

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 11th day of December, 1998.

Ivan Strasfeld,

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

[FR Doc. 98-33261 Filed 12-15-98; 8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98-57;
Exemption Application No. L-10595, et al.]

Grant of Individual Exemptions; Service Employees International Union Local 252 Welfare Fund

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, D.C. 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 (43 FR 47713, October 17, 1978) 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.

Service Employees International Union Local 252 Welfare Fund (the Fund)

Located in Wynnewood, Pennsylvania
[Prohibited Exemption Application Number 98-57;
Exemption Application Number L-10595]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act shall not apply to the sale (the Sale) of certain improved real property located in Wynnewood, Pennsylvania (the Property) to the Service Employees International Union Local 252 (Local 252), a party in interest with respect to the Fund, provided the parties adhere to the following conditions:

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

(b) The terms and conditions of the Sale are at least as favorable to the Fund as those obtainable in an arm's length transaction with an unrelated party;

(c) The Sales price is an amount which represents the greater of: (1) the total cost to the Fund of acquiring the Property; or (2) the fair market value of the Property on the date of Sale as determined by a qualified, independent appraiser; and

(d) The Fund does not incur any expenses with respect to the Sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published in the **Federal Register** on Friday, June 19, 1998, at 63 FR 33726.

Written Comments and Hearing Requests: The Department received one written comment with respect to the proposed exemption. The comment letter was submitted on behalf of the Brandywine Nursing and Rehabilitation Center, Inc. (Brandywine), a party to a series of collective bargaining agreements with the Service Employees International Union Local 252 (Local 252). In the letter, Brandywine raised several concerns regarding the proposed exemption.

First, Brandywine represented that the notice of proposed exemption was not provided in a timely manner. Although this representation was disputed by the applicant, the Department decided to provide Brandywine with 30 days additional time to supplement its comments so as to avoid any potential prejudice.

Second, Brandywine expressed its concern that the applicant failed to provide current financial information for the Fund. Brandywine pointed out that this lack of current accounting raises concerns in light of certain developments in the amount of assets in the Funds. Specifically, Brandywine represented that it reviewed the Fund's Form 5500 for fiscal years 1995 and 1996 and believes that the Property may not have been properly accounted for by the Fund.

The applicant responded by stating that it provided the most current information available when it submitted the two most recently filed Form 5500s. In addition, the applicant has since supplemented the file by providing a copy of the financial information used to complete the Form 5500 for 1998 fiscal year. The applicant represented that the value of the Property and any transaction related to the Property was properly accounted for in the Fund's financial statements and the report of the Independent Certified Public Accountant.

Third, the Commentator believed that the application failed to accurately reflect the true cost of the building. The commentator noted that the Fund represented purchasing the building for \$725,000, but that the financial statements used to prepare the "Report of the Independent Certified Public Accountant" for the fiscal year 1997 Form 5500 indicate that the building cost approximately \$740,000. In addition, the commentator points to the same documents which indicate that the Fund spent approximately \$70,000 on improvements to the Property.

In response, the applicant stated that the difference between the \$725,000 and the \$740,000 amounts represent settlement costs of approximately \$15,000. Accordingly, the applicant agrees that these costs should be included in the "total cost of acquiring the Property" pursuant to paragraph (c)(1) of the conditions herein. With respect to the approximately \$70,000 spent by the Fund on improvements to the Property, the applicant represents that the appraiser took these improvements into consideration when valuing the Property at \$725,000.

Fourth, the commentator questioned the validity of the appraisal. Specifically, Brandywine questioned why the appraiser failed to discuss the reason for the Property's 24% decline in value between July 1994 and the present. Brandywine also believed that the appraisal failed to account for (1) the active real estate market in the vicinity of the Property and (2) the improving

quality of the commercial district where the Property is located.

The applicant responded that the Property was appraised by a qualified, independent real estate appraiser with approximately 25 years of experience. The applicant pointed out that the appraiser, Mr. Paul J. Leis, is an MAI and CRE Member and is currently certified by the states of Pennsylvania, New Jersey, Delaware, and Maryland. With regard to the appraisal, the applicant represented that it is comprehensive and that it consisted of the following: (1) An inspection of the subject property, (2) comparable sales inspections, (3) consideration of relevant economic and demographic data, (4) consideration of relevant zoning and other restrictions, (5) highest and best use analysis, (6) application of the appropriate valuation methods, (7) reconciliation of value estimates and (8) a value conclusion for the subject property. Based on the foregoing, the applicant believes that the appraisal accurately reflects the fair market value of the Property.

Fifth, the commentator argued that the supplemental information provided by the applicant contains serious omissions regarding the current state of Local 252 and its relationship with employers who have historically contributed to the Fund. Specifically, the commentator pointed to an unfair labor practice charge Brandywine filed against Local 252 on May 5, 1998 with the Region Four Office of the National Labor Relations Board (NLRB) located in Philadelphia, Pennsylvania. Furthermore, Brandywine alleged that the Regional Director of the Region Four office was in the process of filing a complaint against Local 252.

