

HEWLETT PACKARD CO

Form DFAN14A

March 04, 2002

**SCHEDULE 14A**  
**(RULE 14a-101)**  
**INFORMATION REQUIRED IN PROXY STATEMENT**  
**SCHEDULE 14A INFORMATION**  
**PROXY STATEMENT PURSUANT TO SECTION 14(a) OF THE**  
**SECURITIES EXCHANGE ACT OF 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Definitive

Proxy

Statement

Confidential, for

Use of the

Commission Only

(as permitted by

Rule 14a-6(e)(2))

Definitive

Additional

Materials

Soliciting

Material Pursuant

to Rule 14a-12

**HEWLETT-PACKARD COMPANY**

---

(Name of Registrant as Specified In Its Charter)

**WALTER B. HEWLETT, EDWIN E. VAN BRONKHORST AND THE WILLIAM R. HEWLETT REVOCABLE TRUST**

---

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

Payment of Filing Fee (Check the appropriate box):

Fee not required.

Fee

computed on

table below per

Exchange Act

Rules 14a-6(i)(4)

and 0-11.

(1) Title of each

class of securities

to which

transaction

applies:

---

(2) Aggregate number of securities to which transaction applies:

---

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

---

(4) Proposed maximum aggregate value of transaction:

---

(5) Total fee paid:

---

Fee paid previously with preliminary materials:

---

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

(1) Amount

Previously Paid:

---

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

---

(3) Filing Party:

---

(4) Date Filed:

---

---

ATTORNEYS AT LAW

Broomfield, CO  
720 566-4000

Five Palo Alto Square  
3000 El Camino Real  
Palo Alto, CA  
94306-2155  
Main 650 843-5000  
Fax 650 849-7400

Kirkland, WA  
425 893-7700

Menlo Park, CA  
650 843-5100

Reston, VA  
703 456-8000

San Diego, CA  
858 550-6000

San Francisco, CA  
415 693-2000

VIA FACSIMILE AND MAIL

[www.cooley.com](http://www.cooley.com)

March 3, 2002

STEPHEN C. NEAL  
650 843-5182  
[nealsc@cooley.com](mailto:nealsc@cooley.com)

Larry W. Sonsini  
Wilson Sonsini Goodrich & Rosati  
650 Page Mill Road  
Palo Alto, Ca 94304

**Re: Recent Public Statements Relating to Executive Compensation**

Dear Larry:

The public statements by Hewlett-Packard Company and by you concerning executive compensation are flatly contradicted by what you all know to be the factual record—a record prepared by the company and your own firm. The suggestion that Mr. Hewlett is breaching his fiduciary duties by insisting that the truth be told is, as you know, absolutely wrong as a matter of both common sense and Delaware law.

**A. The company's public statements in response to Mr. Hewlett's recent SEC filings regarding executive compensation are absolutely false and misleading as the company's own records clearly prove.**

Both of Mr. Hewlett's recent SEC filings regarding executive compensation were derived solely from company documents and consisted simply of a description of some of those documents and copies of relevant portions of the most critical documents themselves. Those documents, some of which are described below, demonstrate the utter falsity of the statements made by the company and you that Mr. Hewlett fabricated information, that Mr. Capellas and Ms. Fiorina merely floated some general terms for future pay packages and that [t]hose early discussions did not include the specific figures Hewlett cited:

the September 3rd term sheet specifically describes a compensation package for Ms. Fiorina that includes a base salary of \$1.6 million, a target annual bonus of \$4.8 million and 6 million stock options with a total estimated current value of \$57 million;

the September 3rd term sheet specifically describes a compensation package for Mr. Capellas that includes a base salary of \$1.6 million, a target annual bonus of \$3.2 million and 4 million stock options with a total estimated current value of \$38 million;

---

March 3, 2002  
Larry W. Sonsini  
Page Two

the **seven page** term sheet for Ms. Fiorina attached to **your previously undisclosed side letter** to Compaq's outside legal counsel specifically describes a compensation package that includes a base salary of \$1.6 million, a target annual bonus of \$4.8 million and 6 million stock options;

the **nine page** term sheet for Mr. Capellas attached to **your side letter** specifically describes a compensation package that includes a base salary of \$1.6 million, a target annual bonus of \$3.2 million and 4 million stock options; and

the minutes of the September 20, 2001 compensation committee meeting, in which you participated, specifically provide that Following some discussion, the Committee approved new employment agreement terms, effective upon the merger, including a base salary increase from \$1M to \$1.6M, an increase in the annual bonus at target to \$4.8M and a new option grant of 6M shares on the terms reflected in the preceding discussion on options associated with employment packages\*.

