

October 5, 1984

BY HAND DELIVERY


Mr. Wayne Kaplan, Esq.
Premerger Notification Office
Room 301
Federal Trade Commission
Washington, D.C. 20580

Dear Mr. Kaplan:

In our telephone conversations of October 2, 1984, and October 4, 1984, you informed me that the Federal Trade Commission follows the following rules (as yet unpublished) under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "Act") with respect to partnerships and with respect to newly formed persons which are formed for the purpose of making acquisitions:

1. For any partnership, the ultimate parent entity is the partnership itself.
2. For a newly formed person with no regularly prepared balance sheet, which person was formed for the purpose of making an acquisition of assets or voting securities, the total assets of said person do not include assets which are to be used to make the acquisition.

In this context I posed to you the following factual setting. Suppose Company A has total assets in excess of \$100 million. Company A forms a limited partnership LP of which Company A is the general partner, and Person B and Person C are the limited partners. Company A, Person B, and Person C will contribute approximately \$12 million (but less than \$20 million) to LP upon the formation of LP. LP will have no assets other than the funds contributed as above. Of the funds contributed to LP, at least \$12 million will be used to purchase newly issued stock of Company D. The newly issued stock of Company D purchased by LP will constitute at least 40% of the total voting


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securities of Company D. In connection with the purchase of said stock by LP, LP will gain contractual control of the board of directors of Company D.

In the above factual setting, you have advised me that no filing under the Act is required with respect to the purchase of stock by LP, since (i) LP is its own ultimate parent, and thus the "person" containing LP is LP itself, and (ii) LP is a newly formed person with no regularly prepared balance sheet which was formed for the purpose of making an acquisition, and after the purchase of the stock of Company D, the total assets of LP (exclusive of the stock purchased) will be less than \$10 million.

We will act in reliance on your advice as stated above unless we hear from you within one (1) week from the date of this letter.

Very truly yours,

