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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Exemption Application No. D-10762, et al.]

Prohibited Transaction Exemption 2002-01; Grant of Individual Exemptions; Key Trust Company of Ohio, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition, the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon

the entire record, the Department makes the following findings:

- (a) The exemptions are administratively feasible;
- (b) They are in the interests of the plans and their participants and beneficiaries; and
- (c) They are protective of the rights of the participants and beneficiaries of the plans.

Key Trust Company of Ohio (Key Trust), Located in Cleveland, OH

[Prohibited Transaction Exemption 2002-01; Exemption Application No. D-10762]

Exemption

I. Covered Transactions

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code,¹ shall not apply to the making of interest-free loans to a defined contribution plan (the Plan) by its respective sponsor (the Plan Sponsor) pursuant to the terms of a credit facility arrangement (the Credit Facility Arrangement), established by Key Trust and its affiliates (collectively, KeyBank), which enables daily transactions, such as participant investment transfers, distributions or participant loans, in connection with the Plan's unitized employer stock fund (the Unitized Employer Stock Fund or Fund) within KeyBank; and (2) the repayment, by the Plan to the Plan Sponsor, of any interest-free loan within 90 days with cash proceeds received from the sale of employer stock (Employer Stock) held in the Unitized Employer Stock Fund.

II. General Conditions

(a) Each loan made under the Credit Facility Arrangement provides short-term funds to the Plan for a period of no longer than 90 days for the purpose of facilitating Plan participant transfers, distributions, loans and other participant transactions involving the Plan's Unitized Employer Stock Fund.

(b) The maximum amount of short-term funds available to a Plan under the Credit Facility Arrangement, in the aggregate, does not exceed 25 percent of the fair market value of the Plan's Unitized Employer Stock Fund.

(c) Each loan made under the Credit Facility Arrangement is repaid with proceeds from the sale of Employer Stock held in the Unitized Employer Stock Fund.

¹ Unless otherwise noted, references to specific sections of the act refer also to the corresponding provisions of the Code.

(d) For purposes of repaying a loan under the Credit Facility Arrangement, the sales price for the Employer Stock is based upon its fair market value as determined on the New York Stock Exchange (the NYSE) or other applicable securities exchange where such Employer Stock is primarily traded on the date of the transaction, as calculated by an independent pricing service.

(e) Each loan made under the Credit Facility Arrangement is unsecured and no commitment fees, interest or commissions are paid by the Plan.

(f) In the event of a loan default or delinquency, the Plan Sponsor has no recourse against the Plan.

(g) Each loan is initiated, accounted for and administered by KeyBank, the independent fiduciary, which will monitor the terms and conditions of the exemption on behalf of the Plan, at all times.

(h) KeyBank maintains for a period of six years, in a manner that is accessible for audit and examination, the records necessary to enable the persons described in paragraph (i) to determine whether the conditions of this exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of KeyBank, such records are lost or destroyed prior to the end of such six year period; and

(2) No party in interest, other than KeyBank, shall be subject to the civil penalty that may be assessed under section 502(i), or the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (h).

(i)(1) Except as provided in paragraph (h)(2) and notwithstanding anything to the contrary in sections 504(a)(2) and (b) of the Act, the records referred to in paragraph (h) are unconditionally available for examination during normal business hours by—

(A) Any duly authorized employees or representatives of the Department or the Internal Revenue Service;

(B) Any fiduciary of a Plan or any duly authorized employee or representative of such fiduciary; and

(C) Any participant or beneficiary of a Plan or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described above in paragraph (i)(1)(B) or (C) shall be authorized to examine the trade secrets of KeyBank or commercial or financial information which is privileged or confidential.

III. Definitions

For purposes of this exemption,

(a) The term "KeyBank" refers to Key Trust Company of Ohio and its affiliates.

