

as those obtainable in an arm's length transaction with an unrelated party.

(b) The independent fiduciary—

(i) Determines that the acquisition and subsequent leasing of the Substitute Property by the Plans under the Amended Lease are in the best interest of the Plans and their participants and beneficiaries;

(ii) Monitors and enforces compliance with the terms and conditions of the Amended Lease, the Escrow Agreement and the new exemption, at all times; and

(iii) Appoints one or more independent fiduciaries to resolve any conflicts of interest which may develop among the Plans with respect to the Amended Lease, the Escrow Agreement, the Property, or the Plans' respective interests therein.

(c) The fair market value of the proportionate interests held by each Plan in the Property as a whole following the exchange transaction does not exceed 25 percent of each Plan's assets.

(d) The Property, the Exchange Property and the Substitute Property are all appraised by qualified, independent appraisers prior to the consummation of the exchange transaction.

(e) The Base Rent for the Property is adjusted annually by the independent fiduciary based upon an independent appraisal of such Property.

(f) FFJ incurs all real estate taxes and other costs which are incident to the Amended Lease.

(g) The Escrow Agreement is maintained by M. Fortunoff, in favor of the Plans, as security for FFJ's rental obligations under the Amended Lease.

The availability of this proposed exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the application change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 93-8, refer to the proposed exemption, grant notice and technical correction notice which are cited above.

Signed at Washington, D.C., this 16th day of December 1997.

**Ivan L. Strasfeld,**

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

[FR Doc. 97-33180 Filed 12-18-97; 8:45 am]

BILLING CODE 4510-29-M

## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

#### Prohibited Transaction Exemption 97-63; Exemption Application No. D-10159, et al.; Grant of Individual Exemptions; State Street Bank

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

**ACTION:** Grant of individual exemptions.

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

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

## Statutory Findings

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

(a) The exemptions are administratively feasible;

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

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

### State Street Bank and Trust Company Located in Boston, Massachusetts

[Prohibited Transaction Exemption 97-63; Application No. D-10159]

#### Exemption

The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1)(A) through (E) of the Code,<sup>1</sup> shall not apply to the lending of securities to State Street Bank and Trust Company (State Street), acting through its Financial Markets Group (FMG) (formerly the Money Market Division of the Capital Markets Area) or acting through any other division or U.S. affiliate of State Street that is a successor to the activities of FMG; and shall not apply to the lending of securities to any U.S. registered broker-dealers affiliated with State Street (the Affiliated Broker Dealers)<sup>2</sup> by employee benefit plans (the Client Plans or the Client Plan), including commingled investment funds holding plan assets for which State Street, through its Master Trust Services Division (the Trust Division) acts as directed trustee or custodian, and for which State Street, through its Global Securities Lending Division or any other similar division of State Street or U.S. affiliate of State Street or of its parent (collectively, GSL) acts as securities lending agent (or sub-agent); and shall not apply to the receipt of compensation by GSL in connection with the transactions; provided that the following conditions are met:

a. Neither State Street, the SSB Group, GSL, nor any other division or affiliate of State Street has or exercises

<sup>1</sup> For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

<sup>2</sup> FMG, any division or U.S. affiliate of State Street that becomes a successor to the activities of FMG, and the Affiliated Broker Dealers are collectively referred to, herein, as the SSB Group.

discretionary authority or control with respect to the investment of the assets of Client Plans involved in the transaction (other than with respect to the investment of cash collateral after securities have been loaned and collateral received) or renders investment advice (within the meaning of 29 CFR 2510.3-21(c)) with respect to such assets, including decisions concerning a Client Plan's acquisition or disposition of securities available for loan;

b. Before a Client Plan participates in a securities lending program and before any loan of securities to the SSB Group is effected, the fiduciary of such plan who is independent of State Street, GSL, the SSB Group, and any other division or affiliate of State Street must have:

(1) Authorized and approved the securities lending authorization agreement with GSL (the Agency Agreement), where GSL is acting as the direct securities lending agent; or

(2) Authorized and approved the primary securities lending authorization agreement (the Primary Lending Agreement) with the primary lending agent, where GSL is lending securities under a sub-agency arrangement with the primary lending agent<sup>3</sup>; and

