

June 6, 1989

## VIA HAND DELIVERY

Mr. Patrick Sharpe Federal Trade Commission Sixth & Pennsylvania Ave., N.W. Room 303 Washington, D.C. 20580

Dear Patrick:

This confirms our telephone conversation yesterday in which you advised that the following fact pattern does not create a filing requirement under the Hart-Scott-Rodino Act.

\*\*Materials Security\*\* all 5/2: \*\*Intelligence\*\* Act.\*\*

A & B are the only partners in 3 partnerships. A portion of B's interest in the partnerships was financed by a credit agreement with A. B is now suffering serious financial problems and is in default under the terms of the

credit agreement. B is also in default under the terms of the partnership agreements because gf its failure to pay its

As part of a bonz fide debt work-cut, A proposes to acquire B's interest in the 3 partnerships. A will then hold all of the interest in the partnerships. On occasion.

No aspect of the transaction, including the credit agreement, has been used as a device to avoid compliance with the Hart-Scott-Rodino Act.

Based on the foregoing facts, you advised that A's proposed acquisition of B's interest in the 3 partnerships would be exempt from the requirements of the Hart-Scott-

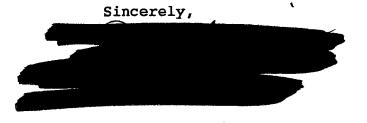
by Creditors.)

Note: It is at involved in Banking, Finance

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Please let me know whether the foregoing accurately states the view of the Premerger Office.

Thank you.



I advised to send in a letter concerning this matter because it seemed to me it should be open to discussion.

can only apply if it is in the ordinary course of business of the acquiring person (insurance, banking, finance companies). Yet, I seem to recall that Wayne Kaplan told me that section 802.63

bonafide-debt-workout. As a result, I gave the advice shown in the letter.

I think this advice is wrong. Section 802.63 should be read to mean just what was written. The transaction should be in the ordinary course of business. I think the rules and the statement of basis and purpose support this position. Please let me have your view on this matter.

called 6-89 and advised him to file under HSR The initial advice was wrong.