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COMMODITY FUTURES TRADING COMMISSION
2033 K Street, NW, Washington, DC 20581
(202) 254 - 8955
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DIVISION OF
TRADING AND MARKETS

July 18, 1994

Re: Section 4m(1) -- Request for Relief from Registration by Co-CPO

Dear :

This is in response to your letter dated June 28, 1994, to the Office of the General Counsel of the Commodity Futures Trading Commission (the "Commission"), which has been referred to the Division of Trading and Markets (the "Division") for reply. By your letter you request relief from registration as a commodity pool operator ("CPO") on behalf of "A" in connection with "A's" serving as a general partner of "X", a limited partnership (the "Fund").

Based upon the representations made in your letter, as supplemented by telephone conversations with Division staff, we understand the relevant facts to be as follows. The Fund is a limited partnership with two general partners, "A" and "Y". "Y" is registered with the Commission as a CPO. "A" is chairman of the board, sole director, sole executive officer, principal shareholder and a registered associated person ("AP") of "Y".

Inasmuch as "A" will be a general partner of the Fund, he will be serving as a CPO of the Fund and, absent relief, must register as a CPO. In support of the instant request, you represent that "A" will be serving as a general partner of the Fund solely to increase the general partners' net worth so as to comply with "state guidelines for commodity pools." You further represent that "A" is not subject to a statutory disqualification under Sections 8a(2) or 8a(3) of the Commodity Exchange Act (the "Act").[1/]

In light of the foregoing, the Division will not recommend that the Commission take any enforcement action against "A" for his failure to register as a CPO in connection with his serving as a general partner of the Fund. This position is, however, subject to the condition that "A" will not, except in his capaci-

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1/ 7 U.S.C. §§ 12a(2) or 12a(3) (1988 & Supp. IV 1992).

ty as an AP of "Y", exercise discretion, supervision or control over: (i) the solicitation, acceptance or receipt of funds or property to be used for purchasing interests in the Fund; or (ii) the investment, use or disposition of funds or property of the Fund. This position is subject to the further condition that "A" and "Y" provide the Division, within thirty days of the date of this letter, written and dated acknowledgements whereby each accepts joint and several liability for any violation of the Act[2/] or the Commission's regulations thereunder committed in connection with "A's" and "Y's" serving as general partners and CPOs of the Fund.

We note that "A" remains subject to the antifraud provisions of Section 4o of the Act,[3/] to the reporting requirements set forth in Parts 15, 18 and 19 of the Commission's regulations, and to all other provisions of Part 4. Moreover, the position which we have taken herein is solely applicable to "A" in connection with his serving as a CPO of the Fund.

The position taken in this letter is based upon the representations you have made to us and is subject to compliance with the conditions set forth above. Any different, changed or omitted facts or conditions might require us to reach a different conclusion. In this regard, we request that you notify us immediately in the event that the Fund's operations or "A's" responsibilities in connection therewith change in any way from those as represented to us.

Further, this letter represents the position of the Division of Trading and Markets only. It does not necessarily reflect the views of the Commission or any other office or division of the Commission. If you have any questions regarding this correspondence, please contact me or Barbara S. Gold, Assistant Chief Counsel, at (202) 254-8955.

Very truly yours,

Susan C. Ervin
Chief Counsel

2/ 7 U.S.C. § 1 et seq. (1988 & Supp. IV 1992).

3/ 7 U.S.C. § 6o (1988 & Supp. IV 1992).