

801.50

**Verne, B. Michael**

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**From:** [REDACTED]  
**Sent:** Wednesday, May 14, 2008 4:57 PM  
**To:** Verne, B. Michael  
**Cc:** [REDACTED]  
**Subject:** HSR Inquiry

Mike:

I hope you are well. [REDACTED] and I are analyzing a transaction, a description of which is set forth below. We are writing to seek your views to confirm that only "B" needs to make an HSR filing in connection with the transaction described below.

We look forward to hearing from you.

Best,

[REDACTED]

[REDACTED]

### Transaction Outline

This transaction involves the formation of two LLCs. For purposes of discussion, assume that the size of transaction and size of person tests are met.

A and B will form two LLCs: Parent LLC and Sub LLC. Sub LLC will be wholly-owned by Parent LLC.

In connection with the formation of the two LLCs:

- A will contribute assets to Sub LLC in exchange for membership interests in Parent LLC; and
- B will contribute cash and certain notes to Parent LLC in exchange for membership interests in Parent LLC.

At this interim instant in time, based on the amount of cash that B will contribute to Parent LLC, A will own between 47.8% and 49.3% of the membership interests of Parent LLC and B will own between 52.2% and 50.7% of the membership interests of Parent LLC.

Immediately thereafter, B will cause Parent LLC to borrow money and distribute the funds raised in such borrowing to A.

After giving effect to all of the foregoing, A will own approximately 3% of the membership interests of Parent LLC and B will own approximately 97% of the membership interests in Parent LLC. None of the steps in this transaction will occur unless and until the money to be borrowed and thereafter distributed as discussed above is certain.

It appears that 16 C.F.R. Section 801.50 appears to apply to this transaction. Accordingly, only B (and not A or Parent LLC) should be required to file a premerger notification and report form since B will solely "control" Parent LLC.

AGREE  
BM  
5/15/08

██████████ mail server made the following annotations on 05/14/08, 15:52:32:

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