

801.1(b)

Verne, B. Michael

From: [REDACTED]
Sent: Monday, April 26, 2004 3:57 PM
To: Verne, B. Michael
Subject: HSR Question

Mike,

I had a quick question on the issue of control. In trying to determine who the UPE of the acquiring party is, the following facts are relevant:

The Acquiring Party used to be 55% owned by Owner. Recently, Owner sold a portion of its holdings and now owns only 45% of the stock of Acquiring Party. However, the Owner still has the right to appoint 3 out of 8 directors and there is a negative control provision and as long as Owner holds 40% or more it has veto power over any decision requiring board approval. This does not appear to fit within the definition of "control" but am I missing anything? If Owner is not the UPE, then the Acquiring Party would be its own UPE.

Thanks,

Best regards,

Tel: [REDACTED]
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AGREE - THIS DOES NOT
CONSTITUTE CONTROL.

B. Michael
4/26/04