(3) Approved the general terms of the securities loan agreement (the Loan Agreement) between such Client Plan and the borrower, the SSB Group, the specific terms of which are negotiated and entered into by GSL;

c. A Client Plan may terminate the Agency Agreement or the Primary Lending Agreement at any time, without penalty to such plan, on five (5) business days notice;

d. The Client Plan will receive from the SSB Group (either by physical delivery or by book entry in a securities depository, wire transfer or similar means) by the close of business on or before the day the loaned securities are delivered to the SSB Group, collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, or irrevocable bank letters of credit issued by a person other than State Street or an affiliate thereof, or any combination

thereof, or other collateral permitted under PTCE 81-6 (as amended from time to time or, alternatively, any additional or superseding class exemption that may be issued to cover securities lending by employee benefit plans);

e. The market value of the collateral must, as of the close of business on the preceding business day, initially equal at least 102 percent (102%) of the market value of the loaned securities. If the market value of the collateral falls below 100 percent (100%) (or such greater percentage agreed to by the parties) of the loaned securities, GSL will require the SSB Group to deliver additional collateral by the close of business on the following day such that the market value of the collateral will again equal at least 102 percent (102%). The Loan Agreement will give the Client Plans a continuing security interest in, title to, or the rights of a secured creditor with respect to the collateral and a lien on the collateral. GSL will monitor the level of the collateral daily;

f. All GSL's procedures regarding the securities lending activities will at a minimum conform to the applicable provisions of PTCE 81-6 and PTCE 82-63;

g. State Street will agree to indemnify and hold harmless each lending Client Plan (including the sponsor and fiduciaries of such Client Plan) against any and all damages, losses, liabilities, costs, and expenses (including attorneys' fees) which the Client Plan may incur or suffer directly arising out of the lending of the securities of such Client Plan to the SSB Group;

h. The Client Plan will receive the equivalent of all distributions made to holders of the borrowed securities during the term of any loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions;

i. Prior to any Client Plan's approval of the lending of its securities to the SSB Group, a copy of the Notice of Proposed Exemption (the Notice) and a copy of the final exemption will be provided to the Client Plan;

j. Only Client Plans with total assets having an aggregate market value of at least \$50 million will be permitted to lend securities to the SSB Group;

k. The terms of each loan of securities by the Client Plans to the SSB Group will be at least as favorable to such plans as those of a comparable arm's-length transaction between unrelated parties;

l. Each Client Plan will receive monthly reports on the transactions,

including but not limited to the information described in paragraph 26 of the Notice, so that an independent fiduciary of such plan may monitor the securities lending transactions with the SSB Group;

m. Before entering into the Loan Agreement and before a Client Plan lends any securities to the SSB Group, an independent fiduciary of such Client Plan will receive sufficient information, concerning the financial condition of State Street, including but not limited to audited and unaudited financial statements of State Street's parent corporation; and

n. The SSB Group will provide to a Client Plan prompt notice at the time of each loan by such plan of any material adverse changes in State Street's financial condition, since the date of the most recently furnished financial statements.

For a complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on October 2, 1997, 62 FR 51684.

**FOR FURTHER INFORMATION CONTACT:**  
Angelena C. Le Blanc of the Department, telephone (202) 219-8883 (This is not a toll-free number.)

**Crown American Properties L.P.,  
Retirement Savings Plan (the Plan),  
Located in Johnstown, PA**

[Prohibited Transaction Exemption No. 97-64; Exemption Application No. D-10454]

#### *Exemption*

The restrictions of section 406(a), 406(b)(1) and (b)(2), and section 407(a) 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 purchase, holding or sale by participant-directed accounts in the Plan of shares of Crown American Realty Trust (the Crown REIT), an affiliate of Crown American Properties L.P. (Crown American), the Plan's sponsor and, as such, a party in interest with respect to the Plan, provided that the following conditions are met:

(A) Any purchase or sale of the Crown REIT shares by a participant account (an Account) is made solely in accordance with the directions of the participant whose account is making the purchase or sale;

(B) Immediately following any purchase of the Crown REIT shares by an Account, the percentage of the total value of the Account invested in the Crown REIT shares does not exceed 25 percent, as measured based on the value of the assets held by such Account as of the close of the prior business day;

