COMMODITY FUTURES TRADING COMMISSION

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DIVISION OF
TRADING AND MARKETS

April 12, 1991

Re:
Request for Temporary Floor Broker Relief

Dear   :

This is in response to your letter dated March 6, 1991, in which you request a "no action" position for
(the "Applicant"), an employee of
, a partnership which buys and sells securities for its own account on all major securities exchanges and stock index contracts on U.S. futures exchanges.   does no public customer business. Specifically, you request that the Applicant be allowed to trade in commodity interests on behalf of
prior to the effectiveness of his registration as a floor broker ("FB").

In support of this request, by your letter you make, among others, the following representations:

   (1)   the Applicant will only be permitted to trade for the proprietary account of
. He is not permitted to trade for his own accounts nor for the accounts of others;

   (2)   the Applicant recently applied to the National Futures Association ("NFA") for registration as a floor broker pending receipt of reports from the Federal Bureau of Investigation ("FBI") and was assigned NFA ID No.   . NFA has advised you that   ' fingerprints were sent to the FBI on February 20, 1991;

   (3)   has no knowledge of facts that would constitute a statutory dis-

qualification under the Commodity Exchange Act ("Act") of the Applicant;[1]/

(4)   is not engaged in any public customer business; it is not a vehicle for public participation in either securities or commodity interests; and it does not sell partnerships or any other interests to the public; and

(5)   assumes full financial responsibility for the trades of the Applicant on the Chicago Mercantile Exchange ("CME").

In support of your request, you also note that the Applicant will have no contact with the general public and that, unlike the case with associated persons of futures commission merchants and introducing brokers who may solicit and accept customer orders, a temporary license to enable him to act as a floor broker is unavailable.

Based upon the foregoing, and as you have requested, we believe that the relief which you request with respect to proprietary trading of the Applicant pending his registration as a floor broker has merit. Accordingly, the Division of Trading and Markets will not recommend that the Commodity Futures Trading Commission (the "Commission") take any enforcement action against the Applicant,   or the Chicago Mercantile Exchange based solely upon the Applicant's trading on the CME for   's proprietary account prior to the effectiveness of the Applicant's registration as an FB.

We note that this letter does not excuse the Applicant or   from compliance with any applicable requirement contained in the Act or in the Commission's regulations promulgated thereunder other than the requirement of floor broker registration in Section 4e of the Act. The temporary no action position which we have taken herein applies solely to the Applicant in connection with his transactions for the proprietary account of   , and will expire at the earlier of: sixty days from the date of this letter or the date at which his FB registration is granted.

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[1]/ For the purposes of our position, we are deeming the term "statutory disqualification" to refer to Sections 8a(2) and 8a(3) of the Act, 7 U.S.C §§ 12a(2) and 12a(3) (1988).

This letter is based upon the representations that have been made to us and is subject to strict compliance with those representations. Any different, omitted or changed facts or circumstances might require us to reach a different conclusion. In this connection, we request that you notify us immediately in the event that the activities of   or of the Applicant change in any way from those as represented to us. Further, this letter represents the position of this division of the Commission only and does not necessarily represent the views of the Commission or of any other office or division of the Commission.

Very truly yours,

Susan C. Ervin
Chief Counsel