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Comment letters on Proposed SOP on Accounting for ESOPs

American Institute of Certified Public Accountants. Accounting Standards Executive Committee

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List of Respondents to the Proposed SOP on Accounting for ESOPs

Letter Number	Commentator
1	The Home Depot
2	Grow Group, Inc
3	Pauline Leung/Mr. Uri
4	The ESOP Association
5	Donnelly Meiners Jordan Kline
6	C-Cubed Corporation
7	Pearsall, Maben, Frankenbach Insurance & Financial Services
8	Nantahala Outdoor Center
9	Data Instruments
10	Rutherfoord Insurance Agents & Consultants
11	CBI Industries, Inc.
12	Cooper Industries
13	Moss Adams, CPAs
14	Ashland Oil, Inc.
15	Clayton Brown & Associates, Inc.
16	BGS&G Consulting Services
17	Smith Bell & Thompson, Inc.
18	Conrail
19	Institute of Management Accountants
20	The Parsons Corporation

21 Keck, Mahin & Cate

22 National City Corporation

23 Thoits Insurance

24 KAPCO

25 Columbia Gas System Service Corporation

26 3M General Offices

27 Polaroid Corporation

28 The Peoria Journal Star, Inc.

29 GEICO Corporation

30 Brian H. Schmidt, CPA

31 ESOP Services, Incorporated

32 Arthur Andersen & Co., SC

33 Carolina Power & Light Company

34 ComSonics, Inc.

35 Rosauers

36 Edison Electric Institute

37 Texas Utilities Company

38 Wisconsin Public Service Corporation

39 Central Louisiana Electric Company, Inc.

40 United States Sugar Corporation

41 Romberger, Summers and Wilson, Inc., CPAs

42 Mobil Corporation

43 McFarland & Alton, P. S., CPAs

44 The J. M. Smucker Company

45 Gary F. Bulmash

46	Texaco, Inc.
47	Pennsylvania Power & Light Company
48	Phillips Petroleum Company
49	Ernst & Young
50	Houston Industries Incorporated
51	PPG Industries, Inc.
52	McDonald's Corporation
53	General Mills, Inc.
54	Illinois CPA Society & Foundation
55	Ameritech
56	Navallē Ventures Limited
57	The Upjohn Company
58	Rohm and Haas Company
59	Financial Executives Institute
60	Continental Bank*
61	Coopers & Lybrand*
62	Eli Lilly and Company*
63	Larson, Allen, Weishair & Co.*
64	Tandem Computers Incorporated*
65	California Society of CPAs*
66	Massachusets Society of CPAs*
67	BP America*
67a	NWA Finance*
68	Borden, Inc.*

* = Received after comment letters were summarized

2500 1

Ronald M. Brill
Senior Vice President
Chief Financial Officer

December 11, 1992

Mr. Norman N. Strauss, Chairman
Accounting Standards Executive Committee
American Institute of Certified Public Accountants
1211 Avenue of the Americas
New York, N.Y. 10036-8775

Dear Mr. Strauss:

We are writing to express our views and concerns related to the proposed accounting changes for Employees Stock Ownership Plans (ESOPs) as embodied in the September 8, 1992, AICPA draft Statement of Position (SOP), "Employers Accounting for Employee Stock Ownership Plans." The proposed changes will have a dramatic adverse impact on employers, and consequently on employees, when the fair value of the stock held by the ESOP increases during the period between the stock purchase date and the stock release date. We agree that some of the more recent ESOP arrangements may not be addressed adequately in current accounting standards and that further guidance and clarification is needed. However, we strongly disagree with the provisions affecting ESOPs that provide only incremental compensation to employees and are not used to fund other employee benefit plans, such as 401(k) savings plans.

The Home Depot was founded in 1978 and will have grown to 214 stores by our fiscal year end in January, 1993. These stores will generate approximately seven billion dollars in revenues for fiscal 1992, with an employee base of approximately 40,000. The motivation of our employees has been the most important element in helping us to grow and succeed. As a result of our collective efforts, the value of our stock has also increased significantly during our short history. Our plan is to grow to over 500 stores with approximately

90,000 employees by the end of fiscal 1995. Without the continued motivation of our employees, these goals will be difficult to attain.

After considering several alternatives, we decided to establish an ESOP in 1988. This decision was based on several factors, including the accounting treatment exisiting in SOP 76-3. This was the most viable vehicle to allow our employees to reap the benefits of their efforts and for The Home Depot to achieve its goal of encouraging employees to act like owners of the business. It has been our philosophy to share our success with our employees by virtue of our ESOP. Many of these people and their families have never had an equity interest in any other company. Our employees tell us that the benefits received from the ESOP are extremely important to their financial security and self worth, and an important factor in their desire to be a part of The Home Depot team.

The ESOP we established was intended to provide additional compensation to our employees, not to provide a portion of their current compensation. The ESOP purchases shares on the open market using funds borrowed from The Home Depot and releases the shares to the employees as the loan is repaid. This provided an additional benefit of approximately 8%-10% of our employees base compensation. Had the company not purchased the shares in prior years, the benefit would have been significantly less. The unreleased shares are considered legally outstanding. These shares remain the property of the Trust and connot revert to The Home Depot. The only circumstance under which The Home Depot can receive the benefit of the shares held in trust is in the unlikely event that the plan is terminated. Even then, employees participating in the plan receive the benefit of any excess of the market value of shares held in trust over the remaining principal balance of the ESOP debt. All risks and rewards revert to the employees at the time the shares are purchased. Therefore, we believe that the stock purchase date is the appropriate point to measure compensation expense.

The minority view expressed by three members of the Accounting Standards Executive Committee (AcSEC) in

Hom Depot
12-11-92

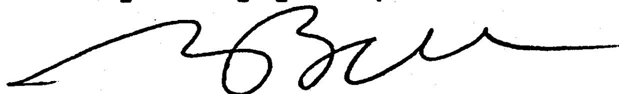
(1) cont'd

the September 8, 1992 draft SOP is consistent with our position. Previous drafts circulated to the Financial Accounting Standards Board and the Securities and Exchange Commission proposed no significant change to ESOPs used to provide additional compensation to employees. We understand that, based on reviews by the FASB and the SEC, the draft SOP has been revised to require employers to account for the release of shares at fair value at the release date for all ESOPs. The accounting for our ESOP was appropriately considered in SOP 76-3 and the subsequent consensus positions of the Emerging Issues Task Force. To apply the same accounting to all forms of ESOP arrangements would dilute the efforts we have made to allow our employees to share in the success of The Home Depot. We will be forced to change our policy of buying shares before releasing them to the employees, and begin buying and releasing the shares simultaneously. While we will continue to provide benefits to our employees through the ESOP, the effective benefit to the employees will most likely be reduced to approximately 2% of their annual salary from the historical 8%-10%.

We have intentionally omitted extensive technical arguments against the proposed SOP. There has been sufficient discussion of the technical merits of the proposed changes. We feel that more consideration should be given to the impact that the proposed changes will have on employees. We believe the original AcSEC position that left substantially unchanged the accounting for existing ESOPs that provide additional compensation for employees is the most appropriate position. The current draft SOP that requires changes for all ESOPs will result in considerable measurable cost to our employees, as well a potential negative impact that may affect our future growth. This appears to us to be counter productive in an economy where businesses should be encouraged to grow and create new jobs. In our opinion, the benefits that will be provided by the accounting and other changes in the draft SOP will be greatly overshadowed by the overall potential cost to businesses and their employees.

We appreciate your consideration of our views presented in this letter, and would be pleased to discuss them with you at your convenience.

Very truly yours,



Ronald M. Brill

pc: Mr. Dennis R. Beresford, Chairman
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

Dionne D. McNamee
Technical Manager-Accounting Standards
AICPA
1211 Avenue of the Americas
New York, NY 10036

Home Depot
12-15-92

file 2500 2
rec'd 1/1

Grow Group, Inc.

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10166

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TWX: 710-581-3686
Telecopier: 212-286-0940

January 13, 1993

Dionne D. McNamee, Technical Manager
Accounting Standards Division, File 2500
AICPA,
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

Dear Ms. McNamee

The following points constitute my comments on the Exposure Draft of an SOP on Employers' Accounting for Employee Stock Ownership Plans:

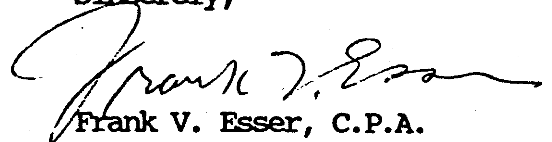
1) I believe that the issue of accounting for ESOP's is sufficiently broad in scope and important enough in impact to be addressed by the only fully recognized standards setting body - the Financial Accounting Standards Board. The AICPA (of which I am a member) and other accounting organizations have turned over the responsibility for setting accounting standards to the FASB and I object to the arbitrary establishment of standards by the AICPA.

Further, I believe that the adoption of a standard effective at the beginning of fiscal years ending after December 15, 1993 (years beginning after December 16, 1992) is unreasonable. No consideration is given to the needs of corporations to plan for the impact on budgets, forecasts, loan agreement covenants, etc. For example, if a calendar year corporation's ESOP acquired shares through a leveraged transaction on September 24, 1992, it would be required to account for the item under the Proposed SOP as early as January 1993 (Now!!). This could cause violations of loan covenants based on earnings tests with no opportunity to negotiate changes ultimately resulting in bankruptcy. With a little foresight (by the FASB!) the effective dates could be amended to provide some breathing room.

Insofar as the significant technical change which is to measure compensation by the Fair Market Value of shares committed to be released rather than based upon the original acquisition cost of these shares, I believe that this is another departure from the historical cost basis of financial statements and should be addressed only by the FASB as part of a conceptual framework project. This piecemeal

approach to Fair Market Value concepts results in confusing and inconsistent financial statements. There is no conceptual difference between measuring a charge for depreciation on an FMV basis and a charge for compensation on an FMV basis; yet we are asked to accept financial results that measure depreciation on a historical cost basis and certain forms of compensation on a FMV basis.

Sincerely,



Frank V. Esser, C.P.A.
Treasurer & CFO

fe:ms
cc: N. Strauss, Partner E&Y
R. Banks
L. Frank
M. Wovsaniker, Partner E&Y

3 file 2500 Rcv'd 2/5/92

From: Pauline Leung or Mr. Uri (phone no 415-982-2412 Fax no. 296-8616)
To: Dionne D. McNamee (Fax no. 202-638-4512)
Re: Exposure Draft Proposed statement of Position-Employees' Accounting for Employee Stock Ownership Plan

I have two questions on the above exposure draft
1)paragraph 13: An employer should report the issuance of shares... to ESOP when it occurs and should report a corresponding charge to unearned compensation, a contra equity account.
paragraph 25 : Employers that sponsor an ESOP with a direct loan should report the obligations of the ESOP to outsider lender as liabilities.
paragraph 61: ...because the shares transferred when the ESOP is established are not exchanged for a receipt of assets, services, or for a reduction of liabilities, total shareholders' equity should remain unchanged.(?????)
How the equity remain unchanged if a contra equity account (unearned compensation) is created? Should the liabilities mentioned in paragraph 25 be putted under equity section or liabilities section in the Balance Sheet

2)paragraph 49 ...Differences result when a) the fair value of shares committed to be released differs from the cost of those shares to the ESOP ....Such differences should be reported in accordance with FASB 109 . The difference between FMV and cost appears to be a permanent difference to me and FASB accounts for timing difference not permanent difference.

Rcvd 2/18/93

(4)

The ESOP Association

The ESOP Association
1726 M Street, NW
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Washington, D.C. 20036
202-293-2971

FAX 202-293-7568

President
J. Michael Keeling

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Donald B. Williford
Corporate Secretary
Ruddick Corporation

Senior Vice Chair
Richard G. Biernacki
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Fastener Industries

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[illegible]cutive Vice President
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Dan R. Bannister
President and CEO
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Vit Eckersdorf
Vice President
Bofors, Inc.

February 17, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, NW
Washington, D.C. 20004-1007

Dear Ms. McNamee:

This letter is written in response to the December 21, 1992 Accounting Standards Executive Committee's (AcSEC) request for comments on the proposed statement of position (SOP) entitled *Employers' Accounting for Employee Stock Ownership Plans* (ESOPs).

The ESOP Association (TEA) is the only national business trade association representing corporations that sponsor ESOPs, and those firms and individuals that provide services to those entities with regard to ESOPs. Since its founding in 1979, TEA's membership from corporate sponsors of ESOPs has grown to include approximately 1,000 American corporations and 600 service providers. The demographics of TEA's corporate members is similar to that of American businesses as evidenced by the fact that TEA has members who are large, publicly-traded corporations with thousands and thousands of employees as well as small, closely-held corporations, with every size company in-between. Some corporate TEA members' ESOP have 50% to 100% of the corporation's stock in the ESOP, while others may have less than 5% of their stock in an ESOP.

TEA has a well-defined committee structure which provides its elected leaders analysis and recommendations on highly technical matters, such as the proposed SOP, which could affect ESOPs. This letter of comment was prepared with the assistance of

TEA's Task Force on the Proposed ESOP Accounting Standards. In summation, TEA is the best qualified and most knowledgeable entity in America with regard to ESOPs, employee ownership and the public ramifications of actions that affect ESOPs.

Our comments are directed at the Need for a Change in Accounting and, as specifically requested, the issues of Recognition of Compensation Cost, Effective Date and Transition, and Disclosures.

Need for a Change in Accounting

In paragraphs 4 through 9 of the proposed SOP, the BACKGROUND discussion indicates that the utilization of ESOPs have grown significantly from 1976, when SOP 76-3 was issued, through the end of 1990, and from a structural standpoint, have grown more complex. Although we agree with these observations, we fail to see why these developments necessitate any change in the existing accounting pronouncements which govern the accounting for and reporting on ESOPs. Additionally, we fail to see why the LAW CHANGES, presented in APPENDIX B of the proposed SOP, offer any compelling reasons to prompt the current efforts of AcSEC to alter the accounting for ESOPs.

In fact, we believe that AcSEC's citation of the many Acts of Congress illustrates the important public policy considerations involving ESOPs and employee ownership. While it is common to disregard the impact of accounting standards on corporate behavior, the fact is that accounting standards do influence corporate behavior. Accounting rules that ignore public policy as set forth in APPENDIX B do need to be reexamined to ensure that our desire for accounting accuracy is not overriding important public policy goals. In truth, accuracy in accounting, and widespread employee ownership are not mutually exclusive.

SOP 76-3 has stood the test of time! This accounting pronouncement has provided fundamental guidance for the accounting for and reporting on leveraged ESOPs. We have not heard any out-cry for change from TEA's membership and are not aware of any other interested groups, other than AcSec, who sense or demand any further changes in ESOP accounting or reporting. The underlying economic substance of a leveraged ESOP is correctly reported under the existing guidelines provided by SOP 76-3.

ESOP trusts and sponsors, employee-shareholders, ESOP lenders, service providers and regulators are all familiar with the existing body of accounting literature on this important subject. Lacking evidence of concern on the part of any of these groups, which can only be gained by polling these constituents, we fail to see where the value is to be gained from making the significant accounting and disclosure changes suggested by the proposed SOP. TEA agrees with the MINORITY VIEW that it would be an error to tamper with the existing ESOP accounting framework, particularly in-light of the current Financial Accounting Standards Board's (FASB) project on accounting for employee stock compensation.

Recognition of Compensation Cost

TEA strongly opposes the proposed position that ESOP compensation cost should be <u>categorically</u> measured based on the fair value of shares when they are released. We are of the opinion that the valuation of ESOP shares to employee-shareholders must be distinguished based on which party, the ESOP sponsor or the ESOP beneficiaries, bears the risks and rewards associated with changes in the value of ESOP shares to be allocated.

Our opinion on this critical issue of measuring ESOP compensation cost is based on our views, which differ from those offered by AcSEC, of the reasons presented on pages 21 and 22 of the proposed SOP which are provided to support the proposed <u>categorical</u> change to fair value expense measurement:

- As stated above, we see no need, nor are we aware of any developments which necessitate an immediate change to the existing body of accounting pronouncements which govern the accounting for and disclosure of ESOPs. We specifically disagree with AcSEC's conclusion that ESOPs have undergone such significant fundamental changes since 1976 as to warrant the wholesale abandonment of the guidelines presented in SOP 76-3 and the various applicable emerging issue Task Force issue statements.

- The fair value of the ESOP shares committed to be released <u>does not necessarily</u> reflect the value of the employee-shareholders' services received by the ESOP sponsor. The

value of the services to the ESOP sponsor is a function of the intent and operation of the ESOP and of which party stands to gain or lose as a result of changes in the value of the ESOP stock yet to be allocated. To the extent that ESOP shares are to be allocated in the future as a direct function of the payment of principal and/or interest payments on ESOP debt obligations, the value of the services provided by the employee-shareholders is equal to the cash expended to meet the ESOP debt service requirements. From the perspective of the ESOP sponsor with ESOP debt to be repaid under a level amortization schedule, the value of the compensation provided is constant. The economic reality of a leveraged ESOP is most appropriately measured by its cash consequences; interjecting opportunity cost measures such as fair value distorts, rather than enhances, the measurement of the ESOP sponsor's operating performance. The value of this compensation is variable only to the employee-shareholders because only they benefit or lose as a result of any changes in fair value.

- Although employers do have the ability to manage their employees' total compensation package, it is erroneous to assume, as AcSEC has done, that employers typically alter the values of the other components of their compensation package in direct response to the actual or potential changes in the fair value of ESOP shares. Additionally, it is not typical for ESOP sponsors to alter ESOP debt service payments to achieve certain compensation goals, given the typical requirements imposed within ESOP related debt instruments. Because the risks and rewards of holding employer equity securities typically rest solely with the employee-shareholders, employer compensation considerations are focused on issues such as inflation rates, levels of company profitability or the lack thereof, and competitive considerations. TEA's members have not experienced any windfalls from lowering other cash and non-cash compensation plans as a direct result of higher valuations for their ESOP shares, nor have any increased the cost of their other compensation components in direct response to lower than anticipated fair values or the prospect of potentially lower future valuations of their ESOP shares. There is no evidence supporting AcSEC's view in this regard.

- For the reasons stated earlier, TEA contends that ESOP compensation costs should be based on which party, the ESOP sponsor or the ESOP beneficiaries, bear the risks and rewards associated with changes in the fair value of ESOP shares to be allocated. Therefore, we do not agree with the current or proposed requirements to measure categorically ESOP compensation expense applicable to shares allocated by an ESOP created through a pension reversion or from a non-leveraged ESOP at fair value.

Although TEA finds a number of the proposed changes in ESOP accounting to be conceptually appealing, such as considering ESOP shares as outstanding only to the extent they have been allocated, we do not believe these positives adequately offset the confusion and distortions that would otherwise result from the adoption of the proposed SOP. Additionally, we find a number of the other proposed accounting changes within the proposed SOP to be conceptually flawed, such as the proposed accounting, as outlined in paragraph 50 of the proposed SOP, for the non-existent tax effect of the difference between book (fair value) expense and tax deductible (cost) expense of ESOP allocations.

Consistent with our views concerning which party benefits or suffers from changes in the fair value of ESOP shares to be allocated, TEA believes it is generally appropriate to measure ESOP compensation expense based on cost value. The only conceptually acceptable exception, which would imply the alternative use of fair value as a basis to measure expense, is where fair value is central to defining the number of ESOP shares which will be allocated to employee-shareholders. TEA's position concerning this critical issue of recognition of compensation cost is thus in basic agreement with the MINORITY VIEW.

Effective Date and Transition, and Disclosures

TEA does support the transition approach outlined in paragraph 57 of the proposed SOP, except as it relates to the requirements which become operational if the decision to initially apply the provisions of the proposed SOP is delayed beyond December 31, 1994. However, TEA does not support AcSEC's decision to establish September 23, 1992, as the date which dictates the adoption of the proposed accounting requirements for new ESOP shares acquired on or after this date. Lastly, and equally as

important, TEA does not support the proposed requirement expressed in paragraph 54 which will apply to ESOP sponsors who do not elect to apply the proposed accounting provisions to old (acquired on or prior to September 22, 1992) ESOP shares, a proposal which will be unfairly applicable solely to publicly-held corporations, and which will require them to provide pro forma income and earnings per share data as though the new accounting requirements had been adopted.

Although we appreciate the effort expended by the AICPA to provide TEA's members with a copy of the exposure draft of the proposed SOP, TEA has great difficulty understanding why AcSEC has elected a cut-off date of September 22, 1992, for the acquisition ESOP shares which may be accounted for under the existing ESOP accounting framework. Given that a number of TEA's members and other ESOP sponsors had no awareness of the developments which preceded the publication of the exposure draft or the September 23, 1992, cut-off date, we anticipate that a number of ESOP sponsors will find that the accounting rules which they thought would be available to account for their recently acquired ESOP shares are no longer valid. As indicated in paragraph 94 of the proposed SOP, ESOPs are typically long-term undertakings and the accounting treatment is generally an important consideration in ESOP establishment.

We believe adhering to any cut-off date prior to December 21, 1992, the date the exposure draft of the proposed SOP was issued, contradicts the spirit and process of soliciting comments on proposed accounting requirements. TEA recommends that AcSEC follow the normal procedure of establishing a proposed effective date which is applicable to fiscal years beginning after the conclusion of the comment period on the proposed new accounting provisions. We also believe it will be very time consuming and costly for public ESOP sponsors to calculate the pro forma disclosures which are proposed to be required and which also may create more confusion rather than contribute any clarity and comparability.

TEA appreciates having the opportunity to comment on this extremely important subject of accounting for ESOPs. We are hopeful that AcSEC will find our comments to be helpful in reaching an informed decision which will continue to facilitate and foster the utilization of ESOPs by corporate America to achieve the direct linkage between employee and shareholder interests, a linkage which we believe is essential to corporate America's survival and success in a globally competitive environment.

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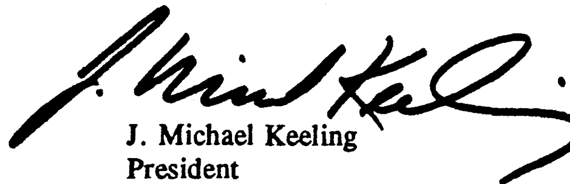
We are available to meet with AcSEC and the ESOP Task Force to further explain our comments and concerns with the proposed SOP.

Sincerely,



J. Michael Keeling
President
The ESOP Association

JMK:lr

cc: Mr. Donald B. Williford, Chair
The ESOP Association

Mr. Alan J. Schneider, Chair
The ESOP Association's Task Force on the Proposed ESOP Accounting Standards

Mr. Norman N. Strauss, Chairman
Accounting Standards Executive Committee

Mr. John F. Hudson, Vice President
American Institute of Certified Public Accountants

Mr. D. Gerald Searfoss, Chairman
ESOP Task Force

Mr. Dennis R. Beresford, Chairman
Financial Accounting Standards Board

Mr. Walter P. Schuetze, Chief Accountant
Securities and Exchange Commission

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Rcv'd 2-12-93

(5)

February 10, 1993

Dionne D. McNamee, Technical Manager
American Institute of
Certified Public Accountants
Accounting Standards Division
File 2500
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

Re: Exposure Draft on "Employers' Accounting for Employee Stock Ownership Plans" dated December 21, 1992

Dear Ms. McNamee:

I strongly recommend the term "fair value" (defined on page 12 and used throughout the exposure draft) be changed to "fair market value." I would further recommend that the definition of "fair value" stated on page 12, "the amount the seller could reasonably expect to receive for it (an ESOP share) in a current sale between a willing buyer and a willing seller, that is, other than a forced or liquidation sale", be changed to the accepted definition of "fair market value." The accepted definition of "fair market value" in the business valuation profession is "the amount at which property (a business interest) would change hands between a willing seller and a willing buyer when neither is acting under compulsion and when both have reasonable knowledge of the relevant facts."

I believe the term "fair value" defined on page 12 of the exposure draft is attempting to define "fair market value" and contains the elements of the definition of "fair market value", except for not including the phrase "both (willing seller and willing buyer) have reasonable knowledge of the relevant facts." In the business valuation profession, "fair value" is a statutory standard of value, most often applied in cases of dissenting stockholders' appraisal rights. While there is no clearly recognized consensus on the definition of "fair value", precedents established in the various state courts have definitely not equated "fair value" to "fair market value."

To summarize, I strongly recommend the term "fair value" be changed to "fair market value" and the definition of "fair value" on page 12 of the exposure draft be changed to the definition of "fair market value" stated above.

If I can answer any questions or if you wish to discuss either of the recommendations I have made, please call and I will be happy to discuss.

Very truly yours,

DONNELLY MEINERS JORDAN KLINE

John P. Corbin, CPA

JPC:jsf

rec'd 3/31
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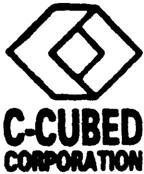


C-CUBED CORPORATION 5252 CHEROKEE AVE., SUITE 400
ALEXANDRIA, VA 22312-2000 (703) 658-9685

February 25, 1993

Ms. Dionne McNammee, Technical Manager
Accounting Standards Division File 2500
AICPA
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1007

Subj: Draft on accounting procedures for leveraged ESOPs

Ms. McNammee:

It is my understanding that the AICPA has released a draft which proposed that shares released from an ESOP suspense account (as a result of an acquisition loan pay off) would be charged to compensation at their fair market value when released, not their cost basis, as is now the case.

I am a CPA and the Chief Financial Officer of a government contracting firm in Alexandria, Virginia. We are in the process of implementing a leveraged majority-owned ESOP. I am writing this letter to express my strong opposition to the above change. The economic cost of the dollar paid, which causes the release of stock from the ESOP suspense account, is still one dollar. That economic cost has not changed because an estimate of the value of the stock (which is merely collateral) has changed. This is particularly true in the case of privately owned firms which rely solely on a single valuation rather than open market trading for a determination of value.

The true capital of the company (when used in determining financial health), for purposes of potential investors, banks and other users of financial statements, has been reduced solely by the dollar paid, not by the market value of the released stock (which is already owned by the ESOP Trust, not the company).

The ESOP Trust is the owner of the stock (regardless of whether the transaction has been leveraged or the stock has been used as collateral). Transfers, allocations or distributions from one stockholder to another have never been, and should never be, reflected on the financial statements of a company. A company's performance or financial condition is unaffected by the value placed on the stock held by its owners. (However, the opposite is true, that is, the stock value is reliant upon the financial condition and prospects of the company .) If stock were shown at fair market value on the company's financials, the results would be different. Presenting a company's capital at its fair market value has never been, and most likely will never be, a realistic financial presentation. Accounting for leveraged ESOPs should not deviate from this standard presentation.

I will be available to discuss this further and appreciate your consideration of my opinion.

Sincerely,

Rhonda Lugar

Rhonda Lugar
Chief Financial Officer
C-CUBED Corporation

cc: National Center for Employee Ownership
ESOP Association

Pearsall, Maben ++ Frankenbach
Insurance & Financial Services

rec'd 3-8-93

(7)

March 2, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500 AICPA
1455 Pennsylvania Avenue Northwest
Washington, D.C. 20004-1007

RE: ESOP's MARKET VALUE COST RECOGNITION RULE

Dear Ms. McNamee:

As a company with an ESOP, contemplating a simple leveraged buyout of an owner's stock, we believe that the market value cost-recognition rule should not apply to ESOP's such as ours. It should only apply to leveraged ESOP's where the shares, being released from the suspense account, are being used to satisfy a specific liability of the company, such as the match on a 401(K). The fact that the ESOP might buy stock at a favorable price, either negotiated at less than the market value, or as compared to the stock value which may increase during the term of the loan repayment, the sponsoring company should not be penalized.

Thank you for your review of our thoughts in this matter.

Sincerely,

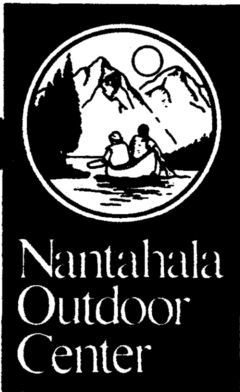
Theodore F. Frankenbach

Theodore F. Frankenbach
Chief Financial Officer

TFF:mfm

53 Cardinal Drive, Box 2037, Westfield, NJ 07091
Telephone (908) 232-4700 Fax (908) 232-7139

480 Morris Avenue, Summit, New Jersey 07901
Telephone (908) 273-1900



Nantahala Outdoor Center

Nantahala Outdoor Center
41 US Hwy 19 West
Bryson City, NC 28713
(704) 488 2175

20 Years of Excellence

(8)
3-5-93

February 27, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500 AICPA
1455 Pennsylvania Avenue NW
Washington, DC 20004-1007

Dear Ms. McNamee:

I am the Treasurer of the Nantahala Outdoor Center, a privately owned, majority ESOP company based in the mountains of North Carolina, and I am writing to comment on the draft of the new Statement of Position on ESOP accounting rules. Since our leveraged transaction took place in 1990, we can (and almost certainly will) elect not to follow the new rules, but I believe that our situation can illustrate some of the problems caused by these proposals.

In the spring of 1990, the Trustees of the NOC ESOP negotiated to buy over 10% of the outstanding shares at a cost of $100 per share (appraised value at the time = $138). Today, the fair market value of this stock is over $220 per share. The compensation cost for 1992 that NOC recorded was about $40,000. Under the new rules, this amount would have been close to $90,000 and that change would result in a $30,000 decrease to the bottom line. For a company with annual earnings of $300,000, this is a big hit. We are currently negotiating with the local bank for a loan to finance some major capital improvements and a drop in reported earnings of this magnitude is difficult to explain to those not familiar with the special issues of ESOP accounting.

The recognition of compensation cost at the market value of the stock would disadvantage our company simply because the ESOP got a good deal on its stock purchase and the company has done well in the interim. I understand that there was a some discussion about having different sets of rules for ESOPs in different situations. I strongly encourage you not to apply the market value cost-recognition rule uniformly to all ESOPs. Thanks for your consideration.

Sincerely,

Tom Blue

Tom Blue

(9)

Rcv'd 3-10-93

March 7, 1993

American Institute of Certified Public Accountants
Accounting Standards Division
File 2500
1455 Pennsylvania Avenue, N.W.
Washington, DC 20004-1081

ATTENTION: Ms. Dionne D. McNamee
Technical Manager

RE: Exposure Draft: Proposed Statement of Position: Employers' Accounting for Employee Stock Ownership Plans

Dear Ms. McNamee:

Data Instruments would like to express its sincere concern with respect to the subject proposed Statement of Position.

This Statement of Position undermines the treatment of ESOPs both from a business perspective and an accounting perspective. Data Instruments formed a leveraged Employee Stock Ownership Plan in 1989. The benefits the company has derived from its ESOP have been tremendous. Our productivity has increased by over 15%, our profitability has improved 100% and our employees are extremely motivated. As a result our stock value has risen over 80% from its issuance price. If an ESOP is implemented correctly, (as is Data Instruments') it can have a profound affect on a company, and in some instances, mean the difference between survival and non-existence. In addition to Data Instruments, there is an abundance of empirical evidence supporting the fact that leveraged ESOPs are a valuable source of employee empowerment and motivation in addition to being a source of much needed capital. If the AICPA instituted the proposed guidelines it is doubtful that Data Instruments would have implemented an ESOP. The statement of position would have required us to record an increase in the fair value of the shares released as additional compensation expense with no corresponding tax benefit. A significant factor we considered when the ESOP was established was that compensation expense would not increase as our ESOP loan was paid and shares were released. Undoubtedly, other companies considering implementing ESOP may forego the opportunity if this statement of position is implemented. Such an increase in compensation expense could make the difference between a company being able to go public or not. At a time when the United States economy is attempting to recover and compete in a global marketplace,

Data Instruments Inc., 100 Discovery Way, Acton, MA 01720-3600 USA • (508) 264-9550 • Fax (508) 263-0630

the AICPA should not be promulgating rules which constrain U.S. companies from succeeding.

From an accounting perspective, this proposal is inconsistent with the matching concept and the lower of cost or market concept. Currently, the ESOP debt and the corresponding contra-equity (suspense account) are recorded at the fair value at the time the shares are purchased by the ESOP. The fact that the company makes a binding commitment for the purchase of the company shares at the fair market value at the time of the purchase should not be destroyed by this proposed statement, but it will be. The fact that the statement will increase the value of the shares released for recording compensation expense regardless of the purchase value (basis) of such shares is inconsistent with the traditional matching concept. In addition, the acquisition of company shares should not be accounted for any differently than any other investment. Accordingly, such shares should be accounted for at the lower of cost or market, consistent with FASB #12. Treating company shares any differently than other investments is not consistent with other accounting policies and not logical.

In conclusion, Data Instruments strongly opposes the implementation of the subject statement of position, particularly as it relates to the fair value of shares being released. If this statement is adopted it will produce an extraordinary obstacle for the creation of future Employee Stock Ownership plans and detrimentally affect an already ailing economy.

Respectfully yours,

Edward M. Colbert
Chairman

Peter A. Hunter, CPA
Vice President, Treasurer
and Chief Financial Officer

cc: J. Michael Keeling, President, The ESOP Association
Corey Rosen, Executive Director, National Center for Employee Ownership

RUTHERFOORD
INSURANCE AGENTS, BROKERS & CONSULTANTS

(10)

2003-10-93

March 5, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500 AICPA
1455 Pennsylvania Ave. NW
Washington, DC 20004-1007

Dear Ms. McNamee:

I am writing regarding the proposed rules to change the accounting for ESOPs. Our firm disagrees with the market value cost-recognition rule and does not believe that it should apply to all ESOPs. We believe this rule should only apply to leveraged ESOPs where the shares being released from the suspense account are being used to satisfy a specific liability of the company, such as the match on a 401(K). We also believe that this new rule tends to penalize ESOP companies that bought the stock for a good price. In all likelihood, the ESOP stock would not be purchased if the trustees did not believe there was a great likelihood of the stock going up in value. Therefore, in most situations, you are going to penalize the company's earnings if you expense the market value of the stock distributed. In addition, our opinion is that the principal payment on the leveraged loan is a much better method of matching cost and benefit. Please consider these comments in your determination.

Sincerely,

Brad Buie, CPA
Vice-President, Finance

BB/ko

Thomas Rutherfoord, Inc.
Corporate Office • One South Jefferson Street • P.O. Box 12748 • Roanoke, Virginia 24028 • (703) 982-3511 • Fax (703) 342-9747

(11)
Rcv'd 3-8-93

CBI Industries, Inc.

George L. Schueppert
Executive Vice President - Finance

800 Jorie Boulevard
Oak Brook, Illinois 60521-2268

708 572 7257

March 3, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, NW
Washington, D.C. 20004-1007

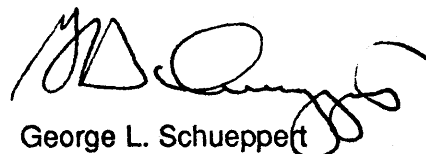
Dear Ms. McNamee:

I have had an opportunity to review, in its entirety, the proposed statement of position regarding ESOP's which was issued by AcSEC in December, 1992, and have read the February 1993 response to it from The ESOP Association (TEA).

We, as one of the largest publically-held ESOP companies, are totally in agreement with the position taken by TEA, and urge AcSEC to adopt all the recommendations made in TEA's letter to you. CBI Industries, a NYSE company, is over 20% owned by our employees. As the chief financial officer of the company, a member of our Salary and Benefits Committee, and Chairman of the Trustees of our Pension Trust, I can assure you that all of the market risk in the value of our stock is carried by our employee-owners. No benefits are increased or decreased because of the price of our stock changes, and the number of shares allocated to our employees each year does not change in any way due to the price of our stock. We believe, quite strongly, that the majority's view in this respect is misplaced, and are wholly-supportive of TEA's arguments to the contrary.

In addition, we also agree with TEA's view that no accounting changes are necessary. No constituency of ours - investors, bankers, accountants, analysts, etc. - has ever suggested there is a need for change. We hope the AICPA will reconsider its SOP and withdraw it. There is no compelling argument in the market place in favor of its adoption.

Sincerely,



George L. Schueppert

tp
cc: J.Michael Keating, TEA

Cooper Industries
P.O. Box 4446
Houston, Texas 77210

3-12-93

COOPER

March 9, 1993

Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500 AICPA
1455 Pennsylvania Avenue
N.W. Washington, DC 20004-1007

Dear Sir,

This letter sets forth Cooper Industries, Inc. ("Cooper") comments with respect to the Proposed Statement of Position, Employers' Accounting for Employee Stock Ownership Plans. Cooper generally supports the Proposed Statement of Position and would like to comment on the following specific issue.

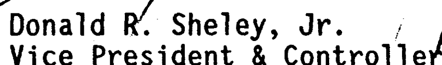
Issue 2: Effective Date and Transition

We strongly support a grandfathering provision. Cooper created an employee stock ownership plan in 1989. At that time, the accounting rules were closely reviewed to determine the financial statement impact of the ESOP. We feel it would be unjust to retroactively change the accounting rules upon which our decisions were based.

We recommend the proposed grandfathering date be the date upon which the Proposed Statement of Position is actually issued. We do not feel the September 23, 1992 date is fair since companies were not given proper notice that the accounting rules would definitely change as of that date.

We appreciate having an opportunity to provide our comment. If we can provide any additional information or input please let us know.

Yours truly,



Donald R. Sheley, Jr.
Vice President & Controller

/dr

1001 Fannin, Suite 4000
Houston, Texas 77002
713 739 5400

(13) MOSS ADAMS

Rec'd 3-12-93

CERTIFIED PUBLIC ACCOUNTANTS

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Seattle, Washington 98154-1199

Phone 206.223.1820
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Offices in Principal Cities of
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Internationally, Moores Rowland Intl.

March 8, 1993

Ms. Dionne McNamee, Technical Mgr., Accounting Standards Division
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue N.W.
Washington, DC 20004-1081

Dear Ms. McNamee:

Subj: Comments on Exposure Draft "Employers Accounting for Employee Stock Ownership Plans" - File 2500

Moss Adams agrees with the proposed SOP's fundamental conclusion that an employer accounting for debt associated with an ESOP should be distinct and separate from accounting for compensation.