<sup>3</sup> The Department, herein, is not providing relief for securities lending transactions engaged in by primary lending agents, other than GSL, beyond that provided, pursuant to Prohibited Transaction Class Exemption 81-6 (PTCE 81-6) and Prohibited Transaction Class Exemption 82-63 (PTCE 82-63). PTCE 81-6 was granted 46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987. The Notice of Proposed Exemption for application numbers D-5598 and D-5776 was published at 46 FR 10570, February 3, 1981. PTCE 82-63 was granted 47 FR 14804, April 6, 1982. The Notice of Proposed Class Exemption was published at 46 FR 7518, January 23, 1981, as amended at 46 FR 10570, February 3, 1981.

(C) Compliance with the terms and conditions of this exemption, including the 25 percent limit described in Paragraph (B) above, is monitored by PNC Bank, National Association, as the Plan's trustee, which is independent of the Crown REIT and Crown American or any affiliate thereof;

(D) With respect to any decisions made by a Plan participant for a purchase or sale of Crown REIT shares by an Account, neither Crown American, PNC, nor any of their affiliates has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, other than as required for PNC to monitor and enforce compliance with the 25 percent limit described in Paragraph (C) above, or renders any investment advice [within the meaning of 29 CFR 2510.3-21(c)] with respect to those assets;

(E) All purchases and sales of the Crown REIT shares by the Plan are executed:

(1) For cash;

(2) On the national exchange on which the Crown REIT shares are primarily traded (the Primary Exchange);<sup>4</sup> and

3) At the prevailing market price for the Crown REIT shares on the Primary Exchange at the time of the transaction;

(F) Notwithstanding the provisions contained in (E) above, purchases and sales of the Crown REIT shares may occur between the Accounts within the Plan in order to avoid brokerage commissions and other transaction costs, provided that the price received by each Account is equal to the closing price for the Crown REIT shares on the Primary Exchange on the date of the transaction;

(G) Crown American maintains for a period of six years the records necessary to enable the persons described below in paragraph (H) to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Crown American, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than Crown American or affiliate shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (H) below; and

(H)(1) Except as provided below in paragraph (H)(2) and notwithstanding any provisions of section 504(a)(2) of the Act, the records referred to in paragraph (G) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(ii) Any fiduciary of the Plan or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of the Plan or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (H)(1) (ii) and (iii) shall be authorized to examine trade secrets of crown American, or commercial or financial information which is privileged or confidential.

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 October 2, 1997 at 62 FR 51693.

*Written Comments:* The applicant submitted a comment letter noting that Condition (F) in the notice of proposed exemption (the Proposal) refers to the NYSE, which is an undefined term in the text of the operative language of the Proposal. The term "NYSE" is defined in paragraph 3 of the summary of facts and representations for the Proposal (see 62 FR at 51694) as being the New York Stock Exchange, which is currently the Primary Exchange for purposes of the requirements contained in Condition (E)(2) and (E)(3) as well as Condition (F). Thus, the Department has deleted the reference to "NYSE" in Condition (F) and substituted the term "Primary Exchange" in order to be consistent with other references to that term in the exemption text (also see footnote).

The applicant's letter has also provided some minor clarifications for the record, as discussed in the summary of facts and representations for the Proposal, concerning the average daily trading volume of the Crown REIT shares, the current percentage ownership of Crown American, and the outstanding stock of the Crown REIT. Interested persons may obtain copies of this information from the exemption application file, which is available to the public in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N-5638, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Mr. E. F. Williams of the Department, telephone (202) 219-8194. (This is not a toll-free number.)

**Valley Forge Consulting Corporation, Profit Sharing Trust (the Plan), Located in King of Prussia, PA**

[Prohibited Transaction Exemption 97-65; Exemption Application No. D-10466]

#### *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 the proposed sale of a first mortgage note (the Note) by the individually-directed account (the Account) in the Plan of Steven R. Eyer to Mr. Eyer, provided—

(a) The terms of the transaction are at least as favorable to the Account as those obtainable in an arm's length transaction with an unrelated party.

(b) The Account is not required to pay any fees, commissions or other expenses in connection with the sale.

(c) The sale of Note represents a one-time transaction for cash.

