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April 3, 1996

Formation of a LLC where governing body is limited to "employees, officers or directors" of forming persons is not reportable since not taking back voting stock but are forming a partnership. See Dec 6-9-95 letter to Richard Smith.

BY FACSIMILE

Victor L. Cohen, Esq.
Premerger Notification Office
Federal Trade Commission
601 Pennsylvania Ave., N.W.
Washington, D.C. 20580

Re: Hart-Scott-Rodino Reporting Requirements for Limited Liability Corporations

Dear Victor:

The purpose of this letter is to memorialize the advice you gave me in a telephone conference on March 27, 1996 regarding the formation of a joint venture using a Delaware Limited Liability Corporation ("LLC").

The Facts

The facts are as follows. Corporations A and B have executed a letter of intent to form a joint venture, corporation C, and are currently negotiating the Joint Venture Agreement itself. Both A and B will contribute certain tangible and intangible assets to the joint venture. The joint venture will be in the form of a Delaware Limited Liability Corporation. Corporation A will have approximately a 54 percent interest in the joint venture and Corporation B will have approximately a 46 percent interest in the joint venture.

The joint venture corporation will be governed by a Steering Committee which will have the functions of a board of directors. The Steering Committee will consist of two members designated by Corporation A and two members designated by Corporation B. The Steering Committee members will be officers, directors or employees of Corporations A and B and not

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[Redacted text]



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"outside" directors. While the executed letter of intent does not specifically state that the Steering Committee Members will be officers, directors or employees of Corporations A and B, that is both the understanding and intent of the parties.

The Advice

Based on our telephone conversation on March 27, my understanding is that the formation of a joint venture as described above does not require a Premerger Notification Filing pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and the regulations promulgated thereunder. My understanding is that the formation of a joint venture in the form of a LLC where the members of the LLC's board of directors (or equivalent thereof) are officers, directors or employees of the joint venturers is not reportable. I further understand that the formation of a joint venture in the form of a LLC might be Hart-Scott-Rodino reportable if one or more "outside" directors were appointed to the LLC's board or board equivalent.

If this letter does not accurately memorialize the advice you provided me concerning the formation of the joint venture described above, please contact me at [REDACTED] as soon as possible.

Thank you for your time and assistance on this matter.

Best regards.

Sincerely,

[REDACTED]

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