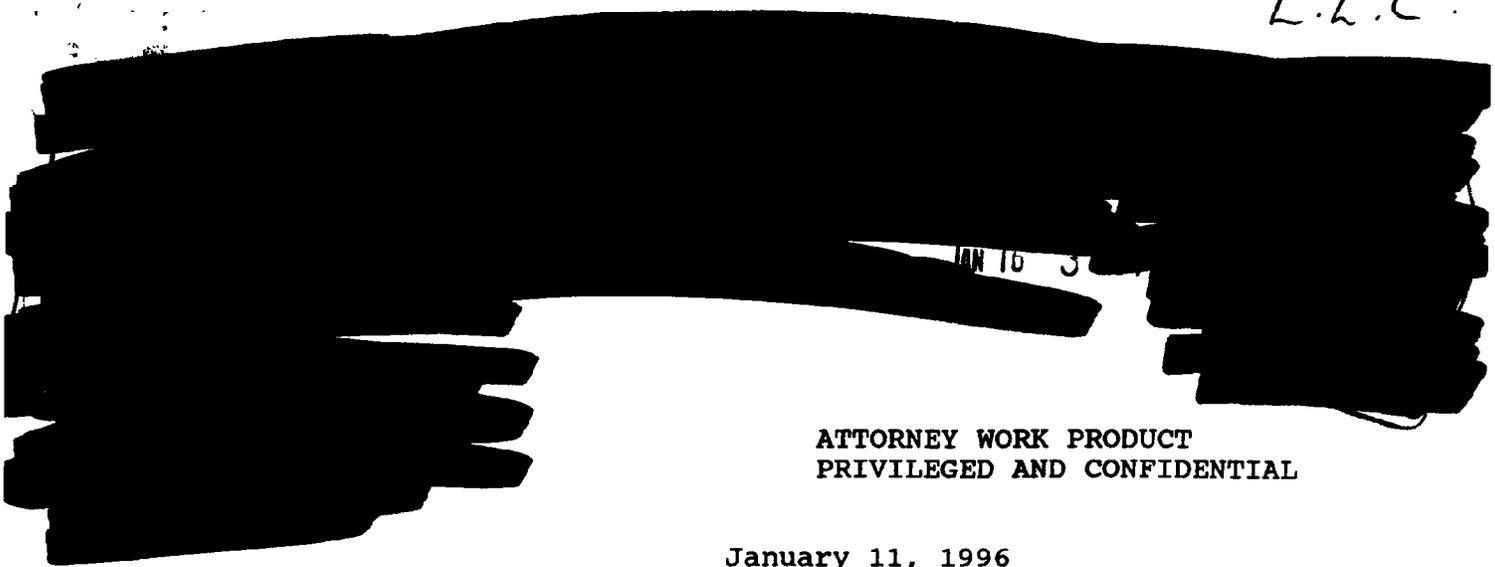


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January 11, 1996

This material may be subject to the confidentiality provisions of Section 7A(h) of the Clayton Act which restricts release under the Freedom of Information Act.

VIA FEDERAL EXPRESS

Nancy Ovuka, Esquire
Premerger Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Premerger Notification Requirement for Formation of a [redacted] Limited Liability Company

Dear Ms. Ovuka:

I am writing to seek your advice as to whether a Hart-Scott-Rodino filing would be required with respect to the following transaction:

A newly formed [redacted] subsidiary of our client (hereinafter "Newco") and the target company (hereinafter "Target") will form a [redacted] limited liability company ("LLC") pursuant to which each entity will receive a 50% common interest in the LLC with minimal initial capital contributions (under \$1,000 in the aggregate). At a simultaneous closing, our client will enter into an asset secured loan agreement with Target for no more than \$7.2 million, proceeds of which are to be used to retire outstanding bank debt of Target. As part of the same closing, Newco will buy an undivided one-half interest in the agreed assets and certain trade liabilities of Target for \$10 million, and Newco and Target will each contribute to the LLC their interest in the agreed assets (subject to our client's loan) as additional paid in capital contributions.

Separate bonafide loan

what are the assets?

- purchase price. the fair market val. is lower





Nancy Ovuka, Esquire
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The LLC will be managed by its members, Newco and Target, through a Members Committee which initially will consist of employees of the LLC, employees of Newco or its parent, and employees of Target; no outsiders will participate on the Members Committee. No management or voting power will be vested in the Members Committee or in any of the representatives; instead, all management and voting power will be vested in and reserved to the Members. Further, each Member shall authorize one of its representatives to be a "Voting Agent". The Voting Agent shall be deemed the agent of the Member that so appointed such representative as Voting Agent, and such Voting Agent shall not be deemed an agent or sub-agent of the LLC or the other Member and shall have no independent authority.

I understood from a telephone conversation we had last month that the formation of a LLC is not reportable under the HSR Act if the LLC would be managed exclusively by the Members and the Members were not delegating any of their management responsibilities to third parties. I understood that, in such a situation, the Premerger Notification Office treated the formation of the LLC like the formation of a partnership and that, therefore, notification under the HSR Act would not be required. It would appear, based on this analysis, that an HSR filing would not be required for the above transaction.

I would appreciate receiving your written guidance with respect to the above at your earliest convenience. Please call me if you have any questions.

Very truly yours,

