stream and discount the resulting cash flows to determine fair value. This fair value is then compared with the carrying value of each trademark. If the estimated fair value is less than the carrying amount of the trademark, then an impairment charge is recorded to reduce the asset to its estimated fair value.

The Company performs annual impairment tests of other intangible assets with indefinite lives in the fourth quarter of each year or when circumstances arise that indicate a possible impairment might exist. Due to reduced expectations for future sales and cash flows compared with the valuations at the acquisition dates, we determined that the carrying amounts of certain trademarks, primarily the *Mauna Loa* brand, exceeded their estimated fair value and recorded total non-cash impairment charges of $45.7 million in December 2008. Based on our annual impairment evaluations, we determined that no goodwill or any intangible assets other than those trademarks were impaired as of December 31, 2008.

As a result of reduced expectations for future cash flows resulting primarily from lower expected profitability, we determined that the carrying amount of our wholly-owned subsidiary, Hershey do Brasil, exceeded its fair value and recorded a non-cash impairment charge of $12.3 million in December 2007.

Comprehensive Income

We report comprehensive income (loss) on the Consolidated Statements of Stockholders' Equity and accumulated other comprehensive income (loss) on the Consolidated Balance Sheets. Additional information regarding comprehensive income is contained in Note 6, Comprehensive Income.

We translate results of operations for foreign entities using the average exchange rates during the period. For foreign entities, assets and liabilities are translated to U.S. dollars using the exchange rates in effect at the balance sheet date. Resulting translation adjustments are recorded as a component of other comprehensive income (loss), "Foreign Currency Translation Adjustments."

Prior to the adoption of SFAS No. 158 as of December 31, 2006, a minimum pension liability adjustment was required when the actuarial present value of accumulated pension plan benefits exceeded plan assets and accrued pension liabilities, less allowable intangible assets. Minimum pension liability adjustments, net of income taxes, were recorded as a component of other comprehensive income (loss), "Minimum Pension Liability

Adjustments.” Subsequent to the adoption of SFAS No. 158, changes to the balances of the unrecognized prior service cost and the unrecognized net actuarial loss, net of income taxes, are recorded as a component of other comprehensive income (loss), “Pension and Post-retirement Benefit Plans.”

Gains and losses on cash flow hedging derivatives, to the extent effective, are included in other comprehensive income (loss), net of related tax effects. Reclassification adjustments reflecting such gains and losses are ratably recorded in income in the same period as the hedged items affect earnings. Additional information with regard to accounting policies associated with derivative instruments is contained in Note 5, Derivative Instruments and Hedging Activities.

Foreign Exchange Forward Contracts and Options

We enter into foreign exchange forward contracts and options to hedge transactions denominated in foreign currencies. These transactions are primarily related to firm commitments or forecasted purchases of equipment, certain raw materials and finished goods. We also hedge payment of forecasted intercompany transactions with our subsidiaries outside the United States. These contracts reduce currency risk from exchange rate movements.

Foreign exchange forward contracts and options are intended to be and are effective as hedges of identifiable foreign currency commitments and forecasted transactions. Foreign exchange forward contracts and options are designated as cash flow hedging derivatives and the fair value of such contracts is recorded on the Consolidated Balance Sheets as either an asset or liability. Gains and losses on these contracts are recorded as a component of other comprehensive income and are reclassified into earnings in the same period during which the hedged transaction affects earnings. Additional information with regard to accounting policies for derivative instruments, including foreign exchange forward contracts and options is contained in Note 5, Derivative Instruments and Hedging Activities.

License Agreements

We enter into license agreements under which we have access to certain trademarks and proprietary technology, and manufacture and/or market and distribute certain products. The rights under these agreements are extendible on a long-term basis at our option subject to certain conditions, including minimum sales and unit volume levels, which we have met. License fees and royalties, payable under the terms of the agreements, are expensed as incurred and included in selling, marketing and administrative expenses.

Research and Development

We expense research and development costs as incurred. Research and development expense was $28.1 million in 2008, $28.0 million in 2007 and $27.6 million in 2006. Research and development expense is included in selling, marketing and administrative expenses.

Advertising

We expense advertising costs as incurred. Advertising expense included in selling, marketing and administrative expenses was $161.1 million in 2008, $127.9 million in 2007 and $108.3 million in 2006. We had no prepaid advertising expense as of December 31, 2008 and as of December 31, 2007.

Computer Software

We capitalize costs associated with software developed or obtained for internal use when both the preliminary project stage is completed and it is probable that computer software being developed will be completed and placed in service. Capitalized costs include only (i) external direct costs of materials and services

consumed in developing or obtaining internal-use software, (ii) payroll and other related costs for employees who are directly associated with and who devote time to the internal-use software project and (iii) interest costs incurred, when material, while developing internal-use software. We cease capitalization of such costs no later than the point at which the project is substantially complete and ready for its intended purpose.

The unamortized amount of capitalized software was $42.3 million as of December 31, 2008 and was $35.9 million as of December 31, 2007. We amortize software costs using the straight-line method over the expected life of the software, generally three to five years. Accumulated amortization of capitalized software was $176.7 million as of December 31, 2008 and $159.6 million as of December 31, 2007.

We review the carrying value of software and development costs for impairment in accordance with our policy pertaining to the impairment of long-lived assets. Generally, we measure impairment under the following circumstances:

- when internal-use computer software is not expected to provide substantive service potential;
- a significant change occurs in the extent or manner in which the software is used or is expected to be used;
- a significant change is made or will be made to the software program; and
- costs of developing or modifying internal-use computer software significantly exceed the amount originally expected to develop or modify the software.

2. ACQUISITIONS AND DIVESTITURES

In January 2008, our Brazilian subsidiary, Hershey do Brasil, entered into a cooperative agreement with Bauducco. In the fourth quarter of 2007, we recorded a goodwill impairment charge and approved a business realignment program associated with initiatives to improve distribution and enhance performance of our business in Brazil. In the first quarter of 2008, we received approximately $2.0 million in cash and recorded an other intangible asset of $13.7 million associated with the cooperative agreement with Bauducco in exchange for our conveying to Bauducco a 49% interest in Hershey do Brasil. We maintain a 51% controlling interest in Hershey do Brasil.

In May 2007, we entered into an agreement with Godrej Beverages and Foods, Ltd., one of India’s largest consumer goods, confectionery and food companies, to manufacture and distribute confectionery products, snacks and beverages across India. Under the agreement, we invested $61.5 million during 2007 and own a 51% controlling interest in Godrej Hershey Ltd. Total liabilities assumed in 2007 were $51.6 million.

Also in May 2007, we entered into a manufacturing agreement in China with Lotte Confectionery Co., LTD., to produce Hershey products and certain Lotte products for the markets in Asia, particularly in China. We invested $39.0 million in 2007 and own a 44% interest. We are accounting for this investment using the equity method.

In October 2006, our wholly-owned subsidiary, Artisan Confections Company, purchased the assets of Dagoba Organic Chocolates, LLC, based in Ashland, Oregon, for $17.0 million. Dagoba is known for its high-quality organic chocolate bars, drinking chocolates and baking products that are primarily sold in natural food and gourmet stores across the United States. Total liabilities assumed were $1.7 million.

Results subsequent to the dates of acquisition were included in the consolidated financial statements. Had the results of the acquisitions been included in the consolidated financial statements for each of the periods presented, the effect would not have been material.

3. BUSINESS REALIGNMENT INITIATIVES

In February 2007, we announced a comprehensive, three-year supply chain transformation program (the "global supply chain transformation program") and, in December 2007, we recorded impairment and business realignment charges associated with our business in Brazil (together, "the 2007 business realignment initiatives").

When completed, the global supply chain transformation program will greatly enhance our manufacturing, sourcing and customer service capabilities, reduce inventories resulting in improvements in working capital and generate significant resources to invest in our growth initiatives. These initiatives include accelerated marketplace momentum within our core U.S. business, creation of innovative new product platforms to meet customer needs and disciplined global expansion. Under the program, which will be implemented in stages over three years, we will significantly increase manufacturing capacity utilization by reducing the number of production lines by more than one-third, outsource production of low value-added items and construct a flexible, cost-effective production facility in Monterrey, Mexico to meet current and emerging marketplace needs. The program will result in a total net reduction of 1,500 positions across our supply chain over the three-year implementation period.

The original estimated pre-tax cost of the program announced in February 2007 was from $525 million to $575 million over three years. The total included from $475 million to $525 million in business realignment costs and approximately $50 million in project implementation costs. Total costs of $130.0 million were recorded in 2008 and $400.0 million were recorded in 2007 for this program. Excluding possible pension settlement charges in 2009 and 2010, we now expect total charges for the global supply chain transformation program to be at the upper end of the $575 million to $600 million range, reflecting our latest estimates for the cost of the original program and an expansion in scope of the program approved in December 2008. The expansion in the scope of the program will include approximately $25.0 million associated with the closure of two subscale manufacturing facilities of Artisan Confections Company, a wholly-owned subsidiary, and consolidation of the associated production into existing U.S. facilities, along with costs associated with the rationalization of other select portfolio items. The affected facilities are located in Berkeley and San Francisco, California. These additional business realignment charges will be recorded in 2009 and include severance for approximately 150 impacted employees.

In 2001, we acquired a small business in Brazil, Hershey do Brasil, that through 2007 had not gained profitable scale or adequate market distribution. In an effort to improve the performance of this business, in January 2008 Hershey do Brasil entered into a cooperative agreement with Bauducco. In the fourth quarter of 2007, we recorded a goodwill impairment charge and approved a business realignment program associated with initiatives to improve distribution and enhance the financial performance of our business in Brazil. Business realignment and impairment charges of $4.9 million were recorded in 2008 and $12.6 million were recorded in 2007.

In July 2005, we announced initiatives intended to advance our value-enhancing strategy (the "2005 business realignment initiatives"). The 2005 business realignment initiatives consisted primarily of U.S. and Canadian Voluntary Workforce Reduction Programs and the closure of the Las Piedras, Puerto Rico plant. Charges (credits) for the 2005 business realignment initiatives were recorded during 2005 and 2006 and the 2005 business realignment initiatives were completed by December 31, 2006.

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Charges (credits) associated with business realignment initiatives and impairment recorded during 2008, 2007 and 2006 were as follows:

For the years ended December 31, In thousands of dollars	2008	2007	2006
Cost of sales			
2007 business realignment initiatives:			
Global supply chain transformation program	**$ 77,767**	$123,090	$ —
2005 business realignment initiatives	**—**	—	(1,599)
Previous business realignment initiatives	**—**	—	(1,600)
Total cost of sales	**77,767**	123,090	(3,199)
Selling, marketing and administrative			
2007 business realignment initiatives:			
Global supply chain transformation program	**8,102**	12,623	—
2005 business realignment initiatives	**—**	—	266
Total selling, marketing and administrative	**8,102**	12,623	266
Business realignment and impairment charges, net			
2008 impairment of trademarks	**45,739**	—	—
2007 business realignment initiatives:			
Global supply chain transformation program:			
Net (gain on sale)/impairment of fixed assets	**(4,882)**	47,938	—
Plant closure expense	**23,415**	13,506	—
Employee separation costs	**11,469**	176,463	—
Pension settlement loss	**12,501**	12,075	—
Contract termination costs	**1,637**	14,316	—
Brazilian business realignment:			
Goodwill impairment	**—**	12,260	—
Employee separation costs	**1,581**	310	—
Fixed asset impairment charges	**754**	—	—
Contract termination and other exit costs	**2,587**	—	—
2005 business realignment initiatives:			
U.S. voluntary workforce reduction program	**—**	—	9,972
U.S. facility rationalization	**—**	—	1,567
Streamline international operations (primarily Canada)	**—**	—	2,524
Previous business realignment initiatives	**—**	—	513
Total business realignment and impairment charges, net	**94,801**	276,868	14,576
Total net charges associated with business realignment initiatives and impairment	**$180,670**	$412,581	$ 11,643

Global Supply Chain Transformation Program

The 2008 charge of $77.8 million recorded in cost of sales for the global supply chain transformation program related primarily to the accelerated depreciation of fixed assets over a reduced estimated remaining useful life and start-up costs associated with the global supply chain transformation program. The $8.1 million recorded in selling, marketing and administrative expenses related primarily to project administration for the global supply chain transformation program. In determining the costs related to fixed asset impairments, fair

value was estimated based on the expected sales proceeds. The $4.9 million of gains on sale of fixed assets resulted from the receipt of proceeds in excess of the carrying value primarily from the sale of a warehousing and distribution facility. The $23.4 million of plant closure expenses for 2008 related primarily to the preparation of plants for sale and production line removal costs.

Certain real estate with a carrying value of $15.8 million was being held for sale as of December 31, 2008. The global supply chain transformation program employee separation costs were related to involuntary terminations at the North American manufacturing facilities which are being closed. The global supply chain transformation program had identified six manufacturing facilities which would be closed. As of December 31, 2008, the facilities located in Dartmouth, Nova Scotia; Montreal, Quebec and Oakdale, California have been closed and sold. The facilities located in Naugatuck, Connecticut and Smiths Falls, Ontario have been closed and are being held for sale. The facility in Reading, Pennsylvania is being held and used pending closure, following which it will be offered for sale.

The 2007 charge of $123.1 million recorded in cost of sales for the global supply chain transformation program related primarily to the accelerated depreciation of fixed assets over a reduced estimated remaining useful life and costs related to inventory reductions. The $12.6 million recorded in selling, marketing and administrative expenses related primarily to project management and administration. In determining the costs related to fixed asset impairments, fair value was estimated based on the expected sales proceeds. Certain real estate with a carrying value of $40.2 million was being held for sale as of December 31, 2007. Employee separation costs included $79.0 million primarily for involuntary terminations at the six North American manufacturing facilities which were being closed. The employee separation costs also included $97.5 million for charges relating to pension and other post-retirement benefits curtailments and special termination benefits.

2008 Impairment of Trademarks

As a result of our annual impairment tests of intangible assets with useful lives determined to be indefinite, we recorded total impairment charges of $45.7 million in the fourth quarter of 2008. Certain trademarks, primarily the *Mauna Loa* brand, were determined to be impaired as a result of a decrease in the fair value of the brands resulting from reduced expectations for future sales and cash flows compared with the valuations of these trademarks at the acquisition dates.

Brazilian Business Realignment

The 2008 Brazilian business realignment charges and the 2007 employee separation costs were related to involuntary terminations and costs associated with office consolidation related to the cooperative agreement with Bauducco. During the fourth quarter of 2007, we completed our annual impairment evaluation of goodwill and other intangible assets. As a result of reduced expectations for future cash flows resulting primarily from lower expected profitability, we determined that the carrying amount of our wholly-owned subsidiary, Hershey do Brasil, exceeded its fair value and recorded a non-cash impairment charge of $12.3 million in December 2007. There was no tax benefit associated with this charge.

2005 Business Realignment Initiatives

The 2006 charges (credits) recorded in cost of sales relating to the 2005 business realignment initiatives included a credit of $1.6 million resulting from higher than expected proceeds from the sale of equipment from the Las Piedras plant. The charge recorded in selling, marketing and administrative expenses in 2006 resulted from accelerated depreciation relating to the termination of an office building lease. The net business realignment charges included $7.3 million for involuntary terminations in 2006.

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

The 2006 charges (credits) relating to previous business realignment initiatives which began in 2003 and 2001 resulted from the finalization of the sale of certain properties, adjustments to liabilities which had previously been recorded, and the impact of the settlement of litigation in connection with the 2003 business realignment initiatives.

Liabilities Associated with Business Realignment Initiatives

The liability balance as of December 31, 2008 relating to the 2007 business realignment initiatives was $31.0 million for employee separation costs to be paid primarily in 2009. The liability balance as of December 31, 2007 was $68.4 million, primarily related to employee separation costs. Charges for employee separation and contract termination costs of $12.9 million were recorded in 2008. During 2008 and 2007, we made payments against the liabilities recorded for the 2007 business realignment initiatives of $46.9 million and $13.2 million, respectively, principally related to employee separation and project administration. The liability balance as of December 31, 2008 was reduced by $3.4 million as a result of foreign currency translation adjustments.

4. COMMITMENTS AND CONTINGENCIES

We enter into certain obligations for the purchase of raw materials. These obligations are primarily in the form of forward contracts for the purchase of raw materials from third-party brokers and dealers. These contracts minimize the effect of future price fluctuations by fixing the price of part or all of these purchase obligations. Total obligations for each year consisted of fixed price contracts for the purchase of commodities and unpriced contracts that were valued using market prices as of December 31, 2008.

The cost of commodities associated with the unpriced contracts is variable as market prices change over future periods. We mitigate the variability of these costs to the extent that we have entered into commodities futures and options contracts to hedge our costs for those periods. Increases or decreases in market prices are offset by gains or losses on commodities futures contracts. Taking delivery of and making payments for the specific commodities for use in the manufacture of finished goods satisfies our obligations under the forward purchase contracts. For each of the three years in the period ended December 31, 2008, we satisfied these obligations by taking delivery of and making payment for the specific commodities.

As of December 31, 2008, we had entered into purchase agreements with various suppliers. Subject to meeting our Company's quality standards, the purchase obligations covered by these agreements were as follows as of December 31, 2008:

Obligations In millions of dollars	2009	2010	2011	2012
Purchase obligations	$1,103.4	$492.4	$122.1	$84.9

We have commitments under various operating leases. Future minimum payments under non-cancelable operating leases with a remaining term in excess of one year were as follows as of December 31, 2008:

Lease Commitments In millions of dollars	2009	2010	2011	2012	2013	Thereafter
Future minimum rental payments	$14.9	$11.2	$8.9	$8.0	$4.3	$ 13.9

Our Company has a number of facilities that contain varying amounts of asbestos in certain locations within the facilities. Our asbestos management program is compliant with current applicable regulations. Current regulations require that we handle or dispose of this type of asbestos in a special manner if such facilities undergo major renovations or are demolished. We believe we do not have sufficient information to estimate the

fair value of any asset retirement obligations related to these facilities. We cannot specify the settlement date or range of potential settlement dates and, therefore, sufficient information is not available to apply an expected present value technique. We expect to maintain the facilities with repairs and maintenance activities that would not involve or require the removal of asbestos.

As of December 31, 2008, certain real estate associated with the closure of facilities under the global supply chain transformation program was being held for sale. We are not aware of any significant obligations related to the environmental remediation of these facilities which has not been reflected in our current estimates.

In connection with its pricing practices, the Company is the subject of an antitrust investigation by the Canadian Competition Bureau. In addition, the U.S. Department of Justice notified the Company that it opened an inquiry but has not requested any information or documents. The European Commission had requested information and informed the Company that it had closed its file. The Company is also party to approximately 92 related civil antitrust suits in the United States and nine in Canada. Certain of these claims contain class action allegations, instituted on behalf of direct purchasers of our products as well as indirect purchasers that purchase our products for use or for resale. These suits allege conspiracies in restraint of trade in connection with the pricing practices of the Company. Several other chocolate confectionery companies are the subject of investigations and/or inquiries by the government entities referenced above and have also been named as defendants in the same litigation. One Canadian wholesaler is also a subject of the Canadian investigation and is a defendant in certain of the lawsuits. While it is not feasible to predict the final outcome of these proceedings, in our opinion they should not have a material adverse effect on the financial position, liquidity or results of operations of the Company. The Company is cooperating with the government investigations and inquiries and intends to defend the lawsuits vigorously.

We have no other material pending legal proceedings, other than ordinary routine litigation incidental to our business.

5. DERIVATIVE INSTRUMENTS AND HEDGING ACTIVITIES

We account for derivative instruments in accordance with SFAS No. 133, which requires us to recognize all derivative instruments at fair value. We classify derivatives as assets or liabilities on the balance sheet. Accounting for the change in fair value of the derivative depends on:

- whether the instrument qualifies for, and has been designated as, a hedging relationship; and
- the type of hedging relationship.

There are three types of hedging relationships:

- cash flow hedge;
- fair value hedge; and
- hedge of foreign currency exposure of a net investment in a foreign operation.

As of December 31, 2008, all of our derivative instruments were classified as cash flow hedges.

Objectives, Strategies and Accounting Policies Associated with Derivative Instruments

We use certain derivative instruments, from time to time, to manage interest rate, foreign currency exchange rate and commodity market price risk exposures. We enter into interest rate swaps and foreign exchange forward contracts and options for periods consistent with their related underlying exposures. We enter into commodities futures and options contracts for varying periods. Our commodities futures and options contracts are effective as hedges of market price risks associated with anticipated raw material purchases, energy requirements and transportation costs.

We do not hold or issue derivative instruments for trading purposes and are not a party to any instruments with leverage or prepayment features. In entering into these contracts, we have assumed the risk that might arise from the possible inability of counterparties to meet the terms of their contracts. We mitigate this risk by performing financial assessments prior to contract execution, conducting periodic evaluations of counterparty performance and maintaining a diverse portfolio of qualified counterparties. We do not expect any significant losses from counterparty defaults.

Interest Rate Swaps

In order to minimize financing costs and to manage interest rate exposure, from time to time, we enter into interest rate swap agreements.

In December 2005, we entered into forward swap agreements to hedge interest rate exposure related to $500 million of term financing to be executed during 2006. In February 2006, we terminated a forward swap agreement hedging the anticipated execution of $250 million of term financing because the transaction was no longer expected to occur by the originally specified time period or within an additional two-month period of time thereafter. We recorded a gain of $1.0 million in the first quarter of 2006 as a result of the discontinuance of this cash flow hedge. In August 2006, a forward swap agreement hedging the anticipated issuance of $250 million of 10-year notes matured resulting in cash receipts of $3.7 million. The $3.7 million gain on the swap will be amortized as a reduction to interest expense over the term of the $250 million of 5.45% Notes due September 1, 2016.

We included gains and losses on these interest rate swap agreements in other comprehensive income. We recognized the gains and losses on these interest rate swap agreements as an adjustment to interest expense in the same period as the hedged interest payments affected earnings.

As of December 31, 2008 and 2007, we were not a party to any interest rate swap agreements.

We classify cash flows from interest rate swap agreements as net cash provided from operating activities on the Consolidated Statements of Cash Flows.

Our risk related to the swap agreements is limited to the cost of replacing the agreements at prevailing market rates.

Foreign Exchange Forward Contracts

We enter into foreign exchange forward contracts to hedge transactions primarily related to commitments and forecasted purchases of equipment, raw materials and finished goods denominated in foreign currencies. We may also hedge payment of forecasted intercompany transactions with our subsidiaries outside the United States. These contracts reduce currency risk from exchange rate movements. We generally hedge foreign currency price risks for periods from 3 to 24 months.

Foreign exchange forward contracts are effective as hedges of identifiable, foreign currency commitments. Since there is a direct relationship between the foreign currency derivatives and the foreign currency denomination of the transactions, the derivatives are highly effective in hedging cash flows related to transactions denominated in the corresponding foreign currencies. We designate our foreign exchange forward contracts as cash flow hedging derivatives.

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

These contracts meet the criteria for cash flow hedge accounting treatment. Accordingly, we include related gains and losses in other comprehensive income. Subsequently, we recognize the gains and losses in cost of sales or selling, marketing and administrative expense in the same period that the hedged items affect earnings. In entering into these contracts, we have assumed the risk that might arise from the possible inability of counterparties to meet the terms of their contracts. We do not expect any significant losses from counterparty defaults.

We classify the fair value of foreign exchange forward contracts as prepaid expenses and other current assets, other non-current assets, accrued liabilities or other long-term liabilities on the Consolidated Balance Sheets. We report the offset to the futures and options contracts in accumulated other comprehensive loss, net of income taxes. We record gains and losses on these contracts as a component of other comprehensive income and reclassify them into earnings in the same period during which the hedged transaction affects earnings. On hedges associated with the purchase of equipment, we designate the related cash flows as net cash flows (used by) provided from investing activities on the Consolidated Statements of Cash Flows. We classify cash flows from other foreign exchange forward contracts as net cash provided from operating activities.

Commodities Futures and Options Contracts

We enter into commodities futures and options contracts to reduce the effect of raw material price fluctuations and to hedge transportation costs. We generally hedge commodity price risks for 3 to 24 month periods. The commodities futures and options contracts are highly effective in hedging price risks for our raw material requirements and transportation costs. Because our commodities futures and options contracts meet hedge criteria, we account for them as cash flow hedges. Accordingly, we include gains and losses on hedging in other comprehensive income. We recognize gains and losses ratably in cost of sales in the same period that we record the hedged raw material requirements in cost of sales.

We use exchange traded futures contracts to fix the price of unpriced physical forward purchase contracts. Physical forward purchase contracts meet the SFAS No. 133 definition of “normal purchases and sales” and, therefore, are not accounted for as derivative instruments. On a daily basis, we receive or make cash transfers reflecting changes in the value of futures contracts (unrealized gains and losses). As mentioned above, such gains and losses are included as a component of other comprehensive income. The cash transfers offset higher or lower cash requirements for payment of future invoice prices for raw materials, energy requirements and transportation costs. Futures held in excess of the amount required to fix the price of unpriced physical forward contracts are effective as hedges of anticipated purchases.

Hedge Effectiveness—Commodities

We perform an assessment of hedge effectiveness for commodities futures and options contracts on a quarterly basis. Because of the rollover strategy used for commodities futures contracts, as required by futures market conditions, some ineffectiveness may result in hedging forecasted manufacturing requirements. This occurs as we switch futures contracts from nearby contract positions to contract positions that are required to fix the price of anticipated manufacturing requirements. Hedge ineffectiveness may also result from variability in basis differentials associated with the purchase of raw materials for manufacturing requirements. In accordance with SFAS No. 133, we record the ineffective portion of gains or losses on commodities futures and options contracts currently in cost of sales.

The prices of commodities futures contracts reflect delivery to the same locations where we take delivery of the physical commodities. Therefore, there is no ineffectiveness resulting from differences in location between the derivative and the hedged item.

Summary of Activity

Our cash flow hedging derivative activity during the last three years was as follows:

For the years ended December 31, In millions of dollars	2008	2007	2006
Net after-tax gains on cash flow hedging derivatives	**$ 11.5**	$6.8	$11.4
Reclassification adjustments from accumulated other comprehensive income to income, net of tax	**(34.1)**	.2	(5.3)
Hedge ineffectiveness (losses) gains recognized in cost of sales, before tax	**(.1)**	(.5)	2.0

- Net gains and losses on cash flow hedging derivatives were primarily associated with commodities futures contracts.
- Reclassification adjustments, from accumulated other comprehensive income (loss) to income, related to gains or losses on commodities futures contracts were reflected in cost of sales. Gains on interest rate swaps were reflected as an adjustment to interest expense.
- We recorded a gain of $1.0 million in 2006 as a result of the discontinuance of an interest rate swap because the hedged transaction was no longer expected to occur. No other gains or losses on cash flow hedging derivatives resulted because we discontinued a hedge due to the probability that the forecasted hedged transaction would not occur.
- We recognized no components of gains or losses on cash flow hedging derivatives in income due to excluding such components from the hedge effectiveness assessment.

The amount of net losses on cash flow hedging derivatives, including foreign exchange forward contracts, interest rate swap agreements and commodities futures contracts, expected to be reclassified into earnings in the next twelve months was approximately $17.0 million after tax as of December 31, 2008. This amount was primarily associated with commodities futures contracts.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

6. COMPREHENSIVE INCOME

The presentation of other comprehensive income for the year ended December 31, 2006 was adjusted to exclude the impact of the adoption of SFAS No. 158. A summary of the components of comprehensive income is as follows:

For the year ended December 31, 2008 In thousands of dollars	Pre-Tax Amount	Tax (Expense) Benefit	After-Tax Amount
Net income			**$ 311,405**
Other comprehensive income (loss):			
Foreign currency translation adjustments	**$ (74,563)**	**$ —**	**(74,563)**
Pension and post-retirement benefit plans	**(385,482)**	**150,694**	**(234,788)**
Cash flow hedges:			
Gains on cash flow hedging derivatives	**17,886**	**(6,390)**	**11,496**
Reclassification adjustments	**(53,297)**	**19,223**	**(34,074)**
Total other comprehensive loss	**$(495,456)**	**$163,527**	**(331,929)**
Comprehensive loss			**$ (20,524)**

For the year ended December 31, 2007 In thousands of dollars	Pre-Tax Amount	Tax (Expense) Benefit	After-Tax Amount
Net income			$ 214,154
Other comprehensive income (loss):			
Foreign currency translation adjustments	$ 44,845	$ —	44,845
Pension and post-retirement benefit plans	104,942	(46,535)	58,407
Cash flow hedges:			
Gains on cash flow hedging derivatives	10,623	(3,838)	6,785
Reclassification adjustments	252	(79)	173
Total other comprehensive income	$ 160,662	$ (50,452)	110,210
Comprehensive income			$ 324,364

For the year ended December 31, 2006 In thousands of dollars	Pre-Tax Amount	Tax (Expense) Benefit	After-Tax Amount
Net income			$ 559,061
Other comprehensive income (loss):			
Foreign currency translation adjustments	$ (278)	$ —	(278)
Minimum pension liability adjustments	5,395	(2,035)	3,360
Cash flow hedges:			
Gains on cash flow hedging derivatives	18,206	(6,847)	11,359
Reclassification adjustments	(8,370)	3,034	(5,336)
Total other comprehensive income	$ 14,953	$ (5,848)	9,105
Comprehensive income			$ 568,166

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Comprehensive income is included on the Consolidated Statements of Stockholders' Equity. The components of accumulated other comprehensive loss, as shown on the Consolidated Balance Sheets, are as follows:

December 31, In thousands of dollars	2008	2007
Foreign currency translation adjustments	**$ (29,753)**	$ 44,810
Pension and post-retirement benefit plans, net of tax	**(314,353)**	(79,565)
Cash flow hedges, net of tax	**(15,802)**	6,776
Total accumulated other comprehensive loss	**$(359,908)**	$(27,979)

7. FINANCIAL INSTRUMENTS

The carrying amounts of financial instruments including cash and cash equivalents, accounts receivable, accounts payable and short-term debt approximated fair value as of December 31, 2008 and 2007, because of the relatively short maturity of these instruments.

The carrying value of long-term debt, including the current portion, was $1,524.3 million as of December 31, 2008, compared with a fair value of $1,595.0 million based on quoted market prices for the same or similar debt issues. The carrying value of long-term debt, including the current portion, was $1,286.1 million as of December 31, 2007 compared with a fair value of $1,331.1 million.

Foreign Exchange Forward Contracts

For information on the objectives, strategies and accounting polices related to our use of foreign exchange forward contracts, see Note 5, Derivative Instruments and Hedging Activities.

The following table summarizes our foreign exchange activity:

December 31,	2008		2007	
In millions of dollars	Contract Amount	Primary Currencies	Contract Amount	Primary Currencies
Foreign exchange forward contracts to purchase foreign currencies	**$0.8**	Euros Swiss francs Mexican pesos	$13.8	British pounds Australian dollars Euros
Foreign exchange forward contracts to sell foreign currencies	**$68.1**	Canadian dollars Australian dollars	$86.7	Canadian dollars Brazilian reais Mexican pesos

The fair value of foreign exchange forward contracts is included in prepaid expenses and other current assets, other non-current assets, accrued liabilities or other long-term liabilities, as appropriate.

We define the fair value of foreign exchange forward contracts as the amount of the difference between contracted and current market foreign currency exchange rates at the end of the period. On a quarterly basis, we estimate the fair value of foreign exchange forward contracts by obtaining market quotes of spot and forward rates for contracts with similar terms, adjusted where necessary for maturity differences.

The combined fair value of our foreign exchange forward contracts included in prepaid expenses and other current assets, other non-current assets, accrued liabilities or other long-term liabilities on the Consolidated Balance Sheets was as follows:

December 31, In millions of dollars	2008	2007
Fair value of foreign exchange forward contracts, net—asset (liability)	**$10.3**	$(2.1)

8. FAIR VALUE ACCOUNTING

In September 2006, the FASB issued Statement of Financial Accounting Standards No. 157, *Fair Value Measurements* ("SFAS No. 157"). SFAS No. 157 applies a consistent definition to fair value, establishes a framework for measuring fair value in GAAP, and expands disclosures about fair value measurements.

SFAS No. 157 establishes a fair value measurement hierarchy to price a particular asset or liability. The fair value of the asset or liability is determined based on inputs or assumptions that market participants would use in pricing the asset or liability. These assumptions consist of (1) observable inputs—market data obtained from independent sources, or (2) unobservable inputs—market data determined using the company's own assumptions about valuation.

SFAS No. 157 establishes a fair value hierarchy to prioritize the inputs to valuation techniques, with the highest priority being given to Level 1 inputs and the lowest priority to Level 3 inputs, as defined below:

- Level 1 Inputs—quoted prices in active markets for identical assets or liabilities;
- Level 2 Inputs—quoted prices for similar assets or liabilities in active markets; quoted prices for identical or similar instruments in markets that are not active; inputs other than quoted prices that are observable; and inputs that are derived from or corroborated by observable market data by correlation; and
- Level 3 Inputs—unobservable inputs used to the extent that observable inputs are not available. These reflect the entity's own assumptions about the assumptions that market participants would use in pricing the asset or liability.

