

a relationship to such employer described in section 3(14)(E) or (G) of the Act will not exceed 50% of the "gross premiums and annuity considerations received" by ACE USA from all lines of insurance in that taxable year. ACE USA has received no premiums for the Plan insurance in the past. ACE USA wrote \$416 million in premiums in 1999. At least 80% of ACE USA's premiums for 1999 were derived from insurance (or reinsurance thereon) sold to entities other than ACE INA and its affiliated group. In addition, ACE USA is substantially dependent upon insurance customers that are unrelated to CIGNA and its affiliates for premium income.

7. In summary, the applicant represents that the proposed transaction will meet the criteria of section 408(a) of the Act because: (a) Plan participants and beneficiaries are afforded insurance protection by CIGNA, an "A+" rated group insurer, at competitive market rates arrived at through arm's-length negotiations; (b) ACE USA is a sound, viable insurance company which does a substantial amount of public business outside its affiliated group of companies; and (c) each of the protections provided to the Plan and its participants and beneficiaries by PTE 79-41 will be met under the proposed reinsurance transaction.

*For Further Information Contact:* Gary H. Lefkowitz of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

#### General Informaiton

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 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 30th day of May, 2001.

**Ivan Strassfeld,**

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

[FR Doc. 01-13905 Filed 6-1-01; 8:45 am]

**BILLING CODE 4510-29-P**

#### DEPARTMENT OF LABOR

##### Pension and Welfare Benefits Administration

[Exemption Application No. D-10918, et al.]

##### Prohibited Transaction Exemption 2001-19; Grant of Individual Exemptions; Texas Instruments Employees Pension Plan (the Plan) et al.

**AGENCY:** Pension and Welfare Benefits  
Administration, Labor.

**ACTION:** Grant of individual exemptions.

**SUMMARY:** This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and

representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

#### Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

#### Texas Instruments Employees Pension Plan (the Plan) Located in Dallas, Texas

[Prohibited Transaction Exemption No. 2001-19; Application No. D-10918]

#### Exemption

The restrictions of sections 406(a), 406(b)(1), 406(b)(2), and 406(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 to Texas Instruments, Inc. (the Employer) of a parcel of improved real property (the Property) located in Dallas, Texas. This exemption is conditioned upon the adherence to the material facts and representations described herein and upon the satisfaction of the following requirements:

(a) All terms and conditions of the Sale are at least as favorable to the Plan as those which the Plan could obtain in

an arm's-length transaction with an unrelated party;

(b) The Sales price is the greater of \$9,400,000 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 an independent, qualified appraiser;

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

(e) The Plan does not 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 February 15, 2001 at 66 FR 10527.

#### Written Comments

The Department received three comments from interested persons on the proposed exemption. The Department forwarded copies of the comments to the applicant and requested that the subtrustee (Bank of America) respond in writing to the various concerns raised by the commentators. A description of the comments and the Bank of America's responses are summarized below.

One commentator urged that the exemption not be granted because he believed that the Property had a better chance of appreciation than the cash equivalent and that the increase in value was not a fair appraisal.

Bank of America, in response represents the following: It has determined that the Sale of the Property to the Employer is prudent under ERISA and is in the best interest of the Plan participants and beneficiaries based, in part, on its determination that market values for comparable properties in the Dallas, Texas area continue to be at a record high and that the current real estate market presents a favorable selling opportunity to the Plan. Although currently selling at record highs, real estate values can decline for a number of reasons, such as downturns in the economy, environmental contamination, functional obsolescence, and changes in use and/or the growth patterns surrounding a property's location. The improvements, constructed in 1981, are now approximately 20 years old and have a remaining economic life of 27 years. The building is well maintained; however, the structure is aging and at some point it may be less attractive in the market place from the standpoint of physical plant and functionality. The commentator's objection to only a 50% increase in value over the 22 years of the lease does not recognize the actual

yield that has been produced by the annual rental income in addition to the sales price proceeds.

Two commentators took issue with the selection of the appraiser for the Property, and the subsequent evaluation, specifically requesting multiple appraisals and questioning whether the appraiser specialized in commercial real estate. Bank of America notes that as the subtrustee of the Plan, Bank of America has the responsibility to make the good faith fiduciary determination that the amount received by the Plan upon the Sale is no less than adequate consideration, as defined in ERISA § 3(18). In making the good faith determination that the Plan will receive adequate consideration, Bank of America, as a fiduciary, has relied on the appraisal report of the independent appraiser, which will be updated at the closing date, to insure that the amount received is no less than the then fair market value. Furthermore, Bank of America represents the Property has been appraised by an independent appraiser, the Pyles Whatley Corporation, a respected commercial real estate appraisal firm. It has a national appraisal practice and has appraised properties of large industrial sites in more than 25 states in 1999 and 2000. The appointment of the appraiser was made properly by Bank of America rather than other Plan fiduciaries since the appraisal report will be used by Bank of America in complying with its fiduciary responsibility with respect to the Sale.

The appraisal follows standard methodologies including the use of values of comparable properties. Bank of America has carefully reviewed the appraisal and other information that it has available to it and believes that the appraisal correctly determines the fair market value of the Property. In making this good faith fiduciary determination to sell the Property at this value, after having made a prudent review of the valuation report and the relevant circumstances at the time of the valuation report, Bank of America does not believe that there is any reason to require multiple appraisals to reach a valuation for the Property.

