

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

December 23, 1992

VIA FACSIMILE

Richard B. Smith, Esq.
Premerger Notification Office
Bureau of Competition
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Massachusetts Common-Law Trust

Dear Dick:

Thank you very much for your recent phone call relating to [REDACTED] letter to you of December 11 in which you advised me that the FTC Premerger Notification Staff concurred that no Hart-Scott-Rodino filing was required by the fact situation set forth in [REDACTED] letter.

In your phone call you mentioned that John Sipple had inquired as to the details concerning [REDACTED] observation in note 1 of his letter that the subject trust does not have transferable shares.

The restrictions on transfer included in the Declaration of Trust of [REDACTED] (the "Fund") reflect those found in partnership agreements for most general or limited partnerships. As in the case of partners of a general or limited partnership, beneficiaries of the Fund may not transfer their units under terms giving the transferee the right to become a partner or member of the Fund (with associated voting, information and other rights) without the consent of the Trustee and unitholders holding not less than a majority of the then outstanding units

[REDACTED]

Richard B. Smith, Esq.
Premerger Notification Office
December 23, 1992
Page 2

(excluding units held by the unitholders who are parties to the transfer.)^{1/}

These restrictions have been included principally to ensure the status of the Fund as a partnership for tax purposes. A typical Massachusetts business trust, by contrast, does not qualify as a partnership for tax purposes because, among other things, its shares are transferable. See, e.g., Mass. Gen. Laws ch. 182, § 1, defining a Massachusetts business trust as a voluntary association under a written instrument or declaration of trust, the beneficial interest under which is divided into transferable certificates of participation or shares.

Please do not hesitate to contact me if you have any further questions.

Very truly yours,

[REDACTED]

Enclosure

[REDACTED]

^{1/} Unitholders may transfer economic attributes of units so long as the transfer complies with relevant securities and tax law limitations. However, this right essentially includes only the right to receive a distribution of a proportionate share of the Fund's assets upon its termination, since interim distributions are prohibited under the Fund's Agreement and Declaration of Trust.