In addition, SFAS No. 157 requires disclosures about the use of fair value to measure assets and liabilities to enable the assessment of inputs used to develop fair value measures, and for unobservable inputs, to determine the effects of the measurements on earnings.

Effective January 1, 2008, we partially adopted SFAS No. 157 and have applied its provisions to financial assets and liabilities that are recognized or disclosed at fair value on a recurring basis (at least annually). We have not yet adopted SFAS No. 157 for nonfinancial assets and liabilities, in accordance with FASB Staff Position 157-2, *Effective Date of FASB Statement No. 157* ("FSP 157-2"). FSP 157-2 defers the effective date of SFAS No. 157 to January 1, 2009, for nonfinancial assets and nonfinancial liabilities, except for items that are recognized or disclosed on a recurring basis.

We use certain derivative instruments, from time to time, to manage interest rate, foreign currency exchange rate and commodity market price risk exposures, all of which are recorded at fair value based on quoted market prices or rates.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

A summary of our cash flow hedging derivative assets and liabilities measured at fair value on a recurring basis as of December 31, 2008, is as follows:

Description In thousands of dollars	Fair Value as of December 31, 2008	Quoted Prices in Active Markets of Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets				
Cash flow hedging derivatives	**$ 31,087**	**$ 20,027**	**$ 11,060**	**$ —**
Liabilities				
Cash flow hedging derivatives	**$ 763**	**$ —**	**$ 763**	**$ —**

As of December 31, 2008, cash flow hedging derivative Level 1 assets were related to cash transfers receivable on commodities futures contracts reflecting the change in quoted market prices on the last trading day for the period. We account for commodities futures contracts in accordance with SFAS No. 133. We make or receive cash transfers to or from commodity futures brokers on a daily basis reflecting changes in the value of futures contracts on the IntercontinentalExchange or various other exchanges. These changes in value represent unrealized gains and losses.

As of December 31, 2008, cash flow hedging derivative Level 2 assets and liabilities were principally related to the fair value of foreign exchange forward contracts. We define the fair value of foreign exchange forward contracts as the amount of the difference between the contracted and current market foreign currency exchange rates at the end of the period. We estimate the fair value of foreign exchange forward contracts on a quarterly basis by obtaining market quotes of spot and forward rates for contracts with similar terms, adjusted where necessary for maturity differences.

In February 2007, the FASB issued Statement of Financial Accounting Standards No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115* (“SFAS No. 159”). SFAS No. 159 permits entities to choose to measure many financial instruments and other items at fair value. The objective of SFAS No. 159 is to improve financial reporting by providing entities with the opportunity to mitigate volatility in reported earnings caused by measuring related assets and liabilities differently without having to apply complex hedge accounting provisions.

As of January 1, 2008, we elected not to adopt the fair value option under SFAS No. 159 for any financial instruments or other items.

9. INTEREST EXPENSE

Net interest expense consisted of the following:

For the years ended December 31, In thousands of dollars	2008	2007	2006
Long-term debt and lease obligations	**$88,726**	$ 80,351	$ 71,546
Short-term debt	**16,731**	43,485	46,269
Capitalized interest	**(5,779)**	(2,770)	(77)
Interest expense, gross	**99,678**	121,066	117,738
Interest income	**(1,802)**	(2,481)	(1,682)
Interest expense, net	**$97,876**	$118,585	$116,056

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

10. SHORT-TERM DEBT

As a source of short-term financing, we utilize commercial paper, or bank loans with an original maturity of three months or less. Credit agreements entered into over the last three years were as follows:

Date of Agreement	Type of Agreement	Purpose	Credit Limit
August 2007 (terminated June 2008)	Unsecured revolving credit agreement	General corporate purposes	$300 million
December 2006 (term extended in 2007, now expires December 2012)	Unsecured revolving credit agreement	General corporate purposes	$1.1 billion Option to borrow $400 million more
September 2006 (expired December 2006)	Letter amendment	Extend terms of March 2006 agreement	$200 million
March 2006 (expired September 2006)	Unsecured revolving credit agreement	Seasonal working capital Share repurchases Other business activities	$400 million

The December 2006 unsecured committed revolving credit agreement contains a financial covenant whereby the ratio of (a) pre-tax income from operations from the most recent four fiscal quarters to (b) consolidated interest expense for the most recent four fiscal quarters may not be less than 2.0 to 1 at the end of each fiscal quarter. The credit agreement contains customary representations and warranties and events of default. Payment of outstanding advances may be accelerated, at the option of the lenders, should we default in our obligation under the credit agreement. As of December 31, 2008, we complied with all customary affirmative and negative covenants and the financial covenant pertaining to our credit agreement. There were no significant compensating balance agreements that legally restricted these funds.

In addition to the revolving credit facility, we maintain lines of credit with domestic and international commercial banks. Our credit limit in various currencies was $67.1 million in 2008 and $57.0 million in 2007. These lines permit us to borrow at the banks' prime commercial interest rates, or lower. We had short-term foreign bank loans against these lines of credit for $28.1 million in 2008 and $22.5 million in 2007.

The maximum amount of our short-term borrowings during 2008 was $767.1 million. The weighted-average interest rate on short-term borrowings outstanding was 1.2% as of December 31, 2008 and 4.5% as of December 31, 2007.

We pay commitment fees to maintain our lines of credit. The average fee during 2008 was less than .1% per annum of the commitment.

We maintain a consolidated cash management system that includes overdraft positions in certain accounts at several banks. We have the contractual right of offset for the accounts with overdrafts. These offsets reduced cash and cash equivalents by $3.3 million as of December 31, 2008 and $5.9 million as of December 31, 2007.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

11. LONG-TERM DEBT

Long-term debt consisted of the following:

December 31, In thousands of dollars	2008	2007
5.30% Notes due 2011	**$ 250,000**	$ 250,000
6.95% Notes due 2012	**150,000**	150,000
5.00% Notes due 2013	**250,000**	—
4.85% Notes due 2015	**250,000**	250,000
5.45% Notes due 2016	**250,000**	250,000
8.8% Debentures due 2021	**100,000**	100,000
7.2% Debentures due 2027	**250,000**	250,000
Other obligations, net of unamortized debt discount	**24,338**	36,069
Total long-term debt	**1,524,338**	1,286,069
Less—current portion	**18,384**	6,104
Long-term portion	**$ 1,505,954**	$ 1,279,965

Aggregate annual maturities during the next five years are as follows:

- 2009—$18.4 million
- 2010—$3.0 million
- 2011—$253.3 million
- 2012—$151.8 million
- 2013—$250.0 million

Our debt is principally unsecured and of equal priority. None of our debt is convertible into our Common Stock.

12. INCOME TAXES

Our income (loss) before income taxes was as follows:

For the years ended December 31, In thousands of dollars	2008	2007	2006
Domestic	**$568,282**	$ 456,856	$860,655
Foreign	**(76,260)**	(116,614)	15,847
Income before income taxes	**$492,022**	$ 340,242	$876,502

The 2008 and 2007 foreign losses before income taxes were due primarily to the business realignment and impairment charges recorded during each year.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Our provision for income taxes was as follows:

For the years ended December 31, In thousands of dollars	2008	2007	2006
Current:			
Federal	**$181,611**	$ 208,754	$279,017
State	**13,839**	26,082	20,569
Foreign	**2,292**	15,528	13,682
Current provision for income taxes	**197,742**	250,364	313,268
Deferred:			
Federal	**(11,855)**	(74,658)	(381)
State	**1,843**	(10,324)	11,018
Foreign	**(7,113)**	(39,294)	(6,464)
Deferred income tax (benefit) provision	**(17,125)**	(124,276)	4,173
Total provision for income taxes	**$180,617**	$ 126,088	$317,441

The income tax benefits associated with the exercise of non-qualified stock options reduced accrued income taxes on the Consolidated Balance Sheets by $1.4 million as of December 31, 2008 and by $9.9 million as of December 31, 2007. We credited additional paid-in capital to reflect these income tax benefits. The deferred income tax benefit in 2008 and 2007 primarily reflected the tax effect of the charges for the global supply chain transformation program recorded during the year.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Deferred taxes reflect temporary differences between the tax basis and financial statement carrying value of assets and liabilities. The tax effects of the significant temporary differences that comprised the deferred tax assets and liabilities were as follows:

December 31, In thousands of dollars	2008	2007
Deferred tax assets:		
Post-retirement benefit obligations	**$122,815**	$154,174
Accrued expenses and other reserves	**103,694**	126,032
Stock-based compensation	**63,122**	55,003
Accrued trade promotion reserves	**4,819**	6,107
Pension	**1,177**	—
Net operating loss carryforwards	**25,199**	26,792
Other	**25,671**	14,096
Gross deferred tax assets	**346,497**	382,204
Valuation allowance	**(30,814)**	(28,029)
Total deferred tax assets	**315,683**	354,175
Deferred tax liabilities:		
Property, plant and equipment, net	**164,629**	200,478
Pension	**—**	163,461
Acquired intangibles	**33,350**	48,756
Inventories	**31,404**	34,008
Other	**5,228**	4,646
Total deferred tax liabilities	**234,611**	451,349
Net deferred tax (assets) liabilities	**$ (81,072)**	$ 97,174
Included in:		
Current deferred tax assets, net	**(70,903)**	(83,668)
Non-current deferred tax assets, net	**(13,815)**	—
Non-current deferred tax liabilities, net	**3,646**	180,842
Net deferred tax (assets) liabilities	**$ (81,072)**	$ 97,174

The change from a position of a net deferred tax liability as of December 31, 2007 to a position of a net deferred tax asset as of December 31, 2008, resulted primarily from the significant pension plan asset losses in 2008 as noted in the change in plan assets in Note 13, Pension and Other Post-Retirement Benefit Plans.

We believe that it is more likely than not that the results of future operations will generate sufficient taxable income to realize the deferred tax assets. The valuation allowances as of December 31, 2008 and 2007 were primarily related to tax loss carryforwards from operations in various foreign tax jurisdictions. Additional information on income tax benefits and expenses related to components of accumulated other comprehensive income (loss) is provided in Note 6, Comprehensive Income.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

The following table reconciles the Federal statutory income tax rate with our effective income tax rate:

For the years ended December 31,	2008	2007	2006
Federal statutory income tax rate	**35.0%**	35.0%	35.0%
Increase (reduction) resulting from:			
State income taxes, net of Federal income tax benefits	**2.2**	2.2	2.8
Qualified production income deduction	**(1.7)**	(1.7)	(.9)
Business realignment initiatives	**.7**	1.1	—
Other, net	**.5**	.5	(.7)
Effective income tax rate	**36.7%**	37.1%	36.2%

The effective income tax rate for 2008 was higher by 0.7 percentage points and the effective income tax rate for 2007 was higher by 1.1 percentage points resulting from the impact of tax rates associated with business realignment and impairment charges.

In June 2006, the FASB issued FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes, an interpretation of FASB Statement No. 109* (“FIN No. 48”). FIN No. 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprise’s financial statements in accordance with Statement of Financial Accounting Standards No. 109, *Accounting for Income Taxes.* FIN No. 48 describes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return and also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition.

We adopted the provisions of FIN No. 48 as of January 1, 2007. The adoption of FIN No. 48 did not result in a significant change to the liability for unrecognized tax benefits, less offsetting long-term tax assets.

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows:

December 31, In thousands of dollars	2008	2007
Balance at beginning of year	**$74,724**	$79,040
Additions for tax positions taken during prior years	**1,436**	4,385
Reductions for tax positions taken during prior years	**(7,150)**	(7,819)
Additions for tax positions taken during the current year	**7,885**	10,388
Settlements	**(9,295)**	(5,900)
Expiration of statutes of limitations	**(9,600)**	(5,370)
Balance at end of year	**$58,000**	$74,724

The total amount of unrecognized tax benefits that, if recognized, would affect the effective tax rate was $39.2 million as of December 31, 2008, and $49.5 million as of December 31, 2007.

We report accrued interest and penalties related to unrecognized tax benefits in income tax expense. We recognized interest (net of federal benefit) and penalties of $4.7 million during 2008, $.4 million during 2007 and $1.4 million during 2006. Accrued interest and penalties were $27.1 million as of December 31, 2008 and $20.8 million as of December 31, 2007.

We file income tax returns in the U.S. federal jurisdiction and various state and foreign jurisdictions. A number of years may elapse before an uncertain tax position, for which we have unrecognized tax benefits, is audited and finally resolved. While it is often difficult to predict the final outcome or the timing of resolution of

any particular uncertain tax position, we believe that our unrecognized tax benefits reflect the most likely outcome. We adjust these unrecognized tax benefits, as well as the related interest, in light of changing facts and circumstances. Settlement of any particular position could require the use of cash. Favorable resolution would be recognized as a reduction to our effective income tax rate in the period of resolution.

The number of years with open tax audits varies depending on the tax jurisdiction. Our major taxing jurisdictions include the United States (federal and state) and Canada. During the first quarter of 2008, the U.S. Internal Revenue Service ("IRS") commenced its audit of our U.S. income tax returns for 2005 and 2006. It is our understanding that the IRS does not intend to audit 2004. We are no longer subject to U.S. federal examinations by the IRS for years before 2004 and various tax examinations by state taxing authorities could be conducted for years beginning in 2002. We are no longer subject to Canadian federal income tax examinations by the Canada Revenue Agency ("CRA") for years before 1999. U.S. and Canadian federal audit issues typically involve the timing of deductions and transfer pricing adjustments. We work with the IRS and the CRA to resolve proposed audit adjustments and to minimize the amount of adjustments. We do not anticipate that any potential tax adjustments will have a significant impact on our financial position or results of operations.

We reasonably expect reductions in the liability for unrecognized tax benefits of approximately $16.0 million within the next twelve months because of the expiration of statutes of limitations and settlements of tax audits.

13. PENSION AND OTHER POST-RETIREMENT BENEFIT PLANS

We sponsor a number of defined benefit pension plans. Our policy is to fund domestic pension liabilities in accordance with the minimum and maximum limits imposed by the Employee Retirement Income Security Act of 1974 ("ERISA") and Federal income tax laws. We fund non-domestic pension liabilities in accordance with laws and regulations applicable to those plans.

We have two post-retirement benefit plans: health care and life insurance. The health care plan is contributory, with participants' contributions adjusted annually. The life insurance plan is non-contributory.

Effective December 31, 2006, we adopted SFAS No. 158. The provisions of SFAS No. 158 required that the funded status of our pension plans and the benefit obligations of our post-retirement benefit plans be recognized in our balance sheet. The provisions of SFAS No. 158 also revised employers' disclosures about pension and other post-retirement benefit plans. SFAS No. 158 did not change the measurement or recognition of these plans, although it did require that plan assets and benefit obligations be measured as of the balance sheet date. We have historically measured the plan assets and benefit obligations as of our balance sheet date.

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Obligations and Funded Status

A summary of the changes in benefit obligations and plan assets is as follows:

December 31, In thousands of dollars	Pension Benefits 2008	Pension Benefits 2007	Other Benefits 2008	Other Benefits 2007
Change in benefit obligation				
Projected benefits obligation at beginning of year	**$1,033,322**	$1,065,342	**$ 362,916**	$ 345,116
Service cost	**29,601**	43,462	**1,752**	3,899
Interest cost	**59,409**	59,918	**20,299**	19,762
Plan amendments	**344**	2,098	**—**	—
Actuarial loss (gain)	**10,297**	(58,905)	**(42,314)**	(25,543)
Special termination benefits	**83**	46,827	**—**	652
Curtailment	**—**	(16,687)	**—**	36,138
Settlement	**(80,381)**	(90,806)	**—**	—
Medicare drug subsidy	**—**	—	**1,488**	2,257
Currency translation and other	**(20,202)**	20,309	**(2,668)**	3,445
Benefits paid	**(68,876)**	(38,236)	**(26,073)**	(22,810)
Benefits obligation at end of year	**963,597**	1,033,322	**315,400**	362,916
Change in plan assets				
Fair value of plan assets at beginning of year	**1,387,317**	1,393,301	**—**	—
Actual (loss) return on plan assets	**(325,238)**	89,654	**—**	—
Employer contribution	**32,759**	15,836	**24,585**	20,553
Settlement	**(80,381)**	(90,806)	**—**	—
Medicare drug subsidy	**—**	—	**1,488**	2,257
Currency translation and other	**(22,774)**	17,568	**—**	—
Benefits paid	**(68,876)**	(38,236)	**(26,073)**	(22,810)
Fair value of plan assets at end of year	**922,807**	1,387,317	**—**	—
Funded status at end of year	**$ (40,790)**	$ 353,995	**$ (315,400)**	$ (362,916)

The accumulated benefit obligation for all defined benefit pension plans was $942.1 million as of December 31, 2008 and $1.0 billion as of December 31, 2007.

We made total contributions to the pension plans of $32.8 million during 2008. In 2007, we made total contributions of $15.8 million to the pension plans. For 2009, there will be no significant minimum funding requirements for our pension plans.

Amounts recognized in the Consolidated Balance Sheets consisted of the following:

December 31, In thousands of dollars	Pension Benefits 2008	Pension Benefits 2007	Other Benefits 2008	Other Benefits 2007
Other assets	**$ 31,509**	$416,032	**$ —**	$ —
Accrued liabilities	**(11,105)**	(31,916)	**(30,399)**	(32,208)
Other long-term liabilities	**(61,194)**	(30,121)	**(285,001)**	(330,708)
Total	**$(40,790)**	$353,995	**$(315,400)**	$(362,916)

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Amounts recognized in accumulated other comprehensive loss, net of tax, consisted of the following:

December 31, In thousands of dollars	Pension Benefits 2008	Pension Benefits 2007	Other Benefits 2008	Other Benefits 2007
Actuarial net (loss) gain	**$(335,424)**	$(70,000)	**$16,588**	$(13,645)
Net prior service credit	**3,015**	2,374	**1,468**	1,706
Total	**$(332,409)**	$(67,626)	**$18,056**	$(11,939)

Plans with accumulated benefit obligations in excess of plan assets were as follows:

December 31, In thousands of dollars	2008	2007
Projected benefit obligation	**$ 421,338**	$ 63,014
Accumulated benefit obligation	**410,470**	55,623
Fair value of plan assets	**349,131**	977

Components of Net Periodic Benefit (Income) Cost and Other Amounts Recognized in Other Comprehensive Income

Net periodic benefit (income) cost for our pension and other post-retirement plans consisted of the following:

For the years ended December 31, In thousands of dollars	Pension Benefits 2008	Pension Benefits 2007	Pension Benefits 2006	Other Benefits 2008	Other Benefits 2007	Other Benefits 2006
Service cost	**$ 29,601**	$ 43,462	$ 55,759	**$ 1,752**	$ 3,899	$ 5,718
Interest cost	**59,409**	59,918	58,586	**20,299**	19,762	19,083
Expected return on plan assets	**(107,518)**	(115,956)	(106,066)	**—**	—	—
Amortization of prior service cost (credit)	**1,285**	1,936	3,981	**(458)**	(151)	192
Amortization of unrecognized transition balance	**—**	—	59	**—**	—	—
Amortization of net (gain) loss	**(520)**	1,095	12,128	**(3)**	1,218	3,705
Administrative expenses	**383**	563	889	**—**	—	—
Net periodic benefit (income) cost	**(17,360)**	(8,982)	25,336	**21,590**	24,728	28,698
Special termination benefits	**173**	46,827	269	**—**	652	—
Curtailment loss	**—**	8,400	49	**—**	41,653	113
Settlement loss	**15,297**	11,753	28	**—**	—	—
Total amount reflected in earnings	**$ (1,890)**	$ 57,998	$ 25,682	**$21,590**	$67,033	$28,811

The special termination benefits charges, curtailment losses and settlement losses recorded in 2008 and 2007 were primarily related to the global supply chain transformation program. The amounts recorded during 2006 were primarily associated with a Voluntary Workforce Reduction Program. We discuss both of these programs in Note 3, Business Realignment Initiatives.

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Amounts recognized in other comprehensive loss (income) and net periodic benefit (income) cost before tax for our pension and other post-retirement plans consisted of the following:

For the years ended December 31, In thousands of dollars	Pension Benefits 2008	Pension Benefits 2007	Pension Benefits 2006	Other Benefits 2008	Other Benefits 2007	Other Benefits 2006
Actuarial net loss (gain)	**$ 428,276**	$ (58,481)	$ —	**$ (42,311)**	$ (41,594)	$ —
Prior service (credit) cost	**(941)**	(4,975)	—	**458**	108	—
Minimum pension liability	—	—	5,395	**—**	—	—
Total recognized in other comprehensive loss (income)	**$ 427,335**	$ (63,456)	$ 5,395	**$ (41,853)**	$ (41,486)	$ —
Total recognized in net periodic benefit (income) cost and other comprehensive loss (income)	**$ 409,975**	$ (72,438)	$ 30,731	**$ (20,263)**	$ (16,758)	$ 28,698

The estimated amounts for the defined benefit pension plans and the post-retirement benefit plans that will be amortized from accumulated other comprehensive income (loss) into net periodic benefit (income) cost over the next fiscal year are as follows (in thousands):

	Pension Plans	Post-Retirement Benefit Plans
Amortization of net actuarial loss (gain)	$ 33,630	$ (114)
Amortization of prior service cost (credit)	$ 1,202	$ (475)

Assumptions

Certain weighted-average assumptions used in computing the benefit obligations as of December 31, 2008 were as follows:

	Pension Benefits 2008	Pension Benefits 2007	Other Benefits 2008	Other Benefits 2007
Discount rate	**6.4%**	6.2%	**6.4%**	6.2%
Rate of increase in compensation levels	**4.7%**	4.8%	**N/A**	N/A

For measurement purposes as of December 31, 2008, we assumed an 8.0% annual rate of increase in the per capita cost of covered health care benefits for 2009, grading down to 5.0% by 2012.

For measurement purposes as of December 31, 2007, we assumed a 9.0% annual rate of increase in the per capita cost of covered health care benefits for 2008, grading down to 5.0% by 2012.

Certain weighted-average assumptions used in computing net periodic benefit (income) cost are as follows:

For the years ended December 31,	Pension Benefits 2008	Pension Benefits 2007	Pension Benefits 2006	Other Benefits 2008	Other Benefits 2007	Other Benefits 2006
Discount rate	**6.3%**	5.8%	5.4%	**6.3%**	5.8%	5.4%
Expected long-term return on plan assets	**8.5%**	8.5%	8.5%	**N/A**	N/A	N/A
Rate of compensation increase	**4.7%**	4.7%	4.8%	**N/A**	N/A	N/A

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

We based the asset return assumption of 8.5% for 2008, 2007 and 2006 on current and expected asset allocations, as well as historical and expected returns on the plan asset categories. The historical geometric average return over the 21 years prior to December 31, 2008, was approximately 7.7%.

Assumed health care cost trend rates have a significant effect on the amounts reported for the post-retirement health care plans. A one-percentage point change in assumed health care cost trend rates would have the following effects:

Impact of assumed health care cost trend rates	One-Percentage Point Increase	One-Percentage Point (Decrease)
In thousands of dollars		
Effect on total service and interest cost components	$ 466	$ (421)
Effect on post-retirement benefit obligation	5,258	(4,840)

Plan Assets

The following table sets forth the actual asset allocation and weighted-average target asset allocation for our U.S. and non-U.S. pension plan assets:

Asset Category	Target Allocation 2009	Percentage of Plan Assets as of December 31, 2008	2007
Equity securities	58-85%	66%	71%
Debt securities	15-42%	32	27
Other	0-5%	2	2
Total		100%	100%

Investment objectives for our domestic plan assets are:

- To optimize the long-term return on plan assets at an acceptable level of risk;
- To maintain a broad diversification across asset classes;
- To maintain careful control of the risk level within each asset class; and
- To focus on a long-term return objective.

Our Company complies with ERISA rules and regulations and we prohibit investments and investment strategies not allowed by ERISA. We do not permit direct purchases of our Company’s securities or the use of derivatives for the purpose of speculation. We invest the assets of non-domestic plans in compliance with laws and regulations applicable to those plans.

Cash Flows

Information about the expected cash flows for our pension and other post-retirement benefit plans is as follows:

	Expected Benefit Payments 2009	2010	2011	2012	2013	2014–2018
In thousands of dollars						
Pension Benefits	$ 191,593	$ 64,939	$ 51,325	$ 54,398	$ 56,195	$ 395,206
Other Benefits	30,399	32,125	32,426	31,476	30,620	131,655

The significantly higher 2009 expected cash flows from our pension plans are related to the global supply chain transformation program. These payments are primarily associated with the termination and partial termination of two Canadian pension plans, along with potential payments from a domestic pension plan which are highly dependent on the decisions of impacted hourly employees to withdraw funds.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

14. EMPLOYEE STOCK OWNERSHIP TRUST AND SAVINGS PLANS

Prior to December 31, 2006, our Company's employee stock ownership trust ("ESOP") served as the primary vehicle for employer contributions to The Hershey Company 401(k) Plan (formerly known as The Hershey Company Employee Savings Stock Investment and Ownership Plan) for participating domestic salaried and hourly employees. In December 1991, we funded the ESOP by providing a 15-year, 7.75% loan of $47.9 million. The ESOP used the proceeds of the loan to purchase our Common Stock. During 2006, the ESOP received a combination of dividends on unallocated shares of our Common Stock and contributions from us. This equaled the amount required to meet principal and interest payments under the loan. Simultaneously, the ESOP allocated to participants 318,351 shares of our Common Stock in 2006. As of December 31, 2006 all shares had been allocated. We consider all ESOP shares as outstanding for income per share computations.

The following table summarizes our ESOP expense and dividends:

For the years ended December 31, In millions of dollars	2006
Compensation (income) related to ESOP	$(.3)
Dividends paid on unallocated ESOP shares	.3

- We recognized net compensation expense equal to the shares allocated multiplied by the original cost of $10.03 per share less dividends received by the ESOP on unallocated shares.
- We reflected dividends paid on all ESOP shares as a reduction to retained earnings.

Contributions to The Hershey Company 401(k) Plan are based on a portion of eligible pay up to a defined maximum. Beginning in 2007, the defined maximum was increased for all domestic salaried and non-union hourly employees and all matching contributions were made in cash. Beginning in 2008, the defined maximum was increased for certain union hourly employees. Some non-domestic employees are eligible to participate in similar plans. Expense associated with the defined contribution plans was $22.1 million in 2008 and $18.7 million in 2007.

15. CAPITAL STOCK AND NET INCOME PER SHARE

We had 1,055,000,000 authorized shares of capital stock as of December 31, 2008. Of this total, 900,000,000 shares were designated as Common Stock, 150,000,000 shares as Class B Common Stock ("Class B Stock") and 5,000,000 shares as Preferred Stock. Each class has a par value of one dollar per share. As of December 31, 2008, a combined total of 359,901,744 shares of both classes of common stock had been issued of which 227,035,071 shares were outstanding. No shares of the Preferred Stock were issued or outstanding during the three-year period ended December 31, 2008.

Holders of the Common Stock and the Class B Stock generally vote together without regard to class on matters submitted to stockholders, including the election of directors. The holders of Common Stock have one vote per share and the holders of Class B Stock have ten votes per share. However, the Common Stock holders, voting separately as a class, are entitled to elect one-sixth of the Board of Directors. With respect to dividend rights, the Common Stock holders are entitled to cash dividends 10% higher than those declared and paid on the Class B Stock.

Class B Stock can be converted into Common Stock on a share-for-share basis at any time. During 2008, 95,419 shares of Class B Stock were converted into Common Stock. During 2007, 9,751 shares were converted and during 2006, 2,400 shares were converted.

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Changes in outstanding Common Stock for the past three years were as follows:

For the years ended December 31,	2008	2007	2006
Shares issued	**359,901,744**	359,901,744	359,901,744
Treasury shares at beginning of year	**(132,851,893)**	(129,638,183)	(119,377,690)
Stock repurchases:			
Repurchase programs and privately negotiated transactions	**—**	(2,915,665)	(10,601,482)
Stock options and benefits	**(1,609,612)**	(2,046,160)	(1,096,155)
Stock issuances:			
Stock options and benefits	**1,594,832**	1,748,115	1,437,144
Treasury shares at end of year	**(132,866,673)**	(132,851,893)	(129,638,183)
Net shares outstanding at end of year	**227,035,071**	227,049,851	230,263,561

Basic and Diluted Earnings Per Share were computed based on the weighted-average number of shares of the Common Stock and the Class B Stock outstanding as follows:

For the years ended December 31, In thousands except per share amounts	2008	2007	2006
Net income	**$ 311,405**	$ 214,154	$ 559,061
Weighted-average shares—Basic			
Common Stock	**166,709**	168,050	174,722
Class B Stock	**60,777**	60,813	60,817
Total weighted-average shares—Basic	**227,486**	228,863	235,539
Effect of dilutive securities:			
Employee stock options	**884**	2,058	2,784
Performance and restricted stock units	**327**	528	748
Weighted-average shares—Diluted	**228,697**	231,449	239,071
Earnings Per Share—Basic			
Common Stock	**$ 1.41**	$ .96	$ 2.44
Class B Stock	**$ 1.27**	$ .87	$ 2.19
Earnings Per Share—Diluted			
Common Stock	**$ 1.36**	$ .93	$ 2.34
Class B Stock	**$ 1.27**	$ .87	$ 2.17

For the year ended December 31, 2008, 12.7 million stock options were not included in the diluted earnings per share calculation because the exercise price was higher than the average market price of the Common Stock for the year. Therefore, the effect would have been antidilutive. In 2007, 6.8 million stock options were not included, and in 2006, 3.7 million stock options were not included in the diluted earnings per share calculation because the effect would have been antidilutive.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Milton Hershey School Trust

Hershey Trust Company, as Trustee for the benefit of Milton Hershey School, as institutional fiduciary for estates and trusts unrelated to Milton Hershey School, and as direct owner of investment shares, held 13,228,318 shares of our Common Stock as of December 31, 2008. As Trustee for the benefit of Milton Hershey School, Hershey Trust Company held 60,612,012 shares of the Class B Stock as of December 31, 2008, and was entitled to cast approximately 80% of the total votes of both classes of our common stock. The Milton Hershey School Trust must approve the issuance of shares of Common Stock or any other action that would result in the Milton Hershey School Trust not continuing to have voting control of our Company.

Stockholder Protection Rights Agreement

In December 2000, our Board of Directors unanimously adopted a Stockholder Protection Rights Agreement and declared a dividend of one right (“Right”) for each outstanding share of Common Stock and Class B Stock payable to stockholders of record at the close of business on December 26, 2000. The Rights will at no time have voting power or receive dividends. The issuance of the Rights has no dilutive effect, does not affect reported earnings per share and is not taxable. The Rights will not change the manner in which our Common Stock is traded.

The Rights become exercisable only upon:

- resolution of the Board of Directors after any person (other than the Milton Hershey School Trust) has commenced a tender offer that would result in such person becoming the beneficial owner of 15% or more of the Common Stock;
- our announcement that a person or group (other than the Milton Hershey School Trust) has acquired 15% or more of the outstanding shares of Common Stock; or
- a person or group (other than the Milton Hershey School Trust) becoming the beneficial owner of more than 35% of the voting power of all of the outstanding Common Stock and Class B Stock.

When exercisable, each Right entitles its registered holder to purchase from our Company, at a pre–determined exercise price, one one-thousandth of a share of Series A Participating Preferred Stock, par value $1.00 per share. The Rights are convertible by holders of Class B Stock into Series B Participating Preferred Stock based on one one-thousandth of a share of Series B Participating Preferred Stock for every share of Class B Stock held at that time. Each one one-thousandth of a share of Series A Participating Preferred Stock has economic and voting terms similar to those of one share of Common Stock. Similarly, each one one-thousandth of a share of Series B Participating Preferred Stock has economic and voting terms similar to those of one share of Class B Stock.

Each Right will automatically become a right to buy that number of one one-thousandth of a share of Series A Participating Preferred Stock upon the earlier of:

- a public announcement by our Company that a person or group (other than the Milton Hershey School Trust) has acquired 15% or more of the outstanding shares of Common Stock; or
- such person or group (other than the Milton Hershey School Trust) acquiring more than 35% of the voting power of the Common Stock and Class B Stock.

The purchase price is pre-determined. The market value of the preferred stock would be twice the exercise price. Rights owned by the acquiring person or group are excluded. In addition, if we are acquired in a merger or other business combination, each Right will entitle a holder to purchase from the acquiring company, for the pre-determined exercise price, preferred stock of the acquiring company having an aggregate market value equal to twice the exercise price.

Further, our Board of Directors may, at its option, exchange all (but not less than all) of the outstanding Preferred Stock (other than Rights held by the acquiring person or group) for shares of Common Stock or Class B Stock, as applicable at any time after a person or group (other than the Milton Hershey School Trust) acquires:

- 15% or more (but less than 50%) of our Common Stock; or
- more than 35% of the voting power of all outstanding Common Stock and Class B Stock.

