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**Inspection of
Mendoza Berger & Company, L.L.P.**

**Issued by the
Public Company Accounting Oversight Board
July 31, 2008**

THIS IS A PUBLIC VERSION OF A PCAOB INSPECTION REPORT

**PORTIONS OF THE COMPLETE REPORT ARE OMITTED
FROM THIS DOCUMENT IN ORDER TO COMPLY WITH
SECTIONS 104(g)(2) AND 105(b)(5)(A)
OF THE SARBANES-OXLEY ACT OF 2002**

PCAOB RELEASE NO. 104-2008-138



Notes Concerning this Report

1. Portions of this report may describe deficiencies or potential deficiencies in the systems, policies, procedures, practices, or conduct of the firm that is the subject of this report. The express inclusion of certain deficiencies and potential deficiencies, however, should not be construed to support any negative inference that any other aspect of the firm's systems, policies, procedures, practices, or conduct is approved or condoned by the Board or judged by the Board to comply with laws, rules, and professional standards.
2. Any references in this report to violations or potential violations of law, rules, or professional standards should be understood in the supervisory context in which this report was prepared. Any such references are not a result of an adversarial adjudicative process and do not constitute conclusive findings of fact or of violations for purposes of imposing legal liability. Similarly, any description herein of a firm's cooperation in addressing issues constructively should not be construed, and is not construed by the Board, as an admission, for purposes of potential legal liability, of any violation.
3. Board inspections encompass, among other things, whether the firm has failed to identify departures from U.S. Generally Accepted Accounting Principles ("GAAP") or Securities and Exchange Commission ("SEC" or "Commission") disclosure requirements in its audits of financial statements. This report's descriptions of any such auditing failures necessarily involve descriptions of the related GAAP or disclosure departures. The Board, however, has no authority to prescribe the form or content of an issuer's financial statements. That authority, and the authority to make binding determinations concerning an issuer's compliance with GAAP or Commission disclosure requirements, rests with the Commission. Any description, in this report, of perceived departures from GAAP or Commission disclosure requirements should not be understood as an indication that the Commission has considered or made any determination regarding these issues unless otherwise expressly stated.



INSPECTION OF MENDOZA BERGER & COMPANY, L.L.P.

The Public Company Accounting Oversight Board ("PCAOB" or "the Board") has conducted an inspection of the registered public accounting firm Mendoza Berger & Company, L.L.P. ("the Firm"). The Board is issuing this report of that inspection in accordance with the requirements of the Sarbanes-Oxley Act of 2002 ("the Act").

The Board is making portions of the report publicly available. Specifically, the Board is releasing to the public Part I of the report and portions of Part IV of the report. Part IV of the report consists of the Firm's comments, if any, on a draft of the report.^{1/}

The Board has elsewhere described in detail its approach to making inspection-related information publicly available consistent with legal restrictions.^{2/} A substantial portion of the Board's criticisms of a firm (specifically criticisms of the firm's quality control system), and the Board's dialogue with the firm about those criticisms, occurs out of public view, unless the firm fails to make progress to the Board's satisfaction in addressing those criticisms. In addition, the Board generally does not disclose otherwise nonpublic information, learned through inspections, about the firm or its clients. Accordingly, information in those categories generally does not appear in the publicly available portion of an inspection report.

^{1/} The Board does not make public any of a firm's comments that address a nonpublic portion of the report unless a firm specifically requests otherwise. In addition, pursuant to section 104(f) of the Act, 15 U.S.C. § 7214(f), and PCAOB Rule 4007(b), if a firm requests, and the Board grants, confidential treatment for any of the firm's comments on a draft report, the Board does not include those comments in the final report at all. The Board routinely grants confidential treatment, if requested, for any portion of a firm's response that addresses any point in the draft that the Board omits from, or any inaccurate statement in the draft that the Board corrects in, the final report.

^{2/} See Statement Concerning the Issuance of Inspection Reports, PCAOB Release No. 104-2004-001 (August 26, 2004).

PART I

INSPECTION PROCEDURES AND CERTAIN OBSERVATIONS

Members of the Board's inspection staff ("the inspection team") conducted fieldwork for the inspection from October 23, 2006 to October 27, 2006. The fieldwork included procedures tailored to the nature of the Firm, certain aspects of which the inspection team understood at the outset of the inspection to be as follows:

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|--|--|
| Number of offices | 2 (Irvine and Los Angeles, California) |
| Ownership structure | Limited liability partnership |
| Number of partners | 4 |
| Number of professional staff ^{3/} | 19 |
| Number of issuer audit clients ^{4/} | 28 |

^{3/} "Professional staff" includes all personnel of the Firm, except partners or shareholders and administrative support personnel. The number of partners and professional staff is provided here as an indication of the size of the Firm, and does not necessarily represent the number of the Firm's professionals who participate in audits of issuers or are "associated persons" (as defined in the Act) of the Firm.

