801-10

Verne, B. Michael

From: [redacted]
Sent: Wednesday, October 30, 2013 3:21 PM
To: Verne, B. Michael
Subject: reportability question

Dear Mike:

I am writing to hopefully confirm our analysis regarding the non-reportability of a proposed transaction.

The proposed transaction involves the acquisition of all of the voting securities of Company T by Company A (accomplished through a reverse triangular merger of T into a newly formed subsidiary of A).

The total consideration to be paid by A will be approximately $90 million (there could be certain post-closing adjustments that will not exceed $5 million), to be paid as follows:

1. $14.5 million to Bank to pay off existing debt of T.

2. $29 million to Bank as Paying Agent for the benefit of the holders of Subordinated Notes of Company T. Most of the Subordinated Notes are held by shareholders of T who also own T's voting common stock. The Subordinated Notes are bona fide debt of T to the holders of the notes and do not have voting rights. The Notes are secured by a pledge of the common stock of Company X, a wholly-owned subsidiary of T, with Bank acting as collateral agent.

3. $1 million to the holders of non-voting preferred stock of T (who are also holders of common stock of T).

4. Remainder (approximately $49.5 million) to the holders of the voting common stock of T.

We believe that all of the amounts paid pursuant to paragraphs 1 through 3 above should be excluded from the total consideration paid in determining the value of the voting securities of Company T to be acquired by Company A. As such, the value is below the current reportability threshold, and the transaction is thus not reportable.

Please let me know if you agree with this analysis. As always, thank you for your assistance.

[redacted]

AGREE —
BM
10/30/13

[redacted]

KW concurs