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May 11, 2007

B. Michael Verne
Premerger Notification Office
Bureau of Competition
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, D.C. 20580

Re: Request for Staff Interpretation of Exemption Available to Acquisitions of Voting Securities by Certain Institutional Investors

Dear Mr. Verne:

Pursuant to your voicemail of April 12, 2007, in response to our earlier telephone inquiry, we are writing this letter to confirm in writing our understanding of the views of the Premerger Notification Office concerning, with respect to the advance notification requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "Act"), the availability of the exemption set forth in 16 C.F.R. 802.64 (hereinafter referred to as the "Institutional Investors Exemption") in the following situation:

1. The investor in question is an investment advisor (hereinafter referred to as "Advisor") registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940. Advisor qualifies as an "institutional investor" under 16 C.F.R. 802.64(a). Advisor manages, on a discretionary basis, the assets of institutional and individual clients, as well as mutual funds. As a general matter, Advisor does not invest in equity securities on its own behalf and, except in rare and temporary circumstances, for example to correct a trade error, does not purchase, sell or hold equity securities for its own account.

2. In addition to institutional and individual accounts, Advisor manages four mutual funds, each of which is a separate series of the same Delaware Statutory Business Trust. Each fund has a distinct investment objective and for all practical purposes, including the application of federal securities laws and accounting requirements, each fund is treated as a separate client and distinct entity.

3. Advisor is authorized by an investment management agreement to exercise voting rights with respect to the holdings of its clients (including the funds), but each client has the ability to revoke such authority and take back those voting rights if and when it chooses to do so. Thus, each client remains the beneficial owner of its respective holdings.

4. At present, all of Adviser's clients (including the funds) **in the aggregate** do not own more than fifteen percent (15%) of the voting securities any single issuer. Adviser does not anticipate that any single client would in the future acquire or hold more than 15% of the voting securities of a single issuer.

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5. In your voicemail, you stated that where an investment advisor has only "the right to buy and sell the shares on behalf of the client and the right to vote the shares by proxy," such an investment management arrangement "is not enough to confer beneficial ownership to the investment advisor," and therefore the investment advisor would not be deemed to "hold" (as used in the Act) the voting securities beneficially owned by its clients.

6. We understand further that under 16 C.F.R. 802.64(b), an "acquisition of voting securities shall be exempt" from the advance notification requirements of the Act if (1) "made directly by an institutional investor;" (2) "made in the ordinary course of business;" (3) "made solely for the purpose of investment;" and (4) "as a result of the acquisition the acquiring person would hold fifteen percent or less of the outstanding voting securities of the issuer."

7. As noted above, Advisor is an institutional investor; its acquisition of securities on behalf of its clients (including the funds) are made in the ordinary course of business and solely for the purpose of investment; and as a result of an acquisition, no single client (or fund) will hold more than fifteen percent (15%) of the outstanding voting securities of an issuer.

The circumstances as set forth above would appear to lead to the following interpretations:

A. Advisor does not "hold" voting securities where beneficial ownership remains with the clients (including the funds) of Advisor, despite the fact that Advisor has a (revocable) right to vote its clients' shares;

B. The fifteen percent (15%) maximum threshold for the Institutional Investors Exemption (as set forth in 16 C.F.R. 802.64(b)(4)) is applied separately to each client (and fund), and NOT to the aggregate amount of voting securities held by all clients (and funds) managed by Advisor; and

C. As a result, as long as no single client (or fund) managed by Advisor acquires in excess of fifteen percent (15%) of an issuer's voting securities, Advisor can continue to rely on the Institutional Investors Exemption, even if two or more clients (or funds) of Adviser in the aggregate own more than fifteen percent (15%) of the issuer's voting securities. .

* * *

Thank you for your courtesy in discussing the implications of the Institutional Investors Exemption with us. For our records, we would appreciate it if you could kindly confirm to us, after review of this letter, the view reflected herein. Your consideration in this regard is greatly appreciated. Please do not hesitate to contact me at [redacted] if I may provide any additional information or clarification for your analysis.

Truly yours,

[redacted]

cc: [redacted]

Agree
5/11/07