

sampling equipment. A panel of MSHA and NIOSH officials will conduct the hearing in an informal manner. Although formal rules of evidence or cross examination will not apply, the presiding official may exercise discretion to ensure the orderly progress of the hearing and may exclude irrelevant or unduly repetitious material and questions. The hearing panel will be available to address relevant questions. Verbatim transcripts of the proceedings will be prepared and made a part of the rulemaking record. Copies of the hearing transcripts will be made available to the public for review.

The hearing will begin with an opening statement from MSHA and NIOSH, followed by oral presentations from members of the public. In the interests of conducting a productive hearing, MSHA and NIOSH will schedule speakers in a manner that allows all points of view to be heard as effectively as possible. At his discretion, the presiding official may limit speakers to a maximum of 20 minutes for their presentations.

MSHA and NIOSH also will accept additional written comments and other appropriate data for the record from any interested party, including those not presenting oral statements. To allow for the submission of any post-hearing comments, the record will remain open until June 10, 1996. MSHA will include written comments and data submitted to MSHA or NIOSH on or before June 10, 1996, in the rulemaking record.

Dated: April 22, 1996.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

Dated: April 22, 1996.

Marilyn A. Fingerhut,

Assistant Director for Washington Operations, National Institute for Occupational Safety and Health.

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 96-24; Exemption Application No. D-10036 and D-10037, et al.]

Grant of Individual Exemptions; Biscayne Bay Pilots, Inc.

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, D.C. 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 (43 FR 47713, October 17, 1978) 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.

Biscayne Bay Pilots, Inc. Money Purchase Pension Plan (M/P Plan) and Biscayne Bay Pilots, Inc. 401(k) Profit Sharing Plan (P/S Plan; collectively, the Plans), Located in Miami, Florida

[Prohibited Transaction Exemption 96-24; Exemption Application Nos. D-10036 and D-10037]

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 sale of certain improved real property (the Property) by a trust (the HK Trust) established on behalf of Helge Krarup (Mr. Krarup) within the Plans to Mr. Krarup, a party in interest with respect to the Plans; provided that the following conditions are satisfied:

- (a) the sale will be a one-time cash transaction;
- (b) the HK Trust will receive the current fair market value for the Property established at the time of the sale by an independent qualified appraiser;
- (c) the HK Trust will pay no expenses associated with the sale;
- (d) the sale will provide the HK Trust with liquidity; and
- (e) only the assets in the HK Trust will be affected by the transaction.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department at (202) 219-8883. (This is not a toll-free number.)

Zausner Foods Corp. Savings Plus Plan (the Plan), Located in New Holland, Pennsylvania

[Prohibited Transaction Exemption 96-25; Exemption Application No. D-10064]

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 past sale by the Plan of certain units of limited partnership interests (the Units) to Zausner Foods Corp. (Zausner Foods), a party in interest with respect to the Plan, provided that the following conditions were satisfied: (1) The sale was a one-time transaction for cash; (2) the Plan paid no commissions nor other expenses relating to the sale; and (3) the purchase price was the greater of: (a) the fair market value of the Units as determined by a qualified, independent appraiser, or (b) the original acquisition cost of the Units plus attributable opportunity costs.

EFFECTIVE DATE: December 29, 1995.

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 March 5, 1996 at 61 FR 8683.

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

Jack, Lyon & Jones, P.A. Profit Sharing Plan (the Plan), Located in Little Rock, AR

[Prohibited Transaction Exemption 96-26; Exemption Application No. D-10071]

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 (1) Proposed purchase by the Plan of certain improved real property (the Property) from Jack, Lyon & Jones, P.A., (the Employer), a party in interest with respect to the Plan; (2) the subsequent leasing (the Lease) of the Property by the Plan to the Employer; and (3) the potential future repurchase of the Property by the Employer from the Plan pursuant to the terms of an option agreement (the Option Agreement).

This exemption is conditioned on the following requirements:

(a) The interests of the Plan with respect to the purchase of the Property, the execution and maintenance of the Lease and the potential repurchase of the Property by the Employer will be represented by First Commercial Trust Company (FCTC) of Little Rock, Arkansas, which will serve as the independent fiduciary.

(b) FCTC does not and will not derive more than one percent of its gross business revenues from the Employer and/or its principals for each fiscal year that it serves as the independent fiduciary for the Plan with respect to the transactions described herein.

(c) FCTC will evaluate the transactions, determine that such transactions are in the best interests of the Plan, and monitor and enforce compliance with the terms and conditions of the transactions and the exemption, at all times.

(d) The acquisition price for the Property will be paid by the Plan in cash and will be based upon the fair market value of the Property as determined by a qualified, independent appraiser.

(e) The fair market value of the Property will not exceed 25 percent of the assets of the Plan.

(f) The terms of the Lease will remain at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

(g) The fair market rental amount will be redetermined every three years that the Lease is in effect by a qualified, independent appraiser who has been selected by FCTC and, FCTC will then make appropriate adjustments to such rent.

