Verne, B. Michael

From:	██████
Sent:	Thursday, May 27, 2004 2:43 PM
To:	Verne, B. Michael
Subject:	Another HSR Query

Mike, I guess the frequency of my e-mails to you suggests (in a small way) the recovery of the economy. Thanks for the help yesterday. I have another question on a different transaction. I had already corresponded with you back in April about this transaction, and I include your response below. Now, however, the transaction has changed somewhat. Here is the situation:

Bank is the trustee of an ESOP in which 54% of the voting shares of a particular corporation (the "Company") are held in trust. The ESOP is an irrevocable trust and a tax-qualified retirement plan under Code section 401(a) which invests primarily in employer stock in accordance with the statutory ESOP
requirements of Code section 4975(e)(7).As discussed below, the trustee technically has the right to vote those shares, but takes its instructions as to how to vote them from a committee comprised of individuals selected by the board of directors of the Company. As is typical, the trustee does not want to assume any responsibility for the management of the Company and therefore just does as it is told by the committee.

Under the original plan, the Company was to be sold to a third party. Now, however, the proposal is for the ESOP to acquire an additional 44% so that it will hold 98% of the outstanding voting shares. The 98% would be held under the same terms as the current 54%.

Leaving the size of person and size of transaction tests aside for the moment, my initial conclusion is that this is not a reportable transaction. Would you concur?

Thanks once again.
Regards,
██████

AGREE – THIS IS EXEMPT UNDER 7A(c)(3).

B. Michael ██

5/27/04

Just let me know if you need more information.

-----Original Message-----
From: Verne, B. Michael [mailto:MVERNE@ftc.gov]
Sent: Wednesday, April 14, 2004 11:59 AM
To: ██████
Subject: RE: HSR Question re ultimate parent entity

Good to see you again as well. Hope the weather in Chicago is less miserable than it has been around here.