

FROM

(THU) 4.27.00

901.1(C)

801.10

April 27, 2000

BY FACSIMILE

Mr. Patrick Sharpe
Premier Notification Office
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Room H-321
Washington, D.C. 20580

Re: Transfer of Certain Canadian Assets from Company B to Company A

Dear Patrick:

I am writing to confirm the advice that you gave to [REDACTED] and me in our phone conversation on Thursday, April 20, 2000 that the transaction described below does not require a filing under the Hart-Scott-Rodino Antitrust Improvements Act ("HSR Act") based on the facts discussed in our phone conversation and set forth below.

Company A, a U.S. corporation, proposes to acquire, through a Canadian subsidiary, assets of Company B-Sub, a wholly-owned Canadian subsidiary of Company B, at two of Company B-Sub's plants in Ontario, Canada, which I refer to in this letter as the "Canadian Operations". Sales of products produced at those plants in the United States exceed \$25 million.

For many years, the Company A business was part of Company B. Company A was incorporated in late 1998 as a wholly-owned subsidiary of Company B, and on January 1, 1999 Company B initiated a spin-off of Company A by transferring substantially all of the business that Company A had been conducting as a business sector of Company B, to Company A. No HSR filing was required for that transfer because it was an "intra-person transaction" under 16 C.F.R. §802.30. After an initial public offering of the common stock of Company A in February 1999, Company A began trading as a public company and majority-held subsidiary of Company B.

Company B completed the spin-off of Company A by disposing of its remaining stock interest in Company A on May 28, 1999 through a distribution to Company B shareholders, leaving Company A independent.

FROM [REDACTED]

(THU) 4 [REDACTED]

Mr. Patrick Sharpe
April 27, 2000
Page 2

When Company B decided to spin off Company A in 1998, its goal was to complete the separation on a global basis in a single step. The Canadian portion of the separation could not be completed at the time, however, because the collective bargaining agreement then in place between Company B and a Canadian union (the "Union") prohibited Company B from divesting or selling any of its businesses in Canada. The separation documents therefore contemplated that the transfer of the Canadian Operations would be delayed at least until the collective bargaining agreement with the Union was re-negotiated. That re-negotiation has now taken place and the path is now clear for Company B to transfer the Canadian Operations to Company A.

Even before the formation of Company A, the business sector of Company B that was to become Company A had responsibility for and operational oversight of the Canadian Operations. Notwithstanding the delay in the transfer of the Canadian Operations, Company A has, since January 1, 1999, had that same responsibility and operational oversight of the Canadian Operations. Company A, and not Company B, has recognized the profits and losses from the Canadian Operations under U.S. GAAP accounting principles. Company A has also (i) overseen the negotiations with customers and made decisions as to pricing of the products manufactured by the Canadian Operations, (ii) overseen the negotiations with suppliers as to the purchasing activities of the Canadian Operations and (iii) supplied the engineering services for the manufacture of the products of the Canadian Operations. In addition, since early May 1999, a Company A employee has been on site and overseen the day-to-day operations at the Canadian Operations and has overseen investment and spending decisions for the Canadian Operations.

Based on the foregoing facts, you have agreed that Company A has had beneficial ownership of the assets of the Canadian Operations and that, therefore, the transaction by which legal title to such assets is transferred to Company A would not be subject to the filing requirements of the HSR Act. Thank you for your assistance in this matter.

Very truly yours,
[REDACTED]

The transfer of the title is an asset acquisition. However, since A beneficially owns the underlying assets, the value of the title may have little value. (P5) called [REDACTED] 4/29/00