This may be done at an exchange ratio of one share of Common Stock or Class B Stock for each one one-thousandth of a share of Preferred Stock.

Solely at our option, we may amend the Rights or redeem the Rights for $.01 per Right at any time before the acquisition by a person or group (other than the Milton Hershey School Trust) of beneficial ownership of 15% or more of our Common Stock or more than 35% of the voting power of all of the outstanding Common Stock and Class B Stock. Unless redeemed earlier or extended by us, the Rights will expire on December 14, 2010.

16. STOCK COMPENSATION PLANS

At our annual meeting of stockholders, held April 17, 2007, stockholders approved The Hershey Company Equity and Incentive Compensation Plan (“EICP”). The EICP is an amendment and restatement of our former Key Employee Incentive Plan, a share-based employee incentive compensation plan, and is also a continuation of our Broad Based Stock Option Plan, Broad Based Annual Incentive Plan and Directors’ Compensation Plan. Following its adoption on April 17, 2007, the EICP became the single plan under which grants using shares for compensation and incentive purposes will be made.

The following table summarizes our compensation costs:

For the years ended December 31, In millions of dollars	2008	2007	2006
Total compensation amount charged against income for stock compensation plans, including stock options, performance stock units and restricted stock units	**$36.3**	$28.5	$41.3
Total income tax benefit recognized in Consolidated Statements of Income for share-based compensation	**$13.1**	$ 9.9	$15.0

Compensation costs for stock compensation plans are primarily included in selling, marketing and administrative expense. The increase in share-based compensation expense for 2008 resulted from the impact of lowered performance expectations for the performance stock units in 2007 and the timing of the 2007 stock option grants. Our annual grant of stock options to management level employees, which customarily occurs in February of each year, was delayed in 2007 pending approval by our stockholders of the EICP. In 2008, we resumed our customary February grant schedule. The decline in compensation costs from 2006 to 2007 was primarily caused by reduced estimates for performance stock unit awards reflecting lower than expected operating results for the Company. In addition, stock option expense was lower in 2007 due to the timing of our primary stock option grant.

In 2008 and 2007, compensation cost was reduced by $.6 million and $1.1 million, respectively, related to stock option forfeitures from the global supply chain transformation program. In 2006, compensation cost included $1.2 million for the impact of accelerated vesting of stock options for employees exiting our Company. The income tax benefit amount for 2006 included $0.5 million for the accelerated vesting of stock options under this program. The accelerated vesting affected less than 100 employees exiting the company in 2006 under the Voluntary Workforce Reduction Programs described in Note 3, Business Realignment Initiatives.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

The EICP provides for grants of one or more of the following stock-based compensation awards to employees, non-employee directors and certain service providers upon whom the successful conduct of our business is dependent:

- non-qualified stock options ("stock options");
- performance stock units and performance stock;
- stock appreciation rights;
- restricted stock units and restricted stock; and
- other stock-based awards.

The EICP also provides for the deferral of stock-based compensation awards by participants if approved by the Compensation and Executive Organization Committee of our Board and if in accordance with an applicable deferred compensation plan of the Company. Currently, the Compensation and Executive Organization Committee has authorized the deferral of performance stock unit and restricted stock unit awards by certain eligible employees under the Company's Deferred Compensation Plan. Our Board has authorized our non-employee directors to defer any portion of their cash retainer, committee chair fees and restricted stock units awarded after 2007 that they elect to convert into deferred stock units under our Directors' Compensation Plan. As of December 31, 2008, 52.0 million shares were authorized and approved by the Company's stockholders for grants under the EICP.

In July 2004, we announced a worldwide stock option grant under the Broad Based Stock Option Plan. This grant provided over 13,000 eligible employees with 100 non-qualified stock options. The stock options were granted at a price of $46.44 per share, have a term of ten years and will vest on July 19, 2009.

The following table sets forth information about the weighted-average fair value of options granted to employees during the year using the Black-Scholes option-pricing model and the weighted-average assumptions used for such grants:

For the years ended December 31,	2008	2007	2006
Dividend yields	**2.4%**	2.0%	1.6%
Expected volatility	**18.1%**	19.5%	23.7%
Risk-free interest rates	**3.1%**	4.6%	4.6%
Expected lives in years	**6.6**	6.6	6.6

- "Dividend yields" means the sum of dividends declared for the four most recent quarterly periods, divided by the estimated average price of our Common Stock for the comparable periods.
- "Expected volatility" means the historical volatility of our Common Stock over the expected term of each grant. We exclude the period during 2002 when unusual volatility resulted from the exploration of the possible sale of our Company.
- We base the risk-free interest rate for periods within the contractual life of the option on the U.S. Treasury yield curve in effect at the time of grant.
- "Expected lives" means the period of time that options granted are expected to be outstanding based primarily on historical data.

Stock Options

The exercise price of each option awarded under the EICP equals the closing price of the Company's Common Stock on the New York Stock Exchange on the date of grant. Prior to approval by our stockholders of

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

the EICP on April 17, 2007, the exercise price of stock options granted under the former Key Employee Incentive Plan was determined as the closing price of our Common Stock on the New York Stock Exchange on the trading day immediately preceding the date the stock options were granted. Each option has a maximum term of ten years. Options granted to executives and key employees prior to January 1, 2000, vested at the end of the second year after grant. In 2000, we changed the terms and conditions of the grants to provide for pro-rated vesting over four years for options granted subsequent to December 31, 1999.

For the years ended December 31, In millions of dollars	2008	2007	2006
Compensation amount charged against income for stock options	**$27.2**	$26.8	$33.4

In 2008 and 2007, compensation cost was reduced by $.6 million and $1.1 million, respectively, related to stock option forfeitures from the global supply chain transformation program. The 2006 compensation amount included $1.2 million for the impact of the modification of stock option grants resulting in accelerated vesting of stock options. The modification related to employees exiting our Company in 2006 under the terms of the Voluntary Workforce Reduction Programs described in Note 3, Business Realignment Initiatives.

A summary of the status of our Company’s stock options and changes during the years ending on those dates follows:

	2008		2007		2006	
Stock Options	Shares	Weighted-Average Exercise Price	Shares	Weighted-Average Exercise Price	Shares	Weighted-Average Exercise Price
Outstanding at beginning of year	**13,889,116**	**$ 43.26**	13,855,113	$ 40.29	13,725,113	$ 37.83
Granted	**4,468,494**	**$ 35.95**	2,240,883	$ 53.72	1,777,189	$ 52.43
Exercised	**(1,196,417)**	**$ 30.92**	(1,686,448)	$ 29.97	(1,269,690)	$ 28.68
Forfeited	**(489,550)**	**$ 46.83**	(520,432)	$ 52.29	(377,499)	$ 47.19
Outstanding at end of year	**16,671,643**	**$ 42.08**	13,889,116	$ 43.26	13,855,113	$ 40.29
Options exercisable at year-end	**8,752,201**	**$ 40.91**	8,316,966	$ 37.43	8,212,209	$ 34.39
Weighted-average fair value of options granted during the year (per share)	**$ 6.20**		$ 12.84		$ 15.07	

For the years ended December 31, In millions of dollars	2008	2007	2006
Intrinsic value of options exercised	**$10.0**	$34.3	$32.3

The aggregate intrinsic value of options outstanding as of December 31, 2008 was $13.7 million. The aggregate intrinsic value of exercisable options as of December 31, 2008 was $13.7 million.

As of December 31, 2008, there was $35.2 million of total unrecognized compensation cost related to non-vested stock option compensation arrangements granted under the EICP. We expect to recognize that cost over a weighted-average period of 2.4 years.

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

The following table summarizes information about stock options outstanding as of December 31, 2008:

	Options Outstanding			Options Exercisable	
Range of Exercise Prices	Number Outstanding as of 12/31/08	Weighted-Average Remaining Contractual Life in Years	Weighted-Average Exercise Price	Number Exercisable as of 12/31/08	Weighted-Average Exercise Price
$ 22.50-34.66	**3,908,873**	**3.2**	**$ 31.28**	**3,874,418**	**$ 31.26**
$ 34.85-52.26	**7,754,257**	**7.5**	**$ 38.31**	**2,332,635**	**$ 38.68**
$ 52.30-64.65	**5,008,513**	**7.2**	**$ 56.37**	**2,545,148**	**$ 57.64**
$ 22.50-64.65	**16,671,643**	**6.6**	**$ 42.08**	**8,752,201**	**$ 40.91**

Performance Stock Units and Restricted Stock Units

Under the EICP, our Company grants performance stock units to selected executives and other key employees. Vesting is contingent upon the achievement of certain performance objectives. If our Company meets targets for financial measures at the end of the applicable three-year performance cycle, we award the full number of shares to the participants. The performance scores for 2008 grants of performance stock units can range from 0% to 250% of the targeted amounts. There were also additional grants of 2008 performance stock units (“2008 supplemental grants”) which were supplements to the 2007 grants. The performance scores for the 2008 supplemental grants can range from 0% to 150%. Participants will receive the greater of an award for the 2008 supplemental grants or the 2007 grants.

In 2008, 2007 and 2006, we awarded restricted stock units to certain executive officers and other key employees under the EICP. We also awarded restricted stock units quarterly to non-employee directors.

Our Company recognizes the compensation cost associated with performance stock units ratably over the three-year term, except for the 2003 grants and 2008 supplemental grants. An additional three-year vesting term was imposed for the 2003 grants with accelerated vesting for retirement, disability or death. The compensation cost for the 2003 grants was recognized over a period from three to six years. The compensation cost for the 2008 supplemental grants is being recognized over two years. Compensation cost is based on the grant date fair value for the 2003, 2006, 2007 and 2008 grants because those grants can only be settled in shares of our Common Stock. Compensation cost for the 2004 and 2005 grants was based on the year-end market value of the stock because those grants could be settled in cash or in shares of our Common Stock.

We recognize the compensation cost associated with employee restricted stock units over a specified restriction period based on the year-end market value of the stock. We recognize expense for employee restricted stock units based on the straight-line method. We recognize the compensation cost associated with non-employee director restricted stock units at the grant date.

For the years ended December 31, In millions of dollars	2008	2007	2006
Compensation amount charged against income for performance and restricted stock units	**$9.1**	$1.7	$7.9

The increase in compensation expense for 2008 resulted from the impact of lowered performance expectations for the performance stock units in 2007.

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Performance stock units and restricted stock units granted for potential future distribution were as follows:

For the years ended December 31,	2008	2007	2006
Units granted	**541,623**	387,143	247,340
Weighted-average fair value at date of grant	**$ 37.78**	$ 49.83	$ 55.24

A summary of the status of our Company's performance stock units and restricted stock units as of December 31, 2008 and the change during 2008 follows:

Performance Stock Units and Restricted Stock Units	2008	Weighted-average grant date fair value for equity awards or market value for liability awards
Outstanding at beginning of year	**691,032**	**$38.14**
Granted	**541,623**	**$37.78**
Performance assumption change	**(99,355)**	**$45.89**
Vested	**(333,980)**	**$35.41**
Forfeited	**(33,111)**	**$40.45**
Outstanding at end of year	**766,209**	**$36.13**

As of December 31, 2008, there was $16.4 million of unrecognized compensation cost relating to non-vested performance stock units and restricted stock units. We expect to recognize that cost over a weighted-average period of 2.1 years.

For the years ended December 31, In millions of dollars	2008	2007	2006
Intrinsic value of share-based liabilities paid, combined with the fair value of shares vested	**$10.3**	$22.4	$4.7

The higher 2007 amount was due to the payment of awards earned for the 2004-2006 performance stock unit cycle. In 2008, no payment was made for the 2005-2007 performance stock unit cycle based on the Company's performance against the two financial objectives which fell below the threshold levels required to earn an award. The 2006 amount was lower due to the additional three-year vesting term for the 2003 performance stock unit grants which reduced the number of shares that vested in 2006.

Deferred performance stock units, deferred restricted stock units, deferred directors' fees and accumulated dividend amounts totaled 446,845 units as of December 31, 2008.

We did not have any stock appreciation rights that were outstanding as of December 31, 2008.

17. SUPPLEMENTAL BALANCE SHEET INFORMATION

Accounts Receivable—Trade

In the normal course of business, our Company extends credit to customers that satisfy pre-defined credit criteria, based upon the results of our recurring financial account reviews and our evaluation of the current and projected economic conditions. Our primary concentration of credit risk is associated with McLane Company, Inc., one of the largest wholesale distributors to convenience stores, drug stores, wholesale clubs and mass merchandisers. As of December 31, 2008, McLane Company, Inc. accounted for approximately 27.3% of our total accounts receivable. No other customer accounted for more than 10% of our year-end accounts receivable.

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THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

We believe that we have little concentration of credit risk associated with the remainder of our customer base. Accounts Receivable-Trade, as shown on the Consolidated Balance Sheets, were net of allowances and anticipated discounts of $16.7 million as of December 31, 2008. Allowances and discounts were $17.8 million as of December 31, 2007.

Prepaid Expenses and Other Current Assets

As of December 31, 2008, prepaid expenses and other current assets included a receivable of approximately $14.5 million related to the recovery of damages from a product recall and temporary plant closure in Canada. A receivable of $17.7 million was included as of December 31, 2007. The decrease resulted primarily from currency exchange rate fluctuations. The product recall during the fourth quarter of 2006 was caused by a contaminated ingredient purchased from an outside supplier with whom we have filed a claim for damages and are currently in litigation.

Inventories

We value the majority of our inventories under the last-in, first-out (“LIFO”) method and the remaining inventories at the lower of first-in, first-out (“FIFO”) cost or market. Inventories include material, labor and overhead. LIFO cost of inventories valued using the LIFO method was $363.7 million as of December 31, 2008 and $369.9 million as of December 31, 2007. We stated inventories at amounts that did not exceed realizable values. Total inventories were as follows:

December 31, In thousands of dollars	2008	2007
Raw materials	**$ 215,309**	$199,460
Goods in process	**95,986**	80,282
Finished goods	**419,016**	407,058
Inventories at FIFO	**730,311**	686,800
Adjustment to LIFO	**(137,781)**	(86,615)
Total inventories	**$ 592,530**	$600,185

Property, Plant and Equipment

The property, plant and equipment balance included construction in progress of $131.4 million as of December 31, 2008 and $142.6 million as of December 31, 2007. Major classes of property, plant and equipment were as follows:

December 31, In thousands of dollars	2008	2007
Land	**$ 70,226**	$ 86,596
Buildings	**805,736**	788,267
Machinery and equipment	**2,561,458**	2,731,580
Property, plant and equipment, gross	**3,437,420**	3,606,443
Accumulated depreciation	**(1,978,471)**	(2,066,728)
Property, plant and equipment, net	**$ 1,458,949**	$ 1,539,715

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

During 2008, we recorded accelerated depreciation of property, plant and equipment of $60.6 million associated with our 2007 business realignment initiatives. As of December 31, 2008, certain real estate with a carrying value or fair value less cost to sell, if lower, of $15.8 million was being held for sale. These assets were associated with the closure of facilities as part of the 2007 business realignment initiatives.

Goodwill and Other Intangible Assets

Goodwill and intangible assets were as follows:

December 31, In thousands of dollars	2008	2007
Unamortized intangible assets:		
Goodwill balance at beginning of year	**$584,713**	$501,955
Goodwill acquired during year and other adjustments	**4,442**	79,932
Effect of foreign currency translation	**(34,478)**	15,086
Impairment charge	**—**	(12,260)
Goodwill balance at end of year	**$554,677**	$584,713
Trademarks	**$127,204**	$127,204
Impairment charge	**(45,739)**	—
Amortized intangible assets, gross:		
Customer-related	**30,116**	30,116
Intangible asset associated with cooperative agreement with Bauducco	**13,683**	—
Patents	**8,317**	8,317
Effect of foreign currency translation	**(7,958)**	1,613
Total other intangible assets, gross	**125,623**	167,250
Accumulated amortization	**(14,851)**	(11,388)
Other intangibles	**$110,772**	$155,862

The decrease in goodwill was primarily associated with the impact of foreign currency translation adjustments, partially offset by certain adjustments made to reflect the final fair value of assets acquired through business acquisitions in 2007. The 2007 impairment charge of $12.3 million resulted from our annual goodwill impairment evaluation for our business in Brazil. Despite a relatively high investment level, our Brazilian business had not gained profitable scale or adequate market distribution. This resulted in reduced expectations for future cash flows and a lower estimated fair value for this reporting unit.

In January 2008, Hershey do Brasil entered into a cooperative agreement with Bauducco. In the first quarter of 2008, we received approximately $2.0 million in cash and recorded an other intangible asset of $13.7 million associated with the cooperation agreement with Bauducco in exchange for our conveying to Bauducco a 49% interest in Hershey do Brasil.

The Company performs annual impairment tests of other intangible assets with indefinite lives in the fourth quarter of each year or when circumstances arise that indicate a possible impairment might exist. Due to reduced expectations for future sales and cash flows compared with the valuations at the acquisition dates, we determined that the carrying amounts of certain trademarks, primarily the *Mauna Loa* brand, exceeded their estimated fair value and recorded total non-cash impairment charges of $45.7 million in December 2008. Based on our annual

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

impairment evaluations, we determined that no goodwill or any intangible assets other than those trademarks were impaired as of December 31, 2008.

The useful lives of trademarks were determined to be indefinite and, therefore, we are not amortizing these assets. We amortize customer-related intangible assets over their estimated useful lives of approximately ten years. We amortize patents over their remaining legal lives of approximately twelve years. Total amortization expense for other intangible assets was $4.1 million in 2008, $3.0 million in 2007 and $3.4 million in 2006.

The estimated amortization expense over the next five years is as follows:

In millions of dollars	2009	2010	2011	2012	2013
Estimated amortization expense	$4.2	$3.9	$3.9	$3.9	$3.9

Accrued Liabilities

Accrued liabilities were as follows:

December 31, In thousands of dollars	2008	2007
Payroll, compensation and benefits	**$ 198,710**	$ 187,605
Advertising and promotion	**182,227**	196,598
Other	**123,128**	154,783
Total accrued liabilities	**$ 504,065**	$ 538,986

Other Long-term Liabilities

Other long-term liabilities were as follows:

December 31, In thousands of dollars	2008	2007
Accrued post-retirement benefits	**$ 285,001**	$ 330,708
Other	**219,962**	213,308
Total other long-term liabilities	**$ 504,963**	$ 544,016

18. SEGMENT INFORMATION

We operate as a single reportable segment in manufacturing, marketing, selling and distributing various package types of chocolate candy, sugar confectionery, refreshment, and food and beverage enhancers under more than 80 brand names. Our five operating segments comprise geographic regions including the United States, Canada, Mexico, Brazil and other international locations, such as India, the Philippines, Korea, Japan, and China. We market confectionery products in approximately 50 countries worldwide.

For segment reporting purposes, we aggregate our operations in the Americas, which comprise the United States, Canada, Mexico and Brazil in accordance with the criteria of Statement of Financial Accounting Standards No. 131, *Disclosures about Segments of an Enterprise and Related Information*. We base this aggregation on similar economic characteristics, and similar products and services, production processes, types or classes of customers, distribution methods, and the similar nature of the regulatory environment in each

THE HERSHEY COMPANY

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

location. We aggregate our other international operations with the Americas to form one reportable segment. When combined, our other international operations share most of the aggregation criteria and represent less than 10% of consolidated revenues, operating profits and assets.

The percentage of total consolidated net sales for businesses outside of the United States was 14.4% for 2008, 13.8% for 2007 and 10.9% for 2006. The percentage of total consolidated assets outside of the United States as of December 31, 2008 was 16.0%, and 16.2% as of December 31, 2007.

Sales to McLane Company, Inc., one of the largest wholesale distributors in the United States to convenience stores, drug stores, wholesale clubs and mass merchandisers, exceeded 10% of total net sales in each of the last three years, totaling $1.3 billion in 2008, $1.3 billion in 2007 and $1.2 billion in 2006. McLane Company, Inc. is the primary distributor of our products to Wal-Mart Stores, Inc.

19. QUARTERLY DATA (Unaudited)

Summary quarterly results were as follows:

Year 2008 In thousands of dollars except per share amounts	First	Second	Third	Fourth
Net sales	**$ 1,160,342**	**$ 1,105,437**	**$ 1,489,609**	**$ 1,377,380**
Gross profit	**376,452**	**382,511**	**501,229**	**497,526**
Net income	**63,245**	**41,467**	**124,538**	**82,155**
Per share—Basic—Class B Common Stock	**.26**	**.17**	**.51**	**.33**
Per share—Diluted—Class B Common Stock	**.26**	**.17**	**.51**	**.33**
Per share—Basic—Common Stock	**.29**	**.19**	**.56**	**.37**
Per share—Diluted—Common Stock	**.28**	**.18**	**.54**	**.36**

Year 2007 In thousands of dollars except per share amounts	First	Second	Third	Fourth
Net sales	$ 1,153,109	$ 1,051,916	$ 1,399,469	$ 1,342,222
Gross profit	414,031	329,438	470,623	417,477
Net income	93,473	3,554	62,784	54,343
Per share—Basic—Class B Common Stock[a]	.37	.01	.26	.22
Per share—Diluted—Class B Common Stock	.37	.02	.26	.22
Per share—Basic—Common Stock	.42	.02	.28	.24
Per share—Diluted—Common Stock[a]	.40	.01	.27	.24

(a) Quarterly income per share amounts do not total to the annual amounts due to changes in weighted-average shares outstanding during the year.

Item 9. ***CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE***

None.

Item 9A. ***CONTROLS AND PROCEDURES***

As required by Rule 13a-15 under the Securities Exchange Act of 1934 (the "Exchange Act"), the Company conducted an evaluation of the effectiveness of the design and operation of the Company's disclosure controls and procedures as of December 31, 2008. This evaluation was carried out under the supervision and with the participation of the Company's management, including the Company's Chief Executive Officer and Chief Financial Officer. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures are effective. There has been no change during the most recent fiscal quarter in the Company's internal control over financial reporting identified in connection with the evaluation that has materially affected, or is likely to materially affect, the Company's internal control over financial reporting.

Disclosure controls and procedures are controls and other procedures that are designed to ensure that information required to be disclosed in the Company's reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed in the Company's reports filed under the Exchange Act is accumulated and communicated to management, including the Company's Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

The Company's Common Stock is listed on the New York Stock Exchange ("NYSE") under the ticker symbol "HSY." On June 23, 2008, the Company's Chief Executive Officer, David J. West, certified to the NYSE pursuant to Rule 303A.12(a) that, as of the date of that certification, he was not aware of any violation by the Company of the NYSE's Corporate Governance listing standards.

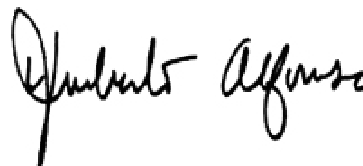
MANAGEMENT REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

The management of The Hershey Company is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rule 13a-15(f). The Company's internal control system was designed to provide reasonable assurance to the Company's management and Board of Directors regarding the preparation and fair presentation of published financial statements.

All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

The Company's management, including the Company's Chief Executive Officer and Chief Financial Officer, assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2008. In making this assessment, the Company's management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control—Integrated Framework. Based on this assessment, management believes that, as of December 31, 2008, the Company's internal control over financial reporting was effective based on those criteria.

David J. West
Chief Executive Officer



Humberto P. Alfonso
Chief Financial Officer

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
The Hershey Company:

We have audited The Hershey Company and subsidiaries (the “Company”) internal control over financial reporting as of December 31, 2008, based on criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company’s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying management report on internal control over financial reporting. Our responsibility is to express an opinion on the Company’s internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company’s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company’s internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company’s assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2008, based on criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of The Hershey Company as of December 31, 2008 and 2007, and the related consolidated statements of income, cash flows and stockholders’ equity for each of the years in the three-year period ended December 31, 2008, and our report dated February 19, 2009 expressed an unqualified opinion on those consolidated financial statements.

KPMG LLP

New York, New York
February 19, 2009

Item 9B. ***OTHER INFORMATION***

None.

PART III

Item 10. *DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE*

The names, ages, positions held with our Company, periods of service as a director, principal occupations, business experience and other directorships of nominees for director of our Company are set forth in the Proxy Statement in the section entitled "Proposal No. 1—Election of Directors," following the question "Who are the nominees?," which information is incorporated herein by reference.

Our Executive Officers as of February 11, 2009

Name	Age	Positions Held During the Last Five Years
David J. West	45	President and Chief Executive Officer (December 2007); President (October 2007); Executive Vice President, Chief Operating Officer (and Chief Financial Officer until July 2007, when his successor to that position was elected) (January 2007); Senior Vice President, Chief Financial Officer (January 2005); Senior Vice President, Chief Customer Officer (June 2004); Senior Vice President, Sales (December 2002)
Humberto P. Alfonso (1)	51	Senior Vice President, Chief Financial Officer (July 2007); Vice President, Finance and Planning, North American Commercial Group (October 2006); Vice President, Finance and Planning, U.S. Commercial Group (July 2006)
John P. Bilbrey	52	Senior Vice President, President Hershey North America (December 2007); Senior Vice President, President International Commercial Group (November 2005); Senior Vice President, President Hershey International (November 2003)
Charlene H. Binder (2)	48	Senior Vice President, Chief People Officer (March 2008)
Michele G. Buck (3)	47	Senior Vice President, Global Chief Marketing Officer (December 2007); Senior Vice President, Chief Marketing Officer, U.S. Commercial Group (November 2005); Senior Vice President, President U.S. Snacks (April 2005)
George F. Davis	60	Senior Vice President, Chief Information Officer (June 2008); Vice President, Chief Information Officer (December 2000)
Javier H. Idrovo (4)	41	Senior Vice President, Strategy and Business Development (December 2008)
Thaddeus Jastrzebski (5)	47	Senior Vice President, President Hershey International (December 2007); Vice President, International Finance and Planning (September 2004)
Terence L. O'Day (6)	59	Senior Vice President, Global Operations (December 2008)
Burton H. Snyder	61	Senior Vice President, General Counsel and Secretary (November 2003)
C. Daniel Azzara	54	Vice President, Global Research and Development (April 2007); Vice President, Global Innovation and Quality (October 2005); Vice President, Global Research and Development (June 2004)
David W. Tacka	55	Vice President, Chief Accounting Officer (February 2004)

There are no family relationships among any of the above-named officers of our Company.

(1) Mr. Alfonso was elected Vice President, Finance and Planning, U.S. Commercial Group effective July 17, 2006. Prior to joining our Company he was Executive Vice President Finance, Chief Financial Officer, Americas Beverages, Cadbury Schweppes (March 2005); Vice President Finance, Global Supply Chain, Cadbury Schweppes (May 2003).

(2) Ms. Binder was elected Senior Vice President, Chief People Officer effective April 21, 2008. Prior to joining our Company, Ms. Binder was Vice President, Human Resources for North America, The Dannon Company (January 2006); Senior Vice President, Global Human Resources, Unilever Cosmetics International (January 2001).

(3) Ms. Buck was elected Senior Vice President, President U.S. Snacks effective April 19, 2005. Prior to joining our Company, Ms. Buck was Senior Vice President and General Manager, Kraft Confections (October 2001).

(4) Mr. Idrovo was elected Senior Vice President, Strategy and Business Development effective December 2, 2008. Prior to joining our Company he was President, Dole Packaged Foods, LLC (January 2006); Vice President and Chief Financial Officer, Dole Packaged Foods (April 2005); Senior Vice President, Strategy, Dole Food Company, Inc. (September 2004); Vice President, Strategy, Dole Food Company, Inc. (April 2001).

(5) Mr. Jastrzebski was elected Vice President, International Finance and Planning effective September 29, 2004. Prior to joining our Company he was Senior Vice President, Finance, IT and Administration, and Chief Financial Officer for CARE, U.S.A. (July 2002).

(6) Mr. O'Day was elected Senior Vice President, Global Operations effective December 2, 2008. Prior to joining our Company he was Executive Vice President and Chief Operating Officer of Mannatech, Inc. (June 2006); Executive Vice President Operations, Refrigerated Foods, Conagra Refrigerated Foods Companies (January 2001).

Our Executive Officers are generally elected each year at the organization meeting of the Board in April.

Information regarding the identification of the Audit Committee as a separately-designated standing committee of the Board and information regarding the status of one or more members of the Audit Committee being an "audit committee financial expert" is set forth in the Proxy Statement in the section entitled "Governance of the Company," following the question "What are the committees of the Board and what are their functions?," which information is incorporated herein by reference.

Reporting of any inadvertent late filings under Section 16(a) of the Securities Exchange Act of 1934, as amended, is set forth in the section of the Proxy Statement entitled "Section 16(a) Beneficial Ownership Reporting Compliance." This information is incorporated herein by reference.

Information regarding our Code of Ethical Business Conduct applicable to our directors, officers and employees is set forth in Part I of this Annual Report on Form 10-K, under the heading "Available Information."

Item 11. *EXECUTIVE COMPENSATION*

Information regarding compensation of each of the named executive officers, including our Chief Executive Officer, and the Compensation Committee Report are set forth in the section of the Proxy Statement entitled "Executive Compensation," which information is incorporated herein by reference. Information regarding compensation of our directors is set forth in the section of the Proxy Statement entitled "Director Compensation," which information is incorporated herein by reference.

Item 12. *SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS*

(a) Information concerning ownership of our voting securities by certain beneficial owners, individual nominees for director, the named executive officers, including persons serving as our Chief Executive Officer and executive officers as a group, is set forth in the section entitled "Ownership of the Company's Securities" in the Proxy Statement, which information is incorporated herein by reference.

(b) The following table provides information about all of the Company's equity compensation plans as of December 31, 2008:

Equity Compensation Plan Information

Plan Category	(a) Number of securities to be issued upon exercise of outstanding options, warrants and rights	(b) Weighted-average exercise price of outstanding options, warrants and rights	(c) Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by security holders [(1)]	15,779,743	$ 41.83	12,878,813
Equity compensation plans not approved by security holders [(2)]	891,900	$ 46.44	1,201,884
Total	16,671,643	$ 42.08	14,080,697

(1) Column (a) includes stock options granted under the stockholder-approved EICP. The securities available for future issuances in column (c) are not allocated to any specific type of award under the EICP, but are available generally for future awards of stock options, performance stock units, performance stock, restricted stock units, restricted stock and other stock-based awards.

(2) Column (a) includes 891,900 stock options outstanding that were granted under the Broad Based Stock Option Plan. In July 2004, the Company announced a worldwide stock option grant under the Broad Based Stock Option Plan, which provided over 13,000 eligible employees with a grant of 100 non-qualified stock options each. The stock options were granted at a price of $46.44 per share which equates to 100% of the fair market value of our Common Stock on the date of grant (determined as the closing price on the New York Stock Exchange on the trading day immediately preceding the date the stock options were granted), have a term of ten years and will vest on July 19, 2009. Column (c) includes 1,078,100 stock options under the Broad Based Stock Option Plan remaining available for future issuances as of December 31, 2008.

Column (c) also includes 123,784 shares remaining available for future issuances under the Directors' Compensation Plan as of December 31, 2008.

Item 13. ***CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE***

Information regarding transactions with related persons is set forth in the section of the Proxy Statement entitled "Certain Transactions and Relationships" and information regarding director independence is set forth in the section of the Proxy Statement entitled "Governance of the Company" following the question, "Which directors are independent, and how does the Board make that determination?," which information is incorporated herein by reference.

Item 14. ***PRINCIPAL ACCOUNTANT FEES AND SERVICES***

Information regarding "Principal Accountant Fees and Services," including the policy regarding pre-approval of audit and non-audit services performed by our Company's independent auditors, is set forth in the section entitled "Information About our Independent Auditors" in the Proxy Statement, which information is incorporated herein by reference.

PART IV

Item 15. *EXHIBITS AND FINANCIAL STATEMENT SCHEDULES*

Item 15(a)(1): Financial Statements

The audited consolidated financial statements of the Company and its subsidiaries and the Report of the Independent Registered Public Accounting Firm thereon, as required to be filed with this report, are set forth under Item 8 of this report.

Item 15(a)(2): Financial Statement Schedule

The following consolidated financial statement schedule of the Company and its subsidiaries for the years ended December 31, 2008, 2007 and 2006 is filed herewith on the indicated page in response to Item 15(c):

Schedule II—Valuation and Qualifying Accounts (Page 113)

Other schedules have been omitted as not applicable or required, or because information required is shown in the consolidated financial statements or notes thereto.

Financial statements of the parent company only are omitted because the Company is primarily an operating company and there are no significant restricted net assets of consolidated and unconsolidated subsidiaries.

Item 15(a)(3): Exhibits

The following items are attached or incorporated by reference in response to Item 15(c):

Articles of Incorporation and By-laws

3.1	The Company's Restated Certificate of Incorporation, as amended, is incorporated by reference from Exhibit 3 to the Company's Quarterly Report on Form 10-Q for the quarter ended April 3, 2005. The By-laws, as amended and restated as of December 4, 2007, are incorporated by reference from Exhibit 3.1 to the Company's Current Report on Form 8-K, filed December 7, 2007.

