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LETTER OF COMMENT NO. 57

Mr. Robert H. Herz  
Financial Accounting Standards Board  
401 Merritt 7  
Norwalk, CT 06856

**Troubled with "FASB & Converts"**

Dear Mr. Herz:

I contacted you a few years back with no reply, but later did speak with a commissioner whose name escapes me.

My objections are many. I have tried to take your side, and can argue it with you, but overall conclude FASB is wrong.

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Fact Pattern:

- We issued a "CoCo" in December 2003. (\$175 million, 2 7/8%, \$9.09 issue price; \$13.64 conversion price, \$16.36 "Contingent" price.)
- FASB 04-8 (issued after the fact) was retroactive, and had us "report income we did not make and divide by shares that were not outstanding" to concoct an EPS number. This caused shareholders to not be able to read our P&Ls and compute EPS and research analysts and equity investors to build models just for valuation of our company, discouraging investment in us.
- To defend itself, CIBER's Board lowered the percentage of shares the convert could convert into, to decrease the impact of FASB 04-8. Regardless, to solve the problem FASB created, CIBER's Board ultimately declared that holders wanting to convert would get all cash – thus solving the EPS problem FASB invented after the debt was issued.
- FASB now, apparently defending itself from CIBER and others, wants to declare that CIBER should report "interest expense it does not have (reducing EPS by circa 20-25%), and understate its balance sheet liabilities" to make them happy.

If this is passed, we will be forced to expense interest we don't pay and understate our liabilities to all shareholders – and simultaneously sign a 305 certificate to the NYSE that our financials and my certification are truthful. FASB makes a liar out of me, but is happy, and the NYSE is satisfied.

While I realized you can argue companies are misleading investors with zeros, for example, there needs to be a balance you are not achieving. The best solution I have come up with already exists and is know to all investors, it is akin to the “Treasury Method.” Allow me to describe an example:

Raw Data

Issue Size: \$300,000,000  
 Stock Price at Issuance: \$10.00  
 Stock Price at Conversion: \$15.00 (50% Premium)  
 Shares issued at Conversion Price: 20,000,000

“Treasury Method” approach to application:

| <u>Current Stock Price</u> | <u>Shares Added</u><br><u>to Weighted Avg. Shares O/S</u> |
|----------------------------|---|
| \$9.00                     | 0 (underwater)  |
| \$10.00                    | 0 (@ water)   |
| \$11.00                    | 4,000,000 (20%)   |
| \$12.50                    | 10,000,000 (50%)  |
| \$13.50                    | 14,400,000 (72%)  |
| \$15.00                    | 20,000,000 (fully vested)                                 |
| \$16.00                    | 20,000,000 (over maximum)                                 |

Why is this better?

1. At low stock prices, the issue is obviously not dilutive, and need not be in EPS math.
2. At stock prices at and above the conversion price, assumes shares are considered fully convertible. But I also assume you would have to back out interest expense if and as you did this (like 04-8).
3. At “Middle” stock prices – the impact of the math is less impactful than the proposed pronouncement.

(By the way, why would I propose a company add shares to “WASOs” if the convert converts to cash only? Because the company could have to issue shares to raise the cash to pay the convert off, or raise equity (and cash) after redemption to replenish cash supplies – and shareholders would then be diluted.)

To relate this to CIBER, we don't mind presuming more shares would be outstanding as we approach the conversion price. However, despite our higher revenue and earnings, our stock price today is below the price at the debt issuance. Our company is performing, but there is no way people will convert when the bonds are below par – not all our fault.

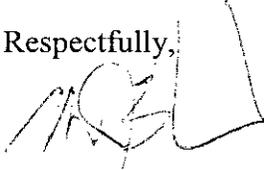
Hence, we are simply borrowing at 2 7/8%, and should have no further diluted earnings (report interest expense we don't have) nor should we be understating debt that we owe.

There is no perfect answer. My major issue is that your proposal is not the best solution for the problem you are addressing – in my opinion or in our company's circumstances.

Have you discussed an alternative solution that can be added before final pronouncement?

Thank you.

Respectfully,

A handwritten signature in black ink, appearing to read 'Mac J. Stingerlend', written over a faint rectangular box.

Mac J. Stingerlend  
President and CEO