

Verne, B. Michael

801.1(c)

From: [Redacted]
Sent: Friday, September 05, 2008 2:07 PM
To: Verne, B. Michael
Cc: [Redacted]
Subject: RE: Trust

Thank you so much for your help. Below is a summary of my understanding of our discussions and conclusions. Please let me know if you agree.

Based on our discussions this morning, a sale of two corporations is contemplated for cash in excess of the HSR filing threshold amount. A filing under HSR will be made by the acquiring person and an acquired person that holds 50% of the stock of each of the two corporations being sold. Our client directly owns 25% of the stock of two entities being sold and another 25% of the stock of each such entity is held in a trust as described below. If the shares held in the trust are deemed to be held by our client, he would hold 50% of the stock of the two entities being sold and would be required to make a separate filing under HSR. He is prepared to make such a filing if it is required.

The trust was originally formed by our client's parents and was originally revocable. The trust became irrevocable at the death of the settlor parents. Our client is the sole trustee of the trust and is the sole beneficiary as to the shares of stock, although there were other beneficiaries as to other assets of the trust. Our client does not have the right to remove and replace the trustee. If he resigned as trustee, another person specified in the trust would become trustee. Under the terms of the trust, our client would not have the right to remove and replace her with another trustee.

The trust expressly states that the trustee (our client) shall distribute the securities in the trust to the beneficiary (our client) as soon as practicable following the death of both settlors (occurred in 2003), and that was never done. At any time since that date, our client could have transferred the shares of the two corporations now being sold into his own name as an individual, but has chosen not to do so. We understand that the shares of stock are the only assets remaining in the trust. Other assets have been distributed to the various beneficiaries.

From our discussions this morning, I understand that as long as the trust still exists under California law and the stock is still held in the trust (even though by the terms of the trust it should have been or should be distributed to our client), the stock would not be deemed to be held by our client and our client would thus not be required to make a separate filing under HSR.

If you agree with the above, please confirm by a return email.

AGREE
BM
9/5/08

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