

July 21, 1988

Mr. Wayne Kaplan
Premerger Notification Office
Bureau of Competition, Room 303
Federal Trade Commission
6th St. & Pennsylvania Avenue N.W.
Washington, D.C. 20580

Dear Mr. Kaplan:

This letter will serve to confirm certain informal

Rule 801.1(b) as it relates to a contractual power to designate directors contained in a voting agreement among stockholders. The facts are as follows:

Corporation A ("A Corp") is a corporation organized under the laws of a state of the United States. None of the five

have entered into a voting agreement pursuant to which one of such holders [redacted] has the right to designate two of the five members of the board of directors of A Corp and the other four holders, comprised of four individual members of management [redacted], have the right by mutual agreement among themselves to designate another two of the five directors. Under the voting agreement, the remaining fifth director is designated by [redacted] acting jointly, i.e., both [redacted] must agree as to the identity of the fifth director.

The question I posed to you was whether Institutional Investor would be considered to control A Corp under Rule 801.1(b)(2) by reason of the contractual rights conferred by the voting agreement. You advised me that [redacted] would not be deemed to control A Corp under that Rule. It was your view that [redacted] would not be viewed as

[redacted] shared with and subject to the veto of Management. As we also

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discussed, an arrangement such as that presented by this voting agreement is intended to limit the control of each party by ensuring that the "fifth" director is not the agent of any one of the parties.

If you have any further or different thoughts or advice on this question, please contact me.

Thank you for your assistance and attention to this matter.

Very truly yours,



ENC.

OK.
Wayne Kaplan
7/25/88

