FOR FURTHER INFORMATION CONTACT: Kathryn Parr of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

Wilson Sporting Goods Co. 401(k) Savings Plan (the Plan) Located in Chicago, Illinois

[Prohibited Transaction Exemption 95–02; Application No. D–09803]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) the past interest-free loan to the Plan (the Loan) by Wilson Sporting Goods Co. (the Employer), a party in interest with respect to the Plan, and (2) the Plan's potential repayment of the Loan upon the receipt by the Plan of payments under Guaranteed Investment Contract No. CG01314A3A (the GIC) issued by Executive Life Insurance Company (Executive Life); provided the following conditions are satisfied:

(A) No interest or expenses are paid by the Plan in connection with the transaction;

(B) The Loan will be repaid only out of amounts paid to the Plan by Executive Life, its successors, or any other responsible third party; and

(C) Repayment of the Loan is waived with respect to the amount by which the Loan exceeds GIC proceeds.

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 14, 1994 at 59 FR 56550.

EFFECTIVE DATE: This exemption is effective as of April 1, 1994.

FOR FURTHER INFORMATION CONTACT: Virginia J. Miller of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

Erick M. Jansson, IRA (the IRA) Located in Fayetteville, Arkansas

[Prohibited Transaction Exemption 95–03; Exemption Application No. D–09847]

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 sale of an overriding royalty interest in oil and gas (the Interest) by the IRA to Mr. Erick M. Jansson (Mr. Jansson), a disqualified person with respect to the IRA, for $95,000 in cash, provided:

(a) The IRA pays no commissions or other expenses in connection with the sale;

(b) The fair market value of the Interest is determined by a qualified independent appraiser; and

(c) The IRA receives no less than the fair market value of the Interest on the date of the sale.[1]

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 5, 1994 at 59 FR 62419.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

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

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

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

[1] Pursuant to 29 CFR 2510.3–2(d), the IRA is not within the jurisdiction of Title I of the Act. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Signed at Washington, DC, this 12th day of January, 1995.

Ivan Strasfeld,

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

[FR Doc. 95–1199 Filed 1–17–95; 8:45 am]

BILLING CODE 4510–29–P

[Application No. D–09787, et al.]

Proposed Exemptions; Boston Cement Masons Local No. 534 Deferred Income Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). 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 requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Boston Cement Masons Union Local No. 534 Deferred Income Plan (the Deferred Income Plan), Boston Cement Masons Union Local No. 534 Pension Plan (the Pension Plan), Boston Cement Masons Union Local No. 534 Health and Welfare Plan (the Welfare Plan) and Boston Cement Masons Union Local No. 534 Apprenticeship Plan (the Apprenticeship Plan; Collectively, the Plans) Located in Boston, Massachusetts

[Application Nos. D–9787, D–9788, L–9789 and L–9790, respectively]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code in accordance and with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed leasing of office space in a building (the Building) owned by the Deferred Income Plan to the Boston Cement Masons Union Local No. 534 (the Union), a party in interest with respect to the Deferred Income Plan.

In addition, the restrictions of section 406(b)(2) of the Act shall not apply to the proposed leasing of office space in the Building by the Deferred Income Plan to the Pension Plan, the Welfare Plan and the Apprenticeship Plan.

This proposed exemption is conditioned upon the following requirements: (1) The terms of all such leasing arrangements are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party; (2) an independent, qualified fiduciary, who has approved of the leasing arrangements, agrees to monitor all leases on behalf of the Deferred Income Plan as well as the terms and conditions of the exemption at all times; (3) the rental charged by the Deferred Income Plan under each lease is based upon the fair market rental value of the premises as determined by an independent, qualified appraiser; (4) the Building is revalued annually by the independent, qualified appraiser; (5) if appropriate, the independent, qualified fiduciary adjusts the rentals charged for the office space based upon the annual appraisals of the Building; and (6) the trustees determine that the leasing arrangements are in the best interests of the Pension Plan, the Welfare Plan and the Apprenticeship Plan.

Summary of Facts and Representations

1. The Plans are multiemployer plans that have been established and maintained in accordance with section 302(c)(5) of the Labor Management Relations Act of 1947, as amended, and in accordance with the terms of a collective bargaining agreement by and between the Union and various contributing employers (the Employers). The Plans are jointly trusteed by four trustees, (the Trustees), two of whom have been selected by the Employers and two of whom have been designated by the Union. Eight individuals comprise the Trustees for the Plans. With respect to composition of the Trustees for the Deferred Income Plan, Thomas Gunning, who was selected by the Employers, serves as Trustee for each of the Plans; Harry Brousaides, who was selected by the Union, and an individual yet to be named by the Employers, will serve as Trustees for three out of the four Plans; and Jeremiah McGillicuddy, who was selected by the Union, serves as Trustee for two out of the four Plans. Add-Men Services, which is located in Boston, Massachusetts, administers the Plans. Investment decisions for the Deferred Income Plan, the Pension Plan and the Welfare Plan are made by Delta Financial Management Corporation of Hingham, Massachusetts and Anchor Capital Advisors of Boston, Massachusetts, entities which serve as investment managers to these Plans. The Trustees of the Apprenticeship Plan have the sole investment discretion with regard to the Apprenticeship Plan's assets.