Accordingly, after giving full consideration to the entire record, including the comments by the commentators, and the responses of the applicant, the Department has determined to grant the exemption as proposed. In this regard, the comments submitted 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 Pension and Welfare Benefits Administration, Room N-1513, U.S. Department of Labor, 200 Constitution Ave. NW, Washington DC 20210.

#### FOR FURTHER INFORMATION CONTACT:

Khalif Ford of the Department, telephone (202) 219-8883 (this is not a toll-free number).

#### THS Profit Sharing Plan (the Plan) Located in Bedford Hills, New York

[Prohibited Transaction Exemption No. 2001-20; Application No. D-10921]

#### 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 sale (the Sale) by the Plan of two life insurance policies (the Policies) which insure Tim H. Shoecraft, the sole participant (the Participant),<sup>1</sup> to the Shoecraft Family Trust dated October 9, 1991 (the Trust), which is a disqualified party with respect to the Plan under section 4975(e)(2) of the Code, provided that the following conditions are met:

(a) The Participant is the insured under the contract;

(b) Prior to the Sale, the Plan will afford the insured notice of the Sale and the opportunity to purchase the Policies;

(c) The Sale will be for full and adequate consideration, based upon the cash surrender value of the Policies at the time of the transaction;

(d) The Plan is authorized to purchase and own life insurance;

(e) The amount received by the Plan as consideration for the Sale is at least equal to the amount necessary to put the Plan in the same cash position as it would have been in had it retained the contract, surrendered it, and made any distribution owing to the Participant of his vested interest under the Plan; and

(f) The Plan 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 April 16, 2001 at 66 FR 19533.

#### FOR FURTHER INFORMATION CONTACT:

Khalif Ford of the Department,

<sup>1</sup> Because Tim H. Shoecraft is the sole shareholder of Shoecraft and Associates and he is the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

telephone (202) 219-8883 (this is not a toll-free number).

### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 30th day of May, 2001.

**Ivan Strasfeld,**

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

[FR Doc. 01-13906 Filed 6-1-01; 8:45am]

**BILLING CODE 4510-29-P**

### FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

#### Changes in Meeting; Federal Register Citation of Previous Announcement 66 FR 22267

**TIME AND DATE:** 10 a.m., Wednesday, May 30, 2001.

**PLACE:** Room 6005, 6th Floor, 1730 K Street, NW., Washington, DC.

**STATUS:** Closed in Part (Pursuant to 5 U.S.C. 552b(c)(10)).

**CHANGES IN MEETING:** Eagle Energy, Inc., Docket No. WEVA 98-123. The Commission has granted a motion by Eagle Energy, Inc., to exclude from consideration at the May 30, 2001, meeting the issue of whether the judge's frequent questioning of witnesses improperly interfered with the operator's presentation of its case and reflected bias.

Because agency business so requires, the Commission has unanimously voted to change the status of the meeting from "closed in part" to "open in its entirety," pursuant to 5 U.S.C. 552b(c)(10).

No earlier announcement of these changes was possible.

**CONTACT PERSON FOR MORE INFO:** Jean Ellen (202) 653-5629 / (202) 708-9300 for TDD Relay / 1-800-877-8339 for toll free.

**Jean H. Ellen,**  
*Chief Docket Clerk.*

[FR Doc. 01-14089 Filed 5-31-01; 12:56 pm]

**BILLING CODE 6735-01-M**

### THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

#### Meetings of Humanities Panel

**AGENCY:** The National Endowment for the Humanities.

**ACTION:** Notice of meetings.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606-8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606-8282.

**SUPPLEMENTARY INFORMATION:** The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information

obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4) and (6) of section 552b of Title 5, United States Code.

**Date:** June 22, 2001.

**Time:** 8:30 a.m. to 6:00 p.m.

**Room:** 415.

**Program:** This meeting will review applications for History, Conservation, Other Public Programming Organizations, submitted to the Office of Challenge Grants at the May 1, 2001 deadline.

**Date:** June 28, 2001.

**Time:** 8:30 a.m. to 6:00 p.m.

**Room:** 415.

**Program:** This meeting will review applications for Research Libraries, Associations, Institutes, submitted to the Office of Challenge Grants at the May 1, 2001 deadline.

**Laura S. Nelson,**

*Advisory Committee Management Officer.*

[FR Doc. 01-13976 Filed 6-1-01; 8:45 am]

**BILLING CODE 7536-01-M**

### NATIONAL SCIENCE FOUNDATION

#### Advisory Committee for Small Business Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

**Name:** Advisory Committee for Small Business Industrial Innovation (SBIR)/Small Business Technology Transfer (STTR)—(61).

**Date/Time:** June 19-20, 2001, 8:30 am-5:00 pm.

**Type of Meeting:** Open.

**Place:** Room 120, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

**Contact Person:** Dr. Joseph Hennessey, Acting Director, Industrial Innovation, (703) 292-7069, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

**Minutes:** May be obtained from the contact person listed above.

**Purpose of Committee:** To provide advice and recommendations concerning research programs pertaining to the small business community.

**Agenda:** June 19, 2001, Room 120  
8:30 am—Introductions