In addition to increasing access to education and eliminating exploitive child labor through direct withdrawal and prevention services to children, the Child Labor Education Initiative has the following four strategic goals:

1. Raise awareness of the importance of education for all children and mobilize a wide array of actors to improve and expand education infrastructures;

2. Strengthen formal and transitional education systems that encourage working children and those at risk of working to attend school;

3. Strengthen national institutions and policies on education and child labor; and

4. Ensure the long-term sustainability of these efforts.

When working to increase access to quality basic education, USDOL strives to complement existing efforts to eradicate the worst forms of child labor, to build on the achievements of and lessons learned from these efforts, to expand impact and build synergies among actors, and to avoid duplication of resources and efforts.

Signed at Washington, DC, this 13th day of March, 2006.

Eric Vogt,

Grant Officer.

[FR Doc. E6–3968 Filed 3–17–06; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2006–01; Exemption Application No. D–11216 et al.]

Grant of Individual Exemptions; Edward D. Jones & Co., L.P. (the Applicant)

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 (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.

Edward D. Jones & Co., L.P. (the Applicant) Located in St. Louis, Missouri

[Prohibited Transaction Exemption No. 2006–01; Application No. D–11216]

Exemption

The restrictions of sections 406(a)(1)(A) through (D) 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 the extension of credit to the Applicant, by certain IRAs whose assets are held in custodian accounts by the Applicant, a party in interest and a disqualified person with respect to the IRAs, in connection with the Applicant's use of uninvested IRA cash balances (Free Credit Balance(s)) in such accounts. This exemption is conditioned upon the adherence to the material facts and representations described herein and upon the satisfaction of the following requirements:

(a) Neither the Applicant nor any affiliate has any discretionary authority or control with respect to the investment of the cash balances of the IRA that are held in the Free Credit Balance or provides investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(b) Edward Jones credits the IRA with monthly interest on its Free Credit Balance at an annual rate no less than the bank national index rate for interest checking, as reported in the Bank Rate Monitor. This rate will be subject to a minimum rate level of 10 basis points (0.10%);

(c) The interest rate will be no less than the rate paid by Edward Jones on non-IRA Free Credit Balances;

(d) The IRA independent fiduciary has the ability to withdraw the Free Credit Balance at any time without restriction;

(e) The Applicant provides in writing, to the IRA independent fiduciary, prior to any transfer of the IRA's available cash into a Free Credit Balance account, an explanation (i) that funds invested in a Free Credit Balance are not segregated and may be used in the operation of the business of the Applicant; (ii) of the method to be used for crediting interest to the Free Credit Balance; and (iii) that the funds are payable to the IRA on demand;

(f) On the basis of the information disclosed pursuant to paragraph (e) above, the IRA independent fiduciary approves the transfer of the IRA's available cash into a Free Credit Balance account. If the disclosure includes a specified date before which the independent fiduciary must object to the transfer of the IRA's existing cash balances into a Free Credit Balance account, failure of the IRA independent fiduciary to object to the transfer by that date will be deemed an approval by the IRA independent fiduciary of the transfer to and holding of the IRA's available cash in the Free Credit Balance account.

The Applicant provides, with or as part of the customer's statement of account, no less frequently than once every three months, notification that the IRA independent fiduciary may, at any time and without penalty, direct the Applicant in writing to withdraw the IRA's available cash from the Free Credit Balance account. Failure of the IRA independent fiduciary to provide such written direction will be deemed an approval by the IRA independent fiduciary of the transfer to and holding

of the IRA's available cash in the Free Credit Balance account; and

(g) The Applicant periodically provides a written statement subsequent to the proposed transaction informing the IRA independent fiduciary that (i) such funds are not segregated and may be used in the operation of the business of such broker or dealer, and (ii) such funds are payable on demand.

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 June 29, 2005 at 70 FR 37437.

Written Comments

The Department received 107 written comments from interested persons in response to the Notice. The Department forwarded copies of the comments to the Applicant and requested that the Applicant address in writing the various concerns raised by the commentators. Many of the comments fell into broad categories to which the Applicant responded collectively. Where a single commentator raised a unique issue, such issue was responded to individually. The comments and the Applicant's responses are summarized below.

Four commenters favored granting the exemption, and one expressed no objection. Six posed questions regarding the exemption without taking a position. The remaining 96 commenters objected to granting the exemption. Of those, 22 did not describe the reasons for their objections, leaving 74 that made substantive comments on the proposed exemption.

The principal objection to the exemption (reflected in 36 of the comments) was that transferring IRA cash to Free Credit Balances in place of the currently-used money market fund would negatively affect the annual rate of return earned by the IRAs, providing a lower checking account interest rate instead of a money market rate. While the money market rates were low at one time, the commenters pointed out that money market rates have risen to a level that is considerably higher than the 10 basis points described as the current rate in the Notice. Related to this concern was the view that the Applicant should not impose a $3/month low balance fee on the Retirement Shares class of its money market fund, with some pointing out that the Applicant already charges an IRA custody fee. (One commenter, by contrast, saw the Notice as unnecessary because the Applicant already has the option to impose a minimum account balance requirement, which the person thought would encourage IRA contributions—like some others, apparently viewing the low balance fee as being imposed on IRAs themselves rather than limited to the money market fund.)

