

Dec. 13, 1995 1:57PM

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(LLC)

# 199

In order to determine whether a formation of a new corporation is within FCU. 40 you must examine first

FEDERAL TRADE COMMISSION  
PREMERGER NOTIFICATION OFFICE

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as terms, identity of purchasers, initial plan, capitalization & whether contribution are being used to acquire target. In this case the facts indicate that FCU. 40 applies unless the LLC

VIA TELECOPY

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partnership. The LLC will be within the Management Committee, which will

Re: Formation of Limited Liability Company

which will "determine & implement" the management of the LLC. These duties include, not a board of directors, but only managers;

the proposed formation of the limited liability company described below (the "LLC") is a reportable event under the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Formation of LLC

- Corporation A will form the LLC by contributing to it certain assets. One of Corporation A's subsidiaries ("A Sub") will own 75% of the membership interests in the LLC, and a second subsidiary will own 25% of the membership interests.
- The second subsidiary will sell its 25% membership interest to the subsidiary of Corporation B ("B Sub").

Therefore, it appears that a partnership is being formed. Even if this was a formation of an corporation type of organization, the fact that its members are limited to officers & directors & employees of the former persons involved in a partnership

• Accordingly, A Sub will be the 75% member of the LLC, and B Sub 1 and B Sub 2 will each be 12 1/2% members (the members of the LLC are referred to as the "Members").

Management of LLC

• The LLC will have a Management Committee with full authority to determine and implement the operations and financial management of the LLC. Day-to-day operations of

authority of the Management Committee.

• A Sub will have the right to designate three members of the Management Committee, and B Sub 1 and B Sub 2

LLC). Most business matters will be determined by majority vote of the Management Committee, except that matters

indebtedness, will require a unanimous vote.

• The Management Committee will consist only of employees of the Members, although the General Manager will be a nonvoting member. The Members will have no right to designate third parties who are not their employees to serve on the Management Committee.

Sincerely,

[Redacted signature block]