[redacted]

[redacted]

October 26, 2010

801.2

Mr. B. Michael Verne
Premerger Notification Office
Bureau of Competition
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Application of Rule 801.2(a)

Dear Mr. Verne:

We are counsel to [redacted], a Delaware corporation whose common stock is listed on the NYSE. We are submitting this letter in order to see if you agree with our views as expressed in the numbered paragraphs below. [redacted] and the other below named entities are parties to a Contribution and Exchange Agreement, dated as of September 10, 2010 (the "Agreement"). The Agreement contemplates the concurrent share exchange transactions (together, the "share exchange transaction") described below. In each instance, please assume all requisite HSR size of the parties and size of the transaction thresholds are satisfied.

Pursuant to the Agreement, [redacted] will (i) issue shares of [redacted] common stock representing a controlling interest in [redacted] Capital Partners Master Fund I, Ltd. ("Master Fund") and (ii) receive from Master Fund shares of common stock of a subsidiary of Master Fund known as [redacted]. Master Fund currently owns more than 50% of the common stock of [redacted] and more than 20% of the common stock of [redacted]

Currently, [redacted] only assets consist of cash and cash equivalents and shares of subsidiaries whose sole assets consist of cash and cash equivalents. Currently, each of [redacted] and Master Fund is its own ultimate parent entity; as a result of the share exchange transaction, [redacted] will become a controlled subsidiary of Master Fund. [redacted] ultimate parent entity is Master Fund and, after giving effect to the share exchange transaction, Master Fund will continue to be the ultimate parent entity of [redacted]

[redacted] will, in the share exchange transaction, (i) contribute shares of common stock of [redacted] it currently holds to HGI and (ii) receive shares of common stock of [redacted] is its own ultimate parent entity.

[redacted] will also, in the share exchange transaction, (i) contribute shares of common stock of [redacted] it currently holds to [redacted] and (ii) receive shares of common stock of [redacted] However, as a result of the share exchange

[redacted]

[redacted]

transaction, [redacted] percentage ownership of outstanding voting securities of the [redacted] will be diluted and will actually decrease.

1) We believe the acquisition by Offshore Fund of common stock of [redacted] is reportable. It is expected that [redacted] will file Premerger Notification and Report Forms as an acquiring person with the FTC and DOJ this week. [redacted] will file as an acquired person.

2) It is our view that Master Fund's acquisition of more than 50% of the voting securities of [redacted] will not require a filing under the HSR Act. Our view is premised upon Rule 802.4 which exempts the acquisition of voting securities of issuers holding only assets the acquisition of which is exempt. [redacted] holds cash, cash equivalents and shares of subsidiaries whose sole assets consist of cash and cash equivalents. As described above, Master Fund already holds a majority of the voting securities of [redacted] and currently is [redacted] ultimate parent entity.

3) It is also our view that the acquisition of [redacted] common stock by [redacted] will not require a filing under the HSR Act. Our view is premised upon Section 7A(c)(10) of the Clayton Act. As a result of the share exchange transaction, [redacted] percentage ownership of outstanding voting securities of [redacted] will decrease.

4) It is our view that, although [redacted] will be acquiring direct ownership of a majority of the voting securities of [redacted] as a result of the share exchange transaction, a filing will not be required under the HSR Act. Our view that a filing is not required is premised upon our belief that HGI is not an acquiring person as that term is used in Rule 801.2(a) and as illustrated in Example No. 2 to Rule 801.2(f)(2). Our view is further premised upon Informal Staff Opinions 0711016 and 0806006. As a result of the share exchange transaction, [redacted] will no longer be its own ultimate parent entity; [redacted] will become a controlled subsidiary of Master Fund and the pre-transaction stockholders of [redacted] will now hold a minority of [redacted] voting securities. Master Fund, which was the pre-transaction ultimate parent entity of [redacted] will continue to be the ultimate parent entity of [redacted] after the share exchange transaction is consummated.

