WILLIAMS LAW GROUP, P.A.
2503 W. Gardner Ct.
Tampa FL 33611
Phone: 813-831-9348
Fax: 813-832-5284
e-mail: wmslaw@tampabay.rr.com

June 4, 2004

United States Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549-0609
Attention: Jonathan G. Katz, Secretary

Via e-mail: rule-comments@sec.gov

Re: File No. S7-19-04, Securities and Exchange Commission Release Nos. 33-8407 and 34-49566 the Proposed Rules

Ladies and Gentlemen:

My firm represents a number of companies that have gone public in what could be called the traditional manner, through the filing of registration statements on Form SB-2 or Form 10-SB, as well as through reverse mergers with public shell companies. In addition, my firm represents a number of companies who are required to file annual and periodic reports under Section 12(g) of the 1934 Act.

I would like to complement the staff involved in these Rule proposals. The staff has obviously given considerable time, attention and analysis to the issues raised in the Release.

I have the following comments and recommendations based upon my experience with the issues raised in the Release:

Form S-8

- Restrictions on issuance of S-8 stock should be applied only to "blank check" reporting issuers, as defined in Rule 419, rather than reporting "shell companies" as defined in the Release.

- S-8 stock issuances by reporting "shell companies" or "blank check companies" should be allowed to bona-fide officers, directors and W-2 employees as well as to consultants whose regular and ordinary course of business is to advise and assist in the preparation and filing of annual and periodic reports under the 1934 Act, regardless of the period of time the company has been a shell or blank check company.

- Issuance of S-8 stock by a shell or blank check company should be subject to a volume limitation of 20% of the issued and outstanding stock of the shell or blank check company during any 12 month period during which it is a shell or blank check company and is eligible to issue stock under Form S-8.

Form 8-K

- The proposal set forth in the Release should be adopted for reasons in addition to those set forth in the Release.

ANALYSIS: Form S-8

I. Recommendation: Restrictions on issuance of S-8 stock should be applied only to "blank check companies" as defined in Rule 419 rather than "shell companies" as defined in the Release.

Consider the example of a development stage software company. Assume the company has raised and spent $300,000 in software development, all to consultants or employees. The company has no assets on its balance sheet. The company technically meets the definition of shell company as proposed in the Release in that it would be a registrant with no or nominal operations, and with no or nominal assets or assets consisting solely of cash and cash equivalents. But it is not a "blank check" company.

Denying "shell companies" that are not "blank check companies" the opportunity to continue to develop their business through by compensating necessary personnel with S-8 stock would work a severe hardship on emerging growth companies.

II. Recommendation: S-8 stock issuances by reporting "shell companies" or "blank check companies" should be allowed to bona-fide officers, directors and W-2 employees as well as to professional consultants whose regular and ordinary course of business is to advise and assist in the preparation and filing of annual and periodic reports under the 1934 Act and whose experience in rendering these services is described in detail in the Form S-8, regardless of the period of time the company has been a shell or blank check company.

The reasons for this recommendation are set forth in the comment letter of Karl R. Barnickol and Richard H. Troy, Securities Law Committee, American Society of Corporate Secretaries, May 12, 2004. I concur with their comments, with the following two additions:

1. I have added to permitted recipients of S-8 stock a limited class of consultants, specifically "professional consultants whose regular and ordinary course of business is to advise and assist in the preparation and filing of annual and periodic reports under the 1934 Act and whose experience in rendering these services is described in detail on the Form S-8." For example, this would allow an EDGAR filing service to receive S-8 stock for its services. This recommendation would still make off-limits the types of stock issuances to the types of consultants about which the SEC is concerned in the Release.

The requirement that the experience of any consultant receiving S-8 stock be disclosed in detail directly in the S-8 filing will further deter abuse of Form S-8 in this area.

2. As the requirements to continue filing reports under the 1934 Act continue past the 18 months mentioned in the American Society of Corporate Secretaries' comment letter, I would not place any time limits on the period of time S-8 stock could be issued to the limited class of persons or entities mentioned in our recommendation.

As an additional deterrent to fraud in this area, I also propose the following recommendation.

III. Recommendation: Issuance of S-8 stock by a shell or blank check company should be subject to volume limitation of 20% of the issued and outstanding stock of the shell or blank check company during any 12 month period during which it is a shell or blank check company.

Although I propose that shell or blank check companies should be allowed to issue S-8 stock to valid recipients for permitted and valid services, as set forth in Recommendation II above, it is not likely that the fair market value of these services will ever exceed the value of 20% of the issued and outstanding stock of a shell or blank check company during any 12 month period in which the company is a shell or blank check company. As such, this limitation is appropriate.

ANALYSIS: Form 8-K

Recommendation: The proposal set forth in the Release should be adopted for reasons in addition to those set forth in the Release.

The Release indicates the primary reason for proposing the prompt filing of Form 10 and related audit information is to deter fraud and abuse. I understand and agree.

The Release fails to mention another very practical purpose for this new requirement: When a private company merges with a shell company, the private company will immediately become subject to all 1934 Act reporting requirements, both disclosure and accounting. In my experience, many private companies are totally unprepared to deal with these requirements. If adopted, the Rule will force a private company to learn to comply with both disclosure and accounting requirements before it becomes a public company.

Some commentators and others with whom I have discussed the issues raised in the Release have suggested that the proposed Rule somehow works a hardship on a shell company, a private company, or both. These comments suggest the new Rule imposes new disclosure or accounting requirements on companies in a shell merger transaction. In fact, it does not.

Frankly, it's not a question of whether Form 10 and accounting disclosures must be made, just a question of when these disclosures must be made.

> Disclosure: At some point in time after a shell merger transaction closes, the formerly private company – now public – must file an annual report on Form 10K or Form 10K-SB. Under the current rules, the company does not have to file this information until 90 days after the fiscal year end of the formerly private company. This can be many months after the close of the shell merger transaction.
>
> The proposed Rule merely requires that this information be filed at an earlier date. The proposed Rule does not change the requirement to file Form 10 information. What the proposed Rule does is simply to accelerate the time when this information must be filed, from 90 days after the formerly private company's fiscal year end to four business days after the close of the shell merger.
>
> I believe accelerating the timing for filing this information not only will deter fraud and abuse but also will better prepare a private company for life as a public company after a shell merger.
>
> Accounting: The problem with the "Let's just close the shell merger and deal with the accounting/audit issues later" theory is that many private companies may not be able to deal with the SEC accounting and financial reporting requirements on a timely basis, if at all.
>
> Audited financial statements must be filed after a shell merger transaction. This is not optional. The proposed Rule does not change this requirement. All the proposed Rule does is accelerate the time when the statements must be filed.
>
> Again, as suggested above, accelerating the timing for filing these statements not only will deter fraud and abuse but also will better prepare a private company for life as a public company after a shell merger.

I fail to see that the proposed Rule will work a hardship on existing shell companies. If a private company merges with a shell company and then cannot comply with SEC reporting and accounting requirements on a timely basis, the securities of the surviving company will be disqualified from quotation on the over-the-counter bulletin board or will be delisted on other trading markets. This could adversely affect shareholders of the former shell corporation, shareholders of the former private corporation and the investing public.

I also fail to see any merit in the argument that the proposed Rule will deter qualified private companies from completing shell merger transactions. I believe that requiring a private company to complete the Form 10 disclosure/audit process essentially prior to closing a shell merger transactions has substantial benefits for all parties to the transaction as well as the investing public.

A private company in a shell merger transaction must meet 1934 Act reporting requirements anyway.

It's just a matter of time.

Sincerely,

Michael T. Williams, Esq.