



Back to Basics HSR Workshop

October 23, 2008

BUREAU OF COMPETITION
FEDERAL TRADE COMMISSION



Today's Agenda

When to File: An overview of the rules and exemptions

- Karen Berg, How to determine if you must file
- Mike Verne, Exemptions
- Mike Verne, Hypotheticals

How to File: Submitting an error-free HSR Form

- Janice Johnson, Mechanics of filing
- Panel Discussion on Filling out the Form:
 - Kathryn E. Walsh, PNO
 - Dani Jachino, Kirkland & Ellis
 - Ellen M. Jakovic, Kirkland & Ellis

Additional Guidance from the PNO Staff

- Sheila Coleman, Paying the filing fee
- Malcolm Catt, Corrective filings
- Robert Jones, e-filing
- Kate Walsh, Using the new HSR web site






Hart-Scott-Rodino Coverage and Definitions

Karen Berg

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An overview of filing requirements found in the HSR Statute and the Rules

- Clayton Act §7A
- 16 CFR Section 801



Engaged in Commerce

- 7A(a)(1), 801.3
- At least one party must be engaged in commerce or in an activity affecting commerce
 - Includes entities within the filing parties



Size of Transaction

- What is being acquired?
 - Voting securities
 - Assets
 - Controlling interest in a non-corporate entity



Voting Securities

- 7A(b)(3), 801.1, 801.32
- Securities with a current right to vote for members of the Board of Directors
 - Convertible securities reportable when converted



Assets

- 801.21
- Hard Assets
 - Not cash
- Intangible Assets
 - Includes exclusive licenses to IP



Controlling Interests in a Non-corporate Entity

- Controlling interests in:
 - Partnerships
 - LLCs
 - Cooperatives
 - Certain kinds of business trusts



Size of Transaction

How much of this stuff
can I acquire before I
have to file?

- Hold and Aggregation
- Valuation



To Have and to “Hold”

- 7A(b)(3), 801.1(c)
- First determine what you will “hold” as a result of this acquisition:

Hold = What you already have in the way of assets, voting securities or interests + what you’re now getting from the same Acquired Person



Aggregation

- 801.13, 801.14, 801.15
- Adding together previously acquired holdings with to-be-acquired holdings is Aggregation
- Aggregation also refers to the need to add together all interests currently being acquired from different subsidiaries of the same parent



Valuation

- 801.10
- Different tests for valuing holdings depending on whether they're:
 - Publicly traded voting securities
 - Non-publicly traded voting securities
 - Assets
 - Non-corporate interests
 - Previously held or to be acquired



Value vs. Acquisition price

- For voting securities, assets and non-corporate interests currently being acquired, measure their value under 801.10 against acquisition price (if determinable)
 - The greater of value or acquisition price is the transaction value
 - Acquisition price may not be determinable



Size of transaction

- 7A(a)(2)
- \$50MM (as adjusted) or less - No filing
- Over \$50MM (as adjusted) – You may need to file
 - Must figure out your Size of Persons now
- Over \$200MM (as adjusted) – File
 - Size of Persons is irrelevant



What do you mean “As Adjusted”?

- “As adjusted” reflects the fact that we adjust the filing thresholds upwards each year to reflect changes in GNP
- Published every January, effective in February



Current adjusted thresholds

- \$50MM = \$63.1MM
- \$100MM = \$126.2MM
- \$200MM = \$252.3MM
- \$500MM = \$630.7MM
- \$1billion = \$1,261.5MM

Check again in January '09
for updates!



Size of Person

- Acquiring and Acquired Persons
 - 801.1, 801.2
 - Ultimate Parent Entities or UPEs
 - Determined by ultimate control relationship



Control

- 801.1(b)
- Corporations
 - 50% or more of the voting securities OR
 - The contractual right to designate 50% or more of the Directors
- Non-corporate entities
 - Right to 50% or more of the entity's profits OR
 - 50% or more of its assets upon dissolution



Sizes of UPEs

- Net sales and total assets
 - Reflected in most recent regularly prepared financials
 - Includes sales and assets of parent and all controlled entities



Sizes of UPEs

- At least one \$100MM person (as adjusted) and one \$10MM person (as adjusted)
- BUT, if Acquired Person is not engaged in manufacturing, it must have assets of at least \$10MM (as adjusted) or sales of at least \$100MM (as adjusted)



Special Filing Situations

- Tender Offers and Other Acquisitions of Voting Securities Not from the Issuer
 - 801.30
 - Tender offers, open market purchases, conversions, exercise of options/warrants, etc.
 - Notice to target
 - Additional wording in affidavit
 - Waiting period begins upon receipt of filings by Acquiring person



Special Filing Situations

- Joint Venture Formation
 - 801.40, 801.50
 - Corporate JVs reportable if
 - A contributor will hold a reportable amount of Newco voting securities and
 - Contributors and JV meet the Size of Persons test
 - Non-corporate JVs reportable if
 - Contributor takes back a controlling interest
 - It is of a reportable size and
 - Contributors and JV meet the Size of Persons test



Special Filing Situations, cont'd

- Joint Venture Formation
 - Size of Persons test basically the same as for other filings
 - Contributors and JV itself must be some combination of \$100MM and \$10MM persons (as adjusted)
 - Newco doesn't file
 - Waiting Period starts when all contributors have filed



Avoidance



Also known as Don't Even Think About It!

- 801.90
- Deliberately structuring a deal so as to make it non-reportable, for no other reason than to make it nonreportable, makes it reportable
- Must have legitimate business reason for structure





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Fun Fact:

The most HSR transactions reported during a single year was 4,926 transactions in fiscal year 2000, resulting in 9,941 filings.

-- 2000 Hart-Scott-Rodino Annual Report





Hart-Scott-Rodino Exemptions

Mike Verne

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Exemptions in the statute and in the regs - why we need both.

- § 7A(d)(2)(B)
- § 7A(c)
- Part 802



“But nothing really happened ...”

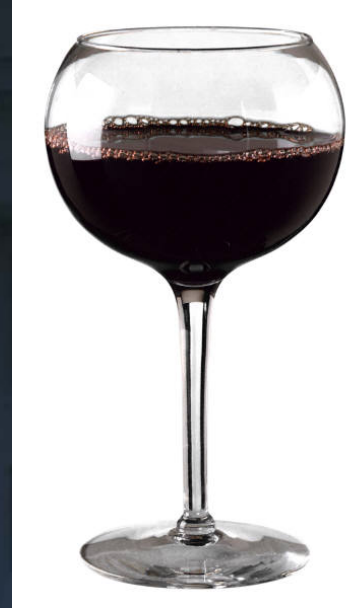
- 7A(c)(10) - acquisitions of voting securities that do not increase, directly or indirectly, the acquiring person's per centum share of outstanding voting securities of the issuer.

- § 802.10 Stock dividends and splits; reorganizations.



“The glass is already half full / moving stuff around ...”

- 7A(c)(3) acquisitions of voting securities of an issuer at least 50 per centum of the voting securities of which are owned by the acquiring person prior to such acquisition.



- § 802.30 Intraperson transactions.



“But I do this for a living / investing for a rainy day ...”

- 7A(c)(1) acquisitions of goods or realty transferred in the ordinary course of business.
- § 802.1 Acquisitions in the ordinary course of business.

- 7A(c)(9) acquisitions, solely for the purpose of investment.
- § 802.9 Acquisitions solely for the purpose of investment.



“Move on FTC/DOJ folks. Nothing to see here ...”

- 7A(c)(5) / 7A(c)(6) transactions specifically exempted from the antitrust laws by Federal statute.
- 7A(c)(7) / 7A(c)(8) transactions which require agency approval by the Fed.
- § 802.6 Federal agency approval.



“The Donald Trump exemptions ...”

- §§ 802.2, 802.3, 802.5 -
Real property exemptions.



“I’m from the government and I’m here to buy you ...”

Fannie Mae

- 7A(c)(4) transfers to or from a Federal agency or a State or political subdivision.



A
I
G

Freddie Mac



“But we’re not really buying it ...”

- §§ 802.63, 802.65 Debt workouts and financing transactions.



“My last filing still covers me - right?”

- § 802.21
Acquisitions not exceeding a higher threshold.





“But the agencies already said this was OK ...”

- § 802.70
Acquisitions
subject to order.



“Not made in the U.S.A...”

£

- §§ 802.50, 802.51, 802.52 Foreign exemptions.



€

¥



“The great equalizer ...”

- § 802.4
Acquisitions of voting securities or non-corporate interests if acquiring the assets held would be exempt.





Congratulations !!



You now know more about the HSR exemptions than 99.999999% of the people on earth. (and probably more than most of the attorneys at your law firm).



THE END

The views expressed herein are
not those of the Commission or
any Commissioner

(But hopefully are those of the
PNO)



Little Susie as a Teen

A PNO PRODUCTION - 2008

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UP NEXT:

Discussion of Hypothetical Scenarios





Hart-Scott-Rodino Hypotheticals

Mike Verne

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Joint Venture Formation

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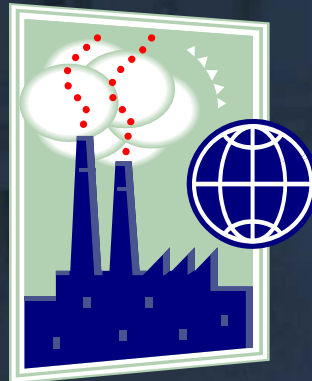


Joint Venture Formation and § 802.4



CONTRIBUTIONS

FUND A



**US FACTORY VALUED
AT \$200 MM**



Joint Venture Formation and § 802.4



CONTRIBUTIONS

FUND B



\$200 MM CASH



Joint Venture Formation and § 802.4

FUND A

50%

\$200 MM

FUND B

50%

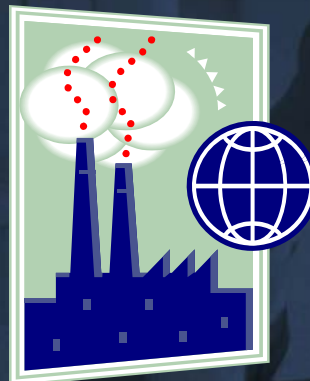
\$200 MM

NEWCO LLC

NEWCO ASSETS



\$200 MM CASH



**\$200 MM US
FACTORY**



Joint Venture Formation and § 802.4

ACQUISITION BY FUND A

50%

\$200 MM

SIZE OF TRANSACTION: \$200 MM

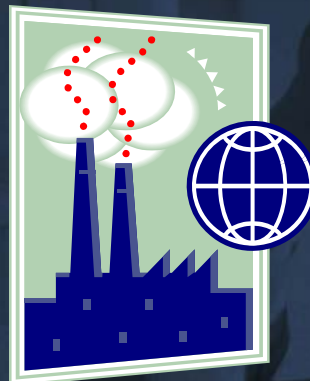
NON-EXEMPT ASSETS:

NEWCO LLC

NEWCO ASSETS



\$200 MM CASH



\$200 MM US
FACTORY

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Joint Venture Formation and § 802.4

ACQUISITION BY FUND A

50%

\$200 MM

SIZE OF TRANSACTION: \$200 MM

NON-EXEMPT ASSETS: \$0

NEWCO LLC

NEWCO ASSETS



\$200 MM CASH

EXEMPT UNDER

§ 802.30(c)

\$200 MM US FACTORY



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Joint Venture Formation and § 802.4

ACQUISITION BY FUND B

50%

\$200 MM

SIZE OF TRANSACTION: \$200 MM

NON-EXEMPT ASSETS: \$200 MM

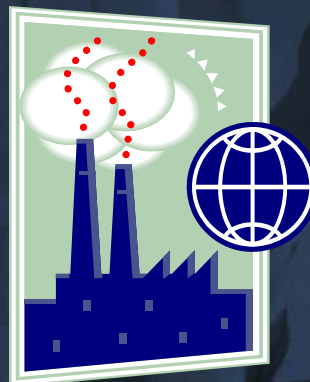
NEWCO LLC

NEWCO ASSETS

NO - ONLY FOR A



\$200 MM CASH



EXEMPT UNDER

§ 802.30(c)?

\$200 MM US
FACTORY



Joint Venture Formation and § 802.4

ACQUISITION BY FUND A

SIZE OF TRANSACTION: \$200 MM

NON-EXEMPT ASSETS: \$0

NON-REPORTABLE

ACQUISITION BY FUND B

SIZE OF TRANSACTION: \$200 MM

NON-EXEMPT ASSETS: \$200 MM

REPORTABLE



Joint Venture Formation and § 802.4

ACQUISITION BY FUND B

SIZE OF TRANSACTION: **\$200 MM**

NON-EXEMPT ASSETS: **\$200 MM**

**NOTE: SIZE OF
TRANSACTION DID NOT
CHANGE BECAUSE OF
EXEMPT ASSETS**

***FILING FEE IS
\$125,000***





Foreign Exemptions

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Foreign Exemptions

FUND A

FUND B

X V/S

Y V/S

Z ASSETS

FOREIGN

U.S.

FOREIGN



Foreign Exemptions

XV/S

FOREIGN

US SALES: \$30 MM

US ASSETS: \$30 MM

VALUE: \$100 MM

YV/S

U.S.

US SALES: \$10 MM

US ASSETS: \$10 MM

VALUE: \$200 MM

FOREIGN ASSETS: \$150 MM

US SALES OF FOREIGN ASSETS: \$10 MM

Z ASSETS

FOREIGN

US SALES: \$20 MM

VALUE: \$100 MM

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Foreign Exemptions

ANALYSIS UNDER § 802.50 & § 802.51

X V/S US SALES: \$30 MM +

Z ASSETS US SALES: \$20 MM = \$50 MM

BECAUSE AGGREGATE SALES INTO THE US
DO NOT EXCEED \$63.1 MM BOTH ARE EXEMPT

IT IS NOT NECESSARY TO INCLUDE US SALES
OF Y V/S BECAUSE IT IS A US ISSUER



Foreign Exemptions

ANALYSIS UNDER § 802.50 & § 802.51

BUT WE STILL HAVE A PROBLEM...

YV/S IS VALUED AT \$200 MM AND IT
CAN'T BE EXEMPTED UNDER
§ 802.51 BECAUSE IT IS A US
ISSUER

SO, HOW DO WE GET AROUND THIS PROBLEM?



Foreign Exemptions

ANALYSIS UNDER § 802.4

THAT'S RIGHT ... IT'S OUR OLD FRIEND §
802.4

X V/S

US SALES: \$30 MM +

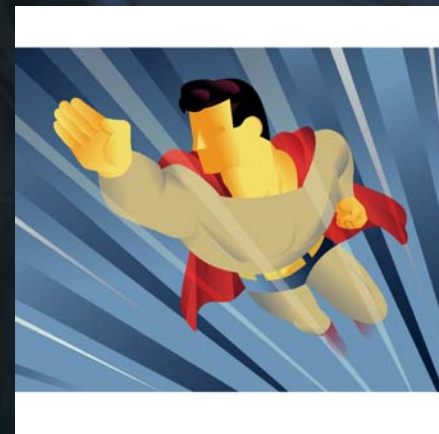
Z ASSETS

US SALES: \$20 MM +

Y V/S (FOREIGN ASSETS)

US SALES: \$10 MM

= \$60 MM



ALL OF THE FOREIGN ASSETS ARE EXEMPT



Foreign Exemptions

ANALYSIS UNDER § 802.4

NOW WE LOOK AT THE US ASSETS THAT ARE LEFT

X V/S

US ASSETS: \$30 +

Z ASSETS

US ASSETS: \$0 +

Y V/S (US ASSETS)

US ASSETS: \$10 MM

= \$40 MM

THE US ASSETS DO NOT EXCEED \$63.1 MM IN VALUE SO...



