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May 15, 2000

VIA TELECOPY

Nancy Oyuka, Esquire
Federal Trade Commission
Washington, D.C.

Dear Ms. Oyuka:

Further to our telephone conversation this morning, we are seeking your direction regarding the HSR filing requirements in connection with the following proposed transaction:

1. Entity A is the owner of 100% of the member interests in two (2) limited liability companies (the "Partners"), which are the general and limited partners of a limited partnership (the "Partnership"), which Partnership owns certain assets and other development rights.
2. Entity A and Entity B have discussed a transaction whereby Entity B (or its designee) will acquire all of the ownership interests in the Partners. Such transaction would otherwise meet the size of the parties or size of transaction thresholds as would require a Hart-Scott-Rodino premerger notification filing.
3. Entity B is considering a proposal to structure the acquisition in the form of a transaction commonly referred to as a "synthetic lease". In such a transaction, a commercial financial institution creates a special purpose trust (the "Trust") to acquire the member interests in the Partners. The acquisition is financed by loans and equity investments made to the Trust. The Trust, in turn will cause the Partnership to lease its assets to Entity B (or its designee) (the "Lessee") for a term. At the end of the lease term, the Lessee has the option to purchase the assets or the member interests for a price which approximates the unpaid balance of the loans and equity originally advanced to the Trust. The original lease term is anticipated to be seven (7) years, with the option of the Lessee to renew the lease for an additional seven (7) years. Rent payments during the term of the lease approximate the scheduled payments owed by the Trust in respect of the loans and equity investments made to it to finance the acquisition of the assets. The benefit of such arrangement is that the Trust is treated as the owner of the member interests for accounting purposes and the Lessee as owner of the assets for tax purposes.

In respect of the foregoing proposed transaction, it occurs to us that there are possibly two (2) transfers which may require HSR clearance, the first being the initial acquisition of the member interests in the Partners by the Trust and the second being the exercise by the Lessee of its option

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to purchase the acquired assets or the member interests. We would appreciate your advice regarding the following:

1. Are Entity A and the Trust required to file a Notification and Report in respect of the initial acquisition of the member interests by the Trust? Again, the Trust is a special purpose entity which is created and owned by a commercial financial institution which is in the business of providing financing of this sort.
2. Is there a filing requirement in respect of the option of the Lessee to acquire the assets or the member interests upon the expiration of the lease term? If so, can the filing be made by Entity A and Entity B prior to consummating the acquisition by the Trust and the Trust and Entity B entering into the lease, although the exercise of such option may not occur for several years?

Again, we would appreciate your thoughts and advice regarding the foregoing transaction. I look forward to your call. In the meantime, should you have any questions or require further detail, please do not hesitate to contact me.

Very truly yours,
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