^{4/} The number of issuer audit clients shown here is based on the Firm's self-reporting and the inspection team's review of certain information for inspection planning purposes. It does not reflect any Board determination concerning which, or how many, of the Firm's audit clients are "issuers" as defined in the Act. In some circumstances, a Board inspection may include a review of a firm's audit of financial statements of an issuer that ceased to be an audit client before the inspection, and any such former clients are not included in the number shown here.

Board inspections are designed to identify and address weaknesses and deficiencies related to how a firm conducts audits.^{5/} To achieve that goal, Board inspections include reviews of certain aspects of selected audits performed by the firm and reviews of other matters related to the firm's quality control system.

In the course of reviewing aspects of selected audits, an inspection may identify ways in which a particular audit is deficient, including failures by the firm to identify, or to address appropriately, respects in which an issuer's financial statements do not present fairly the financial position, results of operations, or cash flows of the issuer in conformity with GAAP.^{6/} It is not the purpose of an inspection, however, to review all of a firm's audits or to identify every respect in which a reviewed audit is deficient. Accordingly, a Board inspection report should not be understood to provide any assurance that the firm's audits, or its issuer clients' financial statements, are free of any deficiencies not specifically described in an inspection report.

A. Review of Audit Engagements

The inspection procedures included a review of aspects of the Firm's auditing of financial statements of six issuers. The scope of this review was determined according to the Board's criteria, and the Firm was not allowed an opportunity to limit or influence the scope.

The inspection team identified what it considered to be audit deficiencies.^{7/} The deficiencies identified in three of the audits reviewed included deficiencies of such

^{5/} This focus necessarily carries through to reports on inspections and, accordingly, Board inspection reports are not intended to serve as balanced report cards or overall rating tools.

^{6/} When it comes to the Board's attention that an issuer's financial statements appear not to present fairly, in a material respect, the financial position, results of operations, or cash flows of the issuer in conformity with GAAP, the Board's practice is to report that information to the SEC, which has jurisdiction to determine proper accounting in issuers' financial statements.

^{7/} PCAOB standards require a firm to take appropriate actions to assess the importance of audit deficiencies identified after the date of the audit report to the firm's present ability to support its previously expressed opinions. See AU 390, *Consideration*

significance that it appeared to the inspection team that the Firm did not obtain sufficient competent evidential matter to support its opinion on the issuer's financial statements.^{8/} Those deficiencies were –

- (1) the failure to perform audit procedures to evaluate the accounting for warrants issued;
- (2) the failure to perform audit procedures to evaluate the classification of cash flows associated with direct-financing leases; and
- (3) the failure to perform sufficient audit procedures related to the Firm's use of the work of a specialist.

B. Review of Quality Control System

In addition to evaluating the quality of the audit work performed on specific audits, the inspection included review of certain of the Firm's practices, policies, and procedures related to audit quality. This review addressed practices, policies, and procedures concerning audit performance, training, compliance with independence

of Omitted Procedures After the Report Date, and AU 561, Subsequent Discovery of Facts Existing at the Date of the Auditor's Report (both included among the PCAOB's interim auditing standards, pursuant to PCAOB Rule 3200T). Failure to comply with these PCAOB standards could be a basis for Board disciplinary sanctions.

^{8/} In some cases, an inspection team's observation that a firm failed to perform a procedure may be based on the absence of documentation and the absence of persuasive other evidence, even if a firm claims to have performed the procedure. PCAOB Auditing Standard No. 3, *Audit Documentation* ("AS No. 3"), provides that, in various circumstances including PCAOB inspections, a firm that has not adequately documented that it performed a procedure, obtained evidence, or reached an appropriate conclusion must demonstrate with persuasive other evidence that it did so, and that oral assertions and explanations alone do not constitute persuasive other evidence. See AS No. 3, paragraph 9; Appendix A to AS No. 3, paragraph A28. For purposes of the inspection, an observation that the Firm did not perform a procedure, obtain evidence, or reach an appropriate conclusion may be based on the absence of such documentation and the absence of persuasive other evidence.

standards, client acceptance and retention, and the establishment of policies and procedures. As described above, any defects in, or criticisms of, the Firm's quality control system are discussed in the nonpublic portion of this report and will remain nonpublic unless the Firm fails to address them to the Board's satisfaction within 12 months of the date of this report.

END OF PART I



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PARTS II AND III OF THIS REPORT ARE NONPUBLIC
AND ARE OMITTED FROM THIS PUBLIC DOCUMENT

PART IV

RESPONSE OF THE FIRM TO DRAFT INSPECTION REPORT

Pursuant to section 104(f) of the Act, 15 U.S.C. § 7214(f), and PCAOB Rule 4007(a), the Firm provided a written response to a draft of this report. Pursuant to section 104(f) of the Act and PCAOB Rule 4007(b), the Firm's response, minus any portion granted confidential treatment, is attached hereto and made part of this final inspection report.^{9/}

^{9/} In any version of this report that the Board makes publicly available, any portions of the Firm's response that address nonpublic portions of the report are omitted unless a firm specifically requests otherwise. In some cases, the result may be that none of a firm's response is made publicly available.

