

September 13, 1985

VIA FEDERAL EXPRESS

Mr. Andrew Scanlon
Premerger Notification, Room 301
Federal Trade Commission
Sixth and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Informal Interpretation of 16 C.F.R. § 801.1(b)

Dear Mr. Scanlon:

I am writing to confirm our conversation of September 13, 1985 and the informal interpretation you provided at that time. I explained the situation as follows. Our client (the "Offeror") is considering making a tender offer for the shares of another corporation. The Offeror's shares of common stock are publicly traded. The two largest shareholders of the Offeror, S1 and S2, each own approximately 32% of the outstanding shares. You and I agreed that this level of ownership alone would not convey "control" over the Offeror to either S1 or S2, as that term is used in the Premerger Notification Coverage Rules, 16 C.F.R. § 801.1(b). However, S1 and S2 have also executed a written agreement that each will vote for the other's nominees to the Offeror's Board of Directors. I inquired whether either S1 or S2 therefore "controlled" the Offeror, in light of the fact that each has the contractual power only to designate its own nominees to exactly 50% of the Board. You replied that no "control" was presently here, provided, however, that the written agreement is as I summarized it to you, and that it contained no "wrinkle" by which one of the shareholders could elect greater than 50% of the Board and provided that the written agreement governed only the concerted action

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of voting for board members. You also noted that since neither S1 nor S2 "controls" the Offeror, the Offeror is the appropriate "ultimate parent entity" for determining whether the "size of person" test is met, and whether, therefore, the Act applies to the contemplated transaction.

If this summary is not accurate, kindly contact me collect at your earliest convenience. Otherwise, we will advise our client that it can act on the foregoing interpretation. Thank you for your cooperation.

Very truly yours, [Redacted]

[Redacted]

[Redacted]

OK
[Signature]

Acting in consent is
not an acquisition.
"Group Concept" as
defined by SEC are
considered in determining
PE under HSR

[Signature]