The Applicant represents that these comments reflect a misunderstanding of the context in which the Free Credit Balance arrangement is to be made available. The large number of small accounts in the Retirement Shares class has resulted in increased administrative expense to the money market fund, depressing investment return. The Applicant has determined to impose a minimum balance fee on the Retirement Shares, as is already the case for the other class of fund shares, to discourage small accounts and thereby restore returns to the level of other money market funds. However, it was concerned that this would leave IRAs without a convenient investment for their available cash generated through interest and dividends. It therefore postponed imposing the minimum balance fee until it could make Free Credit Balances available to the IRAs.

Several of these commenters, along with two others, noted that the minimum balance fee would represent additional income to the Applicant, to which they objected, and some added that this additional income was unnecessary since the Applicant already charges an IRA custody fee. The Applicant represents that three points are relevant here. First, the Applicant does not retain the entire low balance fee; it is in part retained by the money market fund. Second, it is contemplated that only a minimal number of customers would pay the fee instead of moving their balance to the cash interest option. Third, as an offset to any fees that the Applicant might collect, if the fund has fewer accounts as a result of the minimum balance fee—as would likely be the case—the Applicant's income would decrease, as the fund would pay to the Applicant lower transfer and dividend disbursing agent fees (which are based on the number of shareholder accounts). For these reasons, the Applicant represents that the minimum balance fee is not expected to increase the Applicant's bottom line, as one commenter suggested, or otherwise benefit the Applicant at the fund's expense, as several others alleged.

The other principal objection, reflected in 17 of the comments, was that the change to using Free Credit Balances of the broker-dealer as the IRAs' cash vehicle would place the IRAs' assets at higher risk, because the money would no longer be ''protected'' or safe and/or would be used for the Applicant's general business operations. The Applicant's response states that several of the commenters do not appear to understand the nature of the current cash vehicle. While a money market fund attempts to maintain stability of principal, its assets are not insured, either by the Federal Deposit Insurance Corporation (as one commenter believed) or otherwise, and its investments are subject to risk of loss. As stated in the fund prospectus, the fund shares are not guaranteed or insured by any bank, the U.S. government or any government agency. The Applicant represents that in fact, the Free Credit Balances would be subject to reduced risk in this regard, assuming that they are intended for the purpose of purchasing securities (as would normally be the case for an IRA account), because they would be covered by SIPC insurance. SIPC insurance would protect the IRA holders against loss in the event the Applicant was to file for bankruptcy (a concern expressed in at least four of the comments). In addition, Free Credit Balances are subject to reserve requirements. These provide further protection to customers against a broker-dealer's misuse of the funds or insolvency by requiring the broker-dealer to deposit the amount of its liabilities to customers in excess of amounts owed to it by customers in a specially designated bank account. The effect of the reserve requirements is to restrict the use of the money to the financing of the broker-dealer's customer-related business, not permitting the money to be used beyond that for the broker-dealer's general business operations.

The Applicant represents that some of these comments reflected misperceptions about the nature of the Free Credit Balances. Two commenters assumed that the cash placed in the Free Credit Balances would no longer be part of their IRAs. One was concerned that the cash would therefore be at increased risk because it would lose the protection that IRA funds have from creditors in the event of his personal bankruptcy. The Applicant represents that that is not the case. The money in the Free Credit Balances would still be part of the IRAs, and as such would be protected from bankruptcy and exempt from income tax to the same extent as any other assets of the IRAs.

Several of these commenters were concerned that the cash in the Free Credit Balances would not be immediately available on demand, or otherwise that the change would mean that they would lose control over their

funds. The Applicant represents, by law, Free Credit Balances are liabilities of the broker-dealer subject to immediate cash payment to customers on demand. These liabilities are backed by special reserve requirements, which further assure that the cash will be available as needed. Therefore, the IRA holders will continue to control these funds, having the ability to withdraw the cash on demand and to use it to purchase other investments of their choosing.

Similarly, there were comments about the benefits that the Applicant would receive as a result of the change in the cash sweep vehicle, reflected in several of the comments concerned about greater risk and reduced return. Four commenters specifically objected to letting the Applicant keep the interest spread from taking in IRA funds and investing those funds at a higher rate. The Applicant represents that it is true that, in the ordinary conduct of its business, the Applicant is permitted to use customer Free Credit Balances for the purpose of making customer loans, and that these loans would be at a higher interest rate than the Applicant would pay on the Free Credit Balances. Importantly, however, the IRAs would still be receiving market interest rates for small balance demand accounts—at the same or higher rate that the Applicant pays to non-IRA Free Credit Balances—so that they will be treated in a fair and reasonable manner. Furthermore, the Applicant represents that the Applicant will be sacrificing other fees on the money market fund assets as a result of the reduction in the number of shareholder accounts, so that any additional income it may earn may not result in additional profit. One of these commenters added that offering a money market fund, even if not profitable, should be a cost of doing business. However, the Applicant represents that the issue is not one of profitability—it is whether the money market fund is able to achieve market returns for its investors.

