



July 5, 1996

Patrick Sharpe  
Compliance Specialist  
Premerger Notification Office  
Federal Trade Commission  
Sixth Street and Pennsylvania Avenue, NW  
Washington, DC 20580

Re: *Size of Person Test for Premerger Notification*

Dear Mr. Sherman:

of our conversation is that after I described the following facts to you, you did not disagree with my conclusion that my clients are not required to file a premerger notification because  
where there should be any changes to this summary, I would appreciate it if you would let me know, because the clients do intend to rely on the analysis below.

H Corp. is a corporation that operates [redacted] H Corp. has annual

operated by H Corp. and own five [redacted] office buildings.

My clients are a corporation ("A Corp.") and an individual ("AS") who owns all the voting securities of A Corp. A Corp. has entered into an agreement with HS-1 through HS-5



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[redacted]  
to acquire all the voting securities of H Corp. for approximately \$20 million. This amount is  
[redacted]  
assets or revenues, and neither a balance sheet nor an income statement has been prepared for

AS appears to be the ultimate parent entity of A Corp., which will acquire the voting securities of H Corp. AS and all the entities AS and AS's spouse control derive less than \$10 million in consolidated non-duplicative annual revenue from providing professional services and from income-producing business and professional assets. Therefore it appears AS does not have \$10 million in annual net sales and does not satisfy the "size of person" test in the

OK

[redacted] AS uses the four

is not a business

the ranch is less than \$3.5 million, although the ranch might have a significantly higher value if it were subdivided. AS has no plans to dispose of the ranch but has given some thought to

can be

five parcels of unimproved land for which the total most recent appraised value and fair market value is less than \$575,000. The unimproved land never has produced rental or other

The stock purchase agreement under which A Corp. will buy the voting securities of H Corp. from HS-1 through HS-5 is conditioned upon A Corp. demonstrating that it will be able to obtain \$47 million in financing, virtually all of which will be used to discharge A Corp.'s expenses and obligations under the stock purchase agreement. Approximately \$28 million of

investment trust, or O Corp., a corporation that operates a number of [redacted] facilities. O

[redacted]

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Corp. does not operate [redacted] facilities in the state where H Corp.'s facilities are located.

R Corp. has entered into an agreement with H Corp. under which R Corp. is providing interim financing to H Corp. and HS-1 through HS-5 have granted options to R Corp. to purchase all the voting securities of H Corp. R Corp., H Corp., HS-1 through HS-5 and A Corp. expect that R Corp. will transfer its options to A Corp. before A Corp. purchases the H Corp. voting securities. A Corp. hopes to negotiate an agreement with R Corp. to acquire and lease back or sublease the ownership and leasehold interests in the facilities operated by H Corp., but there is no such agreement at this time. A Corp. also hopes to negotiate agreements for A Corp. to operate some or all of the facilities now operated by H Corp. and

A Corp. has examined the facts concerning H Corp.

included for purposes of the "size of person" test; (2) the options to purchase all the voting securities of H Corp. that A Corp. will obtain from R Corp. either do not have value for

Thank you very much for your assistance in this matter

Very truly yours,

called [redacted] 7/9/96  
§01.11(e) can apply. The ranch can be excluded since  
it is a personal residence and not a business.

(RS)

(RS) concurs  
He did not read the  
letter but concurs  
with the ranch  
issue.