Foreign Exemptions

**THE ENTIRE TRANSACTION
IS EXEMPT UNDER § 802.4 !!!**



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Control

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Control

A CORP

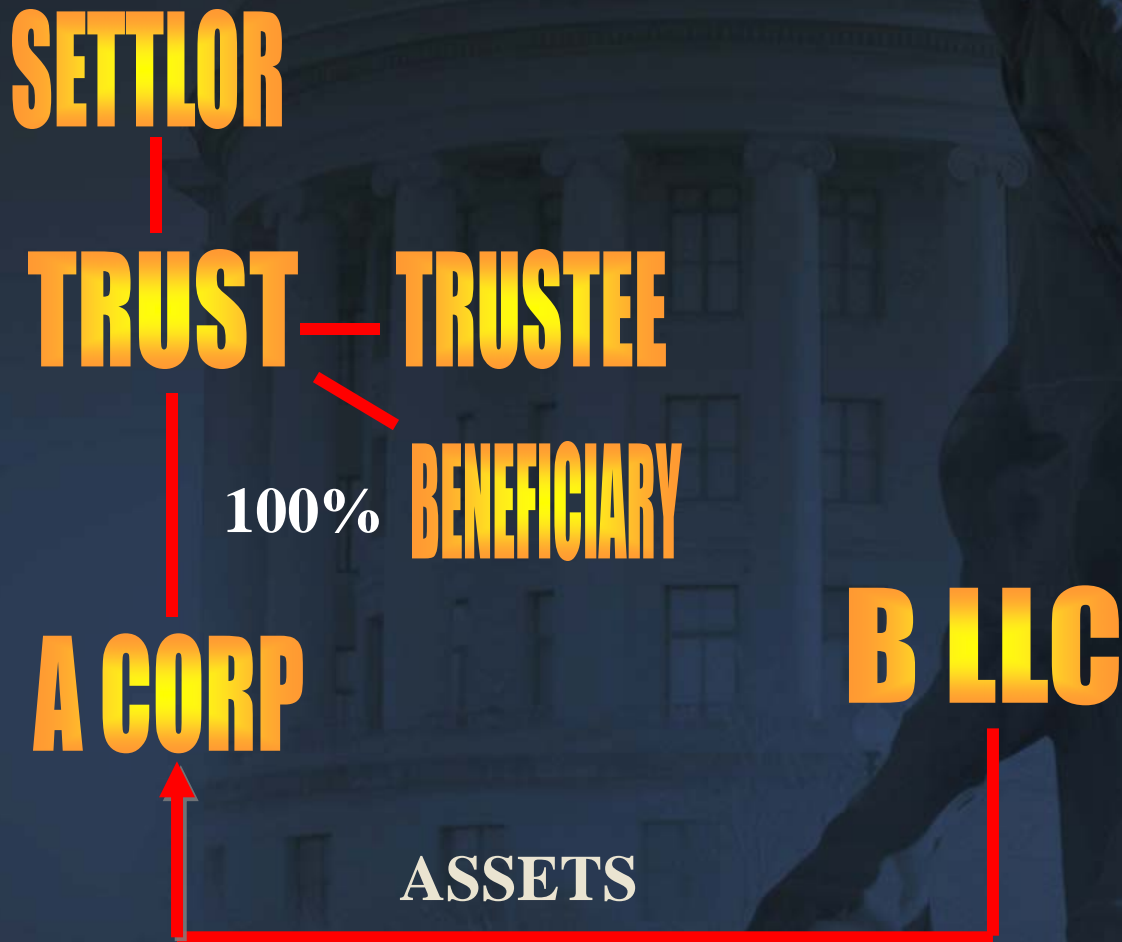
B LP

ASSETS



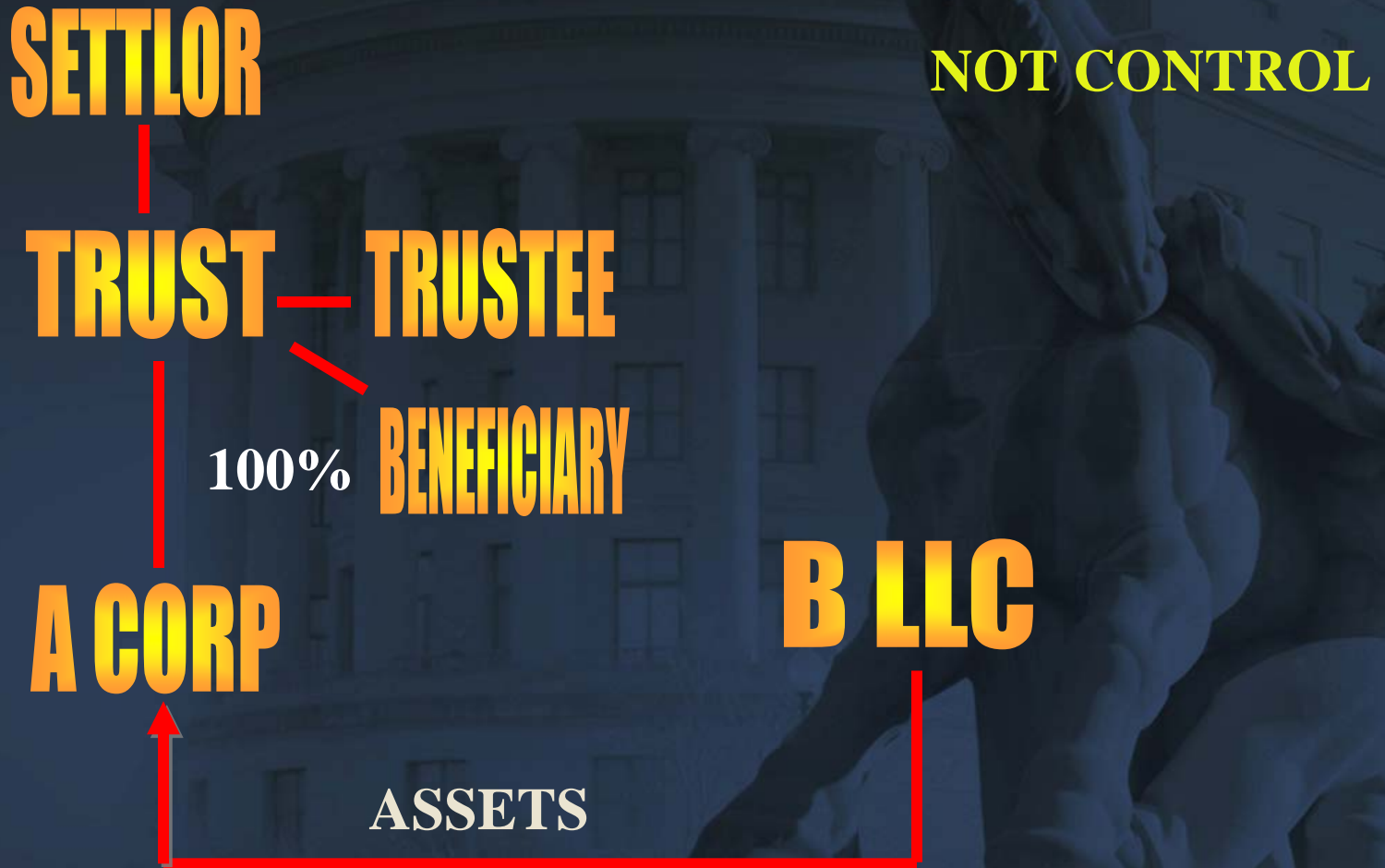
Control

1. SETTLOR IS SOLE TRUSTEE



Control

1. SETTLOR IS SOLE TRUSTEE



Control

2. SETTLOR CAN NAME REPLACEMENT TRUSTEE FOR HIMSELF



Control

2. SETTLOR CAN NAME REPLACEMENT TRUSTEE FOR HIMSELF

SETTLOR

NOT CONTROL

TRUST — TRUSTEE

100%

BENEFICIARY

A CORP

B LLC

ASSETS



Control

3. TRUSTEE VOTES A CORP STOCK



Control

3. TRUSTEE VOTES A CORP STOCK

NOT CONTROL

SETTLOR

TRUST — TRUSTEE

100% BENEFICIARY

A CORP

B LLC

ASSETS



Control

4. SETTLOR IS ALSO BENEFICIARY



Control

4. SETTLOR IS ALSO BENEFICIARY



Control

5. SETTLOR CAN REMOVE AND REPLACE SUCCESSOR TRUSTEE



Control

5. SETTLOR CAN REMOVE AND REPLACE SUCCESSOR TRUSTEE



Control

SETTLOR - UPE

