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Charles N. Jeffress,

Assistant Secretary of Labor.

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Exemption Application No. D-10676, et al.]

Prohibited Transaction Exemption 2000-08; Grant of Individual Exemptions; Anvil Construction Company, Inc. Employee's Money Purchase Pension Plan (the Money Purchase Plan), Anvil Construction Co., Employee Profit Sharing Plan (the Profit Sharing Plan), William Andreassi, Mark Andreassi, Michael Andreassi, and Wayne Campbell

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.

Anvil Construction Company, Inc. Employee's Money Purchase Pension Plan (the Money Purchase Plan), Anvil Construction Co., Employee Profit Sharing Plan (the Profit Sharing Plan), William Andreassi, Mark Andreassi, Michael Andreassi, and Wayne Campbell, Located in Philadelphia, Pennsylvania

[Prohibited Transaction Exemption 2000-08; Exemption Application No. D-10676 and D-10677]

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) of a certain parcel of unimproved real property (the Property) from certain accounts (the Accounts) in the Money Purchase Plan and the Profit Sharing Plan (collectively, the Plans) to the Anvil Construction Company, Inc. (Anvil), a party in interest and disqualified person with respect to the Accounts, provided that the following conditions are met:

(a) The terms and conditions of the Sale will be at least as favorable to the Accounts as those obtainable in an arm's length transaction with an unrelated party;

(b) Anvil will purchase the Property from the Accounts for the greater of the Property's current fair market value or \$433,531, an amount comprised of the Property's appraised value of \$397,000 (the Appraised Value) as determined by a qualified, independent appraiser and \$36,531 which represents the excess of the Property's holding costs over appreciation from the time of the Property's acquisition;

(c) The Sale will be a one-time transaction for cash; and

(d) The Accounts will pay no fees or commissions in connection with 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 November 9, 1999 at 64 FR 61132.

FOR FURTHER INFORMATION CONTACT: J. Martin Jara of the Department, telephone (202) 219-8883 (this is not a toll free number).

The FINA, Inc. Capital Accumulation Plan (the Plan), Located in Dallas, Texas

[Prohibited Transaction Exemption 2000-09; Exemption Application No. D-10763]

Exemption

The restrictions of sections 406(a), 406(b)(2), and 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 (D) of the Code, shall not apply, as of June 4, 1999, to the acquisition, holding, and exercise by the Plan of certain warrants that were issued by Total, S.A. (Total),¹ pursuant to a tender offer (the Exchange Offer) made on May 6, 1999 to all shareholders of PetroFina S.A. (PetroFina), including the Plan, provided that the following conditions were satisfied:

(a) The Plan's acquisition and holding of the warrants issued by Total (the Total Warrants) in connection with the Exchange Offer occurred as a result of an independent act of Total as a corporate entity;

(b) All shareholders of PetroFina, including the Plan, were treated in a like manner with respect to all aspects of the Exchange Offer; and

(c) An independent fiduciary made the determination whether, and to what extent, the Plan should participate in the Exchange Offer.

EFFECTIVE DATE: This exemption is effective as of June 4, 1999.

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 5, 2000 at 65 FR 526.

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

¹ The applicant states that the warrants issued by Total do not constitute "qualifying employer securities," as defined in section 407(d)(5) of the Act.

Bankers Trust Company (BTC), Located in New York, New York

[Prohibited Transaction Exemption 2000-10; Exemption Application No. D-10837]

Exemption

The restrictions of section 406(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 (D) of the Code, shall not apply to: (1) the granting to BTC (a) by Aslan Realty Partners, L.P. (the LP), and by Aslan GP, LLC (the General Partner) of security interests in the capital commitments of certain employee benefit plans (the Plans) investing in the LP, (b) by the LP of a borrower account funded by the Plans' capital contributions, and (c) by the LP and the General Partner of the right to make capital calls (Capital Calls), and provide notice thereof under the agreement under which the LP is organized and operated (the Agreement), where BTC is the representative of certain lenders (the Lenders) that will fund a so-called "credit facility" providing loans to the LP and where the Lenders are parties in interest with respect to the Plans; and (2) the execution of an agreement and estoppel (the Estoppel) under which the Plans agree to honor Capital Calls made to the Plans by BTC, provided that (i) the proposed grants and agreements are on terms no less favorable to the Plans than those which the Plans could obtain in arm's-length transactions with unrelated parties; (ii) the decisions on behalf of each Plan to invest in the LP, and to execute such grants and agreements in favor of BTC, are made by a fiduciary which is not included among, and is independent of and unaffiliated with, the Lenders and BTC; (iii) with respect to Plans that have invested or may invest in the LP in the future, such Plans have or will have assets of not less than \$100 million and not more than 5% of the assets of any such Plan are or will be invested in the LP. For purposes of this condition (iii), in the case of multiple plans maintained by a single employer or single controlled group of employers, the assets of which are invested on a commingled basis (e.g., through a master trust), this \$100 million threshold will be applied to the aggregate assets of all such plans; and (iv) the general partner of the LP must be independent of BTC, the Lenders and the Plans.

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 5, 2000 at 65 FR 528.

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 24th day of February, 2000.

Ivan Strasfeld,

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

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DEPARTMENT OF LABOR**Pension and Welfare Benefits Administration**

[Application No. D-10654, et al.]

Proposed Exemptions; Fish Lake Beach, Inc. Profit Sharing Plan (the Plan)

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, NW, Washington, DC 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 the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5638, 200 Constitution Avenue, NW, Washington, DC 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