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provided as a director, stating the amount paid and the name of the director.

*Instruction to Item 402(f)(2):* The information required by paragraph (f)(2) of this item shall include any arrangement, including consulting contracts, entered into in consideration of the director's service on the board. The material terms of any such arrangement shall be included.

(g) *Employment contracts and termination of employment and change-in-control arrangements.* Describe the terms and conditions of each of the following contracts or arrangements:

(1) Any employment contract between the registrant and a named executive officer; and

(2) Any compensatory plan or arrangement, including payments to be received from the registrant, with respect to a named executive officer, if such plan or arrangement results or will result from the resignation, retirement or any other termination of such executive officer's employment with the registrant and its subsidiaries or from a change-in-control of the registrant or a change in the named executive officer's responsibilities following a change-in-control and the amount involved, including all periodic payments or installments, exceeds \$100,000.

(h) *Report on repricing of options/SARs.*

(1) If at any time during the last completed fiscal year, the registrant, while a reporting company pursuant to section 13(a) or 15(d) of the Exchange Act [15 U.S.C. 78m(a), 78o(d)], has adjusted or amended the exercise price of stock options or SARs previously awarded to any of the named executive officers, whether through amendment, cancellation or replacement grants, or any other means ("repriced"), the registrant shall provide the information specified in paragraph (h)(2) of this item.

(2) The compensation committee (or other board committee performing equivalent functions or, in the absence of any such committee, the entire board of directors) shall explain in reasonable detail any such repricing of options and or SARs held by a named executive officer in the last completed fiscal year, as well as the basis for each such repricing.

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*Instructions to Item 402(h):* 1. A replacement grant is any grant of options or SARs reasonably related to any prior or potential option or SAR cancellation, whether by an exchange of existing options or SARs for options or SARs with new terms; the grant of new options or SARs in tandem with previously granted options or SARs that will operate to cancel the previously granted options or SARs upon exercise; repricing of previously granted options or SARs; or otherwise. If a corresponding original grant was canceled in a prior year, information about such grant nevertheless must be disclosed pursuant to this paragraph.

2. If the replacement grant is not made at the current market price, describe the terms of the grant in a footnote or accompanying textual narrative.

3. This paragraph shall not apply to any repricing occurring through the operation of:

- a. A plan formula or mechanism that results in the periodic adjustment of the option or SAR exercise or base price;
- b. A plan antidilution provision; or
- c. A recapitalization or similar transaction equally affecting all holders of the class of securities underlying the options or SARs.

[57 FR 48145, Oct. 21, 1992, as amended at 58 FR 63012, Nov. 29, 1993; 64 FR 11115, Mar. 8, 1999]

**§ 228.403 (Item 403) Security Ownership of Certain Beneficial Owners and Management.**

(a) *Security ownership of certain beneficial owners.* Complete the table below for any person (including any "group") who is known to the small business issuer to be the beneficial owner of more than five percent of any class of the small business issuer's voting securities.

Title of class	Name and address of beneficial owner	Amount and nature of beneficial owner	Percent of class
(1)	(2)	(3)	(4)

(b) *Security ownership of management.* Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the registrant or any of its parents or subsidiaries other than directors' qualifying shares, beneficially owned by all directors and nominees, naming them, each of the named executive officers as defined in Item 402(a)(2) (§ 228.402(a)(2)), and directors and executive officers of the registrant

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as a group, without naming them. Show in column (3) the total number of shares beneficially owned and in column (4) the percent of class so owned. Of the number of shares shown in column (3), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownership as specified in §240.13d--3(d)(1) of this chapter.

Title of class	Name and address of beneficial owner	Amount and nature of beneficial owner	Percent of class
(1)	(2)	(3)	(4)

(c) *Changes in control.* Describe any arrangements which may result in a change in control of the small business issuer.

*Instructions to Item 403 1.* Of the number of shares shown in column (3) of paragraphs (a) and (b) of this Item, state in a footnote the amount which the listed beneficial owner has the right to acquire within sixty days, from options, warrants, rights, conversion privilege or similar obligations.

2. Where persons hold more than 5% of a class under a voting trust or similar agreement, provide the following:

- (a) the title of such securities;
- (b) the amount that they hold under the trust or agreement (if not clear from the table);
- (c) the duration of the agreement;
- (d) the names and addresses of the voting trustees; and
- (e) a brief outline of the voting rights and other powers of the voting trustees under the trust or agreement.

3. Calculate the percentages on the basis of the amount of outstanding securities plus, for each person or group, any securities that person or group has the right to acquire within 60 days pursuant to options, warrants, conversion privileges or other rights.

4. In this Item, a *beneficial owner* of a security means:

- (a) Any person who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise has or shares:
  - (1) Voting power, which includes the power to vote, or to direct the voting of, such security; or
  - (2) Investment power, which includes the power to dispose, or to direct the disposition of, such security.
- (b) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement or device with the purpose or effect of divesting such person of ben-

eficial ownership of a security or preventing the vesting of such beneficial ownership.

5. All securities of the same class beneficially owned by a person, regardless of the form that such beneficial ownership takes, shall be totaled in calculating the number of shares beneficially owned by such person.

6. The small business issuer is responsible for knowing the contents of any statements filed with the Commission under section 13(d) or 13(g) of the Exchange Act concerning the beneficial ownership of securities and may rely upon the information in such statements unless it knows or has reason to believe that the information is not complete or accurate.

7. The term "group" means two or more persons acting as a partnership, syndicate, or other group for the purpose of acquiring, holding or disposing of securities of an issuer.

8. Where the small business issuer lists more than one beneficial owner for the same securities, adequate disclosure should be included to avoid confusion.

[57 FR 36449, Aug. 13, 1992, as amended at 57 FR 48150, Oct. 21, 1992]

**§ 228.404 (Item 404) Certain Relationships and Related Transactions.**

(a) Describe any transaction during the last two years, or proposed transactions, to which the small business issuer was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest. Give the name of the person, the relationship to the issuer, nature of the person's interest in the transaction and, the amount of such interest:

- (1) Any director or executive officer of the small business issuer;
- (2) Any nominee for election as a director;
- (3) Any security holder named in response to Item 403 (§228.403); and
- (4) Any member of the immediate family (including spouse, parents, children, siblings, and in-laws) of any of the persons in paragraphs (a) (1), (2) or (3) of this Item.
  - (b) No information need be included for any transaction where:
    - (1) Competitive bids determine the rates or charges involved in the transaction;
    - (2) The transaction involves services at rates or charges fixed by law or governmental authority;
    - (3) The transaction involves services as a bank depository of funds, transfer