

Verne, B. Michael

802.4

From: [REDACTED]
Sent: Monday, July 01, 2013 1:28 PM
To: Verne, B. Michael; Walsh, Kathryn

In my asset acquisition, the Buyer is acquiring the following classes of assets—any my annotations are in red following each listing:

- all Inventory; (non-exempt, not ordinary course) ✓
- all Accounts Receivable; (exempt for 802.4 purposes as cash equivalents?) — NO (SEE F1-9)
- all Contracts; (non-exempt but no value unless Buyer is paying a premium) ✓
- all Real Property Leases; (non-exempt but no value unless a premium is being paid) — STEPPING IN AS LESSEE?
- all Fixtures and Equipment; (non-exempt) ✓
- all IT Assets; (non-exempt) ✓
- all Owned Intellectual Property; (non-exempt unless non-US) ✓
- all Intellectual Property Contracts; (exempt if non-US and if there is no premium being paid, assuming there is no acquisition of an exclusive license) ✓
- all Permits; (non-exempt) ✓
- all Books and Records, except as provided in Section 2.2(i); (non-exempt but presumably no value) ✓
- all credits, prepaid expenses, advance payments and security deposits to the extent related to the Business; (seems exempt for 802.4 purposes) and (CASH EQUIV.)
- all guaranties, warranties, indemnities, Claims and similar rights of any nature in favor of the Sellers or any of their Affiliates to the extent related to the Business (non-exempt, not clear if there is any value) ✓

And , although not specifically enumerated, I believe there would be goodwill as well and this would have to be valued. ✓

Do you agree with this approach?

Thank you.



BAM
7/1/13
KW CONCURS