

M.P.

ON 746
2-3-83

January 31, 1983

Mary Ann Dunaitis, Esq.
Premerger Notification Office
Federal Trade Commission
Washington, D.C. 20580

Dear Ms. Dunaitis:

This will confirm our telephone conversation of January 26, 1983, in which we discussed the proper valuation of securities purchased in stock-exchange transactions.

I related to you the following hypothetical facts: A person meeting the "size of person" criteria purchases securities in Company X beginning on December 1, 1982. By January 26, 1983 he has purchased 500,000 shares. During the 45-day period prior to January 26, 1983 the stock's lowest closing quotation was \$20 (occurring on December 20). The stock now sells for \$30. As of January 26, the acquiring person may purchase up to 166,666 shares, since the stock previously held is valued at \$10 million and the stated number of shares, at \$30 each, is less than \$5 million. Thus, the \$15 million threshold would not be crossed. As of January 27, however, additional shares may be purchased. The acquiring person would hold 666,666 shares, all of which would be valued at \$20, and could purchase another \$1,666,679 of stock (valued at \$30, assuming price held steady). This process of purchasing and revaluing may continue until the \$15 million or 15% threshold is crossed.

1. We assume throughout that the 15% threshold will not be crossed.

Mary Ann Dunaitis, Esq.

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You confirmed the correctness of this interpretation of Rules 801.10 and 801.13. We thank you for your cooperation.