Instruments defining the Rights of security holders, including indentures

4.1	Stockholder Protection Rights Agreement between the Company and Mellon Investor Services LLC, as Rights Agent, dated December 14, 2000, is incorporated by reference from Exhibit 4.1 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2000.
4.2	The Company has issued certain long-term debt instruments, no one class of which creates indebtedness exceeding 10% of the total assets of the Company and its subsidiaries on a consolidated basis. These classes consist of the following:

1) 5.300% Notes due 2011
2) 6.95% Notes due 2012
3) 5.00% Notes due 2013
4) 4.850% Notes due 2015
5) 5.450% Notes due 2016
6) 8.8% Debentures due 2021
7) 7.2% Debentures due 2027
8) Other Obligations

The Company will furnish copies of the above debt instruments to the Commission upon request.

Material contracts

10.1	Kit Kat and Rolo License Agreement (the "License Agreement") between the Company and Rowntree Mackintosh Confectionery Limited is incorporated by reference from Exhibit 10(a) to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1980. The License Agreement was amended in 1988 and the Amendment Agreement is incorporated by reference from Exhibit 19 to the Company's Quarterly Report on Form 10-Q for the quarter ended July 3, 1988. The License Agreement was assigned by Rowntree Mackintosh Confectionery Limited to Societe des Produits Nestle SA as of January 1, 1990. The Assignment Agreement is incorporated by reference from Exhibit 19 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1990.
10.2	Peter Paul/York Domestic Trademark & Technology License Agreement between the Company and Cadbury Schweppes Inc. (now Cadbury Ireland Limited) dated August 25, 1988, is incorporated by reference from Exhibit 2(a) to the Company's Current Report on Form 8-K dated September 8, 1988. This agreement was assigned by the Company to its wholly-owned subsidiary, Hershey Chocolate & Confectionery Corporation.
10.3	Cadbury Trademark & Technology License Agreement between the Company and Cadbury Limited (now Cadbury Ireland Limited) dated August 25, 1988, is incorporated by reference from Exhibit 2(a) to the Company's Current Report on Form 8-K dated September 8, 1988. This agreement was assigned by the Company to its wholly-owned subsidiary, Hershey Chocolate & Confectionery Corporation.
10.4	Trademark and Technology License Agreement between Huhtamaki and the Company dated December 30, 1996, is incorporated by reference from Exhibit 10 to the Company's Current Report on Form 8-K dated February 26, 1997. This agreement was assigned by the Company to its wholly-owned subsidiary, Hershey Chocolate & Confectionery Corporation. The agreement was amended and restated in 1999 and the Amended and Restated Trademark and Technology License Agreement is incorporated by reference from Exhibit 10.2 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1999.
10.5	Five Year Credit Agreement dated as of December 8, 2006 among the Company and the banks, financial institutions and other institutional lenders listed on the respective signature pages thereof ("Lenders"), Citibank, N.A., as administrative agent for the Lenders (as defined therein), Bank of America, N.A., as syndication agent, UBS Loan Finance LLC, as documentation agent, and Citigroup Global Markets, Inc. and Banc of America Securities LLC, as joint lead arrangers and joint book managers is incorporated by reference from Exhibit 10.1 to the Company's Current Report on Form 8-K, filed December 11, 2006.
10.6	Master Innovation and Supply Agreement between the Company and Barry Callebaut, AG, dated July 13, 2007, is incorporated by reference from Exhibit 10.1 to the Company's Current Report on Form 8-K, filed July 19, 2007.
10.7	Supply Agreement for Monterrey, Mexico, between the Company and Barry Callebaut, AG, dated July 13, 2007, is incorporated by reference from Exhibit 10.2 to the Company's Current Report on Form 8-K, filed July 19, 2007.
10.8	The Company's Short-Term Credit Agreement dated August 24, 2007, is incorporated by reference from Exhibit 10.1 to the Company's Current Report on Form 8-K, filed August 30, 2007.

Executive Compensation Plans and Management Contracts

10.9	The Long-Term Incentive Program Participation Agreement is incorporated by reference from Exhibit 10.2 to the Company's Current Report on Form 8-K filed February 18, 2005.
10.10	The Company's Equity and Incentive Compensation Plan, as approved by our stockholders on April 17, 2007, is incorporated by reference from Exhibit 10.1 to the Company's Current Report on Form 8-K filed April 20, 2007.

10.11	Terms and Conditions of Nonqualified Stock Option Awards under the Equity and Incentive Compensation Plan is incorporated by reference from Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the quarter ended July 1, 2007.
10.12	Terms and Conditions of Nonqualified Stock Option Awards under the Equity and Incentive Compensation Plan is incorporated by reference from Exhibit 10.1 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007.
10.13	The Retirement Agreement and General Release between the Company and Marcella K. Arline dated October 1, 2007, is incorporated by reference from Exhibit 10.1 to the Company's Current Report on Form 8-K filed November 16, 2007.
10.14	The Confidential Agreement and General Release between the Company and Thomas K. Hernquist is incorporated by reference from Exhibit 10.3 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007.
10.15	A summary of certain compensation matters previously contained in the Company's Current Report on Form 8-K filed February 19, 2009, is attached hereto and filed as Exhibit 10.1.
10.16	The Company's Executive Benefits Protection Plan (Group 3A), Amended and Restated as of January 1, 2009, is attached hereto and filed as Exhibit 10.2.
10.17	The Company's Deferred Compensation Plan, Amended and Restated as of October 1, 2007, is incorporated by reference from Exhibit 10.5 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007.
10.18	First Amendment to The Hershey Company Deferred Compensation Plan (Amended and Restated as of October 1, 2007) is incorporated by reference from Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 29, 2008.
10.19	Second Amendment to The Hershey Company Deferred Compensation Plan (Amended and Restated as of October 1, 2007) is attached hereto and filed as Exhibit 10.3.
10.20	Executive Confidentiality and Restrictive Covenant Agreement is incorporated by reference from Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 30, 2008.
10.21	Executive Confidentiality and Restrictive Covenant Agreement adopted as of February 16, 2009, is attached hereto and filed as Exhibit 10.4.
10.22	The Company's Supplemental Executive Retirement Plan, Amended and Restated as of October 2, 2007, is incorporated by reference from Exhibit 10.6 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007.
10.23	First Amendment to The Hershey Company Supplemental Executive Retirement Plan, effective as of January 1, 2009, is attached hereto and filed as Exhibit 10.5.
10.24	The Company's Compensation Limit Replacement Plan, Amended and Restated as of January 1, 2009, is attached hereto and filed as Exhibit 10.6.
10.25	The Amended and Restated Executive Employment Agreement between the Company and David J. West, dated as of October 2, 2007, is incorporated by reference from Exhibit 10.9 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2007.
10.26	First Amendment to Amended and Restated Executive Employment Agreement between the Company and David J. West, effective as of February 13, 2008, is incorporated by reference from Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 30, 2008.
10.27	Second Amendment to Amended and Restated Executive Employment Agreement between the Company and David J. West, effective as of December 29, 2008, is attached hereto and filed as Exhibit 10.7.
10.28	Letter confirming changes to compensation of Burton H. Snyder, dated June 16, 2008, is incorporated by reference from Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 29, 2008.

10.29	The Company's Directors' Compensation Plan, Amended and Restated as of December 2, 2008, is attached hereto and filed as Exhibit 10.8.

Broad Based Equity Compensation Plans

10.30	The Company's Broad Based Stock Option Plan, as amended, is incorporated by reference from Exhibit 10.4 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2002.

Other Exhibits

12.1	Computation of ratio of earnings to fixed charges statement
	A computation of ratio of earnings to fixed charges for the fiscal years ended December 31, 2008, 2007, 2006, 2005 and 2004 is attached hereto and filed as Exhibit 12.1.
21.1	Subsidiaries of the Registrant
	A list setting forth subsidiaries of the Company is attached hereto and filed as Exhibit 21.1.
23.1	Independent Auditors' Consent
	The consent dated February 20, 2009 to the incorporation of reports of the Company's Independent Auditors is attached hereto and filed as Exhibit 23.1.
31.1	Certification of David J. West, Chief Executive Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, is attached hereto and filed as Exhibit 31.1.
31.2	Certification of Humberto P. Alfonso, Chief Financial Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, is attached hereto and filed as Exhibit 31.2.
32.1 *	Certification of David J. West, Chief Executive Officer, and Humberto P. Alfonso, Chief Financial Officer, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 is attached hereto and furnished as Exhibit 32.1.

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* Pursuant to Securities and Exchange Commission Release No. 33-8212, this certification will be treated as "accompanying" this Annual Report on Form 10-K and not "filed" as part of such report for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of Section 18 of the Exchange Act, and this certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, except to the extent that the Company specifically incorporates it by reference.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Company has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, this 20th day of February, 2009.

THE HERSHEY COMPANY
(Registrant)

By: /S/ HUMBERTO P. ALFONSO
Humberto P. Alfonso
Senior Vice President, Chief Financial Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Company and in the capacities and on the date indicated.

Signature	Title	Date
/S/ DAVID J. WEST **(David J. West)**	Chief Executive Officer and Director	February 20, 2009
/S/ HUMBERTO P. ALFONSO **(Humberto P. Alfonso)**	Chief Financial Officer	February 20, 2009
/S/ DAVID W. TACKA **(David W. Tacka)**	Chief Accounting Officer	February 20, 2009
/S/ ROBERT F. CAVANAUGH **(Robert F. Cavanaugh)**	Director	February 20, 2009
/S/ CHARLES A. DAVIS **(Charles A. Davis)**	Director	February 20, 2009
/S/ ARNOLD G. LANGBO **(Arnold G. Langbo)**	Director	February 20, 2009
/S/ JAMES E. NEVELS **(James E. Nevels)**	Director	February 20, 2009
/S/ THOMAS J. RIDGE **(Thomas J. Ridge)**	Director	February 20, 2009
/S/ DAVID L. SHEDLARZ **(David L. Shedlarz)**	Director	February 20, 2009
/S/ CHARLES B. STRAUSS **(Charles B. Strauss)**	Director	February 20, 2009
/S/ LEROY S. ZIMMERMAN **(LeRoy S. Zimmerman)**	Director	February 20, 2009

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
The Hershey Company:

Under date of February 19, 2009, we reported on the consolidated balance sheets of The Hershey Company and subsidiaries as of December 31, 2008 and 2007, and the related consolidated statements of income, cash flows and stockholders' equity for each of the years in the three-year period ended December 31, 2008, which are included in The Hershey Company's Annual Report on Form 10-K. In connection with our audits of the aforementioned consolidated financial statements, we also audited the related financial statement schedule. This financial statement schedule is the responsibility of the Company's management. Our responsibility is to express an opinion on this financial statement schedule based on our audits.

In our opinion, such financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

As discussed in Note 1 to the consolidated financial statements, the Company adopted Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pensions and Other Postretirement Plans*, at December 31, 2006.

/s/ KPMG LLP

New York, New York
February 19, 2009

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Schedule II

THE HERSHEY COMPANY AND SUBSIDIARIES

SCHEDULE II—VALUATION AND QUALIFYING ACCOUNTS
For the Years Ended December 31, 2008, 2007 and 2006

Description In thousands of dollars	Balance at Beginning of Period	Additions: Charged to Costs and Expenses	Additions: Charged to Other Accounts(a)	Deductions from Reserves	Balance at End of Period
Year Ended December 31, 2008:					
Reserves deducted in the consolidated balance sheet from the assets to which they apply					
Accounts Receivable—Trade	$ 17,807	$ 3,968	$ —	$ (5,181)	$16,594
Year Ended December 31, 2007:					
Reserves deducted in the consolidated balance sheet from the assets to which they apply					
Accounts Receivable—Trade	$ 18,665	$ 2,840	$ 427	$ (4,125)	$17,807
Year Ended December 31, 2006:					
Reserves deducted in the consolidated balance sheet from the assets to which they apply					
Accounts Receivable—Trade	$ 19,433	$ 2,669	$ —	$ (3,437)	$18,665

(a) Includes recoveries of amounts previously written off and amounts related to acquired businesses.

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CERTIFICATION

I, David J. West, certify that:

1. I have reviewed this Annual Report on Form 10-K of The Hershey Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

David J. West
Chief Executive Officer
February 20, 2009

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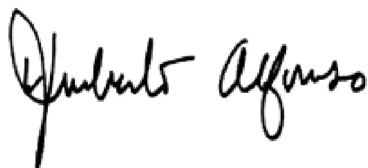
CERTIFICATION

I, Humberto P. Alfonso, certify that:

1. I have reviewed this Annual Report on Form 10-K of The Hershey Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.



Humberto P. Alfonso
Chief Financial Officer
February 20, 2009

Exhibit 10.1

Compensation Summary
(As reported in The Hershey Company's
Current Report on Form 8-K filed February 19, 2009)

On February 16, 2009, the Compensation and Executive Organization Committee ("Committee") of our Board of Directors approved 2009 incentive compensation awards for certain of the executive officers who were named in the Summary Compensation Table of our 2008 Proxy Statement. Those executive officers, who we refer to in this filing as the "named executive officers," are D. J. West, President and Chief Executive Officer, H. P. Alfonso, Senior Vice President, Chief Financial Officer, J. P. Bilbrey, Senior Vice President, President Hershey North America and B. H. Snyder, Senior Vice President, General Counsel and Secretary.

The independent members of our Board of Directors also approved certain compensation for Mr. West on February 17, 2009, all as more fully described below.

2009 Annual Incentive Program (AIP) Target Awards. The Committee approved 2009 contingent target awards for our named executive officers, excluding Mr. West, and recommended to the independent directors as a group a 2009 contingent target award for Mr. West, under the annual incentive program ("AIP") of the Company's Equity and Incentive Compensation Plan ("Incentive Plan"). For named executive officers other than Mr. West, the final award, if any, will be calculated as the product of the executive officer's base salary, his applicable target percentage (described below), a corporate performance score (weighted 75%) reflecting the Company's achievement in 2009 of certain growth objectives (described below) and an individual performance score (weighted 25%) based upon the executive's achievement in 2009 of certain individual performance goals. For Mr. West, the Committee recommended that the final award, if any, be calculated as the product of his base salary, applicable target percentage and the Company's achievement of the 2009 corporate growth objectives. The corporate growth objectives are based upon the Company's diluted earnings per share from operations (weighted 40%), consolidated net sales (weighted 40%) and free cash flow (weighted 20%). The target percentage of base salary used in the 2009 AIP contingent target award for each of the named executive officers is as follows:

David J. West	100%
Humberto P. Alfonso	70%
John P. Bilbrey	75%
Burton H. Snyder	60%

The Committee may, in its discretion, increase or decrease by up to 30% the component of the final award paid to any named executive officer other than Mr. West based upon Company financial performance at the conclusion of the 2009 performance period, and for Mr. West, may recommend to the independent directors that a similar adjustment be made to his final award. Additionally, the Committee may reduce the final award by up to 10% for any named executive officer (excluding Mr. West) who does not model Hershey's corporate values.

The independent directors as a group approved the Committee's recommended 2009 AIP contingent target award for Mr. West on February 17, 2009.

Performance Stock Units (PSUs) for the 2009-2011 Cycle. The Committee also approved, effective February 17, 2009, contingent target awards of PSUs under the Incentive Plan for the named executive officers other than Mr. West, and recommended to the independent directors as a group a contingent target award of PSUs for Mr. West, for the 2009-2011 PSU performance cycle. Awards for the 2009-2011 performance cycle for all named executive officers (including Mr. West) will be based upon the following metrics: the Company's three-year relative total stockholder return ("TSR") versus a peer group of companies (50% of the target award); the Company's three-year compound annual growth in diluted earnings per share ("EPS") from operations measured against an internal target (12.5% of the target award); and annual growth in the Company's diluted EPS from operations measured against an internal target for each year of the three-year performance cycle (12.5% of the target award per year). Payment, if any, for awards will be made at the conclusion of the three-year performance cycle. The Committee will approve the targets for the annual diluted EPS from operations metrics at the beginning of each of the three years in the performance cycle. The total performance score for the three-year cycle can range from a minimum of 0% to a maximum of 250%. Upon completion of the performance cycle, an award will be paid, if at all, only in shares of our Common Stock. The independent directors as a group approved the Committee's recommended contingent target PSU award for Mr. West on February 17, 2009.

As a condition to receiving the contingent target PSU award for the 2009-2011 performance cycle and all future PSU performance cycles, the named executive officers other than Mr. West will be required to sign an Executive Confidentiality and Restrictive Covenant Agreement ("ECRCA") prohibiting the executive from: (i) disclosing the Company's confidential information at any time during or following the executive's employment with the Company; (ii) competing with the Company in any geographic area in which the Company does business in the domestic and worldwide chocolate, confectionery, confectionery-related snack or chocolate-related businesses at any time during the executive's employment with the Company and for a period of 12 months following termination of the executive's employment; and (iii) recruiting or soliciting the Company's employees for a period of 12 months following termination of the executive's employment; or (iv) disparaging the Company's reputation in any way at any time during the executive's employment with the Company and for a period of 12 months following termination of the executive's employment. The ECRCA contains certain exceptions to these restrictions that are customary in agreements of this type. The ECRCA will be filed as an exhibit to our 2009 Annual Report on Form 10-K.

Mr. West was not required to sign the ECRCA because he continues to be bound by the non-disclosure, non-competition, non-solicitation and non-disparagement provisions of the Amended and Restated Executive Employment Agreement, as amended, between him and the Company, dated as of October 2, 2007.

Stock Option Awards. The Committee approved stock option awards under the Incentive Plan for our executive officers other than Mr. West, and recommended to the independent directors as a group a stock option award to Mr. West, all such awards to be effective February 17, 2009. The independent directors as a group approved the grant of stock options to Mr. West on February 17, 2009. All such awards were made subject to the Incentive Plan and the Terms and Conditions of Nonqualified Stock Option Awards, which was filed as an exhibit to the Company's 2007 Annual Report on Form 10-K.

RSU Award. Effective February 17, 2009, the Committee also approved a special recognition grant of 2,500 RSUs to Mr. Bilbrey to be paid in shares upon vesting. The RSUs will vest in equal increments over the next four years.

Additional information regarding the compensation of the Company's executive officers will be provided in the Company's Proxy Statement for the 2009 Annual Meeting of Stockholders, which will be filed in March 2009.

Exhibit 10.2

THE HERSHEY COMPANY
EXECUTIVE BENEFITS PROTECTION PLAN
(GROUP 3A)
Amended and Restated as of January 1, 2009

The Hershey Company Executive Benefits Protection Plan (Group 3A), as set forth herein, is intended to help attract and retain qualified management employees and maintain a stable work environment by making provision for the protection of covered employees in connection with a Change in Control or termination of employment under certain circumstances as set forth herein. The Plan is an amendment to and restatement (as amended) of The Hershey Company Executive Benefits Protection Plan (Group 3A), which was last amended and restated effective October 2, 2007.

ARTICLE 1
DEFINITIONS

As hereinafter used, the following words shall have the meanings set forth below.

1.1 Annual Base Salary means with respect to an Executive the higher of:

1.1.1 his or her highest annual base salary in effect during the one (1) year period preceding a Change in Control; or

1.1.2 his or her highest annual base salary in effect during the one (1) year period preceding his or her Date of Termination.

For purposes of the foregoing, salary reduction elections pursuant to Code sections 125 and 401(k) shall not be taken into account.

1.2 Annual Incentive Pay means with respect to an Executive the higher of:

1.2.1 the highest Incentive Pay paid or payable, including any Incentive Pay or portion thereof which has been earned but deferred, to him or her by the Company in any of the three fiscal years (or such shorter period during which he or she has been employed by the Company or eligible to receive any Incentive Pay payment) immediately preceding the fiscal year in which a Change in Control occurs (annualized for any fiscal year during such period consisting of less than twelve full months or with respect to which he or she has been employed by the Company or eligible to receive Incentive Pay for less than twelve full months); or

1.2.2 his or her 100% target Incentive Pay award amount payable for the year in which his or her Date of Termination occurs.

1.3 Base Amount shall have the meaning ascribed to such term in Code section 280G(b)(3).

1.4 Board means the Board of Directors of the Company.

1.5 Cause means with respect to an Executive:

1.5.1 his or her willful and continued failure to substantially perform his or her duties with the Company (other than any such failure resulting from incapacity due to physical or mental illness), after a written demand for substantial performance is delivered to him or her by the Board or the Chief Executive Officer of the Company which specifically identifies the manner in which the Board or Chief Executive Officer believes that the Executive has not substantially performed his or her duties; or

1.5.2 his or her willfully engaging in illegal conduct or gross misconduct which is materially and demonstrably injurious to the Company.

For purposes of this Section 1.5, no act or failure to act, on the part of an Executive, shall be considered willful unless it is done, or omitted to be done, by him or her in bad faith and without reasonable belief that his or her action or omission was in the best interests of the Company. Any act, or failure to act, based upon prior approval given by the Board or upon the instruction or with the approval of the Chief Executive Officer or an Executive's superior, or based upon the advice of counsel for the Company (provided such approval, instruction, or advice of counsel is made by or from someone other than the Executive), shall be conclusively presumed to be done, or omitted to be done, by the Executive in good faith and in the best interests of the Company. The cessation of employment of an Executive shall not be deemed to be for Cause unless and until there shall have been delivered to him or her a copy of a resolution duly adopted by the affirmative vote of not less than three-quarters of the entire membership of the Board at a meeting of the Board called and held for such purpose (after the provision of reasonable notice to him or her and after he or she has been heard before the Board, or has been given a reasonable opportunity to be heard but declined to do so, together with counsel (if he or she chooses)), finding that, in the good faith opinion of the Board, he or she is guilty of the conduct described in Section 1.5.1 or 1.5.2 above, and specifying the particulars thereof in detail.

1.6 Change in Control means:

1.6.1 individuals who, on April 18, 2006, constitute the Board (the "Incumbent Directors") cease for any reason to constitute at least a majority of the Board, provided that any person becoming a Director subsequent to April 18, 2006, whose election or nomination for election was approved by a vote of at least two-thirds of the Incumbent Directors then on the Board (either by specific vote or by approval of the proxy statement of the Company in which such person is named as nominee for Director, without written objection to such nomination) shall be an Incumbent Director; provided, however, that no individual initially elected or nominated as a Director of the Company as a result of an actual or threatened election contest (as described in Rule 14a-12(c) under the Securities Exchange Act of 1934 (the "Exchange Act"))

("Election Contest") or other actual or threatened solicitation of proxies or consents by or on behalf of any person (as such term is defined in Section 3(a)(9) of the Exchange Act and as used in Sections 13(d)(3) and 14(d)(2) of the Exchange Act) ("Person") other than the Board ("Proxy Contest"), including by reason of any agreement intended to avoid or settle any Election Contest or Proxy Contest, shall be deemed an Incumbent Director; and provided further, however, that a Director who has been approved by the Hershey Trust while it beneficially owns more than 50% of the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of Directors (the "Outstanding Company Voting Power") shall be deemed to be an Incumbent Director;

1.6.2 the acquisition or holding by any Person of beneficial ownership (within the meaning of Section 13(d) under the Exchange Act and the rules and regulations promulgated thereunder) of shares of the Common Stock and/or the Class B Common Stock of the Company representing 25% or more of either (i) the total number of then outstanding shares of both Common Stock and Class B Common Stock of the Company (the "Outstanding Company Stock") or (ii) the Outstanding Company Voting Power; provided that, at the time of such acquisition or holding of beneficial ownership of any such shares, the Hershey Trust does not beneficially own more than 50% of the Outstanding Company Voting Power; and provided, further, that any such acquisition or holding of beneficial ownership of shares of either Common Stock or Class B Common Stock of the Company by any of the following entities shall not by itself constitute such a Change in Control hereunder: (i) the Hershey Trust; (ii) any trust established by the Company or by any Subsidiary for the benefit of the Company and/or its employees or those of a Subsidiary; (iii) any employee benefit plan (or related trust) sponsored or maintained by the Company or any Subsidiary; (iv) the Company or any Subsidiary or (v) any underwriter temporarily holding securities pursuant to an offering of such securities;

1.6.3 the approval by the stockholders of the Company of any merger, reorganization, recapitalization, consolidation or other form of business combination (a "Business Combination") if, following consummation of such Business Combination, the Hershey Trust does not beneficially own more than 50% of the total voting power of all outstanding voting securities eligible to elect directors of (x) the surviving entity or entities (the "Surviving Corporation") or (y) if applicable, the ultimate parent corporation that directly or indirectly has beneficial ownership of more than 50% of the combined voting power of the then outstanding voting securities eligible to elect directors of the Surviving Corporation; or

1.6.4 the approval by the stockholders of the Company of (i) any sale or other disposition of all or substantially all of the assets of the Company, other than to a corporation (the "Acquiring Corporation") if, following consummation of such sale or other disposition, the Hershey Trust beneficially owns more than 50% of the total voting power of all outstanding voting securities eligible to elect directors (x) of the Acquiring Corporation or (y) if applicable, the ultimate parent corporation that directly or indirectly has beneficial ownership of more than 50% of the combined voting power of the then outstanding voting securities eligible to elect directors of the Acquiring Corporation, or (ii) a liquidation or dissolution of the Company.

1.7 Change in Control Event means a Change in Control Event as defined under Code section 409A and applicable guidance thereunder.

1.8 CLRP means The Hershey Company Compensation Limit Replacement Plan and any successor or replacement plan thereof.

1.9 Code means the Internal Revenue Code of 1986, as amended from time to time.

1.10 Committee means the Compensation and Executive Organization Committee of the Board or any successor committee having similar authority.

1.11 Company means The Hershey Company, a Delaware corporation.

1.12 Coverage Period means the period commencing on the date on which a Change in Control occurs and ending on the date which is the second anniversary thereof.

1.13 Date of Termination has the meaning assigned to such term in Section 4.2 or 4.3.

1.14 DB SERP means The Hershey Company Amended and Restated (2007) Supplemental Executive Retirement Plan and any successor or replacement plan thereof.

1.15 DC SERP means the Defined Contribution Supplemental Executive Retirement Plan benefit of The Hershey Company Deferred Compensation Plan.

1.16 Deferred Compensation Plan means The Hershey Company Deferred Compensation Plan and any successor or replacement plan thereof.

1.17 Director means a member of the Board.

1.18 Disability means the long-term disability of the Executive determined in accordance with the terms set forth in the Company's long-term disability plan (the "LTD Plan") (regardless of whether the Executive is covered by the LTD Plan; except that with respect to an Executive who is covered by the LTD Plan, a determination that the Executive does not meet the definition of disability under the LTD Plan will mean that the Executive does not meet the definition of disability under this Plan).

1.19 Effective Date means January 1, 2009.

1.20 EICP means The Hershey Company Equity and Incentive Compensation Plan (formerly known as the Hershey Foods Corporation Key Employee Incentive Plan) and any successor or replacement plan thereof.

1.21 Employee Benefits Committee means the Employee Benefits Committee of the Company, and any successor thereto.

1.22 Excise Tax means any excise tax imposed under Code section 4999.

1.23 Executive means an individual designated by the Committee, in its sole discretion, as eligible for coverage under the Plan.

1.24 Good Reason means with respect to an Executive:

1.24.1 (i) the assignment to him or her of any duties inconsistent in any respect with his or her position, authority, duties or responsibilities immediately prior to either the Potential Change in Control preceding the Change in Control or the Change in Control, or (ii) any other action by the Company, which assignment or other action results in a material diminution in any respect in his or her position, authority, duties or responsibilities;

1.24.2 a material diminution by the Company in his or her annual base salary as in effect, as applicable, on the Effective Date or as the same may be increased from time to time, or on the date he or she first becomes an Executive if he or she was not an Executive on the Effective Date or as the same may be increased from time to time;

1.24.3 the failure by the Company, without his or her consent, to pay to him or her any portion of his or her current compensation (including, but not limited to, current salary and employee benefits), or to pay to him or her any portion of an installment of deferred compensation under any deferred compensation program of the Company, provided that any such failures, in the aggregate, result in a material negative change in the Executive's compensation;

1.24.4 the failure by the Company to continue in effect any compensation plan in which he or she participates immediately prior to either the Potential Change in Control preceding the Change in Control or the Change in Control which is material to his or her total compensation, including but not limited to the EICP (other than with respect to any contingent PSU grant that is outstanding as of the date of the Change in Control), the CLRP, and the DB SERP, as applicable, or any substitute or alternative plans adopted prior to either such Potential Change in Control or Change in Control, (unless (a) an equitable arrangement (embodied in an ongoing substitute or alternative plan) has been made with respect to such plan, or (b) the failure by the Company to continue the Executive's participation therein (or in such substitute or alternative plan) is on a basis not materially less favorable, both in terms of the amount of benefits provided and the level of his or her participation relative to other participants, as existed at the time of such Potential Change in Control or Change in Control), and provided that any such failures, in the aggregate, result in a material negative change in the Executive's compensation;

1.24.5 the failure by the Company to continue to provide him or her with benefits substantially similar to those enjoyed by him or her under any of the Company's pension, life insurance, medical, health and accident, disability, vacation pay or other welfare or fringe benefit plans or arrangements in which he or she was participating at the time of either the Potential Change in Control preceding the Change in Control or the Change in Control, provided that any such failures, in the aggregate, result in a material negative change in the Executive's compensation;

1.24.6 any material failure by the Company to comply with and satisfy any of its obligations under this Plan after a Potential Change in Control that is followed within one (1) year by a Change in Control; or

1.24.7 any material failure by the Company to comply with and satisfy any of its obligations under any grantor trust established by the Company to provide itself with a source of funds to assist itself in satisfying its liabilities under this Plan after (a) a Change in Control described in one of the following: Section 1.6.1, Section 1.6.4(ii), or Section 1.6.4(i) other than a sale or other disposition to a corporation; (b) a Change in Control described in Section 1.6.2 if during the Coverage Period, Incumbent Directors, as described in Section 1.6.1, cease for any reason to constitute at least a majority of the Board; (c) a Change in Control described in Section 1.6.3 if, at any time during the Coverage Period, Incumbent Directors, as described in Section 1.6.1, do not constitute at least a majority of the board of directors of the Surviving Corporation; or (d) a Change in Control described in clause (i) of Section 1.6.4 involving a sale or other disposition to a corporation if, at any time during the Coverage Period, Incumbent Directors, as described in Section 1.6.1, do not constitute at least a majority of the board of directors of such corporation; provided further, that any such failures, in the aggregate, result in a material negative change in the Executive's compensation.

To qualify as a Good Reason under the Plan, any of the conditions listed above in this Section 1.24 must be followed by a termination of employment within two years of the initial existence of the Good Reason, and the notice requirements of Section 4.1 must be satisfied. For purposes of this Plan, any good faith determination of Good Reason (including the corresponding determination of "materiality") made by the Executive shall be conclusive; provided that such determination satisfies the materiality requirement under Treasury Regulations §1.409A-1(n)(2)(i), any successor thereto and other applicable guidance.

1.25 <u>Hershey Pension Plan</u> means The Hershey Company Retirement Plan and any successor or replacement plan thereof.

1.26 <u>Hershey Trust</u> means either or both of (a) the Hershey Trust Company, a Pennsylvania corporation, as Trustee for the Milton Hershey School, or any successor to the Hershey Trust Company as such trustee, and (b) the Milton Hershey School, a Pennsylvania not-for-profit corporation.

1.27 <u>Incentive Pay</u> means incentive payments awarded under the EICP from the Company's Annual Incentive Program, Sales Incentive Program and any similar, successor or replacement program under the EICP.

1.28 <u>Incumbent Director</u> has the meaning assigned to such term in Section 1.6.1.

1.29 <u>Key Employee</u> means a "specified employee" under Code section 409A(a)(2)(B)(i) (i.e., a key employee (as defined under Code section 416(i) (without regard to paragraph (5) thereof)) of a corporation any stock in which is publicly traded on an established

securities market or otherwise) and applicable Treasury regulations and other guidance under Code section 409A. Key Employees shall be determined in accordance with Code section 409A and pursuant to the methodology established by the Employee Benefits Committee.

1.30 Mandatory Retirement Age means age sixty-five (65) in the case of an Executive who has served for a minimum of two (2) years at a high level executive or high policy-making position and who is entitled to a non-forfeitable, immediate, annual employer-provided retirement benefit from any source, which is at least equal to a benefit, computed as a life annuity, of at least $44,000 per year (or such other amount as may be provided by future legislation). In the case of all other Executives, there shall be no Mandatory Retirement Age.

1.31 Notice of Intent to Terminate shall have the meaning assigned to such term in Section 4.1.

1.32 Plan means The Hershey Company Executive Benefits Protection Plan (Group 3A), as set forth herein, as amended from time to time.

1.33 Plan Administrator means the Company's Senior Vice President, Chief People Officer (or other officer of the Company holding a successor position in the Company having the same or substantially similar organizational responsibilities).

