

802.63

[REDACTED]

[REDACTED]

[REDACTED]

May 16, 1991

Mr. Patrick Sharpe
Compliance Specialist
Pre-Merger Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
Sixth Street and Pennsylvania Avenue
Washington, D. C. 20580

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VIA FACSIMILE

Dear Mr. Sharpe:

Pursuant to our recent telephone conversation, I am writing this letter to acquaint you with the following facts in an effort to determine whether the transaction in

[REDACTED]

interests. All the rest of the Original Partners were limited partners.

pension plans and government employee retirement systems (collectively, the "Institutional Investors") entered into two simultaneous transactions with respect to

The Partnership Interest Acquisition

The Institutional Investors formed a general partnership among themselves (the

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Freedom of Information Act

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which restates the Loan Act

The Loan

The Institutional Investors formed a "mirror-image" second partnership among themselves (the "Lending Partnership") which made a loan in excess of [REDACTED] (the "Loan") to the Partnership. The Loan, which was secured by a first mortgage encumbering the Shopping Center as well as by a cash escrow in the sum of \$2,500,000 provided for monthly payments of interest payable over a 15 year term.

The General Partner personally guaranteed to the Lending Partnership:

- (a) the payment of all leasing costs incurred for space which had never been leased in the Shopping Center; and

Lending Partnership).

At a point in time after the simultaneous closing of the two transactions, the General Partner defaulted in its obligation to provide the Partnership with sufficient out-of-pocket funds to make the interest payments on the Loan. As a consequence, the

Partner and negotiated a work-out of the problem. The terms of the work-out were that in exchange for the Lending Partnership's agreement to release the General Partner under his guarantee, the General Partner would cause the Partnership to deliver a deed in lieu of foreclosure to the Lending Partnership and also to assign to the Lending Partnership 100% of the \$3,500,000 in the cash escrow. Had this agreement not been reached, the Lending Partnership would have foreclosed its mortgage. The work-out transactions described in this paragraph are expected to be consummated imminently.

Section 802.63 (a) of the Regulations provides that "an acquisition . . . in connection with a bona fide debt work-out shall be exempt from the requirements of the act if made by a creditor in a bona fide credit transaction entered into in the ordinary course of the creditor's business."

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It is our belief that the work-out transaction described in this letter falls within the

~~exemption because of the immaterial completion of the transaction. I wanted to say~~

I would appreciate hearing from you when you have had a chance to review this letter.

Thank you very much.

Very truly yours,

[Redacted signature block]

...interested may be subject to the confidentiality provision of Section 12 (b) of the Clayton Act which prohibits release under the Freedom of Information Act

called [Redacted] 5-17-91-letter has some problems
basically agree this is exempt under 802.63
confirmed "minor" image partnership is
its own UPE (no one upstream that
is a competitor). (PS)

(RS) concurs