

Verne, B. Michael

4(c)

**From:** [REDACTED]  
**Sent:** Wednesday, March 23, 2005 4:45 PM  
**To:** Verne, B. Michael  
**Cc:** [REDACTED]  
**Subject:** 4(c) Obligations

Today we had three telephone conversations with you regarding the Item 4(c) reporting obligations of a private equity fund. The fund at issue is a partnership that is its own UPE. The limited partners of the fund are investors. The general partner manages the fund. The fund itself has no employees and no officers or directors. The general partner of the fund is a partnership that does not have any officers, directors or employees. Rather, the general partner is controlled by an LLC. The LLC has an investment committee, the duties of which include deciding whether to make acquisitions and sales of businesses. Your view was that members of the investment committee, but not other employees of the LLC or the LLC's affiliates, should be treated as officers or directors for 4(c) purposes.

We pointed out that some of the members of the investment committee may be part of the deal team for a particular deal -- the people who are deeply involved in the day-to-day due diligence and negotiation. In the course of those duties the deal team members will receive and/or create documents that contain 4(c) content. Some of those documents are presented to the investment committee as such, others never make it beyond the deal team. You agreed that insofar as a member of the investment committee received or created a document in his capacity as a member of the deal team, that document would not be a 4(c). Only documents presented to the investment committee as such would potentially be 4(c) documents.

In addition, a member of the deal team is also a member of the board of a company owned by the fund. It is this company that is making the acquisition at issue. You agreed that insofar as a document was created by or for him in his capacity as a member of the deal team, it would not be a 4(c). The document would only be a 4(c) if it were created by or for him in his capacity as a member of the board.

Please let me know whether this accurately reflects our conversations, and whether you agree with the conclusions set out above.

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[REDACTED]

AGREE -  
B. Michael  
3/23/05