



80616 801.1(b)  
801.1(h)  
801.1(f)

May 6, 2005

**VIA E-MAIL AND U.S. MAIL**

James Ferkingstad, Esq.  
Premerger Notification Office  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Attorney Ferkingstad:

This letter will confirm the telephone conversation we had earlier today with respect to calculation of the filing fee for the Notification and Report Form (the "HSR Form") to be filed pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act").

As we discussed, this firm represents a company (the "Acquiror") which intends to acquire 100% of the voting securities (the "Stock") of another entity (the "Issuer") from the Issuer's stockholders pursuant to a Stock Purchase Agreement ("Agreement"). Pursuant to the Agreement, the Acquiror will acquire the Stock over a three-year period. At the initial closing (to be held shortly after expiration of the applicable waiting period under the HSR Act and satisfaction of other closing conditions), the Acquiror will acquire over 50% of the Stock for a purchase price which will not exceed the \$100 million threshold (as adjusted). The Acquiror will acquire the remaining Stock in three annual installments. The purchase price for the remaining Stock will be determined, in part, based upon the future performance of the Issuer. The Acquiror will acquire the last portion of the Stock in the first half of 2008.

Because the economic performance of the Issuer will determine the ultimate purchase price for the Stock, it cannot be determined at this time. If the Issuer performs well, however, the total purchase price (by year 2008) could exceed the \$100 million threshold (as adjusted). The possibility exists, however, that the total purchase price (by year 2008) will not exceed the \$100 million threshold (as adjusted).



[REDACTED]

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You informed me that, under these facts, the Acquiror should respond to Item 2 (c) on the HSR Form by designating "50%" as the Highest Notification Threshold in Section 801.1(h) for which the HSR Form is being filed.

You further informed me that, under these facts, the Acquiror should pay a filing fee of \$45,000. You stated that no further fee or filing will be required if, when the Acquiror acquires the full 100% of the Stock, the total purchase price ultimately exceeds the \$100 million threshold (as adjusted).

If my understanding is in any way inaccurate, please contact me as soon as possible.

I look forward to speaking with you soon to confirm that the matters set forth in this letter accurately reflect our conversations on this matter.

Thank you for your consideration of this matter.

Sincerely yours,

[REDACTED]

5/16/05

Agree

JF

[REDACTED]