

for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of This Information

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *The Title of the Form/Collection:* Grants Management System Online Application.

(3) *The Agency Form Number, if any, and the Applicable Component of the Department Sponsoring the Collection:* There is no form number, 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:* The primary respondents are State, Local or Tribal Governments applying for grants. GMS is used to implement the statutory requirements of the Grant Management System (GMS) Online Application; Grant Adjustment Notice (GAN); Progress and Financial Reports of applications, awards, and closeouts.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent to Respond:* An estimated 34,097 grantees will respond to Grants Management System Online Application and on average it will take each of them 12 hours to complete the 4 applications.

(6) *An Estimate of the Total Public Burden (in hours) Associated with the collection:* The estimated public burden associated with this application is 137,238 hours.

If additional information is required contact: Ms. Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: February 19, 2009.

**Lynn Bryant,**

*Department Clearance Officer, PRA, United States Department of Justice.*

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#### DEPARTMENT OF LABOR

##### Employee Benefits Security Administration

##### Prohibited Transaction Exemptions and Grant of Individual Exemptions involving: D-11428, Heico Holding Inc. Pension Plan (the Plan), 2009-04; D-11450, Brewster Dairy, Inc. 401(k) Profit Sharing Plan (the Plan)

**AGENCY:** Employee Benefits Security 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 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is 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 exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

##### Heico Holding Inc. Pension Plan (the Plan), Located in Downers Grove, IL

[Prohibited Transaction Exemption 2009-04; Exemption Application Number: D-11428]

##### Exemption

The restrictions of section 406(a)(1)(A) and (D), and section 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), (D), and (E) of the Code, shall not apply to the sale by the Plan of a non-marketable limited partnership interest (the Interest) in Trident Equity Fund, II, L.P. (the Partnership) to Heico Holding Inc. (the Applicant), 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 pays no commissions, fees or other expenses in connection with the sale;

(c) The terms and conditions of the sale are at least as favorable as those obtainable in an arm's length transaction with an unrelated third party;

(d) As a result of the sale, the Plan receives the greater of: (i) \$1,050,000; (ii) The value of the Interest as determined by the General Partner of the Partnership and reported on the most recent quarterly account statements of the Partnership available at the time of the sale; (iii) The fair market value of the Interest as determined on the date of the sale by a qualified, independent appraiser; or (iv) The total amount of the Plan's contributions to the Partnership made on or after January 21, 2005 (i.e., the Plan's investment cost basis in the Interest); and

(e) Upon Plan termination, it is determined that the Plan is overfunded.

For a 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 20, 2008 at 73 FR 70372.

*For Further Information Contact:* Mr. Mark Judge of the Department, telephone (202) 693-8339. (This is not a toll-free number.)

**Brewster Dairy, Inc. 401(k) Profit Sharing Plan (the Plan), Located in Brewster, OH**

[Prohibited Transaction Exemption 2009-05; Exemption Application No. D-11450]

**Exemption**

The restrictions of sections 406(a)(1)(A) and (D), 406(b)(1) and (b)(2) of the Act, and the sanctions resulting from the application of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A), (D) and (E) of the Code, shall not apply to the November 18, 2008 sale (the Sale) by the Plan of 2.5 limited partnership units (the Units) in the Heartland California Clayton Limited Partnership (the Partnership) to Brewster Dairy, Inc. (Brewster), the Plan's sponsor and a party in interest with respect to the Plan, for the greater of: (1) \$57,000; (2) the net proceeds for the Units in the event the Partnership sells its real estate (the Property) to a third party; or (3) the net proceeds from foreclosure for the Units in the event the Property is foreclosed to pay back real estate taxes, provided the following conditions are satisfied:

(a) The Sale of the Units was a one-time transaction for cash;

(b) The Plan paid no commissions, fees or other expenses in connection with the Sale;

(c) The terms of the transaction were at least as favorable to the Plan as those the Plan could obtain in a similar transaction with an unrelated party;

(d) The fair market value of the Units on the date of the Sale was determined by a qualified independent appraiser;

(e) The Plan fiduciaries determined whether it was in the best interest of the Plan to go forward with the Sale, reviewed and approved the methodology used in the appraisal that was relied upon, and ensured that the methodology was applied by a qualified, independent appraiser in determining the fair market value of the Units as of the date of the Sale; and

(f) The proceeds from the Sale of the Units to Brewster will be allocated only to the participants who are defined in the Consent Order and Judgment (File No. 5:98CV744, July 1, 1999) entered by the United States District Court for the Northern District of Ohio Eastern Division (the Court).

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 (the Notice) published on November 20, 2008 at 73 FR 70375.

*Effective Date:* This exemption is effective November 18, 2008.

*Written Comments and Hearing Requests:* The Department received one written comment and no hearing requests with respect to the Notice. The one comment letter was submitted by Brewster. In its letter, Brewster informed the Department that the subject Sale of the 2.5 Units was consummated on November 18, 2008, and Brewster requested that the exemption be made retroactive to that date. The Sale price was \$57,000. Brewster represented that the transaction had to be completed prior to the granting of the exemption by the Department to facilitate the sale of the Property by the Partnership's General Partners prior to the county filing a foreclosure action for real estate taxes unpaid by the Partnership. Brewster further represented that it will follow the terms of the Notice in all matters including allocation and adjustment of the purchase price if the Units previously owned by the Plan are sold by Brewster for more than \$57,000 (or bring more than \$57,000 in proceeds from foreclosure).

The Department has considered, the entire record, including the comment letter submitted by Brewster and has determined that the subject transaction satisfied the criteria of section 408(a) of the Act on the date of the transaction. Accordingly, the Department herein grants the exemption, effective November 18, 2008.

*For Further Information Contact:* Gary H. Lefkowitz of the Department, telephone (202) 693-8546. (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 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) This exemption is 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 this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 19th day of February, 2009.

**Ivan Strasfeld,**

*Director of Exemption Determinations,  
Employee Benefits Security Administration,  
U.S. Department of Labor.*

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**BILLING CODE 4510-29-P**

**DEPARTMENT OF LABOR**

**Employee Benefits Security Administration**

**[Application Nos. and Proposed Exemptions; D-11447, Verizon Investment Management Company; D-11470, M&T Bank Corporation Pension Plan; D-11493, Schloer Enterprises, Inc. 401(k) Profit Sharing Plan (the Plan); and D-11501, Morgan Stanley & Co. Incorporated, et al.]**

**AGENCY:** Employee Benefits Security 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 (ERISA or 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 requests 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