Because we agree with that basic concept, we believe the transition explained in paragraphs 55 through 57 is not appropriate and retroactive application with restatement for all prior periods presented is appropriate, and if not required, should at a minimum be allowed. We also believe that part of paragraph 57 requiring continuation of the shares allocated method in EITF #89-8 is inappropriate.

Alternatively, if the committee decides against retroactive application, we believe the cumulative effect method would be preferable because the cumulative amortization of unearned compensation will be consistent with the valuation measurements in the SOP.

The reasons for our opinions are explained in the following paragraphs.

Transition

We recognize that transition included in various statements on promulgated accounting standards since APB 20 vary; and seem to be arbitrary.

We believe it would be reasonable and logical to provide for transition consistent with the transition provisions of FAS 109.

We believe restatement should be allowed for the following reasons:

1. The SOP would fundamentally change compensation expense reported in the income statement. It (apparently) would not change total stockholders equity. Because the prime purpose of an income statement is to display earnings trends over some period of years, we believe it is inappropriate to include in historical earnings trends inconsistent accounting for a non cash expense.

2. The measurement of compensation expense particular to an ESOP included in a series of income statements represents only the amortization of an original transaction (the issuance of shares to the ESOP). In order to understand the effect on the financial statements of continuing amortization of the original transaction, the basis for the amortization should be consistent through all periods until the unearned compensation has been totally amortized.

3. Under the proposed SOP, the continuing amortization of unearned compensation costs for shares purchased (but not released) before September 23, 1992 will result in an inconsistent carrying value of the company's various equity accounts during the period between the original stock issuance and the eventual release of all shares. Thus, users of the financial statements will have to understand the effect of two fundamentally different methods of accounting over an extended period.

4. The pro forma presentation described in paragraph 95 is not an acceptable substitute for recording in the basic financial statements.

5. We also observed that if the fair value of shares were used to measure compensation for all periods from the time of share issuance to final allocation, assuming such values approximate the values used in preparation of the financial statements of the ESOP, there will be some consistency between the financial statements of the ESOP (net value of equity resulting from allocation of shares at fair value) and the amount of cumulative compensation expense recorded by the sponsor. This symmetry seems logical. The participants in the ESOP, who also are stockholders, might expect the accounting measure for the value of their shares to be consistent with the cumulative compensation expense recorded by the company.

Transition Paragraph 57 Relative to EITF 89-8

We believe the provisions of EITF 89-8 should be eliminated from transition requirements for the following reasons:

1. Because EITF 89-8 continued the requirement to use the cost of ESOP shares rather than those shares' values, that method is inherently improper according to the proposed SOP. For that reason alone, the requirement to continue reporting prior periods based on the sharres allocated method seems unreasonable.

2. If the Accounting Standards Executive Committee believes that employers accounting for debt and compensation are distinct and should be separated, there is no reason to continue the requirement to apply EITF 89-8. We further observe that EITF 89-8 did not constitute generally accepted accounting principles under Rule 203 at the time it was issued.

3. Footnote #8 is technically incorrect. EITF 89-8 did not allow employers to continue their current method; rather it required employers to continue their method if the cumulative expense exceeded the amounts computed under the shares allocated method. For reasons that must be totally arbitrary, EITF precluded a company from reducing cumulative compensation expense to an amount which the EITF agreed was a more proper measure.

Ambiguity of Transition Paragraphs 55-57

We believe the explanation of transition requirements should be improved. Our understanding of the transition requirements is written in the attachment to this letter which we believe is grammatically clearer than the exposure draft.

Notwithstanding the attachment, the description in the second bullet of par. 57 raises the following questions:

1. Whether the "expense" is compensation expense or total (including interest) expense.

2. Whether an adjustment is precluded if expense already recorded exceeds that under the shares allotted method.

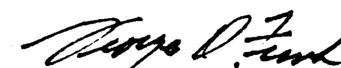
Other

Additional guidance should be added to paragraph 19 for circumstances where the cost of the ESOP shares is greater than the fair value and the company does not have any additional paid in capital. It seems reasonable in those circumstances to classify the excess (debit) as an additional component of unearned compensation.

Paragraph 50 provides guidance on the classification of the income tax effect of differences between deductible expense and financial statement expense. We believe the classification of the tax effect of such differences should be consistent with the classification of the differences between cost and fair values (paragraph 19).

Please direct any directions to the undersigned at (206) 223-1820.

Very truly yours,



George D. Funk
For MOSS ADAMS

ATTACHMENT TO MOSS ADAMS COMMENTS ON
ACCOUNTING STANDARDS DIVISION, FILE REFERENCE 2500, RE TRANSITION

.55 As to shares acquired by ESOP's after September 23, 1992, transition is as follows:

a. For fiscal years ending after December 15, 1993, the SOP should be applied prospectively to those shares that were not committed to be released as of the beginning of such fiscal year.

b. No adjustment should be made for shares committed to be released prior to the beginning of a fiscal year ending after December 15, 1993.

c. Restatement of any previously issued annual financial statements is not permitted.

d. Restatement of interim periods during the fiscal year of adoption is required.

.56 As to shares acquired by ESOP's before September 24, 1992, application of this SOP to shares not committed to be released is elective for fiscal years ending before January 1, 1995.

a. The accounting required by such election depends on whether or not the shares allocated method described in EITF Issue No. 89-8 had been used.

b. If the shares allocated method was used to measure (compensation?) expense, the provisions of this SOP should be applied only to those shares not yet committed to be released as of the beginning of the fiscal year of adoption.

c. If the shares allocted method was not used to measure (compensation?) expense,

. Additional expense should be recognized if, and to the extent that the cumulative expense that would have been recognized prior to the period of adoption of this SOP under the shares allocated method ([Total shares committed to be released x cost of the shares to the ESOP] - cumulative dividends on ESOP shares) exceeds the cumulative expense already recognized.

. The additional expense, if any, should be reported as the cumulative effect of a change in accounting principle in accordance with APB Opinion No. 20, Accounting Changes, by including the cumulative effect of the change in income and crediting unearned compensation in the period the SOP is first applied.

. No adjustment is allowed if the cumulative expense already recognized exceeds the amount computed under EITF 89-8.

(14)

rec'd 3-5-93

ASHLAND OIL, INC. • POST OFFICE BOX 391 • ASHLAND, KENTUCKY 41114 • PHONE (606) 329-3333

KENNETH L. AULEN
Administrative Vice President and
Controller
(606) 329-5454

March 1, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division, File 2500
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue, N. W.
Washington, D. C. 20004-1007

Dear Ms. McNamee:

Ashland appreciates the opportunity to respond to the AICPA's Exposure Draft of the Proposed Statement of Position (SOP) entitled Employers' Accounting for Employee Stock Ownership Plans.

We concur with the decision to address accounting standards for Employee Stock Ownership Plans (ESOPs). The limited guidance provided in SOP 76-3, Accounting Practices for Certain Employee Stock Ownership Plans, is inadequate for many of the financial accounting and reporting issues related to ESOPs which have surfaced since the SOP was issued in 1976. Although we feel that the proposed SOP adequately addresses most of these issues, we strongly disagree with the AICPA's proposal in three respects as discussed below.

Recognition of Compensation Cost

The SOP requires employers to recognize compensation costs based on the fair value of the ESOP shares which are committed to be released. This handling is appropriate where employers are obligated to provide a specified or determinable benefit, such as contributions to a 401(k) plan or formula profit-sharing plan. However, we do not feel it is appropriate for traditional leveraged ESOPs which involve only a future commitment to allocate a specified number of shares to employees, rather than any specified value. In our opinion, the four justifications given for this required handling are not convincing enough to require a change from current practice, as indicated in the following paragraphs.

First, your analogy to APB Opinion 25 is not valid with respect to a traditional leveraged ESOP. Although the number of shares which an individual employee is entitled to receive may not be known, the total shares to be allocated in the future are generally known or reasonably predictable at the time

the ESOP indebtedness is finalized. When shares are ultimately allocated based on contractual debt payments, deferring the measurement date because the number of shares an individual will receive is unknown places form (i.e., an uncertainty as to who gets the shares) over substance (i.e., the total number of shares are reasonably predictable).

The second justification is that the required handling more accurately reflects the value of the services received by the employer. For a traditional leveraged ESOP, share allocations are reasonably constant over time. Accordingly, this justification implies that an employer will receive services worth twice as much if the value of the company's stock doubles. I doubt that I need to go any further to illustrate the inherent weakness of this justification. Employee services received should be valued based on the company's initial commitment (i.e., the cost of the ESOP shares) without regard to future changes in the value of those shares. Doing otherwise would place this SOP in direct conflict with the direction the FASB is heading with respect to accounting for stock options (i.e., the value of an option is determined at the date of grant and should not change with each movement in the company's stock price).

The third justification is that employers will adjust other portions of employees' compensation packages over time to reflect the market value of the shares allocated. The primary objective in establishing many ESOPs is to encourage employees to think and act like owners. The assumption that a company will make up for any deficiency in the expected value of the allocated shares, or conversely will confiscate any windfalls from share appreciation through reduced salary adjustments in the future, is incorrect and in conflict with the employer's primary objective in establishing the ESOP. Although some companies could follow a practice of adjusting employee compensation for abnormal ESOP performance, we believe that prevalent practices, rather than unusual situations, should drive general accounting requirements.

The fourth justification is that the accounting for leveraged and nonleveraged ESOPs will be conformed. The essence of this argument appears to be that unrelated transactions should be accounted for the same as related transactions if their outcomes are similar. The SOP tries to separate the accounting for the borrowing from the accounting for the shares, but it cannot ignore the fact that they are related transactions. For instance, the shares are security for the debt, debt service payments determine the number of shares committed to be released, and the interest rate on the indebtedness may be impacted by the fact that the loan was to an ESOP. The differences between a leveraged ESOP and an nonleveraged ESOP preceded by a borrowing to buy treasury stock are too numerous to list. The obvious difference, however, is the extent to which a company's long-term commitment is demonstrated in establishing a leveraged ESOP. It has never been an objective of accounting to force conformity of dissimilar transactions simply because they could have a similar result.

Under SOP 76-3, compensation expense was based on the cost of the ESOP shares and this handling should be retained in many circumstances. Rather

than permitting flexibility to fit the facts and circumstances, the AICPA is proposing the replacement of the one-size-fits-all method of SOP 76-3 (which was inappropriate for certain new types of ESOPs) with a new one-size-fits-all method (which is equally inappropriate for traditional ESOPs where risks and rewards of ownership are retained by participants). We strongly concur with the minority view expressed in the SOP that compensation costs should be based on the cost of the related shares for traditional ESOPs.

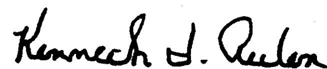
Effective Date and Transition

Although the selection of September 23, 1992 as a transition date has no impact on Ashland, we believe it could have a significant impact on many companies. Since these companies established ESOPs based on certain assumptions, including the existing accounting requirements, we believe it would be inappropriate to establish an arbitrary cut-off date for transition purposes which was prior to the date the SOP was first issued for comment.

Disclosures

The SOP requires public companies to make certain pro forma disclosures if they elect to retain their current accounting for shares acquired by ESOPs on or before September 23, 1992. Currently, pro forma disclosures are only required where a company's financial statements are noncomparable between years as a result of accounting changes or where its results may not be indicative of future results due to acquisitions. Requiring such disclosures with respect to ESOP accounting would add little other than complexity and confusion. But more importantly, requiring such disclosures for transactions which might be accounted for differently in the future if they were to recur establishes a new and disturbing precedent. The lack of comparability between companies caused by different accounting methods for ESOPs has to be insignificant compared to the lack of comparability caused by differences in other accounting methods (e.g., FIFO versus LIFO, accelerated versus straight-line depreciation, etc.) for which pro forma information is not and should not be required.

Sincerely,



Kenneth L. Aulen

CLAYTON BROWN & ASSOCIATES, INC.
SPECIALISTS IN PUBLIC SECURITIES

(15)

March 9, 1993

Mrs. Dionne D. McNamee
Technical Manager
Accounting Standards Division
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, DC 20004-1007

File 2500

Dear Mrs. McNamee:

Clayton Brown & Associates, Inc. is pleased to offer comments on the December 21, 1992 Exposure Draft of the Proposed Statement of Position, Employers' Accounting for Employee Stock Ownership Plans. To better understand our perspective, a description of our company and situation is appended.

Issue 1: Recognition of Compensation Cost

The central theme/assumption underlying the proposed accounting treatment is that all of the stock transactions are with the "treasury" of the sponsoring company, or can be thought of as being so. We do not believe this to be a valid theme or assumption on which to base the accounting for all ESOP transactions.

All too often, ESOP transactions are done for the tax benefits available, and, because of limitations in the tax regulations, most likely would never be considered if the transactions had to be accomplished through exchanges of treasury stock. These are what the "Minority" refer to as "Type 1" transactions, and the guidance in SOP 76-3 seems to us to be adequate.

At the time of the transaction, management presumably considers all aspects in deciding to do the transaction, including the fact that the price of any purchase of stock would be fixed until all of those shares are allocated to participants. When an ESOP acquires stock from a shareholder under the provisions of IRC Section 1042, to preserve the tax aspects, the ESOP may not be allowed to sell such shares to the treasury (e.g., as in our case, where the purchase brought shareholdings of the ESOP to just over 50%). The flexibility inherent in your assumption is not available to us. Accordingly, we believe that, for these transactions, where the tax aspects are of primary concern, the cost of the shares to the ESOP should be used as the measure of compensation cost.

We recognize the compelling nature of the last argument in paragraph 69, that measuring compensation based on current fair value conforms the accounting for leveraged and non-leveraged ESOPs. Perhaps the way to delineate a difference in accounting is to proscribe cost-based accounting when IRS rules and regulations prohibit liquidating the transactions through treasury transactions, with some acknowledgement of *de minimus* levels of flexibility.

Should the Accounting Standards Executive Committee ("AcSEC") ultimately decide to use fair value, may we suggest that the fair value adjustment flow through income, as it is a measurement of the wisdom of management in fixing the initial purchase price of the stock in the tax-advantaged transaction. While this would violate the basic rule of not recognizing gain or loss on the sale of treasury stock, it would provide some expanded information to the reader

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CHICAGO • MILWAUKEE • NEW YORK • LOS ANGELES • TALLAHASSEE

CLAYTON BROWN & ASSOCIATES, INC.

of the financial statements. Of course, this may just highlight the fallacy of applying the proposed treasury stock accounting to the "Type 1" transactions.

Issue 2: Effective Date and Transition

We are unable to fathom the significance of the September 23, 1992 date, and accordingly, perhaps selfishly, we suggest consideration of December 21, 1992, the date of publication of the Exposure Draft.

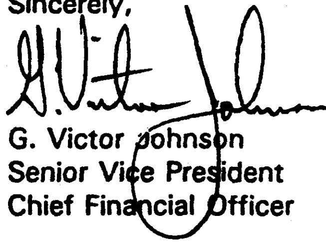
Issue 3: Disclosures

The disclosures for non-adopting employers seem somewhat punitive and tantamount to forcing employers to adopt. Why not allow for a few years of non-disclosure such that many of the older transactions will be allowed to expire without the application of the new SOP?

* * * * *

We appreciate the opportunity to comment on this important project. We would be pleased to discuss these comments with AcSEC or its representatives.

Sincerely,



G. Victor Johnson
Senior Vice President
Chief Financial Officer

CLAYTON BROWN & ASSOCIATES, INC.

(15 cont'd

March 9, 1993

Mrs. Dionne D. McNamee

Addendum

Background Information

Formed in 1967, Clayton Brown & Associates, Inc. (the Company) is a registered securities broker/dealer and investment banker participating in all major fixed-income securities markets, including municipal, corporate, U.S. Government, and government agency issues, with activities in institutional sales, trading, and underwriting. It is essential to the conduct of its business that the Company maintain adequate levels of both equity capital and regulatory net capital. While the Company is considered "closely-held," the capital has arisen primarily through the retention of earnings.

The Company is a wholly-owned subsidiary of Clayton Brown Holding Company (Holding). Until the closing of a leveraged ESOP transaction in November 1992, one individual held approximately 75% (either directly or indirectly through the ESOP) of the stock of Holding. It was this concentration of stockholdings, the need to maintain the adequate levels of capital in the Company, and the desire to have an orderly transfer of capital that caused us to consider a tax-advantaged ESOP transaction under IRC Section 1042.

After the November 1992, transaction, the ESOP holds approximately 51% of the stock of Holding. Should employees leave with any significant amount of vested stock, management will have to face the prospect of losing at least one of the tax advantages of the transaction. At the present time, management really does not have any significant flexibility for the Company or Holding to buy into the treasury the leveraged shares held by the ESOP.

44 Baltimore Street
Cumberland, MD 21502
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Fax (301) 724-3953

(16)

BGS&G Consulting Services

Robert H. Garner, CPA, CPC, CLU
Executive Vice President
Chief Financial Officer

March 9, 1993

Ms. Dionne D. MacNamee
Technical Manager
Accounting Standards Division
File 2500 AICPA
1455 Pennsylvania Avenue, N.W.
Washington, DC 20004-1007

Dear Ms. MacNamee:

As a member of The ESOP Association and an administrator of numerous ESOP plans, I strongly suggest that your proposed market value cost recognition rule should apply only to leveraged ESOP's where the shares being released from the suspense account are being used to satisfy a specific liability of the company such as a match on a 401(k) Plan.

Our company has a leveraged ESOP and the effect on our income statement is known and predictable. If your market value rules go into place, it could have unknown impact on our corporate financial statements. We do not feel that a plan sponsor should be penalized for having the ESOP buy the stock at a favorable price.

Thank you for your consideration.

Sincerely,

BGS&G QUALIFIED PLANS

Robert H. Garner /lam
Robert H. Garner, CLU, CPA, CPC
Executive Vice President

RHG:lam

Smith Bell & Thompson INC.

(17)

March 11, 1993

Ms. Dionne D. McNamee, Technical Manager
ACCOUNTING STANDARDS DIVISION
File 2500, AICPA
1455 Pennsylvania Avenue, Northwest
Washington, DC 20004-1007

Dear Ms. McNamee:

Following are my comments regarding the current Exposure Draft for the proposed Statement of Position on Employers Accounting for Employee Stock Ownership Plans.

Recognition of compensation cost

The requirement that expense recognition be based on market value of released shares is particularly troublesome for closely held companies with leveraged ESOPS. The reported earnings of the company will be artificially low as the stock price increases over time. This has the added effect of creating confusion in dealing with banks as to what the real financial condition of the company is. On an ongoing basis and in doing projections for banks on prospective ESOP loans the development of a credible forecast of earnings will be difficult at best. Complex footnote proformas will not enhance statement user understanding. The market value approach decreases financial statement predictability.

Fair value could be used in the case of KSOPS where the company contributes ESOP stock to match employee deferrals.

In most small companies ESOP trustees establish the plan as an incentive for employees to share in the success of the company and to create a ready market for shareholders on the idea that stock prices will rise over time. Under the proposed rule a successful ESOP plan will make earnings appear lower than they actually are. Future ESOPS will not grow by leveraging company stock. ESOP companies will in effect be penalized for their success.

Thank you for your consideration.

Sincerely,

Bradley D. Matulonis
Chief Financial Officer
(An ESOP Company)

BDM/eh
cc: Warren L. Thompson, President

Insurance/Risk Management/Financial Services
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CONRAIL®

(18)

DONALD W. MATTSON
VICE PRESIDENT -
CONTROLLER

March 10, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1007

Dear Ms. McNamee:

The Consolidated Rail Corporation (Conrail) is pleased to respond to Accounting Standards Executive Committee's (AcSEC) proposed statement of position (SOP), "Employers' Accounting for Employee Stock Ownership Plans" (ESOPs). Conrail participated in the discussions regarding ESOP accounting in 1989 when AcSEC first began to address this issue. We appreciate AcSEC's efforts to formulate more definitive authoritative literature on ESOP accounting; however, we disagree with some of the changes suggested in the proposed SOP.

Our primary concern relates to the SOP's proposal that would require employers to use the fair value of shares released to measure compensation cost. We believe that the employer's cost of those shares should continue to be used as a measure of compensation expense as it reflects the "true economic cost" to the employer for the services of the ESOP participant for a given period of time. The fair value of the ESOP shares committed to be released does not necessarily reflect the value of the employee shareholders' services received by the ESOP sponsor. We believe that the "fair value" compensation proposal would create volatility in earnings without a demonstrated improvement in the reliability of ESOP cost measurement.

Our second concern involves the proposal that would allow an employer to charge to retained earnings only dividends related to allocated ESOP shares, rather than to dividends paid on all ESOP shares, as is the present practice. We believe that if the ESOP preferred stock is classified in

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the stockholders' equity section of the balance sheet and is considered an equity instrument issued by the company, the only logical treatment of dividend payments would be to charge retained earnings for all dividends, which we believe is consistent with generally accepted accounting principles. To our knowledge, there is no authoritative accounting literature that would support categorizing a dividend payment and applying different accounting treatments to each dividend category (i.e. dividend payments on allocated vs. unallocated shares).

Our other areas of concern, as well as more detailed explanations for our above positions related to the SOP, are adequately expressed in the comment letter of February 17, 1993 submitted by The ESOP Association (TEA).

We are in basic agreement with TEA's position on the proposed SOP and are hopeful that those comments will be given careful and serious consideration in reaching any final accounting treatment regarding ESOPs.

We appreciate this opportunity to participate in the discussions regarding formulation of ESOP accounting. If you have any questions regarding our comments, we would be pleased to discuss them with you.

Sincerely,

Donald W. Mattson

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MANAGEMENT ACCOUNTING
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1992-93 MEMBERS

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Management Accounting Practices

Louis Bisgay, Director

March 10, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division,
File 2500
American Institute of Certified
Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, DC 20004-1007

Re: Employers' Accounting for Employee Stock Ownership Plans

Dear Ms. McNamee:

The Management Accounting Practices (MAP) Committee of the Institute of Management Accountants is pleased to comment on the proposed Statement of Position (SOP), "Employers' Accounting for Employee Stock Ownership Plans."

The MAP Committee agrees with AcSEC's minority view expressed on pages 27 and 28 of the proposed SOP for the reasons stated.

We note that the SOP makes for difficult reading. For example, paragraph 57 is very difficult to understand.

Our comments on the specific issues raised in the transmittal letter for the SOP are as follows:

Issue 1: Recognition of Compensation Cost -- The MAP Committee agrees with the minority view of AcSEC.

Issue 2: Effective Date and Transition -- We agree it is important that companies not be required to change their accounting for shares already held by ESOPs. Companies in good faith entered into significant transactions in part based on then-existing accounting literature. However, we believe the SOP should "grandfather" shares held by ESOPs as of the issuance date of the final SOP rather than September 23, 1992. As proposed, the SOP has a retroactive aspect.

We also believe the effective date should be delayed one year so calendar-year companies would be required to adopt the SOP in 1994 rather than 1993 as proposed. As drafted, the SOP would be retroactive to the beginning of 1993.

Issue 3: Disclosures -- We disagree with the disclosures calling for pro forma income effects of retroactively adopting the SOP. The past should be grandfathered entirely. The costs of developing the pro forma information outweigh the benefits.

Very truly yours,

Stanley A. Ratzlaff
Chairman
Management Accounting
Practices Committee

LB:ll

THE PARSONS CORPORATION

100 West Walnut Street • Pasadena, California 91124 • (818) 440-2000 • Fax: (818) 440-2630

March 9, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, NW
Washington, D.C. 20004-1007

Dear Ms. McNamee:

This letter is written in response to the December 21, 1992 Accounting Standards Executive Committee's (AcSEC) request for comments on the proposed statement of position (SOP) entitled Employer's Accounting for Employee Stock Ownership Plans (ESOPs).

The Parsons Corporation ("Parsons") is one of the largest employee-owned corporations in the United States. Parsons became 100% ESOP-owned in January, 1985 following a tender-offer made to public shareholders by the existing ESOP, which in 1984 owned approximately 29% of Parsons' outstanding shares. The tender offer was financed through loans to ESOP of funds borrowed by Parsons from a bank and Parsons' loans of internally-generated funds. As is customary in a leveraged ESOP, shares acquired by ESOP in the tender offer are held in a suspense fund and allocated to employee-shareholder accounts as debt is repaid.

Our comments are primarily directed at issues of Recognition of Compensation Cost.

We are firmly of the opinion that the proposed position that compensation cost should be categorically measured based on the fair value of shares when they are released ignores the fundamental difference between an unleveraged ESOP and a leveraged ESOP such as we have at The Parsons Corporation.

In a leveraged ESOP, where there is a debt amortization schedule, the value to the employer of services performed in a given year is the amount of the debt repayment for that year. Notionally, the debt incurred to leverage the ESOP is prepayment of the Company's ESOP obligation. The cost to the Company of this transaction does not change because of a subsequent swing, in either direction, in the value of the Trust's assets.

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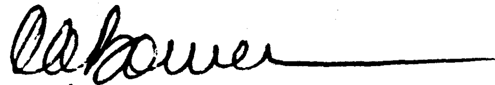
Debt repayment results in the release of a certain number of shares for allocation to employee-shareholder accounts. The release formula is mandated by the Internal Revenue Service ("I.R.S.") and it cannot be manipulated by the employer.

The value of the shares released is at cost, but that cost was determined by <u>market value at the point when control of the shares passed to the ESOP</u>. The unallocated shares are held in trust and are not subject to Company control.

The fair value of the shares released and allocated depends upon many factors, including corporate performance and stock market performance. The risk of a diminished fair value or the reward of an enhanced fair value falls upon the employee-shareholder. It makes no sense to require the employer-sponsor to recognize the fair value of the shares as compensation cost because of the fundamental difference between the mechanical operation of this leveraged ESOP and a retirement or thrift plan funded through contributions of treasury stock.

In conclusion, should it be determined that the measure of ESOP compensation cost must be based on the fair value of shares when allocated, we firmly believe that such a determination should explicitly exclude from its scope trust shares released under a debt service amortization schedule. Compensation related to such shares should continue to be measured at cost which equates to market value at the point when control of the shares passed to the ESOP trust.

Very truly yours,



Curtis A. Bower
Senior Vice President
Chief Financial Officer

CAB:ph

cc: The ESOP Association

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KECK, MAHIN & CATE

FILE NUMBER

DIRECT DIAL

March 12, 1993

Dionne D. McNamee, Technical Manager
Accounting Standards Division, File 2500
AICPA
1455 Pennsylvania Avenue NW
Washington, DC 20004-1081

Re: Exposure Draft of Proposed Statement of Position on Employer's Accounting for Employee Stock Ownership Plans

Dear Ms. McNamee:

I am an attorney specializing in practice involving Employee Stock Ownership Plans. I have represented a variety of parties, including lenders, trustees, plan sponsors, investors, and litigants in hundreds of ESOP-related transactions over the past dozen years. The views expressed here are solely my own, and do not represent those of Keck, Mahin & Cate or any other person.

I am a consumer of financial statements of ESOP companies, the person that the accounting profession should serve, by creating financial statements that present in summary form the economic reality of the financial operation and condition of an ESOP company. I appreciate the efforts of the Accounting Standards Division to revise and update SOP 76-3, which is inadequate to treat the variety of ESOP transactions that has developed since its publication. However, the fundamental change in the premise of accounting for leveraged ESOP transactions contemplated by the Exposure Draft would result in the presentation of financial statements that do not accurately reflect the operations and condition of an ESOP sponsor, and which would therefore have to be re-constructed to provide the user with useful information.

Compensation costs: In a leveraged ESOP, every year the plan sponsor writes one or more checks to the plan trustee, in payment of its contributions to the ESOP for the year. That contribution is the actual, economic "cost" or "expense" to the company of having an ESOP. If I represent a lender, investor, employee, or trustee looking at an ESOP company's financial statements, I want to know what that real cost is. The Exposure Draft, however, will

deny me this information. Instead, a "compensation cost" will be reported on the income and expense statement that bears no relation to the actual amount spent by the company. The cost will be based on the value of the stock allocated to the employees as a result of the payment, and not on the size of the payment itself.

This figure might be useful if I were looking at a financial statement of the <u>employee</u>. But I am not; I am looking at the statement of the company, and I am seeing a "cost" figure that in no sense of the word represents the "cost" to the company.

The difference in many cases will not be trivial. When a company does a major ESOP leveraged buyout, the value of the stock in the ESOP declines sharply the instant after the transaction, because the company has incurred a major new debt obligation. Accordingly, in the early years of debt repayment, this will result in a serious <u>understatement</u> of the actual compensation expense of payments to the ESOP. Such an understatement would be contrary to the accounting profession's constraint of conservatism in the presentation of financial information. In particular, it would be misleading for creditors who rely on a company's financial statement, without the sophistication to realize that the "compensation cost" is a fiction that bears no relation to the actual payments made by the company, and probably understates the actual compensation expense borne by the company.

In the later years of the loan, if all has gone according to plan, then the company stock may be worth much <u>more</u> than its initial cost, because the company has done extremely well. Yet, this strong performance will be partially concealed, because the "compensation cost" will be an artificially high number that does not reflect what the company <u>has</u> spent, or what the company is obligated to spend in the future. The victims of this illogic will be the employee-owners of the company, who will have the uphill battle of explaining to creditors, appraisers, investors, etc. that their earnings are really much better than they appear because one of the company's major expense items is an accounting fiction.

Over the term of the ESOP loan, therefore, the aggregate "compensation cost" incurred by the company will not equal the amount actually spent by the company, except by coincidence. It might be much higher, or much lower, depending on the fluctuations in stock valuation. This would seem to violate the accounting profession's guiding principle of reliance on historical cost rather than current value or replacement cost.

For example, suppose a company worth $3 million creates a leveraged ESOP, which borrows $2 million to buy 2/3 of the company's stock from its owners. The loan has a term of ten

years, with $200,000 of principle payable each year. At the end of the first year, the company writes a check to the ESOP for $200,000, plus whatever interest is owed, that the ESOP uses to make its first payment on the loan. Because the company has gone heavily in debt, it is no longer worth $3 million; its independent appraiser says that it is only worth half that much.

The actual amount spent by the company in the first year is $200,000. The Exposure Draft, however, would only record a compensation cost of $100,000, since that is the value of the stock allocated to the employees. The $100,000 difference would never be shown on the income statement, but would merely be an adjustment to equity on the balance sheet. However, in the later years of loan payment, if the company's total value has doubled to $6 million, then the $200,000 payment made in the later year will result in a compensation cost of $400,000. Neither the early year $100,000 nor the later year $400,000 figure reflects economic reality for anyone interested in how well the company is actually performing in a particular accounting period. Moreover, the sum of the expenses over the loan period, which should equal the $2 million actually spent, will only do so by chance.

The idea that unrealized appreciation or depreciation in defined contribution plan assets should be included on the employer's statement of operations could have far-reaching ramifications. Hundreds of billions of dollars are invested in profit sharing and §401(k) plans. If the value of an employee's profit sharing account increases because its underlying asset values appreciate, and not because of any employer contribution, should there be an additional "compensation cost" charged to the employer? It would seem illogical, and cause tremendous disruption, to do so. Yet that is exactly what it being proposed for leveraged ESOPs: that the employer's compensation cost be based not on what the employer spends, but on what the employee receives. If ESOP sponsors are required to do this, then all defined contribution plan sponsors should be required to do this also.

Earnings per share: The Exposure Draft also provides that the unallocated shares in the ESOP loan suspense account be excluded from the computation of earnings per share. While this may make some companies happy by inflating their reported EPS, it unfortunately does not reflect the economic reality of the company for its current and prospective investors.

Unallocated shares vote. Unallocated shares receive dividends. Unallocated shares are entitled to proceeds on a liquidation. Unallocated shares would be sold for value equivalent to any other shares to a person who sought to acquire 100% of the stock of a company. Unallocated shares, in fact, have every legal

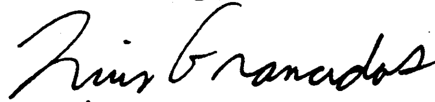
and economic right that other shares have to share in the equity of the company. To pretend that they do not is extremely unfair to investors who are not sophisticated enough to realize that reported earnings "per share" in a company with a leveraged ESOP are really earnings per "some, but not all, of the shares".

In general. The basic premise of the Exposure Draft, that the value of the released shares should form the basis for recording compensation cost, carries through to many other specific items in the draft. Disagreement with that basic premise means disagreement with all of the other specific points that flow from it, so I will not recite here all of the other disagreements I have with these specific points.

The apparent origin of this concept is the desire on the part of some to treat ESOP stock in a manner similar to the treatment of stock options. While doing so may seem orderly and symmetrical on the surface, it does not withstand careful scrutiny. Sometimes the greatest distortions are created by treating different things as though they were the same. Stock options are not like ESOP stock. They do not vote. They do not share in dividends. They do not share in liquidation proceeds. They do not, most importantly, result in an actual measurable cash outlay on the part of the company, as leveraged ESOPs do. Therefore, it is quite appropriate not to treat stock options as outstanding, but to record a compensation cost to reflect the diminished shareholder value resulting from the dilution that will occur on their exercise. It is not appropriate, though, to carry that treatment over to the completely different leveraged ESOP arrangement.

Therefore, I respectfully urge the Accounting Standards Division to reject the Exposure Draft, and to start over on a new draft that will more accurately reflect the economic reality of ESOP transactions.

Sincerely,



Luis Granados

National City Corporation
National City Center
Post Office Box 5756
Cleveland, Ohio 44101-0756
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March 11, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division, File 2500
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, D. C. 20004-1081

Dear Ms. McNamee:

We appreciate the opportunity to comment on the exposure draft "Employers' Accounting For Employee Stock Ownership Plans". We believe this is an important issue as the present guidance for such accounting is limited.

National City Corporation (NCC) is a $29 billion diversified financial services company headquartered in Cleveland, Ohio. NCC operates banks and other financial service subsidiaries principally in Ohio, Kentucky and Indiana. NCC has an employee stock ownership plan (ESOP) that is used to fund our matching contribution to our employees' 401(K) savings plan. The ESOP holds in the combined form of allocated and unallocated shares approximately two percent of NCC's issued and outstanding voting common stock.

NCC agrees with AcSEC that ESOP's are complex and the facts of each may require different accounting treatment. However, we have a few overriding concerns with the present proposal that we would like to bring to your attention.

Our first concern is the view that the accounting for an employee benefit plan should not differ whether an ESOP is present or not. While our view is directed towards an ESOP established in tandem with an employee savings plan, we believe it also holds true for other forms of employee benefit or compensation plans. In essence, the ESOP is a funding mechanism to provide funds for a specific employee benefit. This is quite similar to the establishment of a trust or VEBA for employee pensions or other benefit plans, which often hold shares of the sponsor's common stock as a plan asset. The accounting for such plans by both the employer and the trust is well-defined in Statement of Financial Accounting Standard Nos. 35, 36, and 87. Inherent in that accounting are provisions that adjust the employer's expense for the earnings and changes in market value on the assets held by the trust. The current proposal related to ESOP's does not accept the trust as a funding vehicle and essentially moves the market value accounting that is performed by the trust to the sponsoring company's financial statements. We believe that this is inconsistent (and in violation of current generally accepted accounting principles) with present accounting for other benefit plans.

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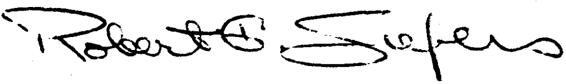
Our second concern arises from the market value concept that would be used to value the shares as allocated. The proposed accounting would record the difference between the fair value of the shares when allocated and their original cost to the ESOP as an adjustment to paid in capital. This accounting suggests that the economic event that results in a capital transaction is the employer's matching 401(K) contribution (driven by employee's optional decision to participate in the plan) rather than the issuance (or purchase) of shares to the Trust to fund this employee benefit. We do not agree with this position as the shares held by the Trust are legally issued and are accounted for as such in the common stock and paid in capital accounts at the time of issuance. Further, we do not believe that the employee's decision to participate in the plan represents an economic event that would adjust the sponsor's capital structure when assets have been legally set aside to meet this obligation. It is important to focus on the fact that the employee's compensation and core benefits are the value ascribed to the employee's service. The 401(K) is an employee elective benefit that we believe does not change the value of the work performed.

Our third concern is an extension of the point just discussed. The proposed accounting does not recognize the ESOP trust as a legal stockholder of the Company. The trust does in fact have all of the legal rights as any other stockholder, including the rights to vote, receive dividends, and a "claim" to a pro-rata share of annual earnings. The accounting proposed, which culminates in the exclusion of the unallocated ESOP shares from the earnings per share computation, does not consider the rights of the ESOP legal entity. The proposal also does not recognize that as soon as the shares are allocated they carry a right to the cumulative earnings of the Company without liquidating the same value that any other share previously had. The proposal's argument that the sponsor company controls the ultimate use of the funds paid into the ESOP does not consider the fact that the ESOP could not exist without the financial means to acquire ESOP assets. The cost of obtaining said "means" is in part paid for by the income earned from the assets. As such, the sponsor does not have discretionary use of the Trust income. It must use such income to pay for the Trust's expenses and cost of funds. Accordingly, we believe the ESOP should be viewed as a legal entity that holds the sponsor's common stock (Plan assets) to be used to fund employee benefits and the stock should be viewed as outstanding for earnings per share computation purposes.

For all of the reasons stated, we believe AcSEC should further review its proposed accounting for ESOPs. We agree that various accounting treatments may be necessary to reflect the different uses of ESOPs, but also believe that any changes should be consistent with other promulgated generally accepted accounting principles. As such, we encourage AcSEC to accept ESOP trusts as a funding vehicle for employee benefit plans. We would be pleased to discuss our view with you further if so desired.

