

DEPARTMENT OF LABOR**Pension and Welfare Benefits Administration**

[Application No. D-10310, et al.]

Proposed Exemptions; Bricklayers and Allied Crafts Local No. 74 of DuPage County**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, N.W., Washington, D.C. 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, N.W., Washington, D.C. 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.

Pension Fund of the Bricklayers and Allied Crafts, Local No. 74 of DuPage County, Illinois, a/k/a Masons' and Plasterers', Local No. 74 of DuPage County, Illinois (the Pension Plan) and Bricklayers and Allied Craftsmen Local No. 74 Apprenticeship, Education and Training Trust Fund (the Apprenticeship Plan; Together, the Plans) Located in Westmont, Illinois

[Application No. D-10310 and L-10311]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act 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 section 406(b)(2) of the Act shall not apply to the proposed sale of certain real property (the Property) by the Apprenticeship Plan to the Pension Plan, provided the following conditions are satisfied: (1) The sale is a one-time transaction for cash; (2) no commissions or other expenses are paid by the Plans in connection with the sale; (3) the purchase price for the Property represents its fair market value as determined by a qualified, independent appraiser; and (4) the Pension Plan's independent fiduciary and the

Apprenticeship Plan's trustees have reviewed the proposed transaction and have determined that the transaction is appropriate for each of the Plans and in the best interest of the Plans' participants and beneficiaries.

Summary of Facts and Representations

1. The Apprenticeship Plan is a welfare plan providing apprenticeship training services. It was formed as a result of a trust agreement entered by the Southern DuPage County Contractors Association and the Bricklayers and Allied Crafts, Local No. 74 of DuPage County, Illinois, a/k/a Masons' and Plasterers' Local Union No. 74 of DuPage County, Illinois (the Union). The Pension Plan was also formed as a result of a trust agreement between these same two entities and is a qualified pension plan. The Apprenticeship Plan has approximately 300 participants and assets of approximately \$115,282. The Pension Plan has approximately 400 participants and had assets with a fair market value of approximately \$14,459,758 as of December 1, 1995. The Plans have three common management trustees and one common Union trustee.

2. The Plans each currently own adjoining condominiums located at 6422 South Cass Avenue and 6424 South Cass Avenue in Westmont, Illinois. The condominium at 6422 South Cass Avenue has been owned by the Pension Plan, while the condominium at 6424 South Cass Avenue (i.e., the Property) has been owned by the Apprenticeship Plan. Pursuant to cost-sharing arrangements, the Pension Plan currently acts as a lessor in the condominium it owns at 6422 South Cass Avenue to the Union and to the Bricklayers and Allied Craftsmen Local Union No. 74 of DuPage County, Illinois Welfare Plan (the Welfare Plan). The Apprenticeship Plan acts as a lessor in the Property to the Union, the Welfare Plan and the Pension Plan. The rental rates charged by the Plans are based upon a survey of area rental property. These amounts are contained in five year leases which are subject to cancellation upon reasonably short notice and which permit annual increases based upon increased costs of the owner of the real estate. The relevant offices are occupied by no entities other than the Union and its Pension, Apprenticeship and Welfare Plans. The applicants represent that the leases are exempt from the prohibited transaction restrictions under Prohibited Transaction Exemptions (PTEs) 76-1 (41

FR 12740, March 26, 1976) and 77-10 (42 FR 33918, July 1, 1977).¹

3. Under the exemption proposed herein, the Apprenticeship Plan will sell the Property to the Pension Plan. The purchase price for the Property is to be \$96,000. This price was established by an independent appraisal of the Property performed by an independent appraiser, Mr. Matthew R. Bulthuis, of Oak Brook, Illinois as of April 30, 1996. Mr. Bulthuis has updated the appraisal as of April 30, 1997, and determined that the Property still had a fair market value of \$96,000 as of that date. The applicants have requested relief from section 406(b)(2) of the Act because all of the management trustees for both the Pension Plan and the Apprenticeship Plan are identical, and one of the Union trustees is common to both Plans.