1.34 Potential Change in Control means the occurrence of any of the following:

1.34.1 The Hershey Trust by action of: (i) the Board of Directors of Hershey Trust Company; (ii) the Board of Managers of Milton Hershey School; (iii) the Investment Committee of the Hershey Trust; and/or (iv) any officer or officers of Hershey Trust Company or Milton Hershey School (acting with authority), undertakes consideration of any action the taking of which would lead to a Change in Control as defined herein, including, but not limited to consideration of (1) an offer made to the Hershey Trust to purchase any number of its shares in the Company such that if the Hershey Trust accepted such offer and sold such number of shares in the Company the Hershey Trust might no longer have more than 50% of the Outstanding Company Voting Power, (2) an offering by the Hershey Trust of any number of its shares in the Company for sale such that if such sale were consummated the Hershey Trust might no longer have more than 50% of the Outstanding Company Voting Power, or (3) entering into any agreement or understanding with a person or entity that would lead to a Change in Control; or

1.34.2 The Board approves a transaction described in Section 1.6.2, 1.6.3 or 1.6.4 of the definition of a Change in Control contained herein.

1.35 Separation from Service or Separates from Service means a "separation from service" within the meaning of Code section 409A.

1.36 Severance Benefits has the meaning assigned to such term in Section 3.2.

1.37 Severance Period means the period beginning on the Executive's Date of Termination and continuing for 24 months, or, if less, the number of months until the Executive would reach his or her Mandatory Retirement Age, if applicable, but not less than 12 months.

1.38 Subsidiary means any corporation controlled by the Company, directly or indirectly.

1.39 The 401(k) Plan means The Hershey Company 401(k) Plan and any successor or replacement plan thereof.

1.40 Vested Current Incentive Pay Amount shall have the meaning assigned to such term in Section 2.1.

1.41 Vested Current PSU Amount shall have the meaning assigned to such term in Section 2.2.

1.42 Vested DB SERP Benefit shall have the meaning assigned to such term in Section 2.3.

ARTICLE 2
VESTING OR PAYMENT OF CERTAIN BENEFITS
IN THE EVENT OF A CHANGE IN CONTROL

2.1 Vesting of Incentive Pay Benefits; Payment of Benefits. Upon the occurrence of a Change in Control and Change in Control Event:

2.1.1 each Executive shall have a vested and non-forfeitable right hereunder to receive a lump sum cash payment (as specified in Section 2.1.2) with respect to each Incentive Pay award for which the award's performance period has begun but not ended as of the date of the Change in Control Event equal to the greater of (x) the amount of the Executive's 100% target Incentive Pay award, and (y) the amount that would have been payable to him or her under the Incentive Pay award calculated using his or her and the Company's annualized actual performance as of the date of the Change in Control Event (the greater of (x) and (y) is herein referred to as the "Vested Current Incentive Pay Amount"); and

2.1.2 the Company shall, within sixty (60) days following the Change in Control Event, pay to each Executive a lump sum cash payment equal to his or her Vested Current Incentive Pay Amount.

2.2 Vesting of PSU Benefits; Payment of Benefits. Upon the occurrence of a Change in Control and Change in Control Event:

2.2.1 each Executive shall have a vested and non-forfeitable right hereunder to receive in cash (as specified in Section 2.2.2) an amount equal to the target Performance Stock

Unit (“PSU”) grant, if any, made to him or her under the EICP for the cycle ending in the year of the Change in Control Event, determined as the greater of (x) the amount of the Executive’s 100% target PSU grant and (y) the PSU grant amount that would have been payable to him or her at the end of such grant cycle based on the Company’s actual performance through the date of the Change in Control Event (as if the same level of Company performance continued throughout the remainder of the cycle); plus, if applicable, the PSU grant amounts from any other cycle that was completed prior to the Change in Control Event for which (i) payment has not been made or (ii) an election to defer such PSUs has been made, but such amounts have not been credited to the Executive’s PSU Award Sub-Account under the Deferred Compensation Plan, in each case valued at the higher of (a) the highest closing price of the Company’s Common Stock on the New York Stock Exchange during the sixty (60) day period preceding and including the date of the Change in Control Event, and (b) if the Change in Control Event involves a transaction in which an offer is made to purchase shares of Common Stock from the Company’s stockholders, the price at which such offer is made (the higher of (a) and (b) is herein referred to as the “Transaction Value”) (the greater of (x) and (y) is herein referred to as the “Vested Current PSU Amount”); and

2.2.2 except to the extent that such Vested Current PSU Amount would have otherwise been subject to an effective deferral election under the Deferred Compensation Plan, the Company shall, within sixty (60) days following the Change in Control Event, pay to each Executive a lump sum cash payment equal to his or her Vested Current PSU Amount, increased for any dividends that would be otherwise payable on the PSUs following the Change in Control Event but prior to the distribution date under this Section 2.2.2. In the event of an effective deferral election, the portion of the amount determined under Section 2.2.1 equal to the amount which would have otherwise been subject to such deferral election shall be credited to, and paid in accordance with, the Deferred Compensation Plan.

2.3 Vested DB SERP Benefit. Upon the occurrence of a Change in Control each Executive who either is a participant in the DB SERP on the date of the Change in Control or was a participant in the DB SERP on the date of the Potential Change in Control preceding the Change in Control shall be fully vested under the DB SERP (such vested benefit is hereinafter referred to as “Vested DB SERP Benefit”). If such an Executive has not attained age fifty-five (55) as of his or her Date of Termination, the Executive shall be treated as being eligible for the “Early Retirement Benefit” as set forth in Section 4 of the DB SERP; provided, however, the reduction factor prescribed in Section 4 of the DB SERP shall still be given effect in calculating his or her Vested DB SERP Benefit, provided that (i) for an Executive (other than the Chief Executive Officer of the Company) who has not yet attained age fifty (50) as of the Executive’s Date of Termination, the reduction factor in Section 4 of the DB SERP shall be based on the number of complete calendar months by which the Date of Termination precedes the Executive’s fifty-second (52nd) birthday, and (ii) for an Executive (other than the Chief Executive Officer of the Company) who has attained age fifty (50) as of the Executive’s Date of Termination, the reduction factor in Section 4 of the DB SERP shall be zero percent (0%).

An Executive’s Vested DB SERP Benefit shall be payable in accordance with the DB SERP, but the actuarial present value of such Executive’s Vested DB SERP Benefit, taking

into account the foregoing provisions, shall be determined using: (i) the mortality table described in the DB SERP; (ii) an interest rate equal to the "Lump Sum Interest Rate," as defined in the DB SERP, as of the Executive's Date of Termination; (iii) the Executive's Date of Termination as the date on which payment of the Executive's Vested DB SERP Benefit is to commence being paid and as the date as on which the actuarial present value of such Vested DB SERP Benefit is calculated; and (iv) the actual age of the Executive and his or her spouse as of the Executive's Date of Termination.

2.4 Vested Deferred Compensation Plan Benefit. Upon the occurrence of a Change in Control, each Executive who either is a participant in the Deferred Compensation Plan on the date of the Change in Control or was a participant in the Deferred Compensation Plan on the date of the Potential Change in Control preceding the Change in Control shall be fully vested in all benefits payable under the Deferred Compensation Plan.

2.5 Vested CLRP Benefit. Upon the occurrence of a Change in Control, each Executive who either is a participant in the CLRP on the date of the Change in Control or was a participant in the CLRP on the date of the Potential Change in Control preceding the Change in Control shall be fully vested in his or her benefit, if any, under the CLRP.

2.6 Vested 401(k) Plan Accounts. Upon the occurrence of a Change in Control, each Executive who either is a participant in The 401(k) Plan on the date of the Change in Control or was a participant in The 401(k) Plan on the date of the Potential Change in Control preceding the Change in Control shall be fully vested in all of his or her accounts under The 401(k) Plan.

2.7 DB SERP, CLRP, or Deferred Compensation Plan Amendments. Notwithstanding any provision of the DB SERP, CLRP, or Deferred Compensation Plan, none of the DB SERP, CLRP, or Deferred Compensation Plan may be terminated or amended in any manner that is adverse to the interests of any Executive without his or her consent either: (i) after a Potential Change in Control occurs and for one (1) year following the cessation of the Potential Change in Control, or (ii) after a Change in Control. In addition, any termination or amendment of the DB SERP, CLRP, or Deferred Compensation Plan in a manner adverse to the interests of an Executive within one (1) year prior to a Potential Change in Control shall not be given effect for purposes of determining benefits under this Plan.

2.8 Other PSU Grants Outstanding as of the Date of a Change in Control. An Executive shall have a vested and non-forfeitable right hereunder to receive a lump sum cash payment with respect to each PSU grant cycle that has begun but not ended as of the occurrence of both a Change in Control and Change in Control Event (and that is not otherwise paid out in whole or in part in accordance with the terms of Section 2.2) in an amount equal to the product of (x) and (y), where (x) is an amount equal to the 100% target PSU grant for each such cycle valued at the higher of (i) the Transaction Value and (ii) the highest closing price of the Company's Common Stock on the New York Stock Exchange from the date of the Change in Control until the earlier of the end of the applicable grant cycle or the Executive's Separation from Service, and (y) is 100%, unless the Change in Control occurs within the first year of the applicable grant cycle, in which case, (y) is a fraction the numerator of which is the number of

days from and including the first day of the applicable grant cycle until (and including) the date of the Change in Control or the Change in Control Event (whichever is later) and the denominator of which is the number of days in the applicable grant cycle; and such product is increased for any dividends that would be otherwise payable on the PSUs following the Change in Control but prior to the distribution date under this Section 2.8. Except to the extent that such PSU amounts would have otherwise been subject to an effective deferral election under the Deferred Compensation Plan, the payment provided for in this Section 2.8 with respect to each such PSU grant cycle shall be made to an Executive in a lump sum by the sixtieth (60th) day following the earlier of: (a) the last day of the applicable grant cycle, and (b) the Executive's Separation from Service. Notwithstanding the foregoing, distributions may not be made to a Key Employee upon a Separation from Service before the date which is six months after the date of the Key Employee's Separation from Service (or, if earlier, the date of death of the Key Employee). Any payment upon a Key Employee's Separation from Service under this Section 2.8 shall be made in the seventh month following the date of such Separation from Service (or, if earlier, the month after the Key Employee's death). In the event of an effective deferral election, the portion of the amount determined under this Section 2.8 equal to the amount which would have otherwise been subject to such deferral election shall be credited to, and paid in accordance with, the Deferred Compensation Plan.

ARTICLE 3
EXECUTIVE BENEFITS AND RIGHTS
UPON TERMINATION OF EMPLOYMENT

3.1 General Termination Rights and Benefits. If an Executive's employment at the Company is terminated at any time after a Change in Control for any reason (whether by him or her or the Company), the Company shall pay to him or her payments described in Sections 3.1.1 through 3.1.5 below.

3.1.1 Previously Earned Salary. The Company shall pay his or her full salary to him or her through his or her Date of Termination at the highest rate in effect during the period between (a) the Potential Change in Control (if any) preceding the Change in Control or the Change in Control (if no Potential Change in Control occurs), and (b) the date the Notice of Intent to Terminate is given, together with all compensation and benefits payable to him or her through the Date of Termination under the terms of any compensation or benefit plan, program or arrangement maintained by the Company during such period.

3.1.2 Previously Earned Benefits. The Company shall pay his or her normal post-termination compensation and benefits to him or her as such payments become due. Such post-termination compensation and benefits shall be determined under, and paid in accordance with, the Company's retirement, insurance, pension, welfare and other compensation or benefit plans, programs and arrangements.

3.1.3 Payment of Vested Current Incentive Pay Amount. Except to the extent that the Company has previously paid or concurrently pays to him or her all or a portion of his or

her Vested Current Incentive Pay Amount pursuant to Section 2.1, Section 3.1.1 or Section 3.1.2, the Company shall pay to him or her a lump sum cash payment equal to his or her Vested Current Incentive Pay Amount.

3.1.4 Payment of Vested Current PSU Amount. Except to the extent that the Vested Current PSU Amount would have otherwise been subject to an effective deferral election under the Deferred Compensation Plan or the Company has previously paid or concurrently pays to him or her all or a portion of his or her Vested Current PSU Amount pursuant to Section 2.2, Section 3.1.1 or Section 3.1.2, the Company shall pay to him or her a lump sum cash payment equal to his or her Vested Current PSU Amount.

3.1.5 The 401(k) Plan. In the event that any amount under The 401(k) Plan which vests pursuant to Section 2.6 cannot be paid to the Executive under the terms of The 401(k) Plan, the Company shall pay such amount to the Executive under the terms of this Plan.

3.2 Severance Benefits. In addition to the payments provided for by Section 3.1, the Company shall pay or provide to an Executive the payments, benefits, and services described in Sections 3.2.1 through 3.2.5 below (the “Severance Benefits”) in accordance with such Sections upon termination of his or her employment with the Company during the Coverage Period, unless such termination is (a) by the Company for Cause, (b) by reason of his or her death or Disability or after his or her Mandatory Retirement Age, if applicable, or (c) by him or her without Good Reason.

3.2.1 Lump-Sum Severance Payment. In lieu of any further salary payments to him or her for periods subsequent to the Date of Termination, the Company shall pay to him or her a lump-sum severance payment, in cash, equal to the number of years (including fractions) in the Executive’s Severance Period times the sum of (a) and (b), where (a) equals his or her Annual Base Salary, and (b) equals his or her Annual Incentive Pay.

3.2.2 Continued Welfare Benefits. During the Executive’s Severance Period, the Company shall provide him or her with continued welfare benefits (including group term life insurance, and health and other welfare benefits, but excluding long-term and short-term disability benefits) (the benefits to be provided hereunder referred to collectively as “Welfare Benefits”) that are substantially similar in all respects to those which he or she was receiving immediately prior to the Notice of Intent to Terminate on substantially the same terms and conditions, including contributions required from him or her for such benefits (without giving effect to any reduction in such benefits (e.g., increasing the contributions required from the Executive) subsequent to the Potential Change in Control preceding the Change in Control or the Change in Control, which reduction constitutes or may constitute Good Reason); provided that if he or she cannot continue to participate in the Company plans providing Welfare Benefits, the Company shall otherwise provide such benefits on the same after-tax basis as if continued participation had been permitted. The Executive shall be entitled to elect to change his or her level of coverage and/or his or her choice of coverage options (such as Executive only or family medical coverage) with respect to the Welfare Benefits to be provided by the Company to him or her to the same extent that actively employed executives of the Company are permitted to make

such changes; provided, however, that in the event of any such changes he or she shall pay the amount of any cost increase that would actually be paid by an actively employed executive of the Company by reason of such actively employed executive making the same change in level of coverage or coverage options. Notwithstanding the foregoing, in the event that the Executive becomes reemployed with another employer and becomes eligible to receive welfare benefits from such employer, the Welfare Benefits described herein shall be secondary to such benefits, but only to the extent that the Company reimburses him or her for any increased cost and provides any additional benefits necessary to give him or her benefits at the same level as the Welfare Benefits provided hereunder.

To the extent the continuation of the Welfare Benefits under this Section 3.2.2 is, or ever becomes, taxable to the Executive, and to the extent the Welfare Benefits continue beyond the period in which the Executive would be entitled (or would, but for this Plan, be entitled) to continuation coverage under a group health plan of the Company under Code section 4980B (COBRA) if the Executive elected such coverage and paid the applicable premiums, the Company shall administer such continuation of coverage consistent with the following additional requirements as set forth in Treas. Reg. § 1.409A-3(i)(1)(iv):

3.2.2.1 Executive's eligibility for Welfare Benefits in one year will not affect Executive's eligibility for Welfare Benefits in any other year (disregarding any limit on the amount of Welfare Benefits that may be reimbursed during such continuation period);

3.2.2.2 Any reimbursement of eligible expenses will be made on or before the last day of the year following the year in which the expense was incurred; and

3.2.2.3 Executive's right to Welfare Benefits is not subject to liquidation or exchange for another benefit.

In the event the preceding sentence applies, the Executive's applicable COBRA period lasts less than six (6) months and the Executive is a Key Employee upon his or her Separation from Service, reimbursement for Welfare Benefits shall commence in the seventh month following the Executive's Separation from Service (or, if earlier, the month after the Executive's death).

3.2.3 Outstanding Awards. If an Executive's Date of Termination occurs within the two (2) year period beginning on the date on which a Change in Control Event occurs, he or she shall be entitled to a lump sum cash payment with respect to each Incentive Pay award, except for any portion of his or her Vested Current Incentive Pay Amount which the Company has previously paid or concurrently pays to him or her, for which the award's performance period has begun but not ended as of the Executive's Date of Termination equal to the product of (x) and (y) for each such Incentive Pay award, where (x) is an amount equal to the greater of (A) the 100% target Incentive Pay award amount for the applicable award period, and (B) the amount that would have been payable to the Executive under such Incentive Pay award for the applicable award period, calculated using his or her and the Company's annualized actual performance as of his or her Date of Termination, and (y) is a fraction, the numerator of which is the number of

days from and including the first day of the applicable award period until (and including) his or her Date of Termination, and the denominator of which is the number of days in such applicable award period. The amount payable under this Section shall be paid in a lump sum within sixty (60) days after the Executive's Separation from Service.

3.2.4 Outplacement Services. If an Executive becomes eligible to receive Severance Benefits, such Executive shall be entitled to receive reasonable outplacement services in accordance with the Company's outplacement services policy (as in effect immediately prior to the Change in Control) until the earliest of: (a) one (1) year following the Executive's Separation from Service, (b) the date the Executive secures other full-time employment, or (c) the date the value of such reasonable outplacement services provided by the Company reaches $35,000. The reimbursement of the reasonable outplacement services set forth above shall be made to the Executive as soon as practicable, but in no event later than the end of the second year following the year the Executive Separates from Service.

3.2.5 Financial Counseling and Tax Preparation. If an Executive becomes eligible to receive Severance Benefits, such Executive shall be entitled to receive reimbursements for expenses incurred for financial counseling and tax preparation services under The Hershey Company Financial Counseling and Tax Preparation Services Program (hereinafter referred to as "Qualifying Expenses"), on a basis that is no less favorable than the manner in which such benefits were available to the Executive immediately prior to the Change in Control, for twenty-four (24) months following the Executive's Separation from Service. The Company shall reimburse the Executive directly or indirectly for Qualifying Expenses commencing in the seventh month following the Executive's Separation from Service and in the first month of each subsequent calendar quarter until the end of the twenty-four (24) month period referred to in the previous sentence. On the first date of reimbursement, the Company's payment will reimburse the Executive for all Qualifying Expenses that are incurred during the initial delay period immediately following his or her Separation from Service; thereafter, such reimbursements shall be in an amount equal to the Qualifying Expenses that are submitted to the Company during each subsequent quarterly period. For the purposes of this Section 3.2.5, the Committee in its sole discretion shall determine whether the expenses incurred by the Executive for financial counseling and tax preparation services constitute Qualifying Expenses.

Benefits under this Section 3.2.5 shall be administered consistent with the following additional requirements as set forth in Treas. Reg. § 1.409A-3(i)(1)(iv): (1) Executive's eligibility for benefits in one year will not affect Executive's eligibility for benefits in any other year; (2) any reimbursement of eligible expenses will be made on or before the last day of the year following the year in which the expense was incurred; and (3) Executive's right to benefits is not subject to liquidation or exchange for another benefit.

3.3 Enhanced Pension Benefits. In addition to payments provided for by Sections 3.1 and 3.2, the Company shall pay or provide to an Executive the benefits described in Sections 3.3.1 through 3.3.4 below in accordance with such Sections upon termination of his or her employment with the Company during the Coverage Period, unless such termination is (a) by the

Company for Cause, (b) by reason of his or her death or Disability or after his or her Mandatory Retirement Age, if applicable, or (c) by him or her without Good Reason.

3.3.1 Enhanced DB SERP Benefit. For an Executive who continues to be a participant in the DB SERP as of his or her Date of Termination, such Executive shall receive in cash an amount equal to the increase in his or her Vested DB SERP Benefit, as a result of the additional credits set forth below (such vested benefit under this Section 3.3.1 is hereinafter referred to as "Enhanced DB SERP Benefit").

For purposes of determining such Executive's Enhanced DB SERP Benefit as of the date of his or her Date of Termination: (i) he or she shall be credited for all purposes under the DB SERP with additional Years of Service (as defined in the DB SERP) equal to the number of years (including fractions thereof) in the Executive's Severance Period; (ii) the provisions of Section 2.3 regarding vesting and early retirement eligibility and reduction factors shall apply; (iii) he or she shall be deemed to have been paid his or her Annual Base Salary during his or her Severance Period which shall be considered to have been earned over such period of time during his or her last five (5) years of employment with the Company for purposes of calculating "Final Average Compensation" (as defined in the DB SERP); (iv) he or she shall be deemed to have been paid his or her Annual Incentive Pay during his or her Severance Period which, together with his or her Vested Current Incentive Pay Amount as determined pursuant to Section 2.1.1 shall be considered his or her Incentive Pay awards paid or accrued with respect to his or her Severance Period, which shall be considered part of his or her last five (5) years of employment with the Company for purposes of calculating "Final Average Compensation" (as defined in the DB SERP); and (v) for the purposes of determining "Final Average Compensation" and not for the purposes of any other provision of the DB SERP, in the event he or she has not participated in the Incentive Pay portion of the EICP (after taking into account the year during which the Change in Control occurs as to which he or she is entitled to his or her Vested Current Incentive Pay Amount plus the number of years with respect to which he or she is deemed to have been paid his or her Annual Incentive Pay as provided in this Section 3.3.1(v)) for three (3) consecutive years in his or her last five (5) years of employment with the Company, he or she shall have his or her highest annual average Incentive Pay award be based on the average of his or her Incentive Pay awards paid or accrued over the sum of the number of years preceding the year during which the Date of Termination occurs during which he or she has participated in the Incentive Pay portion of the EICP plus the number of years with respect to which he or she is deemed to have been paid his or her Annual Incentive Pay as provided in this Section 3.3.1(v) plus the year during which the Change in Control occurs with respect to which he or she is entitled to his or her Vested Current Incentive Pay Amount regardless of his or her actual years of participation in the Incentive Pay portion of the EICP at the time of his or her Date of Termination and regardless of the number of years such Executive has been employed by the Company as of the Date of Termination.

3.3.2 Enhanced DC SERP Benefit. Each Executive who is a participant in the DC SERP as of his or her Date of Termination shall receive in cash an amount equal to the applicable percentage rate under Section 6.2 of the Deferred Compensation Plan multiplied by

his or her Annual Base Salary and Annual Incentive Pay determined as if such amounts were paid during the years (including fractions thereof) in the Executive's Severance Period.

3.3.3 Alternative Enhanced DB Benefits. Each Executive who is not a participant in the DB SERP as of his or her Date of Termination shall have a vested and non-forfeitable right hereunder to receive in cash an amount equal to the amount determined under either Section 3.3.3.1 or 3.3.3.2, as applicable.

3.3.3.1 For an Executive who is a participant in the Hershey Pension Plan, a lump sum cash amount equal to the Basic Credit rate applicable to the Executive under the Hershey Pension Plan multiplied by his or her Annual Base Salary and Annual Incentive Pay determined as if such amounts were paid to the Executive for the number of years (including fractions thereof) in his or her Severance Period. For this purpose, the IRS limitations imposed under the Hershey Pension Plan shall not apply. Notwithstanding the foregoing, for purposes of determining the lump sum cash amount payable under this Section 3.3.3.1 to an Executive who is a participant under the DC SERP, the Basic Credit rate applicable to amounts paid to the Executive in excess of the limitation under Code section 401(a)(17) shall equal three (3) percent; or

3.3.3.2 For an Executive who is not a participant in the Hershey Pension Plan, a lump sum cash amount equal to the Core Retirement Contribution rate in effect under The 401(k) Plan multiplied by his or her Annual Base Salary and Annual Incentive Pay determined as if such amounts were paid to the Executive for the number of years (including fractions thereof) in his or her Severance Period. For this purpose, the IRS limitations imposed under The 401(k) Plan shall not apply.

3.3.4 Enhanced Matching Contributions. Each Executive who is eligible to receive amounts under Section 3.3.1, 3.3.2, or 3.3.3 shall also receive in cash an amount equal to the Matching Contribution rate in effect under The 401(k) Plan multiplied by his or her Annual Base Salary and Annual Incentive Pay determined as if such amounts were paid to the Executive for the number of years (including fractions thereof) in his or her Severance Period. For this purpose, the IRS limitations imposed under The 401(k) Plan shall not apply.

3.4 Gross-Up Payment. In the event that an Executive becomes entitled to the Severance Benefits or any other benefits or payments under this Plan (other than pursuant to this Section 3.4), or under the EICP by reason of the accelerated vesting of stock options thereunder (together, the "Total Benefits"), and in the event that any of the Total Benefits will be subject to the Excise Tax, the Company shall pay to him or her an additional amount (the "Gross-Up Payment") such that the net amount retained by him or her, after deduction of any Excise Tax on the Total Benefits and any federal, state and local income tax, Excise Tax and FICA and Medicare withholding taxes upon the payment provided for by this Section 3.4, shall be equal to the Total Benefits. Any Gross-Up Payment made to or on behalf of the Executive under this Section 3.4 shall be made in compliance with Code section 409A and by the end of the year following the year that the related taxes are remitted to the applicable taxing authority.

For purposes of determining whether any of the Total Benefits will be subject to the Excise Tax and the amount of such Excise Tax, (i) any other payments or benefits received or to be received by an Executive in connection with a Change in Control or his or her termination of employment (whether pursuant to the terms of this Plan or any other plan, arrangement or agreement with the Company, any Person whose actions result in a Change in Control or any Person affiliated with the Company or such Person) shall be treated as parachute payments within the meaning of Code section 280G(b)(2), and all excess parachute payments within the meaning of Code section 280G(b)(1) shall be treated as subject to the Excise Tax, unless in the opinion of tax counsel ("Tax Counsel") selected by the Company's independent auditors, such other payments or benefits (in whole or in part) do not constitute parachute payments, or such excess parachute payments (in whole or in part) represent reasonable compensation for services actually rendered within the meaning of Code section 280G(b)(4) in excess of the Base Amount, or are otherwise not subject to the Excise Tax, (ii) the amount of the Total Benefits which shall be treated as subject to the Excise Tax shall be equal to the lesser of (A) the total amount of the Total Benefits reduced by the amount of such Total Benefits that in the opinion of Tax Counsel are not parachute payments, or (B) the amount of excess parachute payments within the meaning of Section 280G(b)(1) (after applying clause (i), above), and (iii) the value of any non-cash benefits or any deferred payment or benefit shall be determined by the Company's independent auditors in accordance with the principles of Code sections 280G(d)(3) and (4). For purposes of determining the amount of the Gross-Up Payment, an Executive shall be deemed to pay federal income taxes at the applicable rate for federal income tax withholding on supplemental wage payments in the calendar year in which the Gross-Up Payment is to be made and state and local income taxes at the applicable rate for withholding taxes on supplemental wage payments in the state and locality of his or her residence on the Date of Termination, net of the reduction in federal income taxes which could be obtained from deduction of such state and local taxes (calculated by assuming that any reduction under Code section 68 in the amount of itemized deductions allowable to him or her applies first to reduce the amount of such state and local income taxes that would otherwise be deductible by him or her).

In the event that the Excise Tax is determined to exceed the amount taken into account hereunder at the time of the termination of an Executive's employment (including by reason of any payment the existence or amount of which cannot be determined at the time of the Gross-Up Payment), the Company shall make an additional Gross-Up Payment, determined as previously described, to him or her in respect of such excess (plus any interest, penalties or additions payable by him or her with respect to such excess) at the time that the amount of such excess is finally determined.

3.5 Timing of Payments. The amounts payable under Sections 3.1.1, 3.1.3, 3.1.4, 3.1.5, 3.2.1, 3.2.3, and 3.3.4 and, as applicable, Sections 3.3.1, 3.3.2, or 3.3.3 shall be made to an Executive not later than the sixtieth (60th) day following his or her Date of Termination.

3.6 Reimbursement of Legal Costs. The Company shall pay to an Executive reasonable legal fees and expenses incurred by him or her as a result of a termination of his or her employment which may entitle him or her to any payments under Article 3 of the Plan to the extent that such fees and expenses, if any, are incurred (a) in contesting or disputing in good faith

any right or benefit under Article 3 in connection with a Change in Control or any Notice of Intent to Terminate under Section 4.3, or (b) in connection with any tax audit or proceeding to the extent attributable to the application of Code section 4999 to any payment or benefit provided hereunder. Such payments shall be made within sixty (60) days after delivery of his or her respective written requests for payment accompanied by such evidence of fees and expenses incurred as the Company reasonably may require.

Benefits under this Section 3.6 shall be administered consistent with the following additional requirements as set forth in Treas. Reg. § 1.409A-3(i)(1)(iv): (1) Executive's eligibility for benefits in one year will not affect Executive's eligibility for benefits in any other year; (2) any reimbursement of eligible expenses will be made on or before the last day of the year following the year in which the expense was incurred; and (3) Executive's right to benefits is not subject to liquidation or exchange for another benefit. In the event the Executive is a Key Employee upon his or her Separation from Service, reimbursement for benefits under this Section 3.6 shall commence in the seventh month following the Executive's Separation from Service (or, if earlier, the month after the Executive's death).

3.7 Executives' Covenant. The Company may condition the payment of the amounts and provision of the benefits described in Article 3 of the Plan to an Executive upon his or her providing to the Company a written agreement that, subject to the terms and conditions of this Plan, in the event of a Potential Change in Control, he or she will remain in the employ of the Company until the earliest of (a) a date which is nine months after the date of such Potential Change in Control, (b) the date of a Change in Control, (c) the date of his or her termination of employment for Good Reason (determined by treating the Potential Change in Control for this purpose as a Change in Control in applying the definition of Good Reason) or by reason of death or Disability, (d) the termination by the Company of his or her employment for any reason, or (e) his or her attaining age sixty-five (65). In the event of such future written agreement between the Company and the Executive, the benefits described in Article 3 of the Plan shall be provided in compliance with Code section 409A, as applicable.

ARTICLE 4
TERMINATION PROCEDURES AND COMPENSATION DURING DISPUTE

4.1 Notice of Intent to Terminate. After a Change in Control, any purported termination of an Executive's employment (other than by reason of death) that may result in benefits under this Plan must be preceded by a written Notice of Intent to Terminate from him or her to the Company or the Company to him or her, as applicable, in accordance with Section 8.17. For purposes of this Plan, a Notice of Intent to Terminate shall mean a notice which shall indicate the notifying party's opinion regarding the specific provisions of this Plan that will apply upon such termination and shall set forth in reasonable detail the facts and circumstances claimed to provide a basis for the application of the provisions so indicated. Further, a Notice of Intent to Terminate for Cause is required to include a copy of a resolution duly adopted by the affirmative vote of not less than three-quarters (3/4) of the entire membership of the Board at a meeting of

the Board which was called and held for the purpose of considering such termination (after reasonable notice to the Executive and an opportunity for him or her, together with his or her counsel, to be heard before the Board) finding that, in the good faith opinion of the Board, he or she was guilty of conduct set forth in Section 1.5.1 or 1.5.2 herein, and specifying the particulars thereof in detail.

In the case of a termination for Good Reason, the Executive must provide notice to the Company of the existence of the applicable condition described in Section 1.24 or 9.3 within ninety (90) days of the initial existence of the condition. The Company will then have a period of thirty (30) days during which it may remedy the condition in which case the Good Reason condition will no longer apply to the Executive for purposes of this Plan.

4.2 Date of Termination. Date of Termination, (a) with respect to any purported termination of an Executive’s employment after a Change in Control, shall mean (except as provided in Section 4.3) (i) if his or her employment is terminated by reason of his or her death, the date of his or her death, (ii) if his or her employment is terminated for Disability, thirty (30) days after Notice of Intent to Terminate is given (provided that he or she shall not have returned to the full-time performance of his or her duties during such thirty (30) day period), or (iii) if his or her employment is terminated for any other reason, the date specified as the date of termination within the Notice of Intent to Terminate (which (x) in the case of a termination by the Company, shall not be less than thirty (30) days, except in the case of a termination for Cause in which case it shall not be less than ten (10) days, provided that the Company may require him or her to not report to work during such ten (10) day period, and (y) in the case of a termination by an Executive, shall not be less than fifteen (15) days nor more than sixty (60) days, respectively, from the date such Notice of Intent to Terminate is given), and (b) for purposes of Section 2.3 of this Plan and the definitions of the defined terms Annual Base Salary and Annual Incentive Pay as used in such Section 2.3, shall mean the date a Change in Control occurs.

