

801.1(c)

From: [REDACTED]
To: [REDACTED]
Date: Wed, Mar 28, 2001 12:29 PM
Subject: HSR issue

Mike:

I would like your opinion of the HSR reportability of the transaction described below. Please note that all of the steps listed will occur in order at closing, essentially contemporaneously.

B is a not-for-profit corporation with over \$100 million in assets.

A is a for-profit corporation with over \$100 million in assets.

B will convey to A a membership interest in B, which will give A the present contractual right to name the majority of the Board of Directors of B. There will be no consideration paid for this conveyance.

B currently has a wholly-owned subsidiary, C. C will issue new stock to A in exchange for less than \$100,000, resulting in A's ownership of a 1% interest in C. C is a corporation.

B will then merge into C. As a result of the merger, all stock of C owned by B will be canceled. By virtue of its acquisition of the 1% equity interest in the preceding step, A will own 100% of C. B will no longer exist. The merged entity (C) will then pay in excess of \$100 million to D, a foundation that will be a newly created charitable entity. It will not have stock, but will have a Board of Directors. The Board of Directors will not be appointed by, or overlap with, the Board of Directors of A, B or C.

Please advise as to your thoughts about the HSR issues. Thanks!

[REDACTED]

THE CONVEYANCE OF THE MEMBERSHIP INTEREST WHICH GIVES A THE RIGHT DESIGNATE A MAJORITY OF THE DIRECTORS OF B IS VIEWED AS THE ACQUISITION OF ALL OF THE ASSETS OF B BY A. IF THE ASSETS ARE VALUED IN EXCESS OF \$50MM, THIS STEP IS REPORTABLE. NONE OF THE REMAINING STEPS ARE REPORTABLE.

B. Michael Verne
3/28/01