In Informal Staff Opinion 0711016, dated November 20, 2007, Company A acquired voting securities of Company B. Company A issued as consideration for the voting shares of Company B cash and voting securities of Company A. As a result of the transaction, the parent of Company B became the majority shareholder of Company A and its ultimate parent entity. The Staff of the Premerger Notification Office ("PNO") agreed with the position that there was only one reportable transaction, with the parent of Company B as the acquiring person and Company A as the acquired person. The letter stated that "... at the end of the day, the Parent of Company B is the only UPE that holds voting securities that it did not hold prior to the transaction, and is therefore the only acquiring person under [Rule] 801.2(a)."

In Informal Staff Opinion 0806006, dated June 6, 2008, Company A was the ultimate parent entity of five LLCs. Company A and three of the LLCs entered into a series of agreements with Company B pursuant to which Company A and three of its LLCs would

[redacted]

contribute cash to Company B in exchange for common stock of Company B. Company B was its own ultimate parent entity. The three LLCs were merged into subsidiary LLCs of Company B. In exchange, Company B issued a majority of its common stock to the owners of the three LLCs; Company A was the majority owner of those three LLCs. On a post-transaction basis, Company A became the ultimate parent entity of Company B. The Staff of the PNO agreed with the position that the acquisition of the LLCs by Company B was not a reportable event as Company B was not an acquiring person.

In Example 2 to Rule 801.2(f)(2), LLC X is its own ultimate parent entity. Company A contributes a manufacturing plant valued in excess of $200 million (as adjusted) to LLC X which issues new interests to Company A, resulting in Company A having a 50% interest in LLC X. The example states that Company A is acquiring non-corporate interests which confer control of LLC X and therefore Company A will file as an acquiring person. The example also states that, because Company A held the plant prior to the transaction and continues to hold it through its acquisition of control of LLC X after the transaction is completed, no acquisition of the plant has occurred and LLC X is therefore not an acquiring person.

The facts in the instant transaction are analogous to the facts in the two cited informal staff opinions and Example 2 to Rule 801.2(f)(2) and provide support for our view that HGI is not an acquiring person of Spectrum's voting securities. Master Fund is the only ultimate parent entity that will hold securities of an entity (that entity being [redacted]) it did not own prior to the transaction. Master Fund holds a majority of the voting securities of [redacted] before the share exchange transaction and will continue to hold a majority of [redacted] voting securities after the share exchange transaction is consummated. The only effect of the share exchange transaction is to interpose [redacted] as a holding company for Master Fund's controlling interest in the Spectrum common stock. As a result of this share exchange transaction, Master Fund will become the ultimate parent entity of [redacted] In the words of Example 2:

> "because [Master Fund] held the [redacted common stock] prior to the transaction and continues to hold it through its acquisition of control of [redacted] after the transaction is completed, no acquisition of the [redacted common stock] has occurred and [redacted] is therefore not an acquiring person."

Based upon our description of the facts and circumstances as described above, do you agree with our view that HGI is not an acquiring person of voting securities of [redacted]?

I would like to point out in the interest of full disclosure that your office received an email from counsel to Master Fund, which asked, among other things, if you thought the acquisition of [redacted] voting securities by [redacted] was exempted from the HSR Act's filing requirements by Rule 802.30 (the "Intra Person exemption"). See Informal Staff Opinion 1006011. You stated that the Intra Person exemption was not available. We agree that the Intra Person exemption would not be available. However, we believe, in the alternative, that [redacted] is not an acquiring person of [redacted] voting securities for the reasons stated above.

[redacted]

[redacted]

After you have had the opportunity to review our email please contact me with any questions you may have.

On behalf of our client we thank you for your time and assistance.

Sincerely,

[redacted]

cc: [redacted]

[redacted]

2) Agree – exempt under § 802.4
3) Agree – exempt under 7A(c)(10)
4) Agree – [redacted] is not an acquiring person of voting securities of [redacted]

11/4/10