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October 9, 1987

Securities and Exchange Commission
Division of Market Regulation
450 Fifth Street, N.W.
Washington, D.C. 20549

REC'D S.E.C.
OCT 13 1987

Re: Varo, Inc. (File No. 1-5381)

PUBLIC AVAILABILITY DATE: 12-23-87
ACT SECTION RULE
1934 16(b) 16b-3

Gentlemen:

As counsel for and on behalf of Varo, Inc. ("Varo" or the "Company"), we request the concurrence of the staff of the Division of Market Regulation of the Securities and Exchange Commission (the "Staff") with our conclusions that (i) the grant of shares of Common Stock of the Company, par value \$.10 per share ("Common Stock"), under the Company's Non-Employee Director Restricted Stock Plan (the "Plan") is exempt from Section 16(b) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), pursuant to Rule 16b-3 thereunder, and (ii) the non-employee directors of the Company who receive Common Stock, and who are eligible to receive Common Stock, under the Plan will continue to be "disinterested persons" within the meaning of paragraphs (b) and (d)(3) of Rule 16b-3 in connection with the administration of the Company's other stock-related plans (in which only employees of the Company or its subsidiaries may participate).

I. Description of the Company.

The Company is a corporation organized under the laws of the State of Texas, with its principal executive offices in Garland, Texas. The Common Stock is listed and traded on the New York Stock Exchange. On October 6, 1987, there were 4,597,510 shares of Common Stock outstanding. The Board of Directors of the Company is composed of nine persons, seven of whom are non-employee directors.

II. Description of the 1987 Non-Employee Director Restricted Stock Plan.

A. Adoption; Conditions. The Plan was adopted by the Board of Directors of the Company on June 25, 1987, and approved by the requisite vote of the shareholders of the Company at the annual meeting of shareholders held on August 21, 1987. A copy of the Plan is enclosed with and incorporated in this letter as Exhibit 1. Implementation of the Plan is subject to receipt by the Company of (i) an order authorizing the listing of the shares of Common Stock reserved for awards under the Plan on the New York Stock Exchange and (ii) the concurrence of the Staff with the conclusions set forth in this letter.

B. Eligibility. All non-employee directors of the Company from time to time who are not also participants in the Company's 1987 Non-Employee Director Retirement Agreement (discussed in Section III below) are eligible to be awarded shares of Common Stock under the Plan.

C. Award of Shares. Each eligible director will be automatically awarded 4,000 shares of Common Stock (subject to adjustment upon the occurrence of a stock split, stock dividend or similar event) one year after the date of such director's first election to the Board of Directors, except that eligible directors elected prior to August 20, 1987 will receive the award upon satisfaction of the conditions described in Section IIA above. No director may receive more than one award of 4,000 shares under the Plan.

D. Shares Issuable Under the Plan. A maximum of 75,000 shares of Common Stock have been reserved for issuance under the Plan, subject to adjustment upon the occurrence of certain events, such as a stock split, stock dividend, recapitalization, or merger or consolidation in which Varo is the surviving corporation.

E. Restrictions on Shares. Shares awarded under the Plan may not be transferred, assigned, pledged or otherwise disposed of (except by will or by the laws of descent and distribution and to the extent any community property interest in such shares is conferred upon a spouse under applicable law) until the restrictions against such disposition have lapsed as follows: (i) to the extent they have not theretofore lapsed, the restrictions will lapse with respect to one fourth of the shares awarded on each annual anniversary date of such award; (ii) to the extent they have not theretofore lapsed, the restrictions will lapse as to all of the shares on the date the

awardee's term as a director terminates by reason of his death or permanent disability (as certified by a duly licensed physician acceptable to the administrators of the Plan); and (iii) in the event of a merger or consolidation of Varo with or into another corporation in which Varo is not the surviving corporation, a sale or transfer of all or substantially all the assets of Varo or the dissolution of Varo, the restrictions will lapse upon the effective date of such event.

Shares awarded under the Plan will be subject to forfeiture (to the extent the restrictions on transfer described above have not theretofore lapsed) upon termination or expiration (without concurrent re-election) of an awardee's term as director of the Company for any reason other than death or permanent disability.

