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April 11, 2006

Ms. Nancy M. Morris, Federal Advisory Committee Management Officer
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

RE: Exposure Draft of Final Report of Advisory Committee on Smaller Public
Companies (the "Advisory Committee Report")
Release Nos. 33-8666, 34-53385; File No. 265-23
Recommendation IV.P.6: **Spearhead a multi-agency effort to create a
streamlined NASD registration process for finders, M&A advisors and
institutional private placement practitioners**

Dear Ms. Morris:

Although I serve as Co-Chair of the NSMIA Subcommittee of the Committee on State Regulation of Securities of the Business Law Section of the American Bar Association and on the Private Placement Broker-Dealer Task Force of that Section (the "PPBD Task Force"), these comments are not submitted on behalf of any Committee of the ABA but solely on behalf of myself and this law firm.

Over a decade ago I served on the ABA Task Force that drafted what is now Form U-7 for the Small Company Offering Registration adopted by the North American Securities Association and subsequently adopted by the Commission as Offering Circular Model A of the Form 1-A Offering Statement under the Securities Act of 1933. In part as a result of this effort, both I and this firm have over the years represented many emerging small businesses in the Pacific Northwest in private financings. Many of these small businesses have desired to use wealthy individuals in our technology community as intermediaries in seeking to raise

equity capital and to compensate those individual intermediaries with transaction-based fees, although they are not registered as broker-dealers with either federal or state securities regulators.

This comment letter relates solely to Recommendation IV.P.6: **Spearhead a multi-agency effort to create a streamlined NASD registration process for finders, M&A advisors and institutional private placement practitioners** of the Advisory Committee Report. We recommend that the Commission consider an alternative approach to the recommendations set forth in the Report and Recommendations of the Task Force on Private Placement Broker-Dealers, 60 Bus. Law. 959-1028 (May 2005) (the "PPBD Report"), which was cited with approval in Recommendation IV.P.6 of the Advisory Committee Report.

Dialogues by members of the PPBD Task Force with the NASD staff concerning registration of Private Placement Broker-Dealers with the NASD as a separate category of broker-dealer has met with some resistance by the NASD staff, and for good reason. The NASD is apparently disinclined to create more categories of broker-dealers within its membership to which separate regulatory criteria would apply, and in any event the cost to the NASD of regulating small firms and individuals as Private Placement Broker-Dealers is anticipated to be significantly in excess of the dues that those small firms and individuals would generate as NASD members. This would create an issue of internal fairness within the NASD, as the larger member firms would in all probability be subsidizing the memberships of the small Private Placement Broker-Dealers.

It is anticipated that the activities of Private Placement Broker-Dealers would continue to focus largely upon the placement of securities offered and sold in reliance upon Regulation D under the Securities Act of 1933, and particularly upon the placement of those securities offered and sold in reliance upon the safe harbor afforded by Rule 506 of Regulation D. Regulation D was largely promulgated on the assumption that the regulation of the capital raising efforts of small emerging companies is to be undertaken at the outset by the several state Blue Sky administrators rather than by the Commission. This assumption underlies the operation of Rules 504 and 505 of Regulation D. The division of responsibilities under Section 203A of the Investment Advisers Act of 1940 between state and federal securities regulators reflects a similar policy – the Commission regulates the large multi-state operations, and the Blue Sky administrators regulate the smaller, more local operators.

We submit that the regulation of Private Placement Broker-Dealers raises comparable issues and evokes the same sorts of policies, and we suggest that the Commission consider relegating to state securities administrators the regulation of Private Placement Broker-Dealers in a manner similar to the delegation by the Commission to state securities regulators the registration of small securities registrations under Rule 504. Indeed, we suggest that the same

disqualifying criteria be applied to the registration of Private Placement Broker-Dealers as is presently applied to the registration of small offerings under Rule 504(a) and that the state registration requirement applicable to Private Placement Broker-Dealers be conditioned upon a requirement of taking an examination by securities salespersons in a manner analogous to the requirement of delivery of a substantive disclosure document before sale that currently serves as a condition to the exemption to securities registration under Rule 504(b)(1).

We also suggest that for clarity (in the spirit of the use of Plain English in Commission regulations) any new rule exempting Private Placement Broker-Dealers from registration under the Securities Exchange Act of 1934 expressly indicate that membership in the NASD is not required for those relying upon that exemption. An express statement to that effect should aid the use of the exemption by those individuals and small firms that undertake to serve as Private Placement Broker-Dealers in raising capital on behalf of the small business community.

One final suggestion: Rule 504 contemplates that persons with regulatory histories ("Bad Boys") will be disqualified from registration under state Blue Sky registration regulations, as indeed they are (see, e.g., Section IV of SCOR Statement of Policy, adopted April 28, 1996), and there would be every reason for the Commission to assume that a similar disqualifying criterion would be embodied in any state registration procedure for the registration of Private Placement Broker-Dealers. Nevertheless, should the Commission pursue the suggestions of this letter, it may wish to include a separate Bad Boy disqualification provision akin to that set forth in Rule 262(b) of Regulation A in any Private Placement Broker-Dealer exemption Rule under the Securities Exchange Act of 1934.

We hope these suggestions prove helpful to the Commission in considering action in response to Recommendation IV.P.6 of the Advisory Committee Report.

Very truly yours,

KARR TUTTLE CAMPBELL



Mike Liles, Jr.