(b) An "affiliate" of KeyBank includes—

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with KeyBank;

(2) Any officer, director, employee, relative or partner in KeyBank; and

(3) Any corporation or partnership of which KeyBank is an officer, director, partner or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "closing price" means the final price at which Employer Stock has traded on the NYSE (or such other exchange on which Employer Stock is primarily traded) on the date of the transaction as may be reported to KeyBank using an independent pricing service for the reporting of final prices.

(e) The term "Employer Stock" refers to common stock issued by a Plan Sponsor, an affiliate of the Plan Sponsor, a former Plan Sponsor, or an affiliate of the former Plan Sponsor.²

(f) The term "Plan Sponsor" refers to an employer (or an affiliate of the employer) sponsoring a defined contribution plan which has entered into a Unitized Employer Stock Fund Investment Policy Agreement with KeyBank in order to structure the investment by the Plan's Unitized Employer Stock Fund in Employer Stock.

(g) The term "Unitized Employer Stock Fund" refers to an investment fund established by KeyBank whose assets will consist primarily of shares of Employer Stock.

(h) The "trading day" refers to any day on which KeyBank and the NYSE are open for business and are able to transact trades involving Employer Stock as a Plan investment. The close of trading day will be the time of the close on the NYSE. In the event that either KeyBank or the NYSE (or any other exchange on which the Employer Stock is primarily traded) is incapable of processing trades involving Employer Stock, or in the event trading in Employer Stock is suspended, the close of the trading day will be the last time by which transactions involving

Employer Stock are processed on any such day.

(i) The term "drift allowance" refers to the range of percentages, comprised of a maximum and minimum percentage, which is determined and established by the Plan Sponsor as being the proper percentages within which the liquidity component of the Unitized Employer Stock Fund should represent of the entire market value of such Fund on any given day.

(j) The term "liquidity component" means the short-term investment vehicle which is selected by the Plan Sponsor and used to invest any uninvested cash in the Plan's Unitized Employer Stock Fund.

(k) The term "target percentage" means the number, expressed as a percentage, which is determined and established by the Plan Sponsor, as being the proper percentage that the liquidity component of the Unitized Employer Stock Fund will represent of the entire market value of such Fund (including the liquidity component and the Employer Stock). The target percentage will take into consideration factors such as the daily market volume for trading in the Employer Stock and the average daily trading activity of such stock in the Unitized Employer Stock Fund.

(l) The term "transaction valuation date" refers to any day on which KeyBank and the NYSE (or any other national securities exchange on which Employer Stock is primarily traded) are open for business and are able to transact trades.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on September 7, 2001 at 66 FR 46830.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 693-8556. (This is not a toll-free number.)

The Golden Retirement Savings Program (the Savings Program); and The Golden Comprehensive Security Program (the Security Program), (collectively, the Plans) Located in New York, New York

[Prohibited Transaction Exemption No. 2002-02; Exemption Application Nos. D-10913; D-10914]

Exemption

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) and section 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply,

effective January 27, 2000, to the past acquisition and holding by the Savings Program of 1,896.294 publicly traded warrants and by the Security Program of 2,073.554 publicly traded warrants (the Warrants) of Golden Books Family Entertainment, Inc. (the Employer), a party in interest with respect to the Plans, provided that the following conditions were or will be met:

(a) The acquisition and holding of the Warrants by the Plans occurred in connection with the Employer's bankruptcy proceeding pursuant to which all holders of the old common stock of the Employer were treated in the same manner;

(b) The Plans had little, if any, ability to affect the negotiation of the Employer's plan of reorganization with respect to the bankruptcy proceeding;

(c) The Warrants were acquired automatically and without any action on the part of the Plans; and

(d) The Plans did not pay any fees or commissions in connection with the receipt of the Warrants, nor did the Plans pay any fees or commissions in connection with the holding of the Warrants.

EFFECTIVE DATE: This exemption is effective as of January 27, 2000.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice of Proposed Exemption (the Notice) published on September 7, 2001 at 66 FR 46839.

FOR FURTHER INFORMATION CONTACT:

Khalif Ford of the Department, telephone (202) 693-8540 (this is not a toll-free number).

