

7A(c)(1)

RS

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May 8, 1995

BY MESSENGER

Richard B. Smith, Esq.
Premerger Notification Office - Room 303
Federal Trade Commission
Pennsylvania Avenue and 6th Street, N.W.
Washington, D.C. 20580

A/P

Re: Eligibility For Exemption From
Hart-Scott-Rodino Reporting Requirements

Dear Dick:

This letter is to confirm our conversation of today, whereby you advised me that my client's proposed transaction would qualify for a exemption from the Hart-Scott-Rodino premerger notification requirements pursuant to 15 U.S.C. § 18a(c)(1). The basis for this exemption is the following fact situation.

The Purchaser is a firm that is engaged in the mortgage banking business, including the servicing of mortgage loans. It is proposing to purchase, for approximately \$25 million, the servicing rights to a portfolio of approximately \$2.2 billion in mortgage loans.

My client, the Seller in the proposed transaction, is a firm that is engaged in the mortgage banking business, including the organization, sale, and servicing of mortgage loans. The Seller is a single entity, and does not have any subsidiaries or affiliates. It regularly, and in the ordinary course of its business, sells packages of mortgage servicing rights to other firms that engage in mortgage servicing. During 1994, it engaged

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in twelve such sales, none of which were reportable under Hart-Scott-Rodino because they did not satisfy the "Size-of-the-Transaction" jurisdictional requirement. Following the consummation of this proposed transaction, the Seller will still own the servicing rights to approximately \$1.0 billion in mortgage loans. In addition, the Seller will continue to own a facility for mortgage loan origination, which generates over \$100,000,000 in mortgage loans every month, and which loans are then added to the servicing rights portfolio of the Seller.

decision

Many firms that engage in the mortgage servicing business purchase and sell portions of their portfolio of loan servicing rights to other mortgage servicers. In general, the decision to sell servicing rights is based upon management's assessment of the firm's cash requirements, debt-to-equity ratio and other significant financial ratios, the market value of the servicing rights, and the firm's current and future earnings objectives.

Based on the above information, you advised that this transaction would qualify for a Section 7A(c)(1) exemption because the proposed acquisition does not involve substantially all the assets of an operating business, and therefore would be deemed to be goods transferred in the ordinary course of business.

AD

In reliance on our conversation, I am advising my client that the proposed transaction is not reportable under the Hart-Scott-Rodino Act. If you believe the information contained in this confirmation letter does not accurately reflect our conversation, please contact me immediately at [REDACTED]

We appreciate your consideration in this matter. Thank you.

Sincerely,
[REDACTED]

[REDACTED] 5/9/95 - The writer confirmed that the Seller has not organized the mortgage servicing rights being sold here into any sort of a "decision" or decisional concept. I advised that the sale would be exempt from HSR reporting under 7A(c)(1).