

about the proposed exemption, which the Department provided to the commentator by telephone. The other comment did not address any issues relevant to the proposed exemption. After consideration of the entire record, the Department has determined to grant the exemption as proposed.

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

Wadco, Inc. Profit Sharing Plan and Trust (the Plan) Located in Spring, Texas

[Prohibited Transaction Exemption 95-21; Application No. D-09820]

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 proposed sale (the Sale) of certain shares of stock (the Stock) by the Plan to Peter Aswad, a disqualified person with respect to the Plan.¹

This exemption is conditioned upon the following requirements: (1) All terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arm's length transaction between unrelated parties; (2) the Sale is a one-time cash transaction; (3) the Plan is not required to pay any commissions, costs or other expenses in connection with the Sale; (4) the Plan receives a sales price equal to the fair market value of the Stock as determined by an independent, qualified appraiser; (5) the trustees of the Plan determine that the Sale is appropriate for the Plan and is in the best interests of the Plan and their participants and beneficiaries; and (6) within ninety days of the grant of this exemption, Wadco files Forms 5330 with the Internal Revenue Service and pays all applicable excise taxes due with respect to past prohibited transactions.

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 January 18, 1995 at 60 FR 3661.

FOR FURTHER INFORMATION CONTACT: Kathryn Parr of the Department, telephone (202) 219-8971. (This is not a toll-free number.)

¹ Since Peter Aswad and his wife, Judith Aswad, are the only participants in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Treasure Valley Transplants, Inc. Money Purchase Pension Plan (the Plan) Located in Boise, Idaho

[Prohibited Transaction Exemption 95-22; Application No. D-09874]

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 cash sale (the Sale) of certain real property (the Property) by the Plan to Dr. George Holzer, D.V.M. (Dr. Holzer), a disqualified person with respect to the Plan;² provided that the following conditions are satisfied:

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

(2) The Plan does not incur any expenses in connection with the proposed transaction; and

(3) The consideration paid for the Property is no less than the fair market value of the Property as determined by an independent appraiser.

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 January 30, 1995 at 60 FR 5728.

FOR FURTHER INFORMATION CONTACT: Virginia J. Miller of the Department, telephone (202) 219-8971. (This is not a toll-free number.)

Terry Segal, P.C. Retirement Plans Located in Boston, MA

[Prohibited Transaction Exemption 95-23; Exemption Application No. D-09891]

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) shall not apply to the proposed purchase by Terry and Harriet Segal of an interest (the Interest) in a limited partnership from Mr. Segal's individually-directed account (the Account) in the Terry Segal, P.C. Pension Plan (the Pension Plan), provided: (1) The purchase is a one-time transaction for cash; (2) the Pension Plan Account is not required to pay any fees or commissions in connection therewith; (3) the Interest is appraised by a qualified, independent appraiser; and (4) the Pension Plan Account

² Since Dr. Holzer is the sole shareholder of the Employer, and the only participant in the Plan, there is no jurisdiction under Title I of the Act, pursuant to 29 CFR 2510.3-3(c)(1). There is, however, jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

receives an amount which reflects the fair market value of the Interest.

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 January 30, 1995 at 60 FR 5729.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady 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 8th day of March, 1995.

Ivan Strasfeld,

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

[FR Doc. 95-6117 Filed 3-10-95; 8:45 am]

BILLING CODE 4510-29-P