



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF THE
GENERAL COUNSEL

Stop 9612

March 23, 2006

Re: Appeal, Freedom of Information Act (FOIA) Request No. 2006-2679

Dear

I am responding to your March 9, 2006 appeal of the decision of the FOIA/Privacy Act Officer, Securities and Exchange Commission, to deny access to information reflecting aggregated fails-to-deliver information about Novastar Financial, Inc. for the period January 1, 2004 through February 3, 2006, inclusive. On February 27, 2006, the FOIA Officer asserted Exemptions 4 and 8 to withhold that information. Exemption 8 provides for the withholding of matters that are "contained in or related to examination, operating, or condition reports." 5 U.S.C. 552(b)(8). I find that the FOIA Officer correctly asserted FOIA Exemption 8 for this document. However, as you are seeking information in the aggregate and not by clearing firm, I have determined to exercise my discretion to release that information to you. This discretionary release should not be interpreted as a waiver of Exemption 8 or any other applicable exemption in the event you make a request for similar information in the future. Enclosed is a copy of the responsive information.¹ If you have any questions regarding my determination, please call Celia Jacoby, Senior Counsel, at 202-551-5158.

For the Commission
by delegated authority,

A handwritten signature in cursive script that reads "Richard M. Humes".

Richard M. Humes
Associate General Counsel

¹I note that you asked this information to be "sorted" by two criteria. The first appeared to be identical to the request. With respect to the second, aggregated new fails-to-deliver on a daily basis, we do not have data that specifically identifies new fails. The data only permits the identification of changes in the aggregate fails. While an incremental increase from day to day could arguably be deemed "net new" fails-to-deliver, it is also possible that new fails may be included on a day in which it appears that aggregate fails have decreased from the prior day. Because on any day, some fails may have closed while other fails occurred, and we cannot identify those instances, we cannot provide the information "sorted" in the manner you requested.

TEMP

Name	Ticker	Settlement Date	Fail Shares
NOVASTAR FINANCIAL INC	NFI	20050103	1,802,165
NOVASTAR FINANCIAL INC	NFI	20050104	1,669,491
NOVASTAR FINANCIAL INC	NFI	20050105	1,355,616
NOVASTAR FINANCIAL INC	NFI	20050106	1,279,582
NOVASTAR FINANCIAL INC	NFI	20050107	1,281,382
NOVASTAR FINANCIAL INC	NFI	20050110	1,254,953
NOVASTAR FINANCIAL INC	NFI	20050111	873,113
NOVASTAR FINANCIAL INC	NFI	20050112	540,699
NOVASTAR FINANCIAL INC	NFI	20050113	593,655
NOVASTAR FINANCIAL INC	NFI	20050114	594,724
NOVASTAR FINANCIAL INC	NFI	20050118	586,149
NOVASTAR FINANCIAL INC	NFI	20050119	572,260
NOVASTAR FINANCIAL INC	NFI	20050120	582,485
NOVASTAR FINANCIAL INC	NFI	20050121	616,040
NOVASTAR FINANCIAL INC	NFI	20050124	616,433
NOVASTAR FINANCIAL INC	NFI	20050125	630,046
NOVASTAR FINANCIAL INC	NFI	20050126	381,031
NOVASTAR FINANCIAL INC	NFI	20050127	227,231
NOVASTAR FINANCIAL INC	NFI	20050128	198,656
NOVASTAR FINANCIAL INC	NFI	20050131	224,086
NOVASTAR FINANCIAL INC	NFI	20050201	227,979
NOVASTAR FINANCIAL INC	NFI	20050202	227,562
NOVASTAR FINANCIAL INC	NFI	20050203	252,978
NOVASTAR FINANCIAL INC	NFI	20050204	267,344
NOVASTAR FINANCIAL INC	NFI	20050207	263,031
NOVASTAR FINANCIAL INC	NFI	20050208	238,713
NOVASTAR FINANCIAL INC	NFI	20050209	227,966
NOVASTAR FINANCIAL INC	NFI	20050210	268,294
NOVASTAR FINANCIAL INC	NFI	20050211	308,867
NOVASTAR FINANCIAL INC	NFI	20050214	283,570
NOVASTAR FINANCIAL INC	NFI	20050215	334,697
NOVASTAR FINANCIAL INC	NFI	20050216	325,741
NOVASTAR FINANCIAL INC	NFI	20050217	359,708
NOVASTAR FINANCIAL INC	NFI	20050218	404,424
NOVASTAR FINANCIAL INC	NFI	20050222	452,594
NOVASTAR FINANCIAL INC	NFI	20050223	311,243
NOVASTAR FINANCIAL INC	NFI	20050224	387,903
NOVASTAR FINANCIAL INC	NFI	20050225	389,335
NOVASTAR FINANCIAL INC	NFI	20050228	397,634
NOVASTAR FINANCIAL INC	NFI	20050301	474,308
NOVASTAR FINANCIAL INC	NFI	20050302	620,435
NOVASTAR FINANCIAL INC	NFI	20050303	633,448
NOVASTAR FINANCIAL INC	NFI	20050304	652,484
NOVASTAR FINANCIAL INC	NFI	20050307	634,212
NOVASTAR FINANCIAL INC	NFI	20050308	634,964
NOVASTAR FINANCIAL INC	NFI	20050309	677,851
NOVASTAR FINANCIAL INC	NFI	20050310	627,328
NOVASTAR FINANCIAL INC	NFI	20050311	567,486
NOVASTAR FINANCIAL INC	NFI	20050314	491,233
NOVASTAR FINANCIAL INC	NFI	20050315	451,853
NOVASTAR FINANCIAL INC	NFI	20050316	463,846