2. The Plans cover cement masons and other employees in the geographical area of Boston and numerous cities and towns in northeastern Massachusetts. The participant breakdown and asset balances for the Plans as of March 31, 1994 are as follows:

Plan	No. of participants	Total assets
Deferred Income Plan	271	$3,940,457
Pension Plan	455	4,583,480
Welfare Plan	395	1,540,055
Apprenticeship Plan	.....	178,966

Although the Plans have many common participants as well as common trustees, they are not parties in interest with respect to each other within the meaning of section 3(14) of the Act.

3. In 1994, the Deferred Income Plan purchased two parcels of improved real property from John Rogan, Paul Rogan and Jane Rogan, unrelated parties, primarily for investment purposes but also for office space for its own use. The first parcel (Property #1), located at 288 Minot Street in Dorchester, Massachusetts, consists of the Building and a two-family, wood frame, residential building and the underlying land of each building. The Building is the only part of Property #1 which will be subject to the leasing arrangements described herein. The Building is a 7,587 square foot, commercial garage and warehouse with finished office space and two separate garages. The second parcel (Property #2), located at 296 Minot Street, consists of a single-family, wood frame, residential building and the underlying land. Property #2 lies contiguous to Property #1. Property #2 will not be subject to any of the leasing arrangements described herein.

For purposes of purchasing these two parcels, the Deferred Income Plan obtained an appraisal from Eileen Partridge, an appraiser affiliated with Real Estate Appraisal and Consulting Servicing, which is located in Quincy,

Massachusetts. Ms. Partridge represents that she is independent of, and unrelated to, the Union, the Plans and the Rogans. Ms. Partridge has fifteen years of experience in appraising, selling and marketing commercial and industrial real estate. Ms. Partridge placed the fair market value of Property #1 and Property #2 at $325,000 and $110,000, respectively, for a total fair market value of $435,000 as of April 13, 1994. After negotiation between the parties, a purchase and sale agreement was entered into for both parcels at an agreed upon purchase price of $394,600.[1] After such purchase, the part of Property #1 which constitutes the residential building and all of Property #2 remains leased to the existing tenants who are unrelated parties to the Deferred Income Plan.

4. The applicant represents that the Deferred Income Plan will utilize less than fifty percent of the Building for its own activities and intends to lease the remaining space in the Building to the Pension Plan, the Welfare Plan, the Apprenticeship Plan, the Union and other unrelated entities. With respect to the shared office space, the Deferred Income Plan, as lessor, proposes to enter into a written lease with the Pension Plan, the Welfare Plan and the Apprenticeship Plan for a five-year term and with the Union for a ten-year term. The lease will not contain an automatic renewal provision, and the rental will be exclusive of utilities. The lease will allow the Deferred Income Plan, as lessor, and the lessee Plans the right to terminate the lease upon ninety days advance notice. The lease will also be subject to annual fair market value adjustments to the rent as described herein in Representation 7. The Trustees request an administrative exemption from the Department to permit the leasing of the Building to the Union, the Pension Plan, the Welfare Plan and the Apprenticeship Plan under the terms and conditions described herein.

5. The Deferred Income Plan proposes to lease four separate areas of space within the Building (Space #1 - #4, inclusively) to the Pension Plan, the Welfare Plan, the Apprenticeship Plan and the Union. Descriptions of the four spaces are set out below:

a. Space #1 consists of 1,426 square feet of finished office space which will be used by the Plans and the Union. The Plans and the Union intend to share such space in different proportions and will divide the rental costs for such space based upon these proportions. The Pension Plan, the Welfare Plan and the Deferred Income Plan will be using the same space because they share a common administrator/executive director who utilizes the same office and desk space. The allocation of the rent for these three Plans is based upon the parties' usage of this space. The percentage of the rent for Space #1 will be divided as follows:

Lessee	Percentage
Pension Plan	12
Welfare Plan	12
Apprenticeship Plan	25
Union	45
Deferred Income Plan	6
Total	100

b. Space #2 consists of 1,910 square feet of unfinished garage-type space which will be leased jointly to the Union and the Apprenticeship Plan. The Union will use such space for meetings, training, seminars and negotiations on a regular basis during the week, and the Apprenticeship Plan will use the space on the weekends and occasionally during the week. The rental will be shared, on the basis of usage, on a seventy-five to twenty-five percent basis by the Union and the Apprenticeship Plan, respectively.

c. Space #3 consists of 560 square feet of unfinished garage space that will be leased exclusively by the Apprenticeship Plan for storage of construction equipment and supplies necessary to and used in the training program.

d. Space #4 consists of 285 square feet of unfinished garage space that will be leased exclusively to the Union for file cabinets and other office related storage.

