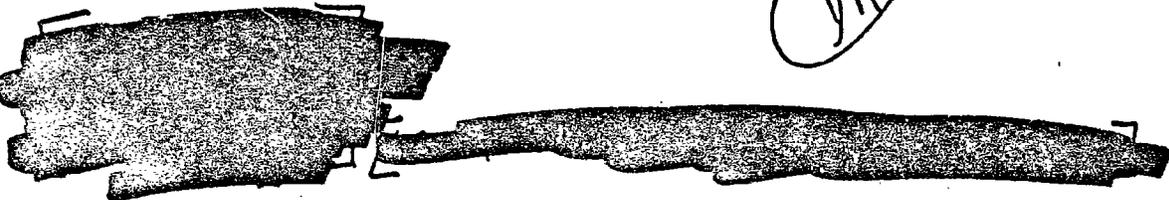


DA



October 27, 1983

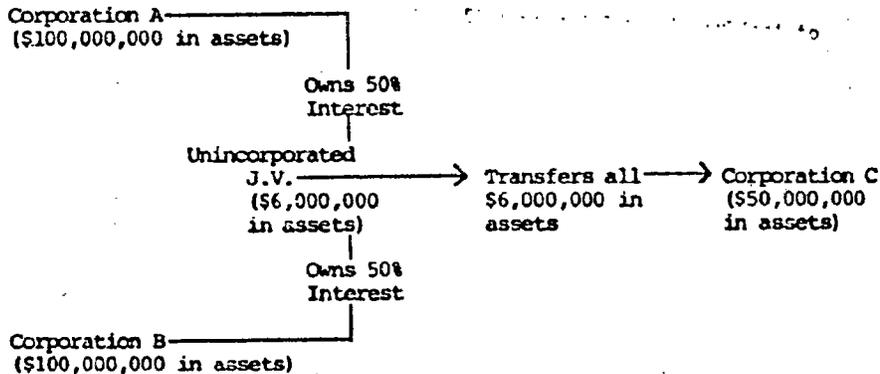
Dana Abrahamson, Esq.  
Premerger Notification  
Bureau of Competition, Room 303  
Federal Trade Commission  
Washington, D.C. 20580

Re: Ultimate Parent Entity of an Unincorporated Joint Venture

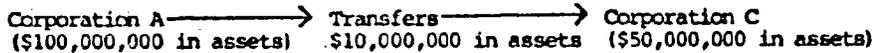
Dear Mr. Abrahamson:

Recently I called you to discuss whether the report and wait requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("the Act") would apply to the following situation:

FIRST TRANSACTION



SECOND TRANSACTION  
WITHIN 180 DAYS



You advised me that neither transaction would require filing under the Act. In the first transaction, the size-of-the-transaction test was not met. In the second transaction, and notwithstanding section 801.13 of the FTC Rules, which requires aggregation of transactions occurring within 180 days involving the same acquiring and acquired persons, the size-of-the-transaction test still was not met. Your rationale for not applying section 801.13 of the Rules was that although the acquiring person(C) was the same, the acquired persons were not.

This rationale is based on the FTC's interpretation (with the knowledge of the Justice Department) of the Rules that an unincorporated joint venture is its own ultimate parent entity. Following that interpretation, C is not acquiring assets from the same person, since J.V. is the acquired person in the first transaction and A is the acquired person in the second; therefore, Rule section 801.13 would not apply.

We further discussed the definition of "control" in the FTC Rules section 801.1(b) and whether A or B or both could be said to control J.V. so that A or B or both would be deemed the ultimate parent entity or entities of J.V.

You advised that the FTC (with the knowledge of Justice) interprets that section to mean that since neither A nor B can hold 50 percent of the "voting securities" in an unincorporated joint venture, and that in an unincorporated joint venture there are no individuals who exercise functions similar to the directors of a corporation, then neither A nor B can be deemed the ultimate parent entity of J.V. for purposes of determining the size of the acquired person. Thus, J.V. is its own ultimate parent entity (as that term is defined in the FTC Rules section 801.1(a)(3)) since J.V. is not controlled by any other entity.

Since this interpretation has not been formally reported, I am writing to memorialize my understanding of our discussions. Please call me if anything in this letter incorrectly states the FTC's position regarding this subject.

Thank you for your assistance in this matter.

Very truly yours,

A large rectangular area of the document has been completely redacted with black ink, obscuring the signature and any text that might have been present below it.A small, horizontal rectangular area of the document has been redacted with black ink.