Six commenters expressed a preference to continue to place their cash in the money market fund. The Applicant represents that under the terms of the Notice as it would be implemented by the Applicant, they will be able to do so. A current IRA customer will be notified of the Applicant's intention to transfer the IRA's cash to a Free Credit Balance at least 30 days in advance of the effective date of such a change, and will have the ability to request to continue to use the money market fund. New customers will be able to make this request when they enter into the IRA account agreement. Furthermore, customers will be able at any time to request not to have their cash placed in Free Credit Balances. Therefore, IRA holders will not be forced to use Free Credit Balances as their cash sweep vehicle if they object to doing so.

Eight commenters said that there would be no advantage to the IRA holders from switching to Free Credit Balances. However, the Applicant represents that once the minimum balance fee is imposed on the Retirement Shares, the income on the Free Credit Balances would exceed the income in the money market fund for amounts in the Retirement Shares below the minimum balance. For such accounts, there will be an advantage to switching over to Free Credit Balances.

Two commenters appeared to view the Notice as imposing additional burdens specifically on small IRAs, indicating that it would be unfair for that reason. The Applicant represents that these commenters should understand that the minimum balance fee will be imposed on small investments in the Retirement Shares, without regard to the overall size of the IRAs.

One commenter complained that the Notice would permit the Applicant to ''arbitrarily'' transfer IRA cash balances into Free Credit Balances, with the investor only finding out after the fact. The Applicant represents under the approval requirements under condition (f) above, the Applicant could make the transfer only after advance notice to the IRA holder.

Two commenters complained that making the change to Free Credit Balances would not be consistent with their existing agreements with the Applicant. The Applicant represents that there is nothing in the Applicant's standard form of IRA agreement that would prohibit the use of Free Credit Balances as an IRA's cash sweep vehicle. Furthermore, the change would be disclosed to the IRA holders, and they would have the opportunity to object to the change.

Five commenters indicated that they prefer to permit their cash to accumulate to a certain level, such as $5,000, before investing it, and that the lower interest rate paid by the Free Credit Balances would pressure them to monitor their accounts more closely and either take more frequent distributions or make more frequent investments. If they are forced to make more frequent investments, they said, they would have to pay higher commissions to the Applicant. The Applicant represents that the majority of the Applicant's IRA customers find it prudent to invest cash as it becomes available, as evidenced by the large number of zero-balance accounts in the Retirement share class of the money market fund. Should a customer wish to accumulate cash as described, the accumulation could take place in a Free Credit Balance until the amount reaches the level at which the money market low-balance fee is avoided, and then the cash could be transferred without any commission charge to the money market fund and credited to the customer's account on the next business day. This would not create undue pressure to monitor one's account.

One commenter objected for the reason that there are no alternative ways of handling any funds not immediately invested. The Applicant represents that the Retirement Shares of the money market fund would still be available if the IRA holder decides not to use a Free Credit Balance.

Another commenter did not think there was a problem because interest rates would rise. The Applicant represents that while the problem with low returns on the Retirement Shares is not as serious as it was in 2003 when the Applicant filed its exemption application, due to rising interest rates, there still is an issue of administrative fees for carrying small accounts decreasing returns for the Retirement Shares as compared to the Investment Shares. Furthermore, the problem may recur in the future should interest rates again fall. The Applicant believes it is in the interest of all of its customers to find a more efficient way to handle cash so that those who seek large cash investments can earn competitive rates in the money market fund, while those who keep very small cash amounts can make use of Free Credits Balances as their cash sweep vehicles.

Some of the commenters complained about having lost money from their investments with the Applicant (and in one case, also A.G. Edwards). The Applicant represents that these comments are not relevant to this Notice proceeding.

Four of the commenters requested a hearing, but did not specify any particular issues to be addressed at such a hearing. The Applicant represents that as the issues described above either represent a misunderstanding of the transaction or can be addressed by opting out of use of the Free Credit Balance as the cash sweep vehicle for a particular IRA, there is no need for a hearing. The Department concurs.

The Department also received a written comment submitted by the Applicant. This comment sought

changes to a condition in the Notice, which is discussed below.

The Applicant seeks changes to condition (f) of the Notice. Condition (f) of the Notice reads as follows:

> The IRA independent fiduciary approves the transfer of the IRA's available cash into a Free Credit Balance account no less frequently than once every three months, or once every month if there is account activity for the particular month other than the crediting of interest, together with or as a part of the customer's statement of account;

The Applicant raises two issues regarding condition (f). First, the condition does not adequately address the initial approval by the IRA independent fiduciary of the use of free credit balances. Second, it does not permit the approval to take the form of ''negative consent.''