4.3 Dispute Concerning Termination. If within fifteen (15) days after any Notice of Intent to Terminate is given (within eight (8) days in the case of a termination for Cause by the Company), or, if later, prior to the Date of Termination (as determined without regard to this Section 4.3), the person receiving such Notice of Intent to Terminate notifies the person giving such notice that a dispute exists concerning the termination or the provisions of this Plan that apply to such termination, the Date of Termination shall be the date on which the dispute is finally resolved, either by mutual written agreement of the parties to such dispute or by a final judgment, order or decree of a court of competent jurisdiction (which is not appealable or with respect to which the time for appeal therefrom has expired and no appeal has been perfected); provided, however, that the Date of Termination shall be extended by a notice of dispute only if such notice is given in good faith and the person giving such notice pursues the resolution of such dispute with reasonable diligence; and provided, that the payment, if applicable, of any amount in dispute under this Section 4.3 shall be made as soon as practicable following the Date of Termination (as determined without regard to this Section 4.3), but in no event later than March 15 of the year following such date.

4.4 Compensation During Dispute. If a purported termination of an Executive's employment occurs following a Change in Control and such termination or the provisions of this Plan that apply upon such termination is disputed in accordance with Section 4.3 (including a dispute as to the existence of good faith and/or reasonable diligence thereunder), the Company shall continue to pay the Executive his or her Annual Base Salary and continue to provide to him or her the Welfare Benefits provided for in Section 3.2.2 until the dispute is finally resolved in accordance with Section 4.3. Notwithstanding the foregoing, payment of Annual Base Salary may not be made to a Key Employee upon a Separation from Service before the date which is six months after the date of the Key Employee's Separation from Service (or, if earlier, the date of death of the Key Employee). Any payments that would otherwise be made during this period of delay shall be accumulated and paid in the seventh month following the Participant's Separation from Service (or, if earlier, the month after the Participant's death). Amounts paid under this Section 4.4 are in addition to all other amounts due under this Plan (other than those due under Section 3.1.1) and shall not be offset against or reduce any other amounts due under this Plan.

ARTICLE 5
PLAN ADMINISTRATION

5.1 Authority to Plan Administrator. The Plan shall be interpreted, administered and operated by the Plan Administrator, subject to the express provisions of the Plan.

5.2 Delegation of Duties. The Plan Administrator may delegate any of his or her duties hereunder to such person or persons from time to time as he or she may designate.

5.3 Engagement of Third Parties. The Plan Administrator is empowered, on behalf of the Plan, to engage accountants, legal counsel and such other personnel as he or she deems necessary or advisable to assist him or her in the performance of his or her duties under the Plan. The functions of any such persons engaged by the Plan Administrator shall be limited to the specified services and duties for which they are engaged, and such persons shall have no other duties, obligations or responsibilities under the Plan. Such persons shall exercise no discretionary authority or discretionary control respecting the management of the Plan. All reasonable expenses thereof shall be borne by the Company.

ARTICLE 6
CLAIMS

6.1 Claims Procedure. Claims for benefits under the Plan shall be filed with the Plan Administrator. If any Executive or other payee claims to be entitled to a benefit under the Plan and the Plan Administrator determines that such claim shall be denied in whole or in part, the Plan Administrator shall notify such person of its decision in writing. Such notification will be written in a manner calculated to be understood by such person and will contain (a) specific reasons for the denial, (b) specific reference to pertinent Plan provisions, (c) a description of any additional material or information necessary for such person to perfect such claim and an explanation of why such material or information is necessary, and (d) information as to the steps

to be taken if the person wishes to submit a request for review. Such notification will be given within ninety (90) days after the claim is received by the Plan Administrator. If such notification is not given within such period, the claim will be considered denied as of the last day of such period and such person may request a review of his or her claim.

6.2 Review Procedure. Within sixty (60) days after the date on which a person receives a written notice of a denied claim (or, if applicable, within sixty (60) days after the date on which such denial is considered to have occurred) such person (or his or her duly authorized representative) may (a) file a written request with the Plan Administrator for a review of his or her denied claim and of pertinent documents and (b) submit written issues and comments to the Plan Administrator. The Plan Administrator will notify such person of its decision in writing. Such notification will be written in a manner calculated to be understood by such person and will contain specific reasons for the decision as well as specific references to pertinent Plan provisions. The decision on review will be made within sixty (60) days after the request for review is received by the Plan Administrator. If the decision on review is not made within such period, the claim will be considered denied.

6.3 Claims and Review Procedures Not Mandatory. The claims procedure and review procedure provided for in this Article 6 are provided for the use and benefit of Executives who may choose to use such procedures, but compliance with the provisions of this Article 6 is not mandatory for any Executive claiming benefits under the Plan. It shall not be necessary for any Executive to file a claim with the Plan Administrator or to exhaust the procedures and remedies provided for by this Article 6 prior to bringing any legal claim or action, or asserting any other demand, for payments or other benefits to which he or she claims entitlement hereunder.

ARTICLE 7
PLAN MODIFICATION OR TERMINATION

The Plan may be amended or terminated by resolution of the Board at any time; provided, however, that (a) the Plan may not be terminated or amended in a manner adverse to the interests of any Executive, without his or her consent (i) after a Potential Change in Control occurs and for one (1) year following the cessation of a Potential Change in Control, or (ii) for the two-year period following consummation of the transaction(s) resulting from or in the Change in Control; and (b) no termination of this Plan or amendment hereof in a manner adverse to the interests of any Executive, without his or her consent, shall be effective if such termination or amendment occurs (i) at the request of a third party who has taken steps reasonably calculated to effect a Change in Control or (ii) in connection with or in anticipation of a Change in Control or Potential Change in Control. For this purpose, the cessation of a Potential Change in Control occurs if a Change in Control has not occurred within one (1) year following the Potential Change in Control. In the event that the termination of this Plan by the Company or an amendment hereof in a manner adverse to the interests of any Executive (without his or her consent) occurs within one (1) year prior to a Potential Change in Control or a Change in Control, there shall be a presumption that the conditions of subclauses (i) and (ii) of clause (b) of the next preceding sentence shall have been met. Upon the expiration of the Coverage Period, the Plan may not be

amended in any manner which would adversely affect the rights which any Executive has at that time to receive any and all payments or benefits pursuant to Articles 2, 3, and 4 by reason of a Change in Control which has theretofore occurred or by reason of a termination of his or her employment during the Coverage Period, and the Company's obligations to make such payments and provide such benefits shall survive any termination of the Plan.

ARTICLE 8
MISCELLANEOUS

8.1 Terminations in Anticipation of Change in Control. An Executive's employment shall be deemed to have been terminated by the Company without Cause during the Coverage Period if his or her employment is terminated by the Company without Cause prior to a Change in Control or Potential Change in Control and such termination of employment (a) was at the request of a third party who had indicated an intention to take or had taken steps reasonably calculated to effect a Change in Control, or (b) otherwise arose in connection with or in anticipation of a Change in Control, and (c) in either case, a Change in Control Event does occur which may involve such third party (or a party competing with such third party to effectuate a Change in Control). An Executive shall be deemed to have terminated his or her employment for Good Reason during the Coverage Period if he or she terminates his or her employment with Good Reason prior to a Change in Control or Potential Change in Control if the circumstance or event which constitutes Good Reason (a) occurred at the request of a third party who had indicated an intention to take or had taken steps reasonably calculated to effect a Change in Control, or (b) otherwise arose in connection with or in anticipation of a Change in Control, and (c) in either case, a Change in Control Event does occur which may involve such third party (or a party competing with such third party to effectuate a Change in Control). In the event of a termination of employment described in this Section 8.1, the Executive shall be entitled to all payments and other benefits to which he or she would have been entitled had such termination occurred during the Coverage Period (other than salary pursuant to Section 3.1.1 for any period after the actual date of termination) and he or she shall be entitled to an additional payment in an amount which shall compensate him or her to the extent that he or she was deprived by such termination of the opportunity prior to termination of employment to exercise any stock options granted to him or her under the EICP (including any such stock options that were not exercisable at the time of his or her termination of employment) at the highest market price of the Company's Common Stock reached in connection with the Change in Control or Potential Change in Control if a Potential Change in Control shall occur and not be followed by a Change in Control within twelve (12) months of the Potential Change in Control. In the event that the termination of employment of an Executive as described in this Section 8.1 occurs following a Potential Change in Control or within six (6) months prior to a Change in Control, there shall be a presumption that clauses (a) and (b) of the first two sentences of this Section 8.1 shall have been met. The Company shall pay to the Executive the amounts determined under Sections 3.1.1, 3.1.3, 3.1.4, 3.1.5, 3.2.1, 3.2.3, and 3.3.4 and, as applicable, Sections 3.3.1, 3.3.2, or 3.3.3, that become payable pursuant to this Section 8.1, in a lump sum within sixty (60) days following the date of the Change in Control Event.

8.2 Burden. In any proceeding (regardless of who initiates such proceeding) in which the payment of Severance Benefits or other compensation or benefits under this Plan is at issue, (i) the burden of proof as to whether Cause exists for purposes of this Plan shall be upon the Company and (ii) in the event that the penultimate sentence of Section 8.1 applies, the Company shall have the burden to prove, by clear and convincing evidence, that a termination of employment has not been made in anticipation of a Change in Control as contemplated by Section 8.1.

8.3 No Right to Continued Employment. Nothing in the Plan shall be deemed to give any Executive the right to be retained in the employ of the Company, or to interfere with the right of the Company to discharge him or her at any time and for any lawful reason, with or without notice, subject in all cases to the terms of this Plan.

8.4 No Assignment of Benefits. Except as otherwise provided herein or by law, no right or interest of any Executive under the Plan shall be assignable or transferable, in whole or in part, either directly or by operation of law or otherwise, including without limitation by execution, levy, garnishment, attachment, pledge or in any manner; no attempted assignment or transfer thereof shall be effective; and no right or interest of any Executive under the Plan shall be liable for, or subject to, any obligation or liability of such Executive.

8.5 Death. This Plan shall inure to the benefit of and be enforceable by an Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If an Executive shall die while any amount would still be payable to him or her hereunder (other than amounts which, by their terms, terminate upon his or her death) if he or she had continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Plan to the executors, personal representatives or administrators of his or her estate.

8.6 Incompetency. Any benefit payable to or for the benefit of an Executive, if legally incompetent or incapable of giving a receipt therefore, shall be deemed paid when paid to his or her guardian or to the party providing or reasonably appearing to provide for his or her care, and such payment shall fully discharge the Company, the Plan Administrator and all other parties with respect thereto.

8.7 Reduction of Benefits By Legally Required Benefits. Notwithstanding any other provision of this Plan to the contrary, if the Company is obligated by law or by contract (other than under this Plan) to pay severance pay, a termination indemnity, notice pay, or the like, to an Executive or if the Company is obligated by law or by contract to provide advance notice of separation ("Notice Period") to an Executive, then any Severance Benefits payable to him or her hereunder shall be reduced by the amount of any such severance pay, termination indemnity, notice pay or the like, as applicable, and by the amount of any pay received during any Notice Period; provided however, that the period following a Notice of Intent to Terminate shall not be considered a Notice Period.

8.8 Enforceability. If any provision of the Plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions hereof, and the Plan shall be construed and enforced as if such provisions had not been included.

8.9 Effective Date. The Plan shall be effective as of the Effective Date and shall remain in effect unless and until terminated by the Board, subject to the requirements of Article 7.

8.10 No Mitigation. The Company agrees that, if an Executive's employment by the Company is terminated during the Coverage Period, the Executive is not required to seek other employment or to attempt in any way to reduce any amounts payable to him or her by the Company pursuant to this Plan. Further, the amount of any payment or benefit provided for under this Plan (other than to the extent provided in Section 3.2.2) shall not be reduced by any compensation earned by him or her as a result of employment by another employer, by retirement benefits, by offset against any amount claimed to be owed by him or her to the Company, or otherwise.

8.11 Successors. In addition to any obligations imposed by law upon any successor to the Company, the Company shall be obligated to require any successor (whether direct or indirect, by purchase, merger, consolidation, operation of law, or otherwise) to all or substantially all of the business and/or assets of the Company to expressly assume and agree to perform the Company's obligations under this Plan in the same manner and to the same extent that the Company would be required to perform them if no such succession had taken place. Failure of the Company to obtain such assumption and agreement prior to the effectiveness of any such succession shall entitle each Executive to compensation and benefits from the Company in the same amount and on the same terms as he or she would be entitled to hereunder if he or she were to terminate his or her employment for Good Reason during the Coverage Period, provided that the amounts payable under Sections 3.1.1, 3.1.3, 3.1.4, 3.1.5, 3.2.1, 3.2.3, and 3.3.4 and, as applicable, Sections 3.3.1, 3.3.2, or 3.3.3 shall be made to an Executive not later than the sixtieth (60th) day following the effective date of any such succession.

8.12 Consent to Cancellation of Awards and Reduction of DB SERP Benefit. The Company may condition the payment to an Executive of his or her Vested Current Incentive Pay Amount and Vested Current PSU Amount upon his or her providing a written consent to the cancellation of the applicable outstanding target Incentive Pay and PSU grants on which such amounts are based, and in lieu of which such amounts are paid. The Company may condition the payment to an Executive of his or her Vested DB SERP Benefit or the providing of any benefit or payment under Section 3.3.1 upon his or her providing a written consent to the reduction in the amount of the Vested DB SERP Benefit or the amount of any payments or benefits provided under Section 3.3.1.

8.13 Employment by Subsidiary. For purposes of this Plan, an Executive who is employed by a Subsidiary shall be treated as if employed by the Company and his or her entitlement to benefits hereunder shall be determined as if he or she were employed by the

Company. For such purpose, the Subsidiary shall be treated as if it were an unincorporated division of the Company.

8.14 Waiver. No waiver by an Executive at any time of any breach of the terms of this Plan, or compliance with, any condition or provision of this Plan to be performed by the Company shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time.

8.15 Withholding Taxes. Any payments to an Executive provided for hereunder shall be paid net of any applicable withholding required under federal, state or local law and any additional withholding to which he or she has agreed.

8.16 Construction. The headings and captions herein are provided for reference and convenience only, shall not be considered part of the Plan, and shall not be employed in the construction of the Plan. Neither the gender nor the number (singular or plural) of any word shall be construed to exclude another gender or number when a different gender or number would be appropriate.

8.17 Notices. Any notice or other communication required or permitted pursuant to the terms hereof shall be deemed to have been duly given when delivered or mailed by United States Mail, first class, postage prepaid, addressed to the intended recipient at his or her last known address (which in the case of an Executive shall be the address specified by him or her in any written notice provided to the Company in accordance with this Section 8.17).

8.18 Statutory Changes. All references to sections of the Exchange Act or the Code shall be deemed also to refer to any successor provisions to such sections.

8.19 Governing Law. This Plan shall be construed and enforced according to the laws of the State of Delaware to the extent not preempted by Federal law, which shall otherwise control.

ARTICLE 9
TERMINATION WITHOUT CAUSE
UNRELATED TO A POTENTIAL CHANGE IN
CONTROL OR CHANGE IN CONTROL

9.1 Subject to the terms and conditions noted below, in the event Executive’s employment with the Company is, or is deemed to be, terminated by the Company without cause (as defined below), or is, or is deemed to be, terminated by the Executive for good reason (as defined below) regardless of whether a Potential Change in Control or Change in Control has occurred or is pending (such termination hereinafter is referred to as “Change in Status Event”), the Executive shall be entitled to the severance benefits set forth below; provided, however, any termination of an Executive’s employment which results in such Executive being entitled to Severance Benefits pursuant to Section 3.2 shall not constitute a Change in Status Event and no

Executive entitled to Severance Benefits pursuant to Section 3.2 shall in addition be entitled to the benefits provided for in this Section 9.1. Notwithstanding the foregoing, a precondition to the receipt of severance benefits under Article 9 of the Plan shall be the Executive's signing and delivering to the Company, in a form acceptable to the Company, a separation agreement containing a valid and enforceable waiver and release of all claims which is not revoked ("Release"). In the absence of a valid and enforceable Release, the Company shall have no obligations under Article 9 of the Plan.

9.1.1 The Company shall pay to the Executive in a lump sum on or before March 15 of the year following the date of the Change in Status Event an amount equal to two (2) times the Executive's Annual Base Salary as defined in Section 1.1 (substituting "Change in Status Event" for "Change in Control"). Executive will be fully vested in Incentive Pay and PSU grants previously deferred and shall be entitled to payments for any awards covering periods ending prior to the date of the Change in Status Event that have been earned but not yet paid prior to the date of the Change in Status Event. For purposes of clarification, the Executive shall not receive credit towards vesting or participation in any PSU grant for any period after the date of the Change in Status Event.

9.1.2 From and after the date of the Change in Status Event for a period of two (2) years thereafter, the Company will continue Executive's Welfare Benefits excluding disability coverage (and excluding coverage under all tax-qualified retirement plans).

9.1.3 For the calendar year in which the Change in Status Event occurs, Executive shall remain entitled to participate in the Incentive Pay programs. During this calendar year, Executive's target Incentive Pay award percentage will be that in effect just prior to the Change in Status Event, and Executive's actual Incentive Pay award amounts will be determined and paid as follows:

9.1.3.1 For the period from January 1 of the year in which the Change in Status Event occurs until the date of the Change in Status Event, the award will be equal to the product of (x) and (y), where (x) is the amount that would have been payable to the Executive under such Incentive Pay award calculated based on the then current formula for the Executive using, as applicable, (A) the Company's actual performance for the complete calendar year in which such period ends, and (B) the Executive's actual performance as of the Change in Status Event, and (y) is a fraction the numerator of which is the number of days from and including the first day of that award period until (and including) his or her Change in Status Event and the denominator of which is the number of days in that award period. Except to the extent that the Executive's Incentive Pay award for this period would have otherwise been subject to an effective deferral election under the Deferred Compensation Plan, the amount determined will be paid in a lump sum on or after January 1 and on or before March 15 of the year following this period.

9.1.3.2 For the period from the Change in Status Event until December 31 of the year in which the Change in Status Event occurs, the award will be equal to the product of (x) and (y), where (x) is the amount that would have been payable to the Executive under such Incentive Pay award calculated based on the then current formula for the Executive using, as

applicable, (A) for the Company's performance score, the lesser of 100% or the Company's actual performance for the complete calendar year in which such period ends, and (B) for the individual's performance score, the Executive's actual performance as of the Change in Status Event, and (y) is a fraction the numerator of which is the number of days from the day after the day of the Change in Status Event until (and including) the end of that award period and the denominator of which is the number of days in that award period. Except to the extent that the Executive's Incentive Pay award for this period would have otherwise been subject to an effective deferral election under the Deferred Compensation Plan, the amount determined will be paid in a lump sum on or after January 1 and on or before March 15 of the year following this period.

9.1.4 From and after the January 1 following the date in which a Change in Status Event occurs until the second anniversary of such Change in Status Event, Executive shall be entitled to receive as additional severance the amount which he or she would have been eligible to receive under the applicable Incentive Pay programs. For purposes of this calculation, Executive's target Incentive Pay award percentage will be that in effect just prior to the Change in Status Event, and Executive's actual Incentive Pay award amounts will be determined and paid as follows:

9.1.4.1 For the calendar year period beginning on January 1 after the Change in Status Event, the additional severance amount will be equal to the amount that would have been payable to the Executive under such Incentive Pay award calculated based on the then current formula for the group of executives who are generally covered by the Plan using, as applicable, (A) for the Company's performance score, the lesser of 100% or the Company's actual performance for such calendar year, and (B) for the individual's performance score, 100%. The amount determined will be paid in a lump sum on or after January 1 and on or before March 15 of the year following this period.

9.1.4.2 For the period beginning on the second January 1 after the Change in Status Event until the second anniversary of the Change in Status Event, the additional severance amount will be equal to the product of (x) and (y), where (x) is the amount that would have been payable to the Executive under such Incentive Pay award calculated based on the then current formula for the group of executives who are generally covered by the Plan using, as applicable, (A) for the Company's performance score, the lesser of 100% or the Company's actual performance for the complete calendar year in which such period ends, and (B) for the individual's performance score, 100%, and (y) is a fraction the numerator of which is the number of days from and including the first day of that award period until (and including) the second anniversary of his or her Change in Status Event and the denominator of which is the number of days in that award period. The amount determined will be paid in a lump sum on or after January 1 and on or before March 15 of the year following this period.

9.1.5 From and after the date of the Change in Status Event for a period of two (2) years thereafter, (a) Executive's stock options granted prior to the Change in Status Event will continue to vest in accordance with the vesting schedule(s) applicable under the terms of the grant(s), but (b) except as provided in Section 9.1.5(a) above, Executive will not be eligible to participate in or receive new grants or benefits under the Long-Term Incentive Program portion

of the EICP and will not be eligible for participation in or the payment of benefits under this Plan (except for under this Article 9), The Hershey Company Executive Benefits Protection Plan (Group 3), The Hershey Company Employee Benefits Protection Plan (Group 2), or The Hershey Company Severance Benefits Plan.

9.1.6 In the event an Executive is entitled to benefits under this Section 9.1 pursuant to a Change in Status Event, the Company shall reimburse the Executive following his or her Separation from Service for (i) reasonable outplacement services in accordance with Section 3.2.4 and (ii) financial counseling and tax preparation services in accordance with Section 3.2.5.

9.2 If Executive voluntarily resigns from the Company other than for good reason (as defined below), such resignation shall not constitute a Change in Status Event and therefore will not entitle Executive to the benefits provided for in Section 9.1 above. In such event, Executive may be entitled to the benefits provided under the other Company benefit plans in accordance with the terms of those plans.

9.3 Termination of an Executive's employment "without cause," for purposes of this Article 9, shall refer to the Company causing the Executive's Separation from Service with no "cause," as that term is defined in the DB SERP. Termination of Executive's employment "for good reason" for purposes of this Article 9 shall mean Separation from Service by the Executive during the first two (2) years of the tenure of the Company's then current Chief Executive Officer if, and only if, the Executive has not given the Company written notice of his or her intention to retire and during such two (2) year period prior to the Executive's Separation from Service either (i) the Company has assigned duties to the Executive or taken other actions which are inconsistent with his or her position, authority, duties or responsibilities immediately prior to the then current Chief Executive Officer becoming the Chief Executive Officer of the Company and such assignment of duties or other action results in a material diminution in such position, authority, duties or responsibilities; or (ii) the Company has caused a material diminution of the Executive's annual base salary as in effect, as applicable, on the date the then current Chief Executive Officer became the Chief Executive Officer of the Company or as the same may be increased from time to time. To qualify as a termination for good reason under this Article 9, either of the conditions listed in this paragraph must be followed by a Separation from Service within two (2) years of its occurrence and the notice requirements of Section 4.1 must be satisfied.

9.4 The severance arrangements of this Article 9 shall not be considered to constitute an employment contract. The terms and conditions of the Long-Term Incentive Program Participation Agreement and Mutual Agreement to Arbitrate Claims by and between Executive and the Company ("Participation and Arbitration Agreement"), are incorporated herein by reference and made a part hereof as if fully set forth herein. Notwithstanding any provisions to the contrary in the Participation and Arbitration Agreement, the terms and conditions thereof shall remain in effect for three (3) years after Executive's Change in Status Event regardless of whether he or she is eligible or not to receive benefits under the DB SERP.

ARTICLE 10
APPLICATION OF CODE SECTION 409A

This Plan is intended to comply with the provisions of Code section 409A and the Treasury regulations relating thereto. In furtherance of this intent, to the extent this Plan is subject to Code section 409A, it shall be interpreted, operated, and administered in a manner consistent with these intentions.

IN WITNESS WHEREOF, the Company has caused The Hershey Company Executive Benefits Protection Plan (Group 3A), Amended and Restated as of January 1, 2009, to be executed this 31st day of December, 2008.

THE HERSHEY COMPANY

By: */s/ Charlene H. Binder*
Charlene H. Binder
Senior Vice President, Chief People Officer

SECOND AMENDMENT TO THE
HERSHEY COMPANY DEFERRED COMPENSATION PLAN
(Amended and restated as of October 1, 2007)

WHEREAS, The Hershey Company (the "Company") currently maintains The Hershey Company Deferred Compensation Plan, amended and restated as of October 1, 2007 (the "Plan");

WHEREAS, the Compensation and Executive Organization Committee of the Company's Board of Directors (the "Committee"), at its December 1, 2008 meeting, approved changes to the Plan to (1) provide for full vesting in the supplemental matching contributions account and supplemental core contributions account at the same time vesting occurs for matching and core contributions under the Company's 401(k) Plan, (2) clarify that AIP awards are treated as eligible compensation for purposes of determining the amount of Plan benefits for the year in which paid or deferred, and (3) clarify that an initial deferral election can generally specify the time of payment as separation from service plus a specified number of years;

WHEREAS, the Committee authorized and directed the officers of the Company to adopt amendments to the Plan to reflect these changes; and

WHEREAS, this amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment.

NOW, THEREFORE, BE IT RESOLVED that, by virtue and in exercise of the power reserved to the Committee by Section 8.1 of the Plan, and pursuant to the authority delegated to officers of the Company by the Committee, the Plan is hereby amended, effective as of October 1, 2007 (except as otherwise indicated) as follows:

1. Section 1.12 is amended to read as follows:

    1.12 Compensation. "Compensation" means the sum of (i) base salary paid to a Participant during a calendar year and (ii) AIP Awards paid during that calendar year or that would have been paid during that calendar year but for a deferral election.

2. Section 3.1.b.(2) is amended to read as follows:

    (2) AIP Awards paid during that Plan Year; and

3. Section 3.2.b.(2) is amended to read as follows:

    (2) AIP Awards paid during that Plan Year; and

4. Effective as of January 1, 2009, Section 3.4 is amended to read as follows:

3.4 Vesting. A Participant shall become one hundred percent (100%) vested in his or her Supplemental Core Retirement Contributions Sub-Account on the date he or she becomes vested in his or her Core Retirement Contributions under the 401(k) Plan, and in his or her Supplemental Match Contributions Sub-Account on the date he or she becomes vested in his or her Matching Contributions under the 401(k) Plan.

5. The portion of Section 5.2.b that precedes 5.2.b.(1) is amended to read as follows:

b. Upon a Separation from Service, including a Separation from Service plus a specified number of years.

IN WITNESS WHEREOF, the Company has caused this amendment to be executed this 31st day of December, 2008.

THE HERSHEY COMPANY

By: */s/ Charlene H. Binder*
Charlene H. Binder
Senior Vice President, Chief People Officer

Exhibit 10.4

EXECUTIVE CONFIDENTIALITY AND RESTRICTIVE COVENANT AGREEMENT

THIS EXECUTIVE CONFIDENTIALITY AND RESTRICTIVE COVENANT AGREEMENT (the "Agreement") is entered into as of ______ __, 2009 (the "Effective Date"), between The Hershey Company, a Delaware corporation together with its subsidiaries and affiliates and its and their respective successors and assigns ("Employer" or "Company"), and the undersigned officer of Employer ("Executive").

WHEREAS, Executive currently serves, or is being hired or promoted to serve, as an officer of the Company subject to election or appointment by the Company's Board of Directors and eligible for participation in the performance stock unit ("PSU") program, the restricted stock unit ("RSU") program and in other equity grants and future cycles under the Company's Equity and Incentive Compensation Program ("E-grade Officer").

WHEREAS, Employer possesses certain valuable confidential, proprietary and/or trade secret information (collectively, "Confidential Information," as further defined below) that gives Employer a competitive advantage.

WHEREAS, Employer has developed and maintained, at substantial expense and over a considerable period of time, relationships with customers, suppliers, agents, licensees, licensors and others that likewise give Employer a competitive advantage ("Business Relationships").

WHEREAS, as a result of Executive's past, future, and/or continued employment as an E-grade Officer, Executive has been and/or will be and/or will continue to be given access to, and will assist in, the development and maintenance of Employer's Confidential Information and Business Relationships, and it is the parties' intent to continue to safeguard such Confidential Information and Business Relationships both during and after the term of Executive's employment with Employer.

WHEREAS, Employer's reputation and present and future competitive position are dependent upon Employer's ability to protect its interests in such Confidential Information and Business Relationships.

NOW, THEREFORE, in consideration of (i) Employer employing Executive as an E-grade Officer, (ii) Employer providing and continuing to provide Executive access to such Confidential Information and Business Relationships, (iii) Employer making PSU awards, RSU awards and other equity grants to Executive under the next cycle and all future cycles for which Executive is eligible, (iv) if applicable, Employer permitting Executive to participate in and be eligible to receive amounts in the future under defined benefit or defined contribution supplemental executive retirement plans (DB SERP or DC SERP, as applicable), and/or (v) other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Employer and Executive agree as follows:

1. Non-Disclosure of Confidential Information. Executive acknowledges that due to the nature of his/her employment and the position of trust that he/she holds or will hold with Employer, he/she will have special access to, learn, be provided with, and in some cases will prepare and create for Employer, trade secrets and other confidential and proprietary information relating to Employer's business, including, but not limited to, information about Employer's manufacturing processes; manuals, recipes and ingredient percentages; engineering drawings; product and process research and development; new product information; cost information; supplier data; strategic business information; information related to Employer's legal strategies or legal advice rendered to Employer; marketing, financial and business development information, plans, forecasts, reports and budgets; customer information; new product strategies, plans and project activities; and acquisition and divestiture strategies, plans and project activities (collectively, "Confidential Information"). Executive acknowledges and agrees that Confidential Information, whether or not in written form, is the exclusive property of Employer, that it has been and will continue to be of critical importance to the business of Employer, and that the disclosure of it to, or use of it by, competitors and others will cause Employer substantial and irreparable harm. Accordingly, Executive will not, either during his/her employment or at any time after the termination (whether voluntary or involuntary, and regardless of reason) of such employment with Employer, use, or disclose any Confidential Information relating to the business of Employer which is not generally available to the public. Notwithstanding the foregoing provisions of this Paragraph 1, Executive may disclose or use any such information (i) when such disclosure or use may be required or appropriate in the good faith judgment of Executive in the course of performing his/her duties to Employer and in accordance with Employer policies and procedures, (ii) when required by a court of law, by any governmental agency having supervisory authority over Executive or the business of Employer, or by any administrative or legislative body (including a committee thereof) with apparent jurisdiction, or (iii) with the prior written consent of Employer's Chief Executive Officer ("CEO") or Board of Directors ("Board") (provided that, if Executive is CEO, such consent must be by the Board). Notwithstanding anything herein to the contrary, Executive understands and agrees that his/her obligations under this Agreement shall be in addition to, rather than in lieu of, any obligations Executive may have under any applicable statute or at common law.

2. Non-Competition. Executive acknowledges that Employer is engaged, domestically and worldwide, in the business of developing, producing, marketing, selling and distributing chocolate, confectionery, confectionery-related snack and chocolate-related products ("Employer's Business"). Executive acknowledges that due to the nature of his/her employment with Employer, he/she has and will have special access to, contact with, and Confidential Information about, Employer's Business and Business Relationships. Executive acknowledges that Employer has incurred considerable expense and invested considerable time and resources in developing its Confidential Information and Business Relationships, and that such Confidential Information and Business Relationships are critical to the success of Employer's Business. Accordingly, both (i) during the term of his/her employment with Employer, and (ii) for a period of twelve (12) months following the termination of his/her employment (whether voluntary or involuntary, and regardless of reason), Executive, except in the performance of his/her duties to Employer, shall not, in any geographic area where Employer conducts business or where Employer's products are sold, without the prior written consent of Employer's Chief People Officer, CEO and the Chair of the Compensation and Executive Organization Committee of Employer's Board of Directors (provided that, if Executive is CEO, such consent must be by the

Board of Directors), directly or indirectly serve or act in a consulting, executive or managerial capacity, or engage in oversight of any person who serves or acts in a consulting, executive or managerial capacity, as an officer, director, employee, consultant, advisor, independent contractor, agent or representative, for the domestic or worldwide chocolate, confectionery, confectionery-related snack or chocolate-related businesses of any person or entity that is in competition with any of the aspects of Employer's Business. For purposes of clarification, Executive will not be deemed to be involved in a business in competition with Employer's Business, and accordingly this paragraph 2 will not be violated, by the Executive (A) providing services to a subsidiary, division or unit of an entity (a "parent company") that engages, directly or indirectly, in any competitive business described above, so long as Executive and the subsidiary, division or unit to which he/she is providing services do not engage in any such competitive business, or (B) serving in a consulting, executive or managerial capacity of a parent company that engages, directly or indirectly, in any competitive business described above, so long as the gross revenues from such competitive businesses constituted less than 10% of consolidated annual gross revenues for the parent company's most recently completed fiscal year.

