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[REDACTED]

VIA EXPRESS MAIL

Premerger Notification Office  
Bureau of Competition  
Federal Trade Commission

This material may be subject to  
the provisions of Section 802 of  
the Federal Trade Commission Act  
which requires disclosure under the  
law of information Act

Dear Sirs:

I am writing to request an informal interpretation of the Hart-Scott-Rodino pre-merger notification rules, in particular of §7A(c)(1) of the Act and §802.1 of the Rules relating to acquisitions of realty transferred in the ordinary course of business.

Our client ("the Company") is [REDACTED] te

[REDACTED] It proposes to sell a package of voting securities and [REDACTED] to an investor. The transaction is essentially a means of financing for the Company, inasmuch as it intends (but will not be obligated) to re-

In the proposed transaction, the Company will sell to one or more institutional investors approximately [REDACTED], and will retain an option to repurchase such [REDACTED] Assets incrementally over

[REDACTED]

a four year period at a price that will include interest from the date of the sale. The Company intends to re-purchase the [REDACTED] [REDACTED] for [REDACTED] in its [REDACTED]

Concurrently with the [REDACTED] Assets sale, the Company will sell 150,000 Units to the same investor(s) [REDACTED]

Cumulative redeemable convertible preferred stock and 20 common stock purchase Warrants. The Preferred Stock, voting as a class, will be entitled to elect 20% of the Company's board members.

We believe that the proposed transaction is exempt from the requirements of the Act, whether engaged in by one or more investors, because (1) the acquisition of the [REDACTED] Assets is exempt under §7A(c)(1) and §802.1 as in the ordinary course of business, and (2) the sale of the Preferred Stock is exempt under §802.20 because its value [REDACTED]

follows:

[REDACTED] ated entity in a single transaction, it does sell [REDACTED] in the regular course of its business. Such [REDACTED] are considered by the Company and reported on its books as inventory; they are not income-producing assets. Furthermore, since the [REDACTED] Assets to be sold constitute only about 40% of the Company's inventory of such type of [REDACTED] inventory), §802.1(b) does not apply.

(2) The Preferred Stock. Even if the entire value of the Units is attributed to the Preferred Stock, and none to the Warrants, the value of the Preferred Stock under §801.10(a)(2)(i) is not in excess of \$15 [REDACTED]

Stock, on the possible theory that the [REDACTED] Assets' market value might be less than their acquisition price, because the [REDACTED] Assets will be conveyed at the Company's book cost which is below their market value.

[REDACTED]  
Premerger Notification  
Office

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August 29, 1988

We request an informal interpretation that in these circumstances no filing is required for the proposed transaction, including the Company's planned repurchase of the [REDACTED] Assets. If you have any questions or wish further information, please contact me. Thank you for your prompt attention to this matter.

Sincerely,

[REDACTED]

[REDACTED]

The writer was advised that the transaction involving the [REDACTED] might qualify as exempt under 217.1.2 as well as possibly

002.1.4  
person which does not [REDACTED] the [REDACTED]

The securities transaction is not reportable  
W. Kaplan  
8/30/88