

**7915 Xavier Court
Dallas, Texas 75218**

April 1, 2005

Jonathan G. Katz, Secretary
U. S. Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549-0609

Re: File # 4-497

Dear Mr. Katz:

I am writing to provide my feedback to the Commission regarding implementation of Section 404 of the Sarbanes-Oxley Act of 2002. Given the existing legislative mandate of Section 404, I understand the Commission is, to some extent, constrained in their ability to make changes in how Section 404 has been implemented. I provide my feedback with the view that my recommendations would be permissible under the current statutory requirements of the Act.

- Scope of Auditor's Work. Section 404 requires the auditor to attest to, and report on, management's assessment of the effectiveness of internal control. The statute does not require an audit of internal control, nor does the statute specify the nature, timing or extent of the procedures that must be undertaken by the auditor in fulfilling their attestation responsibility. The current requirements of Auditing Standards No. 2 results in the auditor providing almost absolute, not reasonable, assurance regarding internal control. An appropriate attestation standard would not require the auditor to unnecessarily duplicate the work already done by management in documenting, testing and monitoring internal control. The Commission has considerable discretion to, and should, require the PCAOB to modify the procedures currently required by Auditing Standards No. 2 in order to provide for a Standard that is cost-justified for all applicable registrants, while still remaining compliant with the requirements of the Act. Some of my comments discussed below are changes to the Standard that would accomplish this goal.
- Detect vs. Prevent Controls. The Standard currently places an unnecessary emphasis on prevent controls. Companies and their auditors should be allowed to place a greater degree of reliance on detect controls in evaluating their internal control. In many instances, one detect control could take the place of, and be just as effective as, several prevent controls. The Standard should be changed to provide for this.
- Inability to Apply Risk Assessment to Control Documentation and Testing. The Standard does not distinguish between areas in which the risk of a material misstatement of the financial statements is low as compared to areas in which the risk of misstatement is higher. As a result, a considerable amount of time and

effort is undertaken to unnecessarily document and test controls in certain areas for which a risk of misstatement is low or remote. Management and their auditors should be allowed to assess the overall control environment, apply judgment and assess the risk of misstatement in determining the nature, timing and extent of their documentation and testing, and procedures should be focused on areas with a higher degree of risk (such as non-routine and/or complex transactions and the potential for management override). In some areas, a multi-year rotation of control testing in routine areas with a low degree of risk should be acceptable (absent evidence to the contrary). In addition, once initial compliance with Section 404 has been achieved, change-based testing of controls over IT areas should be acceptable.

- Documentation of Controls. The Standard places an unnecessary emphasis on written evidential matter to document the existence and execution of controls. The COSO framework acknowledges that controls can be informal and/or undocumented, and yet still be effective. For example, many procedures performed by the auditor in connection with their audit of the financial statements provide evidence that controls are being executed. The Standard should not require controls and/or control documentation that exceeds the requirements of COSO, and the Standard should be revised accordingly.
- Compensating Controls. The Standard does not give sufficient credence to compensating controls. A control deficiency which is offset by an effective and operational compensating control should not be considered a control deficiency. Modifying the Standard in this regard should reduce implementation costs by eliminating the requirement to evaluate many control deficiencies which, because of the existence of the compensating controls, would never rise to the level of a material weakness.
- Interaction Between Auditors and Registrants. The Standard and applicable guidance from the PCAOB (including Question #7 of their FAQ) has unnecessarily created an environment in which registrants can become reluctant to consult with their auditors for fear that a material weakness could result if the registrant's initial conclusions on a matter were subsequently determined to be in error. This is contrary to the overall objective of improved financial reporting. The Standard should be changed to eliminate this guidance.
- Filing Deadlines. Currently, the filing deadline for accelerated filers is scheduled to be reduced to 60 days for 2005 Form 10-Ks. The quicker deadline is contrary to the overall objective of improved financial reporting, given the additional requirements placed on registrants and their auditors subsequent to the adoption of the new filing deadlines. The Commission should eliminate the next round of quicker filing deadlines, and keep the current filing deadline schedule intact.

Thank you for considering these suggestions.

Sincerely,

Greg Swalwell