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December 10, 2007

Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090



RE: File# S7-26-07

Dear Ms. Morris:

This letter is in response to the request for comments regarding the October 11, 2007 letter submitted on behalf of the National Association of Realtors (NAR) and their request for an exemption from the broker-dealer registration requirements of Section 15(a) of the Securities Exchange Act of 1934 and from the reporting and other requirements specifically imposed by the Exchange Act (the "Request For Exemption").

It has been determined by the Securities and Exchange Commission ("SEC") and is generally accepted and known that tenant-in-common interests in real estate ("TIC Transaction(s)") are a security under the federal securities laws and as such requires the participation of a security licensed broker/broker-dealer. In fact as the rules currently stand, pursuant to NASD Notice To Member 05-18 "a broker-dealer may not pay a real estate agent who is not a registered member of FINRA for participating in the transfer of a TIC interest that is structured as a security".

As stated in the Request For Exemption, TIC Transactions are offered pursuant to Regulation D and its various requirements ("Reg D") The first of those requirements is that in order for an investor to participate in a Reg D offering, the investor must be an accredited investor. General solicitation and advertising of a Reg D offering is prohibited under the statute. If someone should engage in general solicitation of the Reg D offering, the Reg D exemption is no longer available to the sponsor and the investors and the offering is then subject to all the requirements of any non-exempt offering. Our firm and other firms which participate in Reg D offerings and TIC Transactions have a system in place that requires the Registered Representatives to qualify all potential investors prior to presenting any potential TIC Transactions to a potential investor. Such systems are in place to guard against violation of the general solicitation requirements. Even though the Request For Exemption requires that any eligible realtor would have substantial experience in order to be eligible to participate in the offering of a TIC Transaction, it has been our experience that real estate personnel, even those who have substantial experience, do not pre-qualify investors. Realtors do not have an ethical requirement to make certain that a purchaser of real estate meets suitability standards or that they are qualified to meet securities requirements.

How is the SEC or any other regulator going to enforce the Reg D requirements, concerning general solicitation, accredited investors or prior qualification if the realtor is not subject to its regulation? If the realtor should violate the Reg D, requirements who will be responsible for taking action against the realtor? One of the options for the investors in a Reg D offering, in the event that the Reg D requirements are not met, would be to require the sponsor to rescind the entire transaction. Because of the nature of TIC Transactions and the deferral of federal income taxes on the sale of qualified real

estate, to have a TIC Transaction rescinded would create a major problem for the remainder of the investors. It is our experience as a broker-dealer, when a Reg D private placement securities transaction is unsuccessful, the investors tend to file arbitrations/law suits against all the parties involved. That would place the broker dealers in more jeopardy than they already are because of the actions of unlicensed parties involved in the transaction.

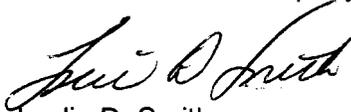
The Request for Exemption presents other issues concerning the definition of what real estate professionals would be qualified to participate. How will "substantial experience" be defined for the Commercial Real Estate Professional? Just because someone has been in the real estate industry for a certain number of years or because they have participated in a certain number of transactions does not mean they are qualified or have a knowledge regarding 1031 Transactions or securities in general. As stated above, just because the person has a certain amount of experience doesn't mean they understand or are even concerned whether a potential investor is accredited or whether a particular transaction is suitable for the individual.

We suspect there are times when a potential investor could be helped by being able to contact a real estate professional to get advice regarding certain real estate aspects of TIC Transactions. There is a much simpler and easier way to accomplish that. Eliminate the current restriction against broker-dealers paying a referral fee to the real estate professional. If broker-dealers were allowed to pay a referral fee, based on the dollar value of the transaction, the real estate professional would be compensated for his/her role in the transaction, the investor would have the ability to consult with the real estate professional if they desired and the investor would still be protected by having the securities regulations observed by the securities professional.

Many 1031 sponsors have created and registered their own broker dealers who can then act as the Managing Broker-Dealer on the 1031 Transactions. If real estate professionals are allowed to participate as requested in the Request For Exemption, the Managing Broker-Dealer could then go directly to the real estate professional and completely eliminate the licensed registered representatives and broker-dealers. To do so could easily diminish the investor protections currently in place.

Securities transactions and the securities industry is one of the most heavily regulated industries in the US. To be allowed to participate in securities transactions, at the level stated in the Request For Exemption, individuals should be licensed pursuant to the securities industry rules. In order for the investors to be protected and for the rest of the securities industry participants to be protected anyone who is involved in and plans to be compensated for such participation in securities transactions should be properly licensed.

Berthel Fisher & Company Financial Services, Inc.



Leslie D. Smith
General Counsel