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801.10

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

November 30, 1990

Mr. Patrick Sharpe  
Premerger Notification Office  
Bureau of Competition  
Room 303  
Federal Trade Commission  
Washington, D.C. 20580

This material may be subject to  
the confidentiality provision  
Section 7A (b) of the  
which restricts disclosure  
Freedom of Information Act

Re: [REDACTED] Premerger Notification  
Compliance under Hart-Scott-Rodino Act

Dear Mr. Sharpe:

This letter is to confirm my understanding pursuant  
to our discussion by telephone on Monday, November 19, 1990,  
and our further discussion on November 30, 1990. Since our  
discussion, we have obtained additional facts regarding the  
contemplated second transaction. This letter sets forth the  
facts as obtained from our client, [REDACTED]

I. FACTS

The real property proposed to be acquired by [REDACTED]  
for approximately \$28.5 million ("Property A") includes land,  
consisting of a portion of land which has been paved and left  
open. On another portion of the property are two buildings,  
one of which is used entirely as office space. Part of the  
second building has been converted into and is used as office  
space. The remaining part of the building is used as a  
warehouse by the contractor pending conversion of the building

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into office space. Parking spaces are also available in the office buildings. The use of the property is summarized below:

<u>Summary of Leaseable Property</u>		<u>Percent of Leased Area</u>	<u>Percent of Rental Income</u>
Office	113,608	25.84%	60.28%
Warehouse	78,972	17.96%	18.96%
Parking	213,440	48.55%	19.65%
Rear Yard	<u>33,626</u>	<u>07.65%</u>	<u>01.11%</u>
TOTAL	439,646	100.00%	100.00%

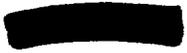
When the conversion of warehouse to office is completed, the projected rentable areas will be as follows:

Office Space	153,370 square feet
Warehouse Space	65,622 square feet
Roof Deck	
Parking Space	<u>263,428</u> square feet
TOTAL	482,420 square feet

 is also contemplating acquisition of an adjoining parcel of real property from a different owner for a purchase price of \$5.5 million ("Property B"). The property is used as a warehouse. Property B is owned by two parties as tenants in common, a limited partnership on the one part and two individuals on the other part. The two individuals are the owners of Property A and together own 52% of Property B.

The parties are still in the process of negotiating the sale and purchase and the price may be adjusted pursuant to those continuing negotiations.

The contemplated transactions described above are real property transactions. Purchaser intends to continue the development of the property originally begun by the seller of the property. The transactions are not structured for the



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purpose of avoiding reporting requirements under the Hart-Scott-Rodino Act (the "Act").

## II. DISCUSSION

Based on rental income attributable to non-office use, the value of the non-office function of the property would be approximately 39.72%. If this percentage is then applied to the purchase price of \$28.5 million, the value of the property attributable to non-office use would be \$11,320,200. Since the areas used for functions other than office or residential use are valued at \$15 million or less, it is our understanding that the contemplated acquisition of Property A would be exempt from the requirements of the Act.

However, if [REDACTED] were to also purchase Property B for \$5.5 million, and the percentage of Property B owned by the Owner of Property A is applied to the purchase price, the value of Property B attributable to the same owner would be \$2.86 million. This amount, even if aggregated with the value of Property A which is not exempt, still be below the threshold of \$15 million as an acquisition from the same party.

## III. CONCLUSION

Under the facts set forth above, the transaction involving the acquisition of Property A would be exempt and [REDACTED] would not be required to file a Notification and Report Form.

Furthermore, even if the value of the non-exempt portion of Property A were aggregated with the value of that portion of Property B owned by the same owner as Property A, the value of the transaction would fall below the jurisdictional requirements of the Act.

Accordingly, the transactions are not subject to the requirements of the Act and no premerger notification will be required by the parties.

This letter is being sent to confirm that our understanding of the reporting requirements under the Act as

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set forth above is correct. If our understanding is not correct, we request that you please let us know as soon as possible.

Although the transaction is still under negotiation by the parties, providing that no premerger Notification filing is required, the parties would like to schedule closing before the end of December, 1990.

I will be out of town next week, but expect to be back at my office on Friday, December 7, 1990. Your response by then will be deeply appreciated. If it is determined that filing is necessary, or if further information is required, please contact my colleague, [REDACTED]

Thank you very much for your continuing assistance in this matter.

Sincerely yours,  
[REDACTED]

cc: [REDACTED]

I concurred  
called [REDACTED]  
12-12-90

(PS)