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[REDACTED]

May 17, 1999

Alice Villavicencio
Compliance Specialist
Federal Trade Commission
Premerger Notification Office
Bureau of Competition
Washington, D.C. 20580

Re: Control of a corporation through a combination of holding
voting securities and having the power to designate a director of
the corporation

Dear Alice:

I very much appreciate your time and assistance during our May 14, 1999 telephone conversation concerning whether an individual can control a corporation through a combination of holding less than 50 percent of the voting securities and having the contractual power to designate fewer than half of the directors of the corporation. Pursuant to your suggestion, I am writing to confirm the substance of that conversation.

Facts

As I described to you, the hypothetical transaction involves A acquiring the voting securities of Corp.

(among Mr. B, Mr. B's father and Mr. B agreed)

Pursuant to a shareholders agreement, Corp. has three directors. The shareholders agreement provides that the directors are: Mr. B, Mr. B's father, and Mr. Y. The shareholders agreement

agreement, Mr. B is also one of the three directors. In addition, pursuant to the above mentioned provision of the shareholders agreement, Mr. B has the contractual right to designate one of the other two directors.

[REDACTED]

May 17, 1999

Issue

You were kind enough to answer the following question concerning the above statement of facts. I have summarized the question and your answer below.

1. Whether the combination of 33.3% of Corp.'s voting securities and the right to designate one director and to be another director confer upon Mr. B control of Corp., an entity with three (3) directors?

Yes. Following the interpretation and discussion to informal staff interpretation number 62 in

_____ directors, attributing the value of the director Mr. B designates to Mr. B (33.3 percent). Mr. B

contractual power to designate, 1, meets or exceeds 50 percent of all of the directors, Mr. B is deemed to have control. *Since the sum is 2, and there are only 3 directors, the sum exceeds 50*

I hope that this letter accurately summarizes the advice we discussed last Friday. If I am incorrect in my summary of our conversation, please let me know.

Thank you again for your time and help.

Very truly yours,

[Redacted signature]

*err
Mr. B
held
33.3%
Has Mr.
B control*

*Agree with Analysis Alice Villavicencio
RS concurs*

[Redacted signature]