Verne, B. Michael

From:

Sent:

Thursday, November 10, 2005 2:33 PM

To: Verne, B. Michael

Subject:

Here's the question from my voicemail message

X and Y will form a new corporation, which in turn will acquire S, an existing public company, for about \$1 billion.

In the formation of the acquiror corporation,

X (a current shareholder of S) will contribute 20% of the stock of S and take back about 30% of the total voting securities of the new corporation valued at about \$150 million.

Y will put in about \$350 million in cash and take back the remaining 70% interest in the new corporation.

More or less simultaneously, the new acquiror corporation will acquire the remaining 80% of the stock of S for something like 80% of \$1 billion (it already has the other 20%).

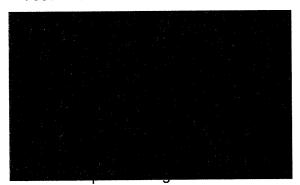
Am I right that X doesn't have to file under 801.40 for its acquisition of a 30% interest in the acquiror corporation, because of 802.4?.

I know I have to file for controlling shareholder Y's acquisition of S (through the new corporation, which Y controls).

Seems to me that Y need not file separately under 801.40 in connection with the formation of the acquiror corporation, again because of 802.4. — CONSCT

Thus, I have a single filing obligation by Y as acquiring person and S as acquired person, with minority shareholder X a bystander.

Yes? No?



Bluebell 11/10/05

made the following annotations.

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