Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to Barbara Allen-Hagen (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Barbara Allen-Hagen, (202) 307–1308, Office of Juvenile Justice and Delinquency Prevention, 810 7th Street, NW, Room 8241, Washington, DC 20531.

Overview of this information collection:

(1) *Type of information collection:* New collection.

(2) *The title of the form/collection:* Performance Measures Data Collection Forms.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection.* Forms: PM–1 Primary Facility Form, PM–2 Staff Interview, PM–3 Juvenile Interview, PM–4 Incident Report, PM–5 Staff Record, PM–6 Juvenile Record. Sponsoring Department: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Public and Private Juvenile Confinement Facilities. Other: None. This collection will gather information necessary to determine how juvenile confinement facilities operationalize their stated policies, deliver services, and collect and maintain data. Additionally, the collection will help identify the extent to which facilities achieve performance standards in the areas of order, safety, security, programming, health and mental health, and justice. Based on the findings expert consultants will collaborate with facility directors to develop improvement plans.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 5,490 respondents with an average 20 minutes per response for juveniles and staff and an average 21 hours per response for facility coordinators.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 123 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW Washington, DC 20530.

Dated: April 16, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–10585 Filed 4–21–98; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10524, et al.]

Proposed Exemptions; Jack Mayesh Wholesale Florist, Inc.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions 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).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). 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 requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Jack Mayesh Wholesale Florist, Inc., Profit Sharing Plan (the Plan), Located in Los Angeles, California

[Application No. D–10524]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, 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 by the Plan of certain unimproved real property (the Property) to Roy Dahlson, a party in interest with respect to the Plan, provided that the following conditions are satisfied: (1) the sale is a one-time transaction for cash; (2) the Plan pays no commissions nor other

expenses relating to the sale; and (3) the Plan receives an amount which is the greater of either (a) the fair market value of the Property as of the date of the sale, as determined by a qualified, independent appraiser, or (b) the original acquisition cost of the Property to the Plan, plus lost opportunity costs attributable to the Property.

Summary of Facts and Representations

1. The Plan is a defined contribution plan sponsored by Jack Mayesh Wholesale Florist, Inc. (the Employer) and has approximately 58 participants. Mr. Dahlson is an owner of the Employer and one of the trustees of the Plan. The assets of the Plan, and of the Money Purchase Plan also sponsored by the Employer, are held in a combined trust. As of December 31, 1996, the fair market value of the assets of both plans was $1,062,124.34.

2. The Property consists of two adjoining parcels of unimproved real property located at Sunland Blvd., Los Angeles, California (mail address at 12901 Harding St., Sylmar, California). The two parcels are known as Parcel # 2544–010–002 (Lot 2) and Parcel # 2544–101–003 (Lot 3). Lot 2 consists of an area of 37,900 sq. ft., while Lot 3 consists of an area of approximately 50,530 sq. ft. The other parcels adjacent to Lot 2 and Lot 3 are owned by persons unrelated to the Plan, the Employer, and Mr. Dahlson.

3. The Property was acquired by the Plan from Shadow Hills Development Corp., an unrelated party, in March, 1993, for a total purchase price of $101,808. The purchase was paid by the Plan in four installments, as follows.

Date of payment	Amount paid
1. March 12, 1993	$25,000.00
2. August 27, 1993	6,808.38
3. March 5, 1994	20,000.00
4. September 14, 1994	50,000.00
	101,808.38

The applicant represents that all expenses relating to the Property since its acquisition by the Plan, including taxes, insurance, and fees, have been paid by Mr. Dahlson. However, the applicant states that the Property has not been leased to, nor used by, any party in interest with respect to the Plan, at any time since its acquisition by the Plan. The Property has produced no income for the Plan.[1]

4. The applicant has obtained two appraisals of the Property by qualified, independent appraisers, both certified in the State of California. The first appraiser, William G. Dyess, relying on the market approach to valuation, concluded that the fair market value of the Property (both parcels combined) was $44,000, as of June 8, 1997 (the Dyess Appraisal). The second appraiser, Terry T. Komatsu, of Suburban Appraisal Service, also relying on the market approach, estimated that the fair market value of the Property (both parcels combined) was $30,000, as of July 7, 1997 (the Komatsu Appraisal).

