801.90

[redacted]

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March 4, 2008

VIA E-MAIL & FIRST CLASS MAIL

B. Michael Verne, Esq.
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580

Re: Acquisition of Voting and Non-Voting Shares

Dear Mike:

Thanks for taking the time to speak with [redacted] and me yesterday regarding the reportability of my client's acquisition of certain voting and non-voting shares. I summarize here the facts relating to the transaction that Jeff presented.

Seller Investment Bank operates in compliance with Islamic Shari'ah (the body of Islamic laws) relating to financial and commercial matters. One of the principal restrictions of Shari'ah is a prohibition on the payment or receipt of interest. As a result of this restriction, Seller Investment Bank structures its direct investments to ensure that it will not be deemed to control any entities that finance investments and activities with interest-bearing loans.

Seller Investment Bank's investments as described below have been developed to be in compliance with Shari'ah.

1. Buyer is acquiring Holdco A and Operating Company B.

2. Holdco A has 16,170 shares of voting securities held by 15 Cayman entities and 818,430 nonvoting shares held by 7 Cayman entities. The nonvoting shares are not convertible into voting stock and do not entitle its holders to vote for directors of Holdco A.

3. Seller Investment Bank controls one of the Cayman entities holding nonvoting shares, which gives it control of 121,602.90 nonvoting shares.

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4. The remaining Cayman entities are their own ultimate parents. *See* 16 C.F.R. § 801.1(b)(1)(ii). There are no holders of non-corporate interests that have the right to 50% or more of any Cayman entity's profits, or in the event of dissolution, to 50 percent or more of any Cayman entity's assets. Each of the Cayman entities holding Holdco A non-voting stock has a management agreement with an affiliate of Seller Investment Bank to manage the day-to-day affairs of the Cayman entities. However, the management agreement does not give Seller Investment Bank the right to 50% or more of the Cayman entity's profits, or assets upon dissolution of the Cayman entity.

5. Operating Company B has 103,084 shares of voting securities. Approximately 98% of these voting securities (101,166 shares) are held by Holdco A and the remainder by individuals, who run the business operated by Operating Company B. 12,830.89 options and 2,366 warrants of Operating Company B will be cashed out at closing.

6. To comply with state regulatory rules regarding foreign investment in Operating Company B, Holdco A has also entered into a revocable proxy agreement with Company C, which is a Cayman entity jointly controlled by two individuals who are employees of the U.S. operations of Seller Investment Bank. The proxy agreement gives Company C the right to vote Company A's shares (101,166) in Company B.

7. The aggregate purchase price for Holdco A and Operating Company B is approximately $395 million. The purchase price to be paid at closing for each share of Holdco A voting stock, Holdco A nonvoting stock and Operating Company B voting stock will be the same. As a result, the aggregate consideration paid to holders of the 119,254 shares of voting securities will be approximately $50,235,826 (12.72% of $395 million; the holders of 16,170 shares of Holdco A voting stock will receive approximately $6,811,623 and the holders of 103,084 shares of Operating Company B voting stock will receive approximately $43,424,202.61).

8. The remaining consideration will be paid to the holders of the 818,430 shares of nonvoting stock of Holdco A.

9. The transaction and the allocation of consideration between voting and non-voting shares has not been structured for purposes related to potential obligations under the HSR Act.

We reached the following conclusions regarding reportability of this transaction with which you agreed:

1. The proposed transaction is not reportable under the HSR Act because the $63.1 million Size of the Transaction Test is not met.

2. Under the HSR Rules and Interpretations, any consideration for the non-voting shares of Companies A and B is not included in the HSR valuation. The acquisition of non-voting securities is HSR exempt regardless of the value. *See* 16 C.F.R. § 801.10. See also http://www.ftc.gov/bc/hsr/informal/opinions/0709007.htm;

http://www.ftc.gov/bc/hsr/informal/opinions/0507008.htm;
http://www.ftc.gov/bc/hsr/informal/opinions/0406011.htm.

3. The HSR analysis is not impacted by whether a single shareholder currently holds all the voting and non-voting shares of target companies, or if multiple shareholders of the target companies currently hold the voting and/or non-voting shares of Target. *See* http://www.ftc.gov/bc/hsr/informal/opinions/0709007.htm.

4. This transaction will not be regarded as a transaction or device for avoidance under 16 C.F.R. § 801.90.

Please confirm your agreement with these conclusions based on the facts presented or, if we misunderstood your agreement, let me know where you disagree so that we may discuss the matter further. Please do not hesitate to call or e-mail if you have any questions.

[redacted]

cc: [redacted]

AGREE-
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