

contracts to purchase raw materials; I would

includes any premium paid to obtain the raw material January 3, 1991

Division of

Victor Cohen, Esq.
Premerger Notification Office
Room 303
Federal Trade Commission
Washington, D.C. 20580

Dear Mr. Cohen:

[redacted] as counsel for a prospective seller and I as counsel for a prospective buyer have discussed with you our question concerning the availability of the \$15 million Rule 801.20(a) exemption under the circumstances described below.

The seller will sell substantially all of its assets (including inventory) for cash of approximately \$11.5 million. In addition, the buyer will assume existing contracts to purchase certain raw materials used in seller's manufacturing processes and contracts to sell manufactured products to purchasers.

The raw materials contracts require payments by seller which in the aggregate exceed \$5 million and the manufactured

one price, process those materials, and sell them at a higher price. A portion of the purchase price to be paid by the buyer is allocable to these contracts, i.e., buyer views them as valuable assets. The contracts were entered into in the ordinary course of seller's business and specifically relate to the business that will be conducted by Buyer using the assets to be acquired.

The seller, which derives more than \$1 million in annual revenues from manufacturing operations, has total assets of less

Victor Cohen, Esq.
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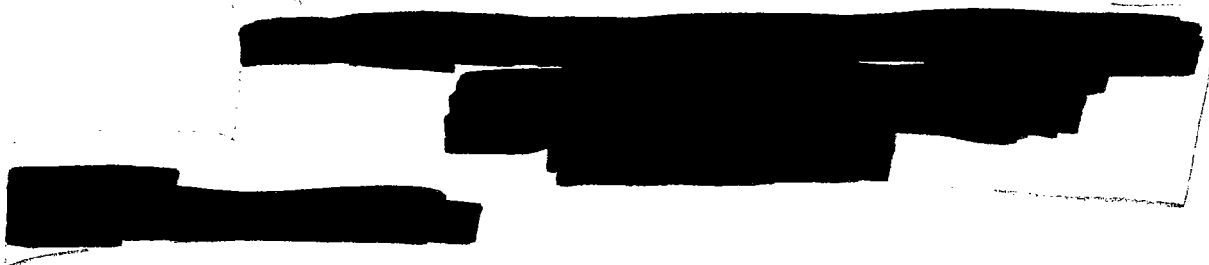
than \$10 million, but annual net sales exceeding \$10 million.
The buyer has both total assets and annual net sales in excess of
\$100 million.

We have each discussed with you the question whether the

to FTC Rule 801.10.

You advised that where the contracts in question are
~~ordinary course of business purchase and sale contracts related~~
to the assets being acquired and are valuable in and of
themselves, they would not be considered liabilities assumed for
purposes of determining the purchase price.

Very truly yours,

A large rectangular area of the document is completely redacted with black ink, obscuring the signature and any text that might have been present below the closing.