4. Following the purchase of the Property by the Pension Plan, it is anticipated that the usage of the Property will remain essentially unchanged. The Union and the Welfare Plan will continue to act as lessees of space in the Property under current leases, with the identity of the lessor changed from the Apprenticeship Plan to the Pension Plan. The Pension Plan will no longer lease space since it will own the Property.

5. The Plans' motivation for entering into the proposed transaction stems from the changing needs of the Plans and the Union. In previous years, the Property was utilized as an apprenticeship training school by the Apprenticeship Plan. These services are now provided at other locations. The Apprenticeship Plan thus has little need for controlling real estate at this location. In contrast, the Pension Plan and the Union both have increasing needs for office space. In order to free the Apprenticeship Plan to concentrate on the performance of services for its participants, to simplify accounting procedures with respect to office sharing arrangements, and to reflect the actual current patterns of use of the Property, the Plans' have determined it to be in their best interests to have the Apprenticeship Plan sell the Property to the Pension Plan. While the Plans believe that they could continue to share space pursuant to PTEs 76-1 and 77-10,² the Plans believe it is in their best interests to centralize ownership in the Pension Plan. In so doing, the number of leases can be reduced, the Apprenticeship Plan can be freed from

its role as landlord, and the number of transactions involving transfers of rent from the Plans or the Union to a landlord Plan minimized.

6. Union Labor Life Insurance Company, through its Director of Real Estate Investments, Mr. David S. Glasner, has acted as an independent fiduciary for the Pension Plan with respect to the proposed transaction. Mr. Glasner has reviewed the proposed transaction and determined that it is appropriate for the Pension Plan and in the Pension Plan's best interests. While there are numerous alternative locations which the Pension Plan could acquire or lease for the purpose of conducting its business, Mr. Glasner states that the Property is clearly the most suitable. The Property is adjacent to a condominium unit owned by the Pension Plan which it utilizes for administrative purposes. The Pension Plan is in need of additional working space, and acquisition of the Property will save the Pension Plan significant relocation costs and eliminate potential business disruptions. In view of these factors, as well as having reviewed the appraisal prepared by Mr. Bulthuis and considered that the Property will represent a small percentage of the assets of the Pension Plan (approximately 0.66 percent), it is Mr. Glasner's opinion that the proposed acquisition is appropriate for the Pension Plan and in the best interests of its participants and beneficiaries.

7. In summary, the applicants represent that the proposed transaction satisfies the criteria contained in section 408(a) of the Act because: (a) The sale is a one-time transaction for cash, and no commissions or other expenses will be paid in connection with the transaction; (b) the Property represents less than 1% of the assets of the Pension Plan; (c) the purchase price for the Property was determined by an appraisal performed by Mr. Bulthuis, a qualified independent appraiser; and (d) the trustees of the Apprenticeship Plan and Mr. Glasner of Union Labor Life Insurance Company, the independent fiduciary for the Pension Plan, have determined that the proposed transaction is appropriate for their respective Plans and in the best interest of the Plans' participants and beneficiaries.

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

**H. Weiss & Company, Incorporated
Defined Benefit Pension Plan (The Plan)
Located in New York, New York
[Application No. D-10402]**

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 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 sale by the Plan of a certain condominium unit (the Property) located in New York, New York, to Hanna Weiss, a party in interest with respect to the Plan, provided that the following conditions are satisfied:

(A) All terms of the transaction 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 sale is a one-time transaction for cash;

(C) The Plan pays no commissions nor other expenses relating to the sale;

(D) The purchase price is the greater of: (1) The fair market value of the Property as determined by a qualified, independent appraiser, or (2) the original acquisition price;³

(E) Before the transaction is consummated, the Plan has received rental payments of no less than the Property's fair market rental value for each month of the Plan's ownership of the Property during which it was occupied by Hanna Weiss, a party in interest with respect to the Plan; and

(F) Within 60 days of the publication in the **Federal Register** of a notice granting the exemption proposed herein, if granted, Weiss makes final payment to the Internal Revenue Service of any remaining unpaid excise taxes which are applicable under section 4975(a) of the Code by reason of the Plan's rental of the Property to a party in interest.