3. Non-Solicitation; Non-Disparagement. Both (i) during the term of his/her employment by Employer, and (ii) for a period of twelve (12) months following the termination of his/her employment (whether voluntary or involuntary, and regardless of reason), Executive, except in the performance of his/her duties to Employer, shall not directly or indirectly (including as an officer, director, employee, consultant, advisor, agent or representative), for himself/herself or on behalf of any other person or entity:

(a) for any purpose that is in competition with any of the aspects of Employer's Business, solicit, take away or engage, or participate in soliciting, taking away or engaging, any customers, suppliers, agents, licensees or licensors of Employer with whom Executive had contact while employed by Employer, or about whom Employer had access to confidential information as a result of Executive's employment by Employer; or

(b) knowingly recruit or solicit, or participate in recruiting or soliciting, any of Employer's employees, or communicate, except in the case of a reference described in the last sentence of this paragraph, with any other person or entity about the nature, quality or quantity of work, or any special knowledge or personal characteristics, of any person employed by Employer. If Executive should wish to discuss possible employment with any then-current employee of Employer during the period set forth above, Executive may request written permission to do so from the most senior human resources officer of Employer who may, in his/her discretion, grant a written exception to the no solicitation covenant set forth immediately above; provided, however, Executive shall not discuss any such employment possibility with any such employee prior to such permission. Notwithstanding the foregoing, the provisions of this paragraph shall not be violated by (i) general advertising or solicitation not specifically targeted at employees of Employer, (ii) Executive serving as a reference, upon request, for any employee of Employer, or (iii) actions taken by any person or entity with which Executive is associated if Executive is not personally involved in any manner in the matter and has not identified such employee for recruiting or solicitation.

In addition, both (i) during the term of his/her employment by Employer, and (ii) following the termination of his/her employment (whether voluntary or involuntary, and regardless of reason), Executive shall not knowingly, willfully and with intent to harm Employer make any public statements that disparage Employer, its employees, officers, directors, products or services, provided that, notwithstanding the foregoing, truthful statements made in the course of sworn testimony in administrative, judicial or arbitral proceedings (including, without limitation, depositions in connection with such proceedings), normal competitive-type statements, and statements made in the good faith performance of the Executive's duties to Employer shall not constitute a violation of this clause.

4. Violation of Paragraphs 1, 2 or 3. Executive acknowledges Employer's valid and protectable interest in aligning the long-term interests of valued employees with those of Employer by providing Executive an ownership interest in the Employer through the PSU program and other equity incentive programs and otherwise, and likewise acknowledges Employer's valid and protectable interest in preventing former employees whose interests become adverse to the Employer from maintaining an ownership or other interest in the Employer. Accordingly, Executive agrees that if he/she violates any of paragraphs 1, 2 or 3 above (the date on which any such violation occurs is the "Date of Breach"), Employer may, in its sole discretion, in addition to any other remedies available to it at law (including without limitation monetary damages) or in equity (including without limitation temporary, preliminary and/or permanent injunctive relief):

(a) cancel any unvested portion of any and all PSU and RSU awards;

(b) cancel any unexercised stock options;

(c) require Executive to pay Employer the full value of any benefits received by Executive during the period twelve (12) months prior to Executive's last date of employment through the Date of Breach, from (i) PSUs, (ii) RSUs, and (iii) the exercise of any options;

(d) cancel any unpaid benefits of Executive under the DB SERP and DC SERP; and/or

(e) require Executive to pay Employer the full value of any benefits already received by Executive under the DB SERP or DC SERP (including for this purpose amounts that would have been received but for Executive's election to defer such amounts under the Deferred Compensation Plan).

Moreover, if Employer seeks temporary, preliminary and/or permanent injunctive relief for a violation or threatened violation of paragraphs 1, 2 or 3 above, Executive hereby expressly consents to the entry of such relief against him/her by a court of competent jurisdiction. Executive further agrees that in the event he/she later believes that any provision hereof is not enforceable for any reason, Executive will not act in violation of any such provision until such time as a court of competent jurisdiction enters a final judgment with respect to enforceability.

5. Entire Agreement. Executive acknowledges and agrees that (a) this Agreement includes the entire agreement and understanding between the parties with respect to the subject matter hereof, and may be amended, modified or changed only by a written instrument executed

by Executive and Employer, and (b) violation of paragraphs 1, 2 or 3 hereof may cause Executive to lose the right to receive, or may obligate Executive to repay to Employer, amounts awarded or accrued under various plans and programs of Employer as described herein and that, to the extent any effect of this Agreement upon such amounts may be inconsistent with the terms and conditions of such plans or programs as in effect on the date hereof (including without limitation as set forth in the Long Term Incentive Program Participation Agreement to which Executive may be a party), this Agreement shall constitute an amendment of such terms and conditions and Executive's consent thereto. No provision of this Agreement may be waived except by a writing executed and delivered by the party sought to be charged. Any such written waiver will be effective only with respect to the event or circumstance described therein and not with respect to any other event or circumstance, unless such waiver expressly provides to the contrary.

6. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without reference to principles of conflict of laws.

(b) All notices and other communications hereunder shall be in writing; shall be delivered by hand delivery to the other party or mailed by registered or certified mail, return receipt requested, postage prepaid or by a nationally recognized courier service such as Federal Express; shall be deemed delivered upon actual receipt; and shall be addressed as follows:

If to Employer:

The Hershey Company
100 Crystal A Drive
Hershey, Pennsylvania 17033
ATTN: Chief People Officer

If to Executive:

At the address set forth with the signature below,

or to such other address as either party shall have furnished to the other in writing in accordance herewith.

(c) Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction will not invalidate or render unenforceable such provision in any other jurisdiction.

IN WITNESS WHEREOF, each of the parties hereto has duly executed this Agreement as of the date first set forth above.

EXECUTIVE:

____

Print Name and Address:

____

____

____

EMPLOYER:
The Hershey Company, a Delaware corporation

By: ____________________________________
Burton H. Snyder
Senior Vice President, General Counsel and Secretary

Exhibit 10.5

FIRST AMENDMENT TO THE
HERSHEY COMPANY SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN
(Amended and Restated as of October 2, 2007)

WHEREAS, The Hershey Company (the "Company") currently maintains The Hershey Company Supplemental Executive Retirement Plan, amended and restated as of October 2, 2007 (the "Plan");

WHEREAS, the Company has determined that the payment terms of the Plan should be revised to meet applicable requirements of Section 409A of the Internal Revenue Code of 1986 (as amended) ("Section 409A");

WHEREAS, the Company's Board of Directors ("Board"), at its December 2, 2008 meeting, authorized and directed the Senior Vice President, Chief People Officer or Senior Vice President, General Counsel and Secretary of the Company ("Designated Officers") to make changes to Company plans and arrangements as may be necessary to comply with Section 409A; and

WHEREAS, this amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment.

NOW, THEREFORE, BE IT RESOLVED that, by virtue and in exercise of the authority delegated to the Designated Officers by the Board, the Plan is hereby amended, effective as of January 1, 2009, as follows:

1. Section 6.b. is amended to add a new sentence to the end thereof to read as follows:

> Any payments upon a Key Employee's Separation from Service that would have otherwise been made under this Section 6 during the Waiting Period shall be made in the seventh month following the date of such Separation from Service (or, if earlier, the month after the Key Employee's death).

IN WITNESS WHEREOF, the Company has caused this amendment to be executed this 31st day of December, 2008.

THE HERSHEY COMPANY

By: /s/ Charlene H. Binder
Charlene H. Binder
Senior Vice President, Chief People Officer

Exhibit 10.6

THE HERSHEY COMPANY
COMPENSATION LIMIT REPLACEMENT PLAN
Amended and Restated as of January 1, 2009

I. PURPOSE OF PLAN

The purpose of The Hershey Company Compensation Limit Replacement Plan (hereinafter called the "Plan") is to ensure that the amount of future retirement benefits of executives of The Hershey Company (hereinafter called the "Company") are not reduced by federally regulated limits on the amount of compensation that may be included in the calculation of retirement benefits payable from the Company's Retirement Plan. The Plan constitutes an amendment, restatement and continuation of the prior plan which was most recently restated effective as of October 2, 2007.

II. DEFINITIONS

All of the capitalized terms used in this Plan and not defined herein shall have the same meaning as in the Company's Retirement Plan, as may be amended from time to time. The following words and phrases as used in this Plan shall have the following meanings unless a different meaning is plainly required by the context:

(a) "Average Annual Earnings" as of any date during a Participant's employment with an Employer means the average of the Participant's Earnings for the five (5) calendar years preceding such date of calculation.

(b) "Board" or "Board of Directors" means the Board of Directors of the Company.

(c) "Change in Control," for purposes of this Plan, shall have the same meaning as provided in The Hershey Company Equity and Incentive Compensation Plan (and any successor or replacement plan thereof).

(d) "Code" means the Internal Revenue Code of 1986, as amended from time to time.

(e) "Committee" or "Compensation Committee" means the Compensation and Executive Organization Committee of the Board or any successor committee having similar authority.

(f) "Company" means The Hershey Company, a Delaware Corporation.

(g) "Credits" means the sum of the Participant's Basic Credits, Prior Service Credits, Supplemental Prior Service Credits, and Periodic Adjustment Credits.

(h) "DB SERP" means The Hershey Company Supplemental Executive Retirement Plan, as amended from time to time, and any successor or replacement plan thereof.

(i) "DC SERP" means Defined Contribution Supplemental Executive Retirement Plan benefit of the Deferred Compensation Plan, and any successor or replacement plan thereof.

(j) "Deferred Compensation Plan" means The Hershey Company Deferred Compensation Plan, as amended from time to time, and any successor or replacement Plan thereof.

(k) "Disabled" means Disabled as that term is defined in The Hershey Company Retirement Plan, as in effect from time to time, and any successor plan thereto.

(l) "Earnings," for purposes of this Plan, shall have the same meaning as provided in the Retirement Plan, except that such Earnings shall not be subject to the compensation limits of Section 401(a)(17) of the Code.

(m) "Effective Date" means January 1, 2009, except as specifically provided otherwise in this Plan.

(n) "Excess Account" as of a determination date equals the excess of:

1. the sum of the Credits to the Participant's Accounts (including Grandfather benefits) for all years ending on or before the determination date, including years prior to the Effective Date, that would have been made under Article 4 of the Retirement Plan, if Earnings and Average Annual Earnings defined in this Plan were used in such calculation, over

2. the sum of the Credits to the Participant's Accounts (including Grandfather Benefits) in all years ending on the determination date, including years prior to the Effective Date, under Article 4 of the Retirement Plan.

Notwithstanding the foregoing, for purposes of determining the Excess Account of any participant eligible for the DC SERP, the Credits to the Participant's Accounts determined under subsections 1 and 2 above for periods of participation in DC SERP shall be determined by assuming pay-based credits equal 3% of "Earnings" (as defined in this Plan or under the Retirement Plan, as applicable).

(o) "For Cause" means, as determined by the Committee in its reasonable discretion, the willful engaging by an employee of the Company in illegal conduct or gross misconduct which is materially and demonstrably injurious to the Company, including, without limitation, illegal conduct or gross misconduct that causes, or has the potential to cause, material financial or reputational injury to the Company.

For purposes of this definition, no act or failure to act, on the part of the Participant shall be considered "willful" unless it is done, or omitted to be done, by the Participant in bad faith and without reasonable belief that the Participant's action or omission was in the best interest of the Company. Any act or failure to act, based on prior approval given by the Board or upon the instruction or with the approval of

the Chief Executive Officer or the employee's superior or based upon the advice of counsel for the Company (provided such approval, instruction, or advice of counsel is made by or from someone other than the Participant) shall be conclusively presumed to be done, or omitted to be done, by the Participant in good faith and in the best interest of the Company.

(p) "Long Term Disability Plan" means The Hershey Company Long Term Disability Plan, and any successor or replacement Plan thereof.

(q) "Participant" means an employee of the Company who becomes eligible to receive a benefit under this Plan in accordance with the provisions of Section III.

(r) "Plan Administrator" means the Employee Benefits Committee of the Company, or any successor committee having similar authority, or such other individual or committee as may be determined by the Compensation Committee from time to time.

(s) "Plan" means The Hershey Company Compensation Limit Replacement Plan, Amended and Restated as of January 1, 2009, as set forth herein and as amended from time to time.

(t) "Retirement Plan" means The Hershey Company Retirement Plan, as in effect from time to time and any successor plan thereto.

(u) "Separation from Service" or "Separates from Service" means a "separation from service" within the meaning of Code section 409A; provided that, in the event a Participant becomes Disabled and takes a leave of absence in connection therewith, a Separation from Service shall not occur for up to 29 months following the first day of such leave of absence as permitted under Code section 409A and the regulations issued thereunder.

III. ELIGIBILITY

(a) A U.S. paid executive who is an employee of the Company shall be a participant in this Plan if (i) he or she is an active participant in the Retirement Plan on or after January 1, 1995, and (ii) his or her pension benefit, determined on the basis of the provisions of the Retirement Plan without regard to the limitations of Section 415 or Section 401(a)(17) of the Code, would exceed the benefit payable from the Retirement Plan with regard to such limits. An employee of the Company hired on or after January 1, 2007 shall not be a participant in this Plan.

(b) Except as provided in Section III.(c), in the event that a Participant in this Plan is designated by the Committee to be eligible to participate in the DB SERP, regardless of whether he or she reaches at least fifty-five (55) years of age and completes five (5) Years of Service, the Participant shall no longer be eligible to participate in this Plan or to receive a benefit hereunder, even for periods prior to being designated as eligible to participate in the DB SERP.

(c) In the event that an employee described in Section III.(b) above (i) ceases to be designated by the Committee as eligible to participate in the DB SERP prior to his or her termination of employment with the Company, or (ii) has his or her employment involuntarily terminated by the Company (other than For Cause) (i.e., not as a result of a voluntary termination or resignation by the Participant) prior to reaching at least fifty-five (55) years of age and completing five (5) Years of Service, such employee shall become eligible to participate in this Plan, and to receive a benefit hereunder for all years in which he or she would have been a Participant, but for his or her designation by the Committee to be eligible to participate in the DB SERP.

IV. BENEFITS

(a) *Retirement*

An employee who qualifies as a Participant and who retires or whose employment is otherwise terminated other than For Cause on or after his or her “Early Retirement Date” (as determined under the Retirement Plan) shall be entitled under this Plan to receive a retirement benefit equal to the lump sum value of his or her Excess Account, determined as of the Participant’s date of Separation from Service with the Company.

(b) *Termination*

An employee who qualified as a Participant and who terminates employment other than For Cause prior to his or her Early Retirement Date but after completing five (5) Years of Service shall be entitled to a benefit equal to the lump sum value of his or her Excess Account as of the employee’s date of Separation from Service with the Company.

(c) *Pre-retirement Death*

If a Participant dies prior to his or her Early Retirement Date, the Designated Beneficiary of the Participant shall be entitled to the lump sum value of the Participant’s Excess Account as of the date of Participant’s death.

(d) *Disability*

Effective as of January 1, 2007, if a Participant becomes Disabled prior to his or her Normal Retirement Date and while employed by the Company, the Participant shall continue to accrue credits to his or her Excess Account until the earlier of (i) two (2) years from the date benefits commence under the Company’s Long Term Disability Plan or (ii) the date he or she is no longer eligible for benefits under the Long Term Disability Plan. The Basic Credits, if any, during this period will be determined based on the method described in Section 5.2 of the Retirement Plan.

V. DISTRIBUTION AND FORM OF PAYMENT

(a) *Form of Payment*

Subject to Section V.(b), benefits payable under Sections IV and VI of this Plan shall be payable in a lump sum cash payment within ninety (90) days following the earlier of a Participant's (i) Separation from Service, or (ii) death. A Participant may elect to change the time or form of distribution in accordance with the requirements set forth in the Deferred Compensation Plan (a "Subsequent Deferral Election"). In the event of a Subsequent Deferral Election, the lump sum value of the Participant's Excess Account shall be transferred to the Deferred Compensation Plan on the date such amount would otherwise be payable under the Plan and the subsequent distribution of such amount shall be made in accordance with the applicable provisions of the Deferred Compensation Plan. Notwithstanding the foregoing provisions of this paragraph, in the event an employee becomes a Participant pursuant to Section III.(c), the form and time of payment shall be governed by the provisions of the DB SERP.

(b) *Distribution to Key Employees*

In the case of a Separation from Service of a Key Employee, a lump sum cash payment payable under Sections IV(a), IV(b), IV(d) and VI(a) of this Plan may not be made before the date which is six (6) months after the date of the Key Employee's Separation from Service (hereinafter called the "Waiting Period"); provided, however, in the event of the Key Employee's death during the Waiting Period, payment shall be made as of the date of the Key Employee's death pursuant to Section V.(a). The lump sum cash payment that is otherwise payable to a Key Employee under these Sections of this Plan shall accrue interest during the Waiting Period at a rate equal to the HRA Crediting Rate. Any payment upon a Key Employee's Separation from Service under this Section V shall be made in the seventh month following the date of such Separation from Service (or, if earlier, the month after the Key Employee's death).

(c) *Definitions*

For purposes of this Section V:

(i) "Key Employee" means a "specified employee" under Code section 409A(a)(2)(B)(i) (i.e., a key employee (as defined under Code section 416(i) (without regard to paragraph (5) thereof)) of a corporation any stock in which is publicly traded on an established securities market or otherwise) and applicable Treasury regulations and other guidance under Code section 409A. Key Employees shall be determined in accordance with Code section 409A and pursuant to the methodology established by the Plan Administrator; and

(ii) "HRA Crediting Rate" means a periodic adjustment percentage equal to the average of one-year Treasury Constant Maturities as published in the

Federal Reserve Statistical Release H.15(519) of the Board of Governors of the Federal Reserve System, measured on the first business day of October, November and December of the year immediately preceding the Plan Year. The average rate shall be calculated and rounded to the nearest one-hundredth of a percentage point. Notwithstanding the preceding sentence, the periodic adjustment percentage shall not exceed twelve (12) percent and shall not be less than three (3) percent in any Plan Year.

VI. CHANGE IN CONTROL

Upon the occurrence of a Change in Control, a Participant shall have a vested right to receive, upon his or her Separation from Service and notwithstanding his or her Years of Service, the value of his or her Excess Account as of his or her date of Separation from Service in accordance with Section V.(a). In addition, a Participant shall have a vested right to receive the value of his or her Excess Account, notwithstanding his or her Years of Service, if such Participant Separates from Service with the Company, (i) at the request of a third party who has taken steps reasonably calculated to effect a Change In Control, or (ii) in connection with or in anticipation of a Change In Control.

VII. ADMINISTRATION OF THE PLAN

(a) The Plan Administrator is charged with the administration of the Plan. The Plan Administrator shall have the authority to make, amend, interpret, and enforce all appropriate rules and regulations for the administration of this Plan and decide or resolve any and all questions, including interpretations of this Plan, as may arise in connection with the Plan. All members of the committee comprising the Plan Administrator may be Participants. A member of the committee comprising the Plan Administrator who is a Participant may not vote on matters involving a personal benefit claim or appeal under this Plan, but any such individual shall otherwise be fully entitled to act in matters arising out of or affecting this Plan notwithstanding his or her participation herein.

(b) In the administration of this Plan, the Plan Administrator may, from time to time, employ agents and delegate to them or to others (including employees of the Company) such administrative duties as it sees fit. The Plan Administrator may from time to time consult with counsel, who may be counsel to the Company.

(c) In carrying out its duties herein, the Plan Administrator (or its designee) shall have full discretion to exercise all powers and to make all determinations, consistent with the terms of the Plan, in all matters entrusted to it, and its determinations shall be final and binding on all parties.

(d) The Company shall indemnify and hold harmless the Plan Administrator and any employees to whom administrative duties under this Plan are delegated, against any and all claims, loss, damage, expense, or liability arising from any action or failure to act with respect to this Plan, except in the case of willful misconduct.

VIII. PAYMENT OF BENEFITS

Nothing contained in the Plan and no action taken pursuant to the provisions of the Plan shall create or be construed to create a trust of any kind, or a fiduciary relationship between the Company and the Participant, his or her spouse or any other person. Benefits under the Plan shall be paid out of the general assets of the Company. No person other than the Company shall by virtue of the provisions of the Plan have any interest in such assets. To the extent that any person acquires a right to receive payments from the Company under the Plan, such right shall be no greater than the right of any unsecured general creditor of the Company. Neither a Participant nor any other person shall have any right to commute, sell, assign, transfer, pledge, anticipate, mortgage, or otherwise encumber, transfer, hypothecate, or convey in advance of actual receipt the amounts, if any, payable hereunder, or any part thereof. The rights to all such amounts are expressly declared to be unassignable and non-transferable. No part of the amounts payable shall, prior to actual payment, be subject to seizure or sequestration for the payment of any debts, judgments, alimony, or separate maintenance owed by Participants or any other person, nor be transferable by operation of law in the event of a Participant's or any other persons bankruptcy or insolvency, except as required by law. Any payments required to be made pursuant to the Plan to a person who is under legal disability may be made by the Company to or for the benefit of such person in such of the following ways as the Plan Administrator shall determine:

(a) directly to such person,

(b) to the legal representative of such person,

(c) to a near relative of such person to be used for the latter's benefit, or

(d) directly in payment of expenses of support, maintenance or education of such person.

The Company shall not be required to seek the application by any third party of any payments made pursuant to the Plan.

IX. DOMESTIC RELATIONS ORDERS

Notwithstanding Section VIII, all or a portion of a Participant's Excess Account may be paid to another person as specified in a domestic relations order that the Plan Administrator determines meets certain requirements (a "Domestic Relations Order"). For this purpose, a Domestic Relations Order means a judgment, decree, or order (including the approval of a settlement agreement) which is:

(a) Issued pursuant to a State's domestic relations law;

(b) Relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of the Participant;

(c) Creates or recognizes the right of a spouse, former spouse, child or other dependent of the Participant to receive all or a portion of the Participant's benefits under the Plan;

(d) Provides for payment in an immediate lump sum as soon as practicable after the Company determines that a Domestic Relations Order exists; and

(e) Meets such other requirements established by the Plan Administrator.

The Plan Administrator in its sole discretion shall determine whether any document received by it is a Domestic Relations Order. In making this determination, the Plan Administrator may consider the rules applicable to "domestic relations orders" under Code section 414(p) and ERISA section 206(d), and such other rules and procedures as it deems relevant. If an order is determined to be a Domestic Relations Order, the amount to which the other person is entitled under the Order shall be paid in a single lump sum payment as soon as administratively practicable within ninety (90) days after such determination.

X. EFFECTIVE DATE OF PLAN

Except as specifically provided herein, this amendment and restatement of the Plan shall be effective January 1, 2009.

XI. AMENDMENT, SUSPENSION, OR TERMINATION OF THE PLAN

The Board may, at any time, suspend or terminate the Plan. The Committee may also, from time to time, amend the Plan in such respects as it may deem advisable in order that benefits provided hereunder may conform to any change in the law or in other respects which the Committee deems to be in the best interest of the Company. Except as provided in the next sentence, no such amendment shall adversely affect any right of any Participant or his or her spouse to benefits hereunder that have become payable (i.e. the Participant has five (5) Years of Service with the Company) prior to the effective date of the amendment without the consent of such Participant or spouse. Unless the Board determines in its sole discretion that all such amounts shall be distributed upon termination in accordance with the requirements under Code section 409A, any benefits payable under the terms of the Plan at the time of termination of the Plan shall remain in effect according to their original terms, or such alternate terms as may be in the best interests of both parties and agreed to by the Participant or his or her surviving spouse. Upon termination of the Plan, no further benefit accruals shall occur.

IN WITNESS WHEREOF, the Company has caused The Hershey Company Compensation Limit Replacement Plan, Amended and Restated as of January 1, 2009, to be executed this 31st day of December, 2008.

THE HERSHEY COMPANY

By: /s/ Charlene H. Binder
Charlene H. Binder
Senior Vice President, Chief People Officer

Exhibit 10.7

SECOND AMENDMENT TO
AMENDED AND RESTATED
EXECUTIVE EMPLOYMENT AGREEMENT

WHEREAS, The Hershey Company (the “Company”) has entered into an Amended and Restated Executive Employment Agreement (the “Agreement”) dated as of October 2, 2007 with David J. West (the “Executive”), which has been amended by the First Amendment dated as of February 13, 2008; and

WHEREAS, the parties desire to further amend the Agreement to make certain changes relating to Section 409A of the Internal Revenue Code and the regulations and guidance promulgated thereunder.

NOW, THEREFORE, BE IT RESOLVED that, the Agreement is further amended by this Second Amendment, effective as of December 29, 2008, as follows:

1. Section 3(g) is amended by deleting the words “within one hundred twenty (120) days of such termination, a lump sum cash payment equal to the lump sum cash” and substituting therefor “at the same time and in the same form as the”.
2. Section 3(j) is amended by deleting the word “prompt” and substituting therefor “within the time period set forth in Section 16(c)” and by deleting the word “promptly” and substituting therefore “within the time period set forth in Section 16(c).
3. Sections 5(a)(iv) and (v), 5(b)(v) and (vi), and 5(c) are each amended to change all references of “promptly” to “on the first business day following the fifty-ninth (59th) day.”
4. Section 5(d)(i) shall be amended to read as follows:

(i) The Employer shall pay to the Executive:

(A) the Accrued Obligations;

(B) on the first business day following the fifty-ninth day following the Date of Termination, subject to the provisions of Section 16(b) hereof, an amount equal to two times the sum of (I) the Executive’s annual Base Salary at the rate in effect at the time the Notice of Termination is given, or in effect immediately prior to any reduction thereof in violation of the Agreement, and (II) the AIP bonus at target for the year in which such termination occurs; and

(C) except to the extent that the Executive’s AIP award for this period would have otherwise been subject to an effective deferral election under the Deferred Compensation Plan in which case the payment is made in accordance with the deferral election, at the time the AIP bonus would be paid to Executive in the following calendar year if he continued employment, a pro rata AIP bonus for the year of termination based on actual results for such year and the period of employment during such year.

5. The last sentence of Section 5 (flush language), is deleted, and the following two paragraphs are added at the end of Section 5:

"(e) Severance Conditioned on Covenants. Notwithstanding the foregoing, the Company's obligations to pay or provide any benefits under Section 5(d) shall cease as of the date the Executive knowingly and materially violates the provisions of Section 11(a), 11(b) or 11(c) hereof.

(f) Severance Conditioned on Release. Notwithstanding the foregoing, the Company's obligations to pay or provide any benefits under Section 5(d) shall be conditioned on the Executive signing a release of claims in favor of the Company in the form annexed hereto and not revoking such release during the 7 day revocation period, both of which occur within sixty (60) days after Executive's termination. Such amounts shall be due and payable to (or begin to be payable) to the Executive on the first business day following the fifty-ninth (59th) day following the Date of Termination (with any missed installment payments paid in a lump sum on such date)."

6. Section 6 is hereby replaced with the following provision:

"(a) The Executive shall participate in the Executive Benefits Protection Plan (Group 3A) (the "EBPP"), but all payout thereunder shall be subject to Section 16 hereof and this Section 6.

"(b) If there occurs a termination of employment following a "change in control" as defined in the EBPP (an "EBPP Change in Control"), and it is also a "change in control" as defined under Code Section 409A (a "409A Change in Control"), the rights and obligations of the Employer and the Executive on a termination following an EBPP Change in Control shall be governed by the EBPP, subject to Section 16 hereof.

"(c) If the termination of employment occurs following an EBPP Change in Control, but it is not a 409A Change in Control, any compensation or benefits payable under the EBPP to the extent duplicative of amounts due hereunder shall be made at the same time and in the same form of payment as the items of compensation or benefits payable under this Agreement and any additional amounts shall be payable as provided in the EBPP, subject to Section 16 hereof. For example, if there occurs a termination without Cause or for Good Reason following an EBPP Change in Control that is not a 409A Change in Control, although the amount of severance payments and benefits will be governed by § 3.2 of the EBPP, the time and form of payment shall not follow the rules in § 3.3 of the EBPP regarding time and form of payment, but instead shall follow the time and form of payment rules in Section 5(d) of this Agreement to the extent duplicative of amounts payable hereunder.

"(d) If any item of compensation or benefit is provided under this Agreement, or under any other plan, agreement, program or arrangement of Employer (other than the EBPP) which is more favorable to Executive than the corresponding item of compensation or benefit under the EBPP, or if an item of compensation or benefit is provided under this Agreement, or under such other plan, agreement, program or arrangement, but not under the EBPP, such item of

compensation or benefit shall be provided in accordance with the terms of this Agreement or such other plan, agreement, program or arrangement.

"(e) In no event shall Executive be entitled to duplication as to any item of compensation or benefit that is provided under both this Agreement (or such other plan, agreement, program or arrangement) and the EBPP. In addition, for purposes of Section 3.4 of the EBPP, payments under or pursuant to this Agreement or any other payment with regard to the Employer that would be treated as a "parachute payment" under Q/A 2 of Treasury Regulation 1.280G-1 shall be deemed to be under the EBPP.

"(f) In lieu of the benefit under Section 3.2.2 of the EBPP with regard to any plan subject to Code Section 105(h), Executive and his spouse and his eligible dependents shall have access to such plan for the period specified therein by paying the COBRA premium therefor and the Employer shall pay the Executive monthly, subject to Section 16 hereof, the amount the Executive paid for such month plus a tax gross up such that Executive has no after tax cost for such premium.

"(g) The claims procedure in Article 6 of the EBPP shall not apply and any dispute shall be controlled by the procedures hereunder.

"(h) To the extent any amounts due under Article 9 of the EBPP are not in excess of those hereunder, the amounts shall not be due. To the extent any amounts thereunder are in excess of the amounts due hereunder, such excess amounts shall be provided thereunder, subject to Section 16 hereof.

"(i) Section 8.1 of the EBPP shall apply to Executive, but only if the Change in Control is a 409A Change in Control and then, subject to Section 16 hereof, Executive shall be paid any amount in excess the amount of that he is entitled to hereunder upon such a termination in the form and at the time provided in such Section 8.1."

7. The words "or is otherwise deferred compensation under Code Section 409A" shall be inserted in Section 16(b) immediately after the words "subject to this Section" in the first sentence of such Section 16(b).

8. Section 16(c) is amended by deleting the last sentence thereof and substituting the word "hereunder" for the words "under Section 9 or 12 (a) hereof."

9. Section 16(e) is amended to add the following sentence at the end thereof:

   "Tax gross-up payments under the Agreement, if any, shall be paid in no event later than the end of the calendar year following the calendar year in which the Executive pays such tax."

10. Section 16 is amended to add the following paragraphs at the end thereof:

   "(f) Any Accrued Obligations payable under Section 5 shall be paid in accordance with the provisions of the applicable plan, program or payroll practice.

“(g) Whenever a payment under this Agreement specifies a payment period with reference to a number of days (e.g., “payment shall be made within thirty (30) days following the date of termination”), the actual date of payment within the specified period shall be within the sole discretion of the Company.

“(h) If under this Agreement, an amount is paid in two or more installments, for purposes of Code Section 409A, each installment shall be treated as a separate payment.”

As amended, the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, each of the parties hereto has duly executed this Executive Employment Agreement as of the date first set forth above.

EXECUTIVE:

David J. West

/s/ David J. West

COMPANY:

The Hershey Company, a Delaware corporation

By: /s/ Burton H. Snyder
Burton H. Snyder
Senior Vice President, General Counsel and Secretary

THE HERSHEY COMPANY

DIRECTORS' COMPENSATION PLAN

(Amended and Restated
Effective as of December 2, 2008)

1

PURPOSE

The purposes of the Directors' Compensation Plan ("Plan") are to provide Directors of The Hershey Company ("Company") with payment alternatives for the retainer and fees payable for services as members of the Board of Directors ("Board") of the Company or as a chair of any committee thereof (together, "Director Fees"), to provide Directors the opportunity to elect to receive all or a portion of the Directors Fees in Deferred Stock Units ("DSUs"), each representing an obligation of the Company to issue one share of Common Stock of the Company, $1.00 par value per share ("Common Stock"), and to promote the identification of interests between such Directors and the stockholders of the Company by paying a portion of each Director's compensation in Restricted Stock Units ("RSUs"), each RSU representing an obligation of the Company to issue one share of Common Stock. The Plan is intended to comply with Internal Revenue Code ("Code") section 409A and official guidance issued thereunder (collectively, "Section 409A"). Notwithstanding anything herein to the contrary, this Plan shall be interpreted, operated and administered in a manner consistent with this intention.

2

ELIGIBILITY

Any Director of the Company who is not an employee of the Company or any of its subsidiaries shall be eligible to participate in the Plan. Except as the context may otherwise require, references in this Plan to a "Director" shall mean only those directors of the Company who are participants in the Plan.

3

PAYMENT

(a) **Director Fees.** A Director shall be entitled to Director Fees, in such amounts as shall be determined by the Board, for services on the Board and as a chair of any committee of the Board. Pursuant to Section 4 hereof, a Director may elect to have payment of Directors Fees made currently in cash and/or Common Stock or deferred for subsequent payment in cash or Common Stock; provided that if paid currently, fees payable for services as a chair of any committee of the Board shall be payable only in cash. Any shares of Common Stock payable under this Section 3(a) shall be paid by the issuance to the Director of a number of shares of

Common Stock equal to the cash amount of the retainer so payable divided by the Fair Market Value of one share of the Common Stock, as defined in Section 12 hereof. Any fractional share of Common Stock resulting from such payment shall be rounded to the nearest whole share. The Company shall issue share certificates to the Director for the shares of Common Stock acquired or, if requested in writing by the Director and permitted under such plan, the shares acquired shall be added to the Director's account under the Company's Automatic Dividend Reinvestment Plan. As of the date on which the part or whole of the retainer is payable in shares of Common Stock, the Director shall be a stockholder of the Company with respect to such shares. Unless otherwise elected in Section 4, any remaining Director Fees shall be payable in cash.