Respectfully,



Robert G. Siefers
Executive Vice President &
Chief Financial Officer

(23)

THOITS INSURANCE

EMPLOYEE OWNED

March 11, 1993

Dionne D. McNamee, Technical Manager
Accounting Standards Division, File 2500
AICPA
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

Re: AICPA Exposure Draft - Proposed Statement of Position on ESOP Accounting

Dear Ms. McNamee:

I have struggled through the draft. I have not yet discussed it with any of our professional advisers although our CPA firm also has a copy of it. It seems to me there is some rather arcane reasoning in it, particularly with respect to the traditional leveraged ESOP:

1. It seems we still are stuck with the instant hit to our balance sheet for the full amount of any ESOP leveraging done in the traditional "mirror loan" format;

2. I fail to understand why an "indirect loan", to use the AICPA term, which I take to be what we have been calling a "mirror loan" or "back-to-back" loan, should be distinguished from what the AICPA terms a "direct loan" coupled with an employer guarantee. To my understanding, there is **no** difference in economic substance at all;

3. To my mind, the treatment given in section 49 simply generates "another set of books" to no significant purpose and may tend to mislead non-accounting professionals looking at sponsoring employer's financial statements;

4. On the positive side, we applaud the AICPA's distribution of the report to ESOP members, **the grandfathering provisions** (very important), and the partial exemption with respect to non-public companies such as ourselves;

5. Clearly, in a typical leveraged ESOP, all shares should be treated as outstanding and no problem is created with respect to loan payments by dividends on unallocated shares or funding of other benefit plans [e.g., 401(k)] from the ESOP as the sponsor does not engage in such activities. The timing of the releasing of shares is irrelevant to our Plan. Allocated and unallocated shares are indistinguishable, as they should be, and are valued at issue or purchase. Dividends are passed through. Contributions are employee benefit (compensation), not (just) loan repayment. The Plan retains substantial cash, not just (leveraged) stock, as AICPA's arguments imply. The economic reality of our Plan is what happens to the cash. Opportunity cost calculations (the market value accounting concept) distort the reporting of performance and would confuse most readers of our statements. The Plan beneficiaries, not the sponsoring employer, bear the market risk;

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6. It seems to me that the opinions expressed in the "minority view" represent a much better understanding of what a traditional ESOP in a non-public company is all about. In what the minority view identifies as a "Type I" ESOP, their statement clearly reflects the understanding that we have, our employee owners have, our mirror loan lender has, and everyone else I've ever talked to about ESOP has with regard to the timing issues on the valuation of shares and of presentation of ESOP driven transactions in the sponsor employer's financial statements. The issue raised by the minority view concerning the extra time and expense that will be incurred by small non-public companies to attempt compliance with new presentation rules that frankly don't make much sense to us appears compelling. If it were not for the fact that, as with virtually any leveraged ESOP, we have to provide financial statements to outside parties (lenders) and those lenders want statements in accordance with AICPA guidelines, most non-public companies simply could ignore all this as being technical gobbledegook of interest only to financial wizards who might otherwise be tempted to play games with their public reports.

In our case, we simply want our financial reports to be acceptable in the general business community while fairly and in a straightforward way representing what we and everyone with whom we've ever discussed our ESOP understand to be its economic reality.

Sincerely,

Donald A. Way
Chairman

DAW/jg

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March 17, 1993

Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
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1455 Pennsylvania Avenue, N.W.,
Washington, D.C. 20004-1081

Dear Ms. McNamee:

We wish to comment on the exposure draft of the proposed statement of position, employers' accounting for employee stock ownership plans.

We take exception to the use of fair values of committed to be released shares to measure compensation costs of a leveraged ESOP.

To adopt this position would require an assumption that the sponsoring Company entered into a compensation agreement with its employees to give them shares of Company stock. This is not the case. The commitment of the sponsoring Company is to contribute a percentage of the employees compensation to a unique type of defined contribution plan. The compensation commitment made to employees is clearly measurable as a percentage of the employees' wages.

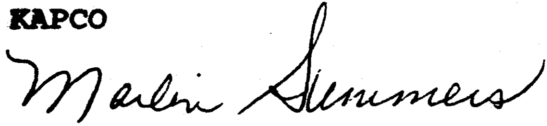
The contributions to the ESOP plan are made on the employees behalf and are then invested in non cash assets which may consist exclusively of Company stock. The periodic fluctuations in the Company stock value will affect the Company's repurchase liability but these fluctuations clearly have no effect on the Company's compensation commitment to its employees. Particularly for privately held companies the fair values of the stock can fluctuate widely based on factors which have little if anything to do with the value of services rendered by the employees.

In summary the use of fair values of committed to be released shares to measure compensation cost does not reflect the substance

of the compensation arrangement entered into at the time a leverage ESOP is adopted and is not an improvement upon methods currently used to measure compensation. This portion of the proposed SOP should not be adopted.

Very truly yours,

KAPCO



Marlin Summers, CPA
Vice President Administration

COLUMBIA GAS
System

(25)

Richard E. Lowe
Vice President and Controller

March 15, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500, AICPA
1455 Pennsylvania Avenue, N.W.
Washington, DC 20004-1081

Dear Ms. McNamee:

The Columbia Gas System, Inc. is pleased to submit its comments with respect to the Exposure Draft of the Proposed Statement of Position, Employers' Accounting for Employee Stock Ownership Plans. The Columbia Gas System is one of the nation's largest natural gas systems. Subsidiary companies are engaged in the exploration, production, storage, transmission and distribution of natural gas and other energy operations such as cogeneration. Columbia's transmission and distribution facilities serve, directly or indirectly, over eight million customers in 15 states and the District of Columbia.

On July 31, 1991, The Columbia Gas System, Inc. and its wholly-owned subsidiary, Columbia Gas Transmission Corporation filed separate petitions seeking protection under Chapter 11 of the Federal Bankruptcy Code. Both the Columbia Gas System, Inc. and Columbia Gas Transmission Corporation have been granted debtor-in-possession status under the Bankruptcy Code, allowing them to continue the normal operations of their businesses subject to the jurisdiction of the Bankruptcy Court.

During 1990, Columbia established a Leveraged Employee Stock Ownership Plan (LESOP) to pre-fund a portion of the matching obligation under the terms of the System's Thrift Plan (essentially a 401(k) savings plan). Since that time, Columbia has followed the accounting guidance provided in the AICPA's SOP 76-3, Accounting Practices for Certain Employee Stock Ownership Plans and EITF Issue No. 89-8, Expense Recognition for Employee Stock Ownership Plans. Although Columbia's LESOP was established prior to the September 23, 1992 cut-off date for required application of the SOP, disclosure of the items listed in Paragraph 54 is still required. In addition, Columbia anticipates termination of its LESOP as part of the plan of reorganization in connection with Chapter 11 proceedings.

Consequently, we would like to address certain concerns resulting from the applicability of the proposed SOP to Columbia. However, prior to addressing these concerns, Columbia would like to express its agreement with the accounting treatment provided for terminations. Columbia believes that the charge associated with the remaining unearned compensation account at termination of a LESOP should be classified as a capital transaction, rather than a charge to income.

Columbia Gas System Service Corporation, 20 Montchanin Road, P.O. Box 4020
Wilmington, Delaware 19807-0020

Issue 1: Recognition of Compensation Cost

Paragraphs 14 through 17 of the proposed SOP establish the use of the fair value of shares committed to be released as the measurement basis of compensation cost. Although Columbia appreciates the efforts of the AICPA in its movement towards "fair value accounting", we must express certain objections that we have had with other fair value based measurements in various FASB exposure drafts. The tone of these objections are based primarily on the unique regulatory environment Columbia faces in the utility industry.

Since the time that a consensus was reached on EITF Issue No. 89-8, entities with leveraged ESOPs have been following the "shares allocated" expense recognition procedures included in that Issue. The concepts underlying the accounting in the proposed SOP are significantly different than those included in Issue No. 89-8. The concepts underlying Issue No. 89-8 essentially represent a systematic and rational allocation of costs over the term of the debt issued in connection with the ESOP. The concepts underlying the proposed SOP are essentially fair value based.

To propose such a radical change does not appear to give much credence to the prior work done by the EITF on this issue. Although their conclusions were not without controversy and significant debate, they did have substantial conceptual merit. In essence, the expense recognized under Issue No. 89-8 represents the total amount of cash to be paid over the term of a leveraged ESOP, excluding any top-up effects and dividends on ESOP shares. Since all transactions should ultimately reflect the flow of cash, this method has tremendous conceptual appeal. The proposed SOP's reliance on fair values makes it subject to more volatility and brings into question the very theory that advocates the use of fair values.

Paragraph 69 discusses the recognition and measurement of the committed to be released shares. The tone of the fair value measurement arguments are such that the use of fair value more accurately reflects the value of services received by the employer. While this may appear conceptually sound, further thought challenges such logic. Consider that most 401(k) plans cover substantially all employees, many of whom are employed in positions that have little effect on the day-to-day value of their employer's stock. If, during period 1, the stock price is $x, under the proposed SOP, the employer's matching expense would be based on the $x price. However, assume that in period 2, the price changes to $x plus or minus $5. The matching expense is now based on the $x plus or minus $5 price. Assuming that the majority of the employees performed at essentially the same level of quality as in period 1, is it truly conceptually appealing to value the same service at a different amount each period? By taking the argument to this level of detail, fair value seems to lose some of its original appeal.

Paragraph 69 also mentions that the risks and rewards of the ESOP shares rests with the employer until the shares are committed to be released. Under existing accounting guidance, such risks and rewards are properly and equally reflected. While allocated shares

are released and expensed at cost, the rise and/or fall in stock price is reflected by the amount of top-up required to meet 401(k) matching obligations. The magnitude of stock price changes are equal for both increases and decreases in terms of required top-up shares and expense. The proposed SOP does not follow the same logical pattern because compensation expense is always recorded at the fair value of the 401(k) matching obligation, regardless of the value of the underlying stock price. As such, the proposed SOP does not reflect the risks and rewards of utilizing ESOP shares because the change in stock price, as measured by the amount of top-up, is not reflected in expense.

Also consider that under a going concern assumption, another important motive for a leveraged ESOP used to fund 401(k) obligations is the financing aspect of the transaction. The logic being that, assuming a significant drop in stock price does not occur, the employer would not have to pay any more for its matching obligation than it would have without the leveraged ESOP. In fact, if superior stock performance is achieved, real savings are realized. These are often viewed as "bonus" attributes of such a plan.

In connection with the objections raised above with respect to fair value based cost measurement, several of Columbia's subsidiaries are under the jurisdiction of regulatory commissions that establish their revenues. Rates are generally established to recover certain costs of service in addition to a fair and reasonable return. Quite often, the rates are developed based upon both actual and projected data with respect to costs, among other items.

In recent years, employee benefits have received significant attention, and any attempt to recover costs based on fair value, or any amount other than true cost, is met with unfavorable reaction. As is normally the case when amounts recovered do not equal amounts expensed, the creation of a regulatory asset for such difference results. The realizability of such an asset under the circumstances surrounding ESOPs should not be addressed in this forum, and accordingly will not be. Nonetheless, we feel that is necessary to object to any new accounting guidance that extends the growing gap between regulatory accounting principles and GAAP. This is especially true when such accounting represents a further departure from the underlying flow of cash which financial statements are ultimately supposed to represent.

For the most part, our opinions run contrary to the underlying concepts envisioned in the proposed SOP. Accordingly, we feel that fair value based measurements are not appropriate in most situations, specifically in the regulated utility environment in which Columbia operates.

Issue 2: Effective Date and Transition

The proposed SOP would be effective for fiscal years ending after December 15, 1993, as of the beginning of the fiscal year in which the SOP is adopted. This appears to be an unrealistic timetable and transition period considering the fact that the comment

deadline is not until March 19, 1993 and the final issuance may not occur until some time later in 1993. In effect, any calendar year entity would find it difficult to effectively adopt the proposed SOP in its first interim period. As such, paragraph 55 requires restatement of previous interim periods if the SOP is adopted in other than the first interim period of an entity's fiscal year. It is clearly unappealing to enter any particular fiscal year knowing that a restatement will be required, yet be unable to complete an accurate calculation until the issuance of a final statement that may not be available until a significant portion of the fiscal year has expired.

As a more reasonable alternative, we suggest that the proposed SOP be effective for fiscal years beginning after 1993. For calendar year companies, the effective date would be January 1, 1994 which should provide ample time for the analysis of comments and the consideration of revisions while at the same time preclude any long delays in application.

Issue 3: Disclosures

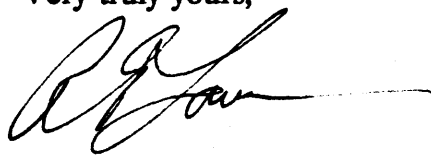
While Columbia has always been in support of full disclosure and our current LESOP reporting meets most, if not all, of the requirements of paragraph 54, we must object to the disclosure of the pro forma effects as if Columbia had adopted the provisions of the proposed SOP. Such disclosure amounts to "de-facto" adoption since public companies must compute all the necessary calculations and journal entries in order to satisfy the pro forma requirements. For those companies that elect to retain their current accounting for ESOPs, such disclosure would appear cumbersome in their financial statements and possibly discredit the continued application of currently existing accounting. As such, most companies would have no incentive to retain their current accounting except as a form of objection to the proposed SOP. If this situation were to occur, it would certainly discredit and undermine the efforts of the AcSEC.

It is likely that most companies that object to the topics raised in Issue 1, will also object to the disclosure of pro forma effects of the SOP. Columbia is included in this group for the reasons stated in Issue 1 and those discussed above. In the interest of harmony, it would seem more appropriate to allow entities that acquired their ESOP shares on or before September 23, 1992 to retain their current accounting and not require pro forma disclosures provided the other items listed in paragraph 54 are adequately addressed. Such treatment would be more equitable since the accounting treatment existing at the time of establishing an ESOP was normally an important consideration.

25 cont'd

Columbia appreciates the opportunity to provide input and contribute to the standard-setting process and hopes our comments will be considered by the AcSEC in its discussion of these important issues. Should you have any questions or if you would like to discuss any of our views, please feel free to contact us at your convenience.

Very truly yours,



3M General Offices
3M Center
St. Paul, MN 55144-1000
612/733 1110

(26)

March 12, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

Dear Ms. McNamee:

3M appreciates the opportunity to comment on the exposure draft of the proposed Statement of Position (SOP) "Employers' Accounting for Employee Stock Ownership Plans." In addition to addressing the specific issues identified in the exposure draft, we believe it is important to consider the proposal from a broad business perspective. Both aspects will be covered in this letter.

Issue 1: Recognition of Compensation Cost:

The proposed SOP's use of fair value of shares when committed to be released rather than the cost of the shares to the ESOP to measure compensation cost represents another piecemeal move toward a fair value accounting model. We believe that development of a comprehensive fair value accounting model is preferable to developing this and other individual applications of fair value. Use of the cost of the shares accurately reflects the transaction approved by management.

Issue 2: Effective Date and Transition

We do not agree with the proposed effective date of fiscal years ending after December 15, 1993. Implementing this standard late in 1993 would require calendar year corporations to restate financial results from the earlier quarters of the year. This would seem a source of unnecessary expense to the companies and confusion to the readers of the financial statements. Our objection to the proposed

transition is consistent with our November 9, 1989 comment on the EITF Working Group on ESOP Accounting's Consensus No. 89-8 where we stated, "We do not believe it is prudent to change accounting rules having such significant impact without an adequate transition time." We believe that the effective date should be prospective, not retroactive.

We endorse the provision for grandfathering ESOP shares acquired before September 23, 1992. 3M's ESOP was structured to be optimal under the then prevailing regulations. To compete successfully, businesses need to be able to make sound long-term business decisions with the confidence that rules will not be changed in such a way that good business decisions look bad. This position is also consistent with our 1989 comments on EITF Consensus No. 89-8 where we stated, "We do not believe companies should be required to comply with provisions of an accounting ruling which were developed after their ESOPs were established." Accordingly, we would strongly oppose any SOP that did not contain provisions to protect existing plans.

Issue 3: Disclosures

We doubt that the proposal to show pro forma data will improve readers' understanding of our ESOP. In what appears to be an effort to produce comparability with other companies, this disclosure would more likely confuse readers and would violate the grandfathering protection of existing plans that we strongly supported in the previous paragraph. We recommend a simple disclosure that, "Transactions related to this ESOP are accounted for under the rules of SOP 76-3."

If, however, there is a necessary trade-off between accounting and disclosure, we think that grandfathering existing plans is most important. Disclosure should then be as simple as possible and in summary form.

General Business Considerations

3M's leveraged ESOP was established to enable the company to provide benefits to employees beyond what it would otherwise be able to afford and to insure that the benefits will be available in the future.

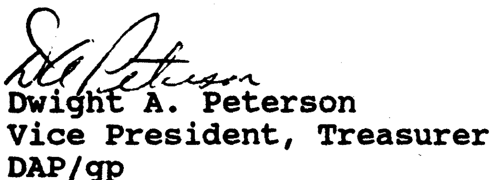
Increasing the company match in our 401(k) plan, part of it in the form of a profit-sharing match, and offering a PAESOP not only increased the overall benefits provided, but put more 3M stock in employees' hands, thereby increasing their identification with the company's goals and results. Providing such benefits will contribute to our efforts to attract and retain the talented people who will be dedicated to continuing 3M's competitive success.

The treatment proposed in the exposure draft could give rise to unintended consequences. To the extent that net operating income is lowered, other forms of compensation which make employees stakeholders, such as profit sharing, would be negatively impacted. Also, fixed charge ratios would be adversely affected.

We have had no indication from users of 3M's financial statements that they are not receiving an adequate picture of our ESOP transaction, and we question that the proposed rules would give investors a better understanding.

In summary, many corporations established leveraged ESOPs to ensure that their employees will continue to receive certain benefits that align their interests with those of corporate shareholders. We believe that this is a desirable objective from a business perspective. We further believe that current accounting standards provide a sufficiently clear understanding of ESOP transactions. If, indeed, compelling reasons for change can be demonstrated, existing ESOPs should be allowed to continue to operate and report according to the rules under which they were established. Changing the reporting rules for completed transactions is very disconcerting!

Sincerely,



Dwight A. Peterson
Vice President, Treasurer
DAP/gp

(27)

POLAROID CORPORATION
CAMBRIDGE, MASSACHUSETTS 02139

RALPH M. NORWOOD
VICE PRESIDENT AND CONTROLLER

March 16, 1993

American Institute of
Certified Public Accountants
Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division File 2500
1455 Pennsylvania Avenue N.W.
Washington, D.C. 20004-1081

Dear Ms. McNamee:

We appreciate the opportunity to respond to the proposed Statement Of Position (SOP) "Employers' Accounting for Employee Stock Ownership Plans". We support the concept that ESOPs which release shares to settle or fund other employee benefits should be reported as outlined in the SOP. However, not all ESOPs fit into this category. For example, our ESOP is a "pay-exchange ESOP" which directly compensates employees. We believe the cost basis of shares at the time of the exchange with the trust should be the basis for measuring our compensation expense. In addition to this distinction, we offer the following additional comments regarding specific issues raised in the SOP cover letter:

Issue I: Recognition of Compensation Cost

When Polaroid's ESOP was established in 1988, a predetermined amount of employee pay and benefits was exchanged to fund the ESOP and shares are released to directly compensate employees (i.e., a Type I ESOP as described in the minority views section of the SOP.) Although the related service is performed in future periods, the basis for the transaction was determined at the time of the exchange with the trust. We do not see the logic for valuing this transaction at a date other than the date of the exchange. On the other hand, we agree that compensation cost for ESOPs which settle or fund employee benefits should be measured at fair market value on the date such shares are released.

Issue 2: Effective Date and Transition

The effective date of fiscal years ending after December 15, 1993, presents a practical problem. For existing ESOPs, applying the SOP in 1993 would require either adopting the SOP before it is formally issued or later restating quarterly results for 1993. Our recommendation would be for the new SOP to be effective for fiscal years beginning after December 15, 1993, especially since most large companies will be addressing adoption and implementation issues relative to FASB Statements No. 106 and 109 in 1993.

27 cont'd

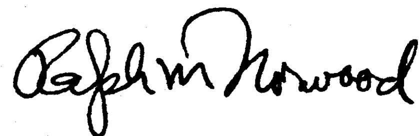
Issue 3: Disclosures

We believe that for accounting standards which are not adopted, sufficient information relative to new methods of accounting can and should be provided to users of financial statements to assist them in making appropriate value judgments. However, we do not believe companies should be required to incur the cost of developing and maintaining the required information to provide full accounting information on an "as-if-adopted" basis. In isolation, this requirement may appear to be a somewhat straightforward task but, added to the large number of new and existing accounting and disclosure requirements, it would add to the already heavy reporting workload that companies face today. Disclosure of the periodic number of shares released and allocated along with the related average annual share prices should be sufficient for those so inclined to perform the calculations required by the SOP.

Numerous thoughtful and constructive efforts have been made over the years by various sponsoring groups to make ESOPs an economically viable means to encourage employee ownership of U.S. companies and thereby provide a valuable tool to improve worldwide competitiveness. At Polaroid, we find this ownership interest provides a very good incentive that motivates employees to improve quality, productivity and earnings for the benefit of all shareholders. If the new SOP were to be implemented as proposed, U.S. Companies may be much more reluctant to establish direct compensation ESOPs. We urge you to reconsider and revise the proposed SOP to recognize the differences between benefit replacement (i.e., Type II) and direct compensation (e.i., Type I) ESOPs.

Thank you for providing us the opportunity to express our opinion on this important issue.

Sincerely,



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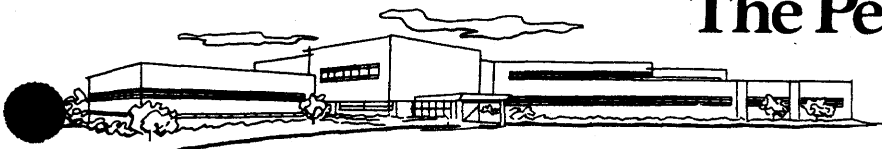


The Peoria Journal Star, Inc.

1 NEWS PLAZA · PEORIA, ILLINOIS 61643

March 17, 1993

Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, N.W.
Washington, DC 20004-1007

Re: Proposed Statement of Postion
Employers Accounting for Employee
Stock Ownership Plans

Dear Ms. McNamee:

We appreciate the opportunity to comment on the Exposure Draft, "Employers Accounting for Employee Stock Ownership Plans" (ESOP SOP) as prepared by the Task Force on Accounting for ESOPs of The Accounting Standards Executive Committee (AcSEC). We do not agree with Exposure Draft's position with regards to the recognition of compensation expense based on shares committed to be released. The following description of The Peoria Journal Star (the Company) and Employee Stock Ownership Plan (PJS ESOP) will provide the background for the example we have prepared to demonstrate the effect of the Exposure Draft's provisions on our Company's financial statements which we believe to be a representative leveraged ESOP.

The Peoria Journal Star, Inc. is a privately owned company which owns and operates daily newspapers in Peoria, Illinois and Galesburg, Illinois. The PJS ESOP was implemented in 1983 and since its inception has acquired 699,660 or 83.3% of the outstanding common stock of the Company, principally through the use of loans to the PJS ESOP which are guaranteed by the Company. The ESOP is party to a put and call agreement which will allow the ESOP to acquire the remaining shares of Company stock which it currently does not own. Additionally, the PJS ESOP incurs debt annually to acquire shares from former PJS ESOP participants upon their termination of employment with the Company. The ultimate goal of the PJS ESOP is to achieve 100% ownership of the Company, and in order to do that we estimate that it will be necessary for the PJS ESOP to maintain approximately a 30% to 40% leverage factor for the forseeable future. In other words, approximately 30% to 40% of the shares owned by the PJS ESOP will be unallocated and used to collateralize PJS ESOP debt.

The PJS ESOP was established with many purposes in mind, however the most important objective was to transfer Company ownership from the family shareholders to the employee group. With this in mind, we believe that dividends paid on company shares held by an ESOP, both allocated and unallocated shares, represent a return on equity for the ESOP participant, and as such represent an equity transaction which should not be recorded as an operating expense of the Company. We do not consider dividends on unallocated PJS ESOP shares to be compensation to our employees nor was any element of the PJS ESOP established as a compensation plan. Exclusive of the ownership benefits of the PJS ESOP, our Company still pays a competitive salary to attract qualified employees as salary surveys for our community and industry would support.

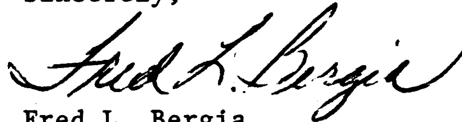
We don't believe that recording compensation expense for dividend payments would enhance the understandability and relevance of ESOP accounting, which was an objective of AcSEC in reconsidering SOP no. 76-3. In fact, we believe that it would confuse the reader of the financial statements. For example, reported earnings would be negatively impacted when dividends are increased as a result of improved cash flow, resulting in increased compensation expense. Making the logical assumption that improved operating cash flow would result in an increase in the value of the stock, the negative impact on a company's earnings would be compounded further by the rising value of shares committed to be released. Under the provisions of the ESOP Exposure Draft, our Company's operating results and statistics would no longer be comparable with other companies in the newspaper industry, and would most likely cause our Company's results to appear to be below average when in fact just the opposite has been true. Although adoption of this SOP would have no impact on actual operating cash flow, the most important measurement of our Company's financial performance, our audited cash flow and income statement would reflect a significantly different operating result. We view this as pushing what would otherwise be income to the shareholders of the Company down to compensation expense. In fact, our appraiser would adjust out the compensation expense recorded under the ESOP SOP when determining the true earnings of the Company for appraisal purposes.

The attached schedules document the projected effects of the ESOP SOP on the Company's income statement for each of the next five years. Schedule II projects the anticipated ESOP borrowings for each year and documents the estimated charge to compensation expense on an annual basis. The assumptions made in preparing the example are found at the bottom of each schedule. It should be noted that by the fifth year of the example, profit margin before recording the effect of the ESOP SOP is nearly 22% and drops to 14% after recording the ESOP SOP. We believe that this example demonstrates the significant impact that the ESOP SOP would have on a leveraged ESOP company and how it distorts a company's income statement for paying dividends and servicing the debt of its ESOP.

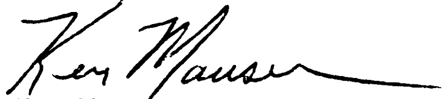
28 cont'd

For the reasons stated above, we believe that the ESOP SOP should not be adopted and that the current accounting for ESOPs continues to be relevant. If, however, the ESOP SOP is adopted, we believe that a dinstinction should be made between ESOPs with controlling ownership and those with less than a controlling ownership. ESOPs which have a controlling interest in their company represent a true transfer of ownership to its employees and dividends paid on those shares of stock are a return on equity transaction for the employee/participant rather than compensation expense. We have included a copy of our 1992 Annual Report in order to provide further background information on our Company.

Sincerely,



Fred L. Bergia
Vice President/Treasurer



Ken Mauser
Business Manager/Controller

KM:jc

Enclosures

SCHEDULE I

THE PEORIA JOURNAL STAR, INC.

PROJECTED INCOME STATEMENTS

1993 - 1997

	1993	1994	1995	1996	1997
REVENUE	$48,482,000	$50,421,000	$52,438,000	$54,536,000	$56,717,000
EXPENSES:					
OPERATING COSTS	27,630,000	28,735,000	29,884,000	31,079,000	32,322,000
SELLING GENERAL AND ADMINISTRATIVE	7,426,000	7,723,000	8,032,000	8,353,000	8,687,000
DEPRECIAITON	2,027,000	2,108,000	2,192,000	2,280,000	2,371,000
AMORTIZATION	946,000	951,000	956,000	961,000	966,000
INCOME FROM OPERATIONS BEFORE EFFECT OF ESOP SOP	10,453,000	10,904,000	11,374,000	11,863,000	12,371,000
PROFIT MARGIN BEFORE EFFECT OF ESOP SOP	21.6%	21.6%	21.7%	21.8%	21.8%
ADDITIONAL COMPENSATION EXPENSE PER PROVISIONS OF ESOP SOP (SCHEDULE II)	1,232,000	2,029,000	2,854,000	3,715,000	4,571,000
INCOME FROM OPERATIONS AFTER EFFECT OF ESOP SOP	9,221,000	8,875,000	8,520,000	8,148,000	7,800,000
PROFIT MARGIN AFTER EFFECT OF ESOP SOP	19.0%	17.6%	16.2%	14.9%	13.8%
NONOPERATING ITEMS:					
INTEREST INCOME	310,000	322,000	335,000	348,000	362,000
INTEREST EXPENSE	(2,322,000)	(2,415,000)	(2,512,000)	(2,612,000)	(2,716,000)
INCOME BEFORE INCOME TAXES	7,209,000	6,782,000	6,343,000	5,884,000	5,446,000
INCOME TAXES	(883,000)	(881,000)	(920,000)	(960,000)	(1,002,000)
NET INCOME	$6,326,000	$5,901,000	$5,423,000	$4,924,000	$4,444,000

Assumptions:

1) Revenues and expenses increase 5% annually.
2) The Company remains at the alternative minimum tax level and dividends used by the ESOP to reduce debt are tax deductible to the Company.

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SCHEDULE II

THE PEORIA JOURNAL STAR INC.

PROJECTED ESOP DEBT ACTIVITY

	1993	1994	1995	1996	1997
ANNUAL ESOP LOAN	$12,000,000	$8,000,000	$8,400,000	$8,820,000	$9,261,000
SHARE MARKET VALUE @ JANUARY 1st	$148	$155	$163	$171	$180
NUMBER OF SHARES PURCHASED ANNUALLY	81,081	51,480	51,480	51,480	51,479
CUMULATIVE NUMBER OF SHARES PURCHASED (A)	81,081	132,561	184,041	235,521	287,000
ALLOCATED SHARES IN ESOP TRUST (B)	0	8,108	21,364	39,768	63,320
UNALLOCATED SHARES IN ESOP TRUST	81,081	124,453	162,677	195,753	223,680
DIVIDEND RATE/SHARE (C)	$9.30	$9.80	$10.30	$10.80	$11.30
LOAN PAYMENT ANALYSIS:					
DIVIDENDS ON SHARES ACQUIRED WITH '93-'97 LOANS (A x C)	$754,053	$1,299,098	$1,895,622	$2,543,627	$3,243,100
PORTION OF MINIMUM INSTALLMENT PAID WITH DIVIDENDS ON SHARES ACQUIRED WITH PRE AUGUST '89 ESOP LOANS	$445,947	$700,902	$944,378	$1,178,373	$1,405,000
CUMULATIVE MINIMUM ANNUAL INSTALLMENT	$1,200,000	$2,000,000	$2,840,000	$3,722,000	$4,648,100
SHARES RELEASED FOR COMPENSATION PER PROVISION OF ESOP SOP (D)	8,108	12,756	17,087	21,111	24,843
AVERAGE SHARE MARKET VALUE (E)	$152	$159	$167	$176	$184
DIVIDENDS CHARGED TO RETAINED EARNINGS (B x C)	$0	$79,460	$220,040	$429,500	$715,510
CHARGE TO COMPENSATION EXPENSE BASED ON AVERAGE MARKET VALUE OF SHARES RELEASED FOR COMPENSATION PER PROVISION OF ESOP SOP (D x E)	$1,232,000	$2,029,000	$2,854,000	$3,715,000	$4,571,000

NOTE: THIS SCHEDULE ONLY TAKES INTO ACCOUNT FUTURE ESOP LOANS AND DOES NOT ADDRESS ESOP LOANS CURRENTLY ON THE BOOKS.

29

March 17, 1993

geico plaza
washington, D.C.
20076

Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1081

Dear Ms. McNamee:

GEICO Corporation is a publicly traded, property casualty insurance holding company with consolidated assets of $4.4 billion, shareholders' equity of $1.3 billion, and revenue of $2.4 billion. Maintaining a disciplined balance sheet is one of our company's five operating principles and we firmly believe in conservative accounting and recording the economic substance of transactions. Unfortunately I have several concerns regarding the AICPA's "Proposed Statement of Position on Employers' Accounting for Employee Stock Ownership Plans". I believe that the Proposed SOP is flawed theoretically and would require us to adopt accounting for our leveraged ESOP which is incongruous with the economics of the entire transaction.

GEICO Corporation has a leveraged ESOP which was established in 1983 and covers substantially all employees. The ESOP borrows money and uses the proceeds to buy shares of GEICO Corporation's common stock. GEICO Corporation guarantees the loans and makes annual contributions sufficient to enable the ESOP to repay the loans including interest. The obligations of the ESOP are included in GEICO Corporation's long-term debt and an amount representing the obligations of the ESOP, which have not yet been charged to compensation expense, is deducted from shareholders' equity. ESOP expense for the year consists of principal and interest payments for the plan year reduced by dividends used for debt service plus any additional accrued compensation based on the number of shares allocated to participants as required by EITF 89-8.

GEICO Corporation's ESOP debt is $50 million consisting of numerous loans which generally have a ten year life with level principal payments. As principal payments are made each year, the ESOP has traditionally borrowed an additional amount to increase total debt back to $50 million and purchased additional shares. Accordingly the ESOP has usually maintained $50 million of debt under a series of loans and the shares held in suspense relative to each loan are allocated to participants as the principal and interest on the debt is paid. The market value of the shares at the time of allocation has usually been approximately twice the cost of the shares. ESOP expense has approximated $8 million annually based on $6 million of debt principal plus $4 million of interest less $2 million of dividends used to service debt.

Issue 1: Recognition of Compensation Cost

I believe that Statement of Position 76-3 "Accounting Practices for Certain Employee Stock Ownership Plans" provides for the appropriate accounting for GEICO Corporation's leveraged ESOP. GEICO Corporation's expense from an economic point of view is the amount contributed or committed to be contributed to the ESOP for a given plan year. GEICO Corporation's expense is related to the debt incurred to purchase the shares and the interest which is paid until the shares are allocated. The additional cost of a leveraged ESOP compared to an unleveraged ESOP is the interest expense used to service the debt after the shares have been bought. Any changes in the market price of the stock prior to or after allocation to the participants has no economic consequence to the Corporation. Changes in the market value of these shares should be reflected on the ESOP's financial statements, not the financial statements of the Corporation.

The Proposed SOP supports using fair value to measure compensation because "fair value more accurately reflects the value of services received by the employer." The value of employee services does not change with subsequent market price fluctuations of the Corporation's stock. The only meaningful measure of compensation is what the services actually cost the Corporation. To suggest that compensation should be adjusted with an offsetting entry to paid-in-capital due to subsequent fluctuations in the market price of the stock which changes the perceived value of the service and makes it different from the cost of that service is inappropriate. These ESOP transactions have no effect on the Corporation's paid in capital.

If there is any ongoing adjustment to compensation expense based on the ultimate value received, there should also be an offsetting entry in the income statement to reflect the results of leveraging the transaction from a financing point of view. The conclusion that the accounting for the ESOP's debt (financing element) should be separated from the accounting for an ESOP's shares (contribution element) ignores the substance of the transaction and economic reality. The compensation and financing elements are inseparably linked because the whole purpose of a leveraged ESOP is to borrow funds to buy stock at current prices which will be allocated to participants over time as the loan is repaid regardless of future changes in the price of the shares. It is inconsistent to charge unearned compensation against shareholders' equity and credit debt at the time a loan is made and then pretend that the financing and compensation are separate. If one wishes to engage in such mental gymnastics, one could also argue that unearned compensation should also reflect the ultimate "fair value" of what will be charged to compensation. Since the debt is used to finance this ultimate "fair value" of compensation, one could conclude that there should also be a financial gain or loss on the extinguishment of debt in the income statement for the difference between the cost of the shares acquired by the ESOP using the debt and the ultimate "fair value" of the shares allocated when the debt is paid. To try to separate "financing" from "compensation" and then charge only the "compensation" element to the income statement truly distorts the substance of the transaction.

I think it is more appropriate to view our ESOP as a supplement to our retirement benefit package for our associates. A leveraged ESOP is similar to a defined contribution plan and the only contribution required is an amount to fund the debt service. If one suggests that the compensation expense of a defined contribution plan should be based on the "fair value" of the benefit as "defined" by the market price of the stock when it is allocated to the participant's account, it should also follow that the expense related to the benefit "defined" at that time should also be adjusted to reflect the ESOP's favorable

or adverse investment experience on the employer's stock so that the expense to the company ultimately reflects the cash contribution required to be made to the plan. For a defined benefit pension plan, pension expense is based on the required contribution to provide the defined benefit to associates in the future. If the pension plan's investment results vary significantly from the assumed rate of return, future expense is increased or decreased to ensure that there are sufficient funds to pay the defined benefit. Accordingly, even if one tries to mentally convert a defined contribution ESOP to some kind of defined benefit plan, compensation expense should still reflect only the net contribution made by the Corporation to service the ESOP's debt obligation. The Corporation's ESOP expense should mirror the contribution income which is reflected on the ESOP's own financial statements.

I agree with the minority view expressed by three dissenting AcSEC members who believe that the fair value of shares released should not be used to measure compensation cost of Type I ESOP's which are used to compensate employees directly. I would recommend that Statement of Position 76-3 be maintained for recognizing the compensation cost of Type I ESOPs, which I view as fundamentally different from Type II ESOPs where the fair value of the liability determines how many shares must be released. However, if fair value were to be used to measure compensation for any type of ESOP, the fair value should be the value of the shares at the date the shares are allocated to the participant, not the average price during the year.

Issue 2: Effective Date and Transition

The Proposed SOP in its current form should not be adopted. However, if adopted, the effective date should be January 1, 1994 for loans made after that date only. The Proposed SOP would require calendar year companies to adopt the new standard at December 31, 1993 retroactive to January 1, 1993 for loans made after September 23, 1992. The transition is very awkward and requires restating previously recorded ESOP expense in interim periods for loans that originated a decade ago.

Issue 3: Disclosures

It is not appropriate to require proforma income and earnings per share amounts for ESOP loans from prior periods. I do not believe the benefit of such disclosures justifies the cost.

I strongly urge you to reconsider the Proposed SOP's accounting for Type I ESOPs. GEICO Corporation's ESOP has been in operation for over ten years and has been a terrific benefit for the Corporation and its associates. As someone who has been actively involved with both the accounting and financing of our ESOP, I feel obliged to respond that I believe that the Proposed SOP would require us to account for the Corporation's ESOP in an erroneous manner that does not properly reflect the economic substance of the transaction. I would be pleased to meet with you to further discuss our comments regarding the Proposed SOP. Please call me at 301-986-3433 if I can be of assistance.

