

802.4

Verne, B. Michael

From: [REDACTED]
Sent: Thursday, May 25, 2006 3:07 PM
To: Verne, B. Michael
Cc: Ovuka, Nancy M.; [REDACTED]
Subject: HSR question: applicability of 802.4 exemption for cash resulting in an acquisition of voting securities falling below the reporting threshold

Dear Mr. Verne:

This message will confirm the telephone conversation this afternoon (Thursday, May 25, 2006) in which we discussed a proposed acquisition in which Buyer would pay \$60 million to acquire the voting securities of Target, a non-public issuer. Target holds at least \$10 million in cash, and the fair market value of its remaining assets (excluding the cash) would not exceed the reporting threshold of \$56.7 million. Based on the foregoing, it is our understanding that the it is the position of the staff of the Premerger Notification Office that because the value of the cash is considered exempt under 16 CFR 802.4, and because the fair market value of the other, non-exempt assets is less than \$56.7, the transaction is not subject to a reporting requirement, notwithstanding that the price paid for the securities will be \$60 million.

Thank you for your time. I would appreciate a confirmatory email that I have correctly summarized the substance of your advice.



AGREE -
B. Michael
5/25/06



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