Summary of Facts and Representations

1. The Plan is a defined benefit plan with five (5) participants and total assets of \$479,934 as of September 30, 1995. As of the same date, the present value of accrued benefits under the Plan was

¹ In this proposed exemption, the Department expresses no opinion as to whether the leases have been exempt under PTEs 76-1 and 77-10.

² See footnote 1, above.

³ The original acquisition cost is determined as follows: (original purchase price + aggregate real estate taxes + aggregate condominium association fees) - aggregate rental income = original acquisition cost.

\$466,384. The Plan is sponsored by H. Weiss & Company, Incorporated (the Company), an Ohio Corporation, with its principal office in New York, which is engaged in the business of gold wholesaling. The Company is in the process of terminating the Plan. The Plan's address is 579 Fifth Avenue, Suite 840, New York, New York. Ms. Hanna Weiss (Weiss) is the Plan trustee and the sole shareholder of the Company. It is represented that Weiss makes investment decisions for the Plan.

2. Among the assets of the Plan is the Property, a condominium unit in Trump Parc, a Trump Corporation development located at 106 Central Park South in New York City. The Plan purchased the Property for \$190,000 on March 28, 1988, in a one-time transaction for cash, from Park South Associates, an unrelated party.⁴

3. After the Plan purchased the Property, Weiss in her capacity as Plan trustee attempted to rent the Property. Weiss listed the Property for rental with the Trump Corporation (Trump), which owns and leases similar units in the Trump Parc development. Weiss secured a tenant (Tenant) through Trump for September 1, 1988 and the Property was continuously occupied by the Tenant until May 31, 1989 at a monthly rental rate of \$1,300. During June and July of 1989 the Tenant failed to remit the full amount of the rent and made payments of \$650.00 per month. At the end of July of 1989, the Tenant vacated the Property and it was not rented for August, September and October of 1989. It is represented that Weiss was unable to find another unrelated person to rent the Property after July of 1989, and therefore she decided to rent the Property.

On November 1, 1989, Weiss entered into a rental arrangement (Rental Arrangement) with the Plan and began to occupy the Property and pay rent to the Plan at a monthly rental rate of \$1,300. Weiss presently continues to rent the Property and the rent has never been increased during her occupancy. From November 1, 1989 through November 30, 1996, Weiss paid \$110,700 in rent to the Plan.

4. Between March 28, 1988, the date on which the Property was purchased, and November 30, 1996, the Plan collected a total of \$123,500 in income

attributable to the rental of the Property. During the same period, the Plan paid real estate taxes of \$20,242.92, and condominium associate fees of \$27,984.54 on the Property. In this regard, the Plan recognized net rental income of \$75,272.54.

5. Weiss represents that after she was advised by the Plan's actuary that the Rental Arrangement may constitute a prohibited transaction under the Act, she met with legal counsel to discuss the alternatives available to address the issue. Weiss determined that the Plan should liquidate the Property. Weiss is proposing to purchase the Property from the Plan and is requesting an exemption for the purchase transaction under the terms and conditions described herein.

Weiss proposes to purchase the Property from the Plan in a one-time transaction for cash. It is represented that Weiss will pay the greater of: (a) The Property's fair market value on the date of the sale, or (b) the Plan's original acquisition cost. For purposes of the sale, the original acquisition cost is determined as follows: (original purchase price + aggregate real estate taxes + aggregate condominium association fees) - aggregate rental income = original acquisition cost.