(h) The Employer will be obligated for all real estate taxes, utility costs, fees and insurance premiums that are incidental to the Lease.

(i) The Option Agreement will enable the Plan to sell the Property to the Employer in the event that FCTC determines that it is not in the best interest of the Plan to retain the Property.

(j) The Option Agreement will provide that the Employer repurchase the Property from the Plan for cash in an amount which is not less than the greater of (1) the Plan's acquisition cost for the Property or (2) the fair market value of the Property as determined by a qualified, independent appraiser who has been selected by FCTC.

(k) The Plan will pay no real estate fees, commissions or other expenses in connection with the acquisition of the Property, the administration of the Lease or the repurchase of the Property by the Employer under the Option Agreement.

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 February 13, 1996 at 61 FR 5574.

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

IRA Rollover FBO John W. Meisenbach (the IRA), Located in Seattle, Washington

[Prohibited Transaction Exemption 96-27; Exemption Application No. D-10114]

Exemption

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 sale by the IRA of certain stock (the Stock) to John W. Meisenbach, a disqualified person with respect to the IRA, provided that the following conditions are satisfied: (a) the sale is a one-time transaction for cash; (b) the IRA pays no commissions nor other

expenses relating to the sale; and (c) the purchase price is the fair market value of the Stock as determined by a qualified, independent appraiser as of the date of the sale.*

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 March 5, 1996 at 61 FR 8684.

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

Associated Claims Management 401(k) Plan (the Plan), Located in Walnut Creek, California

[Prohibited Transaction Exemption 96-28; Exemption Application No. D-10121]

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 sale of a group annuity contract (the GAC) issued by Mutual Benefit Life Insurance Company (Mutual Benefit) by the Plan to Foundation Health Corporation (FHC), a party in interest with respect to the Plan, provided that the following conditions are satisfied: (a) the sale is a one-time transaction for cash; (b) the Plan suffers no loss nor incurs any expense in connection with the sale; (c) the purchase price is no less than the fair market value of the GAC as of the date of the sale; and (d) any payments under the GAC to FHC, or its successors, after the date of the sale in excess of FHC's purchase price are paid 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 February 13, 1996 at 61 FR 5576.

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

* Pursuant to 29 CFR 2510.3-2(d), the IRA is not within the jurisdiction of Title I of the Act. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Floral Glass and Mirror, Inc. Profit Sharing Plan and Trust (the Plan), Located in Hauppauge, New York

[Prohibited Transaction Exemption 96-29; Exemption Application No. D-10144]

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 sale of 20 shares of stock of Floral Glass Industries, Inc. (FGI) by the Plan to Mr. Charles Kaplanek, Jr. (Kaplanek), a party in interest with respect to the Plan, provided the following conditions are satisfied: (a) The sale is a one-time transaction for cash; (b) the Plan pays no commissions or other expenses in connection with the transaction; (c) the Plan will receive the fair market value of the shares as determined by a qualified, independent appraiser; and (d) all terms and conditions of the sale will be at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party at the time of the sale.

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 March 5, 1996 at 61 FR 8685.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219-8881. (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, DC, this 18th day of April, 1996.

Ivan Strasfeld,

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

[FR Doc. 96-10072 Filed 4-23-96; 8:45 am]

BILLING CODE 4510-29-P

Working Group on the Impact of Tax Initiatives on Employer-Sponsored Plans; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on the Impact of Tax Initiatives on Employer-Sponsored Plans of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on May 8, 1996, in Room N3437 B&C, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 9:30 a.m. and will last until approximately noon, is to explore the impact of various tax proposals on ERISA employer-sponsored plans.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before May 8, 1996, to Sharon Morrissey, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N-5677, 200 Constitution Avenue, N.W., Washington, DC 20210.

Individuals or representatives of organizations wishing to address the Working Group on the Impact of Tax Initiatives on Employer-Sponsored Plans of the Advisory Council should forward their request to the Acting Executive Secretary or telephone (202) 219-8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations,

should contact Sharon Morrissey by April 26 at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Acting Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before April 26, 1996.

Signed at Washington, DC this 18th day of April, 1996.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 96-10068 Filed 4-23-96; 8:45 am]

BILLING CODE 4510-29-M

Pension and Welfare Benefit Administration

Working Group on Protections for Benefit Plan Participants; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Protections for Benefit Plan Participants of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on May 7, 1996, in Room N3437 B&C, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 1 p.m. and end at approximately 3:30 p.m., is to study the extent to which third-party trustees can provide protections for benefit plan participants.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before April 26, 1996 to Sharon Morrissey, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N-5677, 200 Constitution Avenue, N.W., Washington, DC 20210.

Individuals or representatives of organizations wishing to address the Working Group on Protections for Benefit Plan Participants of the Advisory Council should forward their request to the Acting Executive Secretary or telephone (202) 219-8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon