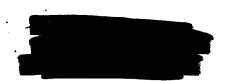
Chaure ente a contract, which will be assegred to a third person does not present an NSR acquise him seriestis so in Jette are correct. October 17, 1995 They relate to size, formation of a corporate just verture, control VIA FEDERAL EXPRESS + aggregation of voting stock. Victor L. Cohen, Esq. cana meterial may be sabject to me Premerger Notification Office Dureau or Competition release under the Freedom of Information Federal Trade Commission 7 Pennsylvania Avenue, NW Washington, D.C. 20580 Dear Mr. Cohen: This firm represents Inc. in regards to a proposed acquisition of certain elated assets. This letter confirms our conversation on October 6, 1995, in which we discussed whether premerger notification is required for the proposed acquisition. It is our understanding that our communications are confidential. We also understand that your opinions were based on the facts presented you and you will not provide us with a written response to this letter; however, you will contact us by telephone to confirm its accuracy. In the proposed acquisition will sign an agreement to purchase approximately Mh million of access All of the access will ultimately be accessed by corporation to be formed. This corporation will either purchase all of the assets or \$36 million of assets. The second potential purchaser is which may purchase those assets located such as to require premerger notification.



In our conversation, we stated to you that:

The proposed transaction will involve a purchase of assets.

♦ The purchase price will be \$46 million.

The postion to the

- There will be four parties to the proposed transaction.

 Inc. (a corporation):

 individual); an in individual).

 (an individual).
- California, Inc. is a wholly-owned subsidiary of which has annual net sales or total assets of \$100 million or more.
- Under the asset purchase agreement, agree to purchase certain assets from however, they will have the right to assign the purchase rights to a new corporation to be formed, which will consummate the transaction.
- Prior to its purchase of the same assets, the new corporation will not have any sales or assets.
- None of the stockholders in the new corporation will own or vote more than 50% of its stock.
- ♦ None of the stockholders in the new corporation will be spouses or minor

Page No. 3

is the general partner of a limited partnership. Under the management and operation of the ousmess and affairs of the partnership," but is allocated only 2% of the partnership's profits, losses or other distributions.

does not have any subsidiaries.

each own 30% of the common stock of ach also vote an additional 15% of the stock, pursuant to trusts established for each others' minor children.

Except as noted above, none of the remaining stock is owned by spouses or minors.

nost recent balance sheet was prepared on December 27, 1994. The balance sheet was not audited, but was prepared in accord with the procedures normally used to the procedure of \$2.670.885 and the procedure of \$2.687.227. A pay appeal financial statement will

not be prepared before crosing.

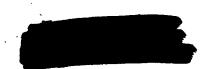
- On December 27, 1994, another company was merged into
- The most recent annual financial statement for the state of that data and the statement for the state of that data and the statement for the state of \$5,169,525 and total assets of \$2,340,436.

Based upon these facts, you advised us that:

or market

right to purchase the assets to the new corporation.

305117.3



None of the stockholders in the new corporation are required to provide notice of its formation, unless either:

Enry Enry one of the stockholders (including all persons or entities encompassed by that stockholder) has annual net sales or total assets of \$100 million or more; another has annual net sales or total assets of \$10 million or more; and the new corporation will have total assets of \$10 million or more; or

two of the stockholders in the new corporation each have annual net sales or total assets of \$10 million or more; and the new corporation will have total assets of \$100 million or more.

♦ In determining the respective "sizes" of

under FTC Rule

50% of the stock of

and, thus, each "controls"

50% or more of the profits or assets of the partnership and, thus, does not "control" it.

· (1867年) 1887年 1887年

In determining the size of the new corneration under ETC Dule 201 40/KV the included.



F.1.



any persons of endities controlled by them) each do not have annual net sales or total assets in excess of \$10 million, notification of the formation of that corporation is not required.

loan guarantees is *not* included in determining whether the new corporation has annual net sales or total assets of \$10 million or more and, thus, satisfies the "size of person" test.

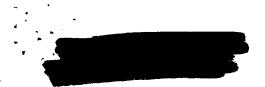
Neither above under FTC Rule 801.1.

When determining the size of the new corporation at the time of the asset

We should *not* rely or December 27, 1994 annual statement to determine its size. Rather, we must look to more recent financial statements or reports prepared for the internal use of ficers.

As noted above, there is a possibility the available of million of assets. Those assets are related to certain properties in a large of the same transaction as the purchase of the remaining \$36 million is assets. However, this part of the transaction would be along the remaining \$36 million is assets.

person" test.



Thank you for your attention to this matter. We look forward to hearing from you.

Yours very truly



