

801-70 (non-regular partnership)

[REDACTED]

[REDACTED]

[REDACTED]

September 25, 1998

**BY HAND**

Richard Smith  
General Attorney  
Premerger Notification Office  
Bureau of Competition  
Federal Trade Commission  
Room 323  
6<sup>th</sup> Street & Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Sep 25 11 02 AM '98

FEDERAL TRADE  
COMMISSION  
PREMERGER NOTIFICATION  
OFFICE

Re: Formation of a Partnership

Dear Mr. Smith:

This letter confirms our conversation today concerning the following situation:

Company A (which has assets and sales in excess of \$100 million) and company B (which has assets and sales in excess of \$100 million) form a limited partnership (or a limited liability company that, we assume for purposes of the question, is treated as a partnership under the Hart-Scott-Rodino Act) in which each company will hold a 50 percent interest. At the time of

Office views the event as the acquisition of less than 100 percent of the interests of a partnership, which is not an acquisition of assets or voting securities. We further understand that the Premerger Office has taken the position that the presence of cash equalization payments does not alter this result. Our analysis is that it makes no difference whether the cash equalization payment is made directly from one partner to another or indirectly through the partnership. You

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confirmed that our analysis is correct and that the situation described above does not trigger a filing requirement.

If this letter does is not consistent with your understanding of our conversation, please let us know immediately

Sincerely,

9/28/98 Left voice mail message for writer that this transaction is viewed by the Service as a partnership liquidation and that the cash equalization payment made by one partner directly to the other does not impact its non-reportability status and is necessary for a 50/50% partnership split between the contributing parties.

R. B. Smith