TRUST

100%

A CORP

B LLC

ASSETS

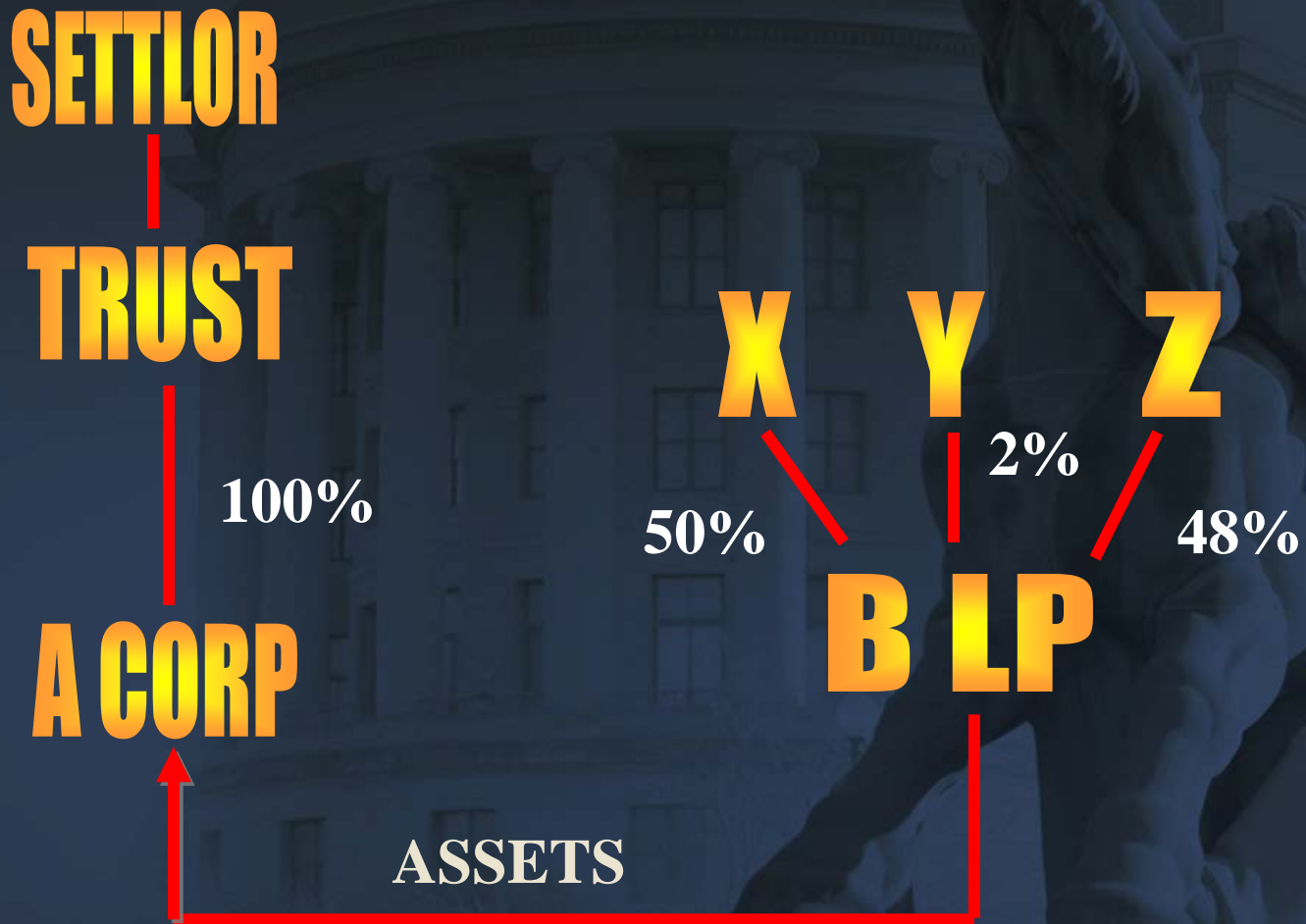


Control



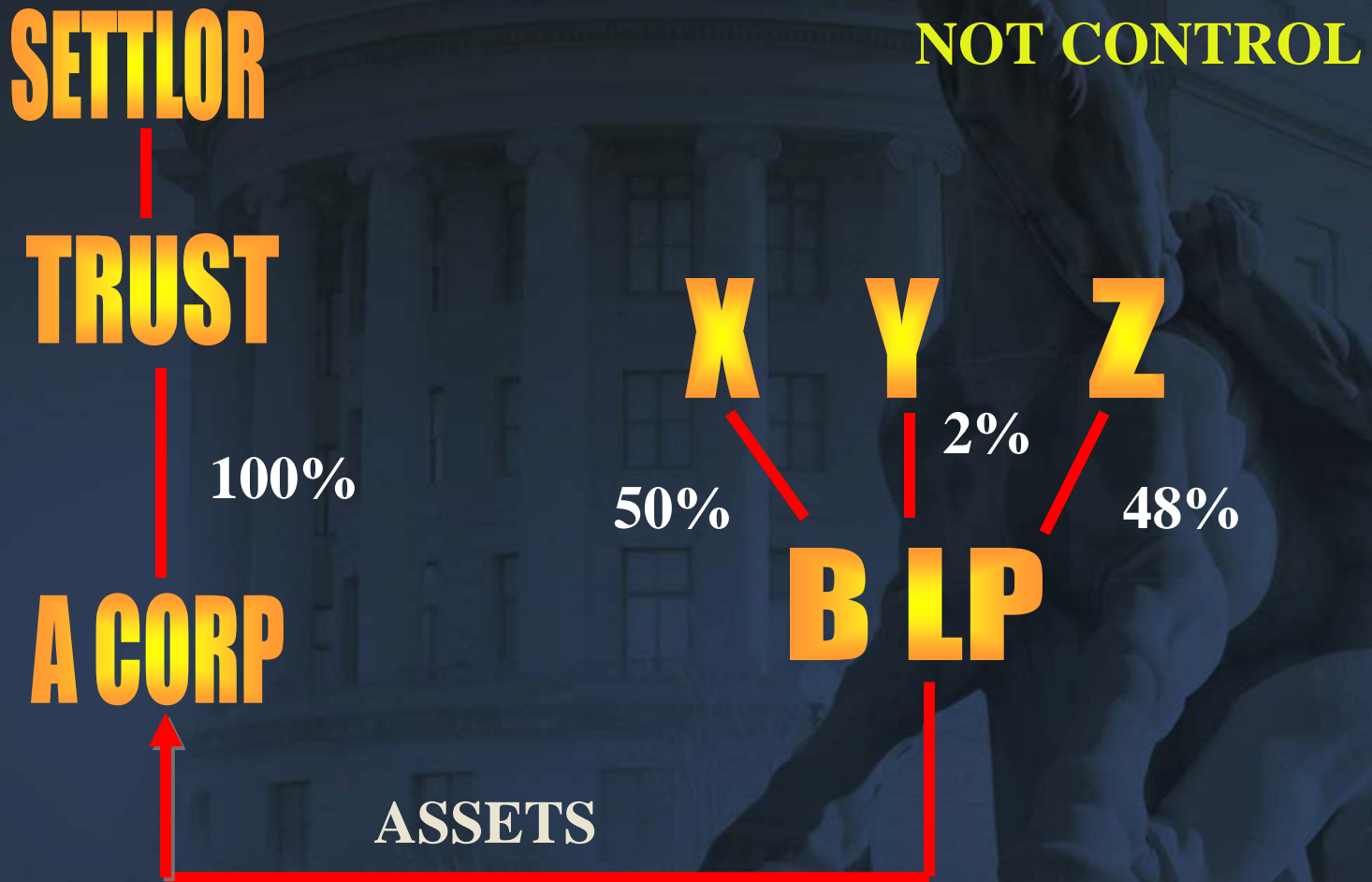
Control

1. Y IS THE GP OF B



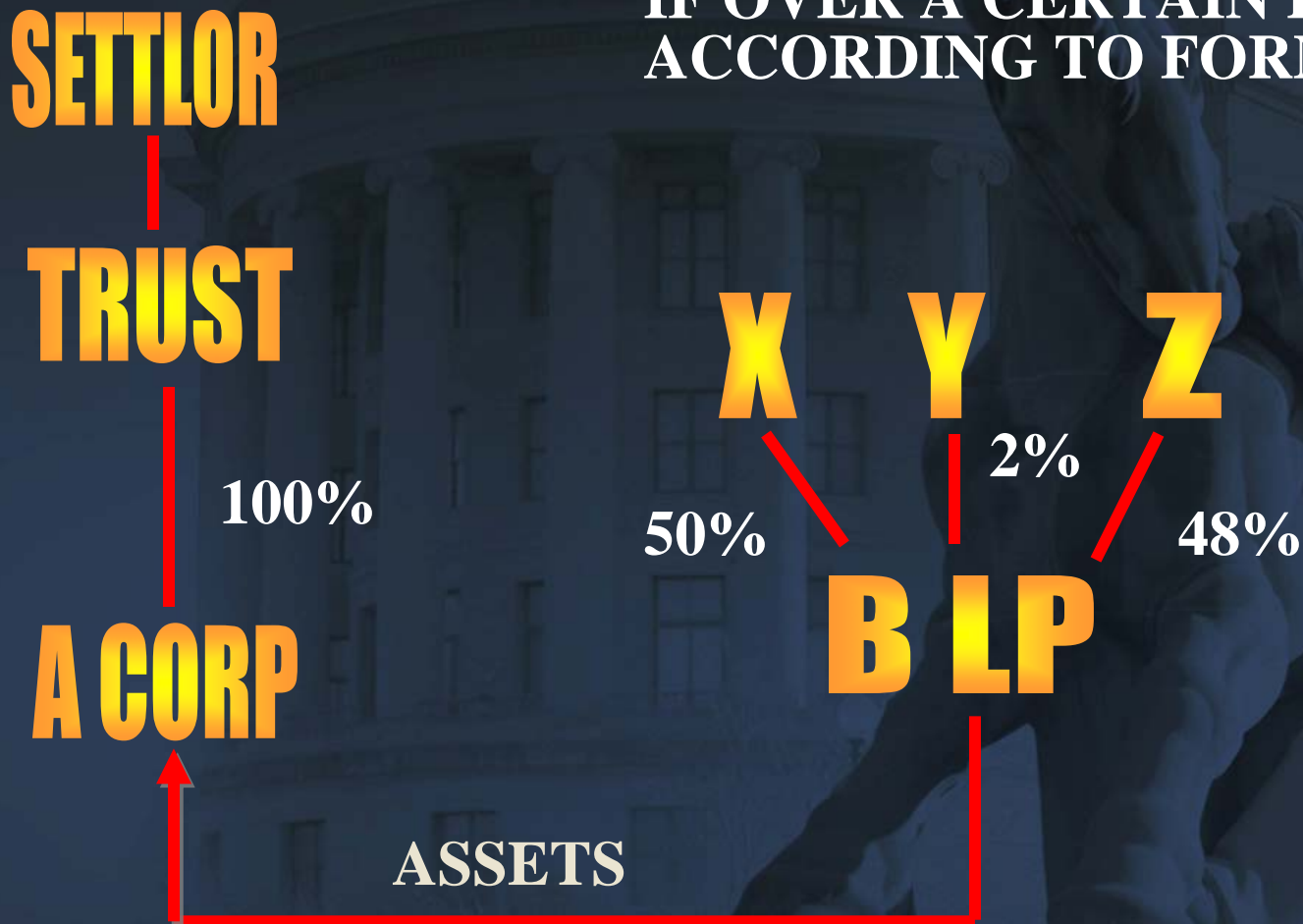
Control

1. Y IS THE GP OF B



Control

2. X GETS 50% OF PROFITS IF OVER A CERTAIN LEVEL ACCORDING TO FORMULA



Control

2. X GETS 50% OF PROFITS IF OVER A CERTAIN LEVEL ACCORDING TO FORMULA

NOT CONTROL

SETTLOR

TRUST

100%

A CORP

X

Y

Z

50%

2%

48%

B LP

ASSETS



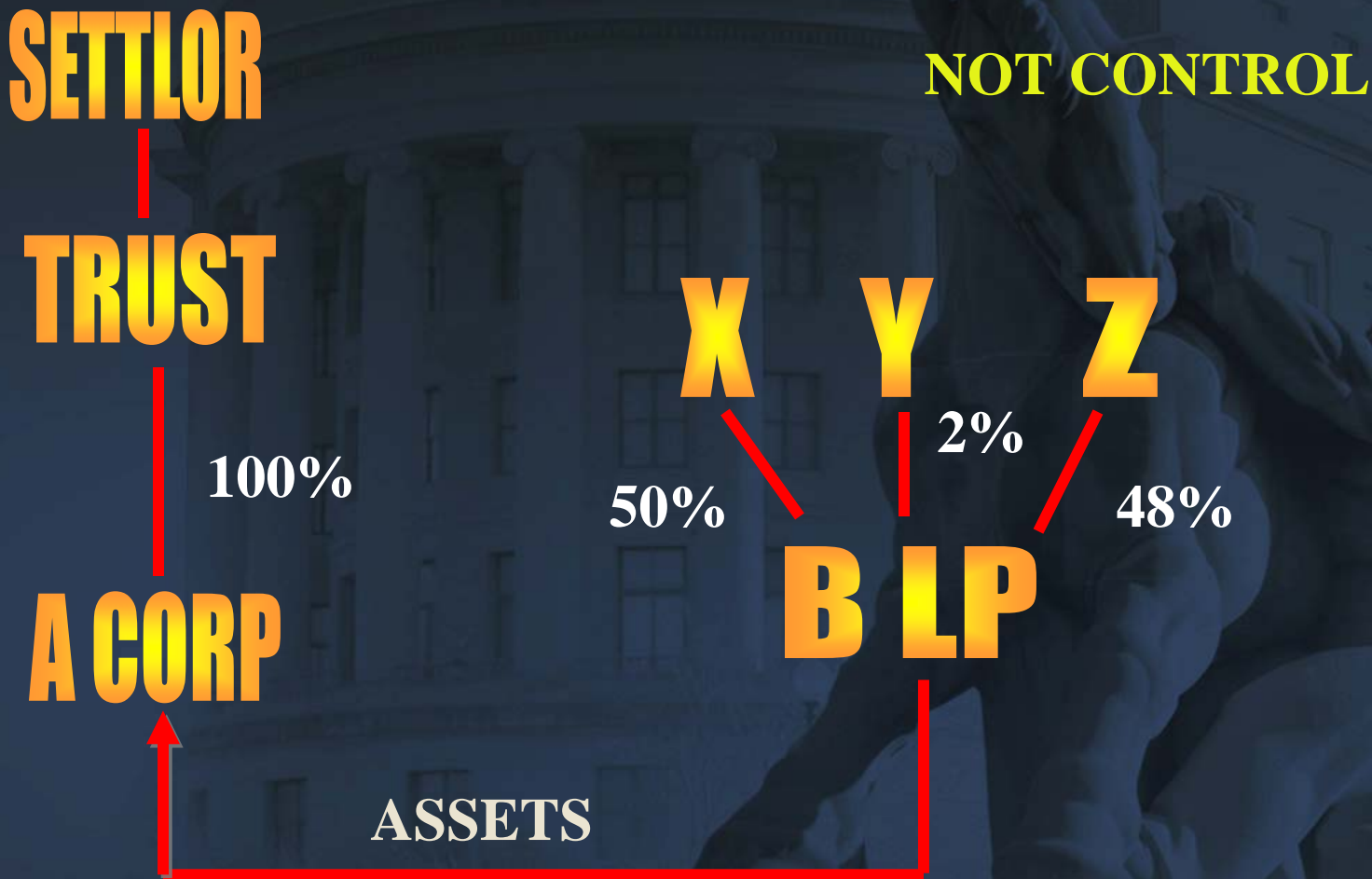
Control

3. Z IS B'S INVESTMENT ADVISOR



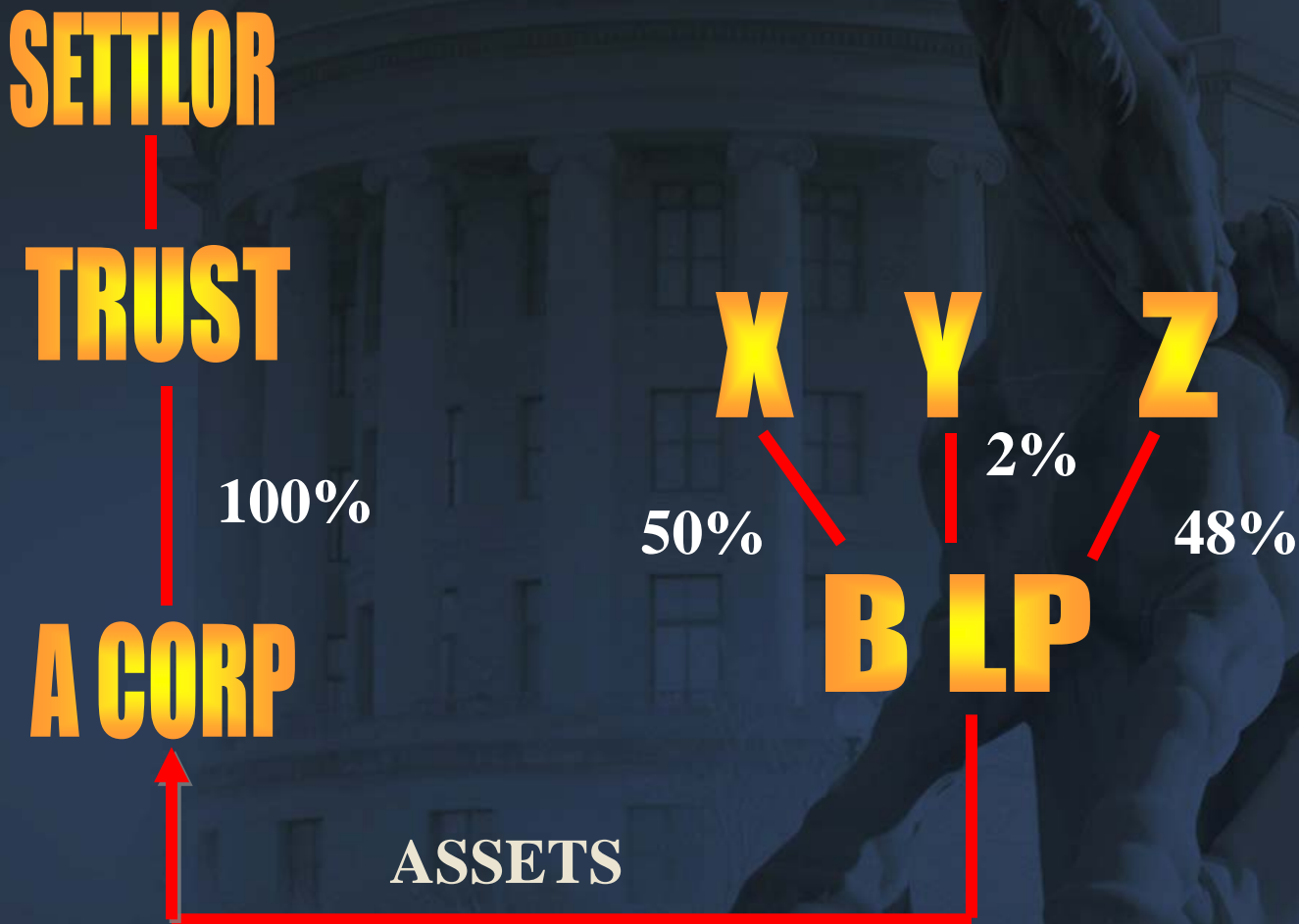
Control

3. Z IS B'S INVESTMENT ADVISOR



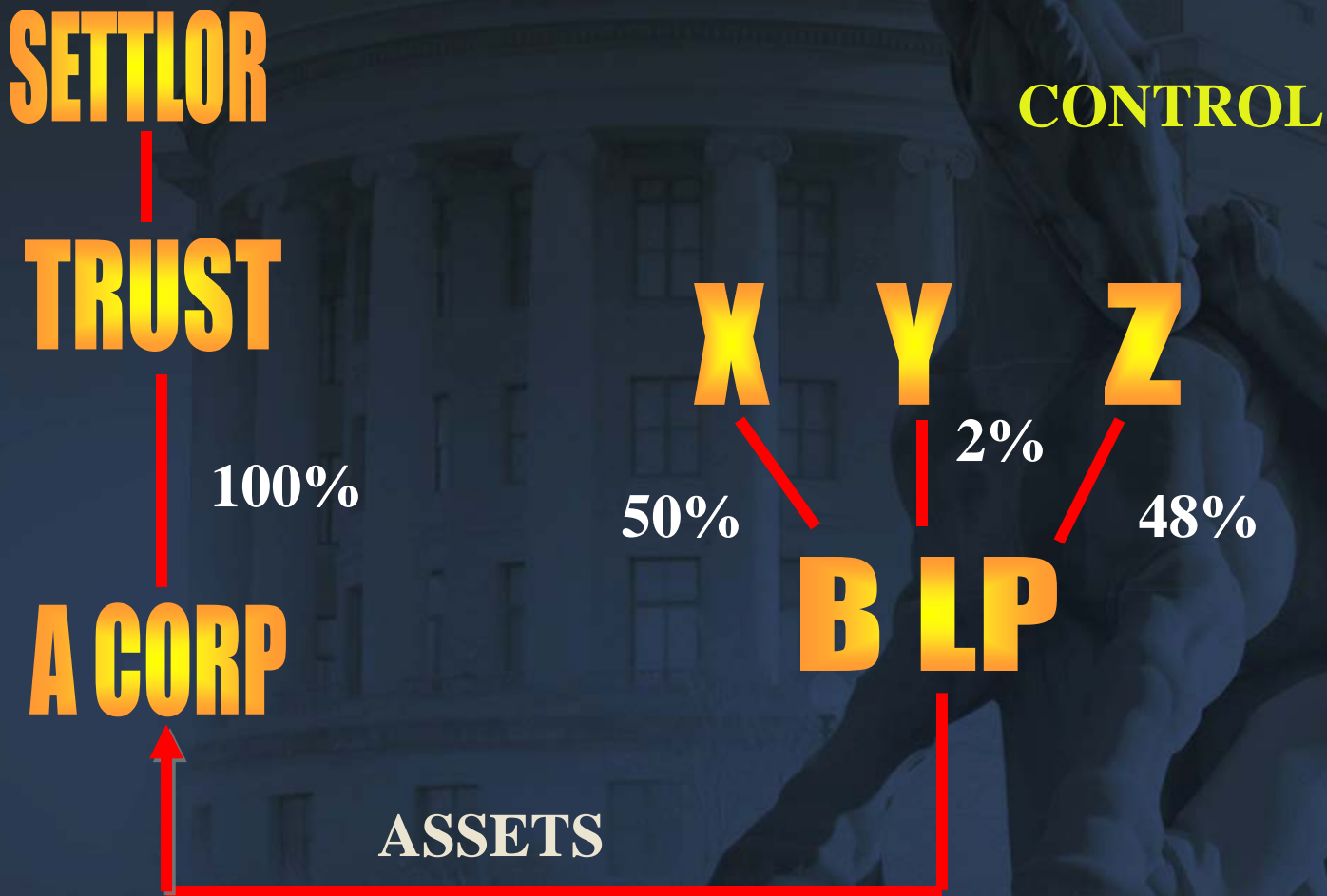
Control

4. X GETS 50% OF ASSETS IF DISSOLVED

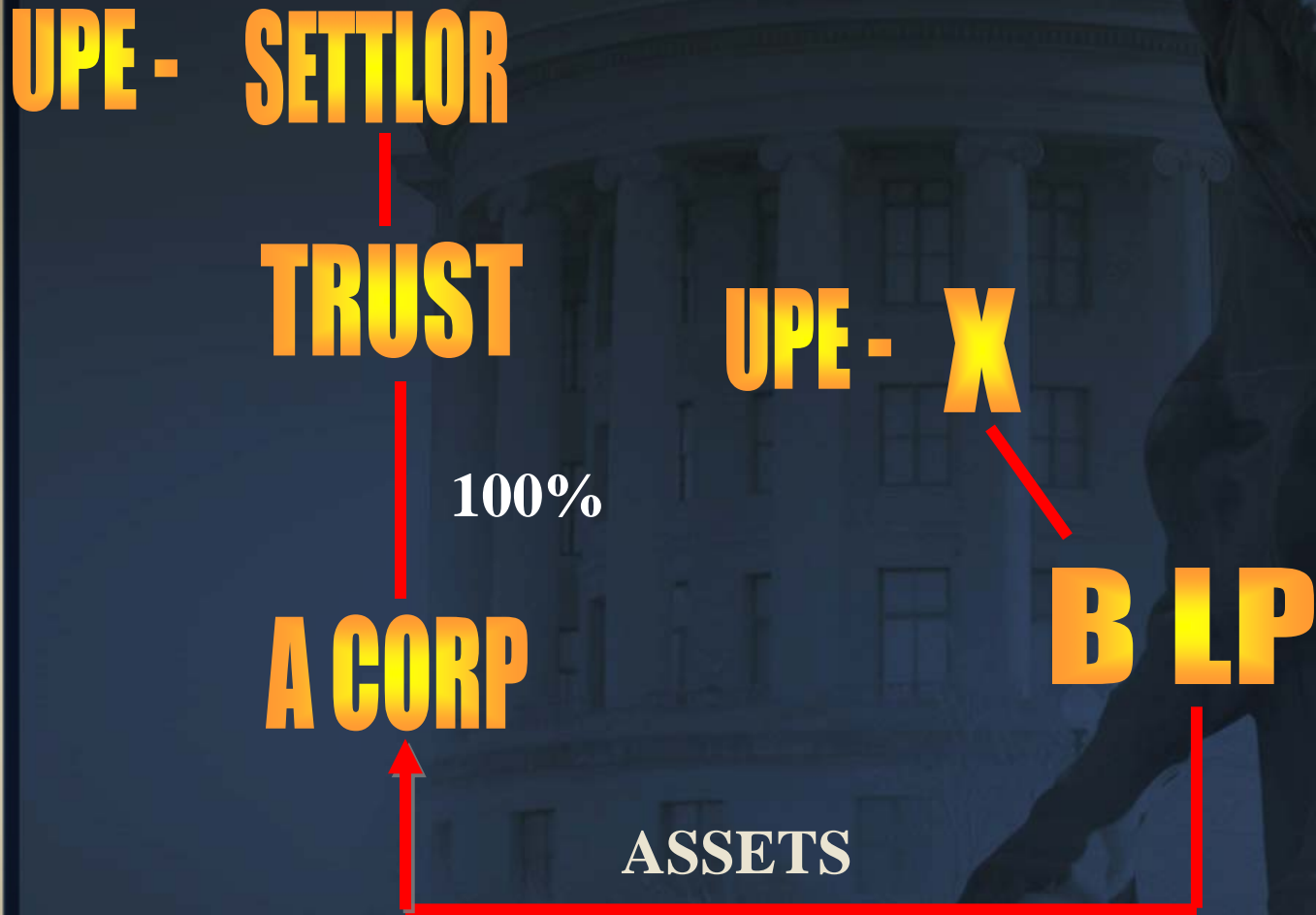


Control

4. X GETS 50% OF ASSETS IF DISSOLVED



Control



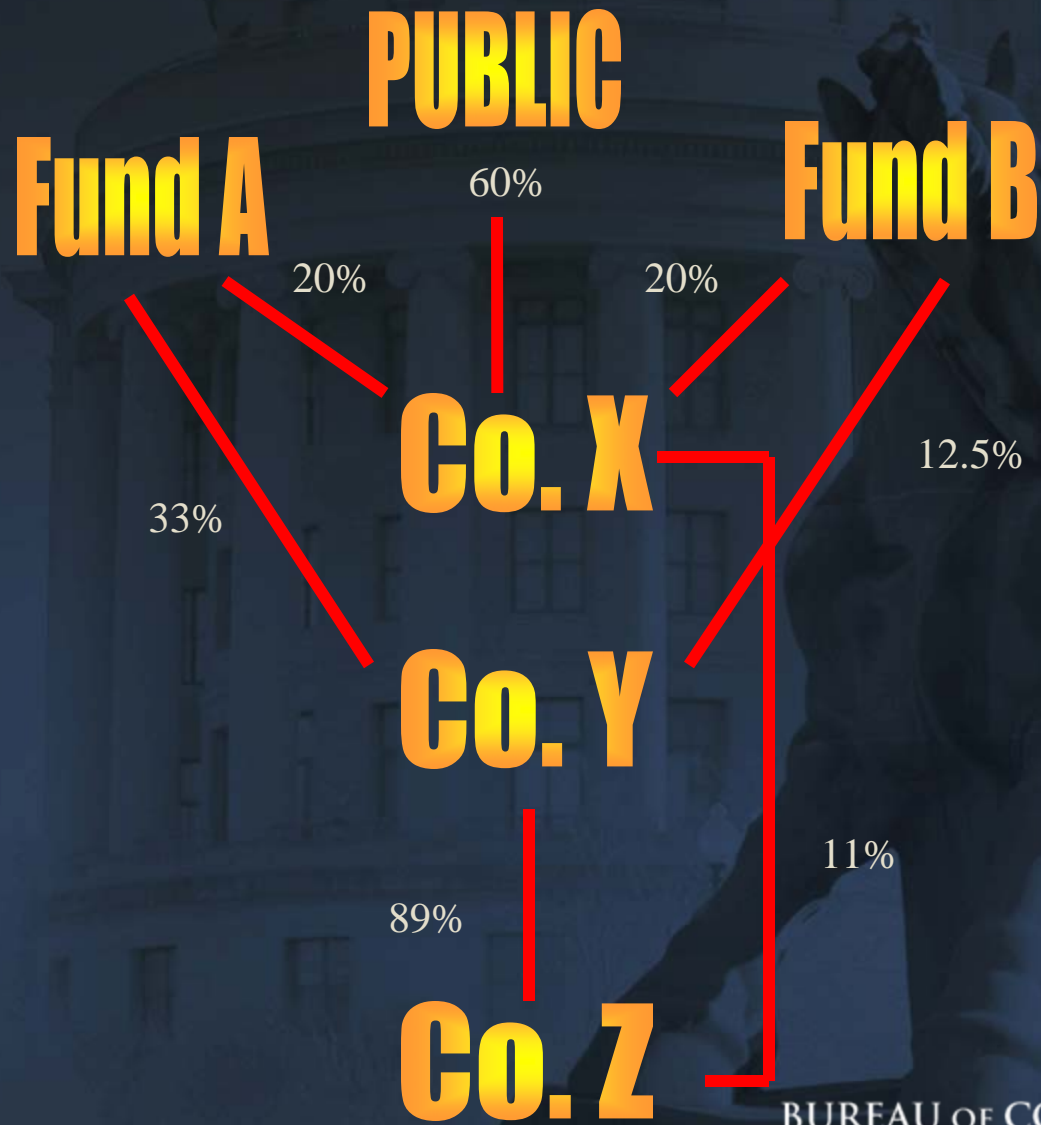


Aggregation

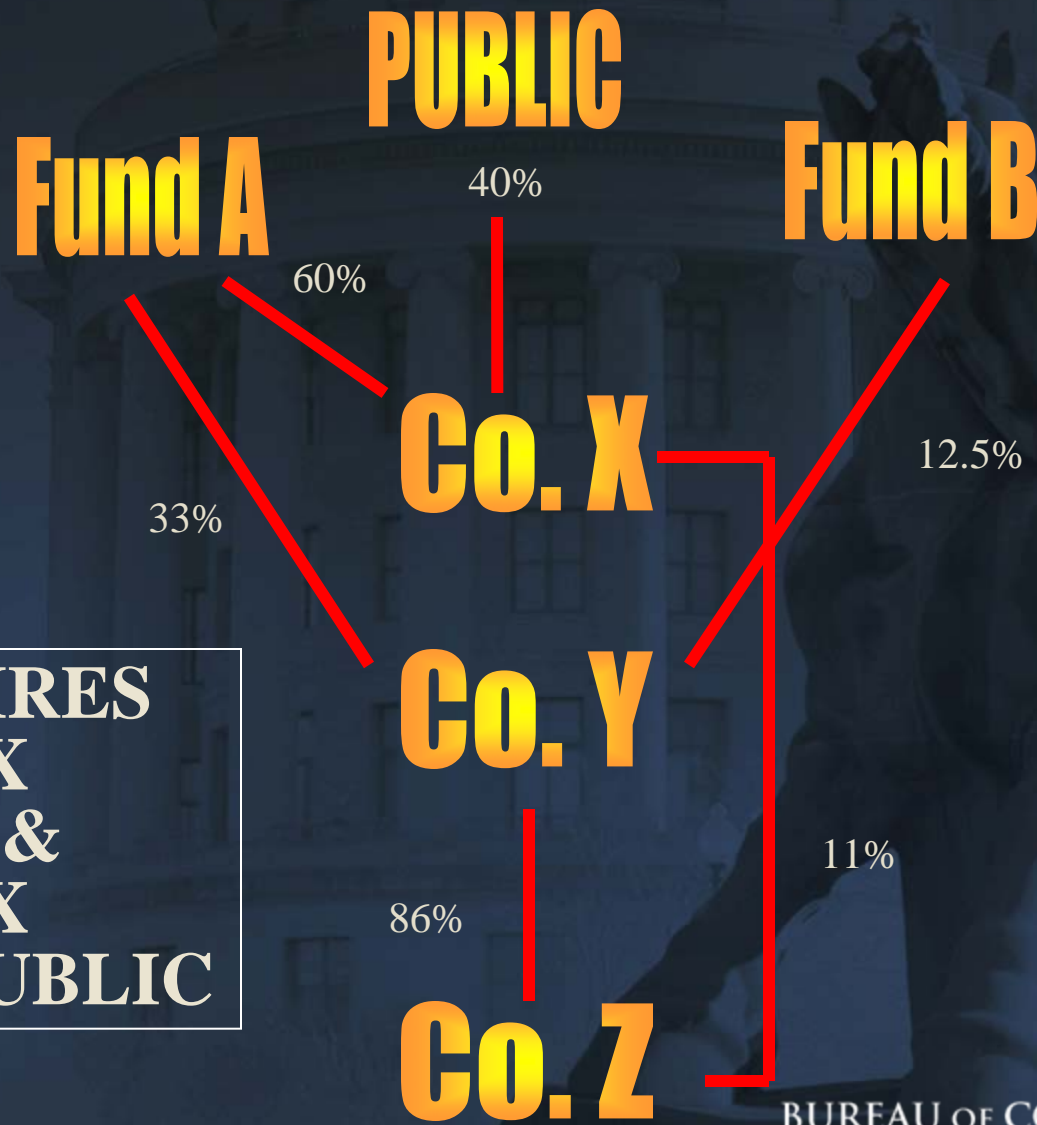
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Aggregation