Metropolitan Life Insurance Company (MetLife Insurance Company) and Its Affiliates (collectively, MetLife) Located in New York, NY

[Prohibited Transaction Exemption 2002-03; Exemption Application No. D-10954]

Exemption

Section I. Retroactive Exemption for the Acquisition, Holding and Disposition of Metlife, Inc. Common Stock

The restrictions of sections 406(a)(1)(D), 406(b)(1) and section 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(D) and (E) of the Code,³ shall not apply, as of December 7, 2000 until (insert the date the final exemption is published in the **Federal Register**), to

³ For purposes of this exemption, references to provisions of the Act refer also to corresponding provisions of the Code.

² The Department notes that the term "Employer Stock," as defined in this final exemption, may not satisfy the definition of "employer security" contained in section 407(d)(1) of the Act.

the acquisition, holding and disposition of the common stock of MetLife, Inc. (the MetLife, Inc. Stock), by Index and Model-Driven Funds (collectively, the Funds) that are managed by MetLife, in which client plans of MetLife invest, provided that the following conditions and the General Conditions of Section III are met:

(a) The acquisition or disposition of MetLife, Inc. Stock is for the sole purpose of maintaining strict quantitative conformity with the relevant index upon which the Index or Model-Driven Fund is based, and does not involve any agreement, arrangement or understanding regarding the design or operation of the Fund acquiring MetLife, Inc. Stock which is intended to benefit MetLife or any party in which MetLife may have an interest.

(b) All aggregate daily purchases of MetLife, Inc. Stock by the Funds do not exceed on any particular day the greater of—

(1) 15 percent of the average daily trading volume for the MetLife, Inc. Stock, occurring on the applicable exchange and automated trading system (as described in Section I(c) below) for the previous 5 business days, or

(2) 15 percent of the trading volume for MetLife, Inc. Stock occurring on the applicable exchange and automated trading system on the date of the transaction, as determined by the best available information for the trades occurring on that date.

(c) All purchases and sales of MetLife, Inc. Stock occur (i) either on a recognized U.S. securities exchange (as defined in Section IV(j) below), so long as the broker is acting on an agency basis; (ii) through an automated trading system (as defined in Section IV(i) below) operated by a broker-dealer independent of MetLife that is registered under the Securities Exchange Act of 1934 (the 1934 Act) and thereby subject to regulation by the Securities and Exchange Commission (SEC), or an automated trading system operated by a recognized U.S. securities exchange, which, in either case, provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer, or (iii) in a direct, arm's length transaction entered into on a principal basis with a broker-dealer, in the ordinary course of its business, where such broker-dealer is independent of MetLife and is registered under the 1934 Act, and thereby subject to regulation by the SEC.

(d) No transactions by a Fund involve purchases from, or sales to, MetLife (including officers, directors, or employees thereof), or any party in

interest that is a fiduciary with discretion to invest plan assets into the Fund (unless the transaction by the Fund with such party in interest would otherwise be subject to an exemption).

(e) No more than 5 percent of the total amount of MetLife, Inc. Stock, that is issued and outstanding at any time, is held in the aggregate by Index and Model-Driven Funds managed by MetLife.

(f) MetLife, Inc. Stock constitutes no more than 5 percent of any independent third party index on which the investments of an Index or Model-Driven Fund are based.

(g) A fiduciary of a plan, which is independent of MetLife, authorizes the investment of such plan's assets in an Index or Model-Driven Fund which purchases and/or holds MetLife, Inc. Stock, pursuant to the procedures described herein.

(h) A fiduciary independent of the MetLife directs the voting of MetLife, Inc. Stock held by an Index or Model-Driven Fund on any matter in which shareholders of MetLife, Inc. Stock are required or permitted to vote.

