

802.4  
802.70

**Verne, B. Michael**

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**From:** [REDACTED]  
**Sent:** Monday, July 23, 2007 10:26 AM  
**To:** Verne, B. Michael  
**Subject:** Transaction involving assets divested pursuant to court order

Mike,

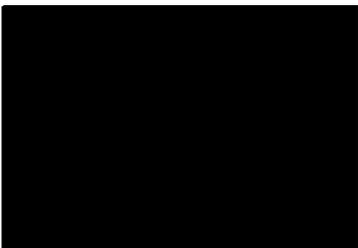
I have a proposed two-step transaction for the purchase of an asset subject to a federal district court order and wanted to confirm my analysis that neither step is reportable. Companies A and B each currently own 50% of Acquisition Vehicle C. C is a shell entity with no assets, but will be the entity acquiring the assets being divested subject to court order and DOJ approval. In order to raise the funds with which C will acquire the divested assets, C is making a private placement of approximately \$800 million in its own stock. While the entities buying C's stock are institutional investors, two of these investors will be acquiring more than 25% of C's stock and thus will not be able to take advantage of 802.64.

My analysis is that neither the funding transaction nor the acquisition of the divested assets are reportable for the following reasons:

- 1) The funding transaction in which various entities purchase shares of C is exempt under 802.4 since it entails the acquisition of voting securities in an entity that does not have non-exempt assets worth in excess of \$59.8 million.
- 2) The acquisition of the divested assets is exempt under 802.70 since it is subject to a court ordered divestiture and subject to DOJ approval.

Please let me know if you disagree.

Thanks,



AGREE -  
B  
7/23/07

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