

further expense of searching for a buyer and without paying brokerage commissions, fees, or other expenses as a result of the sale. It is anticipated that once the Property is sold the cash proceeds will be invested so as to diversify the assets of the Plan.

In the opinion of Dr. Mainolfi, the proposed transaction is protective of the participant and beneficiaries of the Plan in that the sale price would be based on the fair market value of the Property, as determined by an independent, qualified appraiser, as of the date of the sale.

4. An appraisal of the Property was prepared by Herbert A. Davis, GRI (Mr. Davis) and Donna D. Fried, SRA (Ms. Fried), of Appraisal Connection, Inc., in Baltimore, Maryland. It is represented that Mr. Davis and Ms. Fried are qualified to perform the appraisal of the Property. In this regard, Mr. Davis is a graduate of the Realtors Institute of Maryland and has attended courses offered by the American Institute of Real Estate Appraisers. Ms. Fried has, from 1991 to the present, been licensed by the State of Maryland as a certified residential real estate appraiser. Ms. Fried is a member of the National Association of Real Estate Appraisers, the Maryland Association of Appraisers, Inc., and the Appraisal Institute, SRA.

It is further represented that both appraisers are independent in that neither has a present or prospective interest in the Property, nor any personal interest or bias with respect to the participants in the proposed transaction. It is represented that neither the employment nor the compensation of the appraisers was conditioned upon the appraised value of the Property, nor were the appraisers required to report a predetermined value or base the appraisal on a requested minimum value for the Property.

After physically inspecting the Property, the appraisers concluded the Property is not currently suited to subdivision due to location, zoning, and expense considerations. Taking into account the sales of similar properties in the recent past and having made adjustment to the reported sale prices of these comparable properties, it was determined by the sales comparison method of appraisal that the fair market value of the Property was \$400,000, as of February 5, 2002.

5. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 4975(a) of the Code because:

(a) The sale of the Property will be a one-time transaction for cash;

(b) As a result of the sale, the Plan will receive the fair market value of the Property, as determined by an independent, qualified appraiser, as of the date of the sale;

(c) The Plan will pay no commissions, fees, or other expenses as a result of the transaction;

(d) The terms of the sale will be no less favorable to the Plan than those it would have received in similar circumstances when negotiated at arm's length with unrelated third parties;

(e) The Plan will be able to invest the proceeds from the sale of the Property in order to diversify the assets of the Plan; and

(f) The Plan will be able to dispose of the Property which is illiquid.

#### Notice to Interested Persons

Because Dr. Mainolfi is the only participant in the Plan, 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 thirty (30) days after publication of this notice in the **Federal Register**.

#### FOR FURTHER INFORMATION CONTACT:

Angelena C. Le Blanc of the Department, telephone (202) 693-8540 (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 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 13 day of November, 2002.

**Ivan Strasfeld,**

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

[FR Doc. 02-29197 Filed 11-15-02; 8:45 am]

BILLING CODE 4510-29-P

## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2002-49; Exemption Application No. L-10929 et al.]

### Grant of Individual Exemptions; Twin City Iron Workers Apprenticeship and Training Fund (the Trust Fund)

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

**ACTION:** Grant of individual exemptions.

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

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In

addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

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

### Statutory Findings

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

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

### Twin City Iron Workers Apprenticeship and Training Fund (the Trust Fund) Located in St. Paul, Minnesota

[Prohibited Transaction Exemption No. 2002-49; Exemption Application No. L-10929]

#### Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act shall not apply effective May 22, 2000 to the past purchase of a certain parcel of unimproved real property (the Property) by the Trust Fund from the Twin City Union No. 512 of Bridge, Structural and Ornamental Workers, Inc. (the Building Corporation), a party in interest with respect to the Trust Fund. This exemption is conditioned upon the adherence to the material facts and representations described in the proposed exemption and upon the satisfaction of the following conditions:

(a) The purchase of the Property by the Trust Fund was a one-time transaction for cash;

(b) The Trust Fund paid no more than the lesser of: (i) \$48,000; or (ii) the fair market value of the Property as

determined at the time of the transaction;

(c) The fair market value of the Property was established by an independent, qualified, real estate appraiser that was unrelated to the Building Corporation or any other party in interest with respect to the Trust Fund;

