

801-10

Verne, B. Michael

From: [REDACTED]
Sent: Wednesday, October 24, 2007 7:42 PM
To: Verne, B. Michael
Subject: Fair Market Value Determination

Mike,

I have the following questions regarding a Board of Directors' delegation of authority to make a fair market value determination.

The proposed transaction is the acquisition by Company A (a foreign person), which owns 49% of the shares of Target (a private company), of the remaining 51% of the shares of Target. The proposed transaction was approved by the Presidential Committee of Company A. The Presidential Committee is below the Board of Directors but has decision making power for this type of acquisition. We need to determine the fair market value of the 49% interest currently held by Company A.

1. Does the Board of Company A need to adopt a resolution formally delegating to the Presidential Committee the task of valuing the Target shares or can we take the position that the Presidential Committee is a de facto Board delegatee for purposes of making the valuation?
2. The Presidential Committee has delegated signing authority for the deal to certain individuals. This delegation of authority does not specifically refer to the power to value the Target's shares for HSR purposes. Can one of these individuals make an HSR valuation based on a general delegation of authority for the deal or does the delegation of authority have to specifically refer to the valuation of the Target's shares?

Many thanks,

[REDACTED]

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10/25/2007

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1. No need for a formal board resolution.

2. The delegation of authority does not have to specifically refer to the valuation of the Target's shares.

Brew
10/25/07