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November 17, 2007

Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F St. NW
Washington, DC 20549

Re: National Association of Realtors Exemption Request
File No. S7-2607

Dear Ms. Morris:

Please accept our comment and objection to the above-referenced exemption request submitted by the National Association of Realtors. We believe that it would be inadvisable to grant the requested exemption from certain regulations regarding the sale of Tenant in Common (TIC) interests. The regulations are intended to protect the public interest with respect to the purchase and sale of securities, and the proposed exemption would have the opposite effect.

Our concerns include the following:

1. Most states view the sale of a TIC security as involving the sale of an interest in real property that is subject to state real estate laws, regardless of whether such investments are also considered to be subject to state securities laws. Many states also recognize that real estate considerations are a major component in the sale of a TIC security and that, therefore, purchasers should receive the protections afforded by relevant state real estate laws even if the transaction is also subject to state securities laws. This has led to a system in which most of the well-qualified professionals as selling TIC interests obtain appropriate licenses for both real estate and securities sales. As a result, potential purchasers are advised and protected with respect to both the real estate and securities aspects of the transaction which the purchaser is considering.
2. The mechanism whereby the fee splitting arrangement would be negotiated as part of the written Buyer's Agent Agreement at a time which would be, in most cases, before the potential buyer is introduced to the Selling Broker-Dealer is not workable, and could result in the selection of a Selling Broker-Dealer based upon willingness to accept the smallest portion of the fee rather than upon their qualifications.
3. Under the exemption request, the Commercial Real Estate Professional may discuss the real estate characteristics of a TIC security property with the client and can arrange for the client to inspect a TIC security property before introducing the client to the Selling Broker-Dealer. The issue of suitability is the primary cause for enforcement action by the SEC. Suitability and the need to truly understand the client, their needs, desires, resources and obligations, was at the heart of the NASD Notice 05-18 and is at the heart

of prohibitions against general solicitation of investment such as TIC security properties. This protection for potential purchasers of TIC properties should be preserved. The granting of this exemption might lead to 'broker-dealer shopping' by some Commercial Real Estate Professionals who are not as focused on the need for suitability in a securities transaction.

4. The provision of the exemption request allowing a potential purchaser who is disqualified for suitability reasons to write a letter affirming that they want to proceed with the transaction notwithstanding the Selling Broker-Dealer's determination presents a number of problems for all parties involved.
5. The potential for "puffery", and the differing standards for misrepresentation applied to real estate professionals as opposed to securities professionals would create substantial uncertainty, confusion and potential liability for both the securities and real estate advisors.
6. The requested authority for Commercial Real Estate Professionals to advise potential clients regarding documents relating to TIC security properties, such as TIC agreements, master leases, management & operating agreements, tenant leases, financial statements and transaction documents, and to provide general, but not legal, tax assistance to clients regarding the requirements and complexities to be satisfied in a 1031 tax-deferred exchange, places the Commercial Real Estate Professional at risk of being found by many state courts to be engaged in the practice of law. In that case, the applicable standard of care would likely be that of a qualified securities or real estate lawyer, which is a much higher standard than would normally be anticipated by the Commercial Real Estate Professional.

The existing system, while not perfect, functions reasonably well. Dual licensing is not unreasonably burdensome, and the benefits to the public clearly outweigh that burden.

Thank you for giving us the opportunity to comment on this proposed exemption.

Very truly yours,

Thomas H. Oldfield
Attorney at Law

THO/hs