

For comment - from Bill
RECEIPT COPY

[REDACTED]

[REDACTED]

[REDACTED]

April 14, 1992

VIA MESSENGER

Mr. William J. Schechter
Premerger Notification Office
Bureau of Competition
Room 303
Federal Trade Commission

APR 14 4
FEDERAL TRADE COMMISSION
PREMERGER NOTIFICATION OFFICE

Dear Mr. Schechter:

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LPR

Description of Transaction

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A. The Parties Involved

The buyer ("A") is a newly formed United States subsidiary of a foreign corporation. The foreign corporation is the ultimate parent entity ("UPE") of A. "A" currently has no assets and will have no assets at the time of closing aside from the money it will pay out in connection with the transaction. The UPE has annual net sales and total assets of \$100 million.

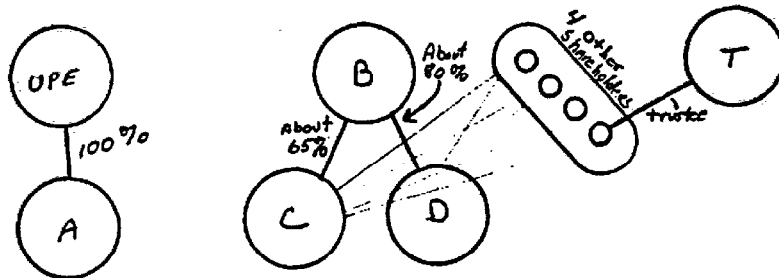
Our client, an individual ("B"), owns a majority of the voting securities of two companies, ("C") and ("D"). There are four other shareholders holding the remaining shares of C and D. C has annual net sales in excess of \$100 million.

An escrow agent, a bank ("E"), will be used to hold some of the shares involved

shares. T is now a trustee for a trust that currently holds about 8 percent of the shares of C and D. When T becomes the proxy agent he will continue in his capacity as trustee for the trust. T has no connection or relationship with UPE, A or any of A's affiliates. T and the entities T controls do not have annual net sales or total assets in excess of \$10 million.

"F" is a former shareholder of C and D and is the person who developed and organized this transaction. T is a former employee of F and the master and beneficiary

The following chart shows the participants prior to the transaction.



B. The Transaction

UPE and A will pay a total of [REDACTED] to B and the other shareholders of C and D, and at the same time, A will place 60 percent of its shares (issued in the names of the former shareholders of C and D) in escrow to be held by the escrow agent F and

remain in escrow. T will exercise completely independent judgment in the exercise of the voting rights of the A shares held in escrow.

In return, A will receive and hold 100 percent of the shares of C and D. UPE will receive the right (for two years) to purchase the shares of A held in escrow for a payment

UPE will pay to Sellers [redacted] of the [redacted] purchase price for UPE's right to purchase the escrowed shares for \$5 million because the escrowed shares [redacted]

which is to be paid by C and D, is expected to be about [redacted] per year. A will also pay F [redacted] for F's costs, fees and expenses, associated with developing and organizing this transaction and will issue F approximately 4% of A's shares, to be held in escrow on the same terms as the shares issued to B and the other sellers [redacted]

[redacted] the two year period, the shares and the associated voting rights go to B and the other former shareholders of C and D. B and the other former shareholders of C and D then have the right (exercisable within thirty days after expiration of the two year

rata for any such Shares which have been previously surrendered or applied in payment for any damages to which A is entitled under the Agreement). A's obligation to purchase the shares pursuant to the Put will be guaranteed by a financial institution mutually acceptable to A and B.

If B does not exercise the First Put, B and the former shareholders of C and D have the right (the "Second Put") which can be exercised within thirty days after the fifth anniversary of the closing date, to sell all of A's shares back to A for [redacted] (reduced

any financial institution.

Despite all of the contingencies described above, it is expected that UPE will elect to exercise its option to purchase its shares within the first two years.

The purpose of the escrow of A's shares [redacted] and it allows UPE to defer the point at which it must pay the first [redacted] to each for the acquisition interest [redacted]

for the payment of any damages to which A is entitled under the Agreement.

The result of this arrangement is that the UPE will hold only 40 percent of the voting securities of A after the closing of the agreement and will not have control of C and D. T, as proxy agent, will hold 60 percent of the voting securities of A and will control C and D. T will vote his 60 percent share of A independent of both UPE and

802.20(b): UPE is acquiring a 40 percent interest in C and D (less than control) for less than \$15 million.

* * *

Given the facts as outlined above, we would appreciate your advice on whether a HSR filing is required. We recognize that if the transaction is set out in a step fashion

D until UPE exercises its option for the remaining 60% of its shares. We recognize that it is likely that UPE will have to make a HSR filing before UPE exercises its option to purchase 60 percent of its shares.

Please call me when you have had an opportunity to review the facts and consider the HSR issues. My phone number is [REDACTED] Thank you for your assistance in this matter.

Very truly yours,

[REDACTED]