TEMP

NOVASTAR FINANCIAL INC	NFI	20050317	459,276
NOVASTAR FINANCIAL INC	NFI	20050318	452,963
NOVASTAR FINANCIAL INC	NFI	20050321	404,163
NOVASTAR FINANCIAL INC	NFI	20050322	622,674
NOVASTAR FINANCIAL INC	NFI	20050323	532,500
NOVASTAR FINANCIAL INC	NFI	20050324	430,439
NOVASTAR FINANCIAL INC	NFI	20050328	423,242
NOVASTAR FINANCIAL INC	NFI	20050329	417,313
NOVASTAR FINANCIAL INC	NFI	20050330	323,263
NOVASTAR FINANCIAL INC	NFI	20050331	322,333
NOVASTAR FINANCIAL INC	NFI	20050401	332,188
NOVASTAR FINANCIAL INC	NFI	20050404	235,192
NOVASTAR FINANCIAL INC	NFI	20050405	282,336
NOVASTAR FINANCIAL INC	NFI	20050406	244,025
NOVASTAR FINANCIAL INC	NFI	20050407	238,493
NOVASTAR FINANCIAL INC	NFI	20050408	258,970
NOVASTAR FINANCIAL INC	NFI	20050411	218,014
NOVASTAR FINANCIAL INC	NFI	20050412	182,540
NOVASTAR FINANCIAL INC	NFI	20050413	160,393
NOVASTAR FINANCIAL INC	NFI	20050414	195,250
NOVASTAR FINANCIAL INC	NFI	20050415	167,327
NOVASTAR FINANCIAL INC	NFI	20050418	225,330
NOVASTAR FINANCIAL INC	NFI	20050419	272,876
NOVASTAR FINANCIAL INC	NFI	20050420	230,451
NOVASTAR FINANCIAL INC	NFI	20050421	211,736
NOVASTAR FINANCIAL INC	NFI	20050422	331,859
NOVASTAR FINANCIAL INC	NFI	20050425	235,342
NOVASTAR FINANCIAL INC	NFI	20050426	273,784
NOVASTAR FINANCIAL INC	NFI	20050427	276,516
NOVASTAR FINANCIAL INC	NFI	20050428	279,634
NOVASTAR FINANCIAL INC	NFI	20050429	316,790
NOVASTAR FINANCIAL INC	NFI	20050502	370,909
NOVASTAR FINANCIAL INC	NFI	20050503	339,620
NOVASTAR FINANCIAL INC	NFI	20050504	486,805
NOVASTAR FINANCIAL INC	NFI	20050505	678,750
NOVASTAR FINANCIAL INC	NFI	20050506	868,628
NOVASTAR FINANCIAL INC	NFI	20050509	859,225
NOVASTAR FINANCIAL INC	NFI	20050510	827,348
NOVASTAR FINANCIAL INC	NFI	20050511	860,711
NOVASTAR FINANCIAL INC	NFI	20050512	661,218
NOVASTAR FINANCIAL INC	NFI	20050513	483,869
NOVASTAR FINANCIAL INC	NFI	20050516	586,528
NOVASTAR FINANCIAL INC	NFI	20050517	656,376
NOVASTAR FINANCIAL INC	NFI	20050518	733,605
NOVASTAR FINANCIAL INC	NFI	20050519	704,115
NOVASTAR FINANCIAL INC	NFI	20050520	728,521
NOVASTAR FINANCIAL INC	NFI	20050523	747,874
NOVASTAR FINANCIAL INC	NFI	20050524	742,916
NOVASTAR FINANCIAL INC	NFI	20050525	700,057
NOVASTAR FINANCIAL INC	NFI	20050526	660,640
NOVASTAR FINANCIAL INC	NFI	20050527	643,866
NOVASTAR FINANCIAL INC	NFI	20050531	635,145

