

Verne, B. Michael

801.1(b)

From: [REDACTED]
Sent: Friday, October 07, 2005 12:00 PM
To: Verne, B. Michael
Cc: Ovuka, Nancy M.
Subject: RE: Section 801.1(b)(2)

With respect to the "contractual power presently to designate 50% or more of the directors", would the following scenario be considered having the "present power"?

A company has 6 directors, four are independent and two are designated by Company A. The next meeting for the election of directors is in 10 months, and Company A (which does not have a majority ownership interest) has no right to call a meeting any earlier than scheduled. That being said, Company A was given the contractual right to designate a third director. That right will have no effect until the next meeting in 10 months. Is that considered "presently" having the power to designate 50%?

If you could let me know, it would be appreciated.

No
B. Michael
10/7/05

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