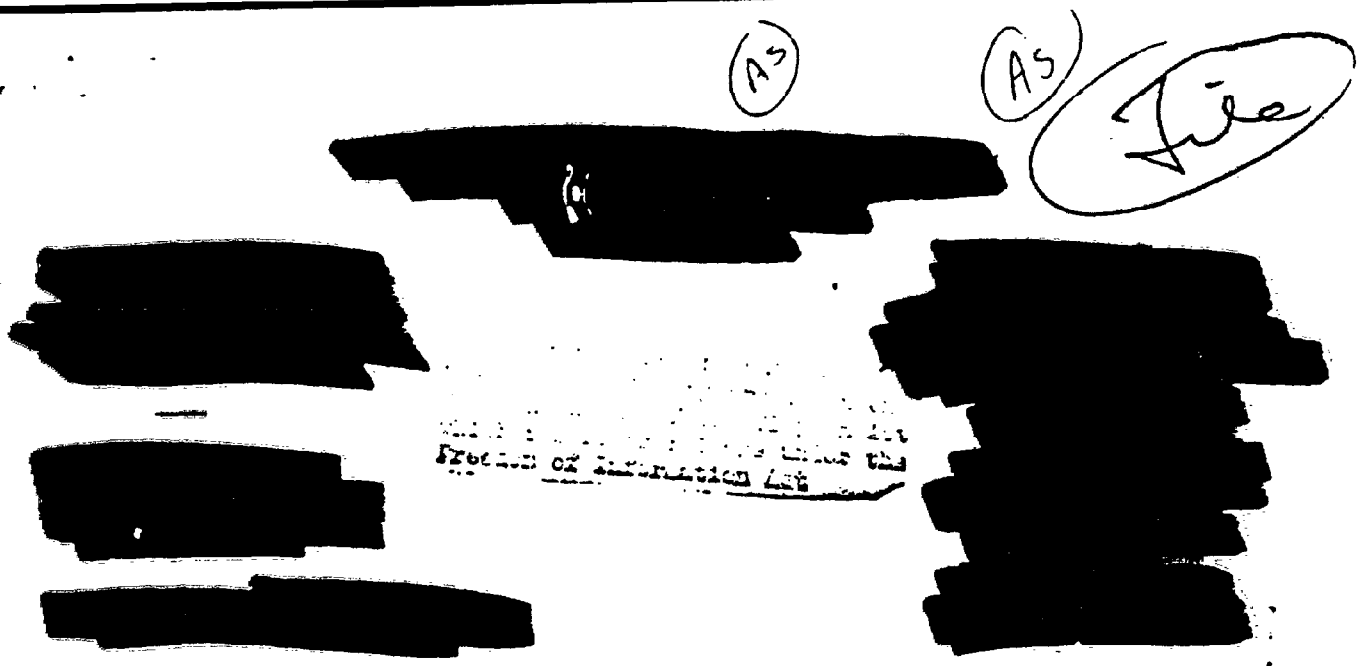

March 5, 1987

Andy Scanlon
Federal Trade Commission
6th Street and Pennsylvania Ave., N.W.
Washington, D.C. 20580

Re: Pre-Merger Notification Requirements

Dear Mr. Scanlon:

Pursuant to our conversation on March 3, 1987, I have enclosed the following details on a probable acquisition for your evaluation on whether my client must report such an acquisition pursuant to Section 7A of the Clayton Act. As you may recall, we tentatively concluded that the acquisition was probably too small to require reporting, or alternatively, would be exempt under Section 802 (20).

The general facts are as follows:

Our client [redacted] a wholly owned subsidiary of [redacted] the "acquiring person," is involved in the sale and marketing of chemicals. The company satisfies the $100M requirement of 7A (a) (2). [redacted] representatives are in the process of concluding an acquisition agreement with a small competitor (a U.S. company), the "acquired person." [redacted] and this company manufacture a similar product, but by different methods. This small chemical company is held by three principal stockholders; 51,000 shares are held by the founder and president, 39,000 shares are held equally (19,500 each) by two investors, and the 10,000 remaining shares are held by management. [redacted] is proposing to purchase 65,000 shares at a cost of between $21.50 and $25.00 per share (leaving the president with 35,000 shares, as sole shareholder, for a five year period at which time [redacted] will purchase these shares based upon values established by an individual investment banker). Each shareholder has equal voting rights.

The company assets for 1986 amounted to under $1M (the company's liabilities and shareholder's equity of course matched this figure). The company's net sales (May 31, 1985 to May 31, 1986) exceeded, only marginally $1M. The figures for May 31, 1986, to May 31, 1987, we hope, will exceed this amount but probably not by any substantial sum.

[redacted]

As I understood you to say, for purposes of the statute, the majority shareholder of the acquired company (here the president and founder) is the "ultimate parent entity." The value of his personal worth is unknown to me, but I believe that it does not exceed the value of his ownership interest in his company by very much, if at all. He owns (and I believe has no interest in) no other companies.

Therefore, as I understand the prerequisite for filing under the Clayton Act, we are not required to submit pre-merger notification documents as the acquired person (and its ultimate parent entity) are valued at a figure of less than $10M. Accordingly, an exemption under 802 (20) need not be considered. If you have a different opinion or need additional information before you can give me your evaluation, please so advise me. May I also ask: What if the competitive dynamics of the industry are affected; that is, if a merger such as the above, small as it is , somehow reduces competition or effects the "market share" to a substantial degree, is it still exempt from FTC/Federal Justice Department review?

Your courtesies are appreciated.

Sincerely,

[redacted]

[redacted]

[redacted]

3/13/87 TC [redacted] Scanlon

Advised that this was not reportable under HSR because it did not meet the size of person test, but that the nonreportable status under HSR did not exempt any transaction from all antitrust laws.