Each appraiser examined three recent sales of comparable properties in the local real estate area in making his determination of the fair market value of the Property. The zoning of the Property is Ra–1&K—Residential/agricultural. The Dyess Appraisal noted that Lot 2, which has street frontage on Sunland Blvd., is land that rises up sharply from the street and has value only to an adjoining lot. The Komatsu Appraisal noted that Lot 3 has no street frontage or other direct access from the street except through other parcels. Thus, by itself, it would have no apparent value unless vehicular ingress/egress easements could be obtained from adjoining parcels.

5. The applicant represents that the Plan has attempted to sell the Property on the open market for several years, without success. Mr. Dahlson therefore proposes to purchase the Property from the Plan for an amount which is the greater of either (a) the fair market value of the Property as of the date of the sale, based on an updated independent appraisal, or (b) the original acquisition cost of the Property to the Plan, plus lost opportunity costs attributable to the Property. Since the Property has declined in value, based on the conclusions of the Dyess Appraisal and the Komatsu Appraisal, Mr. Dahlson will pay the Plan the latter amount.

Specifically, Mr. Dahlson will pay the Plan a total purchase price of $145,922.64, which amount includes the Plan's original acquisition cost of $101,803.38, as well as lost opportunity costs calculated at a rate of 9%, compounded annually, or $44,114.27. As stated above, the Plan paid for the Property in four installments, and the appropriate purchase price to be paid by Mr. Dahlson was determined as follows.

Date of payment	Amount paid		Interest compounded annually at 9% through 4/30/98		
March 12, 1993	$25,000.00		$13,898.34		
August 27, 1993	6,808.38		3,378.84		
March 5, 1994	20,000.00		8,443.37		
September 14, 1994	50,000.00		18,393.72		
	101,808.38	+	44,114.27	=	$145,922.64

The Plan will pay no commissions nor other expenses relating to the sale.

The applicant represents that the exemption will be in the best interests of the Plan because Mr. Dahlson is willing to pay more than the Plan could receive for the Property on the open market based on the current fair market value of the Property. In addition, the sale will convert a non-income producing, illiquid asset that continues to decline in value into more liquid assets that will achieve a higher rate of return for the Plan. All costs relating to this exemption application are being borne by the Employer.

6. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act for the following reasons: (1) the sale will be a one-time transaction for cash; (2) the Plan will pay no commissions nor other expenses relating to the sale; (3) the Plan will receive an amount which is the greater

[1] The Department expresses no opinion herein as to whether the acquisition and holding of the Property by the Plan violated any of the provisions of Part 4 of Title I in the Act. However, the Department notes that section 404(a) of the Act requires, among other things, that a plan fiduciary act prudently and solely in the interest of the plan and its participants and beneficiaries when making investment decisions on behalf of the plan.

of either (a) the fair market value of the Property as of the date of the sale, as determined by a qualified, independent appraiser, or (b) the original acquisition cost of the Property to the Plan, plus lost opportunity costs attributable to the Property; and (4) the sale will divest the Plan of a non-income producing, illiquid asset that continues to decline in value and will allow the Plan to reinvest the sale proceeds in assets that will achieve a higher rate of return.

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

James E. Jordan, Sr. Individual Retirement Account (the IRA) Located in Phoenix, Arizona

[Application No. D–10550]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 C.F.R. Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990.) If the exemption is granted, 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 cash purchase by the IRA of a certain promissory note issued by unrelated parties (the Martin Note) which is secured by a first mortgage on certain residential property (the Property) from the James E. Jordan Revocable Trust Agreement (the Trust), a disqualified person with respect to the IRA;[2] provided that the following conditions are met:

1. The purchase of the Martin Note will be a one-time cash transaction;

2. The IRA will pay no commissions or other expenses associated with the purchase;

3. The amount paid by the IRA for the Martin Note will be the lesser of (i) $63,108.97, which is the current fair market value of the Martin Note as determined by an independent, qualified appraiser, or (ii) the fair market value of the Martin Note, as determined at the time of the purchase by an independent, qualified appraiser;

4. Both the amount paid by the IRA for the Martin Note and the outstanding principal balance on such Note will involve less than 25% of the IRA's total assets;

5. Mr. Jordan, as the sole participant of the IRA, will be the only individual affected by the proposed transaction; and

6. On the date the IRA purchases the Martin Note from the Trust, the IRA will be named as loss payee under the homeowners insurance policy on the Property.

