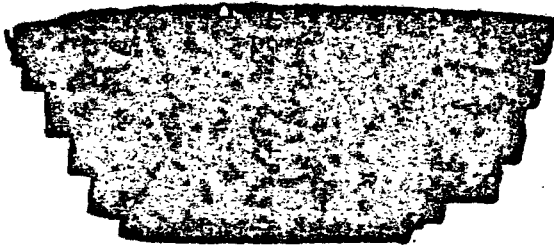


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September 30, 1986

BY HAND

Dana Abrahamsen, Esq.
Premerger Notification Office
Federal Trade Commission
Room 303
Washington, D.C. 20580

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Dear Mr. Abrahamsen:

This letter summarizes and is intended to confirm our telephone conversations of September 24 and 26, 1986, concerning the application of the Hart-Scott-Rodino Act premerger notification requirements to certain subleasing arrangements. As I told you, our client is considering the sale of certain retail establishments that currently rent store space. As part of that transaction, the seller may sublease to the buyer the store space occupied by some or all of those establishments. The sublease payments -- i.e., the payments by the buyer to the seller under the subleases -- may exceed the rental payments that the seller is obligated to make to the landlord under the original lease.

In our first conversation, you confirmed that any subleases entered into in these circumstances would not themselves be reportable. Therefore, in determining whether the reporting thresholds have been met, the amount by which the sublease payments might exceed the rental payments under the original lease would not have to be aggregated with the purchase price of the assets that are being transferred in connection with the sale of the retail establishments. You cautioned, however, that if the sublease payments exceeded a current fair market rental for the store space, a question might arise as to whether some portion of the sublease payments should be treated as a part of the consideration for the assets that are being sold.

In our second conversation, I indicated that the subleases might include a two-way option, under which the buyer/sublessee would have a right, at the end of the sublease

term, to require the seller/sublessor to assign the underlying leases to him for their remaining term and the sublessor would have a corresponding right to require the sublessee to take such an assignment. I asked whether the inclusion of such an option would make the subleases reportable. You confirmed that it would not, so long as the exercise of that option would require the payment of an amount that approximates the fair market value of the remaining lease term.

I understand that this advice was general in nature and was not tied to a description of any particular transaction. If the contents of this letter are not in accord with your understanding of our conversation, please contact me at [REDACTED]

Thank you for your guidance and assistance.

Sincerely,
[REDACTED]

upon later review it appears that the facts are incomplete. although, subleases may not involve acquisitions of assets, a lease acquisition may be an asset acquisition where the landlord releases the original lessee as part of the transaction.

WEK 3/10/87

ok