The Department concurs with the Applicant and has modified condition (f) of the Notice to read as follows:

> On the basis of the information disclosed pursuant to paragraph (e) above, the IRA independent fiduciary approves the transfer of the IRA's available cash into a Free Credit Balance account. If the disclosure includes a specified date before which the independent fiduciary must object to the transfer of the IRA's existing cash balances into a Free Credit Balance account, failure of the IRA independent fiduciary to object to the transfer by that date will be deemed an approval by the IRA independent fiduciary of the transfer to and holding of the IRA's available cash in the Free Credit Balance account.
>
> The Applicant provides, with or as part of the customer's statement of account, no less frequently than once every three months, notification that the IRA independent fiduciary may, at any time and without penalty, direct the Applicant in writing to withdraw the IRA's available cash from the Free Credit Balance account. Failure of the IRA independent fiduciary to provide such written direction will be deemed an approval by the IRA independent fiduciary of the transfer to and holding of the IRA's available cash in the Free Credit Balance account.

The Department has considered the entire record and has determined to grant the exemption with the revisions noted herein.

For Further Information Contact: Khalif I. Ford of the Department, telephone (202) 693–8540. (This is not a toll-free number.)

Pennsylvania Institute of Neurological Disorders, Inc. Profit Sharing Plan (the Plan) Located in Sunbury, Pennsylvania

[Prohibited Transaction Exemption 2006–02; Application No. D–11306]

Exemption

Based on the facts and representations set forth in the application, the Department is 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). 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 the Plan of a parcel of unimproved real property known as Lot 20, Section ''F'', Monroe Manor, Inc., (Lot #20 Kingswood Drive, Selinsgrove, PA 17870) (the Property) to Mahmood Nasir, M.D. (Dr. Nasir), a party in interest with respect to the Plan, provided that the following conditions are satisfied:

(a) All terms and conditions of the Sale are at least as favorable to the Plan as those that the Plan could obtain in an arm's-length transaction with an unrelated party;

(b) The Sales price is the greater of $81,000 or the fair market value of the Property as of the date of the Sale;

(c) The fair market value of the Property has been determined by a qualified independent appraiser;

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

(e) The Plan does not pay any commissions, costs, or other expenses in connection with the Sale; and

(f) The Plan fiduciaries will determine, among other things, whether it is in the interest of the Plan to go forward with the Sale of the Property, will review and approve the methodology used in the appraisal that is being relied upon, and will ensure that such methodology is applied by a qualified independent appraiser in determining the fair market value of the Property 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 December 28, 2005 at 70 FR 76870.

For Further Information Contact: Ms. Blessed Chuksorji of the Department, telephone (202) 693–8567 (this is not a toll-free number).

The Zieger Health Care Corporation Retirement Fund (the Plan) Located in Farmington, Michigan

[Prohibited Transaction Exemption 2006–03 Exemption Application No. D–11313]

Exemption

I. Transactions

The restrictions of sections 406(a), 406(b)(1), 406(b)(2), and 407(a) of the Employee Retirement Income Security Act (the Act) and the sanctions resulting from the application of section 4975, by reason of sections 4975(c)(1)(A) through (E) of the Internal Revenue Code of 1986 (the Code),[1] shall not apply to:

(a) The in-kind contribution and transfer to the Plan (the In-Kind Contribution) by Zieger Health Care Corporation (ZHCC), acting through its wholly-owned subsidiary, Botsford General Hospital (the Hospital), both of which are parties in interest with respect to the Plan, of the Hospital's right, title, and interest in five (5) limited liability corporations, (collectively, the LLCs or individually, an LLC) where the sole asset of each such LLC is one of five (5) parcels of improved real property situated in southeastern Michigan (individually, an Underlying Property, collectively, the Properties).

(b) The holding by the Plan of ownership interests in the LLCs that own the Properties.

(c) The leaseback by the Plan to the Hospital of the Underlying Property held by each of the LLCs, (individually, a Lease or collectively, the Leases).

(d) The sale of an Underlying Property (or ownership interest in an LLC, as the case may be) by the Plan to ZHCC or its affiliates, pursuant to the right of first offer (the RFO), as described in each Lease, at any time during the term of such Lease.

(e) Any payment or payments to the Plan by the Hospital, pursuant to contingent rent payment(s) (the Contingent Rent Payment(s)), as described in each Lease, during the term of such Lease.[2]

II. Conditions

The exemption is conditioned upon adherence to the material facts and representations described herein and upon satisfaction of the following requirements:

(a) ZHCC contributes to the Plan no less than:

(1) Cash in the amount of $3.3 million in the year 2005;

(2) Cash in the amount of $2 million in each of the years 2006, 2007, and 2008; and

(3) cash in the amount of $3 million in the year 2009.

(b) A qualified, independent fiduciary, as defined in section III(c), below, (the Independent Fiduciary),

[1] For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[2] The transactions described in section I(a)–(e), above, collectively, are referred to herein as the Transactions.

acting on behalf of the Plan, determines in accordance with the fiduciary provisions of the Act, whether and on what terms to enter into each of the Transactions.

(c) The Independent Fiduciary represents the Plan's interests for all purposes with respect to each of the Transactions and determines, prior to entering into any of the Transactions, that each such transaction is feasible, in the interest of the Plan, and protective of the Plan and its participants and beneficiaries.

