

801.1 (8)(1); 802.4

[REDACTED]

[REDACTED]

September 8, 1999

VIA TELECOPIER AND REGULAR MAIL

Richard Smith
Deputy Assistant Director
Premerger Notification Office
Federal Trade Commission
500 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Mr. Smith:

I write to confirm our telephone conversation of Tuesday, August 24, 1999 in which we posed the following situation to you.

Company A is a general partnership. Company B is a limited partnership whose sole asset is a 17.5% general partnership interest in Company A. Company B is in turn owned by two corporations, C and D. Corporation C owns a 50% general partnership interest in B; Corporation D owns a 49% general partnership interest and a 1% limited partnership interest in B. Corporations C and D each have total assets and annual sales of well below \$25 million. C's only assets are the general partnership interest in B and balance sheet entry entitled "step-up investment." D's only asset is its partnership interests in B. Both C and D are 100% owned by Ultimate Parent Entity-1 ("UPE 1").

The acquiring person ("UPE-2") is in negotiations to acquire, directly or indirectly, the 17.5% general partnership interest in A which is currently held by B limited partnership. The total consideration to be paid will be approximately \$29.86 million. Negotiation of the transaction is ongoing; and for contractual or tax reasons it is possible that the acquisition of the 17.5% general partnership interest could take any one of three forms:

- (1) Acquisition of the 17.5% general partnership interest directly from B limited

[REDACTED]

(2) Acquisition of 100% of the general and limited partnership interests of B by purchasing these interests from C and D. As we discussed, this would result in UPE-2 holding 100% of B limited partnership; but since B's only asset is the 17.5% general partnership interest, this transaction would also be exempt.

transaction is in substance only an indirect purchase of the 17.5% general partnership interest

Consequently, UPE-2 will buy from UPE-1 a 51% LLC interest in another entity, which

we believed, and you agreed, that the acquisition of this LLC interest was not reportable. In addition, we agreed that it would not change the analysis above with respect to the 17.5% general partnership interest which B holds in A.

Through a subsidiary, UPE-2 currently owns a 17.5% general partnership interest in A. Therefore, after the transaction is completed, it will control 65% of the general partnership interests in A for HSR purposes, though its economic interest will be less than that because it would hold only 51% of the LLC described in the preceding paragraph. This existing 17.5% general partnership interest in A likewise does not change the foregoing analysis.

* * *

the Delaware Limited Liability Company 501 916-219. We believe that this also does not

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Thank you for your courtesy in discussing the Hart-Scott-Rodino aspects of this structure with us. For our records, we would greatly appreciate it if you could confirm to us after review of this letter that, as stated during our August 24 telephone conversation, you agree with the above analysis. My direct telephone line is [REDACTED]

Sincerely,

[REDACTED]

9/9/99 Called writer and advised that while Steps (1) and (2) above would not be reportable, step (3) is reportable, as

for [REDACTED] - [REDACTED] - [REDACTED] - [REDACTED] - [REDACTED] - [REDACTED] - [REDACTED] - [REDACTED] - [REDACTED] - [REDACTED]

[REDACTED] - [REDACTED] - [REDACTED] - [REDACTED] - [REDACTED] - [REDACTED] - [REDACTED] - [REDACTED] - [REDACTED] - [REDACTED]

publicly made of related partnership (S), no reportable 17D is event

Richard Smith