

7A(C)(1)

234 037 -6 11:12
October 6, 2004VIA FACSIMILE

Michael Verne
Premerger Notification Office
Bureau of Competition
Federal Trade Commission
7th & Pennsylvania Avenue, NW
Washington, DC 20580

Dear Mike:

I am writing to confirm my understanding of telephone conversations we had, the most recent being on August 27, 2004, concerning the potential reportability under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended ("HSR Act"), of a proposed transaction discussed below.

Proposed transaction

Our client is a limited liability corporation that holds a minority ownership interest of voting securities in a publicly traded company. While our client only owns a minority interest, it is the largest shareholder of the publicly traded company and intends to increase its holdings at some point in the future. The publicly traded company is a holding company and the holding company's sole ownership interest is of a subsidiary that operates a business. That subsidiary is currently in bankruptcy. The publicly traded holding company is not in bankruptcy.

Our client intends to buy the creditor claims of some of the creditors of the bankrupt entity. Our client will acquire claims that exceed \$50 million in total value from several creditors. Further, in one or two instances, the claim purchased from a single creditor will alone exceed \$50 million in value. For the creditors from whom claims are purchased, our client will purchase 100% of each creditor's claim against the bankrupt entity. Our client does not in the ordinary course of its business buy creditor claims out of bankruptcy, but we understand that there are entities that purchase such interests in the ordinary course of their business.

Conclusions

You agreed that the acquisition of creditor claims against a bankrupt entity, regardless of the percent of the creditor claims purchased or the value of the claims, would be exempt from reportability under the HSR Act. Specifically, you confirmed that the acquisition of

[REDACTED]

Michael Verne
October 6, 2004
Page 2

the creditor claims would qualify for exemption under the "ordinary course of business" exemption. *See* 15 U.S.C. § 18a(c)(1) (exempting "acquisitions of goods or realty transferred in the ordinary course of business."). Further, you confirmed that the ordinary course of business exemption applies to our client's purchase of creditor claims in a bankruptcy even though our client does not make such purchases in the ordinary course of its own business.

Please let me know as soon as possible if you disagree with any of the conclusions discussed above, or if I have misunderstood any aspect of your advice. Thank you for your assistance in this matter.

Sincerely,

[REDACTED]

AGREE -
B. [Signature]
10/2/04

[REDACTED]