(d) The Independent Fiduciary reviews, negotiates, and approves the specific terms of each of the Transactions.

(e) The Independent Fiduciary monitors compliance by ZHCC and its affiliates, as defined in section III(a), below, with the terms of each of the Transactions and with the conditions of this exemption to ensure that such terms and conditions are at all times satisfied.

(f) The Independent Fiduciary manages the acquisition, holding, leasing, and disposition of the Plan's ownership interests in the LLCs that own the Properties and takes whatever actions are necessary to protect the rights of the Plan with respect the Plan's ownership interests in such LLCs.

(g) The terms and conditions of each of the Transactions are no less favorable to the Plan than terms negotiated at arm's length under similar circumstances between unrelated third parties.

(h) The Independent Fiduciary determines the fair market value of the In-Kind Contribution, as of the date such contribution is made. In determining the fair market value of the In-Kind Contribution, the Independent Fiduciary obtains an updated appraisal from an independent, qualified appraiser selected by the Independent Fiduciary and ensures that the appraisal is consistent with sound principles of valuation.

(i) Each Lease has a term of years, commencing on the closing date of the In-Kind Contribution and ending ten (10) years thereafter. Each Lease is a triple net ''bondable'' lease in which the Hospital's obligation to pay rent to the Plan is absolute and unconditional. The rental payment under each Lease is no less than the fair market rental value of the leased premises, as determined by the Independent Fiduciary, and is net of all costs related to the leased premises, including costs of capital improvements and all other costs to operate, maintain, repair and replace in good condition, and repair the systems and structural and non-structural components of the buildings on the leased premises, including without limitation, the roof, foundation, landscaping, storm water management, utilities, and all other capital and non-capital repairs and replacements, all in a manner befitting office buildings comparable to the buildings on the leased premises and in accordance with all applicable laws. Each Lease contains a commercially reasonable standard for determining whether repair or replacement is necessitated. All such maintenance, repair, and replacement work is the responsibility of the Hospital. As discussed in paragraph number 6 in the Summary of Facts and Representations in the Notice of Proposed Exemption, and except as otherwise provided in each Lease, the Hospital is required to restore the leased premises in the event of casualty or condemnation, regardless of any lack or insufficiency of insurance proceeds or condemnation awards therefore (but subject to all applicable laws);

(j) ZHCC and the Hospital agree to make one or more Contingent Rent Payment(s) to the Plan, if the Plan does not earn an annual return on each of the Properties equal to a fixed interest rate of 8 percent (8%) in any year (the Minimum Funding Rate). Each Contingent Rent Payment is due on the *earliest* of: (1) The end of the ten (10) year term of the Leases, (2) the termination of any of the Leases (including a termination due to default, destruction, or condemnation), or (3) the sale by the Plan of any parcel included in the Properties (or the sale by the Plan of the entity that owns any parcel) (each a Minimum Return Date). If the actual return to the Plan (the Actual Return), as defined in section III(d), below, is less than the sum of the contribution value of the Properties, plus a return on such contribution value equal to the Minimum Funding Rate (the Minimum Return), then ZHCC and the Hospital shall pay to the Plan a Contingent Rental Payment equal to the amount of any such difference. ZHCC and the Hospital shall pay each Contingent Rent Payment to the Plan in cash within 180 days after each Minimum Return Date.

(k) If the Plan desires to sell or convey any of the Properties (or any of the LLCs, as the case may be), during the term of a Lease, the Plan shall first offer the Hospital the right to purchase or otherwise acquire such property or LLC, pursuant to the RFO: (1) On such terms and conditions as the Plan proposes to market such property or such LLC for sale (Soliciting Offer), which terms and conditions shall reflect the Plan's good faith determination of market conditions and the fair market value for such property or LLC, or (2) on such terms and conditions as are contained within an unsolicited *bona fide* offer from an unaffiliated third party that the Plan desires to accept (Unsolicited Offer). The parties shall negotiate in good faith the terms and conditions of any purchase based on a Soliciting Offer for a period of thirty (30) days following the Plan's notice to the Hospital. In all events, the Hospital shall exercise such right to purchase, if at all, upon notice to the Plan within the thirty (30) day period described above with respect to a Soliciting Offer or within thirty (30) days after notice to the Hospital of an Unsolicited Offer. If the Hospital fails to exercise such right to purchase, the Plan is free to sell such property or LLC (*i.e.*, close on the transfer) to a third party on such terms for the next 360 days. However, the Plan shall not have the right to sell to a third party at a lower effective purchase price or on any other materially more favorable term than the effective purchase price and terms proposed by the Plan to the Hospital without first re-offering such property or LLC to the Hospital at such lower effective purchase price or other more favorable term, nor to sell on any terms following the expiration of such 360-day period, without in either event first re-offering such property or LLC to the Hospital. The RFO shall terminate upon the commencement of the exercise by the Plan of its remedies under the Leases as the result of a monetary event of default by the Hospital that continues uncured following notice and the expiration of applicable cure periods (and a second notice and cure period provided fifteen (15) days before the loss of such right on account of such default).