In response, the applicant stated that it has not received any complaint from the NLRB and that, even assuming one is issued, such complaint, as alleged by Brandywine, has no bearing on this request or to the subject matter of the application.

In summary, the Department has considered the entire record, including the comment submitted and the applicant's response to the comment, and has decided to grant the exemption as proposed in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. James Scott Frazier, telephone (202) 219-8881. (This is not a toll-free number).

Mohammad J. Iqbal Employee Profit Sharing Plan and Trust (the Plan)

Located in Elizabethtown, KY
[Prohibited Transaction Exemption 98-58; Exemption Application Number D-10614]

Exemption

The restrictions of 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 cash sale (the Sale) of 12 Krugerrand gold coins (the Coins) by the individually directed account (the Account) in the Plan of Dr. Mohammad J. Iqbal (Dr. Iqbal), to Dr. Iqbal, a party in interest and disqualified person with respect to the Plan, provided that the following conditions are met:

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

(b) The terms and conditions of the Sale are as least as favorable to the Account as those obtainable in an arm's length transaction with an unrelated party;

(c) The Account receives the fair market value of the Coins as of the date of Sale; and

(d) The Account is not required to pay any commissions, costs, or other expenses 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, 1998 at 63 FR 60389.

FOR FURTHER INFORMATION CONTACT: Mr. James Scott Frazier, telephone (202) 219-8881. (This is not a toll-free number).

Individual Retirement Accounts (Collectively, the IRAs) for William N. Albright, Victor Hamre, and Richard Pearson (Collectively, the Participants)

Located in Westerville, Ohio; Chicago, Illinois; and New York, New York, respectively

[Prohibited Transaction Exemption 98-59; Exemption Application No. D-10656, 10657, 10658]

Exemption

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 sales (the Sales) of certain shares of stock (the Stock) in the First Community Bancshares Corp. by each IRA to its respective Participant, a disqualified person with respect to the IRA,¹ provided that the following conditions are met:

(a) The terms and conditions of the Sales will be at least as favorable to each

¹ There is no jurisdiction under 29 CFR § 2510.3(b) since the IRAs have only one participant. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

IRA as those obtainable in arm's length transactions with an unrelated party;

(b) The Sales will be one-time transactions for cash;

(c) The IRAs will receive the fair market value of the Stock as established by a qualified, independent appraiser; and

(d) The IRAs will pay no commissions, costs or other expenses with respect to the Sales.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption please refer to the notice of proposed exemption published on November 9, 1998 at 63 FR 60389.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher J. Motta of the Department, telephone (202) 219-8891 (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, D.C., this 11th day of December, 1998.

Ivan Strasfeld,

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

[FR Doc. 98-33262 Filed 12-15-98; 8:45 am]

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NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to 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 should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725-17th Street, NW, Room 10235, Washington, DC, 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to splimpto@nsf.gov. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703-306-1125 X 2017.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it

displays a currently valid OMB control number.

Title: 1999 Survey of Doctoral Recipients.

OMB Control Number: 3145-0020.

Summary of Collection: The Bureau of the Census will conduct this study for NSF in 1999. The National Research Council (NRC) conducted the survey from 1973 through 1995, and the National Opinion Research Center (NORC) conducted the 1997 survey. Questionnaires will be mailed in April 1999 and nonrespondents to the mail questionnaire will receive computer assisted telephone interviewing. The survey will be collected in conformance with the Privacy Act of 1974 and the individual's response to the survey is voluntary. The first **Federal Register** notice for this survey was 63 FR 50604, published September 22, 1998.

Need and Use of the Information: The purpose of this longitudinal study is to provide national estimates of the doctorate level science and engineering workforce and changes in employment, education and demographic characteristics. The study is one of the three components of the Scientists and Engineers Statistical Data System (SESTAT). NSF uses this information to prepare Congressionally mandated reports such as *Science and Engineering Indicators* and *Women and Minorities in Science and Engineering*. A public release file of collected data, edited to protect respondent confidentiality, will be made available to researchers on CD-ROM and on the World Wide Web.

Description of Respondents:

Individuals.

Number of Respondents: 34,000.

Frequency of Responses: Biennially reporting.

Total Burden Hours: 14,167.

Title: 1999 Survey of Recent College Graduates.

OMB Control Number: 3145-0077.

Summary of Collection: Westat Inc. has served as NSF contractor conducting this survey in the previous two cycles and will conduct the study for NSF in the 1999 survey cycle. Computer assisted telephone interviewing (CATI) will begin in May 1999 and questionnaires will be sent to those that cannot be reached or are unwilling to cooperate on the telephone. The survey will be collected in conformance with the privacy act of 1974 and the individual responses to the survey are voluntary. The first **Federal Register** notice for this survey was 63 FR 53104, published October 2, 1998.

Need and Use of the Information: The purpose of this study is to provide cross sectional and longitudinal estimates of