

Sheinberg, Samuel I.

From: HSRHelp
Sent: Friday, June 24, 2022 8:02 AM
To: Walsh, Kathryn E.; Berg, Karen E.; Musick, Vesselina; Shaffer, Kristin; Sheinberg, Samuel I.; Six, Anne; Fetterman, Michelle
Subject: FW: HSR Question - Pull and Refile

From: Whitehead, Nora <nwhitehead@ftc.gov>
Sent: Friday, June 24, 2022 8:01:53 AM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: HSRHelp <HSRHelp@ftc.gov>
Subject: RE: HSR Question - Pull and Refile

Yes, please provide the agreement and updated affidavit with the refile. This does not create an obligation on the acquired person, unless the substance of the deal has changed such that this is really a "new filing" rather than a pull and refile on the same deal (which does not appear to be the case from your email).

From: HSRHelp <HSRHelp@ftc.gov>
Sent: Thursday, June 23, 2022 5:07 PM
To: Walsh, Kathryn E. <kwalsh@ftc.gov>; Berg, Karen E. <KBERG@ftc.gov>; Musick, Vesselina <vmusick@ftc.gov>; Shaffer, Kristin <kshaffer@ftc.gov>; Sheinberg, Samuel I. <SSHEINBERG@ftc.gov>; Six, Anne <asix@ftc.gov>; Whitehead, Nora <nwhitehead@ftc.gov>; Fetterman, Michelle <mfetterman@ftc.gov>
Subject: FW: HSR Question - Pull and Refile

From: [REDACTED]
Sent: Thursday, June 23, 2022 5:06:29 PM (UTC-05:00) Eastern Time (US & Canada)
To: HSRHelp <HSRHelp@ftc.gov>
Cc: [REDACTED]
Subject: HSR Question - Pull and Refile

Good afternoon –

We are preparing to pull and refile an HSR filing on Monday. We filed the original HSR off of an LOI. However, since our HSR filing, the parties have executed a purchase agreement. As you are aware, the pull and refile rule only specifies that you need to update Items 4(a), 4(b), 4(c), and 4(d). So 3(b) (the agreement) is technically not required to be updated; however, to re-certify you need to attest to the good faith intent to complete the transaction as described in the latest form of agreement – which here would be the executed definitive agreement.

Based on these facts, do we need to update Item 3(b) with the executed agreement and reflect the executed agreement in the affidavit?

Second, does this in anyway create a request for the acquired person to re-file?

Thank you,

[REDACTED]

[REDACTED]

