802.4

Verne, B. Michael

From: [redacted]
Sent: Friday, March 20, 2009 2:00 PM
To: Verne, B. Michael
Subject: Proposed Acquisition

Mike - I was hoping to speak with you to discuss whether one or more transactions that are part of a proposed acquisition are reportable. However, since the facts are relatively complicated, I though it would help if I forwarded a description to you before we spoke. Below is a description of the proposed acquisition and the relevant parties. My contact information is set forth below. I am generally available this afternoon and Monday to discuss this. If neither day works for you, please let me know when you are available to speak. Thanks in advance for your help. -[redacted]

Description of Proposed Transaction

A privately held company ("A") proposes to acquire all of the stock of another corporation ("C"). The proposed structure is a forward triangular merger whereby "C" will merge with and into "B", a wholly-owned subsidiary of "A" which is being formed for purposes of the acquisition. "B" will be the surviving entity upon consummation of the merger.

Further Description of the Relevant Parties

1. "A" is a privately-held corporation with 24 shareholders. One shareholder, "X", owns more than fifty percent percent (50%) of the voting stock of "A". Accordingly, "X" is the ultimate parent entity ("UPE") of "A".

2. "B" is a corporation and wholly-owned subsidiary of "A". "B" was formed for the purpose of acquiring "C".

3. "C" is a publicly-traded shell corporation commonly referred to as a "SPAC", a special purpose acquisition company. "C" has both stockholders and warrantholders, but it does not conduct any business at this time. However, "C" has approximately $135 million in assets. Almost all of its assets are in the form of cash or cash equivalents, all of which are currently being held in trust pending an acquisition that meets the investment purposes for which "C" was formed. The stock of "C" is currently trading at $7.66 per share. The lowest trading value for the shares of "C" over the past 45 days is $7.54 per share. "C" has a current market capitalization of $161 million. No shareholder of "C" holds fifty percent (50%) or more of its shares, so "C" is the UPE.

Additional Facts

Contemporaneously with the closing, a substantial portion of the assets of "C" (i.e., approximately $103 million in cash), will be used to redeem shares and/or warrants of the current shareholders and warrantholders of "C", as well as to pay closing costs and a cash payment of $3.5 million to the stockholders of "A". It is anticipated that only approximately $25 million in cash/cash equivalents will be left following these redemptions and other payments.

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Each of the remaining shareholders of "C" will receive one (1) share of "A" in exchange for each share of "C" that he holds. Each warrantholder of "C" who is not redeemed will receive an equal number of warrants in "A".

"A" conducts three lines of business, one of which is a manufacturing business and the other two of which are service businesses. As reflected on its most recent balance sheet, "A" has total assets of approximately $43 million and, when consolidated with its wholly-owned subsidiaries, it has total assets of $107 million. In addition, "A" has net revenue of approximately $4.9 million (i.e., gross revenue of $29.7 million minus cost of revenue of $24.8 million) and, when consolidated with its wholly-owned subsidiaries, it has net revenue of $37.4 million (i.e., gross revenue of $165.4 million minus cost of revenue of $128 million).

As reflected on its most recent balance sheet, "C" has total assets of approximately $135.5 million, almost all of which are in the form of cash and cash equivalents (which cash and cash equivalents are being held in trust pending the closing of a transaction that meets the investment criteria of "C").

Immediately prior to or contemporaneously with the closing of the transaction, "A" shall have registered its stock so that it will trade publicly from and after the consummation of the transaction. It is anticipated that, at the time of the closing, the shares of "A" will trade at a per share value of $7.85. At the present time, it is believed that "A" has an enterprise value of approximately $134.6 million.

Following the consummation of the transaction, it is anticipated that the current shareholders of "A" will own approximately sixty percent (60%)of the outstanding capital stock of "A". In addition, shareholders of "C" who are not redeemed will own approximately forty percent (40%) of the outstanding capital stock of "A". "X", the UPE of "A", will own less than fifty percent (50%) of "A" following the transaction. Accordingly, "X" will no longer be the UPE. Following the transaction, "A" will be its own UPE because no single shareholder will own fifty percent (50%) or more of "A".

[redacted]

I don't think you have anything reportable here. A's acquisition of C would be exempt under § 802.4. Unless any individual shareholder of C will receive in excess of $65.2 million in A stock, there is nothing reportable on the backside either.

B

3/23/08