6. The applicants represent that the rent to be paid by each lessee will be based upon an independent appraisal. In this regard, on April 25, 1994, Ms. Partridge placed the annual fair market rental values of the various spaces as follows:

Space	Fair market rental value
Space #1	$6.00 per square foot.
Space #2	4.00 per square foot.
Space #3	4.00 per square foot.
Space #4	4.00 per square foot.

7. The applicants represent that Ms. Partridge, who will also serve on behalf of the Deferred Income Plan as the independent, qualified fiduciary with respect to the lease transactions, will have the Building reappraised annually by an independent, qualified appraiser. The purposes of the annual appraisals are to ensure that: (1) The space occupied by the Plans and the Union reflects the fair market rental value; and (2) the allocation of rent for the shared office space is appropriate for the Plans and is fair based on the Plans' usage. Based upon these annual appraisals and an annual review of the Plans' usage of the shared office space, Ms. Partridge will adjust the rental amounts for such space, if necessary, based upon any changes in the fair market rental values or the reallocation of space used by any of the Plans or the Union. If, as the result of an annual appraisal, the fair market rental value of the office space declines in value from the prior rental year, the Union will be required to pay the Deferred Income Plan the same rental that it paid the Deferred Income Plan during the previous year. The lessee Plans, however, will not be affected by this ''floor'' requirement.

8. In her capacity as the independent, qualified fiduciary, Ms. Partridge states that she understands and acknowledges her duties, responsibilities, and liabilities in acting as a fiduciary with respect to the Deferred Income Plan based upon consultation with counsel experienced with the fiduciary responsibility provisions of the Act. Ms. Partridge derives less than one percent of her annual income from the Union and the Plans.

Ms. Partridge represents that she has reviewed the terms of the leasing arrangements between the Deferred Income Plan and the Pension Plan, the Welfare Plan, the Apprenticeship Plan and the Union and has concluded that these leasing arrangements are fair to the Deferred Income Plan. In addition, Ms. Partridge states that the terms and conditions of these leases are acceptable and compare favorable to other leases in the Boston area. To support her opinion, Ms. Partridge represents that she has considered the current economic climate, comparable rents in the area, vacancy rates and property amenities. Ms. Partridge also believes that the leasing arrangements are in the best interests of the Deferred Income Plan and its participants and beneficiaries. She states that the Deferred Income Plan will continue receiving market rate rents on a regular and a timely basis and that it would not be able to obtain more income from other independent tenants.

Ms. Partridge also represents that she has examined the current financial statements and portfolio of the Deferred Income Plan. Based upon such review, she states that the lease transactions are consistent with the Deferred Income Plan's diversification, liquidity and investment strategy.

[1] The Department expresses no opinion in this proposed exemption on whether the acquisition of the Building by the Deferred Income Plan violates any of the provisions of part 4 of Title I of the Act.

With regard to the creditworthiness of the lessees and their ability to pay, Ms. Partridge represents that she has reviewed the most recent financial statements for the Pension Plan, the Welfare Plan, the Apprenticeship Plan and the Union along with the lessees' hourly contribution rates set forth in the collective bargaining agreement. Based upon their steady stream of annual income, she believes that the lessees are creditworthy for the purposes of the lease transactions contemplated herein.

Besides the duties described above, Ms. Partridge will: (a) Oversee the collection of rent; (b) determine whether it is appropriate to renew or continue a leasing arrangement; and (c) take all actions that are necessary and property to enforce the rights of the Deferred Income Plan and protect the participants and beneficiaries of such Plan.

9. In addition to Ms. Partridge's review of the transactions, the Trustees represent that before the leases are consummated, they will review the investment needs of each of the related Plans, the terms and conditions of the leasing arrangements, including the initial rental rate and the subsequent appraisals by the independent, qualified appraiser. Based upon their consideration of such matters, the Trustees will determine whether the leasing arrangements are in the best interests of the Pension Plan, the Welfare Plan and the Apprenticeship Plan. The Trustees will also determine whether the amount of space leased by the Pension Plan, the Welfare Plan and the Apprenticeship Plan is appropriate and necessary for the needs of these Plans.

10. In summary, it is represented that the proposed transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) the terms of all such leasing arrangements will be at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party; (b) Ms. Partridge, as the Deferred Income Plan's independent, qualified fiduciary, will approve of the leasing arrangements, will agree to monitor all leases on behalf of the Deferred Income Plan as well as the terms and conditions of the exemption at all times; (c) the rental charged by the Deferred Income Plan under each lease will be based upon the fair market rental value of the premises as determined by an independent, qualified appraiser; (d) the Building will be revalued annually by the independent, qualified appraiser; and (e) if appropriate, Ms. Partridge will adjust the rentals charged for the office space based upon the annual appraisals of the Building; and (f) the Trustees will determine that the leasing arrangements are and continue to be in the best interests of the Pension Plan, the Welfare Plan and the Apprenticeship Plan.