**MENDOZA
BERGER
COMPANY, L.L.P.**
Certified Public Accountants

May 7, 2008

George H. Diacont
Director
Division of Registration and Inspections
Public Company Accounting Oversight Board
1666 K Street, N.W.
Washington, DC 20006

**RE: Public Response to Part I of the Draft Report of
Inspection Conducted in October 2006**

Dear Mr. Diacont:

We are in receipt of the Public Company Accounting Oversight Board's (PCAOB) draft Report of Inspection, dated April 16, 2008, in connection with the PCAOB's inspection of Mendoza Berger & Company, LLP in October of 2006 pursuant to section 104 of the Sarbanes-Oxley Act of 2002. As allowed in your cover letter, this is our public written response to the draft report.

On page 3 of the draft report, section A, the report states that "The inspection team identified in three of the audits what it considered to be audit deficiencies. The deficiencies identified in three of the audits reviewed included deficiencies of such significance that it appeared to the inspection team that the Firm did not obtain sufficient competent evidential matter to support its opinion on the issuer's financial statements. Those deficiencies were –

- (1) the failure to perform audit procedures to evaluate the accounting for warrants issued;
- (2) the failure to perform audit procedures to evaluate the classification of cash flows associated with direct-financing leases; and
- (3) the failure to perform sufficient audit procedures related to the Firm's use of a specialist."

This letter will document our public response to these three comments.

Response to Part I deficiencies:

1. the failure to perform audit procedures to evaluate the accounting for warrants issued (Issuer A)

Firm's Response:

As a result of the PCAOB Reviewer's comment on this engagement, we readdressed the issuer's accounting for warrants. In our judgment, the issuer's accounting for warrants under the terms of the registration rights agreement is in accordance with applicable authoritative literature and the audit procedures performed by us were sufficient to supporting the relevant financial statement assertions and our audit opinion thereon.

Specifically, during our internal review process prior to issuance, we evaluated the various potential re-measurement dates. In particular, the Firm consulted guidance contained in EITF 00-19 and guidance contained in SFAS 5, *Accounting for Contingencies*. Our audit procedures included a conference call directly with the issuer by the engagement partner and the concurring partner to discuss and review all the relevant matters described above and we concluded that the re-measurement date, and more importantly, the stock price used the issuer for re-measurement did not result in an audit adjustment. Thus, we do not agree with the conclusion set forth in Part I of the PCAOB Report.

2. the failure to perform audit procedures to evaluate the classification of cash flows associated with direct-financing leases (Issuer B)

Firm's Response:

Our Firm and the audit team did consider the impact of FAS 102 and as well as current standard industry practice when considering where to classify the proceeds from the sale of leases and finally deciding to classify such proceeds as investing activities and not as operating activities. The Engagement Partner and the Engagement Manager both researched this issue before deciding on an appropriate course of action.

SFAS 102, Section 9 states: "Cash receipts resulting from the sales of loans that were not specifically acquired for resale shall be classified as investing cash inflows. That is, if loans were acquired as investments, cash receipts from sales of those loans shall be classified as investing cash inflows regardless of a change in the purpose for holding those loans." The issuer in question met these requirements.

In addition, the Firm researched other public filers that are engaged in similar operations to see how they handled the same cash flow issue. We found that other filers did report transactions similar to the issuer's as investing activities. Therefore we believe that we have correctly classified the sale of these leases as investing activities in the statement of cash flows.

3. the failure to perform sufficient audit procedures related to the Firm's use of a specialist (Issuer C)

Firm's Response:

We believe that the nature and extent of our audit procedures originally performed were appropriate and responsive to our risk assessment of the oil and gas properties on the issuer's financial statement. In addition, our audit procedures performed supported the relevant assertions and our audit opinion.

Our engagement team obtained the Reserve Study prepared by the third party valuation specialist and reviewed the study, its estimates and underlying assumptions directly with the Vice President who drafted the report via teleconference. We performed our inquiries during this conversation and met our responsibilities for compliance with AU §336 and AU §9558. Accordingly, we concluded that the oil and gas reserve estimates provided by the valuation specialist, and thus used by the issuer within its financial statements, were materially correct and did not result in an audit adjustment.

In general, we do not agree with the characterization in Part I of your Report regarding the work we performed or our related audit documentation, particularly when competent evidential matter existed and the sufficiency of which it was obtained and used would be a matter of professional judgment to support the opinion rendered. In our judgment, in each observation made by the PCAOB inspection team, none of our actions change our original audit conclusions or affect our reports on the respective issuers' financial statements.

We take seriously the matters identified by the PCAOB during the 2006 inspection process and recognize that your findings and comments are made in a constructive context. As with any audit process, professional judgments are involved in the PCAOB's inspections. We recognize that your findings and comments are offered in a constructive context. We have carefully reviewed all matters included in your 2006 report and will consider your findings and recommendations in future audits.

We appreciate this opportunity to respond to the PCAOB's 2006 Draft Inspection Report and look forward to continuing to work with the PCAOB on audit quality matters as our Firm is very committed to audit quality. We would be pleased to discuss any aspect of our response or any questions you may have.

Very truly yours,

Mendoza Berger & Company, LLP

Mendoza Berger & Company, LLP