F. Amendment and Termination. The Plan may be amended or terminated by the Board of Directors of the Company at any time, except that shareholder approval is required for any amendment which would materially increase the total number of shares subject to issuance under the Plan, materially alter the class of participants eligible to participate in the Plan or materially increase the benefits accruing to participants in the Plan. The Plan also provides that it will terminate upon a merger or consolidation in which Varo is not the surviving corporation, a transfer of all or substantially all the assets of Varo or the dissolution of Varo.

G. Administration. The Plan will be administered by the Compensation Committee of the Board of Directors of the Company, which consists of three or more non-employee directors, each of whom must be a "disinterested person" as that term is defined in Rule 16b-3(d)(3) under the 1934 Act. The Committee will have the authority, in its discretion, to construe and interpret the Plan. However, because the principal terms of the stock grants that are to be made under the Plan are fixed by the Plan, the Committee will have no discretion to select which non-employee directors will receive grants, to determine the number of shares subject to such grants or to determine the restrictions on transfer of such shares.

III. Other Varo Stock Plans.

The Company presently has in effect three stock-related employee benefit plans, including a 401(k) plan, an incentive stock option plan and a restricted stock plan. Participation in each such plan is limited solely to employees of the Company.

As noted above, the Board of Directors has also authorized the 1987 Non-Employee Director Retirement Agreement (the

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"Retirement Agreement") for eligible non-employee directors. Only those non-employee directors who (i) were first elected to the Board of Directors prior to August 21, 1986, (ii) are at least 62 years of age, (iii) have served for a minimum of five years on the Board and (iv) elected to participate prior to June 25, 1987, are eligible. The Retirement Agreement provides a retirement benefit totalling \$65,000 payable to the participating director or his beneficiary in 10 annual installments commencing the year after such director is no longer a member of the Board of Directors.

The Retirement Agreement is a one-time benefit to only those current non-employee directors who elected to participate therein on June 25, 1987. Three non-employee directors have elected to participate in the Retirement Agreement and are therefore not eligible to participate in the Plan.

IV. Opinions and Discussion.

Based on the facts set forth above, we request your concurrence with the following:

1. The Plan meets the requirements of Rule 16b-3 under the 1934 Act so that, among other things, the grant of shares of Common Stock under the Plan is exempt from Section 16(b) of the 1934 Act pursuant to Rule 16b-3 thereunder; and
2. Non-employee directors who participate in the Plan will continue to be "disinterested persons" within the meaning of Rule 16b-3(b) and (d)(3) with respect to the administration of the Company's other stock-related plans, in which only employees of the Company (including officers, whether or not they are directors) may participate.
 - A. The Plan meets the requirements of Rule 16b-3. In our opinion, the issuance of shares of Common Stock under the Plan, as well as the lapse of the restrictions on transferability and risk of forfeiture applicable to such shares, will be exempt from the operation of Section 16(b) of the 1934 Act pursuant to Rule 16b-3. The Plan satisfies the requirements set forth in paragraph (a) of Rule 16b-3 since it was approved by the holders of a majority of the Company's Common Stock entitled to vote at the annual meeting of shareholders held on August 21, 1987. The Plan also meets all of the requirements of paragraphs (c) and (d)(1) of that Rule.

Paragraph (b) of Rule 16b-3, which sets out the requirements for disinterested administration, provides that

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specified conditions must be met if the selection of any director to whom shares of stock may be granted under a plan, or the determination of the number or maximum number of shares covered by such grant, is subject to the discretion of any person. This provision is inapplicable to the Plan because the selection of any non-employee director to whom shares may be granted or the number of shares of Common Stock to be granted to any director is not subject to the discretion of any person or committee. The Plan expressly provides that all non-employee directors who are not participants in the Retirement Agreement are automatically granted shares of Common Stock under the Plan. No discretion is exercised with respect to the number of shares to be granted to any participant in the Plan because the number of shares included in each award is fixed by the express provisions of the Plan, and such provisions may not be amended without shareholder approval.

Even if the Staff were to conclude that any person has discretion over the selection of persons entitled to participate in the Plan, the Plan otherwise complies with the requirements of subparagraph (b)(1)(iii)(A) of Rule 16b-3 in that it specifies the number or maximum number of shares of stock issuable to directors under the Plan and the terms upon which, and the times at which, such stock shall be awarded.

