

## Haynes, Lanea

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**From:** Storm, Evan  
**Sent:** Friday, March 03, 2017 9:14 AM  
**To:** [REDACTED] Walsh, Kathryn E.; Berg, Karen E.; Carson, Timothy; Gillis, Diana L.; Shaffer, Kristin; Whitehead, Nora  
**Subject:** RE: Uncertain Filing Person

- [REDACTED]
1. A can file as the UPE of LP (see Int. 232)
  2. If A and B don't know who will control LP, each would have to submit a filing, and there would be two fees

Regards  
Evan

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**From:** [REDACTED]  
**Sent:** Thursday, March 02, 2017 1:40 PM  
**To:** Walsh, Kathryn E.; Berg, Karen E.; Carson, Timothy; Gillis, Diana L.; Shaffer, Kristin; Storm, Evan; Whitehead, Nora  
**Subject:** Uncertain Filing Person

Dear PNO Team:

A limited partnership (LP) is acquiring voting securities in Company X valued in excess of \$323 million. In order to finance the acquisition of Company X voting securities, the LP will be seeking funding from various investors. It is expected that the LP will be its own UPE and will be funded by several investors (none of which would have a controlling interest in the LP). However, there may be a scenario where one of two investors (either Investor A or Investor B) may have over 50% of the rights to profits/assets upon dissolution of the LP.

1. Is the following interpretation still valid: <https://www.ftc.gov/enforcement/premerger-notification-program/informal-interpretations/0702010>? Namely, can Investor A (if it anticipates control) submit an HSR filing for the LP, which will cover both the situation where that investor will be the UPE and where the LP will be the UPE? The LP is being formed for the purposes of the acquisition of Company X voting securities so the information in the form is quite limited where the LP is the UPE.
2. What if it is unclear whether Investor A or Investor B will control (but only one would control)? I assume both would have to submit an HSR filing. Would they both be required to submit a filing fee or would one cover the LP's acquisition of Company X's voting securities?

Thank you,

[REDACTED]

[REDACTED]