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This letter is
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the
Process of Information
April 1, 1988

BY HAND

Wayne E. Kaplan, Esq.,
Federal Trade Commission,
6th and Pennsylvania Ave., N.W.,
Room 315,
Washington, D.C. 20540

By this letter I request confirmation of advice
you conveyed to me by telephone on February 3, 1988
regarding the reportability of a transaction under the
Hart-Scott-Rodino Act. The transaction, as described to you as follows:

Company A will contribute a
newly-developed, 600-room
newly opened hotel, and related assets
("the property development") to a
newly-formed partnership in exchange for

Company B will contribute
\$56.5 million to the partnership in
exchange for the other 50 percent
interest. Shortly after formation of
the partnership, Company A will receive
a cash distribution from the partnership
of approximately \$56 million. However,

* Company A and Company B are both \$100 million persons
within the meaning of Section 7A(a)(2).

Wayne E. Kaplan, Esq.

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it will continue to own a 50 percent interest in the partnership.*

I reasoned that under the Premerger Notification Rules, the formation of a partnership is not a reportable event. See, e.g., 43 Fed. Reg. 33,487 (July 31, 1978). Similarly, the distribution of cash from a partnership is not reportable. Although the proposed transaction is not

\$ 801.90.

You advised me that the staff had considered this issue in connection with last spring's letter changes

but that position was ultimately rejected. You said the staff had decided that filings in these circumstances were unnecessary for two reasons: 1) most transactions involve real estate or other kinds of partnerships that raise no antitrust issues; and 2) a filing is required if one partner buys out the other.

I will continue to rely on your prior advice that the above-described transaction is not reportable unless I hear from you to the contrary prior to April 13. Please do not hesitate to call me if you have questions about this transaction or if you have understood your advice in any way.

Thanks again for your attention to this matter.

Sincerely,

* We did not discuss whether the transaction might be exempt as a transaction in the ordinary course of business.

Confirmed that the 1987 amendment to the control rule did not change the position in § 801.40, i.e., that the formation of noncorporate joint ventures are not reportable under the control rule. As