Very truly yours,

Thomas M. Wells
Group Vice President
and Controller
/mrn/TMW#1

CERTIFIED PUBLIC ACCOUNTANTS & BUSINESS CONSULTANTS

30

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Minneapolis, MN 55402-4505

612-376-4500
Fax 376-4850

March 9, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue N. W.
Washington, DC 20004-10007

Dear Ms. McNamee:

This letter serves as my comments to the Exposure Draft on Employers' Accounting for Employee Stock Ownership Plans issued December 21, 1992. I understand that one of our employee benefits partners is furnishing you a separate letter as to our firm and its thoughts as a group.

My personal thoughts are based on a desire to keep GAAP understandable and practicable for small business clients. I currently serve six clients with ESOP's in place, with sales ranging from $4 million to $50 million annually. Four clients are leveraged ESOP's.

On the positive side, the exposure draft attempts to clarify some areas that currently are without technical guidance and/or improve the accounting currently in practice (e.g., EPS, internally leveraged ESOP's).

On the negative side, the exposure draft is attempting to replace historical cost accounting with fair value accounting for shares committed. I feel that accounting for the shares at cost is easier and produces a result that is more consistent between companies. You might guess that I have also been against the recent AICPA movement to value stock options at their fair values. Furthermore, I think we, as accountants, should resist the temptation to mix historical cost accounting with fair value accounting and potentially end up with less-understood information. SFAS #53 (Changing Prices) to me was an example of experimenting with basic accounting concepts, and it took us seven years (1979 to 1986) to rescind the standard (or make compliance voluntary).

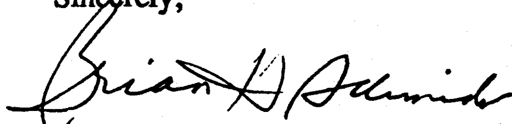
In closing, I applaud the efforts made to clear up differences currently existing in practice for ESOP's; but am strongly against fair value accounting as part of the solution.

30 cont'd

Ms. Dianne D. McNance
March 9, 1993
Page Two

Thank you for the opportunity to give input.

Sincerely,



Brian H. Schmidt, CPA
Partner
612/376-4514

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31

March 16, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500 AICPA
1455 Pennsylvania Avenue
Washington, D.C. 20004-1007

Dear Ms. McNamee,

I am writing to comment on the proposed Statement of Position for the Financial Reporting for ESOP Sponsors.

ESOP Services has been involved with more than 200 ESOPs and we have been installing these plans for 10 years. During that time, we have participated in the closing of dozens of leveraged ESOP transactions.

After carefully reviewing your exposure draft and considering the matter at length, we conclude that the expense recognition based on market value irrespective of the way the plan is being used, would be very bad for ESOPs. We urge you to reconsider the idea of having a different rule for plan sponsors who are using the release of shares to satisfy an existing liability of the corporation, such as a 401(k) match.

The "market value" rule is at odds with the fiduciary considerations of ESOPs and with the practical aspects of using these plans. The trustees of an ESOP are obligated to bargain on behalf of their participants and seek the best price possible for the ESOPs acquisition of stock. Fair market value represents the *most* that an ESOP can pay. Furthermore, most of our clients have become interested in ESOPs as a result of the Section 1042 "tax-free" rollover which is often available to selling shareholders of closely-held companies. When the trustees of the ESOP know that the selling shareholder may be saving 30% to 40% of the amount of the sale in taxes, they are even more inclined to negotiate a price which is less than fair market value. Finally, many departing owners like to give the employees a break, rather than push the transaction to the limit and burden them with maximum debt. In fact, as many as one-third of the transactions we have seen involve the ESOP paying less than fair market value as determined by an independent appraiser. In these cases, the AICPA would be dictating from the word go that the expense recognition of the financials of the plan's sponsor will be higher than the actual expense associated with repaying the loan. Ironically, "good ESOP deals" in the eyes of the Department of Labor will cause overstated plan expense.

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31 cont'd

Ms. Dionne D. McNamee
March 16, 1993
Page Two

For years, we have had to explain the financial reporting of ESOP transactions to potential lenders. The contra-equity account and the expense recognition of ESOPs have been an ongoing challenge to explain to banks. We are convinced that the proposed SOP will make it much harder still to explain the true effect on the sponsor's profit and loss statement of the ESOP.

Since the vast majority of our clients are closely-held, we have reviewed and commented on hundreds of appraisals. From experience, we are aware of a significant variance among valuation firms in what they determine to be the fair market value of the stock in a given company. I have regularly seen two different ESOP valuation firms deliver opinions of value which are more than 20% apart. Your new approach would inject a significant variability and uncertainty to the expense recognition process which, up until this point, has been very nicely defined by the payment of principal and interest on a known ESOP debt.

Thank you for your consideration.

Sincerely,

Peter H. Briggs
Director of Financial Services

PHB:be

32

ARTHUR
ANDERSEN

ARTHUR ANDERSEN & CO, SC

Arthur Andersen & Co.

69 West Washington Street
Chicago IL 60602-3002
312 580 0069

March 12, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500
American Institute of Certified
Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

Dear Ms. McNamee:

Attached is our response to the AICPA Proposed Statement of Position, Employers' Accounting for Employee Stock Ownership Plans.

Very truly yours,

Benjamin S. Neuhausen

Benjamin S. Neuhausen

PM

Attachment

32 cont

ARTHUR
ANDERSEN

ARTHUR ANDERSEN & CO, SC

Arthur Andersen & Co.

69 West Washington Street
Chicago IL 60602-3002
312 580 0069

March 12, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500
American Institute of Certified
Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

Dear Ms. McNamee:

We are pleased to submit our comments on the AICPA Proposed Statement of Position, Employers' Accounting for Employee Stock Ownership Plans.

OVERALL COMMENTS

We are pleased that AcSEC undertook this project to update and overhaul employers' accounting for ESOPs. Statement of Position 76-3 clearly did not contemplate many of the changes in ESOPs that have occurred in recent years and the new uses of ESOPs that have arisen since its issuance. The consensuses of the Emerging Issues Task Force alleviated the most pressing practice problems, but created some inconsistencies and anomalies in employers' accounting for ESOPs. This project to create a complete and internally consistent model to account for ESOP transactions is timely, and we encourage AcSEC to issue a final Statement of Position promptly.

In our experience, leveraged ESOPs are difficult to understand. Further, those involved hold widely differing views about the economic substance of leveraged ESOPs and the nature of the employer's involvement. Those differing views lead naturally to differing views about the employer's accounting. We believe that the analysis of a leveraged ESOP in paragraphs 59, 60, and 63 of the Proposed Statement is the best and most appropriate analysis of the substance of a leveraged ESOP—that a leveraged ESOP consists of a borrowing and an exchange of shares for employee services over the term of the borrowing. All the accounting conclusions in the Proposed Statement flow logically from that analysis, providing an understandable and internally consistent model for employers' accounting—something that does not exist today. Because we agree

with the analysis in the Proposed Statement, we also agree with the proposed accounting. This provides the context for our comments on the three specific issues on which AcSEC requested comment.

Issue 1: Recognition of Compensation Cost

We believe that an employer should measure compensation cost based on the current fair value of the shares committed to be released. That measurement is most consistent with our view of the substance of a leveraged ESOP described in the preceding paragraph. In addition, we agree with the reasons stated in paragraph 69 of the Proposed Statement.

We believe that all leveraged ESOPs are fundamentally alike in substance, even though they or their shares may be used for different purposes, and accordingly believe that the proposed measurement is appropriate. Under the proposed SOP, if an employer exchanges 10,000 shares for employees' services in a year, the amount of compensation cost will be the same regardless of whether the shares are issued by a leveraged ESOP as a 401(k) plan match, issued by a leveraged ESOP as direct compensation, issued by a nonleveraged ESOP, or issued directly by the employer. To us, this consistency is the most logical and understandable result. We do not believe that the minority view provides any persuasive reason why compensation cost should be measured differently if the 10,000 shares are issued by a leveraged ESOP as direct compensation. Further, we believe the minority's reference to the FASB project on stock compensation is a red herring. ESOPs involve shares of stock, not options. To date, there is no indication that the FASB's project on stock compensation will change either the date compensation is measured or the method of measuring compensation for plans that grant shares to employees.

Issue 2: Effective Date and Transition

We believe the proposed transition requirements are the most appropriate. We also agree with the comment in paragraph 93 that transition is, for the most part, a practical matter. In this case, AcSEC must balance the costs and benefits of improved reporting by employers of ESOPs. As stated in paragraph 94, the existing accounting was a significant factor in the decision to set up many existing leveraged ESOPs and such ESOPs cannot be undone easily; thus, we believe it is appropriate to permit employers to account for "old" shares according to the existing accounting guidance. However, we suggest that AcSEC describe in the final Statement the source of the September 23, 1992 cutoff date for "old" shares.

Based on AcSEC's schedule and the procedures necessary to issue a final Statement, the document will not be issued before late 1993. The proposed effective date would require calendar year companies with "new" ESOP shares to restate the first three quarters of 1993. We do not believe that effort is justified. Based on the current timetable, we suggest that the effective date should be fiscal years beginning after December 15, 1993, so that restatements aren't necessary.

Issue 3: Disclosures

We understand AcSEC's reasons for proposing the pro forma disclosures at the end of paragraph 54. However, such pro forma disclosures have not been required in other situations involving long-lived transactions and prospective accounting changes. For example, companies with intangible assets acquired before the effective date of APB Opinion No. 17 do not disclose the amortization that would be required if the assets had been acquired after the effective date. Similarly, companies that sold and leased back real estate before the effective date of FASB Statement No. 98 and followed sale/leaseback accounting for transactions that would have been treated as financings under Statement 98 do not disclose the earnings effect of financing treatment. The situation with "old" ESOP shares does not seem sufficiently different to warrant the pro forma disclosures.

Other Comments

Appendices. The Appendices, particularly A (Illustrations) and C (Impact of Proposed SOP on Current Guidance), are useful to readers and should be retained in the final Statement.

Issues Related to Accounting for Income Taxes. We believe the discussion in paragraphs 49 through 52 is helpful. The attached Exhibit suggests some changes to clarify those paragraphs. In addition, the Exhibit suggests a different way of presenting the income tax computations in the Illustrations that we believe would be clearer. Finally, we suggest that the Illustrations be expanded to include the journal entries to record income taxes, to help readers better understand the computations.

Disclosures. Paragraph 54.e. does not explain whether the amount of unearned compensation at the balance sheet date to be disclosed is measured at the cost of the shares to the ESOP or the fair value of the shares at the balance sheet

date. The fair value of the shares at the balance sheet date would be more relevant under the accounting model in the Proposed Statement. In addition, the unearned compensation disclosed on the face of the balance sheet presumably would be measured at the cost of the shares to the ESOP; disclosure of the same amount in the notes would be redundant.

In addition, we suggest that the Illustrations include model disclosures for the factual situations presented.

EITF Abstracts. The Abstract for EITF Issue 93-2 should be added to Appendix C in the final Statement.

We would be pleased to answer any questions that you may have about our response.

Very truly yours,

Arthur Andersen

Attachment

Exhibit
32 CON

Proposed Wording Changes for the Income Tax Section of the Proposed Statement

1. Insert at end of paragraph 49:

   Similar differences arise from employee stock options. Paragraph 36.e. of Statement 109 requires that the tax effects of expenses for employee stock options recognized differently for financial reporting and tax purposes be charged or credited directly to the related component of shareholders' equity.

2. Insert as the opening phrase to the first sentence in paragraph 50:

   In accordance with paragraph 36.e. of Statement 109, ...

3. Proposed replacement for paragraph 51:

   51. Differences between the periods in which compensation is recognized for financial reporting and tax purposes do not create temporary differences as defined in Statement 109 because unearned compensation is a reduction of equity (temporary differences are caused by book/tax basis differences related to assets and liabilities, but not equity). However, consistent with the requirements of Statement 109 for similar differences that arise related to employee stock options, interperiod tax allocation is required for those differences.

4. Proposed revision of tax computation in Illustration 1:

	Year 1	Year 2
Deferred provision:		
Reduction in unearned compensation for financial reporting	$200,000	$200,000
Related tax deduction	163,800	180,200
Difference	36,200	19,800
Tax rate	40%	40%
Deferred tax expense/(benefit)	$(14,480)	$ (7,920)

33

Carolina Power & Light Company

P.O. Box 1551 • Raleigh, N.C. 27602
(919) 546-6794

Charles D. Barham, Jr.
Executive Vice President

March 15, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, NW
Washington, D.C. 20004-1007

Dear Ms. McNamee:

Carolina Power & Light Company (CP&L) submits its comments in response to the exposure draft of a proposed statement of position (SOP) "Employers' Accounting for Employee Stock Ownership Plans." CP&L has a $300 million leveraged ESOP and, therefore, we are very interested in any proposed changes in accounting for ESOP's.

In general, CP&L believes the SOP represents an improvement in accounting for ESOP's. As noted in the SOP, current standards for ESOP accounting have developed on a somewhat ad hoc basis over the past several years. These standards are not totally consistent with each other, nor do they always reflect the underlying economic substance of ESOP transactions. We believe the SOP substantially remedies those deficiencies in ESOP accounting.

There are two aspects of the SOP that CP&L believes should be reconsidered.

Measure of Compensation

The SOP proposes that fair value of shares be used as the measure of compensation cost in all instances. We believe that the proper measure of compensation cost should be determined by reference to the terms and conditions by which shares are allocated to employees. If employees bear the risk and reward of changes in the price of unallocated shares, the cost of the shares is the appropriate measure of compensation. If the ESOP sponsor bears the risk and reward, fair value is the appropriate measure of compensation.

One additional point related to the use of fair value is the position stated in the SOP that "in some situations an employer has the ability to change other parts of an employee's compensation package in reaction to changes in the value of the shares being released." This position was used as partial justification for the use of fair

value as the measure of compensation cost. It seems this justification is based on what could occur, rather than what will occur. Assuming the change is made to measurement based on cost in the circumstance recommended above, the SOP could contain a statement that if compensation levels are adjusted in response to share price changes, the appropriate measure of compensation cost is fair value. This approach is somewhat analogous to using the "substantive plan" versus the "extant written plan" as the basis for accounting for post-retirement benefits other than pensions [reference Statement of Financial Accounting Standards No. 106, paragraph 23].

Transition Date

CP&L believes that the transition date provided in the SOP should be the effective date of the SOP, rather than September 23, 1992. Until the SOP is issued, employers cannot know what the new accounting requirements will be and assess those requirements along with other considerations regarding establishing an ESOP.

CP&L appreciates the opportunity to comment on the SOP. We would be pleased to provide any clarification or additional information needed.

Yours very truly,

Charles D. Barham, Jr.

CDBjr/JAB/ps
BARESOP.WPF

34

An Employee Owned Corporation

ComSonics®, INC.
1350 Port Republic Road
P.O. Box 1106 Harrisonburg, VA 22801

SALES: 800-336-9681 703-434-5965 FAX: 703-434-9847

March 18, 1993

Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

RE: **EXPOSURE DRAFT OF PROPOSED SOP FOR EMPLOYERS' ACCOUNTING FOR ESOPs**

Dear Ms. McNamee:

My name is Bill McIntyre. I am the Director of Finance for ComSonics, Inc., a 100% ESOP-owned manufacturing company located in the Shenandoah Valley in Virginia. I am writing to provide you with some feedback on the Task Force on Accounting for ESOPs Exposure Draft of the Proposed Statement of Position of "Employers' Accounting for Employee Stock Ownership Plans."

Some background re our Company: ComSonics, Inc. was founded in 1972; the ESOP was created in 1975; and the ESOP purchased 100% of the Company in 1985. We are a leveraged ESOP and will be paying off our ESOP Note until the year 2000. Currently, our annual sales revenue is about $9,000,000, and we employ 145 people. Our purchase price for Company stock in 1985 was $7.50/share. Currently, our stock is valued at $12.75/share. Historically, we have not paid any dividends, and we have no plans to do so.

I recognize that the Proposed SOP does not apply to ComSonics (other than footnote disclosure) as our ESOP acquired its shares prior to September 23, 1992; however, I also recognize that it is likely that we will at some time in the future engage in some kind of transaction which will cause us to be impacted by the Proposed SOP.

My comments on the Proposed SOP are:

(1) Valuation of Shares Released at Market Value to Fund Other Employee Benefits, such as an Employers' 401(k) Matching Contribution or a Formula Profit-Sharing Plan.
I have no problem with using market value for valuing shares released to fund other employee benefits.

(2) Valuation of Shares Released at Market Value to Compensate Employees Directly.
I am against using market value for the Company's valuing of ESOP shares released and directly allocated into ESOP Participants' ESOP Accounts. I can understand your rationale for wanting to use market value; i.e. the situations which are corrected by my (1) above. To apply market value indiscriminately, though, is a huge mistake.

Using market value for released ESOP shares creates the totally nonsensical situation which penalizes an ESOP company which has performed well and has seen an increase in its stock value as that company will be forced to report lower profitability. Correspondingly, an ESOP company which has performed poorly and has seen a decrease in its stock value will be rewarded as it will be able to report higher profitability. <u>Neither situation accurately portrays the true financial condition of the company</u>, a clear violation of one of the basic tenets of GAAP. The change in the stock price is simply irrelevant to the profitability of the ESOP company.

Privately-held ESOPs such as ours are typically smaller, less sophisticated companies which typically deal with smaller banks and less sophisticated bankers. To those bankers, "lower profitability" is "lower profitability." They would not understand that, in reality, the ESOP company is reporting lower profits because it is doing well!! In our case, specifically, if we had applied the Proposed SOP for our latest fiscal year, the reduction in profits would have caused us to violate a loan covenant. I can assure you that with today's banking environment, we would not have been able to renew our line of credit.

34 cont'd

The "Law of Unintended Consequences" is applicable here, too. The unintended consequence is that privately-held ESOPs will have greater difficulty obtaining financing. In a sense, then, your Proposed SOP will act as a deterrent to ESOPs. Since our ESOP is successful and I believe ESOPs are good for people, for business and for this country, I hope that your SOP is at worst "neutral" to ESOPs and, preferably, would be "favorable" to them.

To conclude the market value issue, I use the analogy of an ESOP purchasing Company stock with the Company buying a building with a mortgage loan. Following the Task Force's logic, if the value of the building rises after the Company's purchase of it, the Company should increase its mortgage payments for the building. Nonsense!! If the Company got a good deal in its purchase of the building, it should be able to report increased profits from the building. Similarly, if the ESOP got a good deal in its purchase of the Company, it should be able to report increased profits without being penalized for making a good deal in the first place.

(3) Shares Outstanding.
Treating nonreleased shares as not being outstanding is a good idea. It clarifies several issues for us: (1) who votes nonreleased shares in a normal vote?; (2) who votes nonreleased shares in a vote on a "major" issue?; (3) who receives the dividends on nonreleased shares?; and (4) who receives the value for the nonreleased shares if the company should be sold or the ESOP terminated?.

(4) Earnings Per Share Calculation.
I have no problem with the proposed Earnings Per Share calculation. As a privately-held ESOP, EPS is of limited use for us. Public companies may have more significant input.

(5) Effective Date.
I have no problem with the Proposed SOP becoming effective for fiscal years ending after December 15, 1993.

(6) Transition.
I am pleased that the September 23, 1992, date chosen for the cutoff date in the Proposed SOP means that our Company is not affected by the Proposed SOP since our ESOP purchased its shares prior to that date and because I do NOT like the Proposed SOP in its current version. However, IF the finalized SOP is a good idea, then it should apply across the board, and there should be no need for a cutoff date.

(7) Disclosure.
In general, the disclosure requirements are fine; however, the requirement to disclose "repurchase obligation" is remarkably naive. Most ESOPs, ours included, structure their repurchase obligation so that it is paid on a deferred basis with installment payments being made over a period of time. I would suggest that if you are going to require disclosure of the repurchase obligation, then the following elements should be included:

- repurchase obligations already committed (by year for the next 5 years, with a lump sum reported for years 6+) -- this refers to amounts owed to people who have already left the company and are being paid per a payment schedule;
- repurchase obligations which are due but not yet committed -- this refers to amounts owed to people who have already left the company but who are still in the deferral period and have not yet begun to receive their ESOP distribution; and
- repurchase obligations for vested ESOP account balances of current employees -- these amounts are not currently due and have no schedule for payment.

I appreciate the opportunity to provide input and hope that my thoughts have been of some assistance to you as you are finalizing the SOP. If you have any questions or would like more information, please do not hesitate to contact me.

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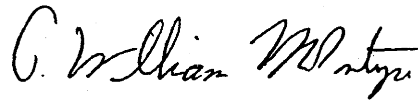
Thank you for your time.

Sincerely,



G. William McIntyre
Director of Finance

xc: B. Corea - ESOP Administrator
J. Dickie - ESOP Administrative Committee, Chairman
D. Zimmerman - President and CEO

ROSAUERS

EMPLOYEE OWNED SUPERMARKETS

March 18, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500 AICPA
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

Dear Ms. McNamee:

We would like to comment on the proposed statement of position "employers' accounting for employee stock ownership plans." First, we have a "Type I" ESOP and feel this proposal is not relevant and would only make our statements more complicated and confusing. Second, we had hoped the task force would address the contra-equity account, "unearned compensation," because it causes a lot of confusion and problems for a company with a majority ESOP.

We are a corporation owned 100% by the employees, 83% by the ESOP (leveraged ESOP) and 15% by the management. All of the employees, union and non-union, have agreed to a wage reduction for the duration of the acquisition loan. The contra-equity account creates a negative stockholders' equity on the company balance sheet. The temporary wage reduction, a real asset to the corporation, is not recorded on the balance sheet.

We continually have difficulties with creditors, lending institutions, state and federal agencies and stockholders when trying to explain the negative stockholders' equity. The corporation has over $150 million a year in sales, has been in business for 44 years, employs 1300, and is making a healthy profit (before ESOP contribution). The current and proposed accounting treatments preclude the corporation from being able to secure bonding, letters of credit and self insurance status for state workers' compensation.

The employee temporary wage reduction is worth in excess of $2 million per year and is recognized by the independent appraisal firm in their annual stock valuation. However, the current and proposed accounting treatment give the corporation no recognition for this very real contribution toward the future "unearned compensation".

Rosauers Supermarkets, Inc. West [illegible] Garland Mailing Address [illegible] Spokane, Washington [illegible]

We have talked to other ESOP companies, some who have a wage reduction and some who do not, and all are experiencing the same problems with the negative stockholders' equity situation. We feel this accounting treatment needs to be addressed. Healthy companies who are majority owned by an ESOP have balance sheets that are almost impossible to interpret by any outside party, including CPA's, and cause confusion rather than providing useful information to the reader.

Thank you for your consideration of this issue.

Sincerely,

C. J. McELDERRY
Vice President - Chief Financial Officer

CJM/eh

701 Pennsylvania Avenue, N.W.
Washington D.C. 20004-2696
Telephone 202-508-5527

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EDISON ELECTRIC INSTITUTE

DAVID K. OWENS
Senior Vice President
Finance, Regulation, and
Power Supply Policy

March 19, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

Dear Ms. McNamee:

The Edison Electric Institute (EEI) is pleased to respond to the AICPA Accounting Standards Executive Committee's exposure draft of a proposed statement of position (SOP) "Employers' Accounting for Employee Stock Ownership Plans".

EEI is the association of electric companies. Its members serve 99 percent of all customers served by the investor-owned segment of the industry. They generate approximately 78 percent of all the electricity in the country and service 76 percent of all ultimate customers in the nation.

Recognition of Compensation Expense

EEI disagrees with the proposed position, from paragraph 14, that "...the amount of the charge should..." always "...be based on fair values of committed to be released shares". EEI believes that the amount of the charge should be determined by reference to the terms and conditions by which ESOP shares are allocated. More specifically, EEI believes that the key element is which party, the ESOP sponsor or the employee, has the risk and rewards associated with changes in share prices. If the employee has the risk and reward, cost is the appropriate measure. If the ESOP sponsor has the risk and reward, fair value is the appropriate measure.

The following two cases illustrate the position described above:

Case 1: An ESOP sponsor establishes an ESOP with no relationship to other benefits. The plan is designed so that a certain number of shares will be released and allocated to employees each year.

In this case, employees will receive a certain number of shares regardless of the value of the shares being allocated. The employees clearly have the risk and reward of share price changes, and the ESOP sponsor's compensation expense should be measured based on the cost of the shares.

Case 2: An ESOP sponsor establishes an ESOP and the ESOP shares will be used to meet the sponsor's obligation under a 401(k) plan to match 50 percent of employee contributions. The number of shares needed for the 401(k) match is determined by the fair market value of the shares.

In this case, the employee has no risk and reward related to changes in share prices relative to unallocated shares. The employee will receive an allocation of shares such that the total fair value of those shares is equal to the sponsor's 50 percent matching obligation. On the other hand, the sponsor has the risk and reward of changes in the share price of the unallocated stock. If, for example, shares are worth $10 now, but were $20 when the ESOP was established, the sponsor will bear that difference.

In this case, the appropriate measure of compensation is the sponsor's promise to the employee, which is the amount of the 50 percent match (equivalent to the ESOP shares used times the current fair value). The difference between the cost of the shares and the fair value should be charged or credited to paid-in capital at the time they are committed to be released.

With respect to plans similar to the one described in Case 1, we believe the exposure draft overstates the ability and desire of sponsors to adjust

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their employee compensation packages based on the value of the ESOP allocations. We suggest that many EEI member companies which have established ESOPs view the employee-shareholder as holding the risks and rewards associated with the performance of the ESOP shares. Therefore, these EEI member companies do not focus their compensation policies on the value of the shares but instead on the cost.

In summary, we believe the proposal to utilize fair value in measuring compensation expense in all cases is flawed because it fails to adequately consider the effect of plan design in assigning the risks and rewards associated with changes in the fair value of unallocated stock. We believe the manner in which the ESOP program assigns the risks and rewards associated with the value of the unallocated stock is the key determinate and must be considered in deciding the appropriate measure of compensation.

Effective Date and Transition

EEI disagrees with the transition requirement that shares acquired by ESOPs after September 23, 1992 be accounted for under the proposed SOP. Application of the September date unfairly imposes requirements in advance of the effective date of the statement. Companies have acquired shares assuming existing accounting would be applied. The shares acquired transition date should be the same as the effective date of the SOP but certainly no earlier than the date the exposure draft was issued.

EEI appreciates the opportunity to comment on the proposed SOP. We hope our comments are useful in your consideration of employers' accounting for ESOPs.

Sincerely,

David K. Owens

DO:dsk

37.

TEXAS UTILITIES COMPANY
2001 BRYAN TOWER • DALLAS, TEXAS 75201

H. Dan Farell
Controller

March 18, 1993

Dionne D. McNamee, Technical Manager
Accounting Standards Division - File 2500
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1081

Gentlemen:

Texas Utilities Company respectfully submits the following comments in response to the Accounting Standards Executive Committee's proposed Statement of Position, "Employers' Accounting for Employee Stock Ownership Plans".

Texas Utilities Company is a public utility holding company whose principal subsidiary, TU Electric, provides electric service to over two million customers in the north central, eastern and western parts of the State of Texas.

Our comments on various aspects of the proposed Statement are discussed below.

EFFECTIVE DATE AND TRANSITION

We support the transition alternative provided for in the exposure draft. We agree that requiring employers with existing ESOPs to change their accounting would be unfair since the accounting requirements existing at the establishment of the ESOP was a significant factor in the decision process.

We believe the most appropriate effective date for the new Statement is for fiscal years beginning after December 15, 1993. The currently proposed effective date is for the 1993 reporting year for calendar year end companies. The exposure draft includes provisions that require entities who adopt the Statement in a period other than the first quarter to restate previous interim quarters. As currently written, the exposure draft will require all calendar year end companies to restate reported earnings for the year's prior interim periods. The implementation burden imposed by the new Statement would be considerably lessened if its requirements could be applied beginning in 1994.

DISCLOSURES

The disclosures required by the proposed statement expand the amount of information currently disclosed by employers who sponsor ESOPs. Such detailed disclosures, in our opinion, do not provide an incrementally enhanced benefit to the users of the financial statements. ESOPs are established as part of the employer's employee compensation package and generally do not represent a significant portion of the employer's compensation costs. Disclosure of the existence of an ESOP, the number of shares held by the ESOP, the amount of unearned compensation recorded at the balance sheet date and the amount of any ESOP debt (and its terms) recorded on the employer's balance sheet is sufficient to adequately inform the financial statement user about the entity's ESOP.

The pro forma earnings and earnings per share disclosures proposed for public companies are particularly onerous. Our evaluation of the exposure draft's requirements revealed that application of the Statement to 1992 would not have had a material effect on reported results of operations or the company's financial position. Since application of the Statement will likely have an immaterial affect on public companies' annual earnings, AcSEC's noncomparability concern is unfounded. We strongly encourage the AcSEC to delete the exposure draft's disclosure requirements concerning pro forma earnings and earnings per share information. At the very least, the final Statement should allow a statement to the effect that pro forma earnings assuming the provisions of the SOP had been applied would not be materially different than reported results.

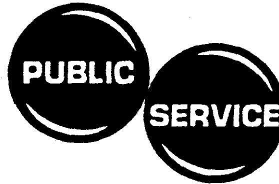
We appreciate the opportunity to express our concerns and comments on the proposed requirement.

Sincerely,

H. Dan Farell
WEP

JSA:dkm

cc: David Stringfellow - EEI



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WISCONSIN PUBLIC SERVICE CORPORATION

March 18, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, NW
Washington, D.C. 20004-1007

Dear Ms. McNamee:

Wisconsin Public Service Corporation (WPSC) is pleased to respond to the AICPA Accounting Standards Executive Committee's exposure draft of a proposed statement of position (SOP) "Employers' Accounting for Employee Stock Ownership Plans".

WPSC is an electric and gas utility serving northeast Wisconsin. WPSC has sponsored an ESOP since the mid-1970's and has sponsored a leveraged ESOP since 1988.

Recognition of Compensation Expense

WPSC strongly disagrees with the proposed position that compensation expense should be measured based on the fair value of the ESOP shares released in all cases. WPSC subscribes to the minority view expressed on page 27 of the exposure draft that where the risks and rewards associated with the value of the stock have been transferred to employees, the current statement of position yields the appropriate result. WPSC's ESOP is structured consistently with the Type 1 ESOPs described on page 27.

Utilization of the current value (an opportunity cost) in measuring compensation expense in WPSC's situation suggests that it has more ability to control the release and allocation of shares than actually exists. In fact, unallocated shares held by the WPSC ESOP are not treasury shares and are not under the company's total control. Our plan is subject to a multitude of Internal Revenue Code and ERISA restrictions which require the allocation of shares and define the manner and the timeframe in which shares will be allocated. WPSC's ESOP holds common shares which are no different than other common stock with respect to their voting and other rights. While it is true that the WPSC ESOP loan arrangements contain some provisions designed to give the company some control over the year in which loan payments are made and shares released, these provisions are dealing with the periphery of the current year allocation not with the core (i.e., these provisions only allow fine-tuning). In fact, tax law

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requirements and the external lenders who made the loans prevent excess fine-tuning.

With respect to Type 1 ESOPs, we believe the ED overstates the ability and desire of sponsors to adjust their employee compensation packages based on the value of the ESOP allocations. With respect to WPSC's program, we view the employee-shareholder as holding the risks and rewards associated with the performance of the ESOP shares. Therefore, we do not focus our compensation policies on the value of the shares but instead on the cost.

In summary, we believe the proposal to utilize fair value in measuring compensation expense in all cases is flawed because it fails to adequately consider the effect of plan design in assigning the risks and rewards associated with changes in the fair value of unallocated stock. We believe the manner in which the ESOP program assigns the risks and rewards associated with the value of the unallocated stock is the key determinate and must be considered in deciding the appropriate measure of compensation.

Effective Date and Transition

WPSC disagrees with the transition requirement that shares acquired by ESOPs after September 23, 1992 be accounted for under the proposed SOP. Application of the September date unfairly imposes requirements in advance of the effective date of the Standard. Companies have acquired shares assuming existing accounting would be applied. The shares acquired transition date should be the same as the effective date of the SOP but certainly no earlier than the date the exposure draft was issued.

WPSC appreciates the opportunity to comment on the proposed SOP. We hope our comments are beneficial in your consideration of the accounting for ESOPs.

Sincerely,

Bradley Johnson
Director - Corporate Tax

JOHN L. BALTES, JR.
Controller

March 15, 1993

Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, N.W.
Washington, DC 20004-1081

Dear Ms. McNamee:

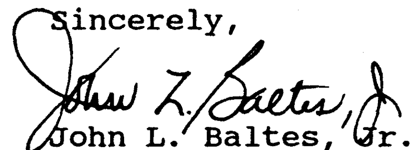
Subject: Proposed Statement of Position: *Employers' Accounting for Employee Stock Ownership Plans*

Central Louisiana Electric Company (company) is an investor owned electric utility with common stock listed on the New York and Pacific Stock Exchanges.

In April 1992, the company initiated an externally leveraged, convertible preferred $30,000,000 ESOP in connection with a 401(k) Employee Savings and Investment Plan. Most of CLECO's 1,332 employees are eligible to contribute to the Plan. The $30 million ESOP represents 4.1% of total capitalization.

The Accounting Standards Executive Committee has invited comments on the proposed SOP as a whole, and on all matters in the proposed SOP, and particularly on three specific issues. The company's comments accompany this letter.

Sincerely,



John L. Baltes, Jr.

2030 Donahue Ferry Road, P. O. Box 5000, Pineville, LA 71361-5000, Telephone 318-484-7400

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
SOP: Employers' Accounting for Employee Stock Ownership Plans

Issue 1: Recognition of Compensation Cost

The provisions of the proposed SOP would require an employer to measure compensation cost based on the fair value of the shares committed to be released.

The shares "committed" method represents a departure from the current requirement of the shares "allocated" method. The company concurs with this change to recognize compensation/benefit expense when earned rather than when funded.

Should the compensation cost be measured based on the fair value of shares when committed to be released or the cost of shares to ESOPs?

Compensation cost should be measured by the cost of shares to the ESOP. Under APB Opinion No. 25, compensation cost is based on "*quoted market price*" at "*measurement date*" (APB-25, paragraph 10). The company believes that the date of adoption of an ESOP is the appropriate date for the measurement of unearned (in effect prepaid) compensation and that future service is the means of systematic and rational allocation of that cost as shares are committed to be released.

Paragraph 70 of the SOP states that:

> "AcSEC believes the employer's cost and liability for employee benefits that are funded with ESOP shares should be measured and recognized in the same way as if some other means of funding were used."

Paragraphs 17 and 70 contradict the "fair value" requirement of paragraphs 14 and 20. Any allocation of shares is inherently based on wages and is a matching form of compensation whether it is a stand-alone plan or related to any other employee benefit.

Paragraph 63 of the SOP states that:

> "AcSEC's objective is that the accounting reflect the terms of the exchange transactions that take place between an employer that provides compensation and the employees who render services in exchange for that compensation."

The company believes that recognition of the "fair value" of shares when committed to be released may not reflect the terms of the employer/employee "exchange transactions" as explained below.

Prior to the adoption of an ESOP, the company's employer matching cash contribution under its 401(k) was one-half of the first six percent of employee contributions. Upon adoption of the ESOP, the match was increased to two-thirds of the first six percent of contributions. The reasons for this increase were compensation for the employee's inability to direct investment of the company contributions and recognition that funding based on market value could decrease the number of shares earned by employees on equivalent amounts of eligible compensation in different periods. Under the terms of this "exchange transaction", the fair value of the two-thirds match of ESOP shares could be based on the one-half match of cash contributions.

The company based its compensation policy on the cost of ESOP shares not on projections of estimated future market value. Changes in market value value affect the timing of the commitment to release shares but not the total shares to be released. Therefore, the sponsor's compensation/benefit cost of an ESOP should be measured by the cost to the ESOP (proceeds to the sponsor) of the shares committed to be released to employees.

Should the SOP specify circumstances under which the fair value of shares should be used and other circumstances under which the cost of shares should be used?

If cost is not to be the measure of compensation expense for all ESOPs, then sponsors whose ESOPs are designed so that a certain number of shares are committed to be released periodically without regard to the market value should be permitted to recognize compensation expense based on cost of the ESOP shares.

Issue 2: Effective Date and Transition

The proposed SOP would be effective for fiscal years ending after December 15, 1993, as of the beginning of the fiscal year in which the SOP is adopted. Application of the accounting is optional for shares acquired by ESOPs prior to September 23, 1992 but mandatory for acquisitions after September 23, 1992.

Do [we] support this transition or is there another effective date or method of transition that is more appropriate?

The company supports a transition date of December 21, 1992, rather than September 23, 1992.

Issue 3: Disclosures

Public companies that elect not to adopt the accounting provisions of the proposed SOP would be required to disclose proforma income before extraordinary items, net income, and earnings per share computed as if the employer had adopted the provisions of this proposed SOP.

Do [we] believe that such disclosures are appropriate?

No. In paragraph 93, AcSEC's stated objective was to "minimize implementation costs and to mitigate disruption". Further, in paragraph 94, AcSEC's decision to grandfather ESOPs was influenced by the perception that "it would be unfair to employers with existing ESOPs to change their accounting for ESOPs in place." And, again, in paragraph 94, "...the accounting treatment, which was covered in SOP 76-3, was an important consideration in establishing ... ESOPs."

The company is unable to determine how disclosure of alternate income and per share amounts minimizes costs, mitigates disruption or grandfathers ESOPs under SOP 76-3.

Paragraph 16.

This paragraph requires that **average** fair value be used to determine the amount of compensation cost recognized in each reporting period. The amount of cost **should not** be adjusted for subsequent changes in the fair value of shares.

