

Verne, B. Michael

From: [Redacted]  
Sent: Tuesday, June 01, 2004 7:30 PM  
To: Verne, B. Michael  
Subject: Confirmation of Informal Advice

Dear Mike,

The purpose of this message is to confirm advice that you provided verbally regarding a proposed transaction. This advice was provided to us Monday, June 1, 2004 and was based on the following set of facts:

1) Company A has entered into a distribution agreement with Company B that is exclusive with respect to certain defined services and territories. Pursuant to the distribution agreement, the parties entered into a royalty free, non-exclusive trademark license that allows Company B to use Company's A marks in conjunction with the distribution arrangement between the companies. Company A is considering a buyout of Company B's distribution agreement, which will terminate the trademark license.

2) Pursuant to the distribution arrangements just described, Company B created a large number of sub-dealers who currently have a large number of service agreements in place with customers. When it terminates Company B's distribution rights, Company A also is acquiring many of those customer contracts from the sub-dealers. Some of those sub-dealers also will enter into distribution arrangements directly with Company A on similar terms to the existing arrangement between A and B. We are in the process of verifying that none of the customer contract acquisitions from the sub-dealers meets the reporting threshold. However, Company A's termination agreement with Company B states that B will convey or waive any rights it has with respect to its sub-dealers' customer contracts. Company A believes that those rights, if they exist, are not of substantial value. In Company A's view, it is paying B for the termination of B's distribution rights and paying the sub-dealers for the acquisition of their customer agreements. B's agreement to convey or waive any rights relating to the sub-dealer customer contracts is to ensure that there is no legal impediment to Company A's acquisition of those contracts from the sub-dealers.

In my telephone conversation with you, I inquired as to whether the termination of the exclusive distribution agreement and the ancillary trademark license is a reportable event. You indicated that it is not because it does not transfer anything that is considered to be an asset for HSR purposes.

In addition, I asked whether the provision described in paragraph 2 regarding Company B's conveyance or waiver of any rights it has with respect to its sub-dealers' customer contracts, implies that Company A is acquiring any potentially reportable asset from Company B. You stated that it does not, and that it is not necessary for Company A do a fair market valuation of anything in connection with its termination of Company B's rights.

I have written this message to memorialize our conversation and request that you confirm the advice you provided to us. Thank you for your time, consideration and guidance in this matter.

Sincerely,

Agree -  
*[Handwritten Signature]*  
6/1/04