Section II. Prospective Exemption for the Acquisition, Holding and Disposition of MetLife, Inc. Stock and/or the Common Stock of a MetLife Affiliate

The restrictions of sections 406(a)(1)(D), 406(b)(1) and section 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(D) and (E) of the Code, shall not apply to the acquisition, holding and disposition of MetLife, Inc. Stock and/or common stock issued by a MetLife affiliate (together, the MetLife Stock), by Index and Model-Driven Funds that are managed by MetLife, in which client plans of MetLife invest, provided that the following conditions and the General Conditions of Section III are met:

(a) The acquisition or disposition of MetLife Stock is for the sole purpose of maintaining strict quantitative conformity with the relevant index upon which the Index or Model-Driven Fund is based, and does not involve any agreement, arrangement or understanding regarding the design or operation of the Fund acquiring MetLife Stock which is intended to benefit MetLife or any party in which MetLife may have an interest.

(b) Whenever MetLife Stock is initially added to an index on which an Index or Model-Driven Fund is based, or initially added to the portfolio of an Index or Model-Driven Fund, all acquisitions of MetLife Stock necessary to bring the Fund's holdings of such

stock either to its capitalization-weighted or other specified composition in the relevant index, as determined by the independent organization maintaining such index, or to its correct weighting as determined by the model which has been used to transform the index, occur in the following manner:

(1) Purchases are from, or through, only one broker or dealer on a single trading day;

(2) Based on the best available information, purchases are not the opening transaction for the trading day;

(3) Purchases are not effected in the last half hour before the scheduled close of the trading day;

(4) Purchases are at a price that is not higher than the lowest current independent offer quotation, determined on the basis of reasonable inquiry from non-affiliated brokers;

(5) Aggregate daily purchases do not exceed 15 percent of the average daily trading volume for the security, as determined by the greater of either (i) the trading volume for the security occurring on the applicable exchange and automated trading system on the date of the transaction, or (ii) an aggregate average daily trading volume for the security occurring on the applicable exchange and automated trading system for the previous 5 business days, both based on the best information reasonably available at the time of the transaction;

(6) All purchases and sales of MetLife Stock occur either (i) on a recognized U.S. securities exchange (as defined in Section IV(j) below), (ii) through an automated trading system (as defined in Section IV(i) below) operated by a broker-dealer independent of MetLife that is registered under the 1934 Act, and thereby subject to regulation by the SEC, which provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer, or (iii) through an automated trading system (as defined in Section IV(i) below) that is operated by a recognized U.S. securities exchange (as defined in Section IV(j) below), pursuant to the applicable securities laws, and provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer; and

(7) If the necessary number of shares of MetLife Stock cannot be acquired within 10 business days from the date of the event which causes the particular Fund to require MetLife Stock, MetLife appoints a fiduciary which is independent of MetLife to design acquisition procedures and monitor compliance with such procedures.

(c) Subsequent to acquisitions necessary to bring a Fund's holdings of MetLife Stock to its specified weighting in the index or model pursuant to the restrictions described in Section II(b) above, all aggregate daily purchases of MetLife Stock by the Funds do not exceed on any particular day the greater of:

(1) 15 percent of the average daily trading volume for MetLife Stock occurring on the applicable exchange and automated trading system (as defined below) for the previous 5 business days, or

(2) 15 percent of the trading volume for MetLife Stock occurring on the applicable exchange and automated trading system (as defined below) on the date of the transaction, as determined by the best available information for the trades that occurred on such date.

(d) All transactions in MetLife Stock not otherwise described above in Section II(b) are either—(i) entered into on a principal basis in a direct, arm's length transaction with a broker-dealer, in the ordinary course of its business, where such broker-dealer is independent of MetLife and is registered under the 1934 Act, and thereby subject to regulation by the SEC, (ii) effected on an automated trading system (as defined in Section IV(i) below) operated by a broker-dealer independent of MetLife that is subject to regulation by either the SEC or another applicable regulatory authority, or an automated trading system operated by a recognized U.S. securities exchange (as defined in Section IV(j) below) which, in either case, provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer, or (iii) effected through a recognized U.S. securities exchange (as defined in Section IV(j) below), so long as the broker is acting on an agency basis.

