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FEDERAL  
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DIVISION

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May 27, 1987

Victor Cohen, Esq.  
Premerger Notification Office  
Bureau of Competition - Room 303

Washington, D.C. 20580

Section 7A (b) of the Act, which restricts release of the

This letter constitutes our request (as discussed with you in a recent telephone conversation) for an informal response from the Commission staff pursuant to Section 803.30 of the rules under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "Act") confirming our conclusions that no filing under the Act is required for consummation of the transaction or for the related formation of a joint venture corporation, each as

in the proposed transaction will be a joint venture corporation newly-formed solely for that purpose and no person (within the

The proposed transaction consists of the simultaneous  
each of which is engaged in  
general type of business. In every instance, approximately ninety-eight percent (98%) of the outstanding voting securities of each of such corporations is owned by a single individual. Accordingly, this individual is the sole acquired person (within

May 29, 1987  
no filing is required as follows indicated by parent

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Subject to verification, it is believed that the  
million dollars (\$20,000,000), but will not exceed one hundred  
million dollars (\$100,000,000).

The total purchase price in the proposed transaction is approximately thirty six million dollars (\$36,000,000), payable as follows: (i) the sum of six million dollars (\$6,000,000) by means of the newly-formed joint venture corporation's subordinated notes in the amount payable to the shareholders of the corporations being acquired; (ii) the sum of twenty million dollars (\$20,000,000) in cash to be paid to the shareholders of the corporations being acquired, which amount will be obtained immediately prior to the transaction from a lending bank in a transaction for which the acquiring person will pay no consideration to the lending bank other than ordinary and customary interest charges and other lending fees; and (iii) the additional sum of ten million dollars (\$10,000,000), also in cash, to be paid to the shareholders of the corporations being acquired.

notes. Except for the components of the purchase price as described above, the total assets of the acquiring person immediately prior to the proposed transaction will be substantially less than ten million dollars (\$10,000,000).

We have concluded that the proposed transaction does not require a filing under the Act since it fails to meet the "Net Sales or Total Assets" test due to either or both of the

following reasons (i) neither the acquiring person nor the acquired person (subject to verification) will have annual net sales or total assets of one hundred million dollars (\$100,000,000) or more, or (ii) if the annual net sales or total assets of the acquired person meet or exceed one hundred million dollars (\$100,000,000),

formed joint venture corporation. The three (3) shareholders who will form the joint venture corporation and their related contributions to and pertinent transactions with the joint venture corporation are as follows:

Shareholder A is a limited partnership which

venture corporation in exchange for one hundred eighty-seven thousand five hundred dollars (\$187,500) in cash and will receive fifty per-

non-voting preferred stock in exchange of seven hundred fifty thousand dollars (\$750,000) in cash. Shareholder A also will loan ten million dollars (\$10,000,000) to the joint venture corporation in exchange for that corporation's thirteen percent (13%) Senior

venture corporation's seven (7) directors. It is believed that Shareholder A has total assets in excess of one hundred million dollars (\$100,000,000).

Shareholder B consists of a principal partner

further investigation, to be a single person within the meaning of the Act) which will receive, in the aggregate, thirty-seven and one-half (37.5%) of the joint venture corporation's voting securities in exchange for one hundred eighty-seven thousand five hundred dollars (\$187,500) in cash and will receive, in the aggregate, fifty percent (50%) of the joint venture corporation's non-voting preferred stock in exchange for seven hundred fifty thousand dollars (\$750,000) in cash. Shareholder B will obtain the right to appoint two (2) of the joint venture corporation's seven (7) directors. Shareholder B has total assets, subject to verification, in excess of ten million dollars (\$10,000,000).

Shareholder C is an individual who will receive twenty-five percent (25%) of the voting securities of the joint venture corporation in exchange for one hundred twenty-five thousand dollars (\$125,000) in cash. Shareholder C will obtain the right to appoint three (3) of the joint venture

total assets and annual net sales of Shareholder C are as yet not determined.

[REDACTED]

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We have concluded that even if it is finally determined that Shareholder B is a single person (within the meaning of the

more, the formation of the joint venture corporation will, never-

to section 601.10 of the rules under the Act, in excess of fifteen million dollars (\$15,000,000). (See Statement of Basis and Purpose, 43 FR 33491, July 31, 1978).

We would greatly appreciate your informal response confirming as correct the foregoing conclusions concerning the formation of the joint venture corporation.

Since it is very important that the closing for the proposed transaction take place as soon as possible, we

for your assistance in this matter.

Very truly yours,  
[REDACTED]

[REDACTED]

[REDACTED]