

**Sheinberg, Samuel I.**

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**From:** [REDACTED]  
**Sent:** Thursday, June 11, 2020 6:59 PM  
**To:** Walsh, Kathryn E.; Berg, Karen E.; Sheinberg, Samuel I.; Six, Anne; Whitehead, Nora; Musick, Vesselina  
**Subject:** FW: Valuing assumed liabilities

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**From:** Carson, Timothy  
**Sent:** Thursday, June 11, 2020 6:58:52 PM (UTC-05:00) Eastern Time (US & Canada)  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Valuing assumed liabilities

We cannot tell if the acquiring person is determining fair market value in good faith since we do not know what impact the claims already made have on a good faith valuation in this particular circumstance. You will need to make the final call and be prepared to defend any decision not to file if investigated.

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**From:** [REDACTED]  
**Sent:** Thursday, June 11, 2020 9:25:44 AM (UTC-05:00) Eastern Time (US & Canada)  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Valuing assumed liabilities

Hello,

We represent a potential buyer in an asset acquisition. Along with the assets, Buyer will assume certain liabilities associated with the assets, including potential liability from potential warranty claims. Seller has made an estimate of its risk under those warranties. For example, if there were potentially \$100m in warranty claims, and Seller has estimated that they have at most a 10% risk of actually having to pay the full amount, Seller has assigned on their own books a \$10m liability. We think that for HSR purposes, we can value that assumed warranty liability in the way that Seller has – at \$10m. Do you agree?

If some of the warranty claims have already been made, we think we can still value them for HSR purposes at the value Seller has assigned (which is still at some percentage chance of having to pay the full warranty claim, and thus, less than the full potential liability). Do you agree?

Best,

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[Redacted]

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