Question 271.16

Question: A company is no longer required to file reports under Exchange Act Sections 13(a) or 15(d). With respect to employee stock options that are outstanding upon the suspension or termination of the company's Exchange Act reporting obligations and for which underlying shares previously registered on Form S-8 have been removed from registration by post-effective amendment (the "Outstanding Stock Options"), is the Rule 701 exemption available to the company for the exercise of the Outstanding Stock Options? Is the Rule 701 exemption available for the exercise of stock options that the company grants in the future?

Answer: Rule 701 is available to a company upon suspension or termination of its Exchange Act reporting obligations. With respect to the Outstanding Stock Options, if the aggregate exercise price of those options exceeds $~~5~~10 million, the company must deliver the disclosure required by Rule 701(e) in a reasonable period of time before the options are exercised in order to rely on the Rule 701 exemption for the sale of the underlying shares upon exercise of the options. With respect to future grants, the company is considered to start with a clean slate under Rule 701 upon suspending or terminating its Exchange Act reporting obligations. Shares underlying the Outstanding Stock Options are not included for purposes of determining compliance with the 12-month sales limitation requirements in Rule 701(d) and the disclosure requirements in Rule 701(e). [~~June 4~~March 6, ~~2010~~2026]