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May 26, 1983

Dana Abrahamson, Esq.  
Federal Trade Commission  
Premerger Notification Office  
6th Street and Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

FEDERAL TRADE  
COMMISSION  
PREMERGER NOTIFICATION  
OFFICE  
MAY 31 1 36 PM '83

Re: Hart-Scott-Rodino Requirements

Dear Mr. Abrahamson:

This is to confirm our conversation of May 23. You indicated that (1) the formation of joint venture partnerships is not reportable under the Hart-Scott-Rodino Act (the "Act") or the Federal Trade Commission's Premerger Notification Rules (the "Rules") thereunder, and (2) the formation of a joint venture partnership by a debtor and certain of its creditors where the debtor contributes its property and the creditors reduce the debtor's loan obligations is a bona fide debt work-out exempt from the Act and the Rules if undertaken in the ordinary course of the creditors' businesses.

The facts of the transaction to which the foregoing principles apply are as follows: A is a limited partnership. A is indebted to lenders B, C, D, E and F, which indebtedness is secured by non-recourse mortgages encumbering substantially all of A's property and assets (the "property"). A is in default with respect to such indebtedness. A and B through F intend to deal with A's indebtedness as follows. A new partnership, G, will be formed by B, C, D, E and F. This partnership will then itself form a new partnership, H, with A. A and G will be the partners in H. A will contribute the property to H, subject to such mortgages. G will contribute a small amount of cash to H. H will service A's indebtedness to B through F out of the cash flows of the property, and B, C, D, E and F will also grant certain concessions with regard to such indebtedness. H will also assume certain other debts of A.

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Under the principles discussed above, the foregoing would not be reportable under the Act, without regard to the size of the parties involved or the size of the transaction, for two reasons. First, this transaction involves the formation of a joint venture partnership. The Act only requires reporting the formation of joint venture corporations; it does not apply to the formation of joint venture partnerships. Rule 801.40.

Second, this transaction amounts to a bona fide debt work-out between A, B, C, D, E and F. Bona fide debt work-outs are exempt under the Act if undertaken in the ordinary course of business. Rule 802.63. Thus, if this transaction is in the ordinary course of business for B, C, D, E and F, it is exempt from the Act's reporting requirements for that reason, as well.

If the foregoing analysis and conclusion is not an accurate reflection of the Federal Trade Commission staff's interpretation of the Act and Rules, please inform me in writing no later than June 3, 1983. If I do not hear from you prior to that date, I will assume that the foregoing analysis is accurate and will proceed accordingly.

Thank you very much for your time.

Sincerely,  
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*Review  
8/2/83  
etc.  
apply  
- [unclear]  
- [unclear]  
- [unclear]*

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