TEMP

NOVASTAR FINANCIAL INC	NFI	20050601	672,193
NOVASTAR FINANCIAL INC	NFI	20050602	427,298
NOVASTAR FINANCIAL INC	NFI	20050603	357,506
NOVASTAR FINANCIAL INC	NFI	20050606	379,181
NOVASTAR FINANCIAL INC	NFI	20050607	387,143
NOVASTAR FINANCIAL INC	NFI	20050608	361,826
NOVASTAR FINANCIAL INC	NFI	20050609	407,332
NOVASTAR FINANCIAL INC	NFI	20050610	400,950
NOVASTAR FINANCIAL INC	NFI	20050613	399,339
NOVASTAR FINANCIAL INC	NFI	20050614	429,454
NOVASTAR FINANCIAL INC	NFI	20050615	334,495
NOVASTAR FINANCIAL INC	NFI	20050616	362,470
NOVASTAR FINANCIAL INC	NFI	20050617	341,144
NOVASTAR FINANCIAL INC	NFI	20050620	303,206
NOVASTAR FINANCIAL INC	NFI	20050621	299,141
NOVASTAR FINANCIAL INC	NFI	20050622	306,053
NOVASTAR FINANCIAL INC	NFI	20050623	164,917
NOVASTAR FINANCIAL INC	NFI	20050624	90,543
NOVASTAR FINANCIAL INC	NFI	20050627	117,709
NOVASTAR FINANCIAL INC	NFI	20050628	82,494
NOVASTAR FINANCIAL INC	NFI	20050629	52,839
NOVASTAR FINANCIAL INC	NFI	20050630	53,117
NOVASTAR FINANCIAL INC	NFI	20050701	48,458
NOVASTAR FINANCIAL INC	NFI	20050705	47,257
NOVASTAR FINANCIAL INC	NFI	20050706	56,695
NOVASTAR FINANCIAL INC	NFI	20050707	91,619
NOVASTAR FINANCIAL INC	NFI	20050708	93,377
NOVASTAR FINANCIAL INC	NFI	20050711	75,369
NOVASTAR FINANCIAL INC	NFI	20050712	89,380
NOVASTAR FINANCIAL INC	NFI	20050713	120,135
NOVASTAR FINANCIAL INC	NFI	20050714	240,749
NOVASTAR FINANCIAL INC	NFI	20050715	266,595
NOVASTAR FINANCIAL INC	NFI	20050718	286,792
NOVASTAR FINANCIAL INC	NFI	20050719	323,527
NOVASTAR FINANCIAL INC	NFI	20050720	196,556
NOVASTAR FINANCIAL INC	NFI	20050721	222,138
NOVASTAR FINANCIAL INC	NFI	20050722	242,666
NOVASTAR FINANCIAL INC	NFI	20050725	312,967
NOVASTAR FINANCIAL INC	NFI	20050726	340,092
NOVASTAR FINANCIAL INC	NFI	20050727	370,539
NOVASTAR FINANCIAL INC	NFI	20050728	333,632
NOVASTAR FINANCIAL INC	NFI	20050729	274,366
NOVASTAR FINANCIAL INC	NFI	20050801	256,671
NOVASTAR FINANCIAL INC	NFI	20050802	307,762
NOVASTAR FINANCIAL INC	NFI	20050803	524,398
NOVASTAR FINANCIAL INC	NFI	20050804	568,526
NOVASTAR FINANCIAL INC	NFI	20050805	475,798
NOVASTAR FINANCIAL INC	NFI	20050808	571,897
NOVASTAR FINANCIAL INC	NFI	20050809	664,709
NOVASTAR FINANCIAL INC	NFI	20050810	721,257
NOVASTAR FINANCIAL INC	NFI	20050811	802,738
NOVASTAR FINANCIAL INC	NFI	20050812	894,045

