

March 6, 1989

Federal Trade Commission
7 Pennsylvania Avenue, N.W.
Room 301
Washington, D.C. 20580

Attention: Mr. Victor Cohen

Gentlemen:

This letter is to confirm the advice which you gave to us in our telephone conversation today regarding the Federal Trade Commission's position with respect to the raw land exemption under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "Act").

As discussed, a client of this firm is a U.S. trust with assets of approximately \$8 million. Our client has agreed to purchase approximately 7000 acres of raw land which is zoned agriculture from a U.S. corporation which, we understand, has assets in excess of \$10 million. The purchase price is \$20 million cash. We understand that the land has been used from time to time for pasture and for raising honey bees.

Further, in a transaction to close simultaneously with the first transaction, our client will convey the property to a purchaser from Japan (the purchaser will either be a Japan corporation or an American subsidiary of a Japan corporation) for \$33 million cash. The Japan buyer, we understand, has assets in excess of \$100 million.

The question we raised with you was whether the Federal Trade Commission considers the transactions described above to be subject to the reporting requirements of the Act.

You advised us that the transactions as described above would fall under the raw land exemption under Section 802.1 of the Federal Trade Commission's Rules. Your advice was based upon the 7000 acres being non-income producing property. You further stated that if the property was partially income producing, so long as less than \$15 million of the purchase price could be reasonably and properly allocated to the income producing portion of the property, the transaction would not meet the Federal Trade Commission's size of the transaction test and, therefore, would not be subject to the reporting requirements of the Act.

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Mr. Victor Cohen
March 6, 1989
Page 2


We also explained to you that the Japan buyer may (although we do not have specific information in this regard) develop the property with a resort hotel, golf course and/or a shopping center. We asked whether the eventual development of the property in this fashion would vitiate the raw land exemption. You advised that it would not, and that the key consideration is the character of the land at the time of the transaction i.e., is it non-income producing at the time of the sale and purchase.

It is our understanding that the advice of the Justice Department's Antitrust Division need not be sought regarding the matters described above since it follows the Federal Trade Commission's advice on such matters.

The parties would like to consummate the above-mentioned transaction in the near future. Therefore, if you are unable to concur with any part of the foregoing summary of our telephone conversation, or if you have any further comments bearing on the Federal Trade Commission's position on this proposed transaction, we would appreciate it if you would contact us by March 13, 1989.

Thank you for your assistance.

Very truly yours,

A large, solid black rectangular redaction box covering the signature and name of the sender.

bcc: 