(e) No transactions by a Fund involve purchases from, or sales to, MetLife (including officers, directors, or employees thereof), or any party in interest that is a fiduciary with discretion to invest plan assets into the Fund (unless the transaction by the Fund with such party in interest would otherwise be subject to an exemption).

(f) No more than 5 percent of the total amount of MetLife Stock, that is issued and outstanding at any time, is held in the aggregate by Index and Model-Driven Funds managed by MetLife.

(g) MetLife Stock constitutes no more than 5 percent of any independent third party index on which the investments of an Index or Model-Driven Fund are based.

(h) A fiduciary of a plan which is independent of MetLife authorizes the investment of such plan's assets in an Index or Model-Driven Fund which purchases and/or holds MetLife Stock, pursuant to the procedures described herein.

(i) A fiduciary independent of the MetLife directs the voting of MetLife Stock held by an Index or Model-Driven Fund on any matter in which shareholders of MetLife Stock are required or permitted to vote.

Section III. General Conditions

(a) MetLife maintains or causes to be maintained for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (b) of this Section III to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of MetLife, the records are lost or destroyed prior to the end of the six year period, and (2) no party in interest other than MetLife shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (b) below.

(b)(1) Except as provided in paragraph (b)(2) of this Section III and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (a) of this Section III are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the SEC,

(B) Any fiduciary of a plan participating in an Index or Model-Driven Fund who has authority to acquire or dispose of the interests of the plan, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan participating in an Index or Model-Driven Fund or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any plan participating in an Index or Model-Driven Fund, or a representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this Section III(b)(1) shall be authorized to examine trade secrets of MetLife or commercial or financial information which is considered confidential.

Section IV. Definitions

(a) The term "Index Fund" means any investment fund, account or portfolio sponsored, maintained, trustee, or managed by MetLife, in which one or more investors invest, and—

(1) Which is designed to track the rate of return, risk profile and other characteristics of an independently maintained securities Index, as described in Section IV(c) below, by either (i) replicating the same combination of securities which compose such Index or (ii) sampling the securities which compose such Index based on objective criteria and data;

(2) For which MetLife does not use its discretion, or data within its control, to affect the identity or amount of securities to be purchased or sold;

(3) That contains "plan assets" subject to the Act, pursuant to the Department's regulations (see 29 CFR 2510.3-101, Definition of "plan assets"—plan investments); and,

(4) That involves no agreement, arrangement, or understanding regarding the design or operation of the Fund which is intended to benefit MetLife or any party in which MetLife may have an interest.

(b) The term "Model-Driven Fund" means any investment fund, account or portfolio sponsored, maintained, trustee, or managed by MetLife, in which one or more investors invest, and—

(1) Which is composed of securities the identity of which and the amount of which are selected by a computer model that is based on prescribed objective criteria using independent third party data, not within the control of MetLife, to transform an independently maintained Index, as described in Section IV(c) below;

(2) Which contains "plan assets" subject to the Act, pursuant to the Department's regulations (see 29 CFR 2510.3-101, Definition of "plan assets"—plan investments); and

(3) That involves no agreement, arrangement, or understanding regarding the design or operation of the Fund or the utilization of any specific objective criteria which is intended to benefit MetLife or any party in which MetLife may have an interest.

(c) The term "Index" means a securities index that represents the investment performance of a specific segment of the public market for equity or debt securities in the United States, but only if—

(1) The organization creating and maintaining the index is—

(A) Engaged in the business of providing financial information,

evaluation, advice or securities brokerage services to institutional clients,

(B) A publisher of financial news or information, or

(C) A public stock exchange or association of securities dealers; and,

(2) The index is created and maintained by an organization independent of MetLife; and,

(3) The index is a generally-accepted standardized index of securities which is not specifically tailored for the use of MetLife.

(d) The term "opening date" means the date on which investments in or withdrawals from an Index or Model-Driven Fund may be made.

