

7A/801.1

[REDACTED]

October 30, 1991

BY HAND

Hy David Rubenstein, Esquire
Premerger Notification Office
Room 323
Federal Trade Commission
Sixth Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

031 39 4 02 PM '91
FEDERAL TRADE COMMISSION
PREMERGER NOTIFICATION

Dear Hy:

I am writing to confirm the substance of my telephone conversation with you this morning. You advised me that under the following circumstances, the parties (Company A and Bank B) would not have to file premerger notification forms under Hart-Scott-Rodino. You also told me that unless I hear otherwise from you within three days, we may assume that your advice reflects the position of the Premerger Notification Office.

Company A operates a number of retail stores. Customers at these stores may charge their purchases to a national credit card (e.g., MasterCard or Visa), or to A's own "private label" credit cards. In 1978 A contracted with Bank B for B to run A's private label credit card operations. Among other things, B decides who may have a credit card and what their credit lines will be, processes the transactions, bills the customers, and pursues collections.

A would like to resume processing its own credit card transactions, and earn the very substantial attendant profits for itself. Under the contract, however, A would have to give B 3½ years notice before terminating the contract, and would have to pay a termination penalty of approximately \$21 million. Moreover, during the 3½ years, B would likely earn another \$80 million of profit on A's credit card business.

[REDACTED]

Hy David Rubenstein, Esquire
October 30, 1991
Page 2

B processes the private label credit cards of a number of firms in addition to A. For its own reasons, B is interested in leaving this business, and offered to sell its entire private label credit card business to A. A declined this offer. A only wants to process its own credit cards.

A and B are now negotiating an early termination of their contract. B has offered to sell A the lease for the facility where B now does its private label credit card processing and the equipment there. A is interested in acquiring that lease and equipment, and in hiring B's employees at the facility. A estimates that it would cost about \$10 million to establish a new facility for processing its private label credit cards. for <\$10M

A and B both meet the size-of-person test under Hart-Scott-Rodino. A will pay B more than \$70 million to cancel the contract and acquire the processing facility.

Please call me, at [REDACTED] if you need additional information, or have any other questions. I thank you again for your cooperation and assistance.

Best regards.

Sincerely,
[REDACTED]

[REDACTED] Says Bank also has Visa & Mastercard. Bank may or may not exit "private label" credit card business. Customer lists already belong to A.

Transaction is exempt as ordinary course of business and <\$15mm (size of transaction)