(l) Subject to the Hospital's RFO, the Plan retains the right to sell or assign, in whole or in part, any of its interests in the Properties (or any of its interests in the LLCs, as the case may be) to any third party purchaser.

(m) ZHCC indemnifies the Plan with respect to any liability for hazardous materials released on the Properties, whether such release occurs prior to or after the execution of the Leases or the In-Kind Contribution;

(n) The In-Kind Contribution is conditioned on the Independent Fiduciary's receipt of favorable engineering and environmental reports prior to closing.

(o) The Plan incurs no fees, commissions, or other charges or expenses as a result of its participation in any of the Transactions.

III. Definitions

(a) The term, ''affiliate,'' means:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner of any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(b) The term, ''control,'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term, ''Independent Fiduciary,'' means a fiduciary that:

(1) Has a minimum of five (5) years of experience acting on behalf of employee benefit plans covered by the Act and/or the Code;

(2) Can demonstrate, through experience and/or education, proficiency in matters involving the acquisition, management, leasing, and disposition of real property;

(3) Is an expert with respect to the valuation of real property or has the ability to access (itself or through persons engaged by it) appropriate data regarding the purchase, sale, and leasing of real property located in the relevant market;

(4) Has not engaged in any criminal activity involving fraud, fiduciary standards, or securities law violations;

(5) Is appointed to act on behalf of the Plan for all purposes related to, but not limited to (i) the In-Kind Contribution, (ii) the Leases, (iii) the RFO, (iv) the Contingent Rent Payment(s), and (v) any other transactions between the Plan and ZHCC and its affiliates related to the LLCs and Properties; and

(6) Is independent of and unrelated to ZHCC or its affiliates. For purposes of this exemption, a fiduciary will not be deemed to be independent of and unrelated to ZHCC and its affiliates if:

(i) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with ZHCC,

(ii) Such fiduciary directly or indirectly receives any compensation or other consideration in connection with any Transactions described in this exemption; except that an Independent Fiduciary may receive compensation from ZHCC for acting as an Independent Fiduciary in connection with the Transactions contemplated herein if the amount or payment of such compensation is not contingent upon or in any way affected by the Independent Fiduciary's ultimate decisions, and

(iii) The annual gross revenue received by such fiduciary, during any year of its engagement, from ZHCC and its affiliates exceeds five percent (5%) of the fiduciary's annual gross revenue from all sources for its prior tax year.

(d) The definition of Actual Return to be used in calculating the amount of each Contingent Rent Payment is the sum of: (1) The sales price of any parcel sold, net of selling costs, (2) any net insurance proceeds or net condemnation awards received by the Plan (if any Lease is terminated due to destruction or condemnation), (3) the fair market value of any parcel(s) that the Plan continues to hold, as determined by a three appraiser method (if the parties are unable to otherwise agree), plus (4) the rental income received by the Plan under the Leases prior to the Minimum Return Date, less expenses incurred by the Plan with respect to the Properties and the Leases up to the Minimum Return Date. The liabilities and obligations of the Hospital and ZHCC survive the expiration date of a Lease, or a termination of a Lease, and continue until such liabilities and obligations have been fully paid and fulfilled.

Temporary Nature of Exemption

This exemption is temporary and becomes effective on the date of publication of the grant of the final exemption in the **Federal Register**. The exemption will expire on the date which is ten (10) years from the date of the grant of the exemption. If the Hospital wishes to renew the Leases on the Properties between the Hospital and the LLCs (or between the Hospital and the Plan, as the case may be), the Department would encourage the applicant to submit another application prior to the expiration of this exemption, provided that the Independent Fiduciary determines that the conditions of the renewal are feasible, in the interest and protective of the Plan and the Hospital can demonstrate that it can satisfy the terms of such renewal.

Written Comments

In the Notice of Proposed Exemption (the Notice), the Department of Labor (the Department) invited all interested persons to submit written comments and requests for a hearing on the proposed exemption within thirty-seven (37) days of the date of the publication of the Notice in the **Federal Register** on December 28, 2005. All comments and requests for a hearing were due by February 3, 2006.

During the comment period, the Department received no requests for a hearing. However, the Department did receive one comment letter from a commentator and a comment letter from the applicant.

In a facsimile dated February 9, 2006, the commentator provided the Department with a list of six (6) historical events concerning the operations of the Hospital and ZHCC during the 1980's and the early 1990's. In addition to this list, the commentator also expressed concern for the safety of the funding of the Plan. In this regard, the commentator suggested that, if the exemption were granted, the Department ''strictly monitor and enforce the financial activities'' of the Hospital to ensure the safety of the Plan.

In response, to the concern expressed by the commentator, the applicant submitted a letter dated February 15, 2006, to the Department. In this letter, ZHCC expressed its opinion that adequate measures to protect the Plan and the interests of its participants and beneficiaries already exist under the terms and conditions of the exemption. Specifically, as set forth in the Notice in subsections (b) through (f) and (h) of section II, it is represented that the Retirement Committee for the Plan appointed Fiduciary Counselors, Inc. (FCI) as the Independent Fiduciary, as defined in section III(c) of the Notice, to act on behalf of the Plan with regard to the subject Transactions and to serve as investment manager with authority and discretion over the LLCs and the Properties.