(e) The term "Buy-up" means an acquisition of MetLife Stock by an Index or Model-Driven Fund in connection with the initial addition of such stock to an independently maintained index upon which the Fund is based or the initial investment of a Fund in such stock.

(f) The term "MetLife" refers to Metropolitan Life Insurance Company, its parent, MetLife, Inc. and their current or future affiliates, as defined below in paragraph (g).

(g) An "affiliate" of MetLife includes:

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with the person;

(2) Any officer, director, employee or relative of such person, or partner of any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(h) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(i) The term "automated trading system" means an electronic trading system that functions in a manner intended to simulate a securities exchange by electronically matching orders on an agency basis from multiple buyers and sellers, such as an "alternative trading system" within the meaning of the SEC's Reg. ATS [17 CFR Part 242.300], as such definition may be amended from time to time, or an "automated quotation system" as described in Section 3(a)(51)(A)(ii) of the 1934 Act [15 U.S.C. 8c(a)(51)(A) (ii)].

(j) The term "recognized U.S. securities exchange" means a U.S. securities exchange that is registered as a "national securities exchange" under Section 6 of the 1934 Act (15 U.S.C. 78f), as such definition may be amended from time to time, which performs with respect to securities the functions

commonly performed by a stock exchange within the meaning of definitions under the applicable securities laws (*e.g.*, 17 CFR part 240.3b-16).

EFFECTIVE DATE: This exemption is effective from December 7, 2000 until (*insert the date the final exemption is published in the Federal Register*) with respect to the transactions described in Section I above, and is effective as of (*insert the date the final exemption is published in the Federal Register*) for the transactions described in Section II above.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on September 27, 2001 at 66 FR 49400.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

Kimball International, Inc. Retirement Plan (the Plan), Located in Jasper, Indiana

[Prohibited Transaction Exemption No. 2002-04; Exemption Application No. D-10949]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale (the Sale) by the Plan of stock (the Shares) of SVB&T Corporation (Springs Valley) to Springs Valley, the Trustee of the Plan and a party in interest with respect to the Plan, provided that the following conditions are met:

(a) All terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party;

(b) The Sale is a one-time transaction for cash;

(c) The fair market value of the Shares is determined by a qualified, independent appraiser;

(d) The Plan does not pay any commissions, costs or other expenses in connection with the Sale; and

(e) The Plan receives as consideration an amount that is no less than the greater of: (1) the fair market value of the Shares as of the date of the Sale or (2) \$40 per Share.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice of

Proposed Exemption published on October 23, 2001 at 66 FR 53635.

Written Comments

One written comment was received by the Department, which was submitted by the applicant, Kimball. The comment requested a change to the Notice as described below.

On page 53635 of the Notice, with respect to the operative language describing the transaction, the reference to Springs Valley Bank & Trust should be deleted and, in lieu thereof, SVB&T Corporation (Springs Valley) should be inserted.

The Department concurs in this change submitted by the applicant. Accordingly, after giving full consideration to the entire record, including the comments by the applicant, the Department has determined to grant the exemption as modified. In this regard, the comment submitted to the Department have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N-1513, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Khalif Ford of the Department, telephone (202) 693-8540 (this is not a toll-free number).

Alaska United Food and Commercial Workers Health and Security Trust Fund (the Plan) Located in Anchorage, Alaska

[Prohibited Transaction Exemption 2002-05; Exemption Application No. L-10896]

Exemption

The restrictions of section 406(a) of the Act shall not apply to the purchase by Plan participants and beneficiaries of prescription drugs from Safeway, Inc. (Safeway), a party in interest with respect to the Plan, provided the following conditions are satisfied: (a) the terms of the transaction are at least as favorable to the Plan as those the Plan could obtain in a similar transaction with an unrelated party; (b) any decision by the Plan to enter into agreements governing the subject purchases will be made by Plan fiduciaries independent of Safeway and its wholly owned subsidiary, SMCrx; (c) at least 50% of the preferred providers participating in the Preferred Provider Network (PPN) involving Safeway are unrelated to Safeway or any other party

in interest with respect to the Plan; (d) Safeway will be treated no differently than any other pharmacy participating in the PPN; and (e) the transaction is not part of an agreement, arrangement or understanding designed to benefit Safeway or any other party in interest with respect to the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 23, 2001 at 66 FR 53637.

