

802.2(e)

March 24, 2005

Mr. Michael Verne  
Premerger Notification Office  
H-303  
Federal Trade Commission  
Washington, DC 20580

Re: Section 802.2(e) Exemption

Dear Mr. Verne:

This letter is intended to confirm today's earlier conversation among you, me and [REDACTED] regarding the exemption from reporting requirements contained in Section 802.2(e) of the Rules interpreting the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended ("Section 802.2(e) Exemption") for the acquisition of a hotel and certain ancillary properties.

As we discussed, the Acquired Person, an owner/operator of hotel and casino properties, currently is in bankruptcy and intends to divest certain of its assets located in [REDACTED] to the Acquiring Persons in a transaction that has already been approved by the United States Bankruptcy Court, [REDACTED] (the "Court") and is scheduled to close April 15, 2005. Pursuant to the relevant Court order and approved purchase and sale documents, the Acquiring Persons would acquire a hotel and related golf course, parking facilities, marina and casino and associated assets (the "Complete Assets"). The casino itself is a barge facility and is physically separate from the hotel and golf course complex. While under the existing Court order and approved documents, the Acquiring Persons would acquire the Complete Assets, including the casino and related gaming equipment ("Casino Assets"), the Acquiring Persons would not acquire permits or licenses necessary to operate the Casino Assets.

It is the Acquiring Persons' intent not to operate the Casino Assets. The Acquired Persons have negotiated with a third party that is totally unrelated to the Acquired Persons (the "Third-Party Purchaser") that is willing to purchase the relevant Casino Assets. For a variety of reasons, the parties desire that the Casino Assets be sold directly from the Acquired Person to the Third-Party Purchaser, and to that end, the parties will attempt to seek Court approval, if required, for the direct sale of the Casino Assets to the Third-Party Purchaser. This form of the proposed transaction I will refer to as Scenario No. 1. If such court approval is obtained, the parties believe the Scenario No. 1 transaction among the Acquired Persons and Acquiring Persons clearly would fall within the Section 802.2(e) Exemption, and you confirmed this during our telephone conversation.

[REDACTED]

[REDACTED]

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In the event that the Court does not approve the modified transaction structure of Scenario No. 1 to allow the Third-Party Purchaser to acquire the Casino Assets directly, it is the intent of the Acquiring Persons to sell the Casino Assets to the Third-Party Purchaser as simultaneously as possible with the proposed transaction among the Acquiring and Acquired Persons. The Acquiring Persons would not operate the Casino Assets as a casino during any interim time and, in fact, would condition its purchase on the Acquired Person terminating the casino operations prior to the consummation of the transaction so that there could be no argument that the Acquiring Persons operated the Casino Assets without a license for even a moment of time. I will refer to this form of the proposed transaction as Scenario No. 2.

Based on our discussion, you confirmed that in either Scenario No. 1 or Scenario No. 2 the acquisition by the Acquiring Person would qualify for the Section 802.2(e) Exemption.

Please call me as soon as possible if this letter does not accurately reflect our conversation with [REDACTED] I appreciate your prompt assistance in this matter.

Sincerely,

[REDACTED]

[REDACTED]  
cc: [REDACTED]

AGREE -  
B. J. [Signature]  
3/24/05

[REDACTED]