

Verne, B. Michael

802.10

From: [REDACTED]
Sent: Thursday, September 18, 2008 2:31 PM
To: Verne, B. Michael
Cc: [REDACTED]
Subject: reorganization

Mike,

I have another question regarding a reorganization (different client than last question). I do not believe this triggers HSR, but would like to confirm.

1. Currently Corp. A holds 96% of Corp. B which holds 70% of Corp. C. A is held 57% by an LP and 43% by public shareholders of A. The other 30% of C is held by public shareholders of C.
2. The reorg involves C merging with and into B which will merge with and into A, with C as the surviving Corp. and the only publicly traded Corp. The idea is to reduce the number of publicly traded Corps. from 2 to 1.
3. As a first step, C will merge with and into B with C as the surviving Corp. (New C) controlled by A. At this point, A will hold 70% of New C, and Old C shareholders will hold shares of New C pro rata the same as their prior holdings of Old C. With respect to B's acquisition of C, this appears exempt under 802.30. With respect to the conversion of Old C shares into New C shares for the public shareholders, this appears exempt under 802.10(b). Do you agree?
4. In step 2, which will happen seconds after step 1, New C will merge with and into A with New C as the surviving Corp. (Newer C). At this point, the former public shareholders of C then New C will hold pro rata slightly less in Newer C as compared to what they pro rata held in New C. That should be exempt under 802.10(b), right? Also, Old public shareholders of A will hold in Newer C pro rata about 70% of what they held in A. Again, that should be exempt under 802.10(b), right? Finally, the LP that previously held over 50% of the shares of A will now hold less than 50% of the shares of Newer C, which is not an HSR issue.

Thanks,



AGREE
 BU
 9/19/08