(d) The fair market value of the Note is determined by a qualified, independent appraiser.

(e) As consideration for the Note, the Account receives an amount that is no less than the fair market value of the Note as of the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on October 20, 1997 at 62 FR 54478.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jan D. Broady of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

**Profit Sharing Keogh Plan of Richard D. Wickerham, Esq. (the Plan), Located in Schenectady, New York**

[Prohibited Transaction Exemption 97-66; Exemption Application No. D-10505]

#### *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: (1) Two loans (the Loans) (the Loans) totaling \$50,000 by the Plan to Mr. Richard D. Wickerham (Mr. Wickerham), a disqualified person with respect to the Plan, and (2) the personal guarantee of the Loans by Mr. Wickerham, provided the following conditions are satisfied: (1) The terms of the Loans are at least as favorable to the

<sup>4</sup> The Primary Exchange is currently the New York Stock Exchange (NYSE).

Plan as those obtainable in arm's-length transactions with an unrelated party; (b) the Loans do not exceed 25% of the assets of the Plan; (c) the first Loan (Loan 1) is secured by a second mortgage on certain real property which has been appraised by a qualified independent appraiser to have a fair market value not less than 150% of the amount of Loan 1 plus the balance of the first mortgage which it secures; (d) the second Loan (Loan 2) is secured by certain personal property which has a fair market value, as determined by a qualified independent appraiser, of not less than 200% of Loan 2; (e) the fair market value of the collateral remains at least equal to the percentages described in conditions (c) and (d), above, throughout the duration of the Loans; and (f) Mr. Wickerham is the only Plan participant to be affected by the Loan transactions.<sup>5</sup>

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 4, 1997 at 62 FR 59742.

**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.

Signed at Washington, D.C., this 16th day of December, 1997.

**Ivan Strasfeld,**

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

[FR Doc. 97-33181 Filed 12-18-97; 8:45 am]

BILLING CODE 4510-29-M

#### NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

##### Sunshine Act Meeting

**TIME, DATE, AND PLACE:** 29 January 1998, 9:00 a.m. to 4:00 p.m.; 30 January 1998, 9:00 a.m. to 3:00 p.m.; Central Arkansas Library System, 100 Rock Street, Little Rock, Arkansas.

**MATTERS TO BE DISCUSSED:** NCLIS Planning Meeting; Day 1: Focus on the Commissioners; Day 2: Focus on the Commission's Action Plan; NCLIS Business Meeting.

To request further information or to make special arrangements for physically challenged persons, contact Barbara Whiteleather (202-606-9200) no later than one week in advance of the meeting.

Dated: 15 December 1997

**Jane Williams,**

*Acting Executive Director.*

[FR Doc. 97-33293 Filed 12-17-97; 9:22 am]

BILLING CODE 7527-01-M

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

##### Meetings of Humanities Panel

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

**ACTION:** Notice of meetings.

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

#### FOR FURTHER INFORMATION CONTACT:

Nancy E. Weiss, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; telephone (202) 606-8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606-8282.

**SUPPLEMENTARY INFORMATION:** The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets an commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* January 5, 1998.

*Time:* 8:30 a.m. to 5:00 p.m.

*Room:* 315.

*Program:* This meeting will review applications for Collaborative Research for Ancient Civilizations submitted to the Division of Research and Education, for projects at the September 1, 1997 deadline.

2. *Date:* January 6, 1998.

*Time:* 9:00 a.m. to 5:00 p.m.

*Room:* 430.

*Program:* This meeting will review applications for Education Development and Demonstration for Interdisciplinary II, submitted to the Division of Research and Education, for projects at the October 1, 1997 deadline.

3. *Date:* January 6, 1998.

*Time:* 8:30 a.m. to 5:00 p.m.

*Room:* 315.

*Program:* This meeting will review applications for Collaborative Research for Non-Western Cultures, submitted to the Division of Research and Education, for projects at the September 1, 1997 deadline.

4. *Date:* January 7, 1998.

*Time:* 8:30 a.m. to 5:00 p.m.

*Room:* 315.

*Program:* This meeting will review applications for Collaborative Research

<sup>5</sup> Since Mr. Wickerham is the sole owner of the Plan sponsor and the only participant 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.