FOR FURTHER INFORMATION CONTACT: Kathryn Parr of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

Wadco, Inc. Profit Sharing Plan and Trust (the Plan) Located in Spring, Texas

[Application No. D–9820]

Proposed Exemption

The Department is considering granting an exemption under the authority of 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). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale (the Sale) of certain shares of stock (the Stock) by the Plan to Peter Aswad, a disqualified person with respect to the Plan.[2]

This proposed exemption is conditioned upon the following requirements: (1) All terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arm's length transaction between unrelated parties; (2) the Sale is a one-time cash transaction; (3) the Plan is not required to pay any commissions, costs or other expenses in connection with the Sale; (4) the Plan receives a sales price equal to the fair market value of the Stock as determined by an independent, qualified appraiser; (5) the trustees of the Plan determine that the Sale is appropriate for the Plan and is in the best interests of the Plan and their participants and beneficiaries; and (6) within ninety days of the grant of this proposed exemption, Wadco files Forms 5330 with the Internal Revenue Service and pays all applicable excise taxes due with respect to past prohibited transactions.

Summary of Facts and Representations

1. The Plan, established on December 4, 1990, is a profit sharing plan sponsored by Wadco, Inc. (Wadco). Wadco is an Illinois corporation previously engaged in the purchase and resale of molecular sieves used in the manufacturing of thermal-pane glass. Presently, Wadco is not actively involved in any type of business. As of December 31, 1993, the Plan had total assets of $275,727 and two participants, Peter and Judith Aswad, who are also the trustees of the Plan (the Trustees). The Trustees have the sole investment discretion with regard to the Plan.

2. Among the assets of the Plan is the Stock. The Stock consists of 300 shares of stock in Titan Industries, Inc. (Titan), a closely-held Oklahoma corporation which engages in the manufacture of additive injection equipment. The Stock represents approximately fifty percent of the issued and outstanding stock of Titan. The remaining fifty percent of the issued and outstanding stock of Titan is owned by Gary Williams, the President of Titan. Mr. Aswad is the Chairman of the Board of Directors of Titan and is the acting sales manager for the western half of the United States and the Far East.

In 1987, Wadco acquired the Stock for approximately $15,000 and contributed it to the Wadco, Inc. Defined Benefit Plan (the DB Plan), a qualified plan maintained by Wadco in the 1980's. The trustees of the DB Plan terminated the DB Plan, effective December 31, 1989, and distributed all of its assets on December 10, 1990, to the DB Plan's only participants, Mr. and Mrs. Aswad, in 1990. At this time, Mr. and Mrs. Aswad rolled over the Stock, worth approximately $118,904, into the Plan. Wadco is aware of the fact that the contribution of the Stock constituted a prohibited transaction in violation of the Code. Accordingly, Wadco represents that within ninety days of the grant of this proposed exemption, it will file Forms 5330 with the Internal Revenue Service and will pay all applicable excise taxes due with respect to past prohibited transactions.

As of November 14, 1994, neither the Plan nor the DB Plan had received any dividends from the Stock. However, the Stock has appreciated approximately 50.5 percent per year since its acquisition in 1987. As of December 31, 1993, the Stock amounted to approximately eighty-six percent of the total assets of the Plan.

3. Because the Stock accounts for such a large percentage of the Plan's assets and cannot readily be liquidated due to the lack of a public market, the Trustees desire to sell the Stock out of the Plan. The Trustees anticipate that any efforts to sell the Stock to unrelated parties would result in a sale at a less than its fair market value (see Representation #4) due to the Stock's

[2] Since Peter Aswad and his wife, Judith Aswad, are the only participants in the Plan, there is no jurisdiction under Title I of 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.

lack of marketability. Because Mr. Aswad is willing to purchase the Stock from the Plan, the Trustees propose to sell the Stock to Mr. Aswad for the fair market value of the Stock on the date of the Sale as determined by an independent, qualified appraiser. The Sale will be one-time cash transaction, and the Plan will not be required to pay any fees, commissions or expenses in connection with the sale of the Stock. The Trustees have determined that the Sale is appropriate for the Plan and is in the best interests of the Plan and their participants and beneficiaries. Accordingly, the Trustees request an administrative exemption from the Department to permit the sale of the Stock to Mr. Aswad.

4. Richard P. Bernstein, the President of Richard P. Bernstein, Inc., a business evaluation and appraisal firm which is located in Dallas, Texas, appraised the Stock. Mr. Bernstein represents that he has performed approximately 2,000 valuations of closely-held companies since 1975. Mr. Bernstein represents that both he and his firm are independent of, and unrelated to, Wadco, Titan and the Trustees.

Mr. Bernstein placed the fair market value of the Stock at $218,000 or $726 per share as of May 24, 1994. Mr. Bernstein's valuation includes a thirty-five percent discount based upon the Stock's limited marketability.

