

**Sheinberg, Samuel I.**

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**From:** HSRHelp  
**Sent:** Thursday, September 7, 2023 9:21 AM  
**To:** Walsh, Kathryn E.; Berg, Karen E.; Shaffer, Kristin; Sheinberg, Samuel I.; Six, Anne; Whitehead, Nora; Fetterman, Michelle; Burton, June  
**Subject:** FW: 4(b) Stipulation

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**From:** Musick, Vesselina <vmusick@ftc.gov>  
**Sent:** Thursday, September 7, 2023 9:21:24 AM (UTC-05:00) Eastern Time (US & Canada)  
**To:** [REDACTED]  
**Cc:** HSRHelp <HSRHelp@ftc.gov>  
**Subject:** RE: 4(b) Stipulation

**CONTROLLED**

[REDACTED]  
Please use the stipulation text below - it is as you proposed with a slight modification (highlighted).

“[UPE] does not meet the lower Size of Person threshold based on its most recent regularly prepared balance sheet. For the purpose of determining jurisdiction under the HSR Act, [UPE] stipulates that it anticipates meeting the lower size of person prior to the closing of the notified transaction.”

The transaction will be treated as reportable on its face, and the parties must observe the statutory waiting period. If it becomes clear that the size-of-person test will not be met and the parties want to close before the expiration of the waiting period, the HSR notification must be withdrawn and the fee will not be refunded.

Kind regards.

**Vesselina Musick**

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**From:** [REDACTED]  
**Sent:** Wednesday, September 6, 2023 3:45:29 PM (UTC-05:00) Eastern Time (US & Canada)  
**To:** HSRHelp <HSRHelp@ftc.gov>  
**Subject:** 4(b) Stipulation

Hi all –

We are working on a transaction that does not currently satisfy the size of person because the target’s UPE is below the lower threshold. Our client has reason to believe that the lower size of person test may be satisfied before closing, but for timing reasons it may be necessary to file prior to having financials that demonstrate that the size of person threshold is met. It is also possible that at closing, the lower size of person threshold still would not be met. In these circumstances, if the parties elect to proceed with making the filing, can you confirm that the following stipulation is acceptable in Item 4(b):

“[UPE] does not meet the lower Size of Person threshold based on its most recent regularly prepared balance sheet. For the purpose of determining jurisdiction under the HSR Act, [UPE] stipulates that it may satisfy the lower size of person prior to the closing of the notified transaction.”

Many thanks,

[REDACTED]