Aggregation

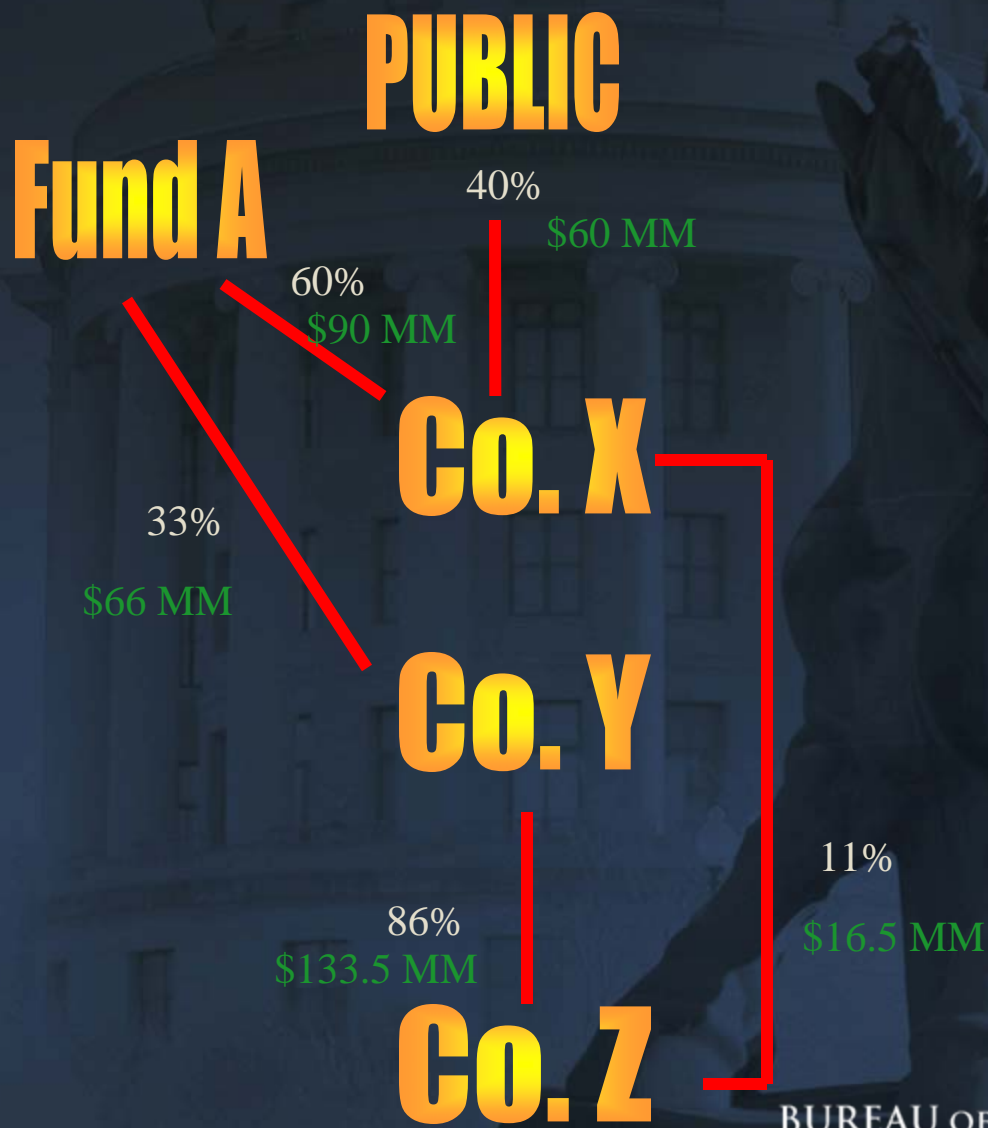


**A ACQUIRES
20% OF X
FROM B &
20% OF X
FROM PUBLIC**

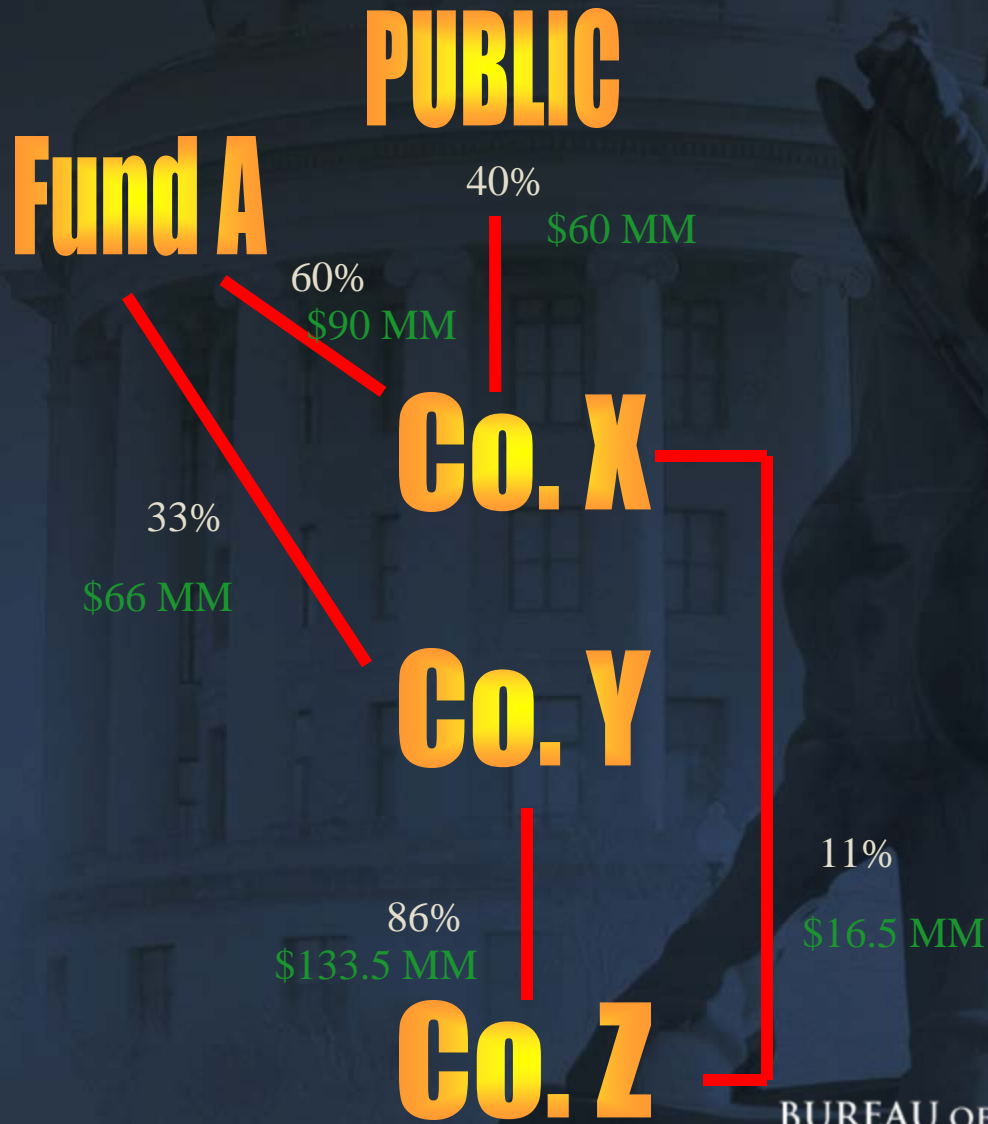




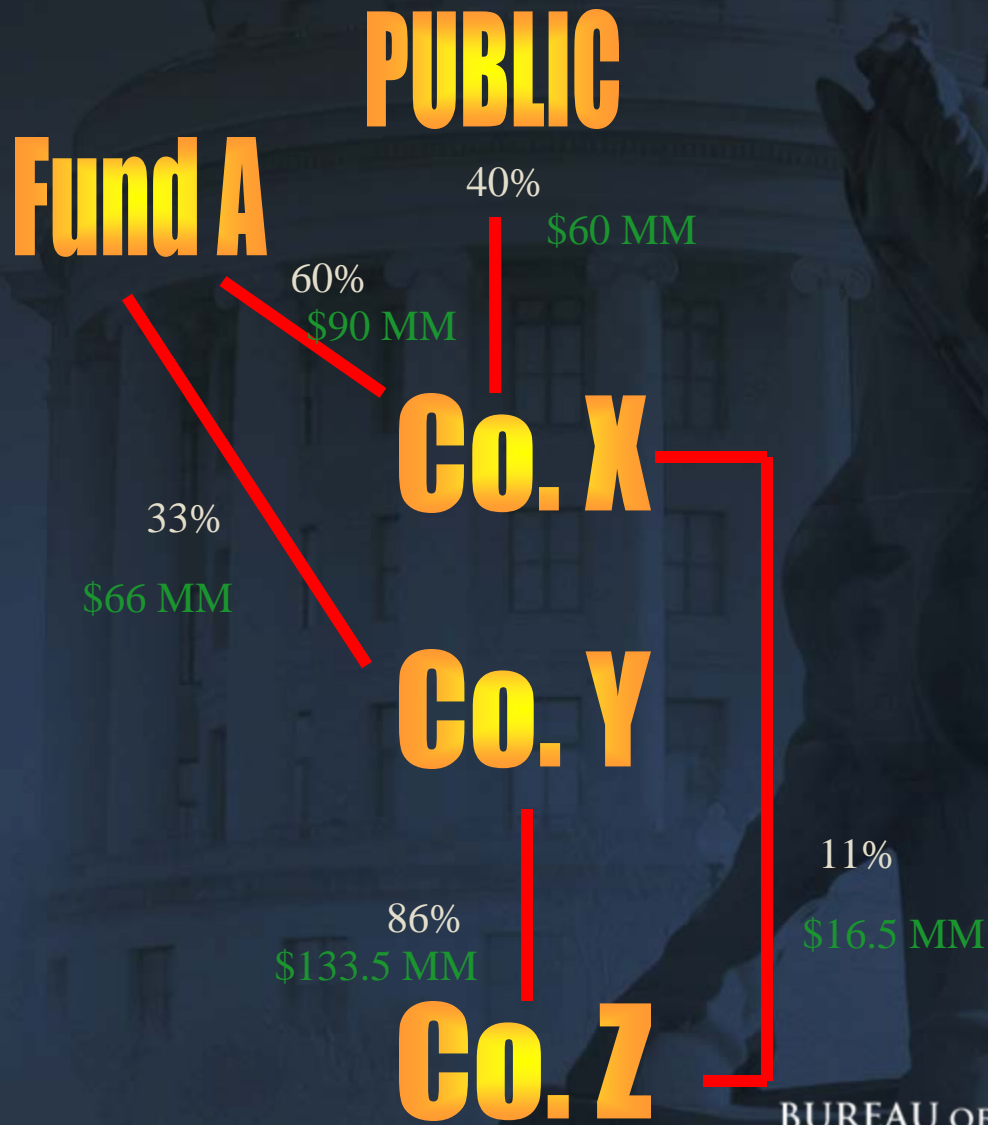
Aggregation



Aggregation



Aggregation



Aggregation

Fund A

60%
\$90 MM

Co. X

EXEMPT
UNDER
§ 802.4

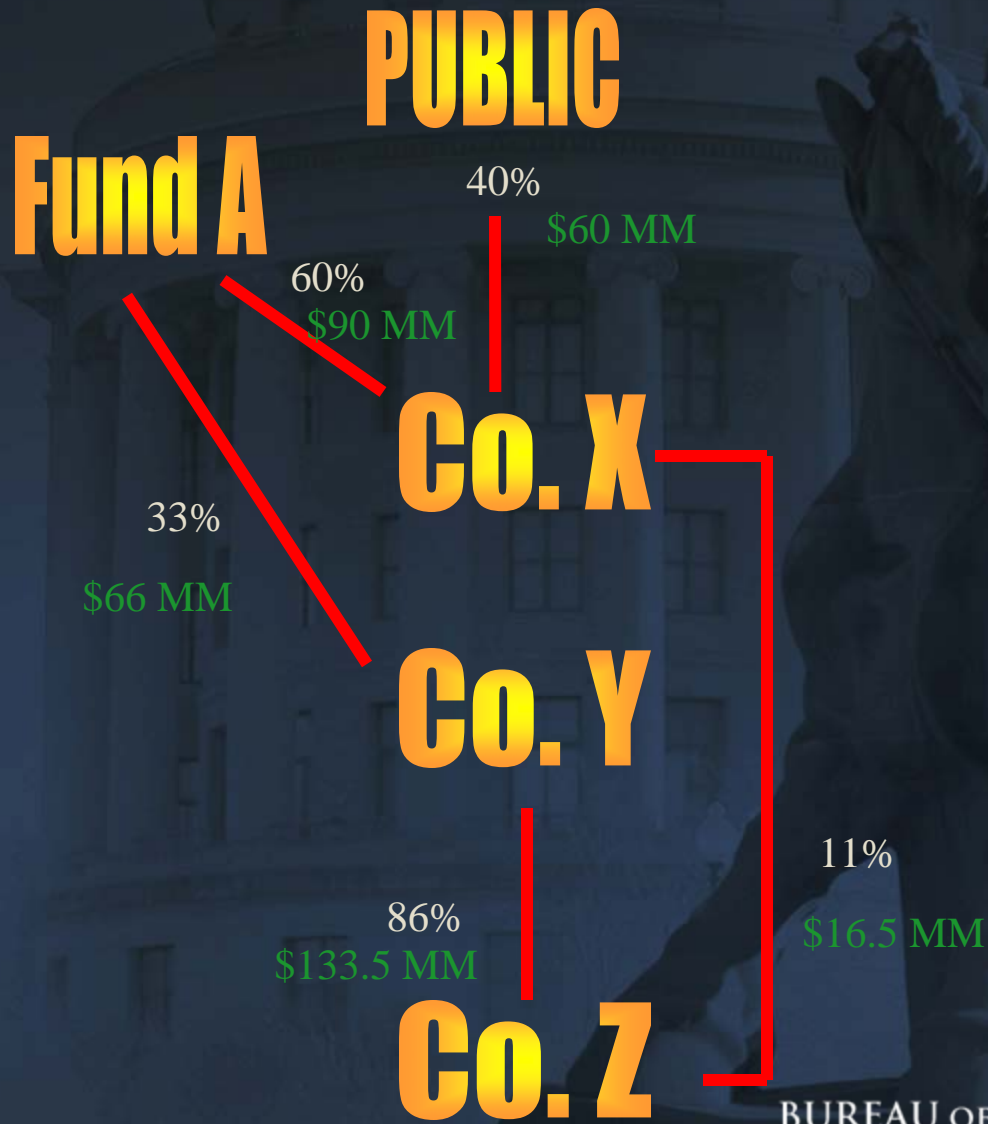


11%

Co. Z



Aggregation



Aggregation

TOTAL VALUE OF TRANSACTION:
\$82.5 MM
REPORTABLE !!

Fund A

60%

Co. X

33%

\$66 MM

Co. Y