5. In summary, it is represented that the transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) All terms and conditions of the Sale will be at least as favorable to the Plan as those obtainable in an arm's length transaction between unrelated parties; (b) the Sale will be a one-time cash transaction; (c) the Plan will not be required to pay any commissions, costs or other expenses in connection with the Sale; (d) the Plan will receive a sales price equal to the fair market value of the Stock as determined by an independent, qualified appraiser; (e) the Trustees of the Plan will determine that the Sale is appropriate for the Plan and is in the best interests of the Plan and their participants and beneficiaries; and (f) within ninety days of the grant of this proposed exemption, Wadco will file a Forms 5330 with the Internal Revenue Service and pay all applicable excise taxes due with respect to past prohibited transactions

Notice to Interested Persons

Since Mr. and Mrs. Aswad are the only participants in the Plan, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments are due within thirty days after publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Kathryn Parr of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

The Travelers Separate Account "R" (SAR) Located in Hartford, Connecticut

[Application No. D–9827]

Proposed Exemption

The Department is considering 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). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) 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 past lease (the Lease) of space in an office building located in Cedar Knolls, New Jersey (the Building) from December 22, 1993 until June 24, 1994 by SAR to The Travelers Insurance Company (Travelers), a party in interest with respect to employee benefit plans invested in SAR, provided that the following conditions were satisfied:

(a) All terms and conditions of the Lease were at least as favorable to SAR as those which SAR could have obtained in an arm's-length transaction with an unrelated party at the time the Lease was executed;

(b) The rent paid by Travelers to SAR under the Lease was not less than the fair market rental value of the office space;

(c) LaSalle Partners (LaSalle), acting as a qualified, independent fiduciary for SAR during the time that the Building was owned by SAR, reviewed all terms and conditions of the Lease prior to the transaction, as well as any subsequent modifications to the Lease, and determined that such terms and conditions would be in the best interests of SAR at the time of the transaction;

(d) LaSalle represented the interests of SAR for all purposes under the Lease as a qualified, independent fiduciary for SAR, monitored the performance of the parties under the terms and conditions of the Lease, and took whatever action was necessary to safeguard the interests of SAR with respect to the Lease during the time that the Building was part of SAR's portfolio; and

(e) Travelers pays to all of SAR's contractholders, upon final liquidation of the properties held by SAR, amounts necessary to reimburse SAR for expenses incurred in connection with the tenant improvements made to the office space leased to Travelers prior to the sale of the Building (i.e. $1,363,581), as well as all other amounts required to be paid to SAR's contractholders, pursuant to the terms of the Settlement Agreement arising from *The Travelers Insurance Company* v. *Allied-Signal Inc. Master Pension Trust, et al.* (Civil No. H–90–870–AHN, USDC D Conn).

EFFECTIVE DATE: This proposed exemption, if granted, will be effective for the period from December 22, 1993 until June 24, 1994.

Summary of Facts and Representations

1. Travelers, a wholly-owned subsidiary of The Travelers Corporation (Travelers Corp.), is a Connecticut corporation and one of the largest stock insurance companies in the United States. At the end of 1992, Travelers Corp. held more than $53 billion in total assets.

2. Travelers serves as the asset manager for SAR, which is maintained by Travelers for the investment of qualified pension plan assets in real estate related investments. SAR is a pooled separate account which consists of two components, an equity component and a mortgage component. The equity component accounts for 95% of the assets held in SAR. Total assets held in SAR were valued at $63,902,857 as of September 30, 1993.

Participation in SAR is limited to qualified private retirement plans and governmental plans. As of December 31, 1992, approximately 150 plans participated in SAR. The interest of no single plan represents more than 20% of SAR's total assets, except for The Pension Plan for Salaried Employees of The Travelers Corporation and Certain Subsidiaries (The Travelers Plan) which represented approximately 44% of SAR's total assets as of September 30, 1993. In this regard, the Travelers Plan had 38,383 participants and total net assets of approximately $1,624,547,217 as of December 31, 1992. The Finance Committee of the Board of Directors of Travelers Corp. is the fiduciary responsible for the original investment of the Travelers Plan in SAR.

3. In December 1989, Travelers decided to terminate SAR and proceed with an accelerated liquidation of SAR's properties for distribution of the proceeds on a pro rata basis. In June 1990, a SAR contractholder initiated litigation related to the proposed distribution of proceeds. The plaintiffs initially sued Travelers Corp. and Travelers in the U.S. District Court for the Northern District of Texas, *The Police and Fire Pension Fund of the City*

of Dallas, Texas v. *The Travelers Corp. and The Travelers Insurance Co.*, (Civil No. CA–3–90–1558–C, USDC ND Tex.) (referred to below as ''the Texas Litigation''). Subsequently, Travelers Corp., Travelers, and two affiliates filed a defendant class action seeking to resolve issues connected to SAR's liquidation in *The Travelers Insurance Company* v. *Allied-Signal Inc. Master Pension Trust, et al.* (Civil No. H–90–870–AHN, USDC D Conn) (referred to below as the ''Allied-Signal Litigation''). The Texas Litigation was dismissed and the plaintiffs reasserted their claims as counterclaims in the Allied-Signal Litigation. In 1993, the court granted final approval of settlements in the Allied-Signal Litigation which set forth procedures to distribute amounts held in the equity and mortgage components of SAR. The settlement agreements require Travelers to use its best efforts to liquidate all of SAR's equity investments, including the Building, by April 1995.

