

801.10

*purchase of Partnership interests*

May 23, 2002

**Via Facsimile**

Mr. Patrick Sharpe  
Federal Trade Commission  
600 Pennsylvania Ave. NW  
Washington, D.C. 20530

Dear Mr. Sharpe:

In two telephone conversations on May 16, 2002, and on a follow-up conversation on May 20, 2002, [REDACTED] and I outlined the following proposed transaction and obtained your informal advice on the reportability of the proposed transaction under the requirements of the Hart-Scott-Rodino Act:

Our client, a cooperative ("Cooperative A"), is the 17% general partner and 29% limited partner of a limited partnership (the "Partnership"). Another cooperative ("Cooperative B"), owns the remaining 83% general partnership interest and 71% limited partnership interest. Cooperative B is currently in financial distress and desires to sell its general and limited partnership interests in the Partnership.

Cooperative A has considered various structural alternatives for accommodating Cooperative B's proposed transfer and has decided to effect a transaction which has summarily been presented to you. That structure involves Cooperative A purchasing additional general and limited partnership units in the Partnership while an unrelated management group consisting of three individuals who are currently managers of the Partnership ("Management Group"), would purchase limited partnership units in the Partnership. One of the parties in the Management Group would also purchase general partnership units. The proceeds from the contributions of Cooperative A and the Management Group (including the general partnership interest acquired by one of the members of the Management Group), along with certain debt financing being made available to the Partnership, would then be used by the Partnership to redeem all the general partner and limited partner interests of Cooperative B. Upon completion of the above transaction, Cooperative A will hold an approximately 80% interest in the

[REDACTED]

[REDACTED]

[REDACTED]

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Partnership and the Management Group will hold an approximately 20% interest in the Partnership.

At no time during the proposed transaction will any party hold 100% of the interests of the Partnership.

OK

The amount invested by Cooperative A may equal or exceed the transaction threshold for pre-merger notification reporting purposes under the Hart-Scott-Rodino Act.

You confirmed that the Formal Interpretations and the Premerger Notification Office's position is that an acquisition of a partnership interest is not a reportable event unless 100% of the partnership is acquired by an ultimate parent entity. With respect to the contemplated transaction, there is no reportable event because neither Cooperative A or the Management Group will at any time own 100% of the interests of the Partnership. However, you have also advised us that if a party acquires or owns 100% of the partnership, even for a moment in time, then the transaction would be reportable if it otherwise meets or exceeds the size of the transaction thresholds.

OK

Please telephone [REDACTED] or me at [REDACTED] to confirm your telephone advice. We appreciate your timely response to this important matter.

Very truly yours,

[REDACTED]

[REDACTED]

cc: Alice Villavicencio  
Joan Fina

[REDACTED]

I concur,

(PS) 5/23/02

called [REDACTED] and

[REDACTED]

[REDACTED]