(b) **Restricted Stock Units.** A Director shall also be entitled to receive RSUs, in such amounts as shall be determined by the Board, for services on the Board. Beginning January 1, 2008 and thereafter, unless otherwise directed by the Board, RSUs having a value of $30,000 (or such other amount as the Board shall from time to time determine) shall be awarded to each Director on the first day of January, April, July and October. The number of full and fractional RSUs so awarded shall be determined by dividing $30,000 (or such other amount) by the average of the per share closing price of the Common Stock on the New York Stock Exchange as published in **The Wall Street Journal** (or such other reliable publication as the Board or its delegates may determine) for the last three trading days of the month preceding the date of the award. Directors whose membership on the Board commences after January 1, 2008 on a day which is not the first day of any January, April, July or October, shall be awarded a pro rata number of RSUs with respect to the quarter during which the Director joined the Board equal to the number of RSUs awarded to each Director who was a member of the Board on the first day of the applicable quarter, multiplied by a fraction, the numerator of which equals the number of days remaining in the quarter after the first day on which such Director became a member of the Board, and the denominator being the total number of days in the quarter. A Restricted Stock Unit Account shall be established on the books of the Company in the name of each Director. During the period of the Director's membership on the Board, the Director's Restricted Stock Unit Account shall be subject to credits, adjustment and substitution to reflect any dividend or other distribution on the outstanding Common Stock or any split or consolidation or other change affecting the Common Stock. Any such credit, adjustment or substitution shall be made in a manner similar to that set forth in Section 6(a) and 6(b) with respect to Deferred Stock Compensation Accounts. RSUs awarded prior to January 1, 2008 shall vest upon termination of the Director's membership on the Board by reason of retirement, death or disability, or such other circumstances as the Board, in its sole discretion, shall at any time determine (provided that a termination of a Director's membership on the Board following a Change in Control (as defined in the Company's Executive Benefits Protection Plan (Group 3A), the ("EBPP") shall be considered a retirement for this purpose). RSUs not vested upon or within 120 days following the Director's termination of membership on the Board, as aforesaid, shall be forfeited as of 11:59 p.m. (Eastern Time) on the 120th day following such Director's termination of membership on the Board, as aforesaid. The balance of the Director's Restricted Stock Unit Account which becomes vested upon termination of the Director's membership shall be paid in a lump sum in accordance with Section 7(c). RSUs awarded for periods after 2007 (together with credits, adjustments or substitutions attributable thereto, "Post-2007 RSUs") shall vest upon the first anniversary of the day upon which such Post-2007 RSUs were awarded, or such other date or dates as set forth by the Board at the time of the award; provided, that the vesting of such Post-2007 RSUs shall be accelerated to the date of termination of the Director's membership on

the Board by reason of retirement, death or disability, or for any reason following a Change in Control (as defined in the EBPP), or such other circumstances as the Board, in its sole discretion, shall at any time determine. For purposes of this Plan, termination of a director's membership on the Board at anytime following the director's 60th birthday shall be deemed a retirement. The portion of a Director's Restricted Stock Unit Account attributable to Post-2007 RSUs which becomes vested in accordance with the second preceding sentence shall, unless deferred by the Director into the Director's Deferred Stock Compensation Account pursuant to an election made under Section 4, be paid in a lump sum in accordance with Section 7(c). If payment hereunder would result in the issuance of a fractional share of Common Stock, such fractional share shall not be issued and cash in lieu of such fractional share shall be paid to the Director based upon the average of the per share closing price of the Common Stock on the New York Stock Exchange as published in **The Wall Street Journal** (or such other reliable publication as the Board or its delegates may determine) for the three trading days immediately preceding the date of payment. The Company shall issue share certificates to the Director, or the Director's designated beneficiary, for the shares of Common Stock represented by the Director's vested RSUs, or if requested in writing by the Director and permitted under such plan, the shares to be distributed shall be added to the Director's account under the Company's Automatic Dividend Reinvestment Plan. As of the date on which the Director is entitled to receive payment of shares of Common Stock, a Director shall be a stockholder of the Company with respect to such shares.

4

ELECTIONS

(a) **Director Fee Payment and RSU Payment Alternatives.** A Director may elect any one of the following alternatives with respect to payment of Director Fees and with respect to payment of Post-2007 RSUs:

(1) to receive currently full payment of Director Fees in cash and/or Common Stock, as set forth in Section 3(a) above, on the date or dates on which the Director Fees are payable;

(2) to defer payment of all or a portion of the Director Fees for subsequent payment in cash (a "Cash Deferral Election");

(3) to defer payment of all or a portion of the Director Fees for subsequent payment in shares of Common Stock (a "Stock Deferral Election"); or

(4) to defer payment of all or a portion of the Post-2007 RSUs for subsequent payment in shares of Common Stock (also a "Stock Deferral Election"); or

(5) a combination of (2), (3) and (4).

(b) **General Section 409A Definitions.** For purposes of this Plan, the following words shall have the meanings set forth below:

(1) "Change in Control Event" means an event described in IRS regulations or

other guidance under Code section 409A(a)(2)(A)(v).

(2) "Separation from Service" or "Separate from Service" means a "separation from service" within the meaning of Code section 409A(a)(2)(A)(i).

(c) **Filing and Effectiveness of Elections**. The election by a Director to receive payment of Director Fees other than as set forth in Section 4(a)(1) on the date on which the Director Fees are otherwise payable, or to receive payment of shares of Common Stock attributable to the Post-2007 RSUs other than on the date which the shares are otherwise payable is made by filing with the Secretary of the Company a Notice of Election in the form prescribed by the Company (an "Election"). In order to be effective for any calendar year, an Election must be received by the Secretary of the Company on or before December 31 of the preceding calendar year, except that if a Director files a Notice of Election on or before 30 days subsequent to the Director's initial election to the office of Director, the Election shall be effective on the date of filing with respect to Director Fees and Post-2007 RSUs payable for any portion of the calendar year which remains at the date of such filing. An Election may not be modified or terminated after the beginning of a calendar year for which it is effective. Unless modified or terminated by filing a new Notice of Election on or before December 31 immediately preceding the calendar year for which such modification or termination is effective, an Election shall be effective for and apply to Director Fees payable for each subsequent calendar year. Director Fees earned or Post-2007 RSUs which vest at any time for which an Election is not effective shall be paid as set forth in Section 4(a)(1) on the date when the Director Fees or Section 7 on the date the shares attributable to such Post-2007 RSUs are otherwise payable, as applicable. Any Election shall terminate on the date a Director Separates from Service. In addition to establishing the amount of each year's deferral, a Director may elect from the following time and form of payment alternatives:

(1) Change in Control Event. Notwithstanding any provision in the Plan to the contrary, a Director may make an Election each year to have the portion of his or her Deferred Cash Compensation Account and Deferred Stock Compensation Account (collectively referred to hereafter as the "Account Balance") related to amounts deferred under such Election (and earnings thereon) distributed in the form selected on the first business day next succeeding the 59th day following the earlier of: (x) the date of a Change in Control Event; or (y) the date of the Director's Separation from Service.

(2) Installment Form of Payment. Notwithstanding any provision in the Plan to the contrary, a Director may make an Election each year to have the portion of the Account Balance related to amounts deferred under such Election (and earnings thereon) distributed in annual installments over a period of up to 15 years with payments commencing on the first business day next succeeding the 59th day following the applicable payment date.

(d) **Cash Deferral Elections.** Director Fees deferred pursuant to a Cash Deferral Election shall be deferred and paid as provided in Sections 5 and 7.

(e) **Stock Deferral Elections.** Director Fees and Post-2007 RSUs deferred pursuant to a Stock Deferral Election shall be deferred and paid as provided in Sections 6 and 7.

(f) **Special Transition Period Election.** Notwithstanding any Elections prior to 2009 or Plan provisions to the contrary, a Director may elect during 2008 to receive all amounts, if any, attributable to Elections made prior to 2009 and credited to his or her Account Balance in the form selected on the first business day next succeeding the 59th day following the earlier of: (1) the date of the Director's Separation from Service; or (2) the date of a Change in Control Event. Any such transition period Election must become irrevocable on or before December 31, 2008 and must be made in accordance with the transition rules under Section 409A and the procedures and distribution rules established by the Board.

5

DEFERRED CASH COMPENSATION ACCOUNT

(a) **General.** The amount of any Director Fees deferred in accordance with a Cash Deferral Election shall be credited on the date on which such Director Fees are otherwise payable to a deferred cash compensation account maintained by the Company in the name of the Director (a "Deferred Cash Compensation Account"). A separate Deferred Cash Compensation Account shall be maintained for each calendar year for which a Director has elected a different number of payment installments or as otherwise may be agreed between the Director and the Company.

(b) **Adjustment for Earnings or Losses.** The amount in the Director's Deferred Cash Compensation Account shall be adjusted to reflect net earnings, gains or losses in accordance with the provisions of The Hershey Company Deferred Compensation Plan relating to Investment Credits and Investment Options. The adjustment for earnings, gains or losses shall be equal to the amount determined under (1) below as follows:

(1) ***Deemed Investment Options*****.** The total amount determined by multiplying the rate earned (positive or negative) by each fund available (taking into account earnings distributed and share appreciation (gains) or depreciation (losses) on the value of shares of the fund) for the applicable period by the portion of the balance in the Director's Deferred Cash Compensation Account as of the end of each such period, respectively, which is deemed to be invested in such fund pursuant to paragraph (2) below. Subject to elimination, modification or addition by the Board, the funds available for the Director's election of deemed investments pursuant to paragraph (2) below shall be one or more of the funds available (excluding Common Stock) under the Investment Options of The Hershey Company Deferred Compensation Plan.

(2) ***Deemed Investment Elections*****.**

(A) The Director shall designate, on a form prescribed by the Company, the percentage of the deferred Director Fees that are to be deemed to be invested in the available funds under paragraph (1) above. Said designation shall be effective on a date specified therein and remain in effect and apply to all subsequent deferred Director Fees until changed as provided below.

(B) A Director may elect to change, on a calendar year basis (or on such other basis as permitted from time to time by the Board), the deemed investment election under paragraph (A) above with respect to future deferred Director Fees among one or more of the options then available by written notice to the Secretary of the Company, on a form prescribed by the Company (or by voice or other form of notice permitted by the Company), at least ten days before the first day of the calendar year for which the change is to be effective, with such change to be effective for Director Fees credited to the Deferred Cash Compensation Account on and after the effective date of the change.

(C) A Director may elect to reallocate the balance of his or her Deferred Cash Compensation Account, subject to limitations imposed by the Board, on a calendar year basis, among the deemed investment options then available. A Director may make such an election by written notice to the Secretary of the Company, on a form prescribed by the Company (or by voice or other form of notice permitted by the Company), at least ten days before the first day of the calendar year for which the transfer election is to be effective, with such transfer to be based on the value of the Deferred Cash Compensation Account on the last day of the calendar year preceding the effective date of the transfer election.

(D) The election of deemed investments among the options provided above shall be the sole responsibility of each Director. The Company and Board members are not authorized to make any recommendation to any Director with respect to such election. Each Director assumes all risk connected with any adjustment to the value of his or her Deferred Cash Compensation Account. Neither the Board nor the Company in any way guarantees against loss or depreciation.

(E) All payments from the Plan shall be made pro-rata from the portion of the Director’s Deferred Cash Compensation Account which is deemed to be invested in such funds as may be available from time to time for deemed investment elections under the Plan.

(F) The Company shall not be required or obligated to invest any amounts in the funds provided as deemed investment options, and such funds shall be used solely to measure investment performance. Further, the Company shall not be precluded from providing for its liabilities hereunder by investing in such funds or in any other investments deemed to be appropriate by the Board.

(c) **Manner of Payment.** The balance of a Director’s Deferred Cash Compensation Account will be paid to the Director or, in the event of the Director’s death, to the Director’s designated beneficiary. A Director may elect at the time of filing the Notice of Election for a Cash Deferral Election to receive payment of the Director Fees in annual installments rather than a lump sum, provided that the payment period for installment payments shall not exceed fifteen years following the applicable payment date, as described in Section 7 hereof. The amount of any installment shall be determined by multiplying (i) the balance in the Director’s Deferred Cash Compensation Account on the date of such installment by (ii) a fraction, the numerator of

which is one and the denominator of which is the number of remaining unpaid installments (including the installment payment then being determined). The balance of the Deferred Cash Compensation Account shall be appropriately reduced on the date of payment to the Director or the Director's designated beneficiary to reflect the installment payment made hereunder. Amounts held pending distribution pursuant to this Section 5(c) shall continue to be credited with the earnings, gains or losses as described in Section 5(b) hereof.

6

DEFERRED STOCK COMPENSATION ACCOUNT

(a) **General.** The amount of any Director Fees and Post-2007 RSUs deferred in accordance with a Stock Deferral Election shall be credited to a deferred stock compensation account maintained by the Company in the name of the Director (a "Deferred Stock Compensation Account"). A separate Deferred Stock Compensation Account shall be maintained for each calendar year for which a Director has elected a different number of payment installments or as otherwise determined by the Board. On each date on which Director Fees and/or Post-2007 RSUs become vested and are otherwise payable and a Stock Deferral Election applicable to such Directors Fees and/or Post-2007 RSUs is effective for a Director, the Director's Deferred Stock Compensation Account for that calendar year shall be credited with a number of full and fractional Deferred Stock Units ("DSUs") equal, in the case of Directors Fees, to the cash amount of the Director Fees payable divided by the Fair Market Value of one share of the Common Stock, as defined in Section 12 hereof, on the date on which such Director Fees are payable and, in the case of Post-2007 RSUs, to the number of Post-2007 RSUs which became vested and were otherwise payable. If a dividend or distribution is paid on the Common Stock in cash or property other than Common Stock, on the date of payment of the dividend or distribution to holders of the Common Stock each Deferred Stock Compensation Account shall be credited with a number of full and fractional DSUs equal to the number of full and fractional DSUs credited to such Account on the date fixed for determining the stockholders entitled to receive such dividend or distribution times the amount of the dividend or distribution paid per share of Common Stock divided by the Fair Market Value of one share of Common Stock, as defined in Section 12 hereof, on the date on which the dividend or distribution is paid, it being intended that the number of full and fractional DSUs credited as a result of the dividend or distribution shall be equal to the number of full and fractional shares that would be issued if the DSUs credited to the Account were actual shares participating in the Company's dividend reinvestment plan. If the dividend or distribution is paid in property, the amount of the dividend or distribution shall equal the fair market value of the property on the date on which the dividend or distribution is paid. The Deferred Stock Compensation Account of a Director shall be charged on the date of distribution with any distribution of shares of Common Stock made to the Director from such Account pursuant to Section 6(c) hereof.

(b) **Adjustment and Substitution.** The number of DSUs credited to each Deferred Stock Compensation Account shall be proportionately adjusted to reflect any dividend or other distribution on the outstanding Common Stock payable in shares of Common Stock or any split or consolidation of the outstanding shares of Common Stock. If the outstanding Common Stock shall, in whole or in part, be changed into or exchangeable for a different class or classes of securities of the Company or securities of another Company or cash or property other than

Common Stock, whether through reorganization, reclassification, recapitalization, merger, consolidation or otherwise, the Board shall adopt such amendments to the Plan as it deems necessary to carry out the purposes of the Plan, including the continuing deferral of any amount of any Deferred Stock Compensation Account.

(c) **Manner of Payment.** The balance of a Director’s Deferred Stock Compensation Account will be paid in shares of Common Stock to the Director or, in the event of the Director’s death, to the Director’s designated beneficiary. A Director may elect at the time of filing of the Notice of Election for a Stock Deferral Election to receive payment of the shares of Common Stock credited to the Director’s Deferred Stock Compensation Account in annual installments rather than a lump sum, provided that the payment period for installment payments shall not exceed fifteen years following the applicable payment date, as described in Section 7 hereof. The number of shares of Common Stock distributed in each installment shall be determined by multiplying (i) the number of DSUs credited to such Director’s Deferred Stock Compensation Account on the date of payment of such installment, by (ii) a fraction, the numerator of which is one and the denominator of which is the number of remaining unpaid installments (including the installment payment then being determined) and by rounding such result down to the nearest whole number of shares. The balance of the number of DSUs credited to such Director’s Deferred Stock Compensation Account shall be appropriately reduced in accordance with this Section 6(c) to reflect the installment payments made hereunder. DSUs remaining in a Deferred Stock Compensation Account pending distribution of shares of Common Stock pursuant to this Section 6(c) shall continue to be credited with respect to dividends or distributions paid on the Common Stock pursuant to Section 6(a) hereof and shall be subject to adjustment pursuant to Section 6(b) hereof. If a lump sum payment or the final installment payment hereunder would result in the issuance of a fractional share of Common Stock, such fractional share shall not be issued and cash in lieu of such fractional share shall be paid to the Director based on the Fair Market Value of a share of Common Stock, as defined in Section 12 hereof, on the date immediately preceding the date of such payment. The Company shall issue share certificates to the Director, or the Director’s designated beneficiary, for the shares of Common Stock distributed hereunder, or if requested in writing by the Director and permitted under such plan, the shares to be distributed shall be added to the Director’s account under the Company’s Automatic Dividend Reinvestment Plan. As of the date on which the Director is entitled to receive payment of shares of Common Stock, a Director shall be a stockholder of the Company with respect to such shares.

7

PAYMENT COMMENCEMENT DATE

(a) **Payment of Account Balance Upon Separation.** Unless otherwise elected by the Director under Section 4, payment of the Director’s Account Balance shall be distributed to the Director in a lump sum on the first business day next succeeding the 59th day following the date of the Director’s Separation from Service (e.g., when the Director ceases to be a member of the Board for any reason and no longer provides services to the Board or the Company).

(b) **Distribution to Key Employees.** Notwithstanding any Elections or anything herein to the contrary, in the case of a Separation from Service of a Key Employee (as defined below), no payments may be made before the date which is six months after the date of the Key Employee’s Separation from Service (hereinafter called the “Waiting Period”); provided,

however, in the event of the Key Employee's death during the Waiting Period, distribution shall be made on the first business day next succeeding the 59th day following the date of the Key Employee's death. Any payments that would otherwise be made during the Waiting Period shall be accumulated and paid in the first month following the Waiting Period, and thereafter, made in accordance with the Director's Election, if any, in Section 4. During the Waiting Period, a Key Employee's Account Balance will continue to accrue investment credits in accordance with Section 5. For purposes of this Section 7(b), "Key Employee" means a "specified employee" under Section 409A(a)(2)(B)(i) (i.e., a key employee (as defined under Code section 416(i) (without regard to paragraph (5) thereof)) of a corporation any stock in which is publicly traded on an established securities market or otherwise) and applicable Treasury regulations and other guidance under Section 409A. Key Employees shall be determined in accordance with Section 409A and pursuant to the methodology established by the Company.

(c) **Payment of RSUs.** Payment of shares of Common Stock attributable to a Director's Restricted Stock Unit Account (including Post-2007 RSUs) which become vested on or prior to the Director's Separation from Service and for which the Director has not made an effective Stock Deferral Election shall be paid in a lump sum on the earlier of: (1) the date of the Director's Separation from Service; or (2) the first anniversary of the date of grant. In the event of payment upon the Director's Separation from Service, the vested portion of the Post-2007 RSUs shall be paid to the Director, subject to Section 7(b), on the first business day next succeeding the 59th day following the date of such event. Otherwise, payments upon the first anniversary of the date of grant shall be paid as soon as practicable and within the period permitted under Section 409A.

(d) **Effect of Taxation.** If a portion of the Director's Account Balance is includible in income under Section 409A, such portion shall be distributed immediately to the Director.

8

DEATH BENEFITS; BENEFICIARY DESIGNATION

A Director may designate, in the Beneficiary Designation form prescribed by the Company, any person to whom a lump sum payment of cash or shares of Common Stock shall be paid on the first business day next succeeding the 59th day following the date of the Director's death if he or she dies before receiving payment of any or all amounts due hereunder. A beneficiary designation will be effective only after the signed beneficiary designation form is filed with the Secretary of the Company while the Director is alive and will cancel all beneficiary designations signed and filed earlier. If the Director fails to designate a beneficiary, or if all designated beneficiaries of the Director die before the Director or before complete payment of any or all amounts due hereunder, any remaining unpaid amounts shall be paid on the first business day next succeeding the 59th day following the date of the Director's death in one lump sum payment to the estate of the last to die of the Director or the Director's designated beneficiaries, if any.

9

NON-ALIENABILITY OF BENEFITS

Neither the Director nor any beneficiary designated by the Director shall have the right to, directly or indirectly, alienate, assign, transfer, pledge, anticipate or encumber (except by reason of death) any amount that is or may be payable hereunder, nor shall any such amount be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment, or garnishment by creditors of the Director or the Director's designated beneficiary or to the debts, contracts, liabilities, engagements, or torts of any Director or designated beneficiary, or transfer by operation of law in the event of bankruptcy or insolvency of the Director or any beneficiary, or any legal process.

10

NATURE OF ACCOUNTS

Any Restricted Stock Unit Account, Deferred Cash Compensation Account or Deferred Stock Compensation Account shall be established and maintained only on the books and records of the Company, and no assets or funds of the Company or the Plan or shares of Common Stock of the Company shall be removed from the claims of the Company's general or judgment creditors or otherwise made available until such amounts are actually payable to Directors or their designated beneficiaries as provided herein. The Plan constitutes a mere promise by the Company to make payments in the future. The Directors and their designated beneficiaries shall have the status of, and their rights to receive a payment of cash or shares of Common Stock under the Plan shall be no greater than the rights of, general unsecured creditors of the Company. No person shall be entitled to any voting rights with respect to shares credited to any RSU or Deferred Stock Compensation Account which is not yet payable to a Director or the Director's designated beneficiary. The Company shall not be obligated under any circumstance to fund its financial obligations under the Plan, and the Plan is intended to constitute an unfunded plan for tax purposes. However, the Company may, in its discretion, set aside funds in a trust or other vehicle, subject to the claims of its creditors, in order to assist it in meeting its obligations under the Plan, if such arrangement will not cause the Plan to be considered a funded deferred compensation plan under the Code.

11

ADMINISTRATION OF PLAN; HARDSHIP WITHDRAWAL

Full power and authority to construe, interpret, and administer the Plan shall be vested in the Board. Decisions of the Board shall be final, conclusive, and binding upon all parties. Notwithstanding the terms of a Cash Deferral Election or a Stock Deferral Election made by a Director hereunder, the Board may, in its sole discretion, permit the withdrawal of amounts credited to a Deferred Cash Compensation Account or shares credited to a Deferred Stock Compensation Account with respect to Director Fees previously payable, or permit the early vesting and payment of RSUs previously awarded, upon the request of a Director or the

Director’s representative, or following the death of a Director upon the request of a Director’s beneficiary or such beneficiary’s representative, if the Board determines that the Director or the Director’s beneficiary, as the case may be, is confronted with an “unforeseeable emergency,” as described in Code section 409A(a)(2)(A)(vi). An unforeseeable emergency is a severe financial hardship to the Director resulting from illness or accident of the Director, the Director’s spouse, beneficiary or dependent, loss of the Director’s property due to casualty or similar extraordinary and unforeseeable circumstances beyond the Director’s control, which hardship cannot be relieved through insurance, cessation of deferrals under the Plan or liquidation of assets that would not cause a severe financial hardship. Cash needs arising from foreseeable events, such as the purchase or building of a house or education expenses, will not be considered to be the result of an unforeseeable financial emergency. The Director or the Director’s beneficiary shall provide to the Board such evidence as the Board, in its discretion, may require to demonstrate that such emergency exists and financial hardship would occur if the withdrawal were not permitted. The withdrawal shall be limited to the amount or to the number of shares, as the case may be, necessary to meet the emergency. Payment shall be made within 30 days after the Board approves the payment and determines the amount of the payment or number of shares which shall be withdrawn. In the case of a distribution as a result of an unforeseeable emergency from the Deferred Cash Compensation Account or Deferred Stock Compensation Account, payment shall be made in a single lump sum from the portion of the Deferred Cash Compensation Account or Deferred Stock Compensation Account, as applicable, with the largest number and in reverse order of installment payments, in each case in accordance with Section 5(b)(2)(E) if the distribution is from the Deferred Cash Compensation Account. No Director shall participate in any decision of the Board regarding such Director’s request for a withdrawal under this Section 11.

12

FAIR MARKET VALUE

Fair Market Value of the Common Stock (“Fair Market Value”) on a single date shall be the closing price on the applicable date (or if not a trading date, the next preceding trading date), and Fair Market Value, where the determination is made over a period of more than one day, shall be the average of the closing price for all trading dates for the applicable period covered by a payment. For purposes of Section 3(a) and 6(a) hereof, the applicable period for a quarterly Directors Fees payment or credit shall be the three calendar months immediately preceding the calendar month during which the day on which the payment or credit is being made, and the applicable period for a Directors Fees payment relating to a period other than a quarter shall be determined under similar principles. The closing price of the Common Stock for a single date or for each day within the applicable period shall be as quoted in The Wall Street Journal (or in such other reliable publication as the Board or its delegate, in its discretion, may determine to rely upon).

13

SECURITIES LAWS; ISSUANCE OF SHARES; NONCERTIFICATED SHARES

The obligation of the Company to issue or credit shares of Common Stock under the Plan shall be subject to (i) the effectiveness of a registration statement under the Securities Act of 1933, as amended, with respect to such shares, if deemed necessary or appropriate by counsel for the Company, (ii) the condition that the shares shall have been listed (or authorized for listing upon official notice of issuance) upon each stock exchange, if any, on which the Common Stock shares may then be listed and (iii) all other applicable laws, regulations, rules and orders which may then be in effect. If, on the date on which any shares of Common Stock would be issued sufficient shares of Common Stock are not available under the Plan or the Company is not obligated to issue shares pursuant to this Section 13, then no shares of Common Stock shall be issued but rather, in the case of Common Stock to be issued currently, cash shall be paid in payment of the Director Fees payable. The Board shall adopt appropriate rules and regulations to carry out the intent of the immediately preceding sentence if the need for such rules and regulations arises. To the extent the Plan provides for issuance of share certificates to reflect the transfer of shares of Common Stock, the transfer of such shares may be effected on a noncertificated or "book-entry" basis.

14

GOVERNING LAW

The provisions of this Plan shall be interpreted and construed in accordance with the laws of the State of Delaware.

15

EFFECTIVE DATE; AMENDMENT AND TERMINATION

The Plan was adopted by the Board on December 4, 1996, and became effective as of January 1, 1997. The Plan was previously amended and restated effective October 2, 2001, December 3, 2002, June 14, 2007, November 11, 2007, December 4, 2007 and February 13, 2008. The Plan, as amended and restated herein, shall be effective as of December 2, 2008. The Board may amend or terminate the Plan at any time, provided that no such amendment or termination shall adversely affect rights with respect to amounts or shares then credited to any Deferred Cash Compensation Account or Deferred Stock Compensation Account, unless the Board determines, in its sole discretion, that all such amounts shall be distributed upon Plan termination in accordance with the requirements under Section 409A. Upon termination of the Plan, no further deferrals of Director Fees or Post-2007 RSUs shall be permitted; however, earnings, gains and losses shall continue to be credited to the Account Balance in accordance with Section 5 until such amounts are fully distributed.

16

AUTHORIZED SHARES; DESIGNATION AS AWARD
UNDER EQUITY AND INCENTIVE COMPENSATION PLAN

Shares issued hereunder with respect to RSUs and DSUs credited prior to April 17, 2007 shall be deemed issued as part of the aggregate of 300,000 (reflecting prior stock splits and stock dividends and as shall be adjusted and subject to adjustment to reflect future stock splits and stock dividends) shares of Common Stock previously authorized for issuance hereunder. Effective as of April 17, 2007, the crediting of RSUs and the ability to make elections to receive Directors Fees in shares of Common Stock or to defer payment of Directors Fees and Post-2007 RSUs and have such fees and/or RSUs credited as DSUs shall constitute a non-employee directors award under The Hershey Company Equity and Incentive Compensation Plan (the "EICP"). This Plan and the related Notice of Election and other documents contemplated hereunder shall constitute the award agreement for purposes of the EICP and shares of Common Stock issued with respect to such RSUs, Directors Fees or DSUs shall be deemed issued from the shares authorized for issuance under the EICP.

THE HERSHEY COMPANY

By: /s/ Burton H. Snyder
Burton H. Snyder,
Senior Vice President,
General Counsel and Secretary

EXHIBIT 12.1

THE HERSHEY COMPANY
COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES
For the Years Ended December 31, 2008, 2007, 2006, 2005 and 2004
(in thousands of dollars except for ratios)
(Unaudited)

	2008	2007	2006	2005	2004
Earnings:					
Income from continuing operations before income taxes	$492,022(a)	$340,242(b)	$ 876,502(c)	$765,637(d)	$810,036
Add (Deduct):					
Interest on indebtedness	99,678	121,066	117,738	89,485	67,919
Portion of rents representative of the interest factor (e)	9,372	8,147	7,647	8,244	9,711
Amortization of debt expense	922	756	574	463	446
Amortization of capitalized interest	1,637	2,392	2,850	3,068	3,544
Adjustment to exclude minority interest and income or loss from equity investee	(3,465)	(503)	—	—	—
Earnings as adjusted	$600,166	$472,100	$1,005,311	$866,897	$891,656
Fixed Charges:					
Interest on indebtedness	$ 99,678	$121,066	$ 117,738	$ 89,485	$ 67,919
Portion of rents representative of the interest factor (e)	9,372	8,147	7,647	8,244	9,711
Amortization of debt expense	922	756	574	463	446
Capitalized interest	5,779	2,770	77	3	2,597
Total fixed charges	$115,751	$132,739	$ 126,036	$ 98,195	$ 80,673
Ratio of earnings to fixed charges	5.18	3.56	7.98	8.83	11.05

NOTES:

(a) Includes total business realignment and impairment charges of $180.7 million before tax.

(b) Includes total business realignment and impairment charges of $412.6 million before tax.

(c) Includes total business realignment and impairment charges of $11.6 million before tax.

(d) Includes total business realignment and impairment charges of $119.0 million before tax.

(e) Portion of rents representative of the interest factor consists of one-third of rental expense for operating leases.

EXHIBIT 21.1

SUBSIDIARIES OF REGISTRANT

Below is a listing of our subsidiaries, their jurisdictions of incorporation, and the name under which they do business. Each is wholly owned. We do not list certain subsidiaries because when considered in the aggregate as a single subsidiary, they do not constitute a significant subsidiary as of December 31, 2008.

Subsidiary Name	Jurisdiction of Incorporation
Hershey Chocolate & Confectionery Corporation	Delaware
Hershey Chocolate of Virginia, Inc.	Delaware
Hershey Canada, Inc.	Canada
Hershey Mexico S.A. de C.V.	Mexico
Hershey Netherlands B.V.	The Netherlands
Hershey International Ltd.	Delaware
Mauna Loa Macadamia Nut Corporation	Hawaii

EXHIBIT 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
The Hershey Company:

We consent to the incorporation by reference in the registration statements (File No. 333-133938, File No. 333-72100, File No. 333-25853, File No. 333-72112, File No. 33-45431, File No. 33-45556, File No. 333-52509 and File No. 333-107706) on Forms S-8 and S-3 of The Hershey Company of our reports dated February 19, 2009, with respect to the consolidated balance sheets of The Hershey Company and subsidiaries as of December 31, 2008 and 2007, the related consolidated statements of income, cash flows and stockholders' equity for each of the years in the three-year period ended December 31, 2008, and the related financial statement schedule, and the effectiveness of internal control over financial reporting as of December 31, 2008, which reports appear in the December 31, 2008 Annual Report on Form 10-K of The Hershey Company.

Our report on the consolidated financial statements refers to the Company's adoption of Financial Accounting Standards Board Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pensions and Other Postretirement Plans* at December 31, 2006.

/s/ KPMG LLP

New York, New York
February 20, 2009

EXHIBIT 31.1

CERTIFICATION

I, David J. West, certify that:

1. I have reviewed this Annual Report on Form 10-K of The Hershey Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ DAVID J. WEST

David J. West
Chief Executive Officer
February 20, 2009

EXHIBIT 31.2

CERTIFICATION

I, Humberto P. Alfonso, certify that:

1. I have reviewed this Annual Report on Form 10-K of The Hershey Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/S/ HUMBERTO P. ALFONSO

Humberto P. Alfonso
Chief Financial Officer
February 20, 2009

EXHIBIT 32.1

CERTIFICATION

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officers of The Hershey Company (the "Company") hereby certify that the Company's Annual Report on Form 10-K for the year ended December 31, 2008 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 20, 2009

/s/ DAVID J. WEST

David J. West
Chief Executive Officer

Date: February 20, 2009

/s/ HUMBERTO P. ALFONSO

Humberto P. Alfonso
Chief Financial Officer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.