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NOVASTAR FINANCIAL INC	NFI	20050815	872,131
NOVASTAR FINANCIAL INC	NFI	20050816	742,569
NOVASTAR FINANCIAL INC	NFI	20050817	705,408
NOVASTAR FINANCIAL INC	NFI	20050818	620,604
NOVASTAR FINANCIAL INC	NFI	20050819	624,113
NOVASTAR FINANCIAL INC	NFI	20050822	580,146
NOVASTAR FINANCIAL INC	NFI	20050823	592,645
NOVASTAR FINANCIAL INC	NFI	20050824	462,039
NOVASTAR FINANCIAL INC	NFI	20050825	497,916
NOVASTAR FINANCIAL INC	NFI	20050826	463,200
NOVASTAR FINANCIAL INC	NFI	20050829	541,232
NOVASTAR FINANCIAL INC	NFI	20050830	544,384
NOVASTAR FINANCIAL INC	NFI	20050831	600,349
NOVASTAR FINANCIAL INC	NFI	20050901	468,986
NOVASTAR FINANCIAL INC	NFI	20050902	478,288
NOVASTAR FINANCIAL INC	NFI	20050906	454,183
NOVASTAR FINANCIAL INC	NFI	20050907	437,717
NOVASTAR FINANCIAL INC	NFI	20050908	392,987
NOVASTAR FINANCIAL INC	NFI	20050909	397,647
NOVASTAR FINANCIAL INC	NFI	20050912	387,647
NOVASTAR FINANCIAL INC	NFI	20050913	404,715
NOVASTAR FINANCIAL INC	NFI	20050914	430,111
NOVASTAR FINANCIAL INC	NFI	20050915	503,668
NOVASTAR FINANCIAL INC	NFI	20050916	480,892
NOVASTAR FINANCIAL INC	NFI	20050919	512,473
NOVASTAR FINANCIAL INC	NFI	20050920	507,115
NOVASTAR FINANCIAL INC	NFI	20050921	547,643
NOVASTAR FINANCIAL INC	NFI	20050922	416,544
NOVASTAR FINANCIAL INC	NFI	20050923	462,796
NOVASTAR FINANCIAL INC	NFI	20050926	378,392
NOVASTAR FINANCIAL INC	NFI	20050927	340,587
NOVASTAR FINANCIAL INC	NFI	20050928	473,690
NOVASTAR FINANCIAL INC	NFI	20050929	459,587
NOVASTAR FINANCIAL INC	NFI	20050930	466,188
NOVASTAR FINANCIAL INC	NFI	20051003	331,296
NOVASTAR FINANCIAL INC	NFI	20051004	512,330
NOVASTAR FINANCIAL INC	NFI	20051005	526,095
NOVASTAR FINANCIAL INC	NFI	20051006	398,751
NOVASTAR FINANCIAL INC	NFI	20051007	391,104
NOVASTAR FINANCIAL INC	NFI	20051011	388,439
NOVASTAR FINANCIAL INC	NFI	20051012	394,964
NOVASTAR FINANCIAL INC	NFI	20051013	497,453
NOVASTAR FINANCIAL INC	NFI	20051014	603,318
NOVASTAR FINANCIAL INC	NFI	20051017	825,288
NOVASTAR FINANCIAL INC	NFI	20051018	855,790
NOVASTAR FINANCIAL INC	NFI	20051019	875,016
NOVASTAR FINANCIAL INC	NFI	20051020	868,654
NOVASTAR FINANCIAL INC	NFI	20051021	893,510
NOVASTAR FINANCIAL INC	NFI	20051024	896,522
NOVASTAR FINANCIAL INC	NFI	20051025	884,412
NOVASTAR FINANCIAL INC	NFI	20051026	918,749
NOVASTAR FINANCIAL INC	NFI	20051027	947,886

