

§ 802.63

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[REDACTED]

November 26, 1991

HAND DELIVERY

Thomas Hancock, Esq.
Federal Trade Commission
Premerger Notification Office
Room H-303
6th St. and Pennsylvania Ave., N.W.
Washington, D.C. 20580

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FEDERAL TRADE COMMISSION
PREMERGER NOTIFICATION OFFICE
1100 PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. 20580

Dear Mr. Hancock:

I am writing this letter to confirm the oral advice you provided yesterday regarding the nonreportability of the following transaction:

A controls 100% of the voting securities of B, a corporation in Chapter 11 bankruptcy which has defaulted upon its bonds. Pursuant to a Court-approved reorganization plan, B's current bondholders will exchange their bonds for voting securities in two new corporate entities, B-1 and B-2, that together will control substantially all the assets previously held by B.

You indicated that the exchange of B's bonds for voting securities in B-1 and B-2 by each of B's bondholders would be exempt from any Hart-Scott-Rodino Antitrust Improvements Act filing requirements, based upon 16 C.F.R. § 802.63(a) of the Hart-Scott regulations.

You thus indicated that the exchange of bonds for voting securities by each bondholder, regardless of the particular facts concerning the size of person or transaction or the bondholder's business, would qualify under § 802.63(a) as: (1) an acquisition "upon default" or "in connection with a bona fide debt workout"; and (2) an acquisition "made by a creditor in a bona fide credit transaction entered into in the ordinary course of the creditor's business."

[REDACTED]
Thomas Hancock, Esq.
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If the above does not accurately reflect the advice you provided, please telephone me immediately.

Thank you very much for your time and assistance.

Very truly yours,
[REDACTED]

OK,
OK,
John Sipple expressed some reservations about a situation in which someone heard about this plan and bought up B's land in order to acquire control of what used to be B. It's not clear how the case would be distinguished - perhaps it would fall under § 801.90. That is not the case in this letter.

TFH