

[REDACTED]

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[REDACTED]

March 9, 1995

[REDACTED]

Mr. Jeffrey Kaplan  
Federal Trade Commission  
Sixth and Pennsylvania Avenue, N.W.  
Room 303  
Washington, DC 20580

(cc) (4) [unclear]  
in HSR Act

RE: Hart-Scott-Rodino Inquiry

Dear Mr. Kaplan:

AD

You and I have spoken on a couple of occasions regarding a potential transaction I am working on in [REDACTED]. As I read the regulations, I believe the transaction is exempt from the notification requirements of the Act because one of the entities involved would appear to qualify as a governmental entity. That entity is a city hospital authority created pursuant to [REDACTED] statute. I have discussed with you the make-up of the Board of Directors of this entity and you had asked me to provide you with a written description for the means of appointment of the Board of Directors. Attached is that description.

Please let me know if this description does not meet your requirements. If the description is acceptable, could you give me an informal opinion as to whether this transaction is exempt because one of the entities involved qualifies as a government entity? I understand that the commission no longer provides formal written opinions.

I look forward to your response.

Sincerely,

[REDACTED]

Enclosure

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The Subject Authority was created pursuant to the terms of the Hospital Authority Act, [REDACTED] (the "Act") by resolution of a city council in [REDACTED]. The Board of Directors of the Subject Authority (the "Board") is subject to Subchapter B of the Act. Specifically, the Board is to have at least seven and not more than 11 members. See Section [REDACTED]. The Subject Authority has 11 directors and has had 11 directors since its inception. Section [REDACTED] provides that the governing body (in this case the city council) shall appoint the directors of an authority to a term not to exceed two years. The original directors of the Subject Authority were appointed by the city council subsequent to the formation of the Subject Authority and pursuant to the Resolution Authorizing the Issuance of Revenue Bonds and Section [REDACTED] of the Hospital Authority Act the method of selecting the majority of directors and the term of office of those directors was amended to provide that five directors would continue to be appointed by the city council and six directors would be appointed by the Board.

Pursuant to such resolution the directors of the Subject Authority determined by lot which of their members were to be counted among the six member majority of the board which would be self-perpetuating. Those six members then divided themselves into classes who terms expire in alternate years. The successors to the self-perpetuating six members of the Board are chosen by the existing Board by majority vote.

The current Board is composed of five members that are appointed by the city council and six members that are chosen by the Board.