4. The Building is a four story, 116,919 square foot office building located at 240 Cedar Knolls, Cedar Knolls, New Jersey. Travelers entered into an agreement with SAR on December 22, 1993, to lease office space in the Building pursuant to the terms of the Lease. The Lease allowed Travelers to occupy approximately 52,400 rentable square feet (RSF) in the Building.[3] Prior to the Lease, the Building had approximately 55% of its office space occupied, all by parties unrelated to Travelers and its affiliates. As a result of the Lease, the Building was over 98% occupied once Travelers moved into all of the office space it planned to use. Thus, the applicant states that the Lease made the Building more marketable for sale to a third party and was in the best interests of the plans that were contractholders in SAR at the time of the transaction.

5. Under the terms of the Lease, Travelers agreed to lease the office space for five years, six months. Travelers pays $15.00 per square foot per annum, adjusted up to $16.86 per square foot per annum to account for additional tenant improvements, under the base rent schedule specified in the Lease.[4] All rents under the Lease are payable monthly upon the first business day of the month. The Lease also provides 205 parking spaces for use by Travelers at no additional cost.

The Lease allocates a number of non-rent expenses to Travelers. Tenant-electric is submetered and paid for by Travelers. In addition, Travelers agreed to pay a proportionate share of increases in actual operating expenses incurred by the landlord under the Lease. However, the annual increase in operating expenses for which Travelers is liable as tenant, other than energy, taxes and insurance, may not exceed the annual percentage increase in the consumer price index (CPI). Travelers also agreed to pay its proportionate share of increases in real estate taxes.

With respect to tenant improvements, the Lease provided Travelers with new building installations in accordance with Travelers' plans and specifications at a one-time cost not to exceed $27.00 per square foot, which will be paid for by Travelers through the base rents described above. SAR spent $1,363,581 under the tenant improvement allowance for the office space leased to Travelers.

6. On June 24, 1994, SAR sold the Building to Koll Investment Management, Inc. (Koll), for $4,000,000. The applicant states that Koll is a California corporation, d/b/a KB Realty Advisors, which is unrelated to Travelers and its affiliates. The proceeds from the sale were distributed in July 1994 to the contractholders of SAR in accordance with the settlement agreement arising from the Allied-Signal Litigation (the Settlement Agreement). In this regard, the applicant states that the Settlement Agreement requires Travelers to distribute to all of SAR's equity contractholders, over the course of liquidating the remaining assets, returns that are at least equal to the value of the equity components of SAR as of December 31, 1992 (the Target Amount). Under the Settlement Agreement, Travelers must make ''differential compensation'' payments over and above distributions from SAR if the amounts distributed to the contractholders fail to meet the Target Amount. Specifically, the ''differential compensation'' payments will constitute the difference between the Target Amount (i.e. $75,160,003) and the total amount of cash distributions to contractholders from that date forward. The applicant states that a ''differential compensation'' payment of approximately $7,375,997 would be due to SAR's contractholders to meet the Target Amount, based on the distributions made to the contractholders (i.e. $48,226,355) and the value of the assets remaining in SAR as of September 30, 1994 (i.e. $19,557,651). As a result, the existing assets would have to be sold for in excess of $26,933,648, to extinguish Travelers' obligation to make a differential compensation payment. SAR is in the final phases of its liquidation process and expects to complete liquidation of its equity portfolio within the next few months.

Travelers represents that the deficiency of $7,375,997 as of September 30, 1994, was comprised of shortfall amounts from the sale of assets at less than their appraised value as of December 31, 1992, and unrecovered expenditures of SAR assets. With respect to the Building, the applicant indicates that this asset had a fair market value of $4,150,000 as of December 31, 1992. Had the Building been sold for more than that amount, the differential compensation amount would have been reduced. However, the sale of the Building to Koll for $4,000,000 increased the amount of differential compensation owed by Travelers by $150,000. Similarly, the tenant improvements made to the Building prior to the sale totalling $1,363,581 were paid from SAR funds. As such, the total amount of tenant improvement expenditures was unavailable for distribution to SAR investors. Each dollar spent on the improvements therefore has increased the magnitude of the differential compensation payment owed by Travelers under the Settlement Agreement. Since the sale of the remaining assets will not be sufficient to reduce already incurred deficiencies, Travelers will be responsible for these amounts out of its general assets. Thus, the size of the differential compensation payment will reflect all amounts spent by SAR for tenant improvements to the space in the Building leased to Travelers (i.e. $1,363,581) prior to the sale of the Building. Travelers must pay such amounts to SAR's contractholders after