(d) The Trust Fund did not pay any commissions or other expenses with respect to the transaction;

(e) Standard Valuations, Inc. (SVI), acting as an independent, qualified fiduciary for the Trust Fund, determined that the transaction was in the best interest of the Trust Fund and its participants and beneficiaries;

(f) SVI monitored various aspects of the purchase of the Property until closing, including the environmental reports concerning the Property, and took whatever action was necessary to protect the interests of the Trust Fund; and

(g) The purchase price paid by the Trust Fund for the Property represented no more than 25 percent of the Trust Fund's total assets at the time of the transaction.

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 August 9, 2002 at 67 FR 51878.

#### FOR FURTHER INFORMATION CONTACT:

Khalif Ford of the Department, telephone (202) 693-8540 (this is not a toll-free number).

### Child Health Corporation America (CHCA) Located in Shawnee Mission, KS

[Prohibited Transaction Exemption 2002-50; Exemption Application No. L-10939]

#### Exemption

The restrictions of sections 406(a) and 406(b) of the Act shall not apply to the (1) purchase, by a welfare plan (the Plan), whose hospital sponsor (the Hospital) is a member of CHCA, of third party insurance, through CHCA, the broker of record and a party in interest with respect to such Plan; and

(2) the receipt of an insurance sales commission by CHCA from the third party insurance company, in connection with the purchase of an insurance policy with the assets of the Plan.

This exemption is subject to the following conditions:

(a) The transactions are effected by CHCA in the ordinary course of its business.

(b) Each Plan pays no more than adequate consideration for an insurance policy that is brokered by CHCA.

(c) Prior to the execution of the transactions, CHCA provides each Hospital, which serves as the independent fiduciary of a Plan it sponsors, with the following written documentation:

(1) A statement setting forth the insurance sales commissions, expressed as a percentage of the gross annual premium payments that will be paid by the insurance company to CHCA with respect to the purchase of the insurance policy;

(2) A description of the charges, fees, discounts, penalties or adjustments which may be imposed under the insurance policy in connection with the purchase, holding, exchange, termination or sale of such policy; and

(3) A full description of CHCA's procedure for offsetting a Plan's allocable portion of insurance sales commissions that are received by CHCA and which are attributable to participant (*i.e.*, employee) contributions for welfare benefits paid through a Plan (the Participant Paid Premiums) against the amounts otherwise payable by such Plan for future premium contributions (the Premium Adjustment; the Premium Adjustment Procedure).

(d) Following the receipt of such information, the Hospital independent fiduciary acknowledges receipt of such information to CHCA, in writing, and approves the transactions on behalf of the respective Plan.

(e) On an annual basis, CHCA discloses all direct expenses it has incurred to independent Plan fiduciaries of its member Hospitals, including any Premium Adjustments that have been made.

(f) The transactions are on terms that are at least as favorable to a Plan as those available in arm's length transactions with an unrelated party.

(g) The combined total of all fees, insurance sales commissions and other consideration received by CHCA in connection with the purchase of insurance policies issued by a third party insurer or the provision of services to a Plan is not in excess of "reasonable compensation" within the contemplation of section 408(b)(2) and 408(c)(2) of the Act.

(h) There is no increased cost to a Plan nor any diminution in any benefit received by a Plan participant or beneficiary as a result of CHCA's receipt of insurance sales commissions.

(i) The Plan receives a Premium Adjustment based upon the excess of insurance sales commissions received that are attributable to Participant Paid Premiums over direct costs related to Participant Paid Premiums, if any, incurred by CHCA, in accordance with

the Premium Adjustment Procedure, the steps of which are as follows:

(1) At the end of each calendar year, CHCA separates the total premiums paid between each Hospital and its respective Plan and the Participant Paid Premium portion of each total.

(2) CHCA calculates the commissions that are paid based on the Participant Paid Premiums.

(3) CHCA calculates the amount available for the patronage dividend by subtracting aggregate direct expenses incurred under its insurance program from the total commissions.

(4) CHCA calculates a breakdown of the commissions on a percentage basis based upon the ratio of Hospital paid premiums to Participant Paid Premiums.

