

Clark-Coleman, Sheila7/12/07
mv-agree

From: [REDACTED]
Sent: Wednesday, July 11, 2007 5:01 PM
To: Clark-Coleman, Sheila
Subject: Confirmation of Conversation Regarding Sales in or into the United States and and Exemption for Acquisition of Voting Securities

Sheila:

Thank you for speaking with me this afternoon concerning the application of 802.51 to a proposed acquisition of voting securities. I am writing to summarize the facts I presented to you and to confirm your conclusions that a particular category of sales does not constitute sales in or into the United States and that no filing would be required under the HSR Act.

In my hypothetical, a foreign travel company located in Europe sells to a foreign individual located Australia a vacation package to Disneyland (or any other U.S. destination). The package includes hotel accommodations, food, car rental, etc. Even though the tour package is priced at \$2000, by the time the foreign travel company pays for the hotel accommodations, food, car rental, etc. it only makes a revenue of \$100.

Based on these facts, you concluded that the sale of the vacation package would not qualify as a sale in or into the United States because the sale occurred in Europe and no revenue was derived in the United States. Essentially, you concluded that this was simply a the sale of a product, albeit one with U.S. components, from a foreign person to a foreign person where title to the product transferred outside of the United States. You also determined that if the same vacation package was sold by a U.S. subsidiary of the foreign travel company to a foreign individual located in Australia, the sales in or into the U.S. would be the \$100 of actual revenue received by the foreign travel company, not the full \$2000 sale price of the package.

Finally, assuming that a foreign person decided to acquire a 50% controlling interest in the foreign travel company, the transaction would be exempt from filing under 802.51 provided that:

- the aggregate sales of both the foreign travel company and the foreign person in or into the US are less than \$131.5 million in their respective most recent fiscal years, and
- the aggregate total assets located in the US of both the foreign travel company and the foreign person are less than \$131.5 million, and
- as a result of the acquisition, the foreign person would hold an aggregate total amount of the voting securities and assets of the travel company of less than \$239.2 million.

If I have misunderstood your conclusions or if you have concerns based on the facts I have described, please do not hesitate to contact me. Thank you again for your assistance.

Best regards,

[REDACTED]

[REDACTED]

7/12/2007