TEMP

NOVASTAR FINANCIAL INC	NFI	20051028	1,050,955
NOVASTAR FINANCIAL INC	NFI	20051031	1,098,645
NOVASTAR FINANCIAL INC	NFI	20051101	1,183,411
NOVASTAR FINANCIAL INC	NFI	20051102	1,240,020
NOVASTAR FINANCIAL INC	NFI	20051103	1,299,839
NOVASTAR FINANCIAL INC	NFI	20051104	1,234,976
NOVASTAR FINANCIAL INC	NFI	20051107	1,216,873
NOVASTAR FINANCIAL INC	NFI	20051108	1,178,433
NOVASTAR FINANCIAL INC	NFI	20051109	1,161,183
NOVASTAR FINANCIAL INC	NFI	20051110	1,090,929
NOVASTAR FINANCIAL INC	NFI	20051114	1,188,489
NOVASTAR FINANCIAL INC	NFI	20051115	1,178,177
NOVASTAR FINANCIAL INC	NFI	20051116	1,172,427
NOVASTAR FINANCIAL INC	NFI	20051117	1,132,738
NOVASTAR FINANCIAL INC	NFI	20051118	1,112,653
NOVASTAR FINANCIAL INC	NFI	20051121	1,055,360
NOVASTAR FINANCIAL INC	NFI	20051122	1,056,819
NOVASTAR FINANCIAL INC	NFI	20051123	969,178
NOVASTAR FINANCIAL INC	NFI	20051125	999,629
NOVASTAR FINANCIAL INC	NFI	20051128	996,170
NOVASTAR FINANCIAL INC	NFI	20051129	1,019,778
NOVASTAR FINANCIAL INC	NFI	20051130	1,010,548
NOVASTAR FINANCIAL INC	NFI	20051201	933,871
NOVASTAR FINANCIAL INC	NFI	20051202	958,143
NOVASTAR FINANCIAL INC	NFI	20051205	951,084
NOVASTAR FINANCIAL INC	NFI	20051206	949,175
NOVASTAR FINANCIAL INC	NFI	20051207	935,598
NOVASTAR FINANCIAL INC	NFI	20051208	818,948
NOVASTAR FINANCIAL INC	NFI	20051209	796,296
NOVASTAR FINANCIAL INC	NFI	20051212	801,930
NOVASTAR FINANCIAL INC	NFI	20051213	802,526
NOVASTAR FINANCIAL INC	NFI	20051214	821,202
NOVASTAR FINANCIAL INC	NFI	20051215	787,477
NOVASTAR FINANCIAL INC	NFI	20051216	840,113
NOVASTAR FINANCIAL INC	NFI	20051219	916,246
NOVASTAR FINANCIAL INC	NFI	20051220	940,342
NOVASTAR FINANCIAL INC	NFI	20051221	940,208
NOVASTAR FINANCIAL INC	NFI	20051222	947,363
NOVASTAR FINANCIAL INC	NFI	20051223	1,009,998
NOVASTAR FINANCIAL INC	NFI	20051227	934,468
NOVASTAR FINANCIAL INC	NFI	20051228	1,055,909
NOVASTAR FINANCIAL INC	NFI	20051229	1,142,325
NOVASTAR FINANCIAL INC	NFI	20051230	1,091,368
NOVASTAR FINANCIAL INC	NFI	20060103	1,046,013
NOVASTAR FINANCIAL INC	NFI	20060104	1,016,980
NOVASTAR FINANCIAL INC	NFI	20060105	941,841
NOVASTAR FINANCIAL INC	NFI	20060106	958,687
NOVASTAR FINANCIAL INC	NFI	20060109	953,894
NOVASTAR FINANCIAL INC	NFI	20060110	984,332
NOVASTAR FINANCIAL INC	NFI	20060111	1,009,776
NOVASTAR FINANCIAL INC	NFI	20060112	1,050,506
NOVASTAR FINANCIAL INC	NFI	20060113	1,100,513

TEMP

NOVASTAR FINANCIAL INC	NFI	20060117	1,107,657
NOVASTAR FINANCIAL INC	NFI	20060118	1,117,718
NOVASTAR FINANCIAL INC	NFI	20060119	1,321,895
NOVASTAR FINANCIAL INC	NFI	20060120	1,312,374
NOVASTAR FINANCIAL INC	NFI	20060123	1,312,270
NOVASTAR FINANCIAL INC	NFI	20060124	1,291,977
NOVASTAR FINANCIAL INC	NFI	20060125	1,133,863
NOVASTAR FINANCIAL INC	NFI	20060126	1,115,932
NOVASTAR FINANCIAL INC	NFI	20060127	1,121,558
NOVASTAR FINANCIAL INC	NFI	20060130	1,141,853
NOVASTAR FINANCIAL INC	NFI	20060131	1,181,969
NOVASTAR FINANCIAL INC	NFI	20060201	1,274,642
NOVASTAR FINANCIAL INC	NFI	20060202	1,505,166
NOVASTAR FINANCIAL INC	NFI	20060203	1,520,854