

This material may be subject to the confidential (in provision of

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Room 303
Federal Trade Commission
6th Street & Pennsylvania Ave., N.W.
Washington, D.C. 20580

Dear Mr. Sharp:

This will confirm our telephone conversation of March 16, 1989, in which you advised me as follows:

1. Determination of what persons are "included within" an entity, for the purpose of determining whether that person should be consolidated with the entity under 16 C.F.R. § 801.11 (b) (1) in establishing "size of person," is to be made as of the date the transaction at issue is proposed to be consummated. Our client, "X," had control of a corporation, "Y," at calendar (and fiscal) year end because, although "X" owned less than 50% of the outstanding voting securities of "Y," "X" had the contractual right property to desire the restault with the contractual right property.

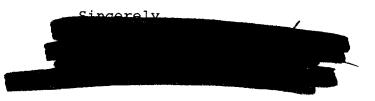
"included within" "X" under 16 C.F.R. § 801.11(b)(1), "X" would have had more than \$100 million in sales and assets after consolidation with "Y." "X" will have disposed, however, of all of its voting securities in "Y," and of its rights to designate directors of "Y," before the transaction at issue is consummated. After disposing of "Y," the only substantial assets "X" will have will consist of cash, in an amount substantially less than \$100 million. "Y" will have had no calculate than these made

2. The only "control" test applicable to a limited partner-

percent or more of the profits of the entity, or having the right in the event of dissolution to 50 percent or more of the assets of the entity"). The alternative test set forth in 16 C.F.R. § 801.1(b)(2) (right to designate a majority of directors or individuals exercising similar function in the case of unincorporated entities) is not applicable to limited partnerships.—as—

rights described in 16 C.F.R. § 801.1(b)(1)(ii) would therefore

report in reliance, in part, on this advice. If I have misstated or misinterpreted your advice, or if further information is



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