

May 5, 2004

A LIMITED LIABILITY PARTNERSHIP TRADE SION OTIFICATION CE TRADE

HAND DELIVERY

Mr. Michael Verne Compliance Specialist Premerger Notification Office Bureau of Competition Federal Trade Commission Washington, DC 20580

Re: <u>Incentive Payment to Certain Shareholders Not Treated as Consideration</u>

for Company Assets

Dear Mr. Verne

This is to confirm my telephone conversation with you on March 30, 2004, in which you agreed that a cash payment from a third person to certain shareholders of a target corporate entity would not constitute additional consideration for the purchase by one corporate entity of the assets of the target corporate entity.

FACTS:

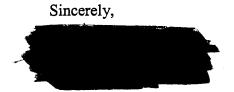
Company A intends to acquire assets from Company B (the "Proposed Transaction"). Company A and Company B have some common shareholders, none of which control either company for HSR purposes. However, one group of shareholders of Company B who are members of a single family (the "Related Shareholders") can prevent the sale of the subject assets based on their fifty percent aggregate ownership of Company B.

Company A and Company X have common shareholders who in the aggregate own more than fifty percent of the voting stock in each company. Company X intends to make a cash payment to some of the Related Shareholders to induce them to agree to the sale of Company B's assets. The form of the inducement will be a contact to provide consulting services to Company X. Company X has valid business reasons for making the inducement payment, because Company X believes that the Proposed Transaction will enhance the business of Company X and therefore, will benefit the shareholders of Company X.

ANALYSIS AND CONCLUSION:

Company A and Company B are their own ultimate parent entities because no single shareholder holds fifty percent (or more) of the voting stock nor does any single shareholder have a contractual right to appoint fifty percent (or more) of either entities' board of directors. The value of a transaction between Company A and Company B would include the payment of monies to Company B for the subject assets. However, the value of such transaction would not include the cash payment from Company X to the Related Shareholders. This is true because Company A and Company X are separate persons under the HSR rules of practice. Thus, the payment by Company X to the Related Shareholders is not additional consideration for the assets that Company A acquires from Company B.

If you wish to discuss the matter further, please telephone me at Thank you for your time and consideration in this matter.



AGNEE - AS LONG AS THESE ARE BOND FIDE CONSULTING CONTINCTS THEY AND NOT PART OF THE CONSIDERATION FOR THE ASSETS.

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