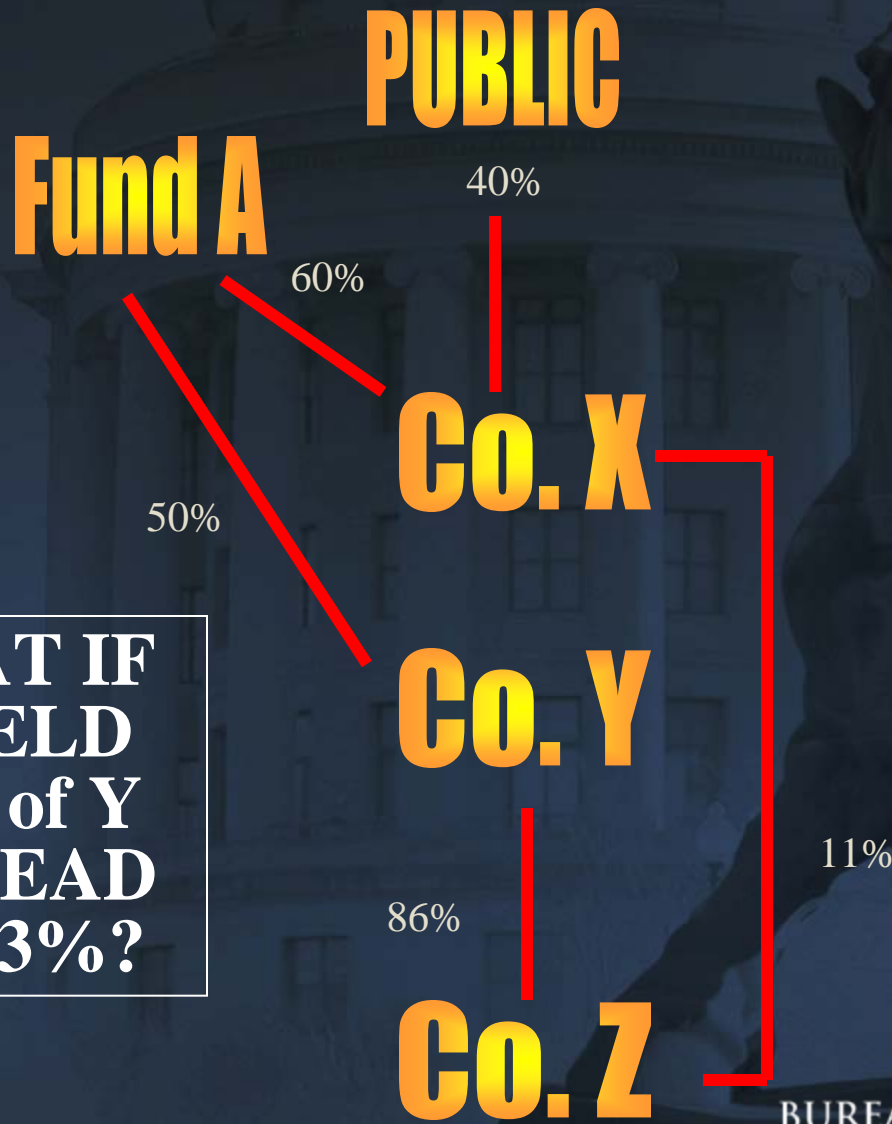
11%

\$16.5 MM

Co. Z



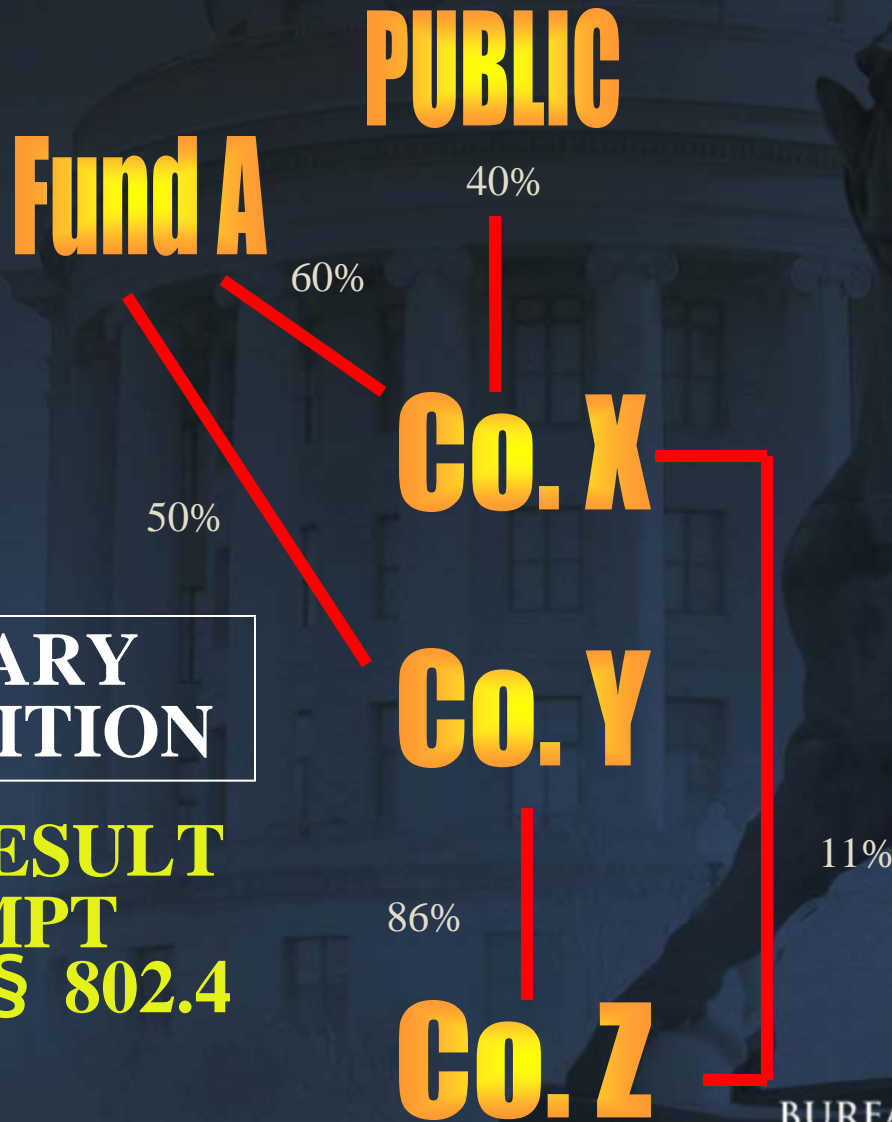
Aggregation



WHAT IF
A HELD
50% of Y
INSTEAD
OF 33%?



Aggregation



**PRIMARY
ACQUISITION**

**SAME RESULT
EXEMPT
UNDER § 802.4**



Aggregation

PUBLIC

Fund A

40%

60%

Co. X

50%

Co. Y

11%

86%

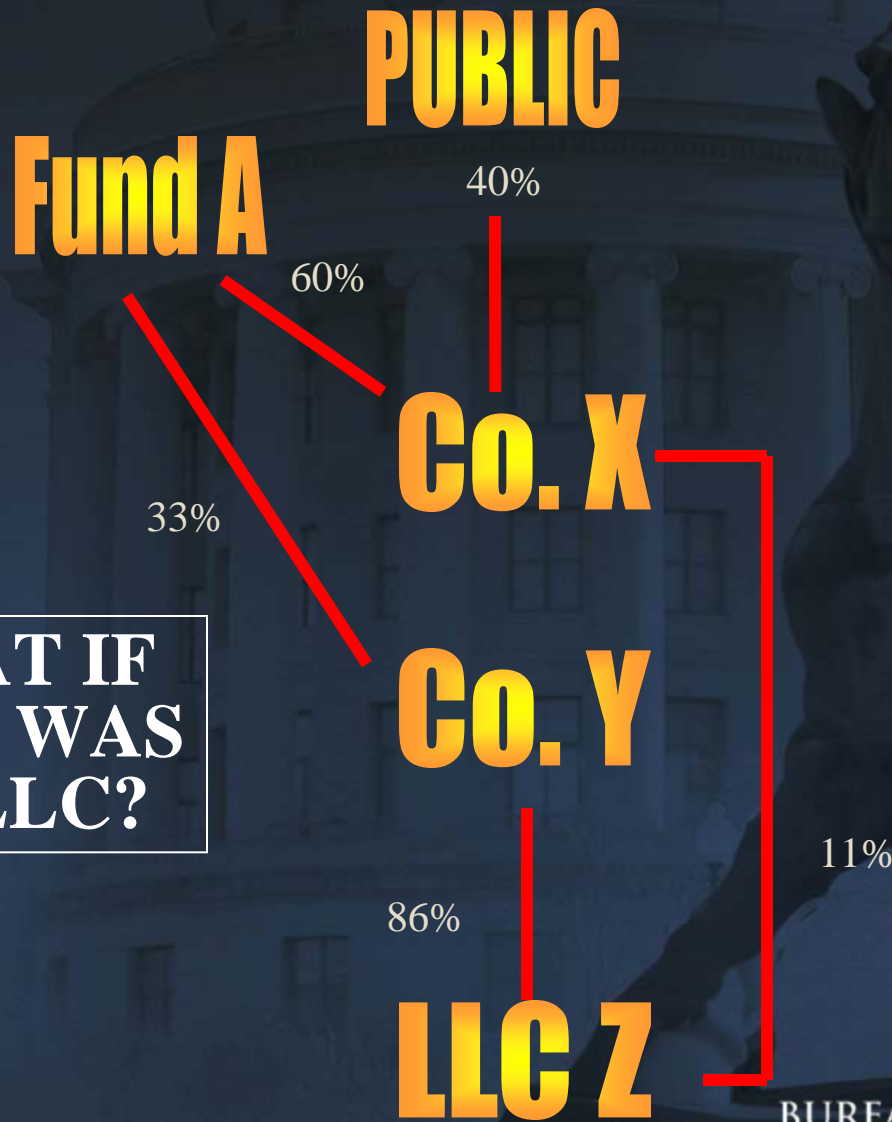
Co. Z

**SECONDARY
ACQUISITION**

**NOT
REPORTABLE
EXEMPT
UNDER §
802.30**



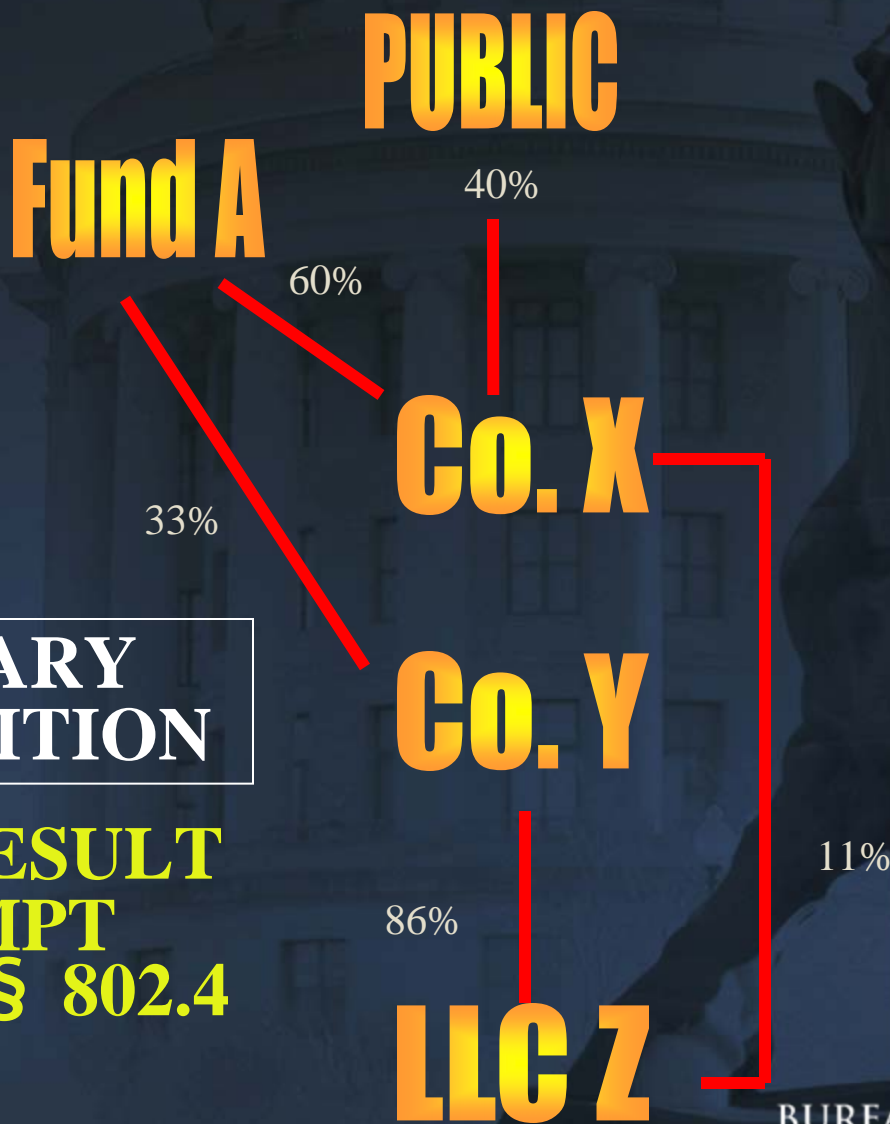
Aggregation



WHAT IF
CO. Z WAS
AN LLC?



