

Verne, B. Michael

801-10

From: [REDACTED]  
Sent: Thursday, December 13, 2007 9:30 PM  
To: Verne, B. Michael  
Subject: Authority to Determine Fair Market Value

Mike,

I am writing to confirm that the following delegation of authority to determine fair market value is valid for purposes of Rule 801.10(c)(3).

The proposed acquisition has been approved by the Presidential Committee of the acquiring person's ultimate parent entity (UPE). The Presidential Committee, which consists of officers and directors of the UPE, sits below the UPE's Board of Directors and has the authority to approve the proposed acquisition. The officer-director who is responsible for the relevant business division (the "Officer") is authorized (i) to execute any transaction documents approved by the Presidential Committee; and (ii) to delegate his signing authority to any senior employee that he may deem fit (the "Authorized Employees"). There is no specific delegation of authority with respect to the valuation of the target's shares for purposes of the HSR Act either (a) from the Board of Directors of the UPE to the Presidential Committee (b) from the Presidential Committee to the Officer; or (c) from the Officer to the Authorized Employees. Neither the Officer nor the Authorized Employees are financial officers but they perform valuations in the ordinary course of their duties and are familiar with the type of business being valued.

Under these facts, would a fair market value determination made by the Officer or by one of the Authorized Employees be valid for HSR purposes, provided that it is done in good faith and within the 60-day time frame specified in Rule 801.10(c)(3)?

Many thanks,

[REDACTED]

[REDACTED]

YES-  
BM  
12/14/07

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