

ITEM 4(c)

Verne, B. Michael

From: [REDACTED]
Sent: Monday, April 23, 2012 11:24 AM
To: Verne, B. Michael
Cc: Walsh, Kathryn; [REDACTED]
Subject: RE: 4(c) Drafts Question

Got it. Thanks.

From: Verne, B. Michael [mailto:MVERNE@ftc.gov]
Sent: Monday, April 23, 2012 11:16 AM
To: [REDACTED]
Cc: Walsh, Kathryn; [REDACTED]
Subject: RE: 4(c) Drafts Question

[REDACTED] - I think if you look back at the longstanding informal interpretations that we are responding to, it is implied, if not clearly stated, that not submitting a draft presupposes that a final version is being submitted. Otherwise, you could call everything that goes to an officer "the latest draft" and not submit anything. The language in the tip sheet simply means that you don't have to submit drafts in addition to a final version of the document, unless the draft went to the board. We will add some language to clarify that. *Bu 4/23/12*

From: [REDACTED]
Sent: Monday, April 23, 2012 11:02 AM
To: Verne, B. Michael
Cc: Walsh, Kathryn; [REDACTED]
Subject: RE: 4(c) Drafts Question

Mike, these questions were triggered by the last item in the new 4(c) tip sheet, which says "It has been the PNO's informal position for many years that a draft document is not responsive to Item 4(c), unless a copy of that draft is sent to the Board." Given the discussion below, I'm not sure what this language means. Could you clarify?

From: [REDACTED]
Sent: Monday, April 23, 2012 9:29 AM
To: Verne, B. Michael
Cc: [REDACTED] Walsh, Kathryn
Subject: RE: 4(c) Drafts Question

Thanks Mike, that's what we thought but didn't know if, previously, we had been looking at it too narrowly.

Thanks again,

[REDACTED]

[REDACTED]
From: Verne, B. Michael [mailto:MVERNE@ftc.gov]
Sent: Monday, April 23, 2012 9:27 AM
To: [REDACTED]
Cc: [REDACTED] Walsh, Kathryn
Subject: RE: 4(c) Drafts Question

[REDACTED] I think you are looking at our position a little too broadly. Our position is that if there is no final document, the latest draft would be responsive. If there is a final version, no drafts need to be additionally supplied unless the draft went to the board.

From: [REDACTED]
Sent: Monday, April 23, 2012 8:02 AM
To: Verne, B. Michael
Cc: [REDACTED]
Subject: 4(c) Drafts Question

Hi Mike,
Hope you enjoyed the weekend, to be sure we have an accurate understanding of your position on draft documents please let me know if any of these documents would be responsive to 4(c):

1. A document being drafted by a 4(c) officer that has not been presented to the board.
2. A document being drafted by a 4(c) officer who is also a board member that has not been presented to the board.
3. A document being drafted by a board member that has not been presented to the board.

Assume all of these documents have responsive content.

Does this apply to documents evaluating or analyzing synergies and/or efficiencies as well?

As always many thanks for your guidance,

[REDACTED]

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