



December 19, 2006

Edward A. Appelt
24 Winslow Drive
Pittsburgh, PA 15229

2006-09A
IRC Section
4975 (c)(1)(A) & (B)

Re: Identification Number: A01180

Dear Mr. Appelt:

This is in response to your request for an advisory opinion under section 4975 of the Internal Revenue Code (Code). Specifically, you ask whether allowing the owner of an individual retirement account (IRA) to direct the IRA to invest in notes being offered by a corporation, in which relatives of the IRA owner are the majority owners and stockholders, would give rise to a prohibited transaction under Code section 4975. ⁱ

You represent that as the owner of an IRA for which you have retained investment discretion, you would like to direct the investment of these IRA funds into notes (Notes) that are being offered by STARR Life Sciences Corporation (STARR). STARR is currently owned by the founders of the Company who are: Eric (your son-in-law) - 87.5%; Erika (your daughter) - 7.5%; and Dr. Stroh (an unrelated party) - 5.0%.

You represent that these Notes are being offered and sold exclusively to persons who qualify as "accredited investors" under rule 501(a) of Regulation D promulgated under the Securities Act of 1933. You represent that you qualify as an accredited investor.

You ask whether the IRA's investment in the Notes would give rise to a prohibited transaction under section 4975 of the Code. Section 4975(c)(1)(A) and (B) of the Code defines a prohibited transaction to include any direct or indirect sale or exchange of property and lending of money or other extension of credit between a plan and a disqualified person.

Section 4975(e)(1) of the Code defines, in relevant part, the term "plan" to include an IRA described in Code section 408(a). Section 4975(e)(3) of the Code defines the term "fiduciary," in relevant part, to include any person who exercises any discretionary authority or discretionary control respecting management of such plan or exercises any authority or control respecting management or disposition of its assets. Because you retain investment discretion over the IRA, you are a fiduciary. Section 4975(e)(2) of the Code defines "disqualified person," in relevant part, to include a fiduciary and certain members of the family of a fiduciary. Consequently, you are also classified as a disqualified person under Code section 4975(e)(2)(A). Sections 4975(e)(2)(F) and 4975(e)(6) of the Code state, in relevant part, that the family of a fiduciary shall include

his spouse, ancestor, lineal descendant, and any spouse of a lineal descendant. Consequently, your daughter and son-in-law are also classified as disqualified persons because they are members of the family of a fiduciary.

The IRA's purchase of the Notes would be a transaction between STARR and the IRA. Code section 4975(e)(2)(G)(i) defines "disqualified person," in relevant part, to include a corporation of which (or in which) 50 percent or more of the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation is owned indirectly by a fiduciary.

In determining indirect stockholdings, Code section 4975(e)(4) requires that for purposes of Code section 4975(e)(2)(G)(i), indirect stock holdings include those which would be taken into account under Code section 267(c), except that members of a family of a fiduciary are members within the meaning of Code section 4975(e)(6). The application of this rule attributes to you the majority stock holdings of your daughter and son-in-law. Consequently, STARR is also classified as a disqualified person.

The IRA is a plan and STARR is a disqualified person. Based on the facts and representations in your submissions, it is the opinion of the Department of Labor that the IRA's purchase of the Notes from STARR at your direction would be a transaction described in section 4975(c)(1)(A) and (B) of the Code which prohibit a direct or indirect sale or exchange of property and lending of money or other extension of credit between a plan and a disqualified person.

This letter constitutes an advisory opinion under ERISA Procedure 76-1. Accordingly, this letter is issued subject to the provisions of such procedure, including section 10 relating to the effect of advisory opinions.

Sincerely

Louis J. Campagna
Chief, Division of Fiduciary Interpretations
Office of Regulations and Interpretations

ⁱ Under Presidential Reorganization Plan No. 4 of 1978, effective December 31, 1978, the authority of the Secretary of the Treasury to issue interpretations regarding section 4975 of the Code has been transferred, with certain

exceptions not here relevant, to the Secretary of Labor and the Secretary of the Treasury is bound by the interpretations of the Secretary of Labor pursuant to such authority.