

ABA # 296

May 16, 2000

**BY TELECOPY TO (202) 326-2624**

Michael Verne  
Federal Trade Commission  
Premerger Notification Office  
Bureau of Competition, Room 303  
6th and Pennsylvania Avenue  
Washington, D.C. 20580

Re: Proposed Transaction

Dear Mr. Verne:

The purpose of this letter is to confirm our agreement regarding the position of your office with respect to the formation of a holding company to own the stock of a corporation the acquisition of which has previously been granted early termination and to provide you with a description of a transaction contemplated by our client, the acquired party, as well as

additional information, my direct telephone number is

Sincerely,

**TRANSACTION DESCRIPTION**

[REDACTED]

[REDACTED] each owned by the above shareholders in the same percentage. [REDACTED]

Regulations [REDACTED] is not a "\$10 million return" under the Regulations. [REDACTED]

[REDACTED] is the ultimate parent entity of [REDACTED]. [REDACTED] have entered into a letter of intent providing for the purchase of [REDACTED]. [REDACTED] filed Premerger Notification and Report Forms with respect to the purchase. The filings were assigned Transaction Identification Number [REDACTED] by the Premerger Notification Office. The applicable waiting period commenced on March 31, 2000, and early termination of the waiting period was granted effective April 11, 2000.

It is contemplated that [REDACTED] will expand the areas in which they conduct their operations. In that event, management believes that a holding company would be the preferable organizational form, with separate subsidiaries for the separate states in which operations will be conducted. It is believed that such a structure will simplify administrative, operational and tax issues.

Approximately 12 shareholders own approximately 80% of each of [REDACTED] (the "Majority Shareholders"), and approximately 50 shareholders own the approximately remaining 20% (the "Minority Shareholders"). It is contemplated that the [REDACTED] shareholders will [REDACTED]

[REDACTED]

receive consideration of cash and [REDACTED] stock. It is also contemplated that the selling shareholders will have to make certain representations and warranties in which indemnification will be made that

ownership of the [REDACTED] stock).

As a result of the foregoing, it is proposed that a Delaware corporation be formed to serve as a holding company for [REDACTED] Holding"). Prior to the purchase by [REDACTED] the shareholders [REDACTED] would sell their stock in [REDACTED] Holding to

ownership of the [REDACTED] and possibly the acquisition of a minority of the Holding stock as described below. Because of the identical percentage ownership of [REDACTED] the shareholders would own Holding stock in the same percentages as they currently own [REDACTED]. This would accomplish the business purpose of the preferable organizational form. [REDACTED] would purchase the stock of Holding rather than the stock of [REDACTED] the stock of [REDACTED]

To the extent that one or more of the Minority Shareholders do not readily agree to the terms

per share as the cash and stock consideration to be paid by [REDACTED] with limited representations and warranties, for the purpose of facilitating the purchase by [REDACTED]. Regardless of the number of

parent entity.

**QUESTIONS**

Will the acquisition by Holding of [REDACTED] and the [REDACTED] as described

subsequent acquisition of Holding by [REDACTED] require a new filing under the Act or the Regulations?

**OUR UNDERSTANDING**

The acquisition of the [REDACTED] stock by Holding is an exempt transaction

likewise an exempt transaction because there is no "\$100 million person." [REDACTED] has filed with respect to the acquisition of [REDACTED] and early termination has been granted. [REDACTED] did not need to file with respect to the acquisition of [REDACTED] because [REDACTED] not a "\$10 million person." It is our

and [REDACTED] from individual shareholders to Holding for purposes of the Act and the Regulations because there has been a filing with respect to the substance of the transaction and early termination has been granted with respect to that filing.

Based on the foregoing, it is our understanding that neither the acquisitions of Holding as described above nor the acquisition of Holding by [REDACTED] will require a new filing under the Act or the Regulations.

[REDACTED] -3-  
AGREE - NO NEW FILING IS REQUIRED.

B. [REDACTED]  
5/17/00