

Zerhusen and Ghazi, M.D. Inc. Profit Sharing Plan (the Plan) Located in Cincinnati, Ohio

[Prohibited Transaction Exemption 96-78 Exemption Application No. D-10224]

#### 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 (the Sale) by Dr. J. Robert Zerhusen's individual, self-directed account within the Plan (the Account) of a parcel of real property (the Property) to his spouse, Marilyn E. Zerhusen (Mrs. Zerhusen), a participant in the Plan and 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 a lump sum cash payment; (b) the purchase price is the fair market value of the Property as of the date of the Sale; (c) the Property has been appraised by a qualified, independent real estate appraiser; and (d) the Account will pay no commissions or other expenses relating to 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 August 27, 1996 at 61 FR 44085.

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

Huggler & Silverang Profit Sharing Plan (the Plan) Located In Philadelphia, Pennsylvania

[Prohibited Transaction Exemption 96-79; Exemption Application No. D-10238]

#### Exemption

The restrictions of sections 406(a) and 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 cash sale (the Sale) by the Plan of two 5 percent limited partnership interests (collectively, the Interests) in Rosemont Square Associates, L.P. (the Partnership), one to Mr. David H. Huggler and the second to Mr. Kevin J. Silverang, respectively, parties in interest with respect to the Plan; provided (1) the Sale is a one-time transaction for cash, (2) the Plan pays no commissions nor incurs any expenses in connection with the transaction, and (3) the Plan receives as consideration for

the Sale no less than the fair market value of the Interests 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 September 6, 1996, at 61 FR 47203.

**FOR FURTHER INFORMATION CONTACT:** Mr. C.E. Beaver 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 11th day of October, 1996.

Ivan Strasfeld,

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

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#### Full Council Meeting; 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 full council meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Nov. 13, 1996, in Room S-3215 A&B, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, D.C. 20210.

The purpose of the meeting, which will be from 1:00 to 2:00 p.m., is to brief the Department on the Working Groups' final reports of the year. The Council will also be briefed by Assistant Secretary Berg on the activities and accomplishments of the agency and the department. The current Council year concludes on Nov. 14, and the five departing members will be cited for their contributions by the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before Nov. 4, 1996, to Sharon Morrissey, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N-5677, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Acting Executive Secretary or telephone (202) 219-8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by Nov. 4 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 Nov. 4, 1996.

Signed at Washington, DC this 9th day of October, 1996.

Olena Berg,

*Assistant Secretary, Pension and Welfare Benefits Administration.*

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