

Verne, Michael

From: [REDACTED]  
Sent: Tuesday, October 14, 2003 11:02 AM  
To: Verne, Michael  
Subject: Premerger Notification Question

Michael -

I left you a voice mail this morning. I have a question regarding whether a client of mine must file a premerger notification report form.

My client is a corporation (ABC Corp.) It is buying 100% of the stock of another corporation (XYZ Corp.) XYZ Corp has \$900 Million in non-voting stock and \$34 Million in voting stock. Who (if anyone) must file?

Although ABC Corp is acquiring \$934 Million in total stock, only \$34 Million is voting stock, so it would seem to me that ABC Corp. does not have to file because the \$50 Million threshold has not been met. Also, 16 CFR 801.21 states that securities are not considered assets when acquired, so it doesn't seem appropriate to count the \$900 Million in XYZ Corp. non-voting stock as assets for the purposes of determining whether to file. On the other hand, XYZ Corp's stock will be wholly owned by ABC Corp. after the transaction, so ABC Corp. will as a practical matter control all of XYZ Corp's assets.

Thanks in advance for your assistance in this matter.

Best regards,

[REDACTED]  
[REDACTED]  
(direct line)  
(fax)  
[REDACTED]

This electronic message contains information from the law firm of [REDACTED] which may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited. If you have received this electronic transmission in error, please notify us by telephone [REDACTED] or by electronic mail [REDACTED] immediately.

ADVISED THAT THIS IS NOT REPORTABLE. THE VALUE OF THE TRANSACTION IS \$34 mm.

B. Michael  
10/14/03