Summary of Facts and Representations

1. The IRA is a self-directed individual retirement account. The current custodian for the IRA is Fidelity National Bank located in Atlanta, Georgia. James E. Jordan, Sr. (Mr. Jordan) is the sole participant, a fiduciary and the owner of the IRA. As of January 31, 1998, the fair market value of the IRA's assets was $324,240.87. Thus, the proposed purchase of the Martin Note would involve approximately 19 percent (19%) of the IRA's assets.

Both the amount paid by the IRA for the Martin Note and the outstanding principal balance on such Note will involve less than 25% of the IRA's total assets.

2. The Trust is the Jordan Revocable Trust Agreement dated August 18, 1993.[3] The trustees of the Trust are Mr. Jordan and Sheree G. D'Amico. Mr. Jordan is also the grantor and the primary beneficial owner of the Trust. The Trust was created by Mr. Jordan as a will substitute for the purpose of implementing Mr. Jordan's estate plan. During his lifetime, Mr. Jordan is the primary beneficiary, and after his death, the beneficiaries will be Sheree G. D'Amico, Lori D. Jordan, James E. Jordan Jr. and Jay Jordan. The Trust is considered a disqualified person, as defined in section 4975(e)(2) of the Code, due to Mr. Jordan's relationship to both the IRA and the Trust.[4]

3. The Martin Note is currently between the Trust, as the original lender, and John William Martin and Andreina Martin (the Martins), as the original borrowers. The Martin Note and the accompanying mortgage were created as seller financing when Mr. Jordan sold an investment property to the Martins to be used as their primary residence. It is represented that the Martins have no other relationship to Mr. Jordan, the Trust and the IRA.

4. The Martin Note was appraised March 12, 1998, by F. Gregory Rhodes (Mr. Rhodes), an independent qualified appraiser with the Valuation Advisory Group, Inc. (the Appraisal) in Atlanta, Georgia. The Appraisal stated that the original amount of the Martin Note, dated December 28, 1994, was $66,000. The Martin Note has a fixed interest rate of 8.75% per annum until maturity. The Martin Note has a 30-year term and is scheduled to mature in December, 2024. However, the Martin Note is subject to prepayment by the Martins prior to maturity. The terms of the Martin Note call for monthly payments of principal and interest, beginning January 29, 1995, equal to $519.23, with a final payment of $268.89 at maturity.

The Martin Note is secured by a first mortgage on a residence located in Volusia County, Florida (the Property). A recent appraisal of the Property was performed by Michael F. Beckman (Mr. Beckman) of Family Realty of Central Florida, Inc., which stated that the value of the Property is between $72,000 and $74,000. In determining the fair market value of the Martin Note, Mr. Rhodes reviewed Mr. Beckman's appraisal of the Property. Mr. Rhodes states that this appraisal of the Property indicates that the outstanding principal amount of the Martin Note is adequately secured by the Property.

5. With respect to the fair market value of the Martin Note, the Appraisal considered the following factors:

(a) The Martin Note is secured by a first mortgage on the Property;

(b) appraisal of the underlying property indicates that the Martin Note is adequately secured;

(c) from the 1994 execution of the Martin Note, it appears that all payments have been made in accordance with the terms of such Note; and

(d) there is a lack of marketability for the Martin Note.

The Appraisal states that because no organized market exists for an instrument of this sort, a typical buyer of the Martin Note would demand a rate of return in excess of what would be available for fixed income securities of comparable duration in the public marketplace at the time of the transaction. Therefore, the Appraisal applies an appropriate discount rate to the remaining stream of payments of principal and interest on the Martin Note to arrive at a required yield of 8.86% per annum to account for the inherent lack of marketability of the Martin Note. Therefore, based on this analysis, the Appraisal concluded that the fair market value of the Martin Note was approximately $63,108.97 as of March 12, 1998.

[2] Pursuant to CFR 2510.3–2(d), the Department has no jurisdiction with respect to the IRA under Title I of the Act. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

[3] The Trust is not an employee benefit plan or other plan subject to the provisions of the Act or the Code.

[4] In this regard, section 4975(e)(2)(G) of the Code states, in relevant part, that a ''disqualified person'' includes a trust of which (or in which) 50 percent or more of the beneficial interest of such trust is owned, or held by, a person who is a fiduciary of a plan.

