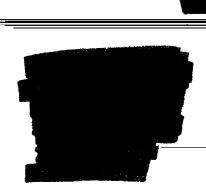
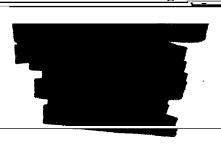
801.11 (c); 7A (a)(a)(A)







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Washington, D.C. 20580

Dear Mr. Smith:

This letter shall confirm our telephone conversation on March 10, 1994, concerning the Federal Trade Commission's interpretation of 16 Code of Federal Regulations § 801.11, with respect to the factual circumstances set forth in this letter.

The question presented is whether, in connection with a statutory merger between two limited partnerships.

net sales. The merger will close on or before March 31, 1994.

Partnership A's fiscal year end is December 31st. Prior to April 30th of each year, Partnership A has its

year ending December 31, 1992 (the "12/31/92 Financial Statements"). The annual net sales of Partnership A set forth in its 12/31/92 Financial Statements are less than \$100 million. Partnership A's independent auditors are currently in the process of auditing Partnership A in connection with the preparation of the audited financial statements of Partnership A for the fiscal year ending December 31, 1993. The audited financial statements for the fiscal year ending December 31, 1993 will not be completed by the auditors until April of this year. However, it is expected that, once issued, Partnership A's

Richard Smith, Esq. March 15, 1994 Page 2

audited financial statements for the fiscal year ending December 31, 1993 will show annual net sales for Partnership A in excess of \$100 million. Accordingly, the question that arises is whether Partnership A may rely on the 12/31/92 Financial Statements for purposes of establishing that it does not satisfy the \$100 million size-of-person test with respect to its annual net sales

As we discussed in our telephone conversation, Interpretation 144 of the Premerger Notification Manual (1991 Edition) appears to be directly on point.

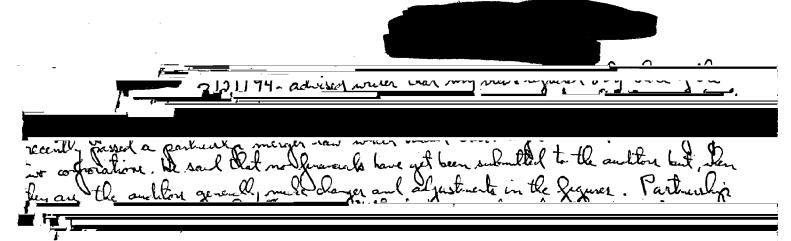
Interpretation 144 states that, even if the entity knows that the forthcoming audited financials will show it to satisfy the size-of-person test based on its most recent fire the most recent address it is antitled to roly as they are not more than account of the contract of the

merger (if it is consummated on or before march 31, 1334),

annaat net sates.

In our telephone conversation, you confirmed to me that the foregoing continues to be the view of the

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Very truly yours,