

7A(c)(1)



February 5, 1991

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Ms. Nancy M. Ovuka
Compliance Specialist
Premerger Notification Office
Bureau of Competition, Room 303
Federal Trade Commission
Washington, DC 20580

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PREMERGER
NOTIFICATION
OFFICE

Dear Ms. Ovuka:

This letter is to follow up on our earlier discussion concerning the necessity for filing a premerger notification in connection with the proposed transaction described below.

As I explained to you, the proposed transaction is in general form a purchase/lease transaction in which the purchaser/lessor is a real estate investment trust (herein, the [redacted] which is in the business of providing purchase/lease or mortgage financing for certain operating businesses. The [redacted] intends to be and to remain qualified as a real estate investment trust under the Internal Revenue Code. As you are aware, continued qualification under the Internal Revenue Code as a real estate investment trust imposes certain limitations on the sources of the [redacted] income. In particular, the [redacted] is limited in its ability to operate any of the businesses of which it has purchased the assets. In order to be sure of satisfying the income limitations, the [redacted] does not operate any of the businesses for which it has provided financing, except on a temporary basis following the default under a mortgage or lease, and then only for a limited period of time.

The [redacted] proposes to enter into a purchase/lease transaction in which it will acquire several businesses now operated by a corporation controlled by Mr. A. The businesses will be acquired by merging Mr. A's corporation into the [redacted]. The businesses will then be leased to a limited partnership which is associated with Mr. A, but not controlled by him within the meaning of the premerger regulations.

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If I correctly understand the thrust of our discussion, based on the limitations which the Internal Revenue Code imposes on the [REDACTED] activities, the acquisition of the businesses by merger with Mr. A's subsidiary and their lease to the limited partnership would be considered to be within the ordinary course of the [REDACTED] business and, thus, exempt from premerger notification pursuant to 15 USC §18a(c)(1).

After you have had an opportunity to review this letter, please call me at [REDACTED] with any questions or to further discuss the necessity for premerger notification in connection with the proposed transaction described in this letter.

Very truly yours,
[REDACTED]

[REDACTED]