6. The applicant represents that the proposed transaction presents a desirable investment opportunity for the IRA. For reasons discussed above, the appraiser discounts (the Discount) the Martin Note. This Discount of the Note in effect produces an enhanced yield to the IRA. The transaction will be a one-time cash purchase by the IRA. The amount paid by the IRA for the Martin Note will be the lesser of (i) $63,108.97, which is the current fair market value of the Martin Note as determined by an independent, qualified appraiser, or (ii) the fair market value of the Martin Note, as determined at the time of the purchase by an independent, qualified appraiser. The IRA will not bear any commissions or expenses associated with the transaction.

In addition, the applicant represents that the acquisition of the Martin Note will be consistent with the liquidity needs and investment objectives of the IRA, which is currently heavily invested in equities. The interests of the IRA will be protected because the Note is adequately secured by the first mortgage on the Property. In a letter of February 12, 1998, Fidelity National Bank, the IRA custodian, stated that it would retain the Property as an IRA asset in the event the IRA forecloses on the Property. Furthermore, the applicant states that on the date the IRA purchases the Martin Note, the IRA will be named as the loss payee under the homeowners insurance policy on the Property. Thus, if the IRA becomes the owner of the Property, the IRA's investment interests will be protected in the event that payments are made to the loss payee on this insurance policy.

7. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 4975(c)(2) of the Code because:

a. The purchase of the Martin Note will be a one-time cash transaction;

b. The IRA will pay no commissions or other expenses associated with the purchase;

c. The amount paid by the IRA for the Martin Note will be the lesser of (i) $63,108.97, which is the current fair market value of the Martin Note as determined by an independent, qualified appraiser, or (ii) the fair market value of the Martin Note, as determined at the time of the purchase by an independent, qualified appraiser;

d. Both the amount paid by the IRA for the Martin Note and the outstanding principal balance on such Note will involve less than 25% of the IRA's total assets;

e. On the date the IRA purchases the Martin Note, the IRA will be named as loss payee under the homeowners insurance policy on the Property; and

f. Mr. Jordan, as the sole participant of the IRA, will be the only individual affected by the proposed transaction.

Notice to Interested Persons

Because Mr. Jordan is the sole participant of the IRA, it has been determined that there is no need to distribute this notice of proposed exemption to interested persons. Comments and requests for a hearing are due 30 days from the date of publication of this notice in the **Federal Register**.

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

Pipefitters Local Union No. 537 Pension Fund (the Plan) Located in Boston, Massachusetts

[Application No. D–10577]

Proposed Exemption

The Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, 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 sale (the Sale) of certain real property (the Property) to the Plan by Local Union 537 (the Union) of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, a party in interest with respect to the Plan; provided the following conditions are satisfied:

(A) The terms and conditions of the transaction are no less favorable to the Plan than those which the Plan would receive in an arm's-length transaction with an unrelated party;

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

(C) The Plan incurs no expenses from the Sale;

(D) The Plan pays as consideration for the Property no more than the fair market value of the Property as determined by a qualified, independent appraiser on the date of the Sale; and

(E) The independent fiduciary for the Plan will undertake to monitor and enforce the terms of the proposed exemption, if granted.

Summary of Facts and Representations

1. Two employer associations represent the contributing employers to the Plan and serve as their collective bargaining agents with the Union. These two associations are the Air Conditioning and Refrigeration Contractors of Boston, Inc. (ARCA) and the New England Mechanical Contractors Association, Inc. (NEMCA). ARCA represents employers in eastern Massachusetts and surrounding areas who erect, install, and service all types of food cases, refrigeration, and air conditioning equipment. NEMCA represents employers throughout most of New England who erect, service, and install and maintain all types of heating, pipe laying, piping, refrigeration and air conditioning systems and equipment.

The Union is the sole collective bargaining agency for employees covered by applicable collective bargaining agreements who are employed by members of ARCA and NEMCA.

2. The Plan is a jointly administered Taft-Hartley trust fund established pursuant section 302(c)(5) of the Labor Management Relations Act that maintains a defined benefit plan which is intended to qualify under section 401(a) of the Code. The Plan is for employees covered by collective bargaining agreements between the participating employers and the Union, and for certain employees of the Plan and the Union.

The Plan is administered by a six member Board of Trustees (the Trustees) of whom three members are appointed by the two employers' associations, ARCA and NEMCA, and three members are appointed by the Union. The Trustees of the Plan, who have investment discretion over the assets of the Plan, are represented by the applicant to include Messrs. Leo Reed, Charles L. Grinnell, and Ron Ledoux, who were appointed by the employers associations and Messrs. Michael Benullo, President of the Union, Robert O'Toole, Business Manager of the Union, and Thomas MacKay, Business for the Union, who are appointed by the Union.