Aggregation



**PRIMARY
ACQUISITION**

**SAME RESULT
EXEMPT
UNDER § 802.4**



Aggregation

PUBLIC

40%

Fund A

60%

Co. X

33%

Co. Y

11%

86%

LLC Z

**DO NOT
AGGREGATE
33% OF Y**

**SECONDARY
ACQUISITION**

**LESS THAN
50% OF LLC
NOT
REPORTABLE**



Aggregation

CONGRATS ON
SURVIVING
AGGREGATION
501



The End



A PNO Production - 2008

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Reminder . . .



The **SunSpot Café and Deli** in this building.
Exit through the front doors, turn right,
then turn right again at G street. The
Café is on your right.



Starbucks is located at 500 New Jersey
Ave. Exit the building then turn left. Go
down New Jersey one block to E street.





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Hart-Scott-Rodino Transmittal Rules

Janice Johnson

Part 803

Contains rules for completing
and submitting the Form

Where is the Form located?

<http://www.ftc.gov/bc/hsr/hsrform.shtm>

Who Files?

- § 803.2

The pre-acquisition ultimate parent entity (“UPE”) files the Form (or any entity controlled by the UPE that is authorized to file).

- In the case of a natural person, spouse and minor children, only one filing is required.
- In the case of a natural person, the natural person or his or her legal representative may file.



Affidavits

- § 803.5

In **non-801.30 transactions**, both parties must attest to the following:

- ✓ that a contract, agreement in principle, or letter of intent has been executed
- ✓ that the filing party has a good faith intention to complete the transaction
- ✓ in the case of a bankruptcy the Premerger Office will accept filings prior to the existence of an agreement where the parties (1) attest to a good faith intention to proceed with the transaction upon approval by the court (2) and supply a copy of the court's order concerning the sale.



Affidavits (continued)

- § 803.5

In **801.30 transactions**, the acquiring person must attest to the following:

- that Target has received notice in writing
- that the acquiring person has a good faith intention to make the acquisition
- in the case of a tender offer, that the intention to make the offer has been made public (e.g. press release, letter to shareholders, or SEC documents)

Target is not required to submit an affidavit



Incomplete responses

- § 803.3

Provide a statement of reasons for noncompliance

- provide reason(s) for noncompliance and the efforts made to locate the information
- provide a statement based on any claim of privilege (i.e., attorney client privilege and/or attorney work product doctrine)
- if there is no statement of reasons for noncompliance, the filing is deemed deficient

Deficient Filings

- deficient filing must be corrected, and the Form re-certified

Who Certifies the Form?

- **§ 803.6**

Partnership

- any general partner

Corporation

- any officer or director

Entity that lacks officers, directors or partners

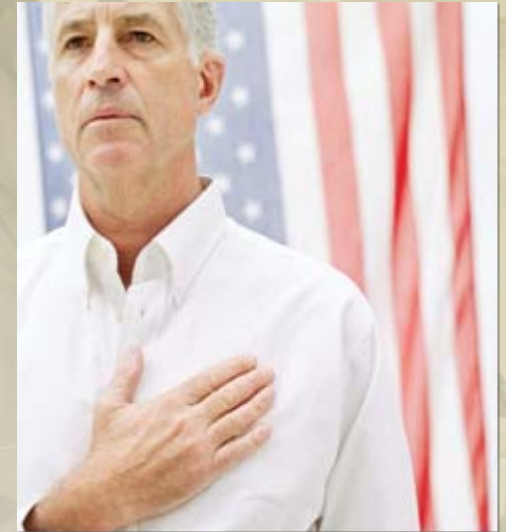
- any person with similar functions as a general partner, officer or director

Natural Person

- the natural person or his/her legal representative

Estate of a Deceased Natural Person

- a legal representative of the estate



Waiting Periods

Start!

- § 803.10

Non-801.30 Transactions

- The waiting period commences when both parties submit a compliant Form.
- There is a 30-day waiting period (except in the case of a bankruptcy, which has a 15-day waiting period).



801.30 Transactions

- The waiting period commences when the acquiring person submits a compliant Form.
- There is a 30-day waiting period (except in the case of a case of cash tender offer, which as a 15-day waiting period)
 - o 30-day waiting period – issuer has 15 days to file
 - o 15-day waiting period – issuer has 10 days to file

Waiting Periods (continued)

Finish!

- **§ 803.11**

Expiration of the waiting period

- The waiting period expires at 11:59pm Eastern Time on the 30th day (or 15th day in the case of a cash tender offer or bankruptcy transaction).
- If any waiting period would expire on a Saturday, Sunday or legal holiday, the waiting period “shall be extended to 11:59pm” the next business day.

Grants of Early Termination

- Grants of early termination allow the parties to consummate the transaction before the waiting period expires.



Waiting Periods (continued)

General Information (§ § 803.7, 803.10)

- ✓ The waiting period commences when both the FTC and DOJ have received compliant filings.
- ✓ The date of receipt is the day a filing is received by both agencies (by close of the business day – 5PM).
- ✓ Day #1 is the next after receipt of a filing.
- ✓ If deemed deficient, the waiting period will not start until the filing has been corrected and the Form re-certified.
- ✓ The parties have one year from the expiration of the waiting period to consummate the transaction.

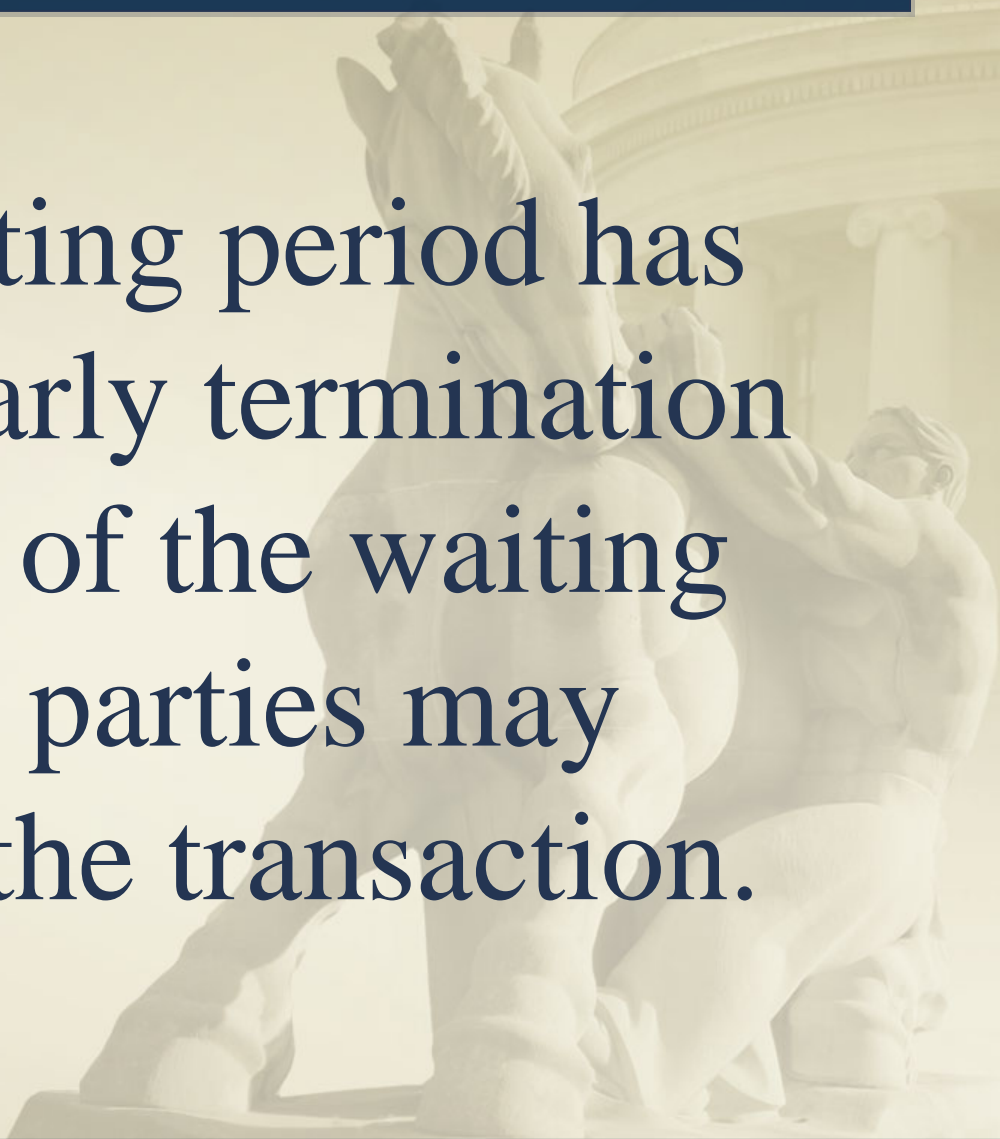


Grants of Early Termination (“ET”)

General Information (§ 803.11)

- ✓ Only one party has to request ET for ET to be considered (by checking the appropriate box on the front of the Form)
- ✓ ET is only granted when both the FTC and DOJ have completed their review
- ✓ FTC Premerger staff will notify the contact person listed on the Form that ET has been granted.
- ✓ Grants of ET are published on the HSR website the next business day, and subsequently published in the Federal Register.



A faint, light-colored background image of a classical statue depicting a man standing next to a horse. The man is muscular and appears to be adjusting something on the horse's head. The background is a light beige color with a dark blue horizontal bar at the top.

After the waiting period has expired (via early termination or expiration of the waiting period) the parties may consummate the transaction.

Celebrate!



Fun Fact:

The Premerger Staff handles thousands of phone calls every year from companies and the private bar seeking advice on the Premerger Rules.



Panel Discussion on Filling out the Form

Kathryn E. Walsh

PNO

Dani Jachino

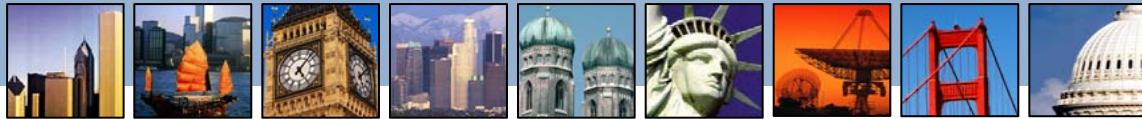
Kirkland & Ellis

Ellen M. Jakovic

Kirkland & Ellis

BUREAU OF COMPETITION
FEDERAL TRADE COMMISSION





Preparing the HSR Form

Back-To-Basics Workshop

October 23, 2008

Ellen M. Jakovic

Dani Jachino

KIRKLAND & ELLIS LLP

Kathryn E. Walsh

FTC Premerger Notification Office

THE HSR FORM - An Overview

- **Preliminary Information** - Filing fee, corrective filings, foreign reporting requirements and early termination
- **Item 1** - General data relating to the person filing, including the identity of a contact person familiar with the form
- **Item 2** - Names of persons involved, the type and the value of the transaction
- **Item 3** - Description of the acquisition
- **Item 4** - Documents prepared by/for person filing, including SEC filings, financial reports, and studies/analyses of the acquisition
- **Item 5** - Dollar revenues of the reporting person by NAICS code
- **Item 6** - Profile of the reporting person, including entities it controls, its shareholders, and its minority investments
- **Item 7** - Overlapping and geographic market data by NAICS code
- **Item 8** - Description of any prior acquisitions in the same industry

Gathering the Necessary Information

- Corporate Attorney
 - provide transaction information
 - ◆ copies of letter of intent or term sheet; draft agreement
 - ◆ timeline
 - date for signing the agreement
 - date for filing HSR (does agreement specify a date?)
 - anticipated closing date
 - supply fee information
 - ◆ who is paying?
 - ◆ are the parties splitting the fee?
 - identify other key individuals
 - ◆ CFO or controller
 - ◆ HSR contact for other party



Gathering the Necessary Information - cont'd

- CFO or Controller
 - provide revenue and financial information
 - assist in gathering relevant documents
 - identify appropriate individuals to provide additional information

- HSR Contact for Other Party
 - coordinate the transaction description
 - compare NAICS codes
 - discuss shared 4(c) documents



Item 1 - Filing Information

- Early termination (ET)
 - only one party has to request
- Determination of UPE
 - counsel must analyze - not always straight-forward
 - client likely not familiar with HSR “control” concepts

DO YOU REQUEST EARLY TERMINATION OF THE WAITING PERIOD?	
(Grants of early termination are published in the Federal Register AND on the FTC web site www.ftc.gov)	
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
ITEM 1	
1(a) NAME AND HEADQUARTERS ADDRESS OF PERSON FILING Cookies and Crackers Galore, LLC 550 Cookie Dough Drive Portland, OR 97202	
1(b) PERSON FILING NOTIFICATION IS	
<input checked="" type="checkbox"/> an acquiring person	<input type="checkbox"/> an acquired person
<input type="checkbox"/> both	
1(c) PUT AN "X" IN THE APPROPRIATE BOX TO DESCRIBE PERSON FILING NOTIFICATION	
<input type="checkbox"/> Corporation	<input checked="" type="checkbox"/> Unincorporated entity
<input type="checkbox"/> Other (specify)	
1(d) DATA FURNISHED BY	
<input checked="" type="checkbox"/> calendar year	<input type="checkbox"/> fiscal year (specify period):
(month/year) to (month/year)	

Item 2 - Transaction Information

- Item 2(c) is completed only by acquiring person in a voting securities acquisition
- Refer to §801.1(h) for threshold information
- 50% is the highest notification threshold

ITEM 2				
2(a) LIST NAMES OF ULTIMATE PARENT ENTITIES OF ALL ACQUIRING PERSONS Cookies and Crackers Galore, LLC		LIST NAMES OF ULTIMATE PARENT ENTITIES OF ALL ACQUIRED PERSONS Big Diversified Company		
2(b) THIS ACQUISITION IS (put an X in all the boxes that apply)				
<input type="checkbox"/> an acquisition of assets <input type="checkbox"/> a merger (see § 801.2) <input type="checkbox"/> an acquisition subject to § 801.2(e) <input type="checkbox"/> a formation of a joint venture or other corporation or unincorporated entity (see § 801.40 or § 801.50) <input type="checkbox"/> an acquisition subject to § 801.30 (specify type) _____ <input type="checkbox"/> other (specify) _____		<input type="checkbox"/> a consolidation (see § 801.2) <input checked="" type="checkbox"/> an acquisition of voting securities <input type="checkbox"/> a secondary acquisition <input type="checkbox"/> an acquisition subject to § 801.31 <input type="checkbox"/> acquisition of non-corporate interests		
2(c) INDICATE HIGHEST NOTIFICATION THRESHOLD IN § 801.1(h) FOR WHICH THIS FORM IS BEING FILED (acquiring person only in an acquisition of voting securities)				
<input type="checkbox"/> \$50 million (as adjusted)		<input type="checkbox"/> \$100 million (as adjusted)		<input type="checkbox"/> \$500 million (as adjusted)
		<input type="checkbox"/> 25% (see Instructions) (as adjusted)		<input checked="" type="checkbox"/> 50%
2(d)(i) VALUE OF VOTING SECURITIES TO BE HELD AS A RESULT OF THE ACQUISITION	(ii) PERCENTAGE OF VOTING SECURITIES	(iii) VALUE OF ASSETS TO BE HELD AS A RESULT OF THE ACQUISITION	(iv) VALUE OF NONCORPORATE INTERESTS TO BE HELD AS A RESULT OF THE ACQUISITION	(v) AGGREGATE TOTAL VALUE
Approx \$64 million	100%	N/A	N/A	Approx \$ 64 million

Item 3(a) - Description of the Transaction

- Briefly describe transaction
 - be succinct, short, to the point
 - summarize in clear and concise manner what is happening
- Identify any unusual aspects to the transaction
 - exempt portions (provide basis for exemption)
 - secondary acquisitions
 - related transactions/HSR filings



Item 3(a) - Description of Acquisition

Acquiring Person: Cookies and Crackers Galore, LLC (“CCG”)
550 Cookie Dough Drive
Portland, OR 97202

Acquiring Entity: Cookie Crumble, Inc.
5000 Flamingo Road
Las Vegas, NV 89105

Acquired Person: Big Diversified Company (“Big D”)
100 Park Avenue
New York, NY 10166

Acquired Entity: Yummy Cookies and Cakes, Inc. (“Yummy”)
1 Chocolate Chip Way
San Diego, CA 92123

Pursuant to a Letter of Intent dated as of September 30, 2008, CCG intends to acquire all of the voting securities of Yummy for approximately \$64,000,000.

