[redacted] 801.1(b); 802.20

[redacted]

December 19, 1994

[redacted]

Richard Smith, Esq.
Premerger Notification Office,
H-303
Federal Trade Commission
Washington, D.C. 20580

Dear Mr. Smith:

I am writing to confirm the substance of our phone conversation last Friday concerning the timing of filings under the Hart-Scott-Rodino Antitrust Improvements Act (the "Act") in connection with transfer of a partnership interest in a general partnership which I shall refer to as the Partnership.

The Partnership is a 50/50 joint venture, in partnership form, established in 1992 between Partner S and Partner B through special purpose subsidiaries on each side. Since the Partnership was established, all of its personnel have been furnished under an operating agreement by a separate company called, for the purposes of this letter, the Company, which is 100% owned by the ultimate parent entity ("UPE") of Partner S. This structure was chosen in order to permit such personnel to continue to participate in UPE's benefit plans.

Partner S wishes to transfer its entire interest in the Partnership and 100% of the capital stock of the Company to Partner B. In order to give Partner B time to establish appropriate benefit plans for the employees of the Company and put into place various administrative arrangements to support the Partnership business previously provided by UPE (e.g. payroll

[redacted]

systems), the shares of the Company will not be transferred to Partner B until March 12, 1995. Partner S wishes to retain a minority interest in the Partnership until the shares of the Company have been transferred as an incentive to Partner B to work expeditiously to close the acquisition of the stock of the Company (Partner B does not desire to have a minority partner).

Partner S and Partner B accordingly propose to structure the transaction in such a manner that Partner S will transfer to Partner B a 49% interest in the Partnership prior to December 31, 1994 for a purchase price of approximately $65.8 million (the "First Closing"). Partner S and Partner B will then file Notifications under the Act. The parties want the First Closing to take place promptly as Partner S desires to reflect on its books the consideration for the 49% interest this calendar year and Partner B desires to assume the responsibility of a 99% partner. (Naturally, the relative rights of the Partners will be adjusted as one Partner will hold a 99% partnership interest and one Partner will hold a 1% partnership interest after the First Closing.) The remaining 1% partnership interest, and all of the Company shares, will be transferred on or about March 12, 1995, for an aggregate consideration of approximately $2,200,000, subject to expiration or earlier termination of the waiting period under the Act.

During our telephone conversation, you concluded that the timing of the filings under the Act as set forth above would not violate the Act and the rules promulgated thereunder as long as the parties maintained the integrity of the substance, as well as the form, of such transaction. If, after reviewing this letter, you are unable to sustain such conclusion, I would appreciate your calling me (collect) at the number set forth above or your calling [redacted] of [redacted] at [redacted] as promptly as possible. Thank you.

Sincerely,

[redacted]

12/19/94 - Advised writer that there appeared to be bona fide reasons for structuring the transaction in this manner. She confirmed that a filing would be made in early 1995 for the purchase of the remaining 1% partnership interest and the Company shares. I advised that pertaining the filing until such time appeared appropriate under that fact situation.

Dick Smith

**Via Telecopier**

[redacted]