

801.1 (b)(2); 801.1 (c)(4); 801.11 (b)(1) and (2)

[REDACTED]

June 8, 1994

VIA FACSIMILE

Richard B. Smith, Esq.
Premier Notification Officer

Washington, D.C. 20580

Re: Application of HSR Act to Trusts

Dear Dick:

I am writing to confirm our discussion of June 3, 1994, in
[REDACTED]
entity" of a corporation making an acquisition.

I presented you with the following facts. ^{Corporation} All of the voting
securities of [REDACTED] are held
in the name of [REDACTED]

[REDACTED]

Although there is a trustee of the controlling trust, much of the
management of the trust resides in a committee (the "Technical
Committee") that has various powers over the operation of the
trust including the power to vote the voting securities held by
the trust. The operation of the Technical Committee is reviewed
below.

All the remaining voting securities of the Corporation
approximately 65,000,000 shares, are held in another trust (the

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"CPO Trust") that issued certificates ("CPOs") representing indirect interests in the underlying Corporation shares. CPOs

the CPO Trust in exactly the same way that the shares held by the Controlling Trust are voted. Therefore, the Technical Committee of the Controlling Trust effectively directs the votes of all shares held in the CPO Trust, and thus directs the votes of all shares of the Corporation. Accordingly, the Technical Committee

The Technical Committee of the Controlling Trust operates in the following manner. At the formation of the Controlling Trust

actions taken by the Technical Committee. The Controlling Trust agreement further permits a veto of the actions of the majority if or more of Mrs. A's children vote opposite the vote of Mrs. A.

Because the actions of the Technical Committee require the vote of a majority of the interests (rather than 50% or more), Mrs. A could not alone select the trustees of the Controlling Trust, nor alone vote the voting securities held by the Controlling Trust (and, indirectly, the shares held by the CPO

You agreed with the conclusion that because Mrs. A does not

50% or more of individuals exercising functions similar to a majority of the members of the Controlling Trust (or to select its

directors of the Corporation. Accordingly, Mrs. A would not be

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Corporation's voting securities, she would not be the "ultimate parent entity" of the Corporation.^{1/}

Assuming that the Corporation did not meet the \$100,000,000 "size of person" jurisdictional test,^{2/} then no HSR Act filing would be required with respect to a contemplated acquisition to

The parties intend to proceed on the basis that this transaction does not require a filing under the HSR Act, based on Mrs. A not controlling the Corporation and assuming the facts are as presented in our telephone call and in this letter. Should

Very truly yours,

6/8/94 - advised writer that I agreed with his conclusion that Mrs. A did not have the contractual power to designate (or to vote in) 50% or more of the directors of the Corporation or the trustees of the two trusts. (Of course if she "holds" 50% or more of the stock of the Corporation as the settlor of the two revocable trusts, she "controls" the Corporation by such method.) In p.m. 2/ below, the writer confirmed that the Corporation's

securities, having been the settlor of less than 50% of the shares outstanding.

^{2/} On its most recently regularly prepared balance sheet, the Corporation had total assets of less than \$100,000,000, and its annual net sales were well under \$100,000,000, as stated on its most recent regularly prepared annual financial statements.