[3] The Lease contains three units with different rentable areas and commencement dates. Unit A includes 9464 RSF on the first and second floors which was occupied by Travelers as of January 1, 1994. Unit B includes 34,400 RSF on the first, second and fourth floors which was occupied by Travelers as of July 1, 1994. Unit C includes 8536 RSF on the second floor which was occupied by Travelers as of May 1, 1994. The Lease allowed Travelers to adjust the area of Unit B, subject to the Travelers' design plan for various improvements.

[4] From the commencement date applicable to Unit A through June 30, 1994, the base rent was $147,705 per annum (i.e. approximately $12,308 per month). Commencing July 1, 1994 and continuing until the expiration date of the Lease, the base rent for Unit A will be $166,020 per annum (i.e. approximately $13,835 per month). From the commencement date applicable to Unit C through June 30, 1994, the base rent was $128,040 per annum (i.e. approximately $10,670 per month). Commencing July 1, 1994 and continuing until the expiration date of the Lease, the base rent for Unit C will be $143,916 per annum (i.e. approximately $11,993 per month). The annual base rent for Unit B will be based upon the final RSF of Unit B, as determined in accordance with the terms of the Lease multiplied by $16.86 per square foot based on tenant specified improvements.

all of the equity components of SAR are liquidated.

The applicant represents that the sale of the Building was in the best interests of the plans that were contractholders of SAR at the time of the transaction. In addition, the sale of the Building by SAR ended the prohibited transaction that resulted from Travelers leasing the subject office space in the Building. Therefore, the applicant requests that the proposed exemption be effective from December 22, 1993, the date that Travelers signed the original Lease documents, until June 24, 1994, the date the Building was sold.

7. LaSalle served as an independent fiduciary for SAR in connection with the Lease during the time that the Building was part of SAR's portfolio. LaSalle is a real estate investment manager, located in Pine Brook, New Jersey, which has extensive experience in advising various clients, including benefit plan investors, regarding the sale, leasing and management of office space. During the 1992 calendar year, LaSalle received less than one percent of its total client fees from Travelers. LaSalle acknowledges that it understood its duties, responsibilities and liabilities in acting as a fiduciary under the Act for SAR.

LaSalle possessed full authority as the independent fiduciary to act on behalf of SAR with respect to the Lease. In this role, LaSalle completed an extensive analysis of the Lease prior to the execution of the transaction. Specifically, LaSalle compared the proposed terms of the Lease to leases of other similar office space to unrelated parties in Northern New Jersey at the time of the transaction. This market research was conducted through real estate brokers, landlords and attorneys. LaSalle also reviewed the latest appraisals of the Building.

8. LaSalle states that it required a number of changes to the terms for the Lease in order to protect the interests of SAR. These changes were necessary mainly because Travelers had suggested using a standard lease document for a newly-constructed building, whereas the Lease actually involves office space in an existing facility. LaSalle reviewed the terms of the Lease to assure that the required modifications were incorporated into the relevant documents. Based on Traveler's agreement to include the modifications in the Lease, LaSalle concluded that the terms of the Lease would be at least as favorable to SAR as the terms which would exist in an arm's-length transaction and that entering into the transaction would be in the best interests of SAR. LaSalle states that an important factor in its conclusion was the fact that the Lease's average gross rents and equivalent net rents were well within the acceptable ranges for comparable market transactions in the Northern New Jersey area.

With respect to the $27.00 per square foot tenant improvement allowance granted to Travelers under the Lease, LaSalle states that this provision involved a one-time cost, amortized over the entire term of the Lease, which was designed to assure the suitability of the leased space to the tenant's needs. LaSalle represents that similar tenant improvement allowances and other concessions were typical of arm's-length leases in the Northern New Jersey area at the time of the transaction and are a common practice in highly competitive markets. LaSalle states that the rents which would have been payable to SAR under the Lease, and the costs associated with the Lease, would have yielded a total net rate of return to SAR for the entire term of the Lease that would have been above other arm's-length leases in the Northern New Jersey area. With respect to the sale of the Building to Koll for $4,000,000, LaSalle states that the improvements made to the office space under the Lease increased the marketability of the Building and helped SAR to obtain a better sale price for the Building on June 24, 1994.