Further, the applicant points out that other safeguards to protect the Plan and its participants and beneficiaries are set forth in the Notice in subsections (g) and (i) through (o) of section II. In this regard, section II(g) requires that the terms and conditions of the Transactions ''are no less favorable to the Plan than terms negotiated at arm's length under similar circumstances between unrelated third parties.'' Participating in the Transactions will not subject the Plan to fees, commission, or other charges or expenses. Fair market value rental payments, as determined by the Independent Fiduciary are required. The Leases are triple net ''bondable'' leases having a term of ten (10) years. Under the terms of these Leases, the Hospital bears not only the ordinary maintenance, tax, and insurance expenses, but also is responsible for all capital expenses associated with the Properties. The Plan retains the right to sell or assign the Properties to any third party purchaser, subject to the Hospital's RFO. The Plan and its participants and beneficiaries are further protected by ZHCC's indemnification with respect to any liability for hazardous materials released on the Properties.

The In-Kind Contribution is conditioned on the Independent

Fiduciary receiving favorable engineering and environmental reports on the Properties before closing. Finally, if the Plan does not earn an annual return on each of the Properties equal to a fixed interest rate of 8 percent (8%) in any year, ZHCC and the Hospital have agreed to make one or more Contingent Rent Payment(s), as described in each of the Leases. Accordingly, the applicant believes that adequate safeguards to protect the Plan and its participants and beneficiaries are already in place under the terms of the exemption. In the opinion of the applicant, no additional safeguards are necessary.

In addition to the letter from the commentator, the applicant, in a letter dated February 2, 2006, informed the Department that although the representations in the Notice were accurate, certain representations were made in anticipation of the final exemption for the In-Kind Contribution being granted in calendar year 2005. Accordingly, the applicant updated the following statements to reflect an actual cash contribution in 2005 and the anticipated In-Kind Contribution in calendar year 2006.

The applicant's comments are discussed in the numbered paragraphs below.

1. Section II(a)(1), as set forth in the Notice, at 70 FR 76872, column 2, lines 16–19, requires that ZHCC contribute to the Plan no less than cash in the amount of $3.3 million in the year 2005. In its comment letter, the applicant confirms that in September 2005, ZHCC contributed in cash $4,057,000 to the Plan—$3.3 million of which constituted the contribution negotiated by FCI, the Plan's Independent Fiduciary and which is also required under section II(a)(1), as set forth in the Notice. In this regard, the applicant informed the Department that the entire $4,057,000 cash contribution was in excess of the minimum funding obligations of ZHCC under section 302 of the Act and section 412 of the Code. The applicant also represents that the contribution enabled ZHCC to avoid making a variable rate premium payment to the Pension Benefit Guaranty Corporation.

2. In section 17(q), as set forth in the Notice, at 70 FR 76882, column 2, lines 51–55, it is represented that the In-Kind Contribution plus the additional voluntary cash contributions will exceed the minimum funding requirement for the year 2005. It is anticipated that the In-Kind Contribution will be contributed to the Plan during 2006, once the exemption is finalized. The applicant represents that if the exemption is finalized in time for the In-Kind Contribution to be made to the Plan by September 15, 2006, then the In-Kind Contribution will be applied to the 2005 Plan year for the purpose of the funding rules under section 302 of the Act and section 412 of the Code. Accordingly, the applicant represents that all contributions credited to the Plan for Plan year 2005 will exceed the minimum funding requirement for Plan year 2005.

3. The applicant notified the Department that the name of the Plan Trustee, as set forth in the Notice in paragraph 6 of the Summary of Facts and Representations (the SFR), at 70 FR 76874, column 2, lines 44–60, has changed to LaSalle Bank N.A.—Global Securities and Trust Services. It is represented that this name change is pursuant to the acquisition by LaSalle Bank of Standard Federal Bank. In addition, the applicant clarified that the discretion to invest the assets of the Plan generally resides with the Zieger Health Care Corporation Finance Committee (the Committee) and any investment managers appointed by it. It is further represented that the Committee has granted the Trustee the discretion to manage Plan assets that are invested in funds sponsored by the Trustee.

4. Paragraph 6 of the SFR in the Notice, at 70 FR 76877, column 2, lines 1–4, reads as follows, ''Currently, portions of the Kidney Center, the SPO Building and the Medical Center are leased to unrelated third parties.'' The applicant notes that, as previously stated in the SFR in the Notice, at 70 FR 76874, column 3, lines 48–58, the Botsford Kidney Center building is leased to two (2) parties—a tenant owned by the Hospital and Botsford Kidney Center, Inc. (BKCI). BKCI is a Michigan business corporation owned 80 percent (80%) by individual physicians and 20 percent (20%) by the Hospital.

After giving full consideration to the entire record, including the written comments from the commentator and the applicant, the Department has decided to grant the exemption, as described and clarified, above. In this regard, the comment letters submitted by the commentator and the applicant to the Department have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Employee Benefit Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on December 28, 2005, at 70 FR 76872.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 693–8540. (This is not a toll-free number.)

