

Verne, B. Michael

801.12

To: [Redacted]
Subject: RE: question

If the shares to be acquired as a result of the exercise of warrants represent common stock, you must do a calculation of percentage held under Section 801.12. If the amount held crosses a new threshold, an additional filing would be required.

-----Original Message-----

From: [Redacted]
Sent: Monday, February 27, 2006 2:56 PM
To: Verne, B. Michael
Cc: [Redacted]
Subject: question

B. Michael
2/27/06

Hi, Mike –

You and I had spoken some time ago about an entity which held non-voting notes of an issuer which were going to be turned into voting securities by virtue of a charter amendment giving the holders of such notes the right to vote with shares of the issuer's common stock. Since the issuer's charter subjected the holder to a 5% voting limitation, you had advised us that we could file for the threshold which constituted 5% of the value of the notes. The question arises as to whether an exercise of warrants, which would result in an acquisition of common stock, would give rise to a new filing obligation assuming a new threshold is crossed. Despite acquiring additional voting securities, the 5% limitation remains in effect, such that the voting interest is no greater than it was previously. Are you of the opinion that a new filing is not necessary?

Thanks,
[Redacted]



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