

via Federal Express

Richard Smith, Esq.

- 2 -

January 27, 1989

You confirmed that the Commission's staff has as recently as December 1988 met and discussed ABA letter 90 and remains of the view that letter is correct and still expresses the view of the Commission's staff.

I explained that as a part of the process which leads to the final audited statements the company in the ordinary course of business prepares drafts of the annual statement of income and expense. The drafts may be made available to company management

pany. That review by the auditors can lead to changes in the company's annual net sales as shown in the final audited statement of income and expense. I explained that the company has operated in this way in the past. I asked if, in those circumstances, the staff concurred that, assuming there has been no

last document, the audited statement, which would constitute the "regularly prepared annual statement of income and expense" and that the draft statements would not be such a "last regularly prepared annual statement of income and expense." You stated,

I am writing this letter to confirm our conversation and ask that you promptly advise me if the staff disagrees with anything herein.

~~I thank you for your advice and cooperation~~

[Redacted signature block]

cc: [Redacted]

*stated [Redacted] office
agrees with the
Commission's
view*