

801.10(a)(2)(i)

[REDACTED]

March 20, 1995

Richard B. Smith, Esq.

SIXTH STREET & PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 70850

Dear Mr. Smith:

I am writing to seek confirmation of the

Company Y is currently a wholly-owned subsidiary

Company Y and Company Z, entered into a certain
Venture Agreement that provides as follows. After a
recapitalization, Company Y will have two classes of Common
Stock. The Class A Common Stock will be the only class
entitled to vote for the directors of Company Y and with

distributions, but no voting rights (other than the right to
vote as a separate class on certain amendments to the
certificate of incorporation of Company Y, as provided under

✓

Richard B. Smith, Esq.

2

~~Delaware General Corporation Law. Company A will acquire~~

~~\$1,000 and 10% of the Class B Common Stock for a total consideration of approximately \$78 million. Company B will acquire 10% of the Class B Common Stock for a total consideration of approximately \$78 million. Upon~~

~~consummation of the Acquisition and the related transactions contemplated by the Joint Venture Agreement, Company X will hold 80% of the Class A Common Stock and the Class B Common Stock. Neither the Class A nor the Class B Common Stock will be publicly traded. Pursuant to the terms of the Joint Venture Agreement, Company A may not sell its Class A and~~

~~for the purpose of avoiding the requirements of the Act. The sale of the Class A Common Stock and Class B Common Stock has been understood by the parties from the beginning~~

~~been given to what the values of the two classes of Common Stock would be if they were sold separately.~~

~~You advised us preliminarily that the Acquisition would appear, for the following reasons, to be exempt from the requirements of the Act pursuant to Section 802.20 of the Rules. Pursuant to Rule 801.10, because the Class A Common Stock will not be publicly traded, and because the acquisition price has been determined, the value of the Class A Common Stock to be acquired by Company A would be its acquisition price of \$1,000 and no part of the consideration to be paid for by Company A for the Class B~~

~~be held by Company A as a result of the Acquisition would not satisfy Section 7A(a)(3)(b) because it would not be in excess of \$15 million. In addition, as a result of the Acquisition, Company A will not control Company Y. Therefore the Acquisition would satisfy the conditions of the "minimum dollar value exemption" set forth in Section 802.20 of the Rules.~~

~~You indicated that you would like to confirm your preliminary advice with some of your colleagues at the~~

~~your preliminary advice.~~

[REDACTED]

Richard B. Smith, Esq.

3

I would be pleased to answer any questions you might have regarding this transaction or to discuss the matter further.

Thank you in advance for your attention to this

request

Very truly yours,

[REDACTED]

BY FAX

cc: [REDACTED]

3/31/95 - Advised writer that assuming
no 801.90 issue, the \$1,000 price for the 20% of the voting stock (which
is 100% of the voting stock) appears

covered by own: 20% of the non-voting stock

this conclusion. No [initials] | [Signature]