

801.10

Verne, B. Michael

From: [REDACTED]  
Sent: Thursday, March 22, 2007 8:01 AM  
To: Verne, B. Michael  
Subject: Reportabilty questions size of transaction

Mike,

In this transaction acquiring person "A" will acquire target B the acquisition price is \$7.5 in cash and earn out payments which could bring the total to \$67 million. The earn out payments are not sufficiently certain that the consideration is "determined". A has done a fair market valuation and does not believe the total payments will reach \$50 million in which case the transaction does not reach the threshold. B has some cash which it intends to distribute out to its shareholders either at prior to closing. Would the distribution of the cash either prior to or at closing change the acquisition price for HSR purposes? That is would the cash distribution be included in the acquisition price?

Many thanks as always for your guidance.

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For more information please go to [REDACTED]

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THE DISTRIBUTION OF CASH  
WOULD NOT AFFECT THE  
ACQUISITION PRICE UNLESS B  
IS BEING COMPENSATED BY A  
FOR THE DISTRIBUTION.

B. Michael  
3/23/07