

Sheinberg, Samuel I.

From: HSRHelp
Sent: Tuesday, August 2, 2022 4:02 PM
To: Walsh, Kathryn E.; Berg, Karen E.; Musick, Vesselina; Shaffer, Kristin; Sheinberg, Samuel I.; Six, Anne; Fetterman, Michelle
Subject: FW: Question re UPE and Size of Person

From: Whitehead, Nora <nwhitehead@ftc.gov>
Sent: Tuesday, August 2, 2022 4:01:38 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: HSRHelp <HSRHelp@ftc.gov>
Subject: RE: Question re UPE and Size of Person

While a filing can be withdrawn, no refund will be issued.

From: HSRHelp <HSRHelp@ftc.gov>
Sent: Tuesday, August 2, 2022 3:23 PM
To: Walsh, Kathryn E. <kwalsh@ftc.gov>; Berg, Karen E. <KBERG@ftc.gov>; Musick, Vesselina <vmusick@ftc.gov>; Shaffer, Kristin <kshaffer@ftc.gov>; Sheinberg, Samuel I. <SSHEINBERG@ftc.gov>; Six, Anne <asix@ftc.gov>; Whitehead, Nora <nwhitehead@ftc.gov>; Fetterman, Michelle <mfetterman@ftc.gov>
Subject: FW: Question re UPE and Size of Person

From: [REDACTED]
Sent: Tuesday, August 2, 2022 3:22:20 PM (UTC-05:00) Eastern Time (US & Canada)
To: HSRHelp <HSRHelp@ftc.gov>
Subject: Question re UPE and Size of Person

Hi all:

Hope you're doing well. I had a question I was hoping to get your thoughts on:

A newly-formed buyer is acquiring a target company. This newly-formed, non-corporate buyer entity will be held by several investors who are separate UPEs. Closing will not occur for a few months due to other regulatory approvals, so it is currently unclear whether any investor will have 50% or more of the rights to profits or assets upon dissolution of the buyer. If the buyer is its own UPE, no HSR filing is required because the Size of Person threshold is not met. Assume Investor A is the investor most likely to be the UPE at closing, if any. If Investor A files HSR, the waiting period expires, but it later becomes clear that a filing is not required because buyer is its own UPE and the Size of Person threshold is not met, can Investor A withdraw its filing and have its filing fee returned?

Thanks,

[REDACTED]

[REDACTED]

