

[REDACTED]
[REDACTED]
Professional Corporation
[REDACTED]
[REDACTED]

November 23, 1999

VIA FACSIMILE

Bernard Rubenstein, Esquire
Premerger Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
Washington, D.C. 20580

Dear Mr. Rubenstein:

This letter is a follow-up to two previous telephone discussions we had on October 26, 1999 and November 10, 1999 regarding the application of the filing requirements of the HSR Act to a particular hypothetical transaction which I presented to you. You had provided me with informal advice, after consultation with your colleagues, regarding the filing requirements with respect to the hypothetical transaction. Your last voice-mail message indicated that you would welcome further discussion to clarify your earlier comments.

I have attached a descriptive summary of the hypothetical transaction which we discussed and a brief summary of the applicable provisions which we reviewed prior to making our inquiries to you. I would appreciate it if you could review the attached summary and call me so we can further discuss this matter.

If you have any questions, please give me a call.

[REDACTED]

[REDACTED]
Attachment
[REDACTED]
[REDACTED]

Summary of Proposed Transaction

Corp. A and Corp. B, unrelated entities each of which is assumed to have in excess of \$100 million in annual net sales, create a new company ("Joint Venture") which is initially capitalized with \$20,000,000.

Corp. A and Corp. B each receive 50% of the voting securities of the Joint Venture and the right to designate 50% of the directors.

Corp. B then purchases 50% of the voting securities of a wholly-owned subsidiary of Corp. A ("Sub 1") for approximately \$8-9 million. Sub 1 is a holding company which owns 100% of the voting securities of two operating subsidiaries, one of which has total assets on its balance sheet of approximately \$20 million (Sub 2). Of the approximately \$20 million of total assets, Sub 2's balance sheet shows \$10 million.

Upon consummation of such sale, each of Corp. A and Corp. B shall contribute their respective 50% ownership interests in Sub 1's voting securities to the Joint Venture.

A chart of diagrams summarizing the proposed transaction is attached hereto.

It is noted that the proposed transaction would be a failure to satisfy the Size-of-Transaction Test. If the proposed transaction is viewed as a formation of a joint venture, then the provisions of Rule 801.40 would apply in determining if a filing is required.

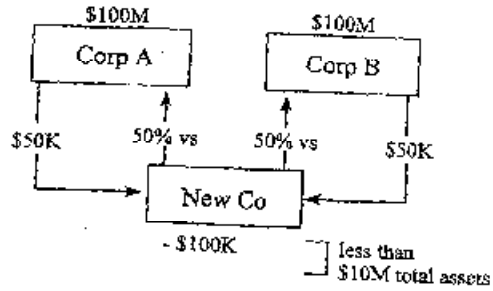
in the formation of a joint venture?

It is our belief that Rule 802.4 could be applied to the proposed transaction to exclude the value of the bonds held by Sub 2, thereby resulting in Corp. A and Corp. B receiving voting securities of an issuer, the Joint Venture (through contribution of the stock of Sub 1), which has

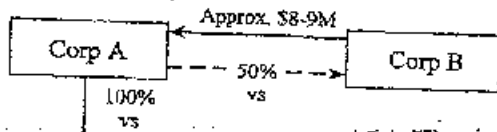
transaction not satisfying the Size-of-Transaction Test under the joint venture provisions in Rule 801.40.

Handwritten notes:
THIS IS NOT CORRECT
ALL THAT REFERS TO THE REGULATION Attachment
7A(c)(2) EXAMPLES
UNDOING 802.4 IS
ON CC(1) IN NON-EXEMPT
ASSETS

FORMATION OF NEW CO



SALE OF 50% OF SUB1 STOCK TO CORP B



CONTRIBUTION OF SUB1 STOCK TO NEW CO