The applicant represents that, as of January 30, 1998, the Plan had approximately total assets of $237,300,000, and approximately 1990 participants.

3. The Property is a condominium unit, designated as Unit 1, consisting of 2,536 square feet of floor area located in the lower (basement) level of a two story office building, with a non-exclusive right to use parking spaces at the site location. The Property is 47.5 percent of

the total condominium area in the office building, and the remaining condominium area in the office building, designated as Unit 2, is occupied and used by the Union, the owner of the office building since December 17, 1996. The office building has approximately 6,560 square feet of gross building area situated on a 21,090 square foot parcel of land located at 35 Travis Street, Boston (Allston), Massachusetts.

The Property was appraised by Peter L. Lane, Certified Gen. R. E. Appraiser, with the Robert P. Wood & Co., Inc., located in Milton, Massachusetts, who determined that the Property had a fair market value of $151,000, as of November 28, 1997.

4. The Union proposes to sell the Property to the Plan for cash in a one-time transaction with no expenses incurred by the Plan. The applicant represents that the Union will receive, as consideration from the Sale, no more than the fair market value of the Property as determined on the date of the Sale by a qualified, independent appraiser.

The Plan is prompted to take this action because of the need for an improved location and increased office space and storage facilities that will provide more and better facilities than its current location of 1,400 square feet floor area on the fourth floor of an office building located in an undesirable neighborhood. The applicant represents that the current location of the Plan's offices fails to provide parking facilities, accessibility for handicapped persons, and lacks cleanliness and security.

The applicant represents that the Trustees for the Plan have determined that the proposed acquisition of the Property will be in the best interests of the Plan and the rights of its participants and beneficiaries will be protected because the Property will provide the Plan with a desirable combination of improved and increased office and storage facilities, handicapped accessibility, on-site parking space, increased security, and a proximity to major thoroughfares and public transportation. Also, the applicant represents that the Property will provide the Plan and its participants and beneficiaries with a close proximity to the offices of the Union, and thus facilitate the processing of applications for benefits from the Plan, minimizing inconveniences to participants and beneficiaries and personnel of the Plan and enhancing administrative efficiencies.[5]

The applicant also represents that compliance with the terms and conditions of the requested exemption will be monitored and enforced by an independent fiduciary, Edward K. Wadsworth, MAI, president of The Boston Valuation Group, Inc. located in Weymouth, Massachusetts. Mr. Wadsworth represents that he has extensive experience in the field of market, financial, and real estate analysis, serving as a leader of professional organizations in these fields and serving as a qualified expert witness in a number of court proceedings. In addition, Mr. Wadsworth represents that he is on the teaching faculty of the Appraisal Institute and has instructed courses in the Standards of Professional Practice and Income Capitalization.

Mr. Wadsworth represents that the proposed Sale is in the best interests of the Plan and is protective of the rights of the participants and beneficiaries of the Plan; and that he has the power, authority, and responsibility to take the necessary action in the proposed transaction so that the Plan will not pay more than the fair market value as determined by the independent appraiser, Peter L. Lane of Robert Wood & Co., Inc., on the date of the Sale.

5. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because (a) the Sale is a one-time transaction for cash; (b) the Plan will not incur any expenses from the transaction; (c) the Plan will pay no more than the fair market value of the Property as determined on the date of the Sale by a qualified, independent appraiser; and (d) the proposed transaction will be monitored and enforced by a qualified, independent fiduciary.

For Further Information Contact: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

[5] The applicant represents that it is contemplated that the Pipefitters Local Union No. 537 Health and Welfare Fund and the Pipefitters Local Union No. 537 Deferred Income Annuity Fund will occupy a portion of the Property; and these two Funds will share space and reimburse the Plan for reasonable costs and expenses in accordance PTE 76–1 and PTE 77–10 (41 FR 12740, March 26, 1976 and 42 FR 33918, respectively). The Department expresses no opinion herein as to whether or not the occupancy of a portion of the Property by the two Funds as described satisfies the terms and conditions of PTE 76–1 and PTE 77–10.

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 of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption 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) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional 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

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 17th day of April 1998.

Ivan Strasfeld,

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

[FR Doc. 98–10692 Filed 4–21–98; 8:45 am]

BILLING CODE 4510–29–P