The Donlar Corporation Profit Sharing Plan (the Plan) Located in Roseville, MN

[Prohibited Transaction Exemption 2006–04 Exemption Application No. D–11325]

Exemption

The restrictions of sections 406(a)(1)(A) through (D), 406(b)(1), and 406(b)(2) of the Employee Retirement Income Security Act (the Act), and the sanctions resulting from the application of section 4975, by reason of section 4975(c)(1)(A) through (E) of the Internal Revenue Code of 1986 (the Code), [3] shall not apply, in connection with the termination of the Plan, to the cash sale of a parcel of improved real property (the Property) owned by the Plan to Mr. Donald A. Kainz (Mr. Kainz), a party in interest with respect to the Plan; provided that:

(a) The Plan receives a price for the sale of the Property to Mr. Kainz equal to the *greater* of:

(1) $418,000; or

(2) The fair market value of the Property, plus the ''assemblage value'' to Mr. Kainz, as determined by an independent, qualified appraiser, as of the date of such sale; or

(3) The cost to the Plan to acquire and hold the Property;

(b) The Plan incurs no fees, commissions, or other charges or expenses as a result of its participation in the sale of the Property to Mr. Kainz;

(c) Prior to entering into the subject transaction:

(1) With respect to the past use and/or leasing of the Property by the Donlar Corporation (the Employer), the Employer files a Form 5330 with the Internal Revenue Service (IRS);

(2) With respect to the entire period of such use and/or leasing, the Employer pays all appropriate excise taxes, plus interest on such taxes to the IRS; and

(3) With respect to the past use and/or leasing of the Property by the Employer, the Employer pays to the Plan the present value of the fair market rent, including interest, due to the Plan from the Employer in the form of a lump

[3] For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

sum total rent payment in arrears with respect to the past use and/or leasing of the Property by the Employer, as determined by Mike Amo (Mr. Amo) an independent, qualified appraiser, for the entire period of such use and/or leasing of the Property by the Employer;

(d) The termination of the Plan and the distribution of its assets is in accordance with the provisions of the Plan and all applicable statutes and regulations, including section 4044 of the Act, relating to the allocation of assets; and

(e) Upon termination of the Plan, each participant in the Plan receives 100 percent (100%) of the balance of his or her account in the Plan in cash, including each participant's *pro rata* share of the value of the Property, as of the date of the sale of the Property to Mr. Kainz.

After giving full consideration to the entire record, the Department has decided to grant the exemption, as described above. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Employee Benefit Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

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 December 28, 2005, at 70 FR 76882.

For Further Information Contact: Ms. Angelena C. Le Blanc of the Department, telephone (202) 693–8540. (This is not a toll-free number.)

Anchorage Area Pipe Trades 367 Joint Apprenticeship Committee (the Plan) Located in Anchorage, Alaska

[Prohibited Transaction Exemption 2006–05; Exemption Application No. L–11293]

Exemption

The restrictions of sections 406(a) and 406(b)(2) of the Act shall not apply to a loan (the Loan), in the amount of $750,000, to the Plan, to serve as permanent financing for a training facility (the Training Facility) constructed by the Plan, by the Local No. 367 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada (Local No. 367), a party in interest with respect to the Plan. This exemption is subject to the following conditions:

(a) The Plan does not pay any commissions, fees, or other expenses with respect to this transaction, except certain specified third party closing costs;

(b) An independent, qualified fiduciary (the I/F), after analyzing the terms of the Loan, determines that such Loan is in the best interests of the Plan and its participants and beneficiaries;

(c) In determining the fair market value of the Training Facility, the I/F obtains a current written appraisal report (the Appraisal) from an independent, qualified appraiser, as of the date of the transaction, and ensures that such Appraisal is consistent with sound principles of valuation;

(d) The Loan is for the duration of 15 years at the prime rate, as listed in the *Wall Street Journal*;

(e) Under the terms of the Loan agreement, the Loan is secured by the Training Facility and, in the event of default by the Plan, Local No. 367 has recourse only against such facility and not the general assets of the Plan;

(f) The terms and conditions of the Loan are at least as favorable to the Plan as those that the Plan could have obtained in an arm's length transaction with an unrelated third party; and

(g) The Loan is repaid by the Plan with the funds that the Plan retains after paying all of its operational expenses.

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 3, 2005 at 70 FR 66856.

For Further Information Contact: Ms. Karin Weng of the Department at (202) 693–8540. (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.

Ivan Strasfeld,

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

[FR Doc. E6–3821 Filed 3–17–06; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Submitted for Public Comment and Recommendations: Evaluation of the Trade Adjustment Assistance Program

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506)(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of the collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before May 19, 2006.

ADDRESSES: Send comments to Ms. Charlotte Schifferes, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5637, Washington, DC 20210; (202) 693–3655 (this is not a toll-free number); e-mail: *schifferes.charlotte@dol.gov*; and fax: (202) 693–2766 (this is not a toll-free number).