

Bankruptcy

HP

[Redacted]

[Redacted]

Material may be subject to the automatic stay provision of

which restricts release under the Freedom of Information Act

Hyman Rubenstein, Esq.
Attorney
Room 303
Federal Trade Commission
6th and Pennsylvania Avenue
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Fax: (202) 326-2050

Re: HSR Filing Interpretation

Dear Hy:

Further to our telephone conversation of today, you requested that I set forth the facts which we discussed in order to allow you to provide me in writing with the Federal Trade Commission's opinion on certain aspects of the Hart-Scott-Robino premerger notification regulations.

Facts

Our client is Bankrupt Company ("Bankrupt"), controlled by a solvent company ("Parent"). Bankrupt is currently in bankruptcy reorganization under Chapter 11 of the

Bankrupt has entered into an agreement, through Subsidiary A,

Robino Antitrust Improvements Act of 1976 (the "Act") because

INDIRECT SUBSIDIARY OF BANKRUPT MAY BE SOLD WITHOUT THE

agreement and must entertain any superior bids for the voting stock of Subsidiary B submitted by other interested purchasers

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within twenty (20) days of the Court's order. The deadline for the submission of bids is December 2; the Court will select the final purchaser at a hearing on December 5. For reasons relating to Bankrupt's reorganization, Bankrupt must close the sale of Subsidiary B by December 31, 1991. There are at least

~~to Bankrupt. All three meet the size-of-the-asset test of the~~

Pursuant to the Bankruptcy Code at 11 USC § 363, the trustee, in this case Bankrupt, is authorized to use, sell or lease property of the bankrupt's estate after notice and hearing before the appropriate bankruptcy court. 11 USC § 363(b)(2) further provides that:

"(2) If notification is required under subsection (a) of section 7A of the Clayton Act (15 USC 18a) in the case of a transaction under this subsection, then ---

(A) notwithstanding subsection (a) of such section, such notification shall be given by the trustee; and

(B) notwithstanding subsection (b) of such section, the required waiting period shall end on the tenth day after the date of receipt of such notification, unless the court, after notice and hearing, orders otherwise."

Interpretation

I would appreciate it if you would confirm in writing your oral advice that, under the facts as I have described them above upon selection of the final purchaser by the Court and the filing of the appropriate Notification and Report Form by

~~the transaction shall be ten days from the receipt by the FIC of the filing rather than the customary thirty days~~

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called [REDACTED]
ok's

Your prompt response would be much appreciated.

Regards.

Very truly yours,

[REDACTED]

By [REDACTED]