

Lia

[REDACTED]

[REDACTED]

AS

September 25, 1986
This material may be subject to the provisions of the Freedom of Information Act
Section 74
which requires the release of information under the Freedom of Information Act

Mr. Andy Scanlon
Room 301
Federal Trade Commission
Washington, D.C. 20580

SEP 26 10 40 AM '86

FEDERAL TRADE COMMISSION
PREMERGER NOTIFICATION OFFICE

Re: [REDACTED]

Dear Mr. Scanlon,

This letter is to confirm our telephone conversation of August 27, 1986, regarding the inapplicability of the premerger notification requirements of the Hart-Scott Rodino Antitrust Improvements Act of 1976 (the "Act") to the transaction described below.

We represent [REDACTED] a subsidiary of [REDACTED]. On June 19, 1986, [REDACTED] purchased [REDACTED] restaurant sites (the "Properties") from [REDACTED] and its affiliated entities. A Premerger Notification and Report Form was filed with respect to this transaction on May 5, 1986.

[REDACTED] is now in the process of financing the Properties. [REDACTED] has expressed its willingness to finance the Properties, together with other as yet unidentified [REDACTED] leasing companies (the "Syndicate"), provided that the financing is documented as a sale and sale back, rather than simply as a secured loan. The draft documents prepared by counsel for [REDACTED] include (1) a Master Purchase Agreement whereby [REDACTED] and the Syndicate would agree to purchase the Properties from [REDACTED] for cash, (2) a Master Sale Agreement, whereby [REDACTED] and the Syndicate would simultaneously sell the Properties to [REDACTED] on an installment basis, and (3) an Indenture of Mortgage, whereby [REDACTED] obligation to

[REDACTED]

Mr. Andy Scanlon
Page 2

pay the purchase price to [REDACTED] and the Syndicate on an installment basis would be secured.

As I understand it, the financing of the Properties, if structured as a mortgage or a secured loan, would not be a reportable transaction under the Act. When I described the proposed structure of the transaction to you in our recent telephone conversation, you indicated that you believed that because the substance of the transaction was a financing and not a sale and because the sale and sale back were to occur simultaneously, no filing under the Act would be required.

On the basis of this understanding, the parties intend to close this transaction as early as October 3, 1986, unless you notify us by your close of business on October 2 that notification under the Act is required.

Please contact either the undersigned at [REDACTED] (collect) or [REDACTED] at [REDACTED] collect) as soon as possible if you have any questions or comments regarding the foregoing.

Thank you for your prompt attention to this matter.

Sincerely,

[REDACTED]

cc: [REDACTED]

If bonafide Financing deal
this is exempt under 802.63
PS
concur W.K.