Consummation of the transaction is scheduled to take place on or about December 31, 2008, and is contingent upon, among other things, satisfactory completion of due diligence, execution of a definitive agreement, and receipt of all required consents and approvals, including expiration or termination of the applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (“HSR”).¹

¹ CCG’s acquisition of Big D’s wholly-owned French subsidiary, Croissants & Brioche, is exempt from reporting under HSR pursuant to 16 C.F.R. § 802.51(a).

Items 4(a) and 4(b) - Documents filed with the SEC, annual reports, annual audit reports, and regularly prepared balance sheets

- Download SEC documents from Edgar database or company website
 - CAUTION - make sure entire page prints
 - PNO can bounce filing if numbers missing
- Request copies from client contact for private companies
- Incorporate by reference
 - to internet address linking directly to document on Edgar or company website - link must be LIVE
 - to earlier HSR filing - provide transaction number
 - do not need to assign attachment number (e.g., 4(a)-1) if incorporate by reference or provide link

UNITED STATES SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549	
Form 10-K	
ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934	
For the Fiscal Year Ended December 29, 2007	
Commission file number 1-4171	
Kellogg Company	
<small>(Exact name of Registrant as Specified in its Charter)</small>	
<small>Delaware</small>	<small>38-0710690</small>
<small>(State or Other Jurisdiction of Incorporation or Organization)</small>	
<small>One Kellogg Square</small>	
<small>Battle Creek, Michigan 49916-3599</small>	
<small>(Address of Principal Executive Offices)</small>	
<small>Registrant's telephone number: (269) 961-2000</small>	
<small>Securities registered pursuant to Section 12(b) of the Securities Act:</small>	
<small>Title of each class:</small>	<small>Name of each exchange on which registered:</small>
<small>Common stock, \$26 par value per share</small>	<small>New York Stock Exchange</small>
<small>Securities registered pursuant to Section 12(g) of the Securities Act: None</small>	
<small>Indicate by a check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes <input type="checkbox"/> No <input type="checkbox"/></small>	
<small>Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15 (d) of the Securities Exchange Act of 1934. Yes <input type="checkbox"/> No <input type="checkbox"/></small>	
<small>Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes <input type="checkbox"/> No <input type="checkbox"/></small>	
<small>Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. <input type="checkbox"/></small>	
<small>Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Securities Exchange Act of 1934. (Check one)</small>	
<small>Large accelerated filer <input type="checkbox"/></small>	<small>Accelerated filer <input type="checkbox"/></small>
<small>Non-accelerated filer <input type="checkbox"/></small>	<small>Smaller reporting company <input type="checkbox"/></small>
<small>Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Securities Exchange Act of 1934). Yes <input type="checkbox"/> No <input type="checkbox"/></small>	
<small>The aggregate market value of the common stock held by non-affiliates of the registrant (assuming only for purposes of this computation that the W. K. Kellogg Foundation Trust, directors and executive officers may be affiliates) as of the close of business on June 28, 2007 was approximately \$1.6 billion based on the closing price of \$6.79 for one share of common stock, as reported for the New York Stock Exchange on that date.</small>	
<small>As of January 28, 2008, 388,964,500 shares of the common stock of the registrant were issued and outstanding.</small>	

<http://www.sec.gov/Archives/edgar/data/55067/000095012408000801/0000950124-08-000801-index.htm>

Item 4(c) - Documents prepared by or for officers or directors to evaluate the acquisition

- Officer or Director that is:
 - specified in company bylaws or articles of incorporation
 - appointed by Board or
 - persons exercising similar functions in non-corporate entity
- Work with client contact to identify appropriate individuals to be searched
 - not only UPE, but controlled entities at all levels
 - includes client agents/advisors - e.g., investment bankers
- Obligation continues up to filing - includes documents created after LOI/agreement has been executed
- Foreign language documents
 - no obligation to translate, but may expedite review (PNO may request)
 - if whole or partial translation exists, must provide

Item 4(c) - cont'd

- Documents must be legible and complete
 - check for missing pages, cut-off copies
 - provide color copies if needed to understand document (e.g., pie charts, graphs)
 - identify code names

- Redactions allowed only for:
 - privilege - 16 C.F.R. § 803.3(d)
 - portions of board minutes unrelated to transaction

ITEM 4(c) - Studies, Surveys, Analyses, and Reports

Document	Exhibit
Yummy Cookies and Cakes, Inc. Confidential Information Memorandum, dated August 2008	4(c)-01
Yummy Cookies and Cakes, Inc. Management Presentation, dated September 15, 2008	4(c)-02
* * *	
<p>The following document has been withheld on the basis of the attorney-client privilege and the work product doctrine because it contains advice of counsel. The document currently is located at the offices of Law Firm LLP, 655 Fifteenth Street, NW, Washington, DC 20005, under the control of Sue Partner, Esq., outside counsel to Cookies and Crackers Galore, LLC.</p> <p>Memorandum from Sue Partner, Esq., Law Firm, LLP to John Chips, President, Cookies and Crackers Galore, LLC dated September 18, 2008. Additional recipients: Jane Dough, Chief Financial Officer, Cookies and Crackers Galore, LLC.</p>	

Item 5 - Revenues by NAICS code

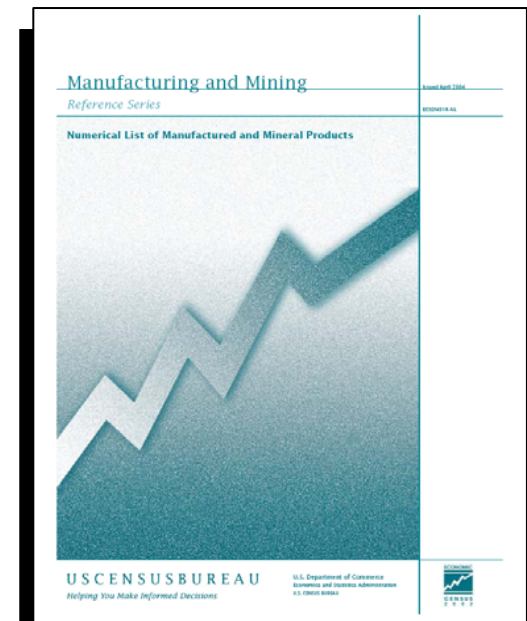
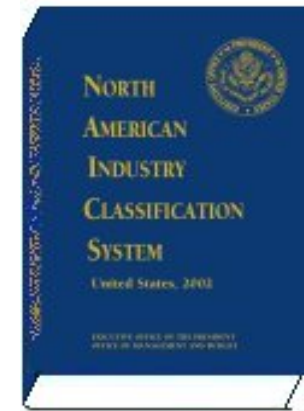
- Requires 2002 and current year revenues by NAICS code for operations conducted in US (“including its territories, possessions and the District of Columbia”)
- Acquiring person provides revenues for all controlled entities
- Acquired person provides revenues only for stock, assets, or non-corporate interests being acquired
- Do not provide information for voting stock, assets, or corporate interests whose acquisition is exempt from HSR

Item 5 - cont'd

- Need following publications available on census website:
 - *North American Industry Classification System - United States, 2002*
 - *2002 Numerical List of Manufactured and Mineral Products (EC02M31R-NL)*

- Sources of NAICS code information
 - 2002 Census reports
 - prior HSR Form
 - company CFO, financial department

- Do not rely completely on these sources
 - essential to check NAICS codes vs. your understanding of client's business
 - use company Website for description of products, business



Item 5 - cont'd

- For manufacturing companies, request 2002 and current year revenues by 10-digit NAICS codes
 - to determine adds/deletes
 - easy to aggregate to 7-digit and 6-digit codes
 - more helpful for substantive overlap analysis
- Based on all entities included within reporting person at time of filing
 - if entity acquired in 2004, provide 2002 and current year revenues
 - if entity sold in 2004, remove revenues from both 2002 and current year
- List NAICS codes in ascending order, double-spaced
- Footnote anything that is unusual or needs explanation
 - e.g., why estimated figures are being used and how estimates were derived

Item 5 - cont'd

- Item 5 is most time consuming part of Form
 - NAICS codes will not be perfect fit
 - companies do not keep revenues by NAICS
 - company may have to estimate historical revenues
- Item 5 is critical to HSR
 - NAICS overlaps will be reviewed carefully by FTC/DOJ
 - Mistakes in Item 5 likely to result in HSR filing being bounced
 - Item 5 is where PNO sees most mistakes



ITEM 5 (See "References" listed in the General Instructions to the Form. Refer to the *North American Industry Classification System-United States, 2002 (2002 NAICS Manual)* for the 6-digit (NAICS) industry codes. Refer to the *2002 Numerical List of Manufactured and Mineral Products (EC02M31R-NL)* for the 7-digit product class codes and the 10-digit product codes. Report revenues for the 7-digit product class codes and 10-digit product codes using the codes in the columns labeled "Product code." For further information on NAICS-based codes visit the www.census.gov web site.)

5(a) DOLLAR REVENUES BY INDUSTRY

6-DIGIT INDUSTRY CODE	DESCRIPTION	2002 TOTAL DOLLAR REVENUES (millions)
311821	Cookie and Cracker Manufacturing	\$ 200.7
424490	Other Grocery and Related Products Merchant Wholesalers	52.3
722213	Snack and Nonalcoholic Beverage Bars	1.0

ITEM 5(b)(i) DOLLAR REVENUES BY MANUFACTURED PRODUCTS

10-DIGIT PRODUCT CODE	DESCRIPTION	2002 TOTAL DOLLAR REVENUES (millions)
3118212111	Saltine crackers	\$ 1.4
3118214111	Sandwich cookies (except frozen)	50.0
3118214221	Chocolate chip cookies (except frozen)	100.0
3118214351	Oatmeal cookies (except frozen)	49.3

\$ 200.7

A product line that has been added through the company's own internal expansion since 2002 should be reported in 5(b)(ii)

ITEM 5(b)(ii) PRODUCTS ADDED OR DELETED				
DESCRIPTION (10-DIGIT PRODUCT CODE)	ADD	DELETE	YEAR OF CHANGE	TOTAL DOLLAR REVENUES (millions)
3118220231 - Biscuit mixes, made from purchased flour	X		2007	\$ 2.5

ITEM 5(b)(iii) DOLLAR REVENUES BY MANUFACTURED PRODUCT CLASS		
7-DIGIT PRODUCT CLASS	DESCRIPTION	YEAR 2007 TOTAL DOLLAR REVENUES (millions)
3118212	Crackers, Biscuits and Related Products	\$ 96.0
3118214	Cookies, Wafers, and Ice Cream Cones and Cups (Except Frozen)	340.0
3118220	Prepared Flour Mixes (Including Refrigerated and Frozen Doughs and Batters), Made from Purchased Flour	2.5

ITEM 5(c) DOLLAR REVENUES BY NON-MANUFACTURING INDUSTRY		
6-DIGIT INDUSTRY CODE	DESCRIPTION	YEAR 2007 TOTAL DOLLAR REVENUES (millions)
424490	Other Grocery and Related Products Merchant Wholesalers	\$ 62.7
722213	Snack and Nonalcoholic Beverage Bars	12.0

Item 6(a) - Entities Within Person Filing Notification

- Acquiring Persons
 - list names and addresses of all worldwide entities
 - sources: company database, company secretary's office
 - may take time to update
 - must obtain from company - no source of complete information

- Acquired Persons
 - list only entity whose stock/non-corporate interests are being sold and its controlled entities
 - need not complete Item 6 if only assets are being acquired

Item 6(b)- Shareholders of Person Filing

- Applies only to entities that issue voting securities
- List shareholders of 5% or more of class of voting securities
- Sources of information
 - public companies
 - ◆ Form 10-K
 - ◆ Proxy Statement
 - private companies & not wholly-owned entities - request from company (secretary's office)
 - foreign information difficult to obtain - get best available

Item 6(c) - Holdings of Person Filing Notification

- Applies only to entities that issue voting securities
- List holdings (investments) of 5% or more but less than 50% of outstanding voting securities
- Sources of information
 - company database - secretary's office
 - foreign information difficult to obtain - get best available

Items 7(a) & 7(b) - NAICS Code Overlap

- Compare NAICS codes with other parties
- Report 6-digit overlaps between acquiring person filing notification and any acquired person
- In 801.30 transactions, review Target website for product listings or discuss products with controller
- Consider notation to clarify if a 6-digit overlap, but no 10-digit product overlap

7(c) GEOGRAPHIC MARKET INFORMATION

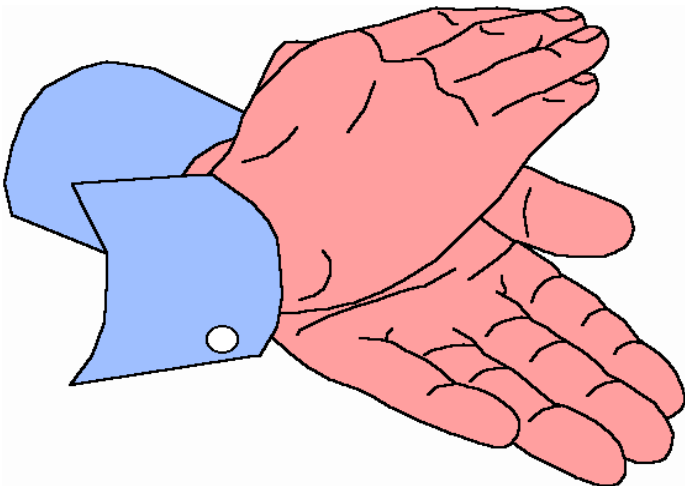
7(c)(i): 311821 (Cookie and Cracker Manufacturing) - National

7(c)(iv): 722213 (Snack and Nonalcoholic Beverage Bars) -

State	County	City	Street Address
AL	Lee	Opelika	1790 Second Avenue, 36801
GA	Bibb	Macon	5999 North Avenue, 31201
GA	Fulton	Atlanta	3350 Piedmont Road, NE, 30305
GA	Fulton	Sandy Springs	2208 Willow Heights Drive, NE, 30328
IN	Allen	Fort Wayne	3486 East Pettit, 46806
KY	Fayette	Lexington	805 Euclid, 40502
KY	Jefferson	Louisville	2300 Holiday Manor US, 40222

Item 8 - Prior Acquisitions

- Report only direct acquisitions of U.S. issuers or U.S. Assets
- Do not report acquisitions made by an entity currently included within filing person if, at time of acquisition, entity was included within another person
- Sources of information
 - check footnotes in financials
 - check prior HSRs
 - ask contact, corporate attorney



Bravo! You have successfully completed an HSR form!

Fun Fact:

In fiscal year 2006, early termination was requested in 83 percent (1,468) of the transactions reported. 75 percent (1,098) of those requests were granted.

-- 2006 Hart-Scott-Rodino Annual Report





Hart-Scott-Rodino Filing Fee

Sheila Coleman



History of HSR Filing Fees



- It was not until 1989 that Congress mandated that a fee should be paid for all mergers and acquisitions subject to the Hart-Scott-Rodino Act and the regulations promulgated thereunder.
- The statute further specified “that no notification shall be considered filed until payment of the fee required . . .”
 - In other words, the waiting period required under the Act will not begin until payment of the filing fee.

Size of Transaction and Fee

Under the current thresholds

- If the size of transaction is valued at greater than \$63.1 million but less than \$126.2 million
 - The filing fee is \$45,000.
- If the size of transaction is valued at \$126.2 million or greater but less than \$630.8 million
 - The filing fee is \$125,000.
- If the size-of-transaction is valued at \$630.8 million or greater
 - The filing fee is \$280,000.



Payment of the filing fee

- The acquiring person is responsible for the payment of the fee at the time of filing.
 - Fees are made payable to the Federal Trade Commission by
 - electronic wire transfer (EWT) (preferably)
 - or, if necessary, by bank cashier's check or certified check.

Electronic Wire Transfer (EWT)

- The fee must be paid in U.S. currency.
 - The amount of payment must be net of any service, transfer, or wiring fees charged by a bank or financial institution.
 - Fees paid are deposited into the United States Treasury account



Electronic Wire Transfer (EWT)

- To ensure filing fees paid by EWT are attributed to the appropriate payer filing notification, the payer must provide the following information to the bank initiating the EWT. . .



