



Mr. Michael Verne  
November 19, 1999  
Page 2

will be deemed to hold \$20 million in assets prior to closing. Adding that \$20 million in LLC B's assets to Acquiring Person's other assets results in Acquiring Person having a pro forma balance sheet with \$29 million in total assets, and a filing would be required unless another exemption applied.<sup>1</sup>

You and I discussed an alternative scenario whereby the financing arrangements agreed to by the Acquiring Person and LLC B differ in one material respect. Namely, for business purposes unrelated to the H-S-R reportability of the transaction, LLC B's commercial lender will not pay any of the \$20 million loan to LLC B, but will instead pay \$20 million directly to Seller at the closing of the asset transaction. This is the ordinary method that the lender uses for funding transactions of this type. You and I concluded, that under these circumstances the loan proceeds would not be held at any time by LLC B, and therefore could not appear on Acquiring Person's pro forma, pre-acquisition balance sheet. Under those circumstances, Acquiring Person's pro forma balance sheet would reflect total assets of less than \$10 million and it could complete the proposed asset acquisition without filing under the H-S-R Act.

Please advise me if you have any questions about this letter, or disagree with the analysis contained in this letter. I will call you to confirm you have or received and reviewed this letter. Thank you again for your kind assistance in helping me resolve several questions in the course of the past week.

Very truly yours,



AGREE - B. Michael Verne 11/23/99  
N. OUVKA CONCURS.

<sup>1</sup> I do not necessarily agree with this analysis, but I understand it to be the Premerger Notification Office's position.

