

802.30

November 21, 2006

BY EMAIL TO: mverne@ftc.gov

B. Michael Verne
Premerger Notification Office
Bureau Of Competition, Room 303
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, Dc 20580

Re: *Hart-Scott-Rodino Antitrust Improvements Act: Reportability of Certain Transactions*

Dear Mr. Verne:

The purpose of this letter is to set forth in writing part of a telephone conversation we had yesterday relating to exemptions from the filing requirements under the Hart-Scott-Rodino Antitrust Improvements Act (the "Act") for certain transactions described below. I have received additional timing information that is set forth below. It is assumed that the size-of-the-parties test is satisfied.

Partnership A has formed a new limited partnership, Partnership B. Pursuant to a contribution agreement, an indirect wholly owned subsidiary of Partnership A will contribute a 66% interest in certain limited liability companies and limited partnerships (collectively, the "Assets") to Partnership B in exchange for the sole general partner interest in Partnership B, all of the limited partner interests in Partnership B and the right to receive a specified amount of cash from Partnership B that is in excess of \$56.7 million.

Thereafter (it is contemplated to be immediately thereafter, but there could be a delay), Partnership B will borrow funds under a credit agreement and will complete the sale of additional limited partner interests in a registered offering to the public for an amount in excess of \$56.7 million. As a result of the sale of limited partner interests, Partnership A will no longer be the ultimate parent entity of Partnership B, and Partnership B will be its own ultimate parent entity, but Partnership A will continue to own approximately 28% to 35% (depending on the amount of limited partner interests sold to the public) of the interests in Partnership B, including its sole general partner interest. Part of the proceeds from borrowed funds and from the public sale of limited partner interests will be used by Partnership B to pay the indirect wholly owned subsidiary of Partnership A the cash amount due under the contribution agreement.

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The acquisition of the 66% interest in the Assets by Partnership B will be exempt from the filing requirements under the Act under 16 C.F.R. §802.30 because, at the time of the acquisition, Partnership A is the ultimate parent entity of Partnership B, indirectly owning 100% of the interests in Partnership B. The acquisition of limited partner interests in the public sale will also be exempt because no individual or entity will hold 50% or more of the profits interest in Partnership B or hold the right to 50% or more of the assets of Partnership on its dissolution.

The transactions should not raise substantive antitrust issues because actual control of the Assets will not change. Partnership A controls the Assets prior to the transactions through its indirect ownership of the entity holding the Assets, and Partnership A will continue to control the Assets after the transactions through its indirect ownership of the general partner of Partnership B.

Please let me know if you agree with my conclusions that the transactions would be exempt from the filing requirements under the Act. Should you have any questions or desire any additional information, please contact me at your earliest convenience. My direct telephone number is [REDACTED]. Thank you for your assistance.

Sincerely,

[REDACTED]

[REDACTED]

AGREE -
Benech
11/21/06

[REDACTED]