

801.1 (c)(3)

March 12, 1998

Mike Vern
Federal Trade Commission
Premerger Notification Office
601 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Mr. Vern:

This is to confirm the content of our telephone conversation yesterday. Also, I have included in this letter several additional facts that we did not discuss in our conversation.

I inquired about determining the ultimate parent entity of a limited liability company ("the LLC"). I stated that an individual, "A," owned the rights to 31% of the profits (and assets upon dissolution) of the LLC and that three separate irrevocable trusts, Trust-B, Trust-C and Trust-D, each owned the rights to 17% of the profits (and assets upon dissolution) of the LLC. The remaining interests in the LLC are owned by employees of the LLC who are not related to "A." The trusts are not common trust funds or collective trust funds.

The beneficiary of Trust-B is "A"'s non-minor child, "E," the beneficiary of Trust-C is "A"'s non-minor child, "F" and the beneficiary of Trust-D is "A"'s non-minor child, "G."

The trustee of each of the trusts is the same bank (the "Bank"). If the Bank resigns or is required to be replaced, an independent trust advisor ("Trust Advisor") designates the successor trustee. "A" is the settlor of the trusts. The trusts were established to effectuate a gift and to remove the trusts from ownership and control of the settlor for income gift and estate tax purposes. As such, "A" does not retain any control over the trustee, or the replacement of the trustee and does not retain any reversionary interest in the trusts.

Given such facts, it is my understanding that the LLC is its own ultimate parent entity because there is no entity that owns the rights to 50% or more of the profits (or

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assets upon dissolution) of the LLC. Under 16 C.F.R. § 801.1(c)(3), each trust is considered to be the holder of its assets and its own ultimate parent entity. The fact that the Statement of Basis and Purpose provides that "control of a trust is determined by whether an entity has contractual power to designate half or more of the trustees of the trust" (43 Fed. Reg. 33,459; see ABA Premerger Notification Practice Manual, Interpretation 84, Commentary) does not alter the conclusion that neither the Bank nor the Trust Adviser is considered to control the trusts and, thus, that the LLC is its own ultimate parent entity.

Please contact me if you believe that any of the analysis contained in this letter is incorrect. I appreciate your assistance in this matter.

Sincerely,

[REDACTED SIGNATURE]

[REDACTED]

AGREE -
Richard Vern
3/16/98

[REDACTED]

[REDACTED]