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December 13, 1984

DEC 18 1984

Mr. Wayne Kaplan
Premerger Notification Office
Bureau of Competition
Room 301
Federal Trade Commission
6th Street & Pennsylvania Avenue
Washington, D. C. 20580

This material may be subject to the confidentiality provisions of Section 7A (b) of the Clayton Act which restricts release under the Freedom of Information Act

Dear Mr. Kaplan:

This letter is to confirm our telephone conversation of November 21, 1984, in which you advised me that the completion of the two transactions hereinafter described would not require any premerger notification filings on the part of any party.

Our client, Corporation A, had sales for its fiscal year ending December 31, 1983, of approximately \$68 million. Its most recently prepared balance sheet, for the quarter ending September 30, 1984, showed total assets of approximately \$74 million. Corporation A intends to form two new subsidiaries before December 31, 1984, whose only assets prior to the mergers described herein will consist in each case of cash of not more than \$1,000.

Corporation B, which will merge with one of the two new subsidiaries of Corporation A, effective February 28, 1985, had sales, for its fiscal year ending December 31, 1983, of approximately \$21 million. Its most recently prepared balance sheet, for the quarter ending September 30, 1984, showed total assets of approximately \$20 million.

Corporation C, which will merge with the other of the new subsidiaries of Corporation A, effective February 28, 1985, had sales for its fiscal year ending May 31, 1984, of approximately \$29 million. Its most recently prepared balance sheet, for the quarter ending August 31, 1984, showed total assets of approximately \$26 million.

No annual financial statement or regularly prepared balance sheet of any of Corporations A, B or C, in existence prior to

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the mergers and prepared before February 28, 1985, will show any of Corporations A, B or C as having either annual sales or total assets equal to or in excess of \$100 million. After the mergers are completed, Corporation A may have a balance sheet showing in excess of \$100 million in total assets. On a consolidated basis, and as will be reflected in historical pro forma balance sheets and income statements included in the Form S-14 to be prepared in connection with the mergers, Corporations A, B and C will together have had in excess of \$100 million in sales over a twelve month period preceding the merger transactions, and will together have had over \$100 million in assets. No annual financial statements or regularly prepared balance sheet will have been prepared or will be prepared, however, showing such consolidated sales or assets until after the mergers are completed.

Corporations A, B and C are each publicly held companies, and are each ultimate parent entities within the meaning of the regulations.

of \$100 M or

You advised that no premerger notification filings would be required in connection with these transactions, regardless of the order in which they are consummated, because none of Corporations A, B and C would, as of the date of the mergers, have had annual net sales shown on their last regularly prepared annual statements of income and expense in excess of \$100 million (as required by 16 C.F.R. §801.11(b) and (c)(1)), or have had total assets shown on their last regularly prepared balance sheets in excess of \$100 million (as required by 16 C.F.R. §801.11(b) and (c)(2)). You also referred to "Background Information to §801.11(b)" published at 47 Fed. Reg. 33473 (July 31, 1978), which indicated that the Commission had considered but rejected a requirement that material changes in sales or assets after preparation of the pertinent financial statements be taken into account in determining whether the size-of-person test was satisfied.

If I have misstated your analysis or conclusions, or if you believe any relevant information has been omitted, please let me know right away. I will be in touch by telephone to confirm your receipt of this letter.

Your assistance is appreciated.

Sincerely,

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But must consider unconsolidated COO vi. A