(5) CHCA allocates the amounts available for the patronage dividend based upon the percentages determined above in subparagraph (i)(4).

(6) CHCA sends a check to the insurer with instructions to allocate such amount of Premium Adjustments attributable to commissions paid on Participant Paid Premiums on a per Hospital basis to be applied against a Plan participant's insurance rate schedule.

(7) CHCA requests written confirmation from the insurer that the Premium Adjustment has been made.

(j) CHCA establishes and maintains a system of internal and external accounting controls for the Premium Adjustment Procedure.

(k) CHCA retains an independent auditor to audit, on an annual basis, the Premium Adjustments made to the affected Plans.

(l) Within 90 days following the publication, in the **Federal Register**, of the notice granting the final exemption, CHCA makes full restitution to the participants of each affected Plan whose assets are attributed to CHCA's past fee arrangement with an independent broker and its subsequent compensation arrangement with the UNUM Life Insurance Company.

(m) CHCA maintains for a period of six years, in a manner that is accessible for audit and examination, the records necessary to enable the persons described in paragraph (n) 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 CHCA, such records are lost or destroyed prior to the end of such six year period; and

(2) No party in interest, other than CHCA, shall be subject to the civil penalty that may be assessed under

section 502(i), or 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 (m).

(n)(1) Except as provided in subparagraph (n)(2) and notwithstanding anything to the contrary in sections 504(a)(2) and (b) of the Act, the records referred to in paragraph (m) are unconditionally available for examination during normal business hours by—

(A) Any duly authorized employees or representatives of the Department or the Internal Revenue Service;

(B) Any fiduciary of a Plan which has the authority to purchase an insurance policy by or on behalf of a Plan or any duly authorized employee or representative of such fiduciary; and

(C) Any participant or beneficiary of a Plan or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described above in subparagraph (n)(1)(B) or (C) shall be authorized to examine the trade secrets of CHCA 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 proposed exemption, refer to the notice of proposed exemption published on August 9, 2002 at 67 FR 51880.

#### Written Comments

The Department received one written comment with respect to the proposed exemption and no requests for a public hearing. The written comment, which was submitted by CHCA, clarifies the operative language of the notice in the following areas:

1. *Deletion of the Phrase "Attributed to Participant (i.e., Employee) Contributions."* In describing the transactions that will be covered by the exemption, the initial paragraph of the proposal refers to CHCA's receipt of an insurance sales commission from a third party insurer, in connection with the purchase of an insurance policy with Plan assets that are "attributed to participant (i.e., employee) contributions." CHCA suggests the deletion of the phrase "attributed to participant (i.e., employee) contributions" because it believes that the language implies that there are assets other than employee premium payments that will be subject to the exemption.

2. *Deletion of the Phrase "Plan Assets" and Substitution with the Phrase "Participant Paid Premiums."* In the general conditions section of the

proposed exemption, subparagraph (c)(3) states, in part, that prior to the execution of the transactions covered by the exemption, CHCA will provide each Hospital, which serves as the independent fiduciary of the Plan that it sponsors, with a full description of CHCA's procedure for offsetting a Plan's allocable portion of insurance sales commissions that CHCA receives and which are attributable to "Plan assets" against amounts otherwise payable by such Plan for future premium contributions.

CHCA requests that subparagraph (c)(3) of the proposal be modified by deleting the term "Plan assets" and substituting language to denote that the reference is meant to include employee contributions (i.e., premiums) that are paid through each Hospital Plan. CHCA represents that it is important from its internal administrative perspective that individuals who perform the Premium Adjustment calculations can follow the exemption in detail and understand the type of information they should provide to insurance companies and to its member Hospitals.

Therefore, CHCA suggests that subparagraph (c)(3) of the final exemption be revised to read as follows:

(c)(3) A full description of CHCA's procedure for offsetting a Plan's allocable portion of insurance sales commissions that are received by CHCA and which are attributable to participant (i.e., employee) contributions for welfare benefits paid through a Plan (the Participant Paid Premiums) against the amounts otherwise payable by such Plan for future premium contributions (the Premium Adjustment; the Premium Adjustment Procedure).