6. The Property was appraised by Lewis Tonks (Tonks), an independent real estate appraiser certified by the State of New York, on August 15, 1996. Tonks relied on the comparable sales method and estimates that the fair market value of the Property is \$155,000. In the appraisal, Tonks indicates that the fair market value of the Property would be \$165,000 if the Property was not obsolete because it did not have a kitchen. It is represented that Weiss removed the kitchen from the Property in 1990, at her own expense. Weiss represents that fair market value of the Property for the purposes of the sale will be no less than \$165,000.

7. Weiss states that she recently became aware that she may have paid less than fair market rental value for the rental of the Property, during the entire period of her occupancy. Weiss sought an assessment of the Property's fair market rental value, on March 24, 1997, in order to establish that the Plan received rent equal to fair market value over the period that she has rented the Property. The assessment (Assessment) was performed by Nancy Packes (Packes) of Feathered Nest, a New York based residential brokerage company. It is represented that Feathered Nest is Manhattan's largest rental company, and it produces an extensive report on Manhattan rental values which has been published in the New York Times and is relied upon by real estate

professional, developers and financial institutions. Packes is a real estate broker licenced by the State of New York and the president of Feathered Nest. Packes states that during the period of 1989 through 1996 the Property should have rented for between \$1,400 and \$1,600 a month. Weiss represents that she will remit to the Plan the difference between the fair market rent and the rent actually paid, plus reasonable interest. As a condition of this exemption proposed herein, Weiss is required to pay the Plan the difference between the rent actually paid through the sale date and the total rents due with interest.

8. The Department is not proposing exemptive relief for Weiss' rental of the Property from the Plan. Weiss recognizes that her rental of the Property since November of 1989 constitutes a prohibited transaction under the Act and Code for which no exemptive relief is proposed herein. Weiss represents that on or about March 13, 1997, she paid the Internal Revenue Service (the Service) all applicable excise taxes arising under section 4975(a) of the Code through December 31, 1996. Weiss has agreed that within 60 days of the publication in the **Federal Register** of a notice granting the exemption proposed herein, she will make final payment to the Service of any remaining unpaid excise taxes applicable under section 4975(a) of the Code by reason of the Rental Arrangement through the date of the sale.

9. Weiss represents that the sale transaction will occur as soon as possible after the publication in the **Federal Register** of a notice granting the exemption proposed herein, if granted. Weiss represents that proposed transaction is favorable to the Plan because the sale will be a one-time cash transaction and the Plan will incur no expenses as a result of the sale. In addition, it is represented the sale is in the best interests of the participants and beneficiaries because the Plan is presently in the process of terminating and the sale will provide liquidity to the Plan allowing it to pay benefits.

10. In summary, the applicant represents that the proposed transaction satisfies the 408(a) of the Act for the following reasons: (a) The transaction will enable the termination of an ongoing prohibited transaction, the Rental Arrangement; (b) the Plan will receive cash for the Property in the amount of no less than its original acquisition cost and no less than its fair market value as of the sale date; (c) the sale will be a one-time cash transaction and the Plan will incur no expenses

⁴The Department notes that the decisions to acquire and hold the Property are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, the Department herein is not proposing relief for any violations of Part 4 of the Act which may have arisen as a result of the acquisition and holding of the Property.

related to the sale; (d) as a part of the transaction, the Plan will receive the difference between the rents actually paid under the Rental Arrangement and the rents due, with interest, in accordance with the Assessment; and (e) Weiss will have paid all applicable excise taxes under section 4975(a) of the Code with respect to the Rental Arrangement which remain unpaid at the time of the sale transaction.

For Further Information Contact: Ms. Janet L. Schmidt of the Department, telephone (202) 219-8883. (This is not a toll-free number.)