The foregoing interpretation of paragraph (b) of Rule 16b-3 is consistent with no-action letters previously issued by the staff in analogous situations. Silicon Systems, Inc. (available April 20, 1987) involved a restricted stock grant plan pursuant to which each non-employee director would be granted a fixed number of fully-vested shares and of shares subject to forfeiture until certain conditions were met. The Silicon Systems plan, like the Varo Plan, expressly provided that all non-employee directors would automatically participate and fixed the number of shares subject to each award. The Staff agreed that, provided the plan received shareholder approval, it would meet the requirements of Rule 16b-3. See also United Cable Television Corp. (available December 3, 1986) (plan providing for automatic grant of option to purchase 20,000 shares to each non-employee director and not subject to discretion of any person meets requirements of Rule 16b-3); Allied Corporation (available February 22, 1985) (plan providing for automatic grant of 1,500 shares to each non-employee director meets requirements of Rule 16b-3); and Unitrode Corporation (available May 11, 1981) (plan providing for automatic grant to each non-employee director of an option for 1,000 shares for each past year of service, up to a maximum of 5,000 shares, meets requirements of Rule 16b-3).

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B. Directors will remain "disinterested persons". In our opinion, non-employee directors of the Company who are issued shares of Common Stock under the Plan will continue to be "disinterested persons" within the meaning of Rule 16b-3(d)(3) of the 1934 Act with respect to the administration of the Company's other stock-related plans.

The term "disinterested person" is defined in subparagraph (d)(3) of Rule 16b-3 as an administrator of a plan who is not at the time he exercises discretion in administering such plan and has not at any time within one year prior thereto been eligible for selection as a person to whom stock may be allocated or to whom stock options or stock appreciation rights may be granted pursuant to the plan or any other plan of the issuer or any of its affiliates. There is no "selection" of persons to whom shares of Common Stock may be awarded under the Plan because all non-employee directors who do not participate in the Retirement Agreement will automatically participate in the Plan. In addition, shares of Common Stock will not be "allocated" to participants because the number of shares to be granted to each director is fixed by the express provisions of the Plan. Consequently, the non-employee directors remain disinterested persons who may administer the Company's other stock-related employee benefit plans without affecting the availability of the exemption afforded by Rule 16b-3.

The foregoing interpretation of subparagraph (d)(3) of Rule 16b-3 is consistent with no-action letters previously issued by the Staff in analogous situations. The plan in Silicon Systems, supra, like the Varo Plan, did not involve "selection" of participants because the plan itself specified the persons who would receive grants of stock. Similarly, no participant in the Silicon Systems plan was "allocated" shares because the number of shares granted to each participant was fixed by the express provisions of the plan. Based on these facts, the Staff agreed that the participation of non-employee directors in the Silicon Systems plan would not disqualify them from being characterized as "disinterested persons" for the purpose of serving as administrators of that company's option, incentive compensation and savings plans. See also Allied Corporation, supra (non-employee director participants in stock grant plan could continue to be disinterested persons with respect to company's other stock-related plans since no discretion exercised by any person over selection of participants or size of awards).

V. Conclusion.

On the basis of the foregoing, we respectfully request that the Staff concur with the opinions expressed herein. If you

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have any questions with respect to this matter or require additional information, please call the undersigned or James E. Parsons of this firm collect at (214) 969-1700. If for any reason the Staff is unable concur with the opinions expressed herein, we request an opportunity to confer with members of the Staff prior to any written response to this letter.

Very truly yours,

PETER A. LODWICK

Peter A. Lodwick

cc: Sam P. Burford, Jr.

November 23, 1987

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RESPONSE OF THE OFFICE OF CHIEF COUNSEL
DIVISION OF CORPORATION FINANCE

RE: Varo, Inc.
Incoming letter dated October 9, 1987

Based on the facts presented, it is the view of the Division that the plan meets the requirements of Rule 16b-3 so that stock grants under the plan will be exempt from Section 16(b) of the Securities Exchange Act of 1934 pursuant to that rule. Participation of non-employee directors in the plan will not disqualify them under Rule 16b-3(d) from being disinterested persons for the Company's other stock-related plans.

Because these positions are based on the representations made to the Division in your letter, it should be noted that any different facts or conditions might require a different conclusion.

Sincerely,

Michael Hyatte

Michael Hyatte
Special Counsel