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This material may be subject to the confidentiality provision of Section 10(b) of the Securities Exchange Act of 1934.

March 25, 1983

REC'D - TRADE
COMMISSION
FEDERAL TRADE COMMISSION
OFFICE
MAR 30 12 19 PM '83

Dana Abrahamson, Esquire
Federal Trade Commission
Washington, D. C. 20580

Dear Mr. Abrahamson:

Confirming our telephone conversation of the last two weeks, the following planned transaction is not reportable under the Hart-Scott-Rodino Act.

[redacted] is a wholly-owned subsidiary of the [redacted], an ultimate parent entity with sales and assets substantially in excess of \$100 million. [redacted] proposes to sell certain outlets to a newly-formed Delaware corporation, [redacted] ([redacted]), in a transaction which will substantially exceed \$25 million (aggregating payment made and assumed liabilities). Ownership of [redacted] will be as follows upon closing of the transaction:

[redacted], a natural person, will own 48% of the voting stock. A voting trust for stock owned by [redacted], another natural person, will hold 12% of the voting stock. [redacted] will have the contractual right to vote all stock held by this voting trust. He will thus own or control 60% of the voting stock. The remaining 40% of the voting stock will be owned by [redacted]. [redacted] will own all of the preferred stock of [redacted]. Upon the happening of certain events of default, [redacted] may be entitled to utilize rights stemming from this preferred stock to elect a majority of the directors of [redacted]. [redacted] would continue to have this right only until the default or defaults were cured.

Under these facts, [redacted] and only [redacted] is deemed the ultimate Parent of [redacted]. Though [redacted] may have the contractual right to elect a majority of the board of directors upon the happening of certain contingencies, it has no present right to do so. Neither

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[redacted] nor [redacted] holds business assets of \$10 million or more. The proposed sale of assets by [redacted] to [redacted] is not reportable because [redacted], [redacted] ultimate parent, is not a \$10 Million Person. This is so even though [redacted] expects to have unused lines of credit exceeding \$10 million after acquiring the assets from [redacted]. The line of credit test for determining a person's size is an informal test which is used by the Federal Trade Commission only when a newly-formed acquiring corporation is its own ultimate parent.

Moreover, the formation of [redacted] is not reportable. Though [redacted] is deemed to be \$100 Million Person, neither of the other contributors to formation of [redacted] -- [redacted] and [redacted] -- is a \$10 Million Person. [redacted] proposed lenders (which are \$10 Million Persons) will not receive any stock of [redacted], and thus are not seen to be contributing to its formation within the meaning of the Hart-Scott-Rodino Act.

[redacted]
cc: [redacted]