9. LaSalle represents that it monitored compliance by the parties with the terms of the Lease during the period that the Building was part of SAR's portfolio. In this regard, LaSalle was responsible for periodically auditing the parties performance under the Lease to assure compliance with such terms. This audit would include a review of the financial statements relating to the property and a physical inspection of the premises occupied by Travelers. The audit would examine whether rent payments were paid in an accurate and timely fashion as specified by the Lease and whether tenant improvements were made in accordance with the terms of the Lease. In addition, LaSalle states that it took whatever action was necessary to safeguard the interests of SAR in connection with the Lease. Finally, LaSalle acknowledges that: (i) The effectiveness of any exemption for the Lease will be dependent on compliance by the parties with the terms as set forth in the Lease during the period covered by the proposed exemption, including any limitations, restrictions or other conditions imposed at that time; (ii) if any circumstances resulted in a violation of the terms and conditions of the Lease or the proposed exemption during such period, the relief provided by the exemption will not be available; and (iii) LaSalle, as the independent fiduciary for SAR, was responsible at all times for monitoring compliance by the parties with the terms and conditions of the Lease during the period covered by the proposed exemption.

10. In summary, the applicant represents that the Lease met the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because: (a) LaSalle, a qualified, independent fiduciary for SAR, determined that the Lease was in the best interests of SAR prior to the transaction; (b) LaSalle determined that the terms and conditions of the Lease were at least as favorable to SAR as those which could have been obtained from an unrelated party at the time of the transaction; (c) LaSalle monitored the Lease and enforced the obligations of Travelers on behalf of SAR while the Building was part of SAR's portfolio; and (d) Travelers will pay SAR's contractholders, as part of any other payments due to SAR under the terms of the Settlement Agreement, an amount necessary to reimburse SAR for expenses incurred in connection with the tenant improvements made to the office space leased to Travelers prior to the sale of the Building.

Notice to Interested Persons

The applicant states that because of the large number of potentially interested parties, it is not possible to provide a separate copy of the notice of the proposed exemption to each participant of all plans that were invested in SAR during the period covered by the requested exemption. Therefore, the only practical form of notice for such interested persons is publication of the proposed exemption in the **Federal Register**. However, the applicant states that it will provide notice to each of the plans that were contractholders in SAR during the period covered by the requested exemption. Such notice shall be made by first class mail within fifteen (15) days following the publication of the proposed exemption in the **Federal Register**. This notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and a supplemental statement (see 29 CFR 2570.43(b)(2)) which informs interested persons of their right to comment on and/or request a hearing with respect to the proposed exemption. Comments and requests for a public hearing are due within forty-five (45) days following the publication of the proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (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 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 12th day of January, 1995.

Ivan Strasfeld,

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

[FR Doc. 95–1200 Filed 1–17–95; 8:45 am]

BILLING CODE 4510–29–P

LIBRARY OF CONGRESS

American Folklife Center; Board of Trustees Meeting

AGENCY: Library of Congress.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Board of Trustees of the American Folklife Center. This notice also describes the functions of the Center. Notice of this meeting is required in accordance with Public Law 94–463.

DATES: Friday, February 10, 1994; 9:00 a.m. to 1:00 p.m.

ADDRESSES: Dining Room A, James Madison Building, Library of Congress, Washington, DC 20540.

FOR FURTHER INFORMATION CONTACT:

Alan Jabbour, Director, American Folklife Center, Washington, DC 20540–8100.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. It is suggested that persons planning to attend this meeting as observers contact Doris M. Craig at (202) 707–6590.

The American Folklife Center was created by the U.S. Congress with passage of Public Law 94–201, the American Folklife Preservation Act, in 1976. The Center is directed to ''preserve and present American folklife'' through programs of research, documentation, archival preservation, live presentation, exhibition, publications, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done by contract by others. In the brief period of the Center's operation it has energetically carried out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

Dated: January 6, 1995.

Alan Jabbour,

Director, American Folklife Center.

[FR Doc. 95–1115 Filed 1–17–95; 8:45 am]

BILLING CODE 1410–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–004]

NASA Advisory Council, Aeronautics Advisory Committee, Subcommittee on Human Factors; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a NASA Advisory Council, Aeronautics Advisory Committee, Subcommittee on Human Factors meeting.

DATES: February 22, 1995, 8:30 a.m. to 4:30 p.m.; February 23, 1995, 8:30 a.m. to 4:30 p.m.; and February 24, 1995, 8:30 a.m. to 11:30 a.m.

ADDRESSES: National Aeronautics and Space Administration, Langley Research Center, Building 1268A, Room 2120, Hampton, VA 23681–0001.

FOR FURTHER INFORMATION CONTACT:

Mr. Gregory W. Condon, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 415/604–5567.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Agenda topics for the meeting are as follows:

—NASA Actions on Committee's Previous Recommendations

—NASA Human Factors Overview and Updates on Ames Research Center and Langley Research Center Programs

—Crew-Centered Design Philosophy

—Aviation Safety and Automation Program

—Human Engineering Methods

—Air Traffic Management Human Factors

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: January 12, 1995.

Timothy M. Sullivan,

Advisory Committee Management Officer.

[FR Doc. 95–1198 Filed 1–17–95; 8:45 am]

BILLING CODE 7510–01–M