The company strongly objects to the lack of adjustment to actual results for interim or annual periods. In a preferred stock ESOP, the number of shares actually committed to be released depends on the fair value at specific points in time. The company is unaware of any justification for not adjusting estimated accruals to the actual results in subsequent periods whether it is for income tax accruals, contingent liabilities or ESOPs.

Paragraph 30. *Common Stock Equivalents.*

> "Although the unique characteristics of convertible preferred stock held by an ESOP are not specifically addressed in APB Opinion 15, AcSEC believes that the shares are common stock equivalents, because the condition precedent to the issuance of common stock for shares that have been committed to be released is merely the passage of time until employees retire or otherwise become eligible to withdraw their account balances." (Paragraph 80)

The issue of "mere passage of time" is discussed in APB Opinion 15, as follows:

> "Conversion or exercise options that are not effective until after ten or more years may be expected to be of limited significance because (a) investors are not likely to be influenced substantially by events beyond ten years, and (b) it is questionable whether they are relevant to current operating results." (APB-15, paragraph 58)

39 cont'd

The average company employee has more than 17 years of future service remaining, giving effect to historical rates of employee turnover and of early retirement. On average, a considerable number of years elapse before shares committed to be released are converted. Thus the treatment of the company's ESOP convertible preferred stock as a common stock equivalent is of questionable relevance to the results of operations for the current period.

Convertible preferred shares held by ESOPs do remain outstanding indefinitely since an employee, aged 21, hired by the company in the year 2010 could still receive preferred stock that might not convert until the year 2059.

Common stock equivalents are securities with the "ability to participate in the economic benefits resulting from the underlying earnings and earnings potential of the common stock." (APB-15, paragraph 74.) It is precisely because the "ESOP participants cannot withdraw their shares from the plan" until retirement, death or termination that inhibits the employee from participating in the earnings potential of the common stock during the course of employment.

Paragraph 31. *Number of Shares Outstanding.*

For reasons stated above, the company believes that convertible preferred stock held by the ESOP is not a common stock equivalent. Therefore, shares committed to be released should be excluded from the if-converted computations for both primary and fully diluted earnings per share.

UNITED STATES SUGAR CORPORATION
Post Office Drawer 1207 Clewiston, Florida 33440
Telephone: (813) 983-8121 Telex: 510-952-7753

March 18, 1993

Task Force on Accounting for ESOP's
c/o Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500 AICPA
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

Gentlemen:

Our company is a non-public entity over 42% owned by a leveraged employee stock option plan with approximately 2,500 participants. Our ESOP was established 10/1/83 with benefits payable upon retirement. Our company also provides its employees with a defined benefit retirement income plan (RIP). However, benefits payable by the RIP are offset by 75% of the participants future value of ESOP shares at retirement. We acknowledge this interaction between an ESOP and a RIP is unique. Our outside ESOP counsel estimates probably less than a dozen ESOPs within the country have this type of relationship with a defined benefit plan.

Paragraph 17 of the 12/21/92 SOP exposure draft states "some employers agree to provide a specified or determinable benefit, such as a contribution to a 401 (K) plan or to a formula profit sharing plan, to employees and use the ESOP to partially or fully fund the benefit." We are not clear as to whether "a specified or determinable benefit to employees" should include a defined benefit pension plan with an ESOP offset such as ours. The examples in paragraph 17 center around defined contribution plans. Paragraph 17 further states "for ESOP shares committed to be released to settle liabilities for such benefits, employers should report satisfaction of the liabilities when the shares are committed to be released to settle the liability."

To determine our RIP liability annually, we offset 75% of the participant's current value of ESOP shares against the participant's future RIP defined benefit. We do not have a RIP liability on current participants due to large percentage allocations and significant increases in market value since inception of the plan. In the future we believe a RIP liability will start occurring. Future ESOP allocations from leveraged retiree buy backs will not be sufficient to offset the RIP liability on new participants.

40 cont'd

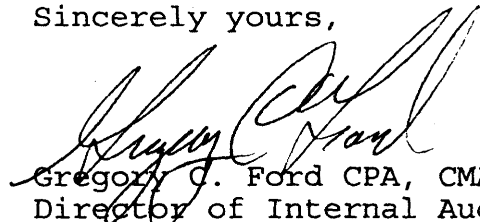
We interpret paragraph 17 as potentially requiring us to determine the portion of the ESOP allocation applicable to our RIP offset and charge it to our RIP liability. Since our 75% RIP offset is determined on an employee by employee basis we see no way to compute compensation expense as incurred throughout the year other than perform expensive actuarial valuations to determine the offset portion by individual participant. Compensation expense under our circumstance will fluctuate by individual participant from 25% to 100% of the participant's allocation.

We do not believe the task force contemplated an ESOP integrated as an offset with a defined benefit plan when the SOP was drafted. We believe the accounting ramifications involved when ESOPs are used as offsets to actuarially computed liabilities are too complex to be decided without significant further study. We, therefore, request the task force to exempt an ESOP integrated as an offset with a defined benefit plan from the provisions of paragraph 17 in the SOP.

A second area of the SOP upon which we would like to comment is paragraph 47 and the proposed treatment concerning shares paid for by reversion proceeds and not yet committed to be released due to IRS limitations. The SOP states those shares should be treated like leveraged suspense shares and correspondingly subtracted from outstanding shares in computing corporate earnings per share. We believe unallocated reversion shares should not be assumed the equivalent of treasury stock and subtracted from outstanding shares. If our ESOP plan is terminated any unallocated reversion shares would not revert to the company but would remain with the terminated plan. We base our position upon the company having no creditor rights upon the reversion shares.

We appreciate your consideration of these arguments. Should you desire to discuss these matters further please feel free to correspond or call.

Sincerely yours,



Gregory C. Ford CPA, CMA
Director of Internal Audit
United States Sugar Corporation

GF/mab

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ROMBERGER, SUMMERS AND WILSON, INC.
CERTIFIED PUBLIC ACCOUNTANTS
801 NORTH BRAND BOULEVARD, SUITE 220
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GORDEN L. ROMBERGER, C. P. A.
MARLIN SUMMERS, C. P. A.
DARYL L. WILSON, C. P. A.
HARRY C. BEESON, C. P. A.

MEMBERS OF
AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
CALIFORNIA SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS
FACSIMILE (818) 240-0520

March 17, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1081

Dear Ms. McNamee:

I am writing in regards to the proposed Statement of Position, "Employers' Accounting for Employee Stock Ownership Plans". Said SOP would require the use of fair value of the shares committed to be released to measure compensation cost. I am strongly opposed to this treatment for a leveraged ESOP. I believe that the cost of the shares at the time of purchase should be used.

For example, we have two leveraged ESOP companies as clients whose stock price has moved in opposite directions since the ESOP's inception. The first company has experienced a 25% decrease in sales since 1988 and has operating losses also. It's stock price has declined since 1988. Compensation cost is being measured at the 1988 stock price which equals the long term debt. If fair value was used compensation cost would decrease over 50%. Operating results would improve dramatically because of this change in accounting principle. Management would be rewarded for driving the stock price down. There would be a strong disincentive to increase the stock price. Is this your intended result?

In contrast, the other ESOP company's stock price has increased since the ESOP's inception even though significant long term debt was incurred for the ESOP trust to purchase a majority of the outstanding shares. Compensation cost is being measured by the cost of the shares. To use fair value would fly in the face of common sense. Amortization of historical cost of assets is a decades old accounting principle. Why change now? This company and the employees would be penalized with worse operating results under this SOP. They have worked hard to increase the stock price even with the large debt load. This company's management and employees will be punished by the AICPA for tremendous operating results. They did not pay the current fair value of the stock to purchase it.

41 cont'd

A corollary negative effect of this SOP is that it will tend to depress stock appraisal values for leveraged ESOP companies whose stock price is rising each year. With worse operating results appraisers will value the stock price lower because of the fair value compensation cost. This is a terrible result for private, closely held ESOP companies who rely on annual appraisals to determine stock prices rather than an actively traded market. Distributions to ESOP retiring participants will be smaller due to this SOP. Does the AICPA really want to penalize these participants?

I know there is significant pressure from the SEC, IRS, DOL and congressional staffers to always use fair value for pension assets. However it's myopic to apply fair value to the compensation cost of the released shares of a leveraged ESOP. It appears the AICPA is capitulating to undue pressure from these government agencies. To veer from historical cost of the shares will skew operating results and hurt the participants in a leveraged ESOP.

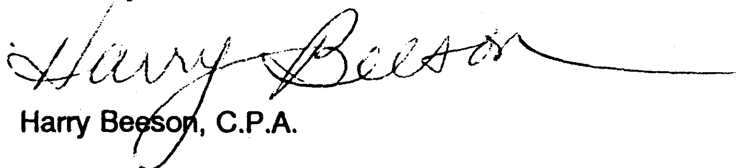
In contrast, the SOP should delineate that fair value of shares should be used for a non-leveraged ESOP. Typically these shares are being contributed to the ESOP in the current year so that fair value of the shares measures the cost to the company.

I am thankful for the transition date of September 23, 1992 so my existing ESOP clients will be grandfathered from these onerous rules if they are imposed. However, I have another private, closely held client implementing a leveraged ESOP and they will not be grandfathered. If this SOP is implemented I will seriously consider recommending they don't comply with this new accounting treatment. The audit report would have to be qualified, but an informed banker would rather see an income statement based on economic reality rather than "fair value".

For public companies to be required to disclose pro forma results even though they elect to retain the current accounting for shares is inappropriate for leveraged ESOP companies. Again the operating results are skewed by the use of fair value. The disclosures will not be meaningful.

My clients, my partners and I are opposed to this SOP and its imposition of fair value of shares on a leveraged ESOP. We hope the AICPA will have the courage to change this SOP and retain the cost of the shares for the measure of compensation cost.

Sincerely,



Harry Beeson, C.P.A.

HB:gh

Mobil Corporation

3225 GALLOWS ROAD
FAIRFAX, VIRGINIA 22037-0001

ROBERT C. MUSSER
CONTROLLER

March 19, 1993

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Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division, File 2500
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, D. C. 20004-1007

PROPOSED STATEMENT OF POSITION
EMPLOYERS' ACCOUNTING FOR
EMPLOYEE STOCK OWNERSHIP PLANS

Dear Ms. McNamee:

We are pleased to comment on the Proposed Statement of Position (SOP) entitled "Employers' Accounting for Employee Stock Ownership Plans." In our view, appropriate accounting for the ESOPs cannot be determined without first addressing the underlying definitions and characteristics of liabilities and equity that are embodied in the conceptual framework.

We have the same concerns with the proposed SOP as we have expressed to the Financial Accounting Standards Board (FASB) with respect to its preliminary views on the accounting for stock options. The FASB extracted this issue from its liability/equity project in order to achieve a limited objective, which, in our opinion, is being influenced by political expediency and is inconsistent with the conceptual framework. AcSEC should avoid a similar approach. Our opinions on the specific issues raised in the proposed SOP are based on this perspective.

RECOGNITION OF COMPENSATION COST

Fair Value -

We agree with the minority view that type I ESOPs should not be included in this SOP. In our opinion, the allocations of shares are equity transactions and charging compensation expense for fluctuations in their fair value is inconsistent with the principles underlying the conceptual framework. The issues surrounding type II ESOPs are somewhat more complicated. While we understand why the dissenting AcSEC members would agree with the majority view for these ESOPs, we offer an alternative opinion.

The premise for recording compensation expense for type II ESOPs is that a liability arises for the defined monetary contribution that the employer agrees to pay, such as a contribution to a 401(k) plan. We do not disagree that this obligation clearly results in a liability and compensation expense. However, leveraged ESOPs effectively manage this cost by fixing the liability to equal the debt service. Presumably, the cash received on the sale of the shares will be invested (e.g., purchase of treasury stock, pay down debt, etc.) and over time will generate sufficient funds to redeem shares. The fair value of share redemptions should be accounted for as equity transactions and not charged partially to compensation expense and partially to equity in different periods. The cash cost of the debt service (recognized on a shares allocated method) reflects the underlying economics of a leveraged ESOP and is the most appropriate measurement of the liability under the conceptual framework.

AcSEC's fundamental conclusion that the accounting for an ESOP's debt should be separated from the accounting for an ESOP's shares is inconsistent with the concept of hedge accounting found elsewhere in the accounting literature. An example is the accounting for a foreign currency hedge of a firm commitment. Under FAS 52, a forward contract that hedges a foreign currency commitment back into the functional currency is accounted for as a functional currency commitment measured at the forward rate, not the spot rate on the date the commitment is paid. A leveraged ESOP has the same effect as a foreign currency commitment and should be accounted for similarly. The leveraging fixes the future cost of the defined contributions (i.e., commitments to employees). Hence, the employees are receiving the current fair value of the shares, while the cost to the employer has been locked in by the leveraging.

Dividends -

Our view that the issuance of ESOP debt and ESOP shares is an integrated transaction is consistent with the conceptual framework. We believe it also supports charging all dividends to retained earnings, because it considers all shares issued and outstanding when the ESOP is established and the debt is issued. While we recognize that one could reasonably argue, under this integrated transaction concept, that only dividends paid on allocated shares should be charged to retained earnings, we do not understand how AcSEC's position of separate debt/equity ESOP transactions can support a similar conclusion.

In order to be consistent with AcSEC's view, the service of the debt should also be separate from the payment of dividends. This means that dividends on all shares should be charged to retained earnings and the use of the dividend funds by the ESOP should be irrelevant to the employer. It is simply illogical for AcSEC to require that compensation be measured at the fair value of the shares on the basis of ignoring the economics of the debt and then disallow dividends to be charged to retained earnings because the employer has control over directing those dividends to service the debt.

These are not mutually exclusive issues. If AcSEC believes that ESOP accounting should change to a fair value concept, it must not limit the charge to retained earnings to only dividends on allocated shares. It seems to us that AcSEC's position will result in a SOP that will have a large negative impact on the employer corporation but is not the most theoretically supported by accounting principles.

TRANSITION AND DISCLOSURES

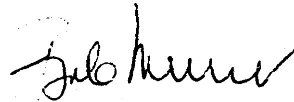
We agree that employers with current ESOPs should be exempt from the new accounting requirements. However, we strongly object to some of the disclosure requirements. Mobil is a capital intensive company, yet about 25% of our financial statement footnotes are devoted to employee related information (i.e., FAS 87, FAS 106, ESOP, stock options). We do not believe that an expansion of the ESOP disclosures will be beneficial to investors. Information such as the classification of shares held by the ESOP and a complicated explanation of how the plan works is simply not useful to investors in Mobil.

However, our greatest criticism is directed towards the unreasonable pro forma disclosures for grandfathered companies. In order to make these disclosures as understandable as possible, they will require lengthy technical explanations, which will add further unnecessary complexity to an already confusing subject. Pro forma disclosures should not be used to compare accounting policies among different companies. Requiring these disclosures would be tantamount to requiring pro forma successful efforts disclosures by companies using the less preferable, but SEC allowable, full cost accounting method.

SUMMARY

We believe that the current accounting standards for ESOPs are in conformity with the conceptual framework. These standards should not be changed unless the definitions and characteristics of liabilities and equities are changed. This would require a complete re-engineering of the conceptual framework, which we do not support. In our opinion, the current accounting model has served U.S. investors and businesses well and we see no compelling reason to change it.

Very truly,



Robert C. Musser

McFARLAND & ALTON P.S.
Certified Public Accountants

March 17, 1993

Ms. Dionne D. McNamee
Technical Manager
AICPA
Accounting Standards Division, File 2500
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

Dear Ms. McNamee:

This letter is in response to the proposed statement of position "employers accounting for employee stock ownership plans." We have three comments related to the proposed "SOP" and they are as follows:

1. We support the three dissenting ACSEC members in their position that fair value of shares released should not be used to measure compensation costs of certain ESOPs. We concur with the position that in "Type I" ESOPs, in which shares are released to compensate employees directly (and not used to fund other employee benefits) that the fair market value of the shares at the time of release is not a factor.

   We do not believe the additional costs to implement these charges are justified. Additionally, these changes will make the financial reporting even more confusing and complicated than it currently is.

   Our experience has been that explaining the contra-equity account, "unearned compensation" to third party users is complicated enough and that many "reasonably prudent readers" have a difficult time comprehending the concept. Clearly the proposed treatment of compensation, at fair value, will do nothing to simplify the financial reporting for ESOPs.

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Member Associated Regional Accounting Firms

43 cont'd

2. We generally found the verbage used in the SOP to be unclear. An example being the last sentence of paragraph 19. In this sentence, the phrase "fair value of shares as of the dates specified by the employers, which is usually specified in the ESOP documents," is used. Is the "fair value" referred to the same as the value used for debt service in conjunction with the share release formula specified in the ESOP documents? If so, is the term "fair value" different than the definition used in paragraph 20?

3. Our last comment refers to the transition date selected of September 23, 1992. We recommend that the date selected by in conjunction with corporations normal fiscal or calendar year-ends. The current date makes us wonder which lobby acquired their ESOP shares on September 22, 1992.

Thank you in advance for your time and consideration. If you have any questions or require any additional clarification on our comments, please do not hesitate to call.

Sincerely,

McFARLAND & ALTON, P.S.

Hubert S. Langenhorst, CPA

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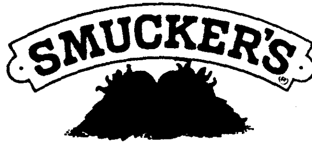

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Established 1897

March 18, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, DC 20004-1007

Dear Ms. McNamee:

This letter is written in response to the December 21, 1992 Accounting Standards Executive Committee's (AcSEC) request for comments on the proposed Statement of Position (SOP) entitled "Employers' Accounting For Employee Stock Ownership Plans."

The J. M. Smucker Company is a manufacturer of jams, jellies, preserves, and other fruit-related products. Our business was founded in 1897 in Orrville, Ohio as a small manufacturer of apple cider. We have subsequently grown to about $500 million in sales, and we now have 13 manufacturing and processing facilities located throughout the United States and in England and Australia. Our Employee Stock Ownership Plan was established in 1981 and currently has 900 participants.

The value of our stock was growing rapidly during the 1980s and we recognized that by leveraging our ESOP, we could provide this additional retirement benefit while promoting the continued motivation of our employees in an organized, cost-effective manner.

THE J.M. SMUCKER COMPANY • STRAWBERRY LANE, ORRVILLE, OHIO 44667-0280 • TELEPHONE (216) 682-3000 • FAX: (216) 684-3062

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Since its inception, we have placed 1,270,000 Smucker shares into the ESOP, of which about 30% have thus far been allocated to the separate accounts of the participants. Our intent has been to put significant amounts of additional shares into the ESOP when circumstances and our financial capabilities warranted. We view this goal as evidence of a responsible, long-term commitment on our part to provide additional retirement benefits to those employees whose efforts help us grow and prosper.

We also have an unrelated Section 401(k) Employee Savings Plan which is funded entirely by employee payroll contributions and matching employer cash contributions. It has never been our intention to combine this Plan with our ESOP in any manner, or to take any other actions that were not anticipated and approved under SOP 76-3.

It is our belief that the proposed change requiring that the recognition of compensation costs by employers be measured based on the fair value of the shares when committed to be released, will cause a significant, adverse, long-term impact on our ability to continue to provide our historical level of ESOP benefit to our employees.

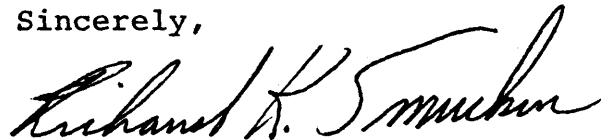
For example, we considered using shares we have recently purchased from the estate of a deceased shareholder to rebuild the inventory of unallocated shares in our ESOP, but have now concluded that under the proposed change, that will simply not be possible. If the value of our stock continues to appreciate by 10% per year, such a move would cause us to expense for book purposes an additional $38 million over a 23 year allocation period. At 15%, the additional expense would be $90 million. Furthermore, we have been advised that there may be little or no related income tax benefit, since the charge would never be deductible for tax purposes.

We believe that Type I ESOPs should be excluded from the Proposed SOP because historical accounting requirements under SOP 76-3 are still relevant. The measurement date for compensation from Type I ESOPs should be the date the shares are acquired by the ESOP since that is the date when the risks and rewards associated with the value of the ESOP shares are transferred from the employer to the employees.

If the accounting community has a general perception of abuse in regard to certain ESOP activities, it should direct its energies at correcting the abuses without adversely impacting Plans and employees generally. We fully agree with the AcSEC minority that there is no need to implement changes that would harm ESOPs that only release shares to employees directly.

We appreciate your consideration of the views we have presented in this letter, and we would be pleased to discuss them with you in greater detail at your convenience.

Sincerely,



Richard K. Smucker
President

RKS:sl

cc: Mr. Norman N. Strauss, Chairman
Accounting Standards Executive Committee
American Institute of Certified Public Accountants
1211 Avenue of the Americas
New York, NY 10036-8775

Mr. Dennis R. Beresford, Chairman
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

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March 10, 1993

Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue NW
Washington, D.C. 20004-1007

Dear Ms. McNamee:

The Accounting Standards Committee of the Maryland Association of CPAs reviewed the proposed Statement of Position entitled "Employers' Accounting for Employee Stock Ownership Plans." Our conclusions follow.

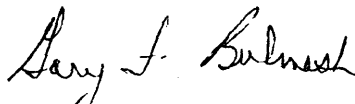
First, we support the SOP's use of fair value as the measurement of compensation expense (Issue 1). We believe it provides a more realistic portrayal of resources sacrificed by the entity than does historical cost. However, we are aware of the current FASB project on stock compensation, and that it may eventually lead to further disclosures of stock compensation plans rather than the actual introduction of stock compensation expense into income realization. The fair value issues in this proposed SOP are somewhat related, and we advise the Task Force to be aware of any pending inconsistencies with the FASB project. Even if the two projects provide divergent standards, we believe that the accounting in the SOP is defensible.

Second, we do not favor disclosures that allow for pro forma earnings and earnings per share figures in the footnotes (Issue 3). We feel it could be potentially confusing to readers and erode the credibility of the financial statements as well as the credibility of the accounting standards embodied in them.

Finally, we find no fault with the effective date (Issue 2), but we do favor a prospective transition method that encompasses more company-to-company comparability directly in the financial statements. This is in line with our concerns about Issue 3.

I hope this is helpful. Thank you for the opportunity to respond.

Sincerely,



Gary F. Bulmash
Chairman

(46)

P J Lynch
Vice President
and
Comptroller

Texaco Inc

2000 Westchester Avenue
White Plains NY 10650

March 17, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division
File Reference 2500
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue NW
Washington DC 20004-1081

Dear Ms. McNamee:

Texaco appreciates the opportunity to offer its comments on the Exposure Draft (ED) of a proposed AICPA Statement of Position, *Employer's Accounting for Employee Stock Ownership Plans.*

As a sponsor of two leveraged ESOPs, Texaco takes exception to many of the conclusions reached in the ED. Of major concern is the requirement to disclose pro forma earnings and earnings per share data for existing ESOPs that are grandfathered as if the requirements of the proposed Statement of Position had been adopted. In our opinion, such a disclosure would only serve to undermine the credibility of the primary financial statements. This type of disclosure is tantamount to mandating reconciliations between two acceptable methods of accounting and has no place in financial reporting. The ESOP program of a company might have been designed significantly different if the proposed new rules had then been in effect. Because of this, the AcSEC recognized that it would be inappropriate to mandate accounting changes on existing plans and, accordingly, grandfathered existing leveraged ESOPs. Pro forma disclosure as to what would have been the results under a different accounting principle would likewise be inappropriate.

The conceptual basis underlying the proposed accounting for a leveraged ESOP is that the ESOP is an extension of the employer and has no independent substance. Under this rationale, the AcSEC has argued that an ESOP's direct debt is actually debt of the employer. Carrying this reasoning further, we would then have to describe a leveraged ESOP's purchase of shares from an employer as an employer's borrowing of cash to purchase treasury shares from itself. This does not seem logical; an employer does not sell stock to itself. Furthermore, the interest expense on the ESOP debt is deemed to be interest expense of the employer. This ignores the question of the ESOP as the legal obligor for such interest.

Texaco also objects to the use of fair value in the measurement of compensation expense. One of the considerations leading to the establishment of our ESOPs was the fact that long-term compensation would be fixed at the date the plans were established by effectively pre-funding the plans with shares of the company's stock. Future stock price changes do not change the fact that the shares held by the ESOP will eventually be allocated to employees. Stock price increases merely extend the allocation period at no additional cost to the company. Furthermore, the use of fair values to measure compensation costs effectively penalizes the earnings of companies who have seen their stock prices appreciate in value, at

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least in part, as a result of compensation plans that have served to motivate employees and to result in the realization of operating efficiencies.

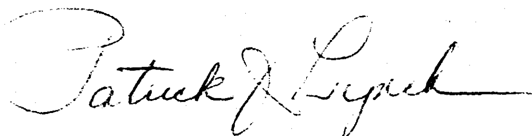
The ED proposes that only dividends on allocated shares be reported and accounted for as dividends. At the same time, the balance sheet will show as outstanding all shares issued to the ESOP, and the issuing company's board of directors will periodically declare that dividends be paid on those shares. With respect to dividends paid on ESOP shares, the payee is the ESOP trust, a separate entity from the sponsoring employer, which enjoys the same rights and risks and rewards as other shareholders. The fact that the ESOP uses dividend receipts to service its debt does not change the nature of the dividend payment by the sponsor from a distribution to owners to a payment of expenses. All dividends should be reported and accounted for as dividends.

By the proposal's use of fair value as the basis for compensation expense, unallocated ESOP shares are being viewed as de facto treasury shares of the employer, although not accounted for in that manner on the balance sheet. Future compensation expense would be measured on the same basis as would occur in the case of future fixed awards of restricted stock from treasury. Likewise, the exclusion of dividends on unallocated shares from accounting as dividends also represents the treatment of unallocated ESOP shares as de facto treasury shares of the employer. This is an obvious inconsistency within the conceptual theory of this proposal. Unallocated shares are not treasury shares of the employer.

Texaco believes the proposed effective date for the final SOP of fiscal years ending after December 15, 1993, as of the beginning of the year adopted should be changed to fiscal years beginning after December 15, 1993. This change would permit calendar year companies wishing to adopt the proposed accounting rules to avoid the necessity of restating interim 1993 financial statements.

The opportunity to comment is appreciated.

Very truly yours,



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Pennsylvania Power & Light Company

Two North Ninth Street • Allentown, PA 18101-1179 • 215/770-5151

Ronald E. Hill
Vice President and Comptroller
215 / 770-5646

March 22, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

Comments on Proposed Statement of Position
Employers' Accounting for Employee Stock Ownership Plans

Dear Ms. McNamee:

Pennsylvania Power & Light Company (PP&L) is an operating electric utility serving approximately 1.2 million customers in central eastern Pennsylvania. Revenues for 1992 were $2.7 billion, assets at December 31, 1992 were $8.2 billion and the net income for 1992 was $347 million.

PP&L submits the following comments on the Exposure Draft of the Proposed Statement of Financial Position entitled "Employers' Accounting For Employee Stock Ownership Plans".

PP&L has a non-leveraged Employee Stock Ownership Plan (ESOP) that allocates shares to eligible employees as of the end of the ESOP's fiscal year, but subsequently distributes shares after the end of the year. The allocation procedure is in compliance with Treasury Department Regulation 1.46-8, which states "securities are allocated as of the last day of the plan year." Allocations to individual accounts are based, in part, on each participant's annual compensation.

PP&L believes it is impractical to allocate shares by the end of the year, because year-end compensation amounts are required to determine the individual allocations. PP&L also believes it is inappropriate to establish accounting rules that conflict with the existing Treasury Department regulations that established ESOPs. PP&L believes that changing the wording in paragraph 40 of the proposed SOP from "by the end" to "as of the end" would resolve this conflict and would better reflect the intent of the proposed SOP.

Very truly yours,

R E Hill

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PHILLIPS PETROLEUM COMPANY
BARTLESVILLE, OKLAHOMA 74004 918 661-6600

CONTROLLERS

March 23, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
A.I.C.P.A.
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

Dear Ms. McNamee:

We appreciate the opportunity to comment on the proposed statement of position (SOP), *Employers' Accounting for Employee Stock Ownership Plans*. As our company sponsors an employee stock ownership plan (ESOP), the accounting for the plan is important to us.

No Demonstrated Need for Accounting Change

We do not believe there is a demonstrated need for an accounting change. As a plan sponsor, we are unaware of significant issues that question the usefulness of the current accounting for ESOPs. It is true that there has been a significant increase in the numbers of ESOPs and that many are complex. However, this does not provide any evidence that the underlying accounting concepts in SOP 76-3 do not provide useful information to financial statement users. Also, it is not demonstrated in the proposed SOP that the accounting will be more useful to financial statement users.

When we considered sponsoring an ESOP, all the issues connected with such a plan were examined, including the accounting treatment by the sponsor. Our ESOP is a long-term undertaking, and it was important that the accounting treatment be understood at the outset. We believe that this accounting should not be changed, unless it is flawed or the plan changes significantly.

Compensation Cost

We believe the proposed SOP is seriously flawed in that it requires compensation costs be measured based on the fair value of shares released. We strongly disagree with this position. The economic substance of the transaction is the sale of shares to the ESOP. The price of those shares has been established by the sale. The employee-shareholder has the risk/reward opportunity on the shares purchased by the ESOP, not the ESOP sponsor.

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The net cash outlay over the life of the ESOP is the important cost consideration to the ESOP sponsor. The cost to the plan sponsor is a more important and reliable measure of compensation costs than a value that is reflected in the stock price. Stock prices may fluctuate significantly in one year and have little relation to the value of services performed by the ESOP participants. Therefore, the cash required of the employer to support the ESOP is a much better measure of the true compensation costs than the stock price.

Company compensation policies are normally based on issues other than stock prices. It would be misleading to require entities to include in compensation costs fair values on ESOP shares, when in fact the employer does not base compensation policies on those share values. We know of no situation wherein an employer has changed or modified compensation policies because of changes in the value of ESOP shares.

Dividends on ESOP Shares

We do not agree with the proposed SOP concerning dividends on unallocated shares held by the ESOP. We consider these shares to be outstanding. We believe the dividends paid on these unallocated shares should continue to be charged to retained earnings. Also, only in the most unusual circumstances do the shares ever return to the ESOP sponsor. In this regard, we believe the proposed SOP places undue emphasis on the ESOP sponsor controlling the unallocated shares.

Disclosures

We do not support the proposed disclosure requirements for ESOP sponsors who elect to continue accounting for ESOP shares acquired on or before September 22, 1992 under SOP 76-3. We believe the requirement to provide pro forma income before extraordinary items, net income and earnings per share information as if the proposed SOP had been adopted is punitive. This provision will apply an unnecessary recordkeeping and reporting burden on those public company sponsors who elect to continue their present accounting. In addition, we believe these disclosures will not be beneficial in helping the reader assess future cash flows of the ESOP sponsor.

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Effective Date

We believe the transition provisions of this proposed SOP are unnecessarily complicated. If adopted (which we oppose), we believe the effective date should be for fiscal years ending after December 15, 1994, with application at the beginning of the fiscal year in which it is adopted. The SOP should be applied prospectively with the new requirements applicable to new ESOP shares acquired in the year of adoption.

Conclusion

We disagree with the major thrust of the proposed SOP and urge the Accounting Standards Executive Committee to reconsider its conclusion. As an ESOP sponsor, we do not see a need for the proposed changes; do not agree with using stock values to calculate compensation expense; and believe the disclosure requirements for public companies who do not elect to adopt the SOP serves no useful purpose.

Again, we appreciate the opportunity to comment on a topic very important to our company and to ESOP sponsors in general.

Very truly yours,

L. F. Francis
Controller & General Tax Officer

ERNST & YOUNG

■ 277 Park Avenue
New York, New York 10172

■ Phone: 212 773 3000

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March 22, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division, File 2500
American Institute of Certified Public Accountants
1455 Pennsylvania Ave., N.W.
Washington, D.C. 20004-1007

Proposed Statement of Position,
"Employers' Accounting for Employee Stock Ownership Plans"

Dear Ms. McNamee:

We are pleased to submit our comments on the proposed Statement of Position, "Employers' Accounting for Employee Stock Ownership Plans" (the "Exposure Draft").

Consistent with AcSEC's minority view, we do not support the Exposure Draft because, for shares purchased after the effective date, its provisions would apply to too broad a range of ESOPs. Specifically, we do not believe that the fair value of shares released by ESOPs to compensate employees directly ("Type I ESOPs") should be used to measure compensation expense. However, if the scope were revised, we would support a number of the significant changes proposed by the Exposure Draft, including that it would require compensation cost to be measured based on the fair value of shares committed to be released by ESOPs used to settle or fund liabilities for other employee benefits, such as an employer's match of contributions to a 401(k) plan ("Type II ESOPs").

We believe that the existing guidance for Type I ESOPs is still relevant and reliable. For these plans, the costs of changing from the long standing and well understood practices established by SOP 76-3, "Accounting Practices for Certain Employee Stock Ownership Plans," which effectively has been modified by several EITF consensuses directed towards the most troublesome practice problems that have arisen, clearly outweigh any benefits.

In our view, compensation cost for Type I ESOP shares should continue to be measured based on the cost of the shares to the ESOP. We believe that changes in the value of the stock subsequent to acquisition by the ESOP are not relevant because the risks and rewards associated with the value of the shares are substantively transferred from the employer to the employees upon acquisition. That is because under the tax laws applicable to these plans, the fair value of the shares at the time of release does not impact the number of shares released to directly compensate employees. Any control or risks and rewards the employer might retain are indirect

and limited--clearly different from the facts of a Type II-ESOP. Subsequent changes in the value of the shares after acquisition by the ESOP reflect the effects of holding an equity instrument, not compensation expense. It would be inconsistent with the FASB's conceptual framework, which concludes that only changes in the value of a liability, not an equity instrument, are to be recognized in income.

We recognize that present ESOP accounting is viewed by some as inconsistent with the stock compensation accounting of APB 25. Under APB 25, stock-based compensation must be granted to specific individuals in order to meet the fixed number of shares element of its definition of "measurement date." However, it is important to remember that SOP 76-3 was issued after APB 25. We believe it is appropriate to continue to consider that the tax laws require that all of the ESOP shares be allocated to the group of eligible employees as the debt is repaid. ESOP accounting under SOP 76-3 has been generally accepted for 17 years without significant concern over this inconsistency because ESOPs were considered to be different.

Our views on ESOPs that release shares to settle or fund liabilities for other employee benefits are different for two reasons. First, the substance of these Type II plans is different. The shares contributed to them are used to settle liabilities, and under the tax laws that is accomplished using the current market value of the shares. Second, if this type of plan existed in 1976, we do not believe it was considered by the AICPA when the existing guidance was issued. We understand that the FASB did not support this view during the clearance process and rejected a proposal that contained accounting guidance for Type I ESOPs that retained using the historical cost of shares acquired. Accordingly, from a practical point of view, we support leaving SOP 76-3 in place and amending it in a second SOP that only would apply to Type II ESOPs.

We believe that two accounting models can coexist. For Type I ESOPs, the shares are deemed outstanding from date of acquisition for EPS and dividend purposes and these practices, as modified by the several EITF consensuses, would simply continue. For Type II ESOPs, the new accounting model would consistently handle expense, EPS, and dividends, and provide relevant information for these types of plans. By AcSEC issuing an SOP with a narrower scope than is presently proposed, it is possible that the FASB would approve an SOP that addresses the real problem of Type II ESOPs.

We strongly support the prospective aspect of the implementation proposed by the SOP. Permitting continuation of present accounting for certain previously issued shares is entirely appropriate. As discussed in paragraph 94 of the Exposure Draft, to do otherwise would be unfair to employers who already have ESOPs in place, given the long-term nature and cost of ESOPs, and the difficulty of undoing them. However, we believe that certain of the effective date and transition provisions of the Exposure Draft are at least inconsistent with that prospective treatment, and thus recommend the following changes.

- We believe that the effective date should be deferred by one year to "fiscal years beginning after December 15, 1993." Earlier in the project, the presently proposed effective date (1993 for calendar year companies) might have seemed appropriate, but delays have occurred such that a 1993 effective date is now clearly unreasonable.

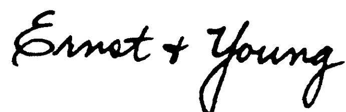
- We recommend that the artificial September 23, 1992 cutoff date for grandfathering be deleted in favor of a later date that is more consistent with the effective date.

- We strongly object to the pro forma disclosures that would be required for public companies that elect not to apply its guidance to shares acquired by ESOPs on or before September 23, 1992. We believe that pro forma "what if" earnings would be confusing to users and cast doubt as to which is the "real" GAAP net income. Transition decisions always involve a trade-off and in this case prospective treatment for newly acquired shares is reasonable. These companies should not have to present pro forma net income any more so than should companies which, for example, implement FAS 106 on postretirement benefits by the prospective rather than the immediate recognition method. Furthermore, those pro forma disclosures required would significantly increase the cost of implementation, and they would be required as long as the ESOP has unallocated shares acquired on or before September 23, 1992, a potentially long period of time. We believe that the cost of providing those disclosures for an extended period of time for comparative purposes outweighs the benefits, and that the disclosures should be eliminated in the final Statement.

* * * * *

We appreciate the opportunity to present our views on the Exposure Draft and would be pleased to discuss any aspect of our letter with AcSEC or its staff at your convenience.

Very truly yours,



March 24, 1993

(50)

Dionne D. McNamee
Technical Manager, Accounting Standards Division, File 2500
AICPA, 1455 Pennsylvania Avenue, N. W.
Washington, D. C. 20004-1007

Dear Ms. McNamee:

This letter is in response to the December 21, 1992 Accounting Standards Executive Committee's (AcSEC) request for comments on the proposed Statement of Position (SOP) entitled Employer's Accounting for Employee Stock Ownership Plans (ESOPs).

Houston Industries is a holding company operating principally in two business segments, the electric utility business and the cable television business. The Company has approximately 11,600 employees and has annual operating revenues in excess of $3.8 billion. As of December 31, 1992 approximately 7% of the Company's 129 million shares of common stock are in an ESOP trust.