Electronic Wire Transfer (EWT)

(1) the Department of Treasury's ABA Number	021030004
(2) the Federal Trade Commission's ALC (account) Number	29000001
(3) the Federal Trade Commission's Tax Payer Identification Number (TIN)	53-0197030
(4) SWIFT CODES (Foreign Wire Transfers)	TREAS_NYC or FRNYUS33XXX

Electronic Wire Transfer (EWT)

If the name used to transmit the EWT differs from the payer's name, the alternative name must be disclosed in the correspondence accompanying the filing.

Decoding EWT Receipt

- mode status mdc error-intercept
- PRODUCTION FT INCOMING MSG
- rcvr type
- 121000358 1040
- sndr ref # amt
- 021000089 4092 \$1,000,000.00
- CITIBANK NYC/ORG=J.DOE, LONDON OGB=BANK OF THE NORTH, LONDON
- BANK AMER SF/CTR/IBK=B OF A LOS ANGELES BBK=BK OF SAN PEDRO, CA
- BNF=H.L. INDUSTRIES/AC-12-34567/PHN/(415)555-1212
- RFB=INV8123
- OBI=EQUIP PURCH
- imad 20080804B1Q0216K 209 05041233 FTB1
- omad20080804L1Q11339K 1391 05041235

Banker's Check or Certified Check



- A bank cashier's check or certified check are accepted as payment for the filing fee.
 - If another form of check is submitted, the contact person listed on the form will be notified by the Premerger Notification Office and the check will be returned via Federal Express.

Fun Fact:

On average, the summer months (June, July, August) are the busiest for HSR filings. January is typically the month with the least filings.

The record for most filings in one month is June, 2000, with 1,004 filings.





Post-consummation Filings

Malcolm Catt

BUREAU OF COMPETITION
FEDERAL TRADE COMMISSION



What is a post-consummation filing?

- After consummating a transaction, the parties realize that they have failed to make the required pre-acquisition HSR filing
- To correct this omission, the parties make a post-consummation filing (AKA a corrective filing or violation)



Who would do such a thing?

- Founders and high ranking executives
 - Warrants and Options
 - However, a filing is not required where the person exercises the options and re-sells all on the same day (7A(c)(10))
- Passive Investors
 - The 802.9 exemption
 - Be wary of passive investors who become active or acquire over 10% of voting securities of issuer



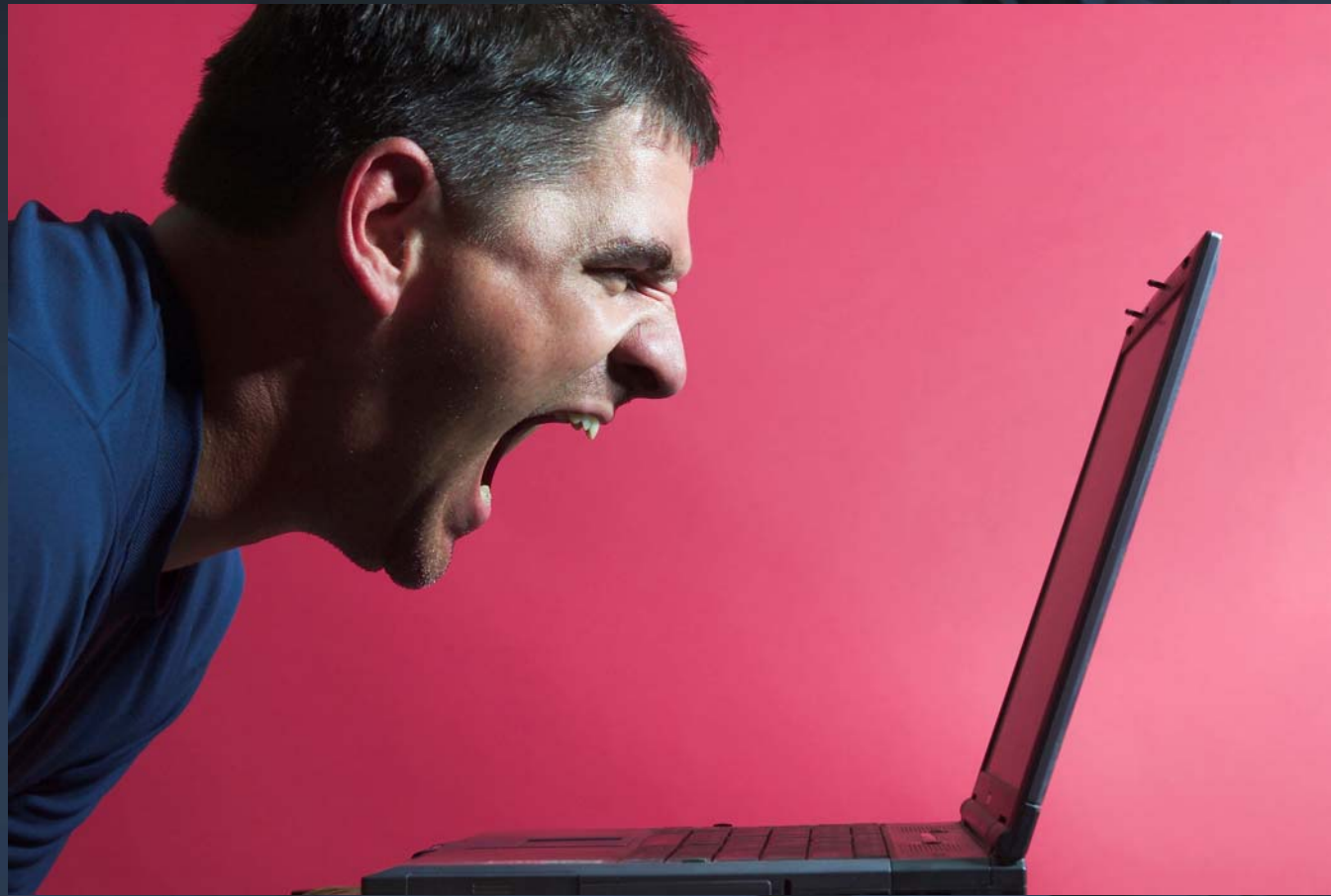
I've found a violation. What do I do?



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Check out the new HSR website



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FEDERAL TRADE COMMISSION



Contact FTC Staff



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FEDERAL TRADE COMMISSION



In preparing the filing look back in time

- The applicable notification thresholds are those in place at the time the filing should have been made
 - For example, a post-consummation filing is required for a \$20 million transaction consummated in 1990 because the notification threshold at that time was \$15 million
- Prepare the filing as if you were preparing it at the time that the filing should have been made
 - Item 4(a) and (b) documents and Item 5 revenues should reflect the period of time just prior to when the filing should have been made



But don't forget the present

- Include all 4(c) documents up to the date of the actual filing
- The filing fee thresholds and filing fees are those in place at the time of the actual filing



Next - Prepare an explanatory letter

The letter must explain

- Why the violation occurred
- How the violation was discovered
- Whether the party has previously made HSR filings
- Whether the party has previously failed to file a reportable transaction
- Whether the party has realized any benefit or advantage that it would not have realized if it had made a timely filing
- The steps the party is taking to ensure future compliance



Who signs the letter?

- The letter is signed by the filing person or a company official of the filing person or entity
- The letter cannot be signed by outside counsel



What can I expect after I have filed?

- The FTC processes the filing like any other filing, except early termination will not be granted
- The FTC or DOJ investigates
- In determining whether to take action the FTC and DOJ will consider various factors, which include
 - Whether the violation was the result of understandable or simple negligence
 - Whether the filing was made promptly after the violation was discovered
 - Whether the parties have realized any benefit that they would not otherwise have realized
 - Whether the parties have implemented adequate measures to prevent future violations



Possible Outcomes

- “Don’t do it again” letter
- \$11,000 fine for each day that party has been in violation



In summary

- For each completed acquisition that comes to your attention determine whether there was an HSR filing
- Where there was no filing ask “Why not?”
- If you think that there may be a problem contact the FTC immediately



Fun Fact:

Because of this workshop, the staff of the PNO now have mad Powerpoint skills.





Premerger Electronic Filing

Robert Jones

BUREAU OF COMPETITION
FEDERAL TRADE COMMISSION



Benefits of the e-Filing Form

- ✓ Makes filling out the Form easier
- ✓ You can submit a filing any time, day or night
- ✓ You can create templates for multiple filings by the same party
- ✓ Error-checking and Help are available
- ✓ Speeds FTC Premerger processing
- ✓ Can be used to produce hard copy of Form



How to Get e-Filing

■ HSR.GOV

■ Download viewer

■ Download Form

■ Download Affidavit

■ Get a filing certificate

**Hart-Scott-Rodino
Electronic Filing System**

FEDERAL TRADE COMMISSION DEPARTMENT OF JUSTICE

Home

Important Notices **Hart-Scott-Rodino Electronic Filing System (EFS)**

What's New [\(What's New - Updated 05/13/08\)](#)

Privacy Policy

Getting Started

Form Preparation Tips

Submission Process

Download Forms Viewer

Filing Form

Affidavit Form

Apply for an ECA Certificate

Size and Format Requirements

Form Version History

HSR FAQs

Reference Tables and WebLinks

Privacy Impact Assessment

Additional LINKS

Federal Trade Commission

Premerger

Filing Fee Information

Department of Justice

Antitrust Division

Phone/Fax Numbers

Web Site Comments

HSRhelp@HSR.gov

Special Notice

FAQ: Who is required to obtain the ECA digital certificate? The ECA certificate is a direct substitute for the physical signature on the certification and the affidavit. Consequently, the person who would sign the certification or affidavit on a paper filing is the person who must obtain the certificate for an e-filing. This is typically a corporate officer or individual and not the legal representative, although a legal representative may submit the completed e-filing once it has been digitally signed by the party.

Welcome to the HSR Electronic Filing System!

The Hart-Scott-Rodino (HSR) Act, Section 7A of the Clayton Act, 15 U.S.C 18a, requires parties of certain mergers and acquisitions to file a notification with the Federal Trade Commission (FTC) and the Department of Justice Antitrust Division (DOJ). These parties must then wait a specified time period before consummating these transactions.

The Electronic Filing System (EFS) allows parties to submit the Notification and Report Form (the "Form") electronically via the Internet. Once the Form has been processed, it is accessible by the reviewing agencies via a shared database. Electronic filing provides faster processing time, improved data entry, and the elimination of expensive and time-consuming duplication of documents.

To view more detailed information, please click on the following link: [Getting Started](#)

To learn about the privacy and security of information submitted to the FTC and DOJ using the EFS, [click here](#).



Completing the Form

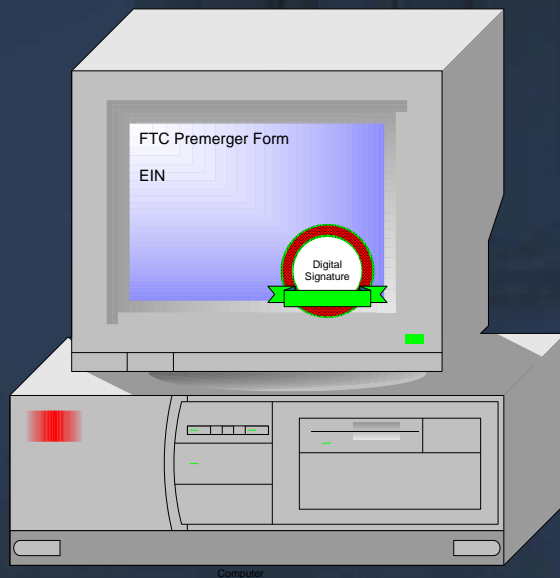
- Form enforces mandatory fields and adapts to filing status
- Form validates formats of data
- Drop down boxes for finite answer sets
- Online help is available (on mouse-over or right-click)

The screenshot shows a web browser window displaying the 'PRE-MERGER NOTIFICATION & REPORT FORM' from the Federal Trade Commission. The page includes a navigation bar with 'Close', 'Save', 'Print', 'Email', and 'Submit' buttons. The main content area is titled '16 C.F.R. Part 803 - Appendix NOTIFICATION AND REPORT FORM FOR CERTAIN MERGERS AND ACQUISITIONS'. It features a 'TRANSACTION NUMBER ASSIGNED' field with a grid of input boxes. Below this, there are sections for 'FEE INFORMATION' and 'TAXPAYER IDENTIFICATION NUMBER' or 'SOCIAL SECURITY NUMBER of payer'. The 'FEE INFORMATION' section includes a text area for explaining filing fees and a radio button for 'CHECK ATTACHED'. The 'TAXPAYER IDENTIFICATION NUMBER' section includes radio buttons for 'CHECK ATTACHED' and 'MONEY ORDER ATTACHED', and a text field for 'CONFIRMATION NO.'. There are also fields for 'FROM: NAME OF INSTITUTION' and 'NAME OF PAYER (if different from PERSON FILING)'. The form includes several yes/no questions: 'IS THIS A CORRECTIVE FILING?', 'IS THIS ACQUISITION SUBJECT TO FOREIGN FILING REQUIREMENTS?', 'IS THIS ACQUISITION A CASH TENDER OFFER?', and 'DO YOU REQUEST EARLY TERMINATION OF THE WAITING PERIOD?'. The 'ITEM 1 - PERSON FILING' section has a dropdown menu for '1(a) NAME and HEADQUARTERS ADDRESS of PERSON FILING'. The page footer includes the 'BUREAU OF COMPETITION FEDERAL TRADE COMMISSION' logo and text.



Validation

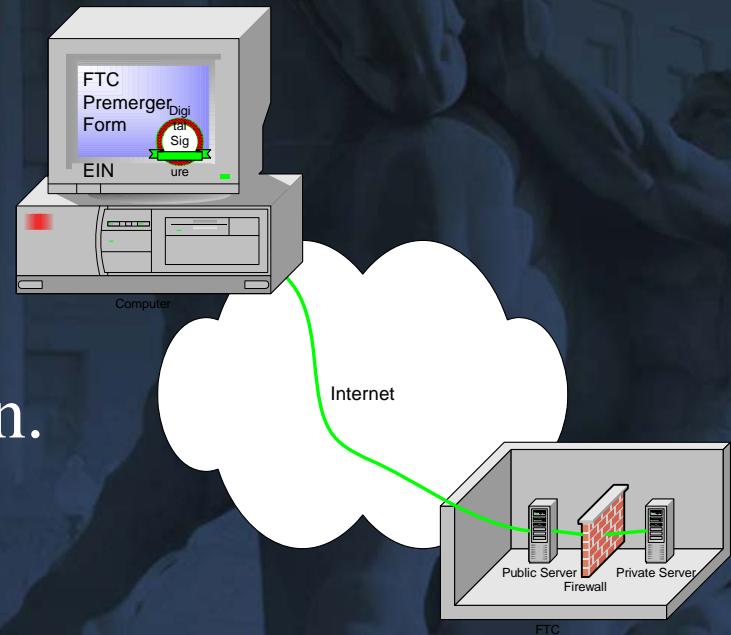
- The user must have completed all Mandatory items. The “Review” button checks the Form for omissions.
- For electronic submission, the party must digitally sign the Form and affidavit using an ECA certificate.



Submitting the Form Electronically

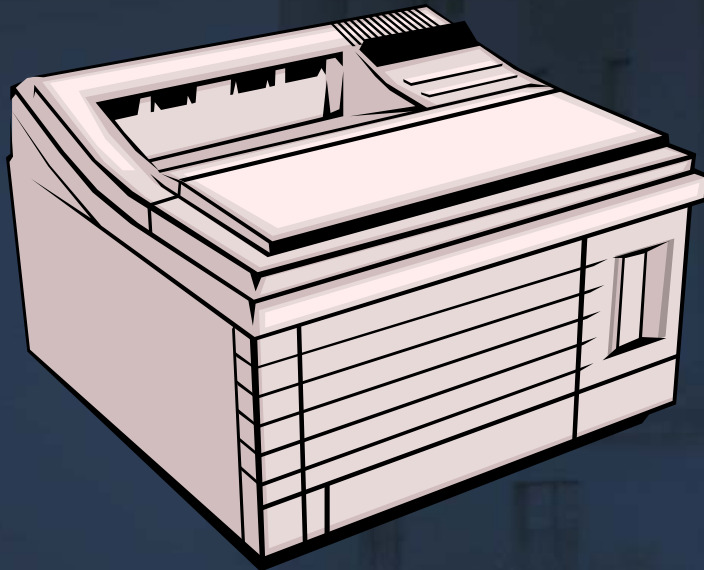
- The Form is received at a secure public server and relayed to a private server behind the FTC firewall.

- Web server sends e-mail to the filer to confirm reception.



Submitting the Form in Hard Copy

Alternatively, you can simply print out the Form and submit the hard copy.



Go to www.hsr.gov for more information.

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Fun Fact:

Thousands of informal interpretation letters are available on the PNO web site. The letters were typed in manually by Premerger staff in 2001.





Using the new HSR web site

Kathryn E. Walsh

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Closing Remarks

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Thank you for participating in the
Back to Basics HSR Workshop.

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