[redacted]

April 11, 1988

Wayne Kaplan, Esq.
Premerger Notification Office
Federal Trade Commission
Sixth Street & Pennsylvania Avenue, N.W.
Room 315
Washington, D.C. 20580

Dear Mr. Kaplan:

I am writing to confirm the informal advice you gave me over the telephone today concerning the scope of the premerger notification requirements under the Hart-Scott-Rodino Act.

The transaction in question involves the formation of a joint venture in the form of a limited partnership in which GP is to be the general partner, with LP1 and LP2 as limited partners. GP is a corporation, LP1 is a limited partnership affiliated with GP, and LP2 is a testamentary trust (and the beneficiaries of that trust) with no affiliation to either GP or LP1.

LP2 currently holds 200 of the 500 outstanding shares in a private Corporation X with no established market value. The parties value those shares, in the venture, at approximately $84 million. LP2 will become obligated at some point in the near future to pay as much as $45 million in estate taxes on the estate of which these shares form a part. LP2 also holds claims against Y, the majority shareholder of Corporation X, for various breaches of Y's fiduciary duties as majority shareholder which effect the value of the shares.

GP, LP1 and LP2 intend to form a partnership for the purpose of seeking to enhance the value of the 200 shares, by the pursuit of LP2's claims and other steps that may effect control of Corporation X. In forming the partnership, LP2 will contribute to the partnership all of its Corporation X shares and its claims against Y, and GP and LP1 will contribute $17 million in cash. Later, when LP1's estate taxes come due, GP and LP1 will contribute another $55 million. LP1 will be entitled to withdraw

$70 million of this $72 million, subject to certain conditions. The remaining $2 million of the initial contribution by GP and LP1 will be retained by the partnership to cover expenses associated with the pursuit of the claims.

Following its formation, the partnership expects to pursue LP2's claims against Y. It is essential to GP and LP2 that they form a partnership with LP1, rather than simply purchase LP2's shares in Corporation X, in order to be assured of LP2's cooperation in pursuit of the claims, including LP2's standing in any litigation. The partnership agreement will provide that if the pursuit of claims is successful, or if either GP or LP1 is otherwise successful in liberating the shares from the burdens imposed by Y and Corporation X, GP and LP1 will contribute an additional $10 million to the partnership, which LP2 will also be entitled to withdraw.

The partnership agreement will further provide that GP and LP1 will be entitled to 80% and LP2 the other 20% of any gains attributable to the venture. If the partnership is dissolved without a sale of the shares of Corporation X, LP2 will be entitled to receive 20% of the shares in Corporation X that it originally contributed; GP and LP1 will be entitled to the remaining partnership assets.

You confirmed that the formation of the partnership and the transfer by LP2 of its shares in Corporation X to the partnership in connection therewith, assuming that the facts are as I outlined them above, are not reportable events under the HSR Act.

Please do not hesitate to call me if you have any questions or wish to discuss this matter further.

Sincerely,

[redacted]

OK
Wayne E Kaplan
4/11/88