The Company believes that SOP 76-3 currently accounts for the proper economic substance of the ESOP transactions based upon the historical cost concept. We do not see that additional value is gained from the accounting methods and disclosures required by the proposed SOP.

Financial Disclosure

Houston Industries does not support the required pro-forma disclosure expressed in paragraph 54 which applies to ESOP sponsors who do not elect to apply the proposed accounting provisions to transition ESOP shares (those purchased prior to September 22, 1992). The pro-forma requirement appears to serve no logical purpose if the SOP has not been adopted and there is no financial impact to the corporate entity.

This type of disclosure is normally only required in financial reporting for accounting principle changes in which prior periods are reflected, in order to achieve improved comparative reporting. Therefore, we do not see a need for continuous pro-forma statements when no change to existing ESOP accounting methods has occurred.

Recognition of Cost

The Company also does not support the market value pricing for shares allocated as proposed. It is the Company's position that the value of the services provided by employees is a function of the cash used to meet ESOP debt service requirements and therefore, the benefit

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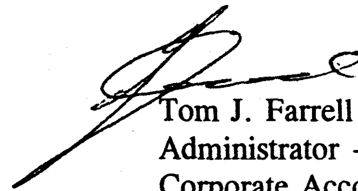
cost should be measured in terms of the historical cash cost to the employer. Only the shareholder or employee should benefit or lose as result of the market fluctuations. The market should not dictate financial performance of the employer as a result of ownership of unallocated shares.

Effective Date and Transition

The Company disagrees with the transition requirement that shares acquired by ESOPs after September 23, 1992 be accounted for under the proposed SOP. Application of the September date unfairly imposes requirements in advance of the effective date of the Standard. The shares acquired transition date should be the same as the effective date of the SOP but certainly no earlier than the date the exposure draft was issued.

Houston Industries appreciates the opportunity to comment on this important topic of accounting for ESOPs. We hope that AcSEC will find our comments useful in reaching a conclusion that will balance employee, shareholder and corporate interests.

Sincerely,



Tom J. Farrell
Administrator -
Corporate Accounting

/yf

(51)

PPG Industries, Inc.
One PPG Place Pittsburgh, Pennsylvania 15272 USA Telephone: (412) 434-2076

Raymond W. LeBoeuf
Vice President
Finance

March 22, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File Reference 2500
AICPA
1455 Pennsylvania Avenue, NW
Washington D.C. 20004-1007

Dear Ms. McNamee:

PPG Industries, Inc. (PPG), is pleased to submit this response to the December 21, 1992 Accounting Standards Executive Committee's (AcSEC) request for comments on the proposed statement of position (SOP) entitled **Employers' Accounting for Employee Stock Ownership Plans** (ESOPs).

PPG is a Fortune 100 company and is among the world's leading manufacturers of glass, coatings, and chemical products and employs over 32,000 employees worldwide. PPG sponsors an ESOP which includes both pre-tax (401K) and after-tax employee contributions, as well as percentage contributions from the Company. The ESOP currently holds approximately 14% of PPG's outstanding common shares. If the proposed ESOP SOP had been implemented in 1992, PPG's earnings per share ($3.01) would have been increased by $ .06 per share. This does not include the reduction of over $ .08 per share for the cumulative effect of the accounting change.

Our comments are directed at the Process and Necessity for the SOP and, as specifically requested, the issues of Recognition of Compensation Cost, Effective Date and Transition, and Disclosures.

Process and Necessity for the SOP

PPG is concerned with the utilization of a SOP to promulgate generally accepted accounting procedures (GAAP). Although activities from AcSEC are closely followed by the large accounting firms, the AcSEC pronouncements do not generally receive the widespread distribution or publication as do releases from the Financial Accounting Standards Board (FASB), nor do they receive the same extensive due process. PPG believes that if it is

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necessary to make a change, the change should be considered in the existing FASB framework.

PPG is in agreement that the utilization and complexity of ESOPs have grown since their inception. This growth, as well as the **Law Changes** presented in **Appendix B** of the proposed SOP, do not in themselves offer any compelling reasons to prompt the current efforts of AcSEC to alter the accounting for ESOPs. PPG is not aware of any group, other than AcSEC, who has requested changes in the ESOP accounting or reporting.

If an accounting method meets the requirements of the users, there is no reason to alter the accounting framework. We believe that SOP 76-3, supplemented by interpretations from the FASB Emerging Issues Task Force (EITF), has provided fundamental guidance for the accounting and reporting on leveraged ESOPs which have stood the test of time. In our opinion, there is no need for further changes.

We concur with the objection of the three minority members of AcSEC to the issuance of this proposed SOP. Currently, the FASB is working on a project on accounting for employee stock compensation that might result in conclusions on stock that should be considered in determining the appropriate accounting for ESOPs.

Recognition of Compensation Cost

PPG does not agree with the proposed position that ESOP compensation cost should be measured based on the fair value of shares when they are released. The valuation of ESOP shares to participants must be distinguished based on which party bears the risks and rewards associated with changes in the value of ESOP shares to be allocated.

Although employers do have the ability to manage their employees' total compensation package, PPG takes exception to AcSEC's assumption in paragraph 69 that employers typically alter the employee's compensation package in reaction to changes in the value of shares being released.

PPG believes it is appropriate to measure ESOP compensation cost based on cost value. We also believe there is no need to change the accounting for dividends and earnings per share computations. Our conclusion is based on the input outlined under Process and Necessity for the SOP.

Effective Date and Transition, and Disclosures

PPG opposes the effective date and transition as outlined in paragraphs 55 through 57 in the proposal. The issuance and adoption of the SOP would require a public company, with a calendar year, to restate the prior quarters in 1993. In recent pronouncements, such as FAS 106 and 109, companies have been given sufficient time to study the requirements of the pronouncements, input changes into the process, and make structural changes that would provide for an implementation that is both meaningful and efficient. If it is necessary to implement this proposal, we propose that as a minimum, the SOP be effective for fiscal years beginning after December 15, 1993.

The proposal permits ESOPs with shares acquired prior to September 23, 1992, to elect application of the accounting proposed in the SOP, but does not require application. PPG believes that if an accounting pronouncement is issued because it is clearly a preferable method, then the application must pertain to all users. A primary reason for issuing accounting guidance is to assure consistent application. Providing an arbitrary cutoff and permitting different accounting application for those meeting the cutoff, in our opinion, would cause further confusion in comparability of financial statements. If the accounting is consistently applied to all ESOPs, there would be no need for separate disclosures for comparability. Footnote disclosures should not be a substitute for proper accounting.

Other Comments

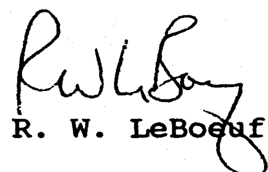
Should the SOP be issued, we suggest further clarification of paragraph 52. We interpret the paragraph to mean that the tax benefit of tax-deductible dividends on allocated and <u>unallocated</u> ESOP shares should be recorded as a reduction of income tax expense allocated to continuing operations. The last sentence of the paragraph states the SOP would supersede paragraph 36f of FASB Statement No. 109, but it does not specifically say how the tax benefit on unallocated shares would be treated.

Also, paragraph 57 is confusing. Not being able to arrive at a consensus as to the meaning of paragraph 57, we solicited clarification from a member of the task force. Our current interpretation for paragraph 57 is that no transition to the proposed SOP for old shares is permitted after December 31, 1994, and the bullet points on page 19 are applicable to any transition to the proposed SOP accounting. We are not aware of any other pronouncement that limits the adoption to a specific time period as

proposed in this SOP. An accounting change to a preferable method should always be encouraged and should not be limited to a "window" in transition.

PPG appreciates having the opportunity to comment on the proposed SOP. We are hopeful that AcSEC will find our comments useful. Should you have any questions regarding any of our comments, please contact Dennis M. Bailey, Manager, Financial Accounting, at (412) 434-2123.

Sincerely,



R. W. LeBoeuf

cc: Mr. William H. Hernandez, Controller

Mr. Dennis R. Beresford, Chairman
Financial Accounting Standards Board

Mr. Chester Hobert, Partner
Deloitte & Touche

Mr. John Hudson, Vice President
American Institute of Certified Public Accountants

Mr. J. Michael Keeling, President
The ESOP Association

Mr. Walter P. Scats, Chief Accountant
Securities and Exchange Commission

Mr. Norman N. Strauss, Chairman
Accounting Standards Executive Committee

McDonald's Corporation
McDonald's Plaza
Oak Brook, Illinois 60521
Direct Dial Number

(708) 575-3250

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April 1, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, N.W.
Washington, DC 20004-1007

Dear Ms. McNamee:

McDonald's Corporation is pleased to comment on the proposed statement of position (SOP) entitled "Employers' Accounting for Employee Stock Ownership Plans (ESOPs). Our comments are directed at responding to the specific issues of Recognition of Compensation Cost, Effective Date and Transition, and Disclosures.

Issue 1: Recognition of Compensation Cost

McDonald's Corporation disagrees with the Committee recommendation to measure compensation cost based on "fair value" for ESOPs where shares are released to compensate employees directly (Type I ESOPs). Rather, we agree with the views expressed by the minority of ACSEC who believe the measurement date to recognize compensation expense should continue to be the date the shares are purchased by the ESOP. Their views are consistent with our opinion that employee participants bear the risks and rewards inherent in the value of the shares after purchase by the ESOP, and thereby the "cost" to the employer sponsor is fixed at the date the shares are irrevocably transferred to the ESOP trust. With respect to the perceived inconsistency with the measurement date criteria outlined in APB 25, our opinion is that the entire ESOP share allocation is committed to the group of eligible employees at inception, and the on-going allocation to specific individuals is irrelevant.

Given the distinction between "Type I ESOPs" and "Type II ESOPs", we would recommend that Type I ESOPs be excluded from the scope of this project. Otherwise, we believe it is appropriate for this SOP to specify circumstances, such as outlined above, where cost of shares should be used to measure compensation expense as well as other circumstances which may support a fair value approach.

These circumstances should be distinguished by looking at which party bears the value risk inherent in the transaction.

Issue 2: Effective Date and Transition

In our opinion, the SOP should apply to shares acquired by ESOPs after the issuance date of the final statement. This would allow for a purely prospective approach without the need for restatement which would be caused by the time lag between September 23, 1992 and the final issuance of this SOP. There doesn't appear to be a compelling reason for requiring this earlier application date for shares acquired by ESOPs.

Issue 3: Disclosures

We disagree with the proforma disclosure requirement for public companies that elect not to adopt the accounting provisions in the proposed SOP. We do not believe that the users of financial statements will realize any benefits from these disclosures. Rather, these disclosures may serve to create more confusion among financial statement users. While we understand and applaud ACSEC's desire to improve comparability among companies, users of financial statements have effectively dealt with varying accounting methods for many years in areas such as depreciation, inventory methods and, more recently, post-retirement benefits.

McDonald's Corporation appreciates the opportunity to comment on the proposed SOP. We would be happy to discuss any of the issues addressed herein with ACSEC and the ESOP Task Force.

Sincerely,

Michael L. Conley
Senior Vice President and Controller

GENERAL MILLS, INC. • EXECUTIVE OFFICES

Number One General Mills Boulevard • Minneapolis, Minnesota 55426

March 19, 1993

THOMAS P. NELSON
Senior Vice President
Financial Operations

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500 AICPA
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

Dear Ms. McNamee,

RE: Proposed Statement of Position, "Employers' Accounting for Employee Stock Ownership Plans"

We believe this proposed SOP changes and adds complexity to ESOP accounting that is not necessary. We believe the current accounting guidelines (SOP 76-3 and various EITF consensus) are adequate and they appropriately report the underlying economic substance of a leveraged ESOP. The EITF has appropriately addressed recent ESOP issues related to expense recognition and earnings per share calculations. There does not appear to be any compelling reason to change the current guidelines.

There are several areas where we have concerns as noted below.

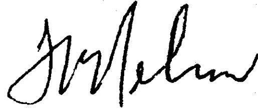
We strongly disagree with the proposed SOP that compensation cost should be measured using the fair value of shares when released. We believe the cost of the shares to the ESOP should determine the compensation cost. At the point in time that the ESOP purchased the shares, the cost is fixed. The allocation of shares to participants does not change the economic reality of the cost of the shares.

We strongly disagree with requiring companies that do not adopt the SOP to provide the proposed disclosures. This will create a significant amount of additional work and create confusion with users of the financial statements. A company would have to keep two sets of records which would include two weighted average shares outstanding and two different interest and compensation expense amounts. This duplication of effort is not practical and adds complexity that is not necessary.

The SOP requires the issuance of new shares or the sale of treasury shares to the ESOP when the issuance or sale occurs, but these shares are not considered outstanding for EPS calculations unless committed to be released. This is very contradictory. On a company's balance sheet the shares will be shown as outstanding but in calculating EPS for the income statement they will not be outstanding. We believe it should be consistent.

Thank you for the opportunity to comment on this issue.

Sincerely,



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March 17, 1993

Dionne McNamee
Technical Manager
Accounting Standards Division
File 2500
American Institute of Certified
Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1007

The Employee Benefits Committee and the Accounting Principles Committee of the Illinois CPA Society ("Committee") are pleased to have the opportunity to comment on the Exposure Draft of the Proposed Statement of Position, Employers' Accounting for Employee Stock Ownership Plans ("Proposed Statement"). The organization and operating procedures of the Committee are reflected in the Appendix of this letter. These recommendations and comments represent the position of the Illinois CPA Society rather than any of the members of the Committee and of the organizations with which they are associated.

The Committee supports the AICPA in its efforts to conform and update the reporting of transactions between employers and employee stock ownership plans ("ESOPs").

The format of this response follows the issues in the AICPA's cover letter.

Issue 1
The Committee does not agree that compensation cost should be measured based on the fair value of shares when committed to be released in all circumstances. The Committee concurs with the minority view that where shares are released to compensate employees directly ("Type I ESOP"), compensation should be measured at the cost of the shares to the ESOP, not the fair value measured at a later date. The Committee believes the cost to the employer is determined when the shares are irrevocably transferred to the ESOP. Thus, future compensation expense to be recognized by the employer is fixed at that date because the employer ceases to bear economic risk for fluctuations in the

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fair value of those shares; this risk has been transferred to employee participants of the ESOP.

The Committee concurs with the proposed accounting for shares released to settle or fund liabilities for other specified or determinable employee benefits.

Consistent with our view above, we believe that unallocated shares held by Type I ESOPs should be considered to be outstanding for EPS calculations. The Proposed Statement should be reviewed to determine what other changes may be necessary to conform to this view.

Issue 2
The Committee believes the proposed effective date and transition rules should be revised. The effective date proposed would require employers with calendar fiscal years to adopt the new rules in 1993. This requirement does not allow sufficient time to implement the new rules. The effective date should be revised to apply to employers with fiscal years beginning after December 15, 1993. The requirement to apply the Proposed Statement to shares acquired prior to the effective date of the Proposed Statement would require an employer, in essence, to restate previously reported results. Therefore, the Committee believes the Proposed Statement should apply to shares acquired by ESOPs after the issuance date of the Proposed Statement.

Issue 3
The Committee concurs with the proposed disclosures. A small minority of the Committee believes the proposal to require public companies to disclose pro forma income data is onerous and not consistent with other areas of generally accepted accounting principles.

Other matters
The Committee is concerned about the proposed differences in accounting for dividends on allocated shares versus dividends on unallocated shares. The Committee suggests the Proposed Statement include an example of how the earnings per share calculations would differ depending on whether dividends were used for compensation versus dividends charged directly to retained earnings.

The Committee believes that Illustration 1 should be revised to show the share allocation in the same accounting period that shares are committed to be released. From the Committee's experience, this situation is the more likely scenario.

The Committee believes the usefulness of the final document would be enhanced by including copies of all relevant consensuses of the FASB Emerging Issues Task Force.

We would be pleased to discuss our comments and recommendations with members of the AcSEC or staff of the Accounting Standards Division.

Very truly yours,

Bernard W. Revsine

Bernard Revsine, Chairman
Committee on Accounting
Principles

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APPENDIX

ILLINOIS CPA SOCIETY
ACCOUNTING PRINCIPLES COMMITTEE
ORGANIZATION AND OPERATING PROCEDURES

1992-1993

The Accounting Principles Committee of the Illinois CPA Society (the Committee) is composed of 25 technically qualified, experienced members appointed from industry, education and public accounting. These members have Committee service ranging from newly appointed to 15 years. The Committee is a senior technical committee of the Society and has been delegated the authority to issue written positions, representing the Society, on matters regarding the setting of accounting principles.

The Committee usually operates by assigning a subcommittee of its members to study and discuss fully exposure documents proposing additions to or revisions of accounting principles. The subcommittee ordinarily develops a proposed response which is considered, discussed and voted on by the full Committee. Support by the full Committee then results in the issuance of a formal response, which, at times, includes a minority viewpoint.

AMERITECH
AMERICAN INFORMATION TECHNOLOGIES

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RONALD G. PIPPIN
Director, Financial Accounting
Standards and Reporting

30 South Wacker Drive
Suite 3400
Chicago, Illinois 60606
312/750-5171

March 26, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division
AICPA
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1081

Re: File 2500

Dear Ms. McNamee,

We have reviewed the Proposed Statement of Position (PSOP) on Employers' Accounting for Employee Stock Ownership Plans (ESOP) and respectfully submit the following comment.

Paragraph 54 of the PSOP provides, in part, that public enterprises electing to retain their current ESOP accounting must also disclose pro forma income before extraordinary items, net income and earnings per share computed as if the employer had adopted the provisions of the ESOP.

Apparently, the requirement for pro forma information is driven by a concern that a potentially long period of noncomparability will exist between financial statements of those adopting and those not adopting the PSOP requirements. Most ESOPs will run out of shares by the year 2000 or so, which we do not believe to be a particularly long time. More importantly however, we believe the concept of pro forma disclosure is wrong, because:

- Such pro forma disclosures will be potentially confusing to financial statement users and could undermine the credibility of the financial statements. The existence of two net income numbers (one in the income statement and one in the footnotes) begs the question of what exactly is the "right " net income number.

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- Such pro forma disclosures are not required for other larger instances of noncomparability between financial statements (e.g. LIFO vs. FIFO inventory accounting, SFAS 106 immediate expensing vs. amortization or straight line vs. an accelerated depreciation method.)
- The pro forma disclosures create an administrative burden whereby financial statement preparers are required to track the same ESOP using two different accounting methods.
- It has not been demonstrated by the ESOP Task Force that material differences will occur between PSOP and current accounting methods.

We understand and appreciate the accounting theory prescribed by the PSOP. However, the proposed pro forma disclosure is clearly unnecessary and unwarranted and should be eliminated from the final accounting rule.

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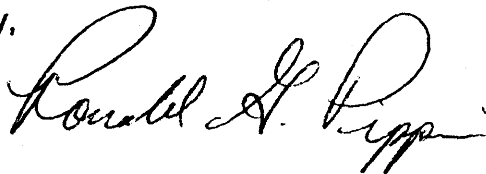
We appreciate this opportunity to present our views to AcSEC.

Sincerely,



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Navallē Ventures Limited

NAPA VALLEY VENTURE CAPITOL ASSOCIATES

March 19, 1993

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
1455 Pennsylvania Avenue N.W.,
Washington, D.C. 20004-1081

Attention: Diane D. Manama, Technical Manager
Accounting Standards Division, File 2500

Reference: Exposure Draft, SOP, Employers' Accounting for Employee Stock Ownership Plans, dated December 21, 1992

TO EVERYONE CONCERNED:

1. This is not a SOP critique you will enjoy reading. I am angry. Whatever, your undersigned correspondent believes your proposed SOP represents a valiant effort to synthesize an immensely complex, confusing, difficult area of business endeavor into a coherent structure of logical, problem-solving, accounting procedures. However, at the same time, I see your proposed SOP as a devious instrument that will purposely result in prejudiced, discriminatory, unfair, end consequence. I give your SOP authors and "A" for effort, a "C" for clarity, and an "F-----" for content value.

2. More precisely, I am utterly appalled and sickened by your proposed SOP. It is by far the best written example of corrupt intention I have ever seen; truly, it is an epitome of lackey perversion, deception, and attempted fraud. To me, it represents a pretense of honor by the AICPA while devising a devious structure of belief and accounting process which results in financial consequence extremely favorable to their corporate employers and controlling shareholders, at the expense of innocent ESOP employee beneficiaries and US taxpayers. Absolutely, it exemplifies intentional prejudice, collusion, corruption, and self-serving hypocrisy! It discredits the CPA accounting profession.

3. In defense of my attack and my judgment, let me clearly establish that your proposed SOP from beginning to end does indeed present the semblance of a coherent believable picture of objective, impartial, even-handed treatment of the subject matter. Ostensibly, it takes no sides, has no bias, makes no judgments, sponsors no objectives. But all this is devious, and that's what infuriates me. It is contrived. The created illusion of impartial objectivity begins in the letter of introduction of the SOP issues by asking a key question: "should the compensation cost be measured based on the fair value of shares when committed to be released, or the cost of the shares to employee stock ownership plans (ESOPs)?

4. The SOP then proceeds to propose, endorse, and repeatedly justify the "fair value" option, which choice substantially benefits your benefactor corporate employers; It fails to mention the discriminatory conflict-of-interest consequence, or the economic benefit of the "cost value" alternative to ESOP beneficiaries. To me, such one-sided action by a professional "rule-making" body is a despicable travesty of honest, honor, and justice. For sure, this particular SOP, because it must be exposed to public scrutiny, is the cleverest structure of organized deception I've ever come across. In the end, it inflicts both injustice

intention, circumvents ERISA and IRS regulatory process, and absolutely discriminates in favor of ESOP corporate employers and their controlling shareholders.

5. Again and again, your proposed SOP sanitizes AICPA philosophical preference and dogmatic conclusions that the accounting for ESOP debt (financing element) should be separated from the accounting for ESOP employer shares (defined contribution element) ....see Paragraph 59. To me, it appears your objective is to authorize accounting procedure which allows ESOP employers to abrogate time-honored tort law and provide them with means to unilaterally modify ESOP agreements to serve themselves and their capital shareholders at will. This, in essence, happens when an ESOP employer is allowed by SOP provisions to provide or guarantee ESOP debt to purchase employer stock at a cost basis, either original issue, treasury shares, or on the open market, then release those shares into ESOP beneficiary accounts at a future fair value as future compensation cost, and then repurchase those shares through "put redemption" obligation and account for the various gains generated as tax-exempt transactions in treasury stock.

6. For explicit examples of this skullduggery, see Paragraphs 19, 23, 35-39, 52, 88 and 92. Pay extra special attention to Paragraphs 35-39, on ESOP termination's. Compare 35 and 39 with 36-38, and realize there would be no net remaining value gain, or remaining shares, for distribution to the ESOP employee beneficiaries. All of the value gain would effectively revert back to the employer corporation for tax-free benefit of the capital shareholders.

7. Hence, as I see it, your proposed SOP is effectively a planned strategic tactic which functions to create, justify, and allow accounting actions which result precisely in AICPA approved accounting consequence of immense self-serving economic benefit to ESOP employers and their capital shareholders--an ultimate benefit of magnitude of billions of dollars of stock value per year! This prejudice, collusion, and alignment of the AICPA with corporate employers is nauseatingly apparent when one is suspicious and knows what to look for. The facts speak for themselves. I stand on printed evidence and deductive reasoning; I welcome adversarial independent confirming analysis.

8. Now, for specific criticism. In what follows, keep in mind the issue of who wins and who loses--the ESOP employee beneficiaries or the ESOP employer and its capital shareholders. In short, whose ox gets gored by your accounting rules update.

9. First, let me say I disagree categorically with your proposed SOP on the issue of separating the accounting for ESOP debt from the accounting for ESOP suspense account stock value, which issue is the central guiding thesis of your proposed SOP update. I also understand why you want to legitimate the separation of accounting for ESOP leverage debt from the accounting for ESOP suspense account stock value (as the basis for measuring compensation cost). Why? Because separating that integral relationship is the accounting act which allows and effects the economic injustice and prejudiced discrimination I bring to your attention.

10. More important, the act of separating (and nullifying) the contractual relationship between ESOP leverage debt and the acquisition cost of the ESOP's suspense account stock shares effectively abrogates the jurisdiction of contract law. Implicitly, it defines an ESOP not as a contract but as a "convenient economic arrangement", where the employer can arbitrarily change "cost value" to "fair value" to serve its own economic interest. In actuality, an ESOP is a binding, mutually beneficial, IRS-qualified, ERISA-regulated, enforceable, written agreement. Technically, the legitimacy of an ESOP is determined by IRS qualification according to written plan compliance with the letter of the law as well as de facto

compliance in plan execution and operation. However, your proposed SOP sanitizes arbitrary unilateral employer control and proposes to "legalize" employer right, power, and authority to serve themselves by providing enabling accounting change. I object! I support the right of ESOP employee beneficiaries to be heard!

11. More specific, the key guiding premise of your SOP's strategic tactic is set forth in Paragraph 14, under CONCLUSIONS: "...(all accounting for leveraged ESOPs)... ***should be based on fair values of committed to be released shares."*** The qualifying condition "should" implies justification by a desirable future consequence which explains why something ought to be done. A "should" justification also implies an optional choice between alternatives. In this case, the choice is between "fair value" and "cost value" of the released shares. Who best makes that choice, the ESOP employee beneficiary? Or the ESOP employer corporation? Or the CPA profession through SOP rules, deception, and self-serving collusion?

12. To properly analyze this question, we must look at the financial consequence (end results) of the two optional choices. In looking at end results, lets assume that the substantial cash inflow from a leveraged five-year stock acquisition loan, reduced interest cost, and highly motivated employees make the corporation successful and the stock triples in value, say from $10.00 to $30.00 per share, as often happens. Such gain is the dream of ESOP opportunity.

13. As the leveraged stock acquisition loan is paid down with annual ESOP contributions, a proportional value of stock is released from the ESOP suspense account into employee beneficiary accounts, at "cost value" under historical ESOP accounting, and at "fair value" under your proposed new SOP accounting requirements. Clearly, the result difference over the 5-year loan term is extreme. When the suspense shares are released at "cost value" the ESOP employee beneficiaries ultimately receive all of the suspense stock acquired by the leveraged loan and 100% full benefit of its appreciation in value. Stock release at cost also results in full dilution of shareholder equity interest, reduced earnings per share calculation, and an increased stock repurchase obligation at the end appreciated "fair value".

14. When the suspense shares are released at "fair value" the ESOP employee beneficiaries receive fewer and fewer shares each year as the stock appreciates in value, and zero benefit from the appreciation in value of the employer stock held in the ESOP suspense account. On the other hand, the ESOP employer (and its shareholder owners) receive 100% full benefit of the stock value appreciation, minimum dilution of shareholder equity interest, minimum impact on earnings per share computation, and minimum stock repurchase obligation.

15. Thus, the discriminatory financial end consequence of your proposed SOP accounting rules is revealed. So it's time to ask: who determines the choice of outcome and whose ox gets gored the most? Is not the economic largesse bestowed on ESOP employers by your SOP accounting rules vividly visible? Is not the adverse economic impact on ESOP employee beneficiaries clearly obvious. Think about it. Which option would you choose if you were a ESOP employee beneficiary? Which option if you were the CEO of an ESOP employer? And which option if you were an ESOP trustee with legal fiduciary responsibility to your ESOP beneficiaries?

16. Perhaps the better question involves the legality of the "fair value" issue in leveraged ESOP stock purchases and suspense account releases. Is there really a choice? Would an IRS auditor allow an arbitrary switch from "cost value" to "fair value"? Will ERISA attorneys

acquiesce to the change? Would the US Supreme Court rule on the issue? And if it did, how will the justices vote?

17. I personally believe your SOP prescribed "fair value" mandate in accounting for leveraged ESOP stock acquisitions is contrary to the intent and purpose of Federal ESOP legislation, is punitive and de motivating, and is not legally defensible. On the other hand, I concur totally that accounting for non-leveraged ESOP stock transactions according to "fair value" determination is the right and proper accounting method. However, in non-leveraged ESOPs, the stock transfer account allocations at "fair value" is also the current "cost value".

18. I uphold the foregoing dichotomy because I believe there is specific purpose and objective involved in ESOP legislation that authorizes leveraged acquisition of employer stock. Large blocks of stock are involved, often controlling ownership interest. Also, I believe the IRS provision of the several unique tax subsidy inducements to encourage the formation of leveraged ESOPs is designed and intended to provide broad opportunity for ESOP employee beneficiaries to enjoy the benefits and rewards of ownership of employer stock, including the economic reward of stock value appreciation from inception, precisely the same as ESOP investments in other outside corporate securities.

19. Absolutely, the opportunity to enhance and increase corporate wealth by providing means to raise tax subsidized equity investment capital and tax subsidized low interest debt investment capital was not intended in ESOP legislation for primary benefit of the ESOP employer corporation and its capital shareholders. Rather, the purpose and objective behind the unique tax concessions available to leveraged ESOPs, i.e., lender 50% exclusion of interest income from taxation, deductible dividends, stock sale tax-free roll-overs, deductible loan principal payments, etc., was and is to achieve expansion of employee ownership of employer stock, as a wealth generating equity investment asset. I do not believe those unique tax concessions were intended for primary benefit of the ESOP employer corporation and its capital shareholders.

20. However, the fact is, your proposed SOP accounting rules function to generate the foregoing results.. Your "fair value" measurement compensation cost knowingly denies the ESOP employee beneficiaries the right to receive, participate in, or enjoy the economic benefit of value appreciation of "leveraged" employer shares acquired by tax subsidized purchase acquisition. Your SOP fosters and permits this injustice by concluding the ESOP employee beneficiaries do not legally own the employer stock held in the ESOP suspense account. And, in fact, it treats ESOP suspense account stock as a prepaid reserve of deductible future compensation expense, and assumes the rightful legal owner of that reserve is the employer corporation. I challenge the legality of this devious interpretation.

2l. Yes, ESOP beneficiaries do not technically own the suspense-held employer stock, but neither does the employer corporation. The fact is, by law, the ESOP trust owns the suspense-held stock. And the stock is owned by the ESOP trust as a bonafide "shareholder of record" of issued outstanding capital stock. Further, the employer stock held in the suspense account is and must be, by law, issued only in exchange for a contribution of capital value acceptable to the corporation's board of directors. And the acceptance of ESOP "leveraged debt" funds, however arranged, by the employer corporation, in exchange for the issued capital stock shares, constitutes the execution, perfection, and consummation of a legal, binding stock purchase. Thus, absolutely, the ESOP trust legally owns the employer stock held in its suspense account. It bought that stock with debt funds!

22. What's more, the ESOP Trustee, under imposed fiduciary responsibility, must operate the trust and "hold" and deploy its capital assets for the exclusive sole benefit of the trust's qualified employee beneficiaries. And the trust's assets include the employer stock held in its suspense account. This fact is crucially important. It means both the employer corporation and the ESOP trustee could be held criminally liable for gross negligence, collusion, fraud, and breach of fiduciary responsibility, should your proposed SOP accounting rules be implemented and followed by the ESOP trustee.

23. I repeat, your proposed SOP is based on erroneous assumptions and functions to discriminate against "leveraged" ESOP employee beneficiaries. As noted in Paragraph 15 above, your SOP "fair value" accounting rule for measuring compensation cost serves to provide leveraged ESOP employer corporations and their capital shareholders with full economic benefit of the value appreciation of the tax-subsidized purchase of employer stock shares held unallocated in an ESOP suspense account. In addition, as noted, your "fair value" measurement rule functions to benefit the ESOP employer corporation with minimum shareholder equity dilution, minimum impact on EPS computations, and minimum stock repurchase obligation. These accounting end results, in my view, reflect planned, prejudiced, economic discrimination! As always, the rich get richer and the poor get poorer. This deplorable end is achieved by the kind of moral rationalization epitomized in your proposed SOP accounting rules update.

24 In final sum, I charge the AICPA with making a willful attempt to perpetrate accounting fraud on "leveraged" ESOP employee beneficiaries and on the American taxpayer. Your SOP authors propose accounting rules which knowingly function to circumvent the intention and objectives of ERISA law and ESOP tax subsidy regulations. Indeed, your SOP authorizes, justifies, and sanctions accounting rules which knowingly effect prejudiced discrimination against ESOP employee beneficiaries. I therefore charge the AICPA with conscious hypocritical perversion of their professional fiduciary responsibility to the American People.

25 I am fully aware of the enormous nature of the above charges. I do so deliberately because I feel there is no other way to persuade ACIPA to rescind and redraft your proposed SOP so it will function to achieve economic justice for employee beneficiaries of "leveraged" ESOPs. Admittedly, I overemphasize to get your attention. I strongly recommend you trash your proposed SOP, and redraft it under legal imperative you must mandate release of stock from a "leveraged" ESOP's suspense account at its original cost basis, not at its appreciated fair market value. As explained, this difference may ultimately be worth billions of dollars of stock value appreciation to ESOP beneficiaries in the years ahead.

26. Before formally implementing your proposed new SOP update, I recommend you circulate my SOP rebuttal argument among the tens of thousands of ESOP employee beneficiaries of the several thousand "leveraged" ESOPs now in existence--for their review, critique, and endorsement comments. I am confident you will find virtual 100% agreement with my position.

27. However, knowing you are unlikely to act on this recommendation, I advise you I intend to ask President Clinton to intercede in this matter on behalf of the ESOP employee beneficiaries you discriminate against, unless you inform me of the withdrawal of your proposed SOP from further consideration as drafted.

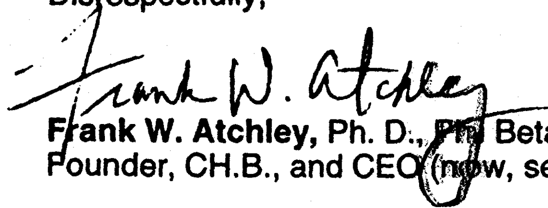
28 And if this threat is unsuccessful, I want you to know I intend to send a copy of my rebuttal argument, along with a copy of your proposed SOP, to all members of the US

Senate, the House of Representatives, the US Department of Labor (with ERISA responsibility), the Internal Revenue Service (with ESOP qualification responsibility), and the Securities and Exchange Commission -- with request for administrative action to force you to rescind your proposed SOP..

29. And if this isn't effective, I intend to send a copy of my SOP rebuttal argument, along with copy of your proposed SOP, to the Wall Street Journal, Forbes, Fortune, Times, Newsweek, Business Week, etc., with request for analysis and publication by a qualified investigative reporter. Possibly, this whistle-blowing public exposure should be my first action..

30. Whatever, lets get on with it. I'm convinced that America and the World needs the ESOP concept. It heralds a union of trust between management and labor, as ownership partners in the productive process. It constitutes a sharing, cooperative, productive, distributive economic endeavor, not an adversarial, competitive, exploitive, collective, capitalistic system. You don't seem to really understand the ESOP principle. Sadly, your proposed SOP demonstrates a narrow, hide-bound, antiquated, status quo, against-change, negative, immoral, capital-owner. perspective. Reality is strange. Lets talk.

Disrespectfully,



Frank W. Atchley, Ph. D., Phi Beta Kappa, Stanford University
Founder, CH.B., and CEO (now, semi-retired)

56 cont

March 26, 1993

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
1455 Pennsylvania Avenue, N.W.,
Washington, D.C. 20004-1081

Attention: Diane D. Manama, Technical Manager
Accounting Standards Division, File 2500

Reference: Exposure Draft, SOP, Employers' Accounting for Employee Stock Ownership Plans, dated December 21, 1992

GENTLEMEN:

Since submitting my strong critique of your referenced SOP, via FAX on 3/19/93 and confirming letter of 3/24/03, I am advised by colleagues that I may have misjudged your motives and the functional effect of unfair discrimination I object to may be an unintended consequence. That's difficult for me to envision, but I accept the verdict and apologize for my excessively violent reaction to your proposed SOP

However, I am still convinced of the error of several assumptions which support your position. You are dead wrong if you think the purpose of an ESOP is to provide benefits for the employer corporation and its capital shareholders, as I think your proposed SOP attempts to do. Let me begin with two specific questions.

1. Is not an ESOP trust a sanctioned independent legal entity in itself, the same as corporation, with individual status as a tax payer with a required tax payer number? Does not the ESOP trustee or record have legal fiduciary obligation to serve the trust's employee beneficiaries? I say, absolutely, an ESOP trust is a responsible legal entity and the ESOP trustee of record, under penalty of recourse liability, is obligated by law to hold and deploy the trust's assets for economic gain for the sole exclusive benefit of the ESOP employee beneficiaries.

2. What is the ownership status of unallocated employer shares held in an ESOP suspense account? I say, unequivocally, the employer stock shares held in an ESOP suspense account are bonafide ESOP trust assets which were acquired by a leveraged debt purchase and are set aside (held) under lien law as loan collateral. Further, I say the employer stock shares held in the ESOPs suspense account were issued to the ESOP trust in its name as a bonafide legal shareholder of record. I also say the shares were issued to the ESOP trust in exchange for cash or equivalent capital value which was accepted by the corporation's board of directors as an equitable fair market value for the number of shares issued or transferred.

3. Further, I say this exchange transaction was a consummated sales/purchase transaction between two sanctioned tax payer entities which was executed according to a binding written contractual agreement. I also say the employer stock shares were purchased with debt funds

and the source of the funds has no import on the reality or status of the ESOP stock purchase as a perfected investment with a specific cost basis. To me, absolutely, the employer stock shares held unallocated in a suspense account, and any dividends paid and received on those stock shares, are trust-owned property.

4. Significantly, the employer shares held in the ESOP suspense account were acquired by leveraged debt purchase under fiduciary obligation to pursue economic gain from stock value increase for the exclusive benefit of the ESOP employee beneficiaries. There is no other justification for the existence of a leveraged ESOP, other than direct and indirect tax subsidy benefits to the employer corporation.

