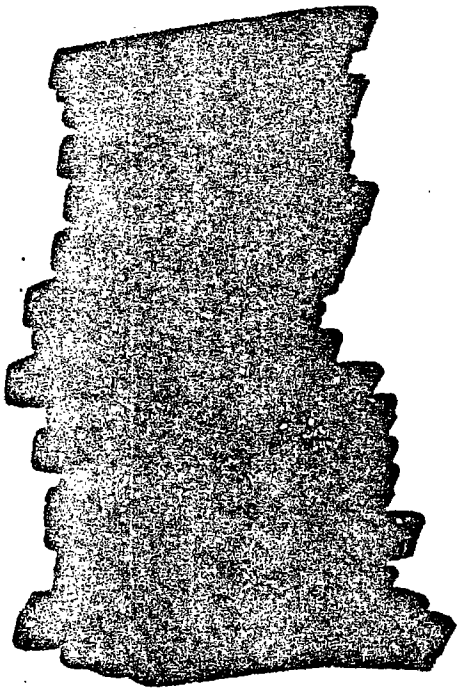

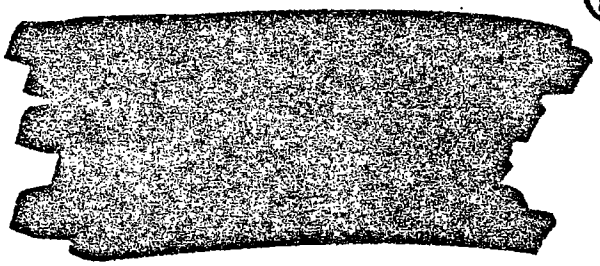

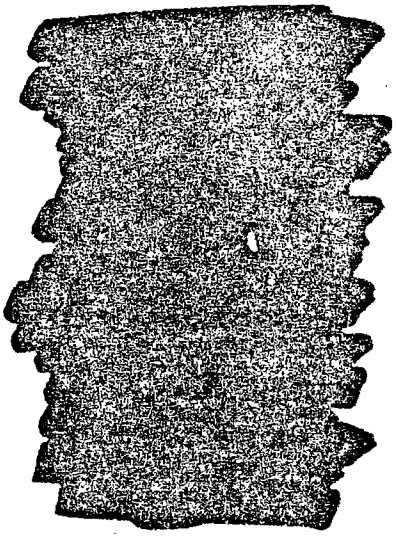

June 18, 1986

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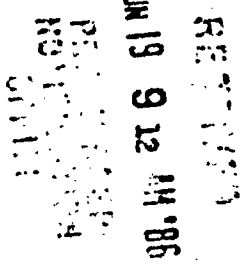

VIA MESSENGER

Linda Heban, Esq.
Premerger Notification Office
Bureau of Competition
Federal Trade Commission
6th & Pennsylvania Avenue, N.W.
Room 303
Washington, D.C. 20580

Dear Ms. Heban:

Pursuant to our telephone conversation on Friday, June 6, I would like to describe the facts applicable to my client's situation. I would be grateful if you could confirm our view that, as to these facts, no joint venture would be formed that would necessitate the filing of a premerger notification report under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "Act").

1. In early April of 1986, A and B agreed in principle (the "Agreement in Principle") to cooperate in pursuing a possible acquisition of substantially all of the assets of a subsidiary of a publicly-held corporation ("Target"). Target has sales slightly in excess of $100 million and assets of less than $75 million. Although A has a non-binding oral commitment from Target's parent to sell Target's assets to A (or an entity organized by A for the purpose of effecting the acquisition),no letter of intent or

definitive agreement with respect to such acquisition has been signed. Thus, it is not clear that the acquisition will ultimately be consummated.

2. In the middle of May, A formed Acquisition Corp. ("Newco") acquiring 100% of its common stock at that time, as contemplated in the Agreement in Principle. A paid $5,000 at that time, and committed to pay an additional $495,000 at the closing of the proposed acquisition of Target's assets. At the same time, B committed to arrange financing for Newco to be used in acquiring Target's assets. A and B intend to effect an acquisition of Target's assets through Newco.

3. At some time prior to the proposed closing of Newco's acquisition of Target's assets, B will purchase an amount of Newco's common stock equal to that previously purchased by A for $500,000, and may at that time also purchase up to $1,500,000 of Newco's preferred stock.

4. Immediately prior to the closing of the acquisition of Target's assets, certain members of Target's management ("Management") will purchase shares of Newco common stock representing in the aggregate approximately 10% of the outstanding shares of the common stock of Newco such that roughly 10% of Target's common stock will be owned by Management at the time Newco purchases Target.

5. If agreement as to the acquisition of Target is reached with Target's parent, A and B hope to complete the acquisition of Target in September of 1986 for approximately $76 million, partially financed (if necessary) by funds committed to such acquisition by B.

We submit that, under these facts, and for the reasons discussed below, Newco is not a joint venture, the formation of which would require a filing under 16 C.F.R. § 801.40.

The terms "joint venture" or "formation" are not defined in the Act or in the Regulations pertaining to that Act. We therefore interpret the meaning of those words at their "plain meaning," i.e., incorporation of an entity with joint shareholders as of such entity's origin. By contrast, Newco has had an independent existence since May 1986 with only one shareholder. It is not clear now (as it was not clear then) that the acquisition of Target will take place, and that,

therefore, B or Management will purchase any of Newco's stock. B's financial commitments are totally conditional on the ultimate acquisition of Target. As Newco's only purpose is to effect the acquisition of Target, Newco would only seem to "affect commerce" under § 7A(a)(1) of the Act if that acquisition were effected. Assets committed to Newco will only be of significance in the event the closing takes place, and will flow only at that time and to Target's parent. Hence, the formation of Newco can best be characterized as follows:

(i) Newco when formed is a wholly-owned subsidiary of A, not requiring a filing under the Act.

(ii) B and Management will acquire shares in Newco, as separate acquisitions under 15 U.S.C. § 18a(A); and

(iii) The financing arranged by B for the acquisition of Target should be treated as "transitory financing" in the context of that acquisition, and not as an asset of the joint venture. ?

For all these reasons, Newco should not be regarded as a joint venture, and the various parties should only be subject to filing requirements, if at all, to the extent that 15 U.S.C. § 18(a)(A)2 and 15 U.S.C. § 18A(A)(3) would be satisfied as part of B's (and Management's) acquisition of shares in Newco.

Although our timing is not as yet critical, we would appreciate hearing from you in the next two weeks if possible. We appreciate this opportunity for hearing your views on this matter.

Yours sincerely,

[redacted]

[redacted]

6/30/86 Spoke w/ [redacted]
Transaction must be treated as formation of joint venture within meaning of 801.40