

Dear Mr. Kaplan:

I write to confirm our telephone conversation today, concerning the reportability under the Hart-Scott-Rodino Antitrust Improvements Act of a transaction which I outlined as follows:

A group of investors consisting of individuals in management along with one outside entity have formed a new corporation for the purpose of acquiring 100% of the voting securities of Company (a \$100 million person). The acquisition is to be accomplished in two stages. First, the acquisition is to be accomplished in two stages. First, the acquisition is to be accomplished in two stages. First, the acquisition is to be accomplished in two stages. First, the acquisition is to be accomplished in two stages. First, the acquisition of Company shares which, it can be assumed, will result in acquiring control of Company. Sufficient financing has been arranged to allow the buy the tendered shares. At the second stage, and Company will merge, and any untendered shares will be cashed out. At this point, the surviving entity will borrow funds substantially in excess of those needed to finance the acquisition of Company; these amounts will be well in excess of \$10 million and will not be borrowed until the closing ot the merger.

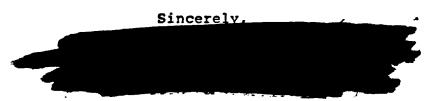
We understand that the acquisition of Company by the state of the second second

As to whether the formation of series is reportable under \$801.40, the question we discussed is whether

has at least \$10 million in assets valued according to \$801.40(c). You explained that for purposes of \$801.40(c)(1), the full face value of financing for which agreements have been secured is not included in valuing the "assets" of the new corporation. Rather, the parties are to estimate the economic value of having secured those credit agreements. Assuming that the financing is at market rates and that there are no other unusual circumstances, you pointed out that it is highly unlikely that this value would approach \$10 million. Assuming this to be the case, the requirements of \$801.40(b) are not met and the formation of not reportable.

I would appreciate your letting me know if this is contrary to you recollection of our conversation.

Thank you for your assistance.



Wayne Kaplan, Esq.
Premerger Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
Washington, DC 20580

VIA FEDERAL EXPRESS

Rille is mearrest. For 801.40()

the full face value of financing is
included: It is not incerted for
801,11(e) where it is taken claives
often the acquisition.
Waips Kaplan
1/28/88