Martin D. Ross Individual Retirement Account (the IRA) Located in Boca Raton, Florida

[Application No. D-10451]

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 March 4, 1996 sale by the IRA of certain debentures (the Debentures) to Mr. Martin D. Ross (Mr. Ross), a disqualified person with respect to the IRA, provided the following conditions were satisfied: (1) The sale of the Debentures by the IRA was a one-time transaction for cash; (2) the IRA received no less than the fair market value of the Debentures as of the time of the sale; and (3) as soon as Mr. Ross became aware that the transaction was prohibited, he reversed the transaction.⁵

Effective Date: If the proposed exemption is granted, the exemption will be effective March 4, 1996.

Summary of Facts and Representations

1. Mr. Ross is the only participant in the IRA, and has sole investment responsibility under the IRA. His wife, Bonnie P. Ross, is his currently designated beneficiary. The IRA is sponsored by Mesirow Financial, Inc. (Mesirow) of Chicago, Illinois. The total value of assets of the IRA as of December 31, 1996 was approximately \$704,000.

2. The Debentures were originally purchased by the IRA on April 7, 1994 at their fair market value of \$200,000. In early March, 1996, the Debentures,

which were 7% convertible subordinate debentures of BLC Financial Services, Inc. (BLC), accounted for almost 50% of the IRA's assets. Mr. Ross wished to diversify the IRA's assets and instructed Mr. Berkson, his broker at Mesirow, to sell the Debentures at their fair market value to his personal account at Mesirow. The applicant represents that had Mr. Ross been aware that such a sale was a prohibited transaction under section 4975 of the Code, he would not have instructed the sale of the Debentures to himself.

3. However, on March 4, 1996, Mr. Ross sold the Debentures from the IRA to his personal account for the fair market value of the Debentures, \$200,000. The fair market value of the Debentures, \$200,000, was based on a letter from BLC to Mesirow dated February 27, 1996. The applicant represents that the parties first became aware in late 1996 that the sale was a prohibited transaction. In mid-December, 1996, Mesirow's compliance department distributed a memorandum from the New York Stock Exchange (NYSE) outlining the requirements for "sales" between related parties, and Mr. Berkson asked the compliance department whether the sale from the IRA to Mr. Ross met the requirements for a "sale" under the NYSE's rules, not knowing that the sale was a prohibited transaction. When Mesirow's compliance department became aware of the March 4, 1996 sale, it determined that the sale was a prohibited transaction.

4. The Debentures were converted into 740,742 shares of BLC common stock (the Stock), and Mr. Ross received the Stock on June 13, 1996. On December 31, 1996, the fair market value of the Stock was about \$509,000. Therefore, the appreciation in the value of the Stock occurred between March 4, 1996 and December 31, 1996.

5. When Mr. Ross learned on December 29, 1996, that the March 4, 1996 sale of the Debentures by the IRA was a prohibited transaction, he immediately instructed Mr. Berkson to cancel the March 4, 1996 transaction. At this point, Mesirow reversed the transaction. The applicant represents that this December 29, 1996 reversal was a "correction" of the March 4, 1996 prohibited transaction within the meaning of Treas. Reg. Section 53.4941(e)-1(c), and therefore does not constitute a separate prohibited transaction.⁶ The applicant represents

that since the sale of the Debentures on March 4, 1996 by the IRA was for their fair market value, and the December 29, 1996 cancellation reversed the transaction in its entirety, there was no intent to benefit the IRA or Mr. Ross by canceling the transaction. The applicant states that Mr. Ross did not cancel the March 4, 1996 transaction because the Stock had appreciated, but rather because he was informed that the March 4 sale had been a prohibited transaction.

6. In summary, the applicant represents that the subject transaction satisfied the criteria contained in section 4975(c)(2) of the Code because: (a) The March 4, 1996 sale was a one-time transaction for cash; (b) the IRA received no less than the fair market value of the Debentures as of the time of the sale; (c) as soon as Mr. Ross became aware that the transaction was prohibited, he reversed the transaction; and (d) Mr. Ross is the only participant in his IRA, and he determined that the subject transaction (and its subsequent cancellation) were appropriate for and in the best interest of his IRA, and he desired that the transactions be consummated with respect to his IRA.