If the company's own records are believable, it is beyond dispute that the compensation packages were detailed, specific and rich, not the mere floating of general terms without specific numbers. It is also clear that those packages were approved by the compensation committee in September 2001. It does not serve the public debate about this deal, let alone help management's already diminished credibility, to persist in loud, zealous denials of the truth. Nor can management escape the stark reality of its own records by attacking Mr. Hewlett's decision to disclose those records after the company's repeated refusals to do so.

**B. Mr. Hewlett's decision to disclose this information was entirely proper. The argument that his fiduciary duties required him to keep the information secret is outrageous.**

The company's assertion that Mr. Hewlett's fiduciary duties required him to keep the compensation-related information secret is outrageous. It is fundamental Delaware law that stockholders are entitled to know all material facts bearing upon a merger vote and that the duty to disclose such facts applies to directors individually (and not just to the company or the full board). It is also both required by law and critical for good corporate governance for an individual director who is aware that his or her company's statements are inadequate or incomplete to correct those statements.

---

March 3, 2002  
Larry W. Sonsini  
Page Three

As you know, Mr. Hewlett repeatedly attempted to persuade the company to disclose the compensation packages contemplated for Ms. Fiorina and Mr. Capellas. Despite such attempts, the company refused to disclose such information. Mr. Hewlett then requested that you provide him with a legal opinion with respect to the adequacy of the compensation-related disclosure in the company's proxy statement (a legal opinion that you assured him you could, if asked, provide. You, however, declined to provide any opinion.

In light of the record that exists in this instance (a record that includes detailed term sheets, a side letter, asterisks on minutes, constantly changing compensation disclosures in the company's publicly filed proxy statement and your refusal to provide the opinion that you said you could provide) and the substantial body of case law obligating directors to provide stockholders with accurate, complete and fair characterizations of whatever they disclose, the company and its board should be thanking Mr. Hewlett for reducing their exposure to liability, rather than accusing him of breaching his fiduciary duty to stockholders by providing them with material information.

**C. The company's efforts to impugn Mr. Hewlett's conduct and turn corporate governance concepts on their head are deplorable.**

Finally, the lashing out at Mr. Hewlett over the compensation issues is one of a number of unwarranted and outrageous attempts by the company to impugn Mr. Hewlett's conduct as a director and to turn corporate governance concepts on their head. These attempts began, unfortunately, when you first advised Mr. Hewlett that he could vote for the transaction as a director and against it as a stockholder and then continued when you permitted the company to claim he had flip-flopped when he later followed exactly what you advised him was a permissible course. The company continued to twist and distort fundamental concepts of corporate governance with its oft repeated suggestion that Mr. Hewlett had no right to oppose a deal that he and many other view as terrible for Hewlett-Packard stockholders unless he was prepared to (and in fact did) present to the board a fully developed alternative. As you know, a director has not only the right, but the duty, to say no to an option like Compaq if it is bad, regardless of whether that director then has a fully developed alternative to both the course previously embraced by the board and to the newly surfaced Compaq option.

The efforts to smear Mr. Hewlett's conduct as a director and to turn governance concepts on their head were perpetuated by the company this weekend with its claim that Mr. Hewlett has somehow done something wrong if he is even thinking about possible succession planning. Ms. Fiorina has frequently signaled that she may resign if this deal is defeated. Many stockholders have expressed the strong view that she should leave. Given her own statements and the strong feeling of many stockholders, it would be irresponsible if any director was not at least thinking about succession planning. Mr. Hewlett has been behaving responsibly and has done contingent thinking in this regard. And what he believes and has said publicly is that succession is an issue

---

March 3, 2002  
Larry W. Sonsini  
Page Four

that he will discuss with the other outside directors, in executive session, after the deal is defeated. On this issue, as at each other step along the way, Mr. Hewlett has exemplified the very best one could ask for and hope for in a corporate director. It is regrettable that the company and other directors simultaneously have been allowed to distort both fiduciary concepts and the factual record in their zeal to attack him.

Yours very truly,

/s/ Stephen C. Neal

Stephen C. Neal

cc: Walter B. Hewlett

\* \* \* \* \*

**ADDITIONAL IMPORTANT INFORMATION**

On February 5, 2002, Walter B. Hewlett, Edwin E. van Bronkhorst and the William R. Hewlett Revocable Trust (collectively, the Filing Persons ) filed a definitive proxy statement with the Securities and Exchange Commission relating to the proposed merger involving Hewlett-Packard Company and Compaq Computer Corporation. The Filing Persons urge stockholders to read their definitive proxy statement because it contains important information. You may obtain a free copy of the Filing persons definitive proxy statement and any other documents relating to the Filing Persons solicitation on the Securities and Exchange Commission s website at [www.sec.gov](http://www.sec.gov), on the Filing Persons website at [www.votenoHP.com](http://www.votenoHP.com), or by contacting MacKenzie Partners at 1-800-322-2885 or 1-212-929-5500, or by sending an email to [proxy@mackenziepartners.com](mailto:proxy@mackenziepartners.com).