3. *Other Clarifications.* In the proposal, paragraph (i) of the conditions states that a Plan will receive a Premium Adjustment based upon the excess of insurance sales commissions over direct costs, if any, incurred by CHCA, in accordance with the Premium Adjustment Procedure, the steps of which are also set forth therein. In order to clarify that this condition pertains to "Participant Paid Premiums," CHCA recommends that paragraph (i) and subparagraphs (1), (4) and (6) of paragraph (i) be revised to read as follows:

(i) The Plan receives a Premium Adjustment based upon the excess of insurance sales commissions received that are attributable to Participant Paid Premiums over direct costs related to Participant Paid Premiums, if any, incurred by CHCA, in accordance with the Premium Adjustment Procedure, the steps of which are as follows:

(1) At the end of each calendar year, CHCA separates the total premiums paid between each Hospital and its respective Plan and the

Participant Paid Premium portion of each total.

(2) CHCA calculates the commissions that are paid based on the Participant Paid Premiums.

\* \* \* \* \*

(4) CHCA calculates a breakdown of the commissions on a percentage basis based upon the ratio of Hospital paid premiums to Participant Paid Premiums.

\* \* \* \* \*

(6) CHCA sends a check to the insurer with instructions to allocate such amount of Premium Adjustments attributable to commissions paid on Participant Paid Premiums on a per Hospital basis to be applied against a Plan participant's insurance rate schedule.

\* \* \* \* \*

CHCA believes that without these changes, there would be room for misunderstanding.

The Department concurs with the aforementioned clarifications to the proposal that have been provided by CHCA and it has made the suggested changes to the operative language of the final exemption. The Department also notes the corresponding changes to the Summary of Facts and Representations of the proposed exemption.

Accordingly, after giving full consideration to the entire record, including CHCA's written comment, the Department has decided to grant the exemption subject to the modifications and clarifications described above.

For further information regarding the comment and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. L-10939) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N-1513, U.S. Department Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jan D. Broady of the Department, telephone (202) 693-8556. (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 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) This exemption is 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 this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 13th day of November, 2002.

**Ivan Strasfeld,**

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

[FR Doc. 02-29196 Filed 11-15-02; 8:45 am]

**BILLING CODE 4510-29-P**

#### NATIONAL CREDIT UNION ADMINISTRATION

##### Notice of Meeting

**TIME AND DATE:** 10 a.m., Thursday, November 21, 2002.

**PLACE:** Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

**STATUS:** Open.

##### MATTERS TO BE CONSIDERED:

1. Request from a Federal Credit Union to Convert to a Community Charter.
2. *Final Rule:* Part 702 of NCUA's Rules and Regulations, Prompt Corrective Action (PCA).
3. *Proposed Rule:* Section 702.206 of NCUA's Rules and Regulations, PCA, Net Worth Restoration Plans.
4. *Proposed Rule:* Interpretive Ruling and Policy Statement (IRPS) 02-4, Amending the Regulatory Flexibility Act Provisions of IRPS 87-2.
5. *Proposed Rule:* Interpretive Ruling and Policy Statement (IRPS) 02-3, Section 701.1 of NCUA's Rules and

Regulations, Amendments to NCUA's Chartering and Field of Membership Policies.

6. NCUA's Annual Performance Plan for 2003.

7. NCUA's Operating Budget for 2003/2004.

8. NCUA's Operating Fee Scale for 2003.

**RECESS:** 11:15 a.m.

**TIME AND DATE:** 11:30 a.m., Thursday, November 21, 2002.

**PLACE:** Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** 1. Three (3) Insurance Appeals. Closed pursuant to Exemptions (6) and (7).

**FOR FURTHER INFORMATION CONTACT:** Becky Baker, Secretary of the Board, Telephone: 703-518-6304.

**Becky Baker,**

*Secretary of the Board.*

[FR Doc. 02-29323 Filed 11-14-02; 12:10 pm]

**BILLING CODE 7535-01-M**

#### NATIONAL SCIENCE FOUNDATION

##### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** National Science Foundation.

**ACTION:** Notice.

**SUMMARY:** Under the paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public or other Federal agencies to comment on this proposed continuing information collection.

**DATES:** Written comments (see below for details) on this notice must be received by January 17, 2003 to be assured of consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

*Comments:* Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to respondents, including through the use of automated