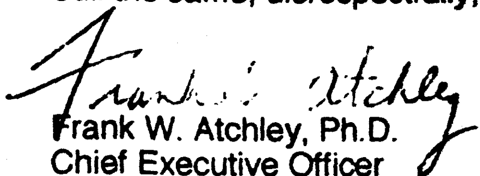
5. Thus, I am outraged when your proposed SOP creates, justifies, and sanctions accounting rules which function to discriminate against ESOP employee beneficiaries and to allocate the economic benefit of stock value increase on unallocated employer stock shares held in the ESOP's suspense account, and other related benefits listed in my first SOP response, into employer and capital shareholder accounts. Your SOP literally "bends over backward" to justify this accounting result.

6. Specifically, in Paragraph 69, third subsection, Your SOP states: "The risks and rewards of ownership of the shares...(held unallocated in the suspense account)...rests with the employer..." This statement is ludicrous and unreal. It lets the employer have his cake and eat it at the same time. In essence, it sanctions the leveraged stock purchase, benefits the employer with cash loan proceeds, gives him enormous tax concessions, and lets him retain control and ownership rights to the stock he sells.

7. Further, your SOP Paragraph 60 is equally ludicrous and even more unreal. It states: "The consideration to be received by the employer for placing the...(employer stock)...shares in the ESOP trust is future employee services." Ridiculous! The real world truth is greed and self interest. The employer puts the shares in the leveraged ESOP trust: 1) to benefit directly from tax concession; 2) to obtain low interest debt financing; 3) to be able to repay loan principle with deductible ESOP contributions and tax deductible dividends; 4) to be able to buy outside shareholder stock with the equivalent of pre-tax corporate earnings; and 5) to get shareholder tax deferral with tax-free stock sale roll-over. Absolutely, your ludicrous explanation of leveraged ESOPs is straight-away justification for release of stock shares from ESOP suspense accounts at "fair value" rather than "cost value.

8. I could go on and on and list dozens of examples of your SOP rationalizations, but it's not worth my time. I'm virtually certain your proposed SOP is a pre decided "done deal" and my criticism a wasted effort. The odds are high that the deck is stacked, and the dice loaded. So why try? Why did I, anyway? Just don't know. Stupidity, I guess.

Still the same, disrespectfully, I remain



Frank W. Atchley, Ph.D.
Chief Executive Officer

56 cont'd

March 28, 1993

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
1455 Pennsylvania Avenue, N.W.,
Washington, D.C. 20004-1081

Attention: Diane D. Manama, Technical Manager
Accounting Standards Division, File 2500

Reference: Exposure Draft, SOP, Employers' Accounting for Employee Stock Ownership Plans, dated December 21, 1992

GENTLEMEN:

Another apology. I'm sorry to bother you again, but I failed to rebut several significant intellectual insults in your proposed SOP. For example:

1. On page 24, under Paragraph 79, you state: "AcSEC believes that ESOP shares that have not been committed to be released are analogous to unpaid stock subscriptions, for which the consideration the employer will receive is future employee services rather than cash proceeds." To me, this dodo argument is but another rationalized justification of your position on employer ownership of ESOP suspense account stock and your "fair value" accounting rule? Who benefits from tax subsidized reduced financing cost, deductible debt service payments, and tax free roll-over when controlling shareholder stock is purchased?

2. Further, I understand a stock subscription is simply an agreement to purchase corporate securities at an agreed-on fixed price prior to certificate issue and before any consideration is accepted by the corporation. There's been no exchange transaction and the authorized unissued stock is still corporation property. This situation is not the same as a leveraged ESOP stock acquisition, where the corporation has received and accepted the ESOP loan funds (and all related tax subsidy benefits) and has finalized the exchange transaction with stock transfer recordation and physical issuance of the purchased stock. The issued, or acquired, stock shares are then owned by the ESOP trust as a registered shareholder of record on the corporation's books of account. If done otherwise, the transaction could be defined as an illegal scam. And the ESOP trustee, under penalty of punitive economic recourse, has legal fiduciary control of the acquired or newly issued stock, not the corporation. Also, the corporation guarantee of the ESOP stock acquisition loan has no bearing whatsoever on the stock ownership issue. Further, the ESOP trustee, under legal obligation, can and must hold, release, and sell the employer stock held in the suspense account only for the exclusive benefit of the ESOP employee beneficiaries, not for the benefit of the ESOP employer corporation and its capital shareholders.

3. Hence, I believe your SOP presents numerous deceptive arguments that support an erroneous conclusion the ESOP employer corporation continues to have legal ownership rights to the unallocated ESOP suspense account stock. I also think your core underlying assumption that compensation cost should be measured by the "fair value" of committed to be released stock shares is patently wrong. In lieu thereof, I propose compensation cost be

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determined precisely by resolution of the corporation's board of directors, according to IRS limitation guidelines. I also conclude your espoused "fair value" accounting rule effectively gives the employer corporation a unilateral right to ignore the tax subsidized ESOP stock acquisition price (cost value) and the authority to sell and/or reissue the stock at a subsequent higher price and pocket the difference. Essentially, it makes employer creation of a leveraged ESOP a controlled profit-making venture that can be implemented and operated primarily for the benefit of the sponsoring corporation, not for the ESOP employee beneficiaries. I loudly object!

4. In full support of this devious economic end, as noted previously, your proposed SOP makes the following categorical statement, Paragraph 69, third subsection: "The risk and rewards of ownership of the (suspense account) shares rests with the employer until the shares are committed to be released." I see this statement as a perfect example of biased ulcerous justification of the discriminatory end accounting consequence your SOP advances.

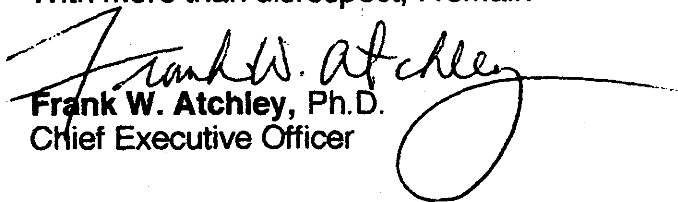
5. Seriously, do you not comprehend the import of the foregoing support for employer ownership of ESOP suspense account stock and the economic consequence of your proposed SOP "fair value" release rule? Or do you promote the deception because you feel you are so favored with intelligence that no one else can understand what's going on, or is capable of seeing through the smoke screen, or can perceive the fraudulent impact of the accounting procedure you endorse?

6. Whatever, I admit I'm embittered by your proposed SOP rule changes. For certain, I believe your proposed "fair value" accounting rule for releasing employer shares from a leveraged ESOP suspense accounts knowingly delivers major economic benefit to ESOP employer corporations and knowingly results in adverse economic discrimination against ESOP employee beneficiaries. This result of economic discrimination is clearly demonstrated when a leveraged ESOP purchases employer stock from existing shareholders on the open market, either by tender offer or negotiated purchase of controlling shareholder stock. Such stock purchases can only be defined as leveraged, tax subsidized, market purchases of employer stock according to ESOP trust investment purpose. As such, the capital gain benefit of subsequent stock value appreciation, which derives from the ESOP investment in and holding of unallocated employer stock, is legal property of the ESOP trust which rightfully belongs to the ESOP employee beneficiaries, not the ESOP employer corporation! This is the same ownership recognition as universally accorded to all other ESOP trust investments. Notwithstanding, this recognition of ESOP ownership right is expressly denied by the AICPA in its proposed SOP accounting rules update. Why? Is it possible the AICPA is unaware of the accounting end results I describe?

7. As noted in my antagonistic FAX response to your proposed SOP of March 19, 1993, I make great effort to explain that a leveraged ESOP, to qualify for tax subsidy, must be qualified by the Internal Revenue Service for written plan compliance to the letter of the law, as well as plan interpretation and operational compliance according to the letter of the law. And the governing law, both ERISA legislation and IRS code regulation, is explicit: there must be no unfair effect of discrimination, overtly or covertly, against ESOP employee beneficiaries. Yet, the truth is, the SOP "fair value" accounting rule proposed by the AICPA specifically promotes, fosters, and accomplishes the act and fact of economic discrimination against ESOP employee beneficiaries. Hence, I'm absolutely mystified. I guess I just don't understand accounting legitimacy. To me, the proposed AICPA SOP accounting treatment of employer stock value gain in leveraged ESOPs is premeditated, despicable, scurrilous, prejudiced accounting tactic. It absolutely denies the purpose and economic benefit of leveraged ESOP acquisitions of employer stock to the ESOP employee beneficiaries.

8. So, in closing, I admit intellectual defeat. I don't fully comprehend what is happening, what is objective accounting, or what distinguishes accounting truth from myth. To me, your proposed SOP epitomizes moral perversion and contemptible hypocrisy. To me, it is an absolute discredit and an utter disgrace to the CPA profession. But perhaps I am totally wrong. Maybe I'm all mixed up in my values, beliefs, and thinking. For sure, I'm perplexed. So, how about some help? How about an equally sincere response to my critique of your proposed SOP. Is my logic and understanding of accounting process and economic reality truly confused? If so, where am I off base? Where do I go astray? For sure, your response, if you have the courage to respond, would be beneficial and self-illuminating. Hence, for permanent record, and for posterity sake, please tell me where my accounting reasoning is in error, OK? And when you reply, lets imagine you are in fact explaining why the AICPA endorses the proposed SOP "fair value" accounting change to an investigative committee of ERISA and IRS attorneys...after they have reviewed your proposed SOP document with benefit of the insight and criticism reflected in my three letters of SOP criticism, OK?

With more than disrespect, I remain



Frank W. Atchley, Ph.D.
Chief Executive Officer

56 continue
4 of 4

Navallē Ventures Limited

NAPA VALLEY VENTURE CAPITOL ASSOCIATES

April 6, 1993

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
1455 Pennsylvania Avenue, N.W.,
Washington, D.C. 20004-1081

Attention: Diane D. Manama, Technical Manager
Accounting Standards Division, File 2500

Reference: Exposure Draft, SOP, Employers' Accounting for Employee Stock Ownership Plans, dated December 21, 1992

Gentlemen:

Herewith is my final summary analysis of your referenced SOP. I realize it is past your deadline date for submittal of reply comments, but feel my criticism and proposed SOP alternatives are worth your consideration.

I also realize that a "lone voice" from an unknown carries little weight. And I understand that my conclusions may merely substantiate the minority position your SOP has already considered and rejected. However, I am so convinced of the validity and legitimacy of my particular position that I am compelled to seek reinforcement and political support.

Accordingly, It is only fair you are advised I am sending copies of my four response critiques of your proposed SOP, with a highlighted copy of your SOP, to J. Michael Keeling, President of The ESOP Association, Washington, D.C. and to the National Center for Employee Ownership in Oakland, California, with request to circulate a condensed version of my critique argument among reputable ESOP authorities and organize a massive "write in" campaign to force you into reconsidering you SOP position.

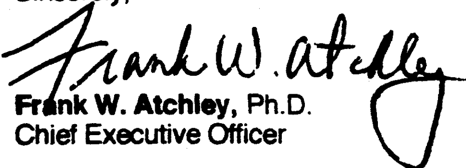
I also intend to follow through on my prior admonition and send copies of my four SOP protests, with a highlighted copy of your SOP, to responsible authority in the Internal Revenue Service, Department of Labor, and Securities and Exchange Commission, with request for a thorough investigation and public hearing. I've been through this action before. I know what to do, how to get results, and what will happen. Fortunately, I have the time, the motivation, and the funds needed to follow through.

Believe me, as a professional person, I have no joy in taking this public approach to getting your attention. But how else can I be sure you have heard my protest and understand the importance of the SOP issues I challenge?

I would appreciate receiving a reply acknowledgment of your receipt of my four SOP critiques, your rebuttal of my harsh criticism and blunt challenges, and a comparable critical response to the proposed alternative SOP thesis expressed herewithin, in paragraph 11.

Thank you for your time and patience.

Sincerely,



Frank W. Atchley, Ph.D.
Chief Executive Officer

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Navallē Ventures Limited

NAPA VALLEY VENTURE CAPITOL ASSOCIATES

April 3, 1993

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
1455 Pennsylvania Avenue, N.W.,
Washington, D.C. 20004-1081

Attention: Diane D. Manama, Technical Manager
Accounting Standards Division, File 2500

Reference: Exposure Draft, SOP, Employers' Accounting for Employee Stock Ownership Plans, dated December 21, 1992

EMERGENCY IMPORTANCE!

This fourth and final SOP critique is being submitted well beyond the closing date for submittal of review comments. I do so because I believe my latest "overview" comments are critically important and warrant serious consideration in your final SOP release. I feel they illuminate a biased, subjective, arbitrary, interpretation (a core organizing belief) which controls reader opinion and dictates SOP policy actions of extreme detrimental significance to the ESOP movement. Overall, I question the legality of your asserted (assumed) legitimacy of discretionary corporate ownership control of unallocated employer stock held in a leveraged ESOP suspense account.

1. Your proposed SOP, as drafted, does an admirable job of defining the ESOP issues and presenting logical coherent support for the accounting rules it proposes, which rules ostensibly carry AICPA endorsement. However, in opposition, I submit your proposed SOP accounting rules, in operation, serve to sponsor and effect biased economic discrimination favoring the ESOP employer corporation over the ESOP employee beneficiaries. In actual fact, I find your SOP to be deceptively deficient in disclosure of the end economic consequence of the accounting rules it proposes, so much so I cannot but wonder whether or not the omission is deliberate. To me, the end economic consequence of your proposed accounting rules is the single most important issue involved. I say this because your SOP mandated accounting rules will determine who receives the economic benefit of tens of millions, and ultimately billions of dollars in dividends and capital gain--either the ESOP employer corporation or the ESOP employee beneficiaries!

2. More specifically, I submit your proposed accounting of dividends and capital gain on unallocated, leverage-purchased employer stock effectively frustrates ERISA and IRS purpose in sponsoring ESOP formation, and strikes at the heart of ESOP employee beneficiary motivation and achievement of cost-cutting production efficiency. Hence, two questions: **(a)** Is not the sanctioned purpose of ESOP formation the creation of means and opportunity for employees to acquire ownership of wealth creating assets? **(b)** Is not the general goal of ESOP tax subsidy, including the extraordinary tax incentives offered to form leveraged ESOPs, the creation of a motivating independent source of tax-deferred future income (employer contributions, dividends, and capital gain) for the exclusive non-discriminatory benefit of ESOP employee beneficiaries?

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56 cont'd

4. Accordingly, I conclude the primary purpose of ESOP formation is denied when capital gain and dividends on unallocated, ESOP leverage-purchased employer stock effectively revert back to the employer corporation, as is mandated by your proposed SOP accounting rules. Indeed, as I see process reality, your proposed SOP accounting rules effectively preclude investment gain on unallocated, leverage-purchased employer stock from accruing for the benefit of the ESOP employee beneficiaries. To me, this contrived result is contrary to ERISA purpose and IRS tax subsidy objectives.

5. Further, I conclude the foregoing result is accomplished with invalid, arbitrary accounting interpretation and assumption. In essence, your SOP refutes the reality that a leveraged ESOP transaction constitutes a bonafide investment in employer stock, even when the stock is acquired in a negotiated fair value market exchange. For specific illustration: in paragraph 60, you argue: "...the substance of (a leveraged ESOP) transaction is that the cash (received) is not consideration to the employer for the shares (issued) but rather proceeds from a borrowing." And in paragraph 61, you argue: "...even if a leveraged ESOP buys shares on the market rather than from the employer and, therefore, has no direct capital stock transaction and no direct cash inflow (from the leveraged ESOP loan), the employer should treat it as a leveraged ESOP." Again, in paragraph 62, you argue: "...with internally leveraged ESOPs...the employer's note receivable does not represent a claim by the employer on resources of an unrelated party...(and) should not be reported by the employer as a liability and as an asset, respectively.

6. To me, these interpretative SOP arguments represent an arbitrary accounting assessment, biased justification, and willful omission of relevant disclosure of material discriminatory accounting consequence. To me, overall, your SOP arguments clearly demonstrate AICPA sponsorship and support of the notion that an ESOP employer corporation should and does retain legal ownership control over unallocated employer stock held in a leveraged ESOP suspense account. As noted, your SOP accounting rules are predicated on the assumption that leveraged ESOP acquisition of employer stock does not constitute an investment stock purchase, wherever obtained or however financed. Moreover, your SOP accounting position is presumed to be valid and legal despite the reality of IRS sanction and qualification of the ESOP trust as an independent tax payer entity; despite the existence of ESOP trustee fiduciary obligation to the ESOP employee beneficiaries; despite the fact ESOP trustees must be bonded and serve under risk of punitive legal economic recourse; despite the substantial investment capital benefit the employer corporation commonly receives when the ESOP stock is issued; and despite the various substantial tax subsidy benefits that inhere from ESOP formation, including tax free roll-over on purchase of controlling shareholder stock, reduced debt financing cost, and deductible loan principle payments. Hence, I openly challenge the validity of your ownership assumption and the legitimacy of your SOP accounting position!

7. Your SOP accounting treatment of dividends is exemplary of the foregoing confusion. For example, in paragraph 73, your SOP makes this candid admission: "Although legally the dividends on unallocated ESOP shares belong to the ESOP, employers control the use of such dividends,.." And, "...the employer controls, and benefits from, the use of the dividends on unallocated shares." Further along, in paragraph 75, you say: "If the employer decides to use the dividends to pay debt service, there is no requirement that the employer replace those dividends or allocate additional shares to participants." I don't understand. This appears to be irreconcilable contradiction, like having your cake and eating it too. If the ESOP trust legally owns the dividends paid on its unallocated employer stock, how can the employer legally use those dividends for debt service payment without reimbursing to the ESOP or the ESOP beneficiaries, especially if those dividends are tax deductible. Such a diversion of ESOP fund (dividend earnings) just doesn't seem right..

8. More, in paragraphs 21 and 22, you say: **(a)** "Dividends on unallocated shares used to pay debt service should be reported as a reduction of debt or of accrued interest payable." **(b)** "Dividends on unallocated shares paid to participants or added to participant accounts should be reported as compensation cost." **(c)** "Dividends on allocated shares should be charged to retained earnings." Seems to me that reporting dividends on unallocated shares as a reduction in debt or accrued interest provides illegal exclusive benefit to the employer corporation. Similarly, it seems that reporting ESOP dividends as employee compensation cost, rather than ESOP trust earnings, defeats the ESOP purpose as defined above. Also, reporting ESOP dividends as compensation cost adversely impacts the ESOP employee beneficiaries by reducing the maximum ESOP annual contribution otherwise available to them. Further, it seems that charging ESOP dividends to retained earnings, rather than current earnings, serves to benefit the employer corporation with inflated EPS calculation. I would think tax deductible dividends paid to an ESOP should be charged off as an extraordinary expense against current earnings, or as an equivalent credit against current tax liability, as a reduction of income tax expense allocated to continuing operations--as prescribed in paragraph 52.

9. In final overview, let me say I view the ESOP movement as being critically important to this nation. And I think the Employee Retirement Income Security Act (ERISA) of 1974 and the related IRS tax subsidy inducements to form ESOPs are extremely prescient political actions, on par with the "Mining Act" and the "Homestead Act" of last century. Like these two predecessor concepts, an ESOP functions to create and provide genuine economic opportunity for the common man. It does this by providing economic reward for human contribution to production results, over and above competitive "trickle down" wage earnings. In doing so, an ESOP offers tangible opportunity and hope and promise of a better future life. More, an ESOP promotes group loyalty, responsibility, cooperation, diligence, perseverance, and hard work. It does this by recognizing human worth and promising economic equity, non-discrimination, proportional reward, and compensation according to contribution. Best of all, the ESOP concept is now historically proven beyond rational doubt. It works! And the proven result is enhanced productivity, economic growth, more wealth creation, and a better more secure life for everyone involved--provided, of course, the ESOP is managed and operated properly.

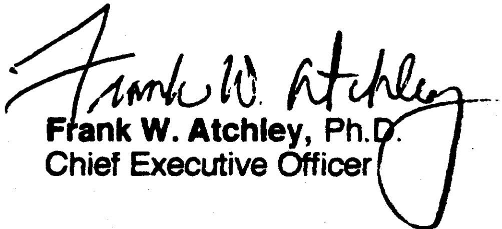
10. Yes, I believe in the ESOP concept. That's why I've been so antagonistic toward your proposed SOP. My intelligence tells me your SOP is willfully slanted and purposely designed to benefit the ESOP employer corporation (and its capital shareholders) over the ESOP employee beneficiaries. To me, that's wrong! With an ESOP, particularly in a majority-owned ESOP, the employee beneficiaries include the officers, managers, and inside directors. They all work as a team toward a common goal of creating wealth for their own individual personal benefit--not for the benefit of disinterested outside capital shareholders. This is the secret of ESOP success--concerted group effort to generate wealth for the ESOP employee beneficiaries! .The core idea is simple: wealth produced by labor belongs to labor! Your SOP should recognize this truth and function to achieve ESOP objectives, per ERISA and IRS sanction. More specifically, your SOP should mandate and cause dividend value and capital gain on unallocated employer stock in leveraged ESOP suspense accounts to flow into the employee beneficiary accounts, not be funneled back to the employer corporation for capital shareholder benefit!

11. How? By revising your proposed SOP to integrate the following ideas: (a) Concede that an ESOP is a sanctioned independent entity and legal owns its portfolio of employer stock as a listed shareholder of record. **(b)** Recognize the economic reality that employer stock shares held as loan collateral in a leveraged ESOP suspense account are physically issued and legally outstanding. **(c)** Do not give ESOP employer corporations unilateral legal right to

determine stock value for ESOP contribution purpose, suspense account release, or shareholder stock redemption. **(d)** Do not give ESOP employer corporations discretionary control over the allocation of tax deductible dividends paid on unallocated ESOP-owned employer stock acquired by leverage purchase. **(e)** Respect the legitimacy of contract law with regard to leveraged ESOP acquisition of blocks of employer stock at a fixed cost. Treat such acquisitions of employer stock as a bonafide trust investment made for employee beneficiary benefit. **(f)** Provide for release of employer stock held in an ESOP suspense account into participant accounts at the original purchase cost value, as the leverage loan principal is paid down. **(g)** Dividends on ESOP-owned employer shares should be treated as trust earnings and should not be charged off as compensation cost. **(h)** Annual ESOP contributions (current compensation cost) should be determined by resolution of the employer board of directors, according to IRS limitations. Excess and deficient contributions should accrue and carry forward into succeeding years

Thank you for your patience and consideration.

I still have my doubts,



Frank W. Atchley, Ph.D.
Chief Executive Officer

57

THE UPJOHN COMPANY

7000 PORTAGE ROAD
KALAMAZOO, MICHIGAN 49001-0199, U.S.A.

ROBERT C. SALISBURY
Senior Vice President for Finance and Chief Financial Officer
TELEPHONE: *(616) 323-5485*

April 2, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Ave., NW
Washington, DC 20004-1081

Dear Ms. McNamee:

Subject: Proposed Statement of Position: Employers' Accounting for Employee Stock Ownership Plans

In many respects we feel the draft represents a cohesive and understandable model for accounting for employee stock ownership plans. The existing rules are a patchwork attempt to revise, interpret, and update a model that has become obsolete. The proposal does a good job of integrating the many facets of the overall program and attempting to represent the substance of the transactions rather than attend to their form.

While we recognize the strengths of the draft and the fresh start it brings to this complex topic, we feel very strongly that its adoption for pre-existing plans must be voluntary. For ESOPs such as ours, which is a leveraged plan utilizing preferred stock, the accounting pervades our earnings statements, balance sheets, and disclosures. We are also beginning the fourth year of a 15 year program. To attempt to modify our accounting at this date would be unduly disruptive and confusing. We commend the Accounting Standards Executive Committee for its recognition of this critical matter by "grandfathering" plans whose shares were acquired prior to September 23, 1992.

Despite our overall favorable response to the Exposure Draft, we are concerned about a number of specific provisions.

We do not believe that the use of fair value of shares released is an appropriate measure of compensation in all plans - particularly in cases where the terms of the ESOP call for different treatment. The terms of the plan may override the more philosophical goal of market value accounting and mandate that the accounting for the ESOP follow its legal terms.

We disagree that the convertible preferred stock held by an ESOP is, by definition, a common stock equivalent. Moreover, we submit that the present disclosures of primary and fully diluted earnings per share provide more meaningful information to the reader than would result from this change.

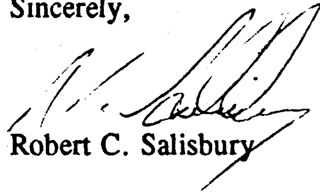
We dispute the need for pro forma disclosure of the effects of adoption of the proposed rules by firms electing not to so adopt. This would be a burdensome requirement, one which may confuse rather than illuminate, and one which is without precedent. Greater degrees of nonconformity have been accepted in other areas of accounting, such as inventories, and we fail to see the need for these disclosures in this instance.

Elaboration upon these major points and some less significant observations are contained in the attachment to this letter.

We appreciate the time you have taken to discuss the Exposure Draft and our views on it with Fred Hirt and Mark Ogden of our organization.

We would be pleased to continue this dialogue once you have had an opportunity to review our written comments.

Sincerely,



Robert C. Salisbury

clg

Enc.

Issue 1: Recognition of Compensation Cost

The proposed SOP must not categorically require that employers measure compensation cost based on the fair value of the shares committed to be released. Either the SOP should indicate that the accounting follow the terms of the plan, or it should further define the term "fair value".

There are plans which release and allocate shares to participants' accounts based upon cost of the shares (or stated value). While we understand this may be the exception rather than the rule, plans structured in this manner operate to the benefit of plan participants. When the fair value of the shares falls below cost, the employer guarantees redemption at the cost floor. When the shares appreciate in value, the employees continue to receive them at cost. The benefit of the appreciation falls to the employees, not the firm.

To attempt to superimpose an accounting rule which would mandate the use of a fair value, as that term is commonly used, would result in artificial results of limited benefit to anyone. We really do not believe it was the intent of AcSEC to suggest that fair value be used if the plan terms call for another measure. The draft, however, does lead to such a conclusion.

The draft states that, "compensation cost associated with providing such benefits [i.e., 401(k)] to employees would be recognized the way it would if an ESOP had not been used to fund the benefit." We support this intent. As Exhibit I illustrates, however, mandatory use of fair value fails to achieve that objective.

The compensation cost in the absence of an ESOP would be $15,000, not $19,380. Similarly, the operation of the ESOP using stated value of shares for release and allocation yields a compensation cost of $15,000. The draft SOP, as we understand it to operate, would result in compensation cost of $19,380 in this example.

As an alternative to requiring that the accounting follow the terms of the plan, perhaps paragraph 20 could be elaborated upon to indicate that under circumstances such as those described above, "fair value" can be interpreted to mean the stated value at which the plan is committed to effecting transactions.

As subparts to our response to Issue I, we offer the following additional observations:

1. The determination of fair value of a preferred stock issue which has no market price adds unnecessary costs.

2. In Illustration 4, there is reference to the preferred stock having a guaranteed minimum redemption value. It appears from the table at the bottom of page 44 that this guaranteed minimum establishes fair value (by virtue of the constancy of the values of four years). This point is not made anywhere in the example, however, leaving the reader to make such inferences. If this was correctly the intent of the authors, the concept should be spoken to.

3. Also, in Illustration 4, the table at the bottom of page 44 refers to "market" values rather than fair values. Was this a deliberate choice of terms? If so, what is the significance?

Issue 2: Effective Date and Transition

The effective date should be extended to fiscal years beginning after December 15, 1993 rather than ending after that date. This would avoid the possible necessity of restatements of previously reported interim periods.

More generally, we strongly support the option afforded firms with pre-September 23, 1992 plans to either adopt the new rules or not. Employers, such as The Upjohn Company, adopted ESOPs with a certain understanding as to what the applicable accounting rules were. We have already endured one fundamental change (i.e., EITF 89-8) and various other related modifications. Given the disruption which another change in accounting would create, the confusion to management and the readers of financial statements, and the associated costs, it would be counter-productive to mandate adoption of this rule change on pre-existing plans.

We commend AcSEC for recognizing the need to "grandfather" pre-existing plans.

There is one aspect of the transition provisions contained in paragraph 57 that we do not agree with. That is the transition from the provisions of EITF 89-8.

It appears that the authors are equating their term "shares committed to be released" with the EITF's "shares allocated method". We do not believe these two terms are comparable. Again, referring to the Upjohn plan, since there are no scheduled principal payments in the early years of the plan, the EITF consensus requires that we artificially allocate a pro rata portion of debt principal to expense in those early years based upon the percentage of shares allocated. This is not the same as the formula:

(Total shares committed to be released x share cost) less cumulative dividends

Applying the steps in paragraph 57 (second bullet point) to Upjohn cumulative data yields a very large credit amount.

If the intended result of that portion of paragraph 57 is to catch up for the 20 percent transition factor allowed in EITF 89-8, the formula provided does not accomplish the task. If this is indeed the objective, though, we oppose it in principle. The EITF model, as we have indicated previously, artificially attempts to convert all plans into level plans. This is inappropriate in the Upjohn case and is not an expressed objective of the draft SOP. The catch-up adjustment would only force recognition of a flawed model as a stepping stone towards adoption of a more reasonable model.

The draft SOP does not expressly deal with non-level plans. Perhaps it should. Once again, relating this to a 401(k) funding vehicle, compensation expense under the draft should be the same as though an ESOP were not used. EITF 89-8 does not yield such a result.

There may indeed be the need for cumulative adjustments upon transition to the SOP rules, but such adjustments would more than likely be credits to decrease expense recognition to more appropriate levels. The adjustments would occur for both employers who applied the shares-allocated method in EITf 89-8 and those who did not.

Issue 3: Disclosures

Regarding the requirements that non-adopting employers provide pro forma income and earnings per share information as if the employer had adopted the provisions of the SOP, we are strongly opposed.

While we recognize and appreciate the concern for comparability across firms, we fail to understand why the issue is so critical in the area of ESOP accounting as to warrant the unprecedented move of requiring pro forma disclosures. This requirement would be tantamount to adoption. All the same accounting systems and analyses would be required, but they would be additive to procedures already in place. This would bring into question whether there is a favorable cost-benefit tradeoff.

Moreover, we submit that there are numerous other areas of accounting where disparate principles are permitted although they result in far greater degrees of non-comparability of operating results. We do not, for example, require pro forma disclosure of net earnings and earnings per share on a LIFO versus a FIFO inventory costing method. As in the case of inventory footnotes which offer the reader sufficient information with which to make his or her own analysis, ample data are currently being provided in the notes regarding ESOPs.

If pro forma disclosures should be required in final rule making, it would be advisable to expressly indicate that such disclosures are to be included in the notes to the financial statements as opposed to the face of the financials.

Other Issues

Common stock equivalency - We do not agree that convertible preferred stock held by an ESOP should be treated as a common stock equivalent. We believe the effective yield test in APB Opinion 15 should continue to apply.

While it is true that the shares will ultimately be converted or redeemed, the time span over which this will occur is a very long one. It would be possible for relatively young employees to acquire shares in their 401(k) accounts near the end of the 15 year term of the ESOP and not withdraw those shares for another 30 to 40 years.

Number of shares outstanding - While we understand the logic behind looking only at shares committed to be released as outstanding, we are concerned that the ultimate dilutive effect of conversion of all preferred shares would not be properly reflected. There appears to be an incongruity in logic between the positions taken on common share equivalency and number of shares outstanding.

In the former instance, AcSEC takes the position that all shares will ultimately be converted; therefore, they are common stock equivalents. In the case of shares outstanding, the fact that all shares will ultimately be converted is disregarded.

Earnings per share - We firmly believe that APB No. 15 provides the most relevant information to the reader of the financial statements. It does not deem the preferred shares to be common stock equivalents if certain yield tests are met. Thus, the primary earnings per share calculation reflects common shares actually outstanding. The fully diluted computation assumes all convertible issues are converted and represents the maximum measure of dilution. This is preferable to the "half way" approach suggested by the draft which has essentially the same degree of dilution - but not all that will ultimately occur - in both earnings per share measures.

Illustrations - The illustrations provided in the draft are critical to a clear understanding of these fairly complex rules. It would be helpful to have one other example. We would like to see a comprehensive illustration which combines the use of preferred stock with the funding of a 401(k) plan.

57 cont'

EXHIBIT I

OPERATION OF ESOP USED TO FUND A 401(k) PLAN

As Designed

Compensation expense (employer's cash cost to match employees' savings plan contributions).	$15,000
Dividends on previously allocated shares	$7,000
Number of shares required to satisfy above obligations at stated value (cost) of $50 per share	440

Note that the manner in which debt service schedules were structured, 440 shares are committed to be released.

Per Draft SOP

Assume fair value of shares to be	$60
Employer's matching contribution	$15,000
Dividends on previously allocated shares	$7,000
Number of shares required to satisfy above obligations at fair value	367
Excess shares committed to be released	73
Times fair value of $60	$4,380
Total compensation expense	$19,380

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CABLE ADDRESS: ROHMHAAS TELEX 845-247 TWX 710-670-5335 TELECOPIER (215) 592-3377

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March 26, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Avenue, N.W.
Washington, D. C. 20004-1007

Dear Ms. McNamee:

This letter is written in response to the December 21, 1992 Accounting Standards Executive Committee's (AcSEC) request for comments on the proposed statement of position (SOP) entitled "Employers' Accounting for Employee Stock Ownership Plans" (ESOPs).

Rohm and Haas Company is a $3 billion multinational producer of specialty chemicals and plastics. Over the years, we have been supportive of accounting standards that provide meaningful information to stockholders, creditors and other interested parties. However, in recent years there has been a proliferation of new accounting rules and disclosures which are costly to implement and maintain, but do not provide readers with better information. The following are our comments regarding specific provisions of the SOP:

Recognition of Compensation Cost

The ESOP sponsored by Rohm and Haas Company is used to fund the employer matching for a 401(k) plan. We <u>oppose</u> the proposed position that compensation cost for leveraged ESOPs be measured based on the fair value of the shares when they are released for the following reasons:

- Compensation expense should reflect the economic reality of providing the benefit to employees. In the case of our leveraged ESOP, the original cost of the shares plus the cost of any "top-up" shares is the true cost to the company of providing the benefit.

- The fair value of the stock is a reflection of various factors and forces in the public markets and is not correlated with the value of services provided by employees. The number of shares which are released each year are based on the debt service schedule and must be allocated regardless of changes in market value.

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• While it is true that as an employer we have a large degree of control over employees' total compensation package, it is not true that we can or would alter this package in response to changes in the value of shares being released. Our compensation package is a reflection of competitive forces in the employment markets in which we are located. Compensation packages are designed to attract and retain highly qualified personnel and are based on a long-term commitment to employees.

Transition

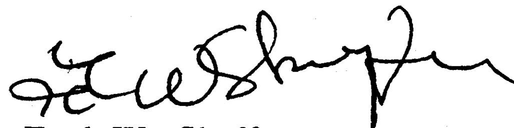
We <u>support</u> the transition rules that do not require sponsors of ESOPs whose shares were acquired prior to the transition date to use the proposed accounting rules. Sponsoring a leveraged ESOP is a significant economic decision and is based on the facts and circumstances that existed at the time the decision was made. If the proposed accounting rules had been in existence at the time we were considering sponsoring the ESOP, a different decision may have been made.

Disclosures

We <u>do not support</u> the proposed requirement for publicly-held ESOP sponsors that do not adopt the proposed accounting rules to disclose pro forma net income and earnings per share data as though the new accounting rules had been adopted. Providing accounting disclosures requires a significant effort to gather, compile and verify data. Requiring companies to provide pro forma disclosures would be burdensome because those companies would have to establish a separate method of tracking the data since it would not be part of their normal accounting systems. These disclosures are of no value to existing or future shareholders and are confusing and misleading to the reader. Most importantly, in a global world, the cost of non-value added disclosures is a competitive cost that no company can afford.

We appreciate the opportunity to comment on this important subject and hope that AcSEC will find our comments helpful in reaching a final decision.

Sincerely,



Fred W. Shaffer
Vice President and
Chief Financial Officer

(59)

FINANCIAL EXECUTIVES
INSTITUTE

Joseph A. Sciarrino
Vice President and Technical Director

March 26, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division, File 2500
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue, NW
Washington, D.C. 20004-1081

Dear Ms. McNamee:

The Committee on Corporate Reporting (CCR) of the Financial Executives Institute (FEI) is pleased to comment on the AICPA's December 21, 1992 Proposed Statement of Position (SOP) entitled "Employers' Accounting for Employee Stock Ownership Plans" (ESOPs). CCR individual member reactions to the proposed SOP reflect the same range of mixed opinions that you and Gerald Searfoss reported in your February 1993, Journal of Accountancy article. Nevertheless, a majority position was reached on the major issues and a strong consensus exists on one central issue; namely:

> Any SOP changing current practice must provide grandfathering. Grandfathering is absolutely necessary for companies who made decisions in the past to create ESOPs based on the current accounting rules. The exposure draft contains sound logic for this conclusion in paragraph 94 and we fully agree. ESOPs are typically long-term commitments and the accounting treatment is generally an important consideration in their establishment. Companies which relied on existing ESOP accounting rules when establishing plans should not be penalized by being required to change their accounting for those plans.

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59 cont'd

We also offer the following comments on the specific issues noted in the covering letter accompanying the proposal:

Recognition of Compensation Cost

A majority of CCR believes that, for straight compensation plans, the point of focus is the irrevocable transfer of the shares to the ESOP. The number of shares to be given employees and the total periods over which they will be allocated ("vested") are known. Any subsequent increase or decline in value affects only the employee group, not the company. We are, after all, accounting from the perspective of -- and for -- the shareholders. The above would conform to current literature and the Financial Accounting Standards Board's (FASB) latest thinking for stock compensation -- fair value at the establishment or grant date would be used to measure all future allocations.

For plans in which the fair value of shares released is used to determine how many shares are needed to satisfy an obligation that arose outside the ESOP, fair value of committed to be released shares may be an appropriate measurement of the charges. We say "may" because the legal terms of a specific plan may not require the release of shares at fair value. At least one CCR member notes that there are plans which release and allocate shares to participants' accounts based only on a stated value (cost) of the preferred stock used to fund the plan. The SOP should be revised to address such plans.