Notice to Interested Persons: Because Mr. Ross is the only participant in his IRA, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing are due 30 days after publication of this notice in the **Federal Register**.

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 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

⁵ 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.

⁶ The Department expresses no opinion herein as to whether the December 29, 1996 sale of the Stock by Mr. Ross to the IRA constituted a correction within the meaning of Treas. Reg. section 53.4941(e)-1(c).

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 16th day of July, 1996.

Ivan Strasfeld,

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

[FR Doc. 97-19130 Filed 7-18-97; 8:45 am]

BILLING CODE 4510-29-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97-096]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: July 21, 1997.

FOR FURTHER INFORMATION CONTACT: Office of Patent Counsel, Langley Research Center, Mail Code 212, Hampton, VA 23681-0001; telephone (757) 864-9260.

NASA Case No. LAR 14417-1: Catalytic Oxidation Using Permeation Membranes;

NASA Case No. LAR 14581-3-SB: Method and Apparatus for Evaluating Multilayer Objects for Imperfections; NASA Case No. LAR 14734-2-SB: Temperature Regulatory for Actively Cooled Structures;

NASA Case No. LAR 15094-3: Carbon-Carbon Cylinder Block;

NASA Case No. LAR 15105-3:

Ho:Tu:LuAG: A New Laser Material; NASA Case No. LAR 15146-1: A Method for Improving the Working Efficiency of Propellers and Screws (Mobius Strip);

NASA Case No. LAR 15215-1: A Bluebell Nozzle for Improving the Mixing of Exhaust Jets with Ambient Air;

NASA Case No. LAR 15272-2-CU: Reflective Self-Metallizing Polyimide Films;

NASA Case No. LAR 15381-1-SB: Method for Single Layer Thickness Gauging Using Flux Focusing Eddy-Current Probe;

NASA Case No. LAR 15431-1: Long Distance Atomic Mass Detection;

NASA Case No. LAR 15518-1: Corrugated Separate Flow Co-Annular Nozzle;

NASA Case No. LAR 15525-1-CU: Solid State Carbon Monoxide Sensor;

NASA Case No. LAR 15526-2-SB: Novel Polyimide Fibers;

NASA Case No. LAR 15534-2: Poly (Arylene Ether)S with Lower Melt Viscosity

Dated: July 14, 1997.

Edward A. Frankle,
General Counsel.

[FR Doc. 97-19020 Filed 7-18-97; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97-097)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that New Century Pharmaceuticals, Inc., of Huntsville, Alabama, has applied for an exclusive license to practice the invention described and claimed in NASA Case No. MFS-28989-1, entitled "Protein Crystal Growth Apparatus for Microgravity," which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Marshall Space Flight Center.

DATES: Responses to this notice must be received by September 19, 1997.

FOR FURTHER INFORMATION CONTACT: Robert L. Board, Patent Counsel, Marshall Space Flight Center, Mail Code CC01, Huntsville, Alabama 35812, telephone (205) 544-0021, fax (205) 544-0258.

Dated: July 14, 1997.

Edward A. Frankle,
General Counsel.

[FR Doc. 97-19021 Filed 7-18-97; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Cross Disciplinary Activities; 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: Special Emphasis Panel in Cross Disciplinary Activities (1193).

Date and Time: August 12-13, 1997; 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Rooms 1150, 1105.01, 1120, 1280 on the 12th, and 1150 on the 13th.

Contact Person: Harry Hedges, Program Director and Virginia Eaton, Program Director, CISE/OCDA, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 (703) 306-1980.

Type of Meeting: Closed.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CISE POWRE proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: July 15, 1997.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 97-19103 Filed 7-18-97; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Design, Manufacture & Industrial Innovation; Notice of Meetings

This notice is being published in accord with the Federal Advisory Committee Act (Pub. L. 92-463, as