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November 11, 1987

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John M. Sipple, Jr., Esq.  
Federal Trade Commission  
Emergence Notification Office

Re: Acquisition of Voting Securities of

Dear Mr. Sipple:

requests that the  
Federal Trade Commission ("FTC") investigate a potential  
violation of the Hart-Scott-Rodino Act ("H-S-R Act") in

On October 29, 1987, [redacted]  
[redacted] filed a Schedule 13D with the Securities  
and Exchange Commission disclosing their acquisition of  
2,100,000 shares of [redacted] stock valued in excess of  
\$91,000,000. (A copy of the Schedule 13D is attached as  
Annex 1 hereto.) [redacted] had been acquired  
through open-market purchases made without reporting under  
the H-S-R Act. On November 2, 1987, [redacted] filed  
a Schedule 14D-1 in connection with its offer to purchase

The purchases [redacted] and the Tender

[redacted]

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only business purpose is to act as general partner of [REDACTED] Pursuant to the Agreement of Limited Partnership of [REDACTED] (the "Partnership Agreement") (attached as Exhibit 6 to the Schedule 13D), the general partners "exercise full and exclusive control over the business and affairs of the Partnership." (Partnership Agreement, Article IV, at 9-12.) Moreover, in the Schedule 13D, [REDACTED] discloses that "By virtue of his position as a general partner of the Partnership and as controlling person of [REDACTED] directly has the power to vote and to dispose or direct the disposition of the [REDACTED] [REDACTED]

Similarly, the Offer to Purchase filed as an exhibit to the

section 9, at 11.) In addition, [REDACTED] obtain the benefit of an increase in, and bear the risk of loss of, the value of the Singer shares purchased by Bilgers

profits and losses of the partnership.\* (Partnership Agreement, Article III, at 7-8.)

For R-S-K Act purposes, [REDACTED] the "beneficial owner" of [REDACTED] shares held [REDACTED] and will be the beneficial owner of [REDACTED] shares acquired [REDACTED]

[REDACTED] or [REDACTED] is a limited as well as a general partner. Other disclosure defects with respect to [REDACTED] proposed acquisition [REDACTED] are detailed [REDACTED]

[REDACTED]

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in the Tender Offer, irrespective of whether [redacted] is deemed to control the partnership. Under the H-S-R Act a person holds voting securities if that person is the benefi-

The rules do not contain a definition of 'beneficial ownership.' Instead, the existence of beneficial ownership is to be determined in the con-

tain the benefit of any increase in value of dividends, the risk of loss of value, the right to vote the stock or to determine who may vote the stock, the investment discretion (including the power to dispose of the stock).

(43 Fed. Reg. 33,450, 33,458 (July 31, 1978).)

As general partners, [redacted] possess all of the indicia of beneficial ownership of the [redacted]

[redacted] reported purchases of [redacted] shares and its stated intention not to file premerger notification in connection with the Tender Offer (Offer to Purchase, Section 15, at 29) raise serious questions under the H-S-R Act. Under the H-S-R Act [redacted] had he acquired the [redacted] on [redacted] the Tender Offer directly

[redacted] however, [redacted] but complying with the H-S-R Act [redacted] already obtained the right to vote

\* The FTC has previously applied the principle of [redacted] independent of the concept of control in challenging the use of the put-call ar-

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securities and the right to share significantly in the increase in value of the [REDACTED] that will result from [REDACTED] exercise of the investment discretion he has

block [REDACTED] voting securities provided [REDACTED] with a springboard to launch the Tender Offer [REDACTED]

through the Tender Offer [REDACTED] is proposing to acquire all of the outstanding shares of [REDACTED] without complying with the H-S-R Act. Some analysts believe "that [REDACTED] aim was to elicit a higher bid [REDACTED] make a big profit on the 9.99 percent he already owns."

[REDACTED] Otherwise, if the Tender Offer is successful [REDACTED] unilaterally, will be in a position to accomplish a merger [REDACTED] and dispose of a substantial portion [REDACTED]

[REDACTED] has already violated the H-S-R Act by acquiring beneficial ownership of more than \$15,000,000 of [REDACTED] voting securities in nonexempt transactions [REDACTED] will continue to violate the H-S-R [REDACTED] to acquire beneficial ownership of [REDACTED] shares through the unreported Tender Offer. In both of the above situations [REDACTED] acquisition of beneficial ownership [REDACTED] securities is [REDACTED]

\* Prior [REDACTED] filing of the Schedule 13D on October [REDACTED] were trading at \$32.25 [REDACTED]

\*\* On November 2, the day the Tender Offer was announced [REDACTED]

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contravention of the H-S-R Act independent of whether he controls [REDACTED]. (Rule Section 801.1(c).)

purpose of avoiding obligations under the H-S-R Act. The recent amendments to the Rules concerning acquisitions made by partnerships state that a partnership used as an avoid-  
~~ance device will be disregarded when, for example, "~~  
persons might be tempted to make an acquisition through a partnership for the purpose of avoiding reporting or delay-  
ing their premerger notifications to the antitrust agencies until they were required by the federal securities laws to announce their acquisition publicly." (52 Fed. Reg. 20058, 20060 (May 29, 1987).)

In the instant case [REDACTED] appears to have [REDACTED] in the very way prohibited by the FTC. Through [REDACTED] was able to accumulate secretly the maximum amount [REDACTED] (i.e. 9.9%) before confronting the provisions of the federal [REDACTED]

Purchase, Section 12, at 22-24 for a further discussion of [REDACTED]

In addition, [REDACTED] to have been [REDACTED] business purpose for using [REDACTED] to acquire [REDACTED] shares or make the Tender Offer as [REDACTED] would appear to have been in a position to have done either directly. For example, [REDACTED] is personally involved in certain financing agreements associated with the Tender Offer. First, [REDACTED] are the sole general partners of a second partn[REDACTED]

Pursuant to the terms of the Tender Offer, [REDACTED] has committed to provide \$150,000,000 of the financing for the Tender Offer.

[REDACTED] made by [REDACTED] as the sole general partners of both [REDACTED] are responsible for funding approximately 22%

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of the total purchase price necessary for acquiring all of [redacted] securities. Seco [redacted] personally, and [redacted] have entered into a commitment letter with National Westminster Bank USA ("NatWest") [redacted]

ing for the Tender Offer [redacted] is personally obligated, along with [redacted] to fulfill the conditions of the commitment letter with NatWest. (Offer to Purchase, Section 10, at 13-16. [redacted] so has entered into a letter commitment with [redacted]

[redacted] in connection with Tender Offer financing.  
(Offer to Purchase, Section 10, at 15.)

nerships to accomplish the acquisition of [redacted] calls into question whether [redacted] intent was to avoid complying with the obligations of the H-S-R Act.

[redacted] use [redacted] to acquire beneficial ownership of 9.9% [redacted] securi-

dition without reporting under the H-S-R ACT cries out for FTC scrutiny. Thus [redacted] respectfully requests that the

If you have any questions or require any further information, please feel free to call me.

[redacted] Yours,

cc: Senator Howard Metzenbaum