Effective Date and Transition

We believe the effective date should be for fiscal years beginning after December 15th of the year in which the SOP is issued. The proposed effective date of "...fiscal years ending after December 15, 1993, as of the beginning of the fiscal year in which the SOP is adopted", appears to potentially require restatement of periods prior to the issuance of the final SOP. If we assume the final SOP is issued in the third quarter of 1993 with the effective date as proposed, a calendar year company that established a plan in the fourth quarter of 1992 or the first half of 1993 and applied existing rules would have to restate 1993 quarters in which the old rules were followed. If this is not the intent, the final SOP should be amended to clearly describe the implementation requirements. However, if our understanding is correct, the proposed effective date will prove cumbersome and will undoubtedly not be cost effective. Both those drawbacks could be easily avoided by adopting an effective date as we suggest above.

As we stated earlier, grandfathering is an essential component of a smooth transition to the modifications in the proposed SOP. The proposed mandatory application to shares acquired by ESOPs after September 23, 1992, however, seems inappropriate. That is the date on which the FASB cleared the proposal for exposure but publicity was limited and due process is confined to the period that is the most demanding for many preparers and auditors. We feel strongly that the grandfathering date should be either the issue date or the effective date of the final SOP.

Disclosures

The proposed disclosures, by companies electing to grandfather existing plans, of pro forma income before extraordinary items, net income and earnings per share as if they had adopted, would be costly and would outweigh any benefits. The exposure draft enumerates valid reasons for grandfathering existing ESOPs. However, to then require pro forma information on the new accounting basis is without logic and unnecessarily expensive. We believe such a precedent-setting move is not warranted.

CCR's comments were consolidated by Ed Milan and Stan Rash of Tenneco. Should you have questions they may be reached at (713) 757-8255 and 4147 respectively.

Sincerely,

Joseph A. Sciarrino/afe

Joseph A. Sciarrino

231 South LaSalle Street
Chicago, Illinois 60697
312 828 2345

(60)

April 1, 1993

Dionne D. McNamee
Technical Manager
American Institute of Certified Public Accountants
Accounting Standards Division
File 2500
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1081

Dear Ms. McNamee:

Continental appreciates this opportunity to comment on the AICPA Exposure Draft (ED), Proposed Statement of Position, "Employers' Accounting for Employee Stock Ownership Plans."

Continental will respond below to the three issues raised by the ED, which include recognition of compensation cost, effective date and transition, and disclosures.

Recognition of Compensation Cost

Continental generally agrees that compensation cost should be measured using the fair value of shares when committed to be released. However, we agree with the dissenting view that Type 1 ESOPs, in which shares are released to compensate employees directly, should continue to use purchase cost to measure compensation cost.

Specifically, in the case of leveraged ESOPs, whether internal or external, the risks and rewards associated with the ESOP shares are transferred from the employer to employees on the date of purchase. All shares are "committed to be released" at the purchase date over the life of the leveraged period. The ED definition of "committed to be released" appears to limit the shares "committed to be released" to those that will be allocated to employees for services rendered in the current accounting period. Accordingly, the employers will recognize the effect of fair value changes for subsequent accounting periods in its financial statements despite the fact that the employers' obligation to its employees for such fair value changes ended at the purchase date.

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Dionne D. McNamee
American Institute of Certified Public Accountants
Washington, D.C. 20004-1081

April 1, 1993

We do not believe such accounting faithfully represents the substance of the transaction. This is evidenced by the fact that total capital of an entity is unchanged by the accounting associated with such fair value changes. Instead, we believe the transaction represents the prepayment of the employer's expense which should be amortized as earned over the leveraged period.

Effective Date and Transition

Continental strongly disagrees with the September 23, 1992 cutoff date for application of the ED provisions. Since the ED was not issued until December 21, 1992, employers are not given any lead time to adjust to the change in accounting. As a result, an employer's financial statement may be negatively effected for actions taken that may not have been taken had the employer been aware of the potential accounting change.

For this reason we strongly recommend that the ED provisions apply to shares purchased on or subsequent to January 1, 1993.

It should be noted that several precedents exist in accounting literature for providing employers lead time to react to a change in accounting. SFAS No. 106, "Employers' Accounting for Postretirement Benefits", is a primary example.

Disclosures

Continental believes that disclosure of the pro forma effect of the final statement of position on shares purchased on or before September 23, 1992 should not be required. Our rationale is the same as provided above for the effective date and transition section. Specifically, such a disclosure would imply a positive or negative employer decision had been made to transactions that may not have been consummated if the ED provisions had been applicable in that time period.

Continental appreciates this opportunity to comment on the ED. Please contact me if you have any questions concerning our comments.

Sincerely,

Claude J. Edelson

Claude J. Edelson
Vice President
Accounting Policy
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61

April 13, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division,
File 2500
American Institute of Certified
Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1081

Comments on the Exposure Draft of the Proposed Statement of Position, Employers' Accounting for Employee Stock Ownership Plans

Dear Ms. McNamee:

We are pleased to submit our comments on the December 21, 1992 Exposure Draft of the Proposed Statement of Position, Employers' Accounting for Employee Stock Ownership Plans (the "ED").

We concur with the minority view presented in the ED that the current accounting for Employee Stock Ownership Plans ("ESOPs") which are used to compensate employees directly ("type I ESOPs") continues to be relevant and, therefore, should not be changed. We believe that the significant fundamental differences between type I and type II ESOPs described in the minority view provide a reasonable basis for different accounting treatment.

Accounting standards should only be altered when there is clear evidence that a proposed change would improve financial reporting. There is an absence of convincing proof that financial statement users would benefit from the accounting changes proposed for type I ESOPs, including those relating to dividends and earnings per share. Additionally, the issue of stock compensation is being actively reconsidered by the Financial Accounting Standards Board and we believe it would be premature to issue guidance relating to ESOPs which may ultimately be inconsistent with stock compensation accounting guidance issued by the Board.

If AcSEC decides to proceed with the ED, we believe it should be effective for fiscal years beginning after December 15, 1993. The one-year extension is appropriate given that the final Statement would not be issued before the fourth quarter of 1993.

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We disagree with the requirement for public companies to provide pro forma ("as if") earnings disclosures when they elect not to apply the ED's guidance to shares acquired by ESOPs on or before September 23, 1992. We believe that such disclosures would confuse financial statement users and do not provide meaningful information.

* * * * * *

We appreciate this opportunity to express our views. If you have any questions concerning our comments, please call Dennis E. Peavey at (212) 536-3286 in our National office.

Very truly yours,

Coopers & Lybrand

Coopers
&Lybranc

62

Lilly

Eli Lilly and Company
Lilly Corporate Center
Indianapolis, Indiana 46285

Keith E. Brauer
Executive Director of Finance
and Chief Accounting Officer

April 7, 1993

Ms Dionne D. McNamee
Technical Manager
Accounting Standards Division, File 2500
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1081

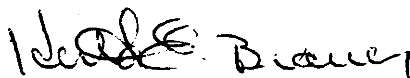
Dear Ms McNamee:

We appreciate the opportunity to express our opinion regarding the AICPA's proposal on accounting for Employee Stock Ownership Plans (ESOP). We feel the proposal follows sound theoretical accounting and we fully support the grandfathering of the existing ESOPs. However, we strongly oppose the pro forma disclosure requirement of this proposal.

The proposal permits companies with established ESOPs to retain their current method of accounting. However, it requires such companies to make pro forma disclosures as if the company had adopted the proposal. Frankly, we feel that the cost of complying with this requirement far exceeds any potential benefit that this requirement could provide. Also, such pro forma disclosure will more than likely create confusion among the financial statement readers. We believe this is a major concern given the complex nature of the ESOP subject matter, in general. In addition to the pro forma requirement being cumbersome and potentially confusing, we are not aware of any similar "dual disclosure" in the accounting literature, making the pro forma disclosure an unprecedented requirement.

Again, we appreciate the opportunity to express our opinion on the AICPA's proposal on accounting for ESOPs and we will be happy to discuss the matter further. Should you desire, please feel free to contact me at 317/276-5303.

Sincerely,



Keith E. Brauer

KEB/me

CERTIFIED PUBLIC ACCOUNTANTS & BUSINESS CONSULTANTS

63

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April 14, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division
File 2500
AICPA
1455 Pennsylvania Ave., NW
Washington, DC 20004-1081

Re: Proposed Statement of Position, "Employers' Accounting for Employee Stock Ownership Plans" (File Reference No. 2500)

Dear Ms. McNamee:

We are pleased to provide our comments on the exposure draft [ED] referred to above and support the committee's effort to address many complex issues associated with employers' accounting for employee stock ownership plans (ESOPs).

Minority View

Included in the ED are the minority views of certain AcSec members related to the measurement of compensation costs for certain ESOPs. We wish to express our support of that minority view; however, we believe type I ESOPs should not be excluded from the scope of the SOP. Instead, the guidance should be applied using the original cost basis of the shares rather than the fair market value of the shares on the date released. We concur with the minority view that type I ESOPs should be measured based on the date the shares are purchased by the ESOPs since the risks and rewards associated with the value of the ESOPs' shares have been transferred from the employer to its employees.

We believe the use of fair value based on the time of release will create an artificial paid-in capital. In addition, it appears as though this standard will inappropriately mix the use of historical cost accounting with fair value accounting. A practical consideration that is addressed lightly by the ED, and which we believe will create a significant problem, is the determination of fair value. Generally, fair value of an ESOP's shares is determined at least five months into the following year. These same companies have financial statement timing requirements, including those brought on by the ESOP debt, of three months. As a result, the companies will be required to determine their fair value based on the previous year's independent stock valuation which more likely than not will differ from the current independent stock valuation. This will be true for most privately held companies with ESOPs.

Leveraged ESOPs

We concur with the committee's approach to accounting for the loan in leveraged ESOPs. In practice, we have found an inconsistent application of both indirect and employer loans. We believe the proposed SOP appropriately addressed those issues.

Nonleveraged ESOPs

We agree that companies with nonleveraged ESOPs should report compensation costs equal to the fair value at the time a cash contribution or shares are contributed or committed to be contributed to the ESOP.

We appreciate the opportunity to present our views on the ED and would be pleased to discuss any aspect of our letter with the committee or its staff at its convenience.

Larson, Allen, Weishair & Co.
LARSON, ALLEN, WEISHAIR & CO.

Tandem Computers Incorporated
10600 Ridgeview Court
Cupertino, CA 95014

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May 13, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division, File 2500
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1081

Dear Dionne:

As I mentioned in our phone conversation last week, I apologize for our late response to the ESOP accounting proposal. Because I am new to Tandem, the delay in our response was principally to allow me to understand the Company's plan and our position.

If you have any questions you can contact me directly at 408-285-0327.

Sincerely,

Mark P. Dentinger
Manager, Financial Reporting and Controls

TANDEMCOMPUTERS

May 13, 1993

Ms. Dionne D. McNamee, Technical Manager
Accounting Standards Division, File 2500
American Institute of Certified Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1081

Dear Ms. McNamee:

We are responding to your request for comment on the Exposure Draft of a Proposed Statement of Position, *Employers' Accounting for Employee Stock Ownership Plans*, dated December 21, 1992 (the "Proposed SOP").

Tandem Computers Incorporated (Tandem) is a publicly-held Fortune 500 manufacturer of on-line transaction processing computer systems. We have established several vehicles for distributing stock to employees and virtually all full-time employees own our stock.

In fiscal 1989, we established an internally leveraged Employee Stock Ownership Plan ("ESOP" or "the Plan") and funded the ESOP Trust ("the Trust") with $50 million of our common stock. The primary purpose of forming the ESOP was to allow our employees to obtain stock for retirement without paying for the shares. Our ESOP is designed to allocate shares representing 1.5% to 5% of employee compensation each quarter and the shares vest no later than one year from date of allocation.

In responding to the Proposed SOP, we agree with the Task Forces' observations that the structure and purpose of ESOPs have become increasingly complex. However, we also feel that guidance for some Type I ESOPs (as defined on page 95 of the Proposed SOP), which is principally contained in AICPA Statement of Position No. 76-3, *Accounting Practices For Certain Employee Stock Ownership Plans* (SOP 76-3), is still relevant and that certain Type I ESOPs should be excluded from the Proposed SOP .

Since SOP 76-3 was released, many new uses for ESOPs have developed, including the use of appreciated ESOP shares to fund liabilities of other employee benefit plans. For these newer uses of ESOPs, the guidance in SOP 76-3 may not be appropriate. However, for Type I ESOPs like Tandem's, where there is an independent relationship between the sponsor and the ESOP, the guidance in SOP 76-3 remains sufficient. In our opinion the key issues that should affect accounting for ESOPs are how the shares are used and the nature of the relationship between an ESOP and the employer/sponsor.

Tandem Computers Incorporated
10435 North Tantau Avenue
Cupertino, CA 95014-0709
(408) 865-4500

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We have the following specific concerns about conclusions drawn in paragraph 69 of the Proposed SOP:

1) The Task Force is focused on the fact that uncommitted employer shares in an ESOP are not individually allocated to employees per the requirements of paragraph 10.b. of Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees* (APBO 25), and therefore a measurement date has not been established at the time the shares are issued to the Trust. However, the guidance in APBO 25 was applicable at the time SOP 76-3 was drafted. We do not believe SOP 76-3 conflicted with APBO 25, but merely addressed a new type of stock ownership mechanism following passage of the Employee Retirement Income Security Act of 1974 (ERISA), which did not exist when APBO 25 became effective. Tandem's ESOP also meets the provisions of paragraph 10.e. of APBO 25 which provides a measurement date at the time shares are issued to the Trust. The substance of Type I ESOPs has not changed since issuance of SOP 76-3 and we believe the guidance contained therein is still applicable.

2) The Task Force notes the risks and rewards of ESOP shares reside with the employer until shares are committed to be released because of the large degree of control employers have over an employee's compensation package. We feel these observations do not apply in our case (and in other cases) for two reasons:

First, in order to qualify for certain tax advantages and to comply with ERISA, substantial structural and administrative requirements exist surrounding the formation and operation of an ESOP. These requirements effectively transfer many of the rewards of stock ownership to the employee group as a whole upon formation of the ESOP. Specifically, most qualifying ESOPs utilizing a Trust are chartered to vote the unallocated shares in the Trust in the interest of the employees. In our case, the unallocated shares must be voted in the same proportion as the allocated shares. Further, in our ESOP, the unallocated shares in the Trust can not revert to Tandem. Finally, as a result of the Omnibus Budget Reconciliation Act of 1989, there is a substantial excise tax levied on Plans which dispose of securities within a three year period after formation. For these reasons, we believe issuance of shares to the Trust represents a substantive transfer of the rewards of owning the shares, even though the shares have not been individually allocated.

Second, although Plan contributions are part of an employee's compensation, because of the broad base of participants, and because of numerous other components of a compensation package, including other stock ownership vehicles, it is impracticable to use the ESOP to tailor compensation packages for individual employees. This is true in part because the ESOP shares must be distributed systematically to all employees, making it impossible to use the ESOP as a vehicle for non-uniform employee compensation. Our plan was designed principally as a retirement vehicle, not to facilitate current compensation.

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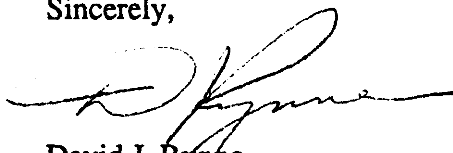
3) We do not understand the Task Force's goal of trying to make practices for each and every leveraged and non-leveraged ESOP consistent. The accounting for shares issued to an ESOP should reflect the substance of the transaction, including the degree to which the sponsor has transferred the rewards of stock ownership to the employees and the relationship between a sponsor and the ESOP. In fact, the substance of leveraged and non-leveraged ESOPs (and, for that matter, the substance of different leveraged ESOPs) may differ considerably, depending upon legal structure and purpose. We feel the accounting guidance should reflect these differences.

As a final point, we note the Proposed SOP, if adopted, will likely result in greater net income to Tandem because the cost of the stock issued to our ESOP was $17.81 per share and our current trading price is about $11.50. Despite the positive impact on our earnings, we oppose the Proposal in principle because we do not believe it fundamentally improves financial reporting. In fact, adoption of the proposal would likely adversely affect the volatility of reported earnings and the comparability of income between periods.

We ask the Task Force to consider amending or modifying the Proposed SOP to retain the current guidance for Type I plans with an independent relationship between the sponsor and the trustee. In other cases, where the trustee is not substantively independent from the sponsor or where the Plan is used to fund the liabilities of other benefit plans, we agree in principle with the Task Force's conclusions.

We would be happy to discuss this matter with you or any of the Task Force members at your convenience.

Sincerely,



David J. Rynne
Senior Vice President and Chief Financial Officer

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May 17, 1993

Accounting Standards Division
American Institute of Certified
Public Accountants
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1081

California Society
Certified Public Accountants

Attention: Dionne D. McNamee, Technical Manager

Re: File 2500, Employers' Accounting for Employee Stock Ownership Plans

The Accounting Principles and Auditing Standards Committee of the California Society of Certified Public Accountants ("AP&AS Committee") has discussed the Exposure Draft of the proposed Statement of Position, Employers' Accounting for Employee Stock Ownership Plans and has developed certain comments on that Exposure Draft.

The AP&AS Committee is a senior technical committee of the California Society of Certified Public Accountants. The 1992/93 Committee comprises 44 members, of which 16% are from national CPA firms, 46% are from local or regional firms, 30% are sole practitioners in public practice, 4% are in industry, and 4% are in academia. In addition, 5 current or former members of the Accounting Standards Executive Committee serve on the AP&AS Committee.

The following comments represent the results of the AP&AS Committee's deliberations on the AICPA Exposure Draft.

The AP&AS Committee agrees with the minority view of AcSEC that there are essential differences between ESOP shares that are released to compensate employees directly and ESOP shares that are released to settle or fund liabilities for other employee benefits, referred to as Type I and Type II ESOPs, respectively. SOP 76-3 has worked well for Type I plans and there is no apparent need to change. While there are arguably some inconsistencies between SOP 76-3 and APB Opinion No. 25 "Accounting for Stock Issued to Employees", those inconsistencies were known when SOP 76-3 was issued, which was several years after the issuance of APB 25. Further, these inconsistencies have not been a source of significant concern Type I plans.

The risks and rewards associated with the value of Type I ESOP shares are transferred to employees at the date the ESOP purchases the shares, and this should be the measurement date for compensation. The cost as of that date is the actual cost to the employer and is the best representation of the employer's cost of compensating the employee. In addition, valuation of shares at release date would cause some additional

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California Society
Certified Public Accountants

need for appraisal of shares which is not matched by any apparent benefit. One must consider that approximately 95% of ESOPs are non-public companies and there is no demonstrated need by users of their financial statements for a different basis for measurement of Type I ESOP plans on a basis different than current practice under SOP 76-3.

Further, the AP&AS Committee believe that AcSEC should not undertake any change for Type I plans at the time that the FASB is working on a comprehensive project on accounting for employee stock compensation that might affect the conclusions that would be reached on accounting for Type I plans.

On the other hand, the AP&AS committee does believe that new guidance is needed for Type II plans. These are new since SOP 76-3 and are substantively different from Type I ESOPs. It essentially agrees with the guidance in the proposed SOP and recommends that a SOP limited to Type II plans be issued.

The AP&AS Committee has several comments on transition provisions. First, the effective date should be delayed until years ending after December 15, 1994. Making it effective for years ending after December 15, 1993, as proposed, would be unreasonable since there would not be an sufficient time between issuance and effective date for adequate implementation. Second, the "grandfather date" of September 23, 1992 should be extended to a more current date that is consistent with the effective date. Third, the proforma income data that would be required by the last sentence of paragraph 54 should not be required; it does not seem to be worthwhile, its preparation would be burdensome, it is inconsistent with requirements of recent FASB pronouncements such as FAS 106, and the cost does not seem to be matched by any discernable benefits.

The AP&AS Committee has two other suggestions. First, it would seem worthwhile to include the conclusions of EITFs 88-27 and 89-11 in a final document so as to put all ESOP guidance in one place. Second, the AP&AS Committee believes that the "contra-equity account" described in paragraph 13 should periodically be adjusted to reflect the value of suspense shares for Type II ESOP plans since their cost seems irrelevant if such shares will ultimately be recorded at fair value at release date.

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California Society
Certified Public Accountants

We appreciate the opportunity to express our comments related to this Exposure Draft and are available to discuss our letter further, if you desire.

Very truly yours,

Richard A. Clark

Richard A. Clark, Chairman
Accounting Principles & Auditing Standards Committee
California Society of Certified Public Accountants

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MASSACHUSETTS SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS, Inc.
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May 18, 1993

Accounting Standards Executive Committee
American Institute of Certified Public Accountants
1211 Avenue of the Americans, 6th Floor
New York, NY 10036-8775

RE: Exposure Draft of "Proposed Statement of Position (SOP) Employers' Accounting for Employees Stock Ownership Plan"

Gentlemen:

The Accounting Principles and Auditing Procedures Committee is the senior technical committee of the Massachusetts Society of CPAs'. The Committee consists of over thirty members who are affiliated with public accounting firms of various sizes, industry and academia. The Committee has reviewed and discussed the Exposure Draft of "Proposed Statement of Position (SOP) Employers' Accounting for Employees Stock Ownership Plan" and offers the following comments.

The Committee is in basic agreement with all aspects of the Exposure Draft, except for the provision that expense would be based upon the current fair value of shares released, rather than the original cost to the ESOP.

Our concern is that this would be a departure from the prohibition of recognition of gain or loss when a corporation deals in its own stock. It would seem incongruous to recognize the gain or loss in relation to recording the compensation expense but have the corresponding adjustment go to additional paid-in-capital.

The fact that there has been a fluctuation in the fair market value of a corporation's stock between the time when it was "purchased" and when it was "released" should not enter into the measurement of compensation expense.

The Committee has concerns regarding the use of "fair value accounting" in connection with this issue while the movement towards greater use of fair value accounting is still in process. In addition, because of the proposed grandfather provisions, the Committee believes that there will be a lack of comparability for many years subsequent to adoption of the provisions of this statement.

The Committee appreciates the opportunity to participate in AcSec's due process procedures and we hope that our responses are helpful to AcSec in its deliberations.

Very truly yours,

Mary E. Barth, Chair
Accounting Principles & Auditing Procedures Committee
of the Massachusetts Society of Certified Public Accountants

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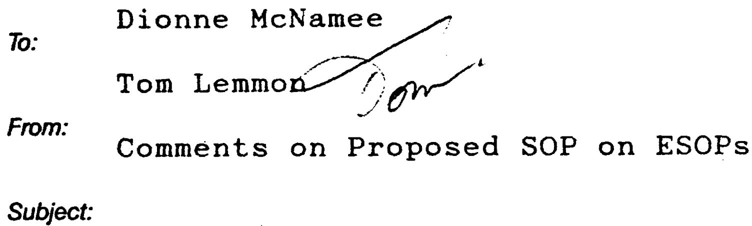

INTERNAL MEMORANDUM

Date: April 23, 1993

Reply:

To: Dionne McNamee

From: Tom Lemmon

Subject: Comments on Proposed SOP on ESOPs

The Professional Issues Subcommittee of the Members in Industry Executive Committee will not comment as a group on the Proposed Statement of Position, Employers' Accounting for Employee Stock Ownership Plans.

I am enclosing, however, comment letters from two members of the Subcommittee for the consideration of the Task Force on Accounting for ESOPs. As indicated, these letters represent the personal views of the respondent individuals, and do not necessarily reflect the views of their respective employer organizations, the Professional Issues Subcommittee or the Members in Industry Executive Committee.

If you or the Task Force members have any questions, please contact me at extension 6122 in New York.

cc: Mike Bohan
Holly Nelson
Larry Handler
Hal Hyatt
Chester Sadowski
David Summers

BP AMERICA

RECEIVED
MAR 15 1993

Michael P. Bohan
Regional Center Controller

BP America Inc.
200 Public Square 38-3801-N
Cleveland, OH 44114-2375

Phone: 216-586-3984
Fax: 216-586-5420

67 cont'd

March 10, 1993

Mr. Thomas J. Lemmon
American Institute of Certified Public Accountants
1211 Avenue of the Americas
New York, NY 10036-8775

Proposed Statement of Position - Employers' Accounting for Employee Stock Ownership Plans

Dear Tom:

For openers, Jerry Searfoss, the Chairman of the ESOP Task Force, told me that of the seven members on the Task Force, two were from industry -- Leonard A. Brams, from United Technologies and Frederick W. Deichmann, from General Reinsurance. He said that both of those enterprises have significant ESOPs and that was the main reason for these individuals being assigned to the ESOP Task Force. That gives me considerable comfort that appropriate industry representation was in place, however as I look at my comments I wonder if these folks were in the majority or not. The dissenting views seem to focus on what I would describe as a grandfathering situation, so it's not clear to me as to the level of concurrence on the part of these individuals. I guess I'd like to contact them to see if they are happy with the document, on the other hand, it may be inappropriate to make such contact. I'd appreciate any counsel you may have in this regard.

I have one overriding concern, and that's shared in the minority position. The FASB appears to be about ready to expose their document on stock compensation -- I'm concerned that AcSEC may be providing guidance that could only be a short-term fix and may even ultimately be undone if the approach taken by the FASB differs from that in the proposed SOP. Accordingly, I would provide a general recommendation that AcSEC defer action. I realize that the FASB has had an opportunity to review the SOP in its pre-exposure stage and apparently has not objected to exposure, so that waters down my argument a bit. However, I am concerned that we've got too many folks addressing aspects of compensation which I believe should be encompassed in the FASB project.

Having said that, I am basically in agreement with the guidance provided in the proposed SOP. There are some provisions which I believe need some fine tuning or reconsideration, as follows:

Paragraph 2 -- I believe that the references to the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code of 1986 (IRC) should be more specific by reference to section numbers or the related sections should be included as exhibits to this document.

Paragraph 12 -- The sentence regarding "released shares" indicates they "must be allocated." Who says? I presume it is a requirement of either ERISA or of the IRC, but it's not clear here. There are similar comments throughout the document that "something" must be done without providing any reference as to why it is mandatory. Without such a reference it appears that the SOP itself will require such treatment.

Paragraph 14 -- I see where they're going, but the initial sentence is difficult to read. I'm not sure I can provide any better guidance, having not participated in their deliberations, but I recommend they look at the wording one more time.

Paragraph 16 -- As I read the requirements here, I have no basic problem but I wonder if any of these plans have any vesting features which need to be considered in determining the measurement of compensation. Under pension and other postretirement benefit plans the accrual accounting that is used during an individual's active service period includes a factor for turnover in case the individual does not fully vest in the benefits under the plan -- is it possible that under an ESOP a similar situation could occur? If so, should there not be a provision with respect to this? It's quite possible that the law requires everything to be vested, but I didn't pick that up in my reading (I could have missed it).

67 cont'd

Paragraph 21 -- The treatment of dividends on unallocated shares leaves me cold. If the shares are unallocated, then why aren't the dividends paid thereon afforded the same accounting as the related unearned compensation cost attributed to unallocated shares? In other words, shouldn't the dividends on unallocated shares go into the deferred compensation account and only be recognized as a compensation cost as the related shares are ultimately allocated? I have a great deal of difficulty understanding how the last sentence of this paragraph operates, how can dividends on unallocated shares be paid to participants or added to participant accounts if in fact they haven't as yet been allocated to specific participants? It just doesn't flow.

Paragraph 23 -- The first sentence mentions a requirement, similar to my earlier comment (Paragraph 12) -- where is this requirement? (Please note that I have not identified all sections where this wording is contained in the document, but I'm pointing this out as another example.)

This paragraph is another example of an issue being addressed by the FASB -- how to treat repurchase of shares both under employee stock plans and in general when put options are outstanding.

Paragraph 24 -- The first bullet indicates that a direct loan "... often include[s] some formal guarantee or commitment by the employer." What if there is no guarantee or commitment -- does that imply a different type of accounting is to be employed? I believe the document should address all situations.

Paragraph 30 -- Subparagraph a. states that "convertible preferred shares held by ESOPs generally cannot remain outstanding indefinitely" -- why not?

Paragraph 45 &
Paragraph 46 -- I think I'm missing something here. Shouldn't there first be a discussion of the employer's accounting for the asset reversion and then accounting guidance provided for the transfer to the ESOP. As I read this paragraph, I feel there is a step missing that may need some clarification.

Paragraph 52 -- Is this paragraph really needed? Cannot the guidance be appropriately determined by reference to FASB Statement No. 109? I believe as written Paragraph 52 is confusing. Isn't all they're saying is that if expense is recognized in the P&L, then the associated tax benefit should be recognized in the P&L; if expense is not recognized in the P&L, because the associated charge is to retain earnings, then any related tax benefit should similarly be credited to retained earnings.

Paragraph 59 -- I'm not convinced that the statement in the last sentence is correct, "... each element is reported in accordance with its substance as it would be reported if it occurred as a separate transaction." If an enterprise guaranteed the debt of another enterprise and it was likely that the guarantor would be called upon to make good on its guarantee, the guarantor would record the liability at the time this determination is made (similar to the recognition of the employer's substantive obligation on ESOP debt) but the guarantor would also immediately recognize expense, not defer it over some future period as is the case with respect to the deferred compensation aspect under this proposed SOP. To me, the ability to defer the compensation aspect is the result of linking the features of the guarantee and the intention with respect to future allocation of shares to the employees. Accordingly, I believe the SOP really looks at the substance of the entire transaction, not the individual pieces. I believe one must look to the substance of an entire transaction, not fragment it and try to account for the pieces as entirely separable. So, while I agree with the treatment of the obligation and the deferred compensation expense under the proposed SOP, I believe the statement in the final sentence of Paragraph 59 is not in fact representative of the concept upon which the proposed SOP is based.

Paragraph 61 -- I believe we used to refer to the treatment described in this paragraph as a "constructive retirement" of shares followed by a "constructive reissuance." It might be helpful to use this traditional terminology to assist the reader in relating the accounting prescribed in the proposed SOP to situations they have encountered in the past.

Please note that the foregoing comments are my personal views and do not necessarily reflect the views of BP America or its parent.

I hope the above is sufficiently clear for your to proceed. Please give me a call if you have any questions.

Very truly yours,

MPB:cnb

cc: Lawrence Handler
Harold A. Hyatt
Mary Molloy
Holly Nelson
Chester Sadowski, Jr.

M1021

03/08/1993 12:47 NWA FINANCE 612 726 3061 P.01

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To Tom Lemmon	From Holly N
Co.	Co.
Dept.	Phone # 612 726 72
Fax # 212-596-6213	Fax # 612-726-3061

67 cont'd

March 8, 1993

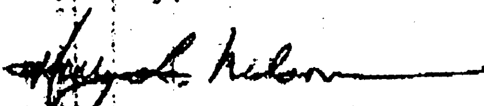
Mr. Thomas J. Lemmon
American Institute of Certified Public Accountants
1211 Avenue of the Americas
New York, NY 10036-8775

Dear Tom:

Attached are my comments on the proposed Statement of Position, Employers' Accounting for Employee Stock Ownership Plans. Sorry my response is not more comprehensive, but I have not had any practical experience in this area, and have had to spend most of my time on our yearend close.

If you have questions, please contact me at 612-726-7295. I have also included my registration form for the spring Members in Industry Conference as we discussed.

Sincerely,



Holly L. Nelson, Member
Professional Issues Subcommittee

Enclosures

cc: Michael Bohan

SPECIFIC ISSUES REQUESTED TO BE ADDRESSED

Issue 1: Recognition of Compensation Cost
This is a difficult question. To be consistent with APB Opinion No. 25, it would appear that the utilization of fair market value would be preferred. However, a contradiction arises in that the form of the plans is ignored (e.g. the ESOP debt is considered the company's debt). This would support valuation utilizing the cost to the ESOP as any profit is eliminated in related party transactions, which you could possibly apply to an ESOP from a theoretical standpoint. I see this argument especially applicable as related to paragraph 70 when treasury shares are utilized to fund liabilities. It would seem more appropriate in those circumstances to use cost to measure compensation expense, versus fair market value. So a potential alternative would be to utilize fair market value for newly issued shares and cost for treasury shares. Whether this makes sense from all facets of the issue would need to be re-evaluated by AcSEC.

Issue 2: Effective Date and Transition
The 1993 effective date is aggressive, especially considering the requirement to restate interim periods. One of the topics we discussed at our first meeting was standards overload. With the required adoption of SFAS 106 and 109 in 1993, this is just one more issue to address with shrinking personnel resources. The complexities and costs to private companies to determine market value are in addition to the actuarial costs of SFAS 106. I would recommend a 1994 effective date. Earlier adoption could be encouraged, but not required.

Not working with ESOPs in practice, what is the significance of September 23, 1992? I don't understand and it would be my recommendation to utilize something geared to the end of the calendar or fiscal year timeframe. If there is a reason for that date, it should be explained. The proposed transition rules appear appropriate.

Issue 3: Disclosures
I would concur that the proposed pro forma disclosures be required only of public companies.

OTHER COMMENTS

Definition of Committed to be Released
Not familiar with this area, it was not clear to me how probable this requirement was. Did it have to be probable or guaranteed to be recognized? My assumption is that it had to be guaranteed versus probable as nothing addressed what the accounting would be if the shares were never released due to unexpected circumstances. I would recommend that this be clarified. It would also be my recommendation that the definition be guaranteed and not probable.

Paragraph 37--Sale of Suspense Shares
The entire SOP requires any share valuations to be at fair market value. In this paragraph specifies at the cost of the shares to the ESOP. That appears to be contradictory, other than these shares are in suspense which is a different stage than committed to be released. However, the next paragraph indicates the treasury stock purchase to be done at fair market value. This accounting recommended here seems to be inconsistent and I would question why the different approach is recommended.

67 cont'd

Paragraph 54--Disclosures
I would conclude on item f that the disclosure of the number of shares would be adequate unless repurchase is imminent. The price for repurchase could be totally unrelated to the fair market value. Also, are the pro forma requirements for the most recent year or all years presented after adoption? This should be clarified.

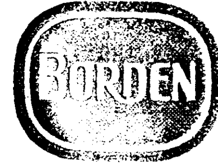
Paragraph 66--Timing of Recognition
AcSEC's conclusion that the allocation date or the date that employees become vested is not significant for accounting purposes makes sense and I would concur with those conclusions.

Minority View
I would concur with the minority view that if there is a chance that this accounting could be superseded by another project that it may be best to not to issue at this time until AcSec is comfortable the proposed accounting will stand. As it appears an exposure draft is to be issued this year, this assessment should be able to be made.

Other than the items noted above, I concur with the proposed accounting and disclosures.

(68)

BORDEN, INC.
180 EAST BROAD STREET • COLUMBUS, OHIO 43215



JAMES M. HESS
VICE PRESIDENT
AND
GENERAL CONTROLLER

June 8, 1993

Ms. Dionne D. McNamee
Technical Manager
Accounting Standards Division, File 2500
AICPA
1455 Pennsylvania Avenue, NW
Washington, D.C. 20004-1007

Dear Ms. McNamee:

We offer the following comments regarding the Exposure Draft on the proposed Statement of Position - Employers' Accounting for Employee Stock Ownership Plans.

<u>Background re: the Borden ESOP</u>
There are two elements of our integrated ESOP/401-K plan design which are somewhat unique and which cause questions as to the application of this proposed SOP. First, the Borden ESOP has no external or internal debt, however, shares are placed in the ESOP before the exact allocation to participants is known. Thus, under the proposed SOP our plan has attributes of both leveraged and nonleveraged plans. Second, shares for the 401-K match are allocated to participants based on the <u>historical cost to the ESOP</u> of those shares. For example, assume shares are purchased or issued from treasury stock when the fair market value is $20 and they are allocated to participants six months later when the FMV is $25. If a participant has a match contribution of $100, the participant would receive five shares (not four). If the FMV assumptions were reversed, the participant would receive only four shares.

Typically, Borden purchases shares on the open market or issues treasury stock for a year's requirements of the 401-K Company match. The charge is recorded to a deferred charge. The ESOP has never had more than one year's worth of shares for the 401-K match and the calculation of the future requirement is relatively easy since the shares are allocated at the ESOP's cost. Compensation expense is recorded as the shares are allocated to the participants based on the historical cost of the shares (which would also represent the cost of the match if it were paid in cash). The acquisition of the shares by the ESOP, the earning of the shares by the participants, the allocation of shares to participants and the recording of the expense all occur within twelve months, sometimes within the same fiscal year. On some occasions the shares were purchased in December just prior to year-end.

The only difference between our plan and the typical nonleveraged ESOP is that there is up to a twelve month delay between the acquisition of shares by the ESOP and the allocation of the shares. As mentioned earlier, this delay does not affect the basis for share allocation since they are allocated based on the cost of the shares to the ESOP.

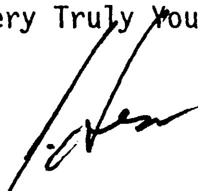
Comments on the Proposed SOP

Since the proposed SOP specifies different accounting practices for leveraged and nonleveraged plans, these terms should be formally defined in the SOP. Conceptually, it would appear that the most important difference between leveraged and nonleveraged ESOPs is that the former will require future sacrifices by the ESOP (in the form of forfeited dividends, employer contributions, etc.) in order to fund the interest and debt. Nonleveraged ESOPs obtain their shares without any future obligations or sacrifices on the part of the ESOP and shares are allocated to the participants within a single accounting period. At a minimum the following change (shown in italics) should be made to paragraph 40 of the SOP. "The shares contributed or acquired with the cash contributed, which may be outstanding shares, treasury shares, or newly issued shares, are allocated to participant accounts "*within a single accounting period*" and held ...".

The definition of "committed to be released shares" could also be clarified with the following addition. *Shares are considered committed to be released when substantially all of the risks and rewards associated with the shares have been transferred to the participants.*

If you should have any questions regarding our comments please call Michael Stoner at (614) 225-3497.

Very Truly Yours,



James M. Hess