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April
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1983

HAND DELIVERED

Sandra Vides, Esq.
Premerger Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
Washington, D.C. 20580

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FEDERAL BUREAU OF
INVESTIGATION
PREMERGER NOTIFICATION
OFFICE

APR 22 1983

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Re: Proposed Acquisition by Partnership

Dear Sandra:

I am writing to confirm our telephone conversation of Monday, April 18, 1983, in which I described a proposed transaction, and we discussed the application of the Hart-Scott-Rodino premerger notification reporting requirements. I would appreciate it if you would advise me if this letter fails to reflect our discussion and conclusion accurately.

The facts are as follows: A corporation, X, is held by two individuals, A and B, each of whom owns 50% of X's common stock. Corporation X plans to sell assets worth approximately \$43 million (the "Assets") to Partnership No. 1, in which individuals A and C are equal partners. Partnership No. 1 presently has no assets and will finance the proposed acquisition through borrowings that will occur contemporaneously with the acquisition. In addition, individuals A and C are also equal partners in another partnership, Partnership No. 2, which has assets worth approximately \$30 million. At some time in the future, Partnership No. 2 may acquire the Assets from Partnership No. 1.

On the basis of these facts, you advised me that no premerger notification report would be required for the following reasons: A partnership is treated as its own ultimate parent entity. The acquisition of the Assets by Partnership

02 - Sandra Vides, Esq. - April 22, 1983

No. 1 from Corporation X is not reportable because Partnership No. 1 does not meet the size-of-person test. Even though Partnership No. 1, which has no assets, will borrow \$43 million at the time of the acquisition of the Assets, such borrowings are not considered when applying the size-of-person test, but rather go to the size of the transaction.

Further, the possible subsequent acquisition of the Assets by Partnership No. 2 would not be reportable because the persons involved would not meet the size-of-person test (Partnership No. 1 having approximately \$43 million in assets and Partnership No. 2 having approximately \$30 million in assets). Thus, as long as the use of two partnership was necessary for reasons other than avoidance of the premerger notification reporting requirements, no premerger reports would be required.

If, however, Corporation X sold the Assets directly to Partnership No. 2, a premerger notification report would be required unless an exemption were available, since the size-of-person and size-of-transaction tests would be satisfied.

I appreciate your advice and assistance on this matter.

Sincerely,