EFFECTIVE DATE: This exemption is effective as of August 1, 2000.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 693-8540. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 3rd day of January, 2002.

Ivan Strasfeld,

*Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
U.S. Department of Labor.*

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LEGAL SERVICES CORPORATION

Solicitation for Expressions of Interest in Participation in Design of a State Justice Community Evaluation Instrument

AGENCY: Legal Services Corporation.

ACTION: Solicitation of expressions of interest in participation in design of a State Justice Community Evaluation Instrument

DATE: Submit expressions of interest must be received by January 15, 2002.
SUMMARY: LSC is establishing a Design Team to advise its consultant group on the development and testing of a tool that will effectively evaluate state justice community efforts and outcomes. LSC hereby solicits expressions of interest in appointment to the Design Team from individuals with experience in the provision of civil legal services to low income people and in outcome evaluation protocols.

FOR FURTHER INFORMATION CONTACT: Patricia M. Hanrahan, Special Assistant to the Vice President for Programs, Legal Services Corporation, 750 First St., NE., Tenth Floor, Washington, DC 20002-4250; (202) 336-8848; phanrahan@lsc.gov.

SUPPLEMENTARY INFORMATION: LSC has retained Greacen Associates to develop a state justice community evaluation instrument that allows LSC to make reasonable and comparative judgments about the effectiveness, efficiency and adequacy of state justice communities established through state planning. To assist with this process and ensure the effectiveness of the product, LSC is establishing a Design Team composed of twelve members; up to six will be solicited through the LSC Web site and **Federal Register**. LSC is seeking external members representing national legal services advocacy organizations; individual recipients (preferable reflecting large/small and/or urban/rural diversity); clients; national and local organized bar associations; and other interested stakeholders. While there are no specific "criteria" for membership, it is expected that applicants will have the support of their organizations in participating in the effort and be

knowledgeable about the issues. Interested parties should have experience in evaluating outcomes, particularly in civil legal services organizations. Understanding the goals and purposes of state planning and related issues is also critical.

There will be three meetings: March 13 to 15, 2002 in Washington, DC; April 16 and 17 in Cleveland; May 16 and 17, 2002. Participation in conference calls and other communications such as e-mail is also expected. The project will take nine months.

LSC hereby solicits expressions of interest in appointment to the Design Team from the civil legal services community, clients, advocates, the organized bar and other interested parties. Expressions of interest must be submitted no later than 15 days from the date of publication of this notice. Expressions of interest must be submitted in writing (by regular mail, fax or e-mail) to LSC's Patricia M. Hanrahan at the addresses listed in this notice.

Once LSC has received expressions of interest, the President working in consultation with the Vice President for Programs, will make appointments of individuals and organizations to the Design Team. Groups or organizations asked to participate in the Design Team will be responsible for selecting and designating their own representatives.

Victor M. Fortuno,
General Counsel and Vice President for Legal Affairs.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8681-MLA-11; ASLBP No. 02-795-02-MLA]

International Uranium (USA) Corporation; Designation of Presiding Officer

Pursuant to delegation by the Commission, *see* 37 FR 28,710 (Dec. 29, 1972), and the Commission's regulations, *see* 10 CFR 2.1201, 2.1207, notice is hereby given that (1) a single member of the Atomic Safety and Licensing Board Panel is designated as Presiding Officer to rule on petitions for leave to intervene and/or requests for hearing; and (2) upon making the requisite findings in accordance with 10 CFR 2.1205(h), the Presiding Officer will conduct an adjudicatory hearing in the following proceeding:

International Uranium (USA) Corporation
White Mesa Uranium Mill