STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

Pete Wilson
Governor

Gary S. Mendoza
Commissioner of Corporations

DATE September 27, 1994

RELEASE No. 94-C

"QUALIFIED PURCHASER" LIMITED PUBLIC OFFERING EXEMPTION UNDER CORPORATIONS CODE SECTION 25102(n)

The Corporate Securities Law of 1968 provides that an offer or sale of a security in this state must be first qualified by the Commissioner of Corporations unless the security or transaction is exempt.

Chapter 828, Statutes of 1994, (Senate Bill 1951 - Killea) adds subdivision (n) to Corporations Code Section 25102. Subdivision (n) provides that an offer and sale of a security in a limited public offering to certain "qualified purchasers" may be exempted from the Commissioner's review and approval process where specified requirements are met. Section 25102(n) became effective on September 26, 1994, as an urgency statute.

In brief, this new exemption is available to issuers which meet the following:

1. The issuer of securities must be either a California or foreign corporation subject to Corporations Code Section 2115, or any other business entity organized under California law, so long as the entity is not organized for the sole purpose of raising capital to invest in future unknown businesses (i.e., a "blind pool" company).

2. Sales of the securities are to be made only to "qualified purchasers" who are: (1) persons as designated in Commissioner's Rule 260.102.13 (10 C.C.R. Sec. 260.102.13); (2) persons as designated under Corporations Code Section 25102(i) (e.g., institutional investors [see also, 10 C.C.R. Sec. 260.102.10]; and corporations with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934); (3) pensions or trusts of the issuer under specified conditions; (4) corporations or other entities with total assets in excess of $5 million dollars; or (5) natural persons

who have a net worth of at least $250,000 (exclusive of home, home furnishings and automobiles) and had, during the immediately preceding tax year, a gross income in excess of $100,000 and reasonably expect gross income in excess of $100,000 during the current tax year, or who have a minimum net worth of $500,000 (exclusive of home, home furnishing and automobiles). With respect to natural person investors, other conditions apply. For example, these investors must have business or financial experience or rely on a "professional advisor." A limitation is also imposed on the amount to be invested to no more than 10 percent of such investor's net worth. Also, only one class of voting common stock or preferred stock entitling the holder to at least the same voting rights as the issuer's one class of voting common stock may be offered and sold to these investors.

3. Each investor must represent that the purchase of the securities is for the investor's own account and not with a view to sell or distribute the securities.

4. A disclosure statement must be provided to all natural person purchasers at least five business days before any securities may be sold or a commitment to purchase is accepted, unless such natural person has been qualified under Section 260.102.13 of Title 10. The disclosure statement must meet the disclosure requirements of the Securities and Exchange Commission's Regulation D. The Commissioner may assess an administrative penalty of up to $1,000 for failure to deliver the required disclosure statement, and any supplement thereto, within 10 days of the Commissioner's request for the information.

5. A limited, general announcement of the proposed offering may be published by written document only, provided that the general announcement is limited to specified facts about the proposed offering. A prospective investor may contact the issuer pursuant to the general announcement by mail or telephone. However, telephone solicitation of prospective investors is not permitted until the issuer has determined that the prospective investor meets the requirements of a qualified purchaser.

6. A notice of transaction must be filed with the Commissioner of Corporations concurrent with the publication of the general announcement of the proposed offering or at the time of the initial offer of securities, whichever occurs first, and must be accompanied by a $600 filing fee. This exemption is not available for transactions where the issuer has failed to file either the first notice or pay the required filing fee. An additional, second notice must be filed within ten business

days following the close or abandonment of the offering, but in any case no more than 210 days from the date of the filing of the initial notice.

The Department of Corporations has prepared a pamphlet on the new Section 25102(n) exemption. This pamphlet includes the statutory language of the exemption and the form of the required notices. This material, as well as the language of Section 25102(n), should be consulted prior to claiming reliance on the exemption. The pamphlet is available from all of the offices of the Department of Corporations. For convenience, the notice forms are attached to this release as well.

GARY S. MENDOZA
Commissioner of Corporations

Brian A. Thompson

BRIAN A. THOMPSON
Chief Deputy Commissioner

(Department of Corporations Use Only)
Fee paid $_____
Receipt No. _____

DEPARTMENT OF CORPORATIONS FILE NO., if any:
_____
Insert File number(s) of Previous Filings
Before the Department, if any.

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COMMISSIONER OF CORPORATIONS
STATE OF CALIFORNIA

FIRST NOTICE OF TRANSACTION PURSUANT TO CORPORATIONS CODE SECTION 25102(n)

FEE: $600.00
See Corporations Code Section 25608(x)

1. Name of Issuer: _____

2. Address of Issuer: _____
Street City State ZIP

Mailing Address: _____
Street City State ZIP

3. Area Code and Telephone Number: _____

4. Issuer's state (or other jurisdiction) of incorporation or organization: _____

5. Title of class or classes of securities sold in transaction: _____

6. Type of filing under Securities Act of 1933, if applicable: _____

7. Date of First Notice: _____ _____
Issuer

( ) Check if issuer already has a consent to service of process on file with the Commissioner.

_____
Authorized Signature on behalf of Issuer

_____
Print name and title of signatory

Name, Address, and Phone number of contact person:
_____
_____
_____

Undertaking: The issuer undertakes to deliver the disclosure statement required by paragraph (4) of Corporations Code Section 25102(n) to be delivered to specified qualified purchasers, and any supplement thereto, to the Commissioner within 10 days of the Commissioner's request for the information.

Instruction: Each issuer (other than a California Corporation) filing a notice under Section 25102(n) must file a consent to service of process (Form 260.165), unless it already has a consent to service on file with the Commissioner.

(Department of Corporations Use Only)
Fee paid with First Notice $_____

DEPARTMENT OF CORPORATIONS FILE NO., if any:
_____

Insert File number(s) of Previous Filings
Before the Department, if any.

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COMMISSIONER OF CORPORATIONS
STATE OF CALIFORNIA

SECOND NOTICE OF TRANSACTION PURSUANT TO CORPORATIONS CODE SECTION 25102(n)

1. Name of Issuer: _____

2. Address of Issuer: _____
   Street City State ZIP

   Mailing Address: _____
   Street City State ZIP

3. Area Code and Telephone Number: _____

4. Issuer's state (or other jurisdiction) of incorporation or organization: _____

5. Date of Filing of First Notice: _____

6. Date of close or abandonment of the offering: _____

7. Title of class or classes of securities sold in transaction: _____

8. Type of filing under Securities Act of 1933, if applicable: _____

9. Date of Second Notice: _____ _____
   Issuer

( ) Check if issuer already has a consent to service of process on file with the Commissioner.

_____
Authorized Signature on behalf of Issuer

_____
Print name and title of signatory

Name, Address and Phone number of contact person:

_____

_____

_____

Instruction: Each issuer (other than a California Corporation) filing a notice under Section 25102(n) must file a consent to service of process (Form 260.165), unless it already has a consent to service on file with the Commissioner.