

(i) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with DBAG;

(ii) Such fiduciary directly or indirectly receives any compensation or other consideration from DBAG for his own personal account in connection with any transaction described in this exemption;

(iii) Any officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of DBAG, responsible for the transactions described in section I, is an officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of the plan sponsor or of the fiduciary responsible for the decision to authorize or terminate authorization for transactions described in section I. However, if such individual is a director of the plan sponsor or of the responsible fiduciary, and if he or she abstains from participation in (A) the choice of DBAG as a directed trustee or custodian and (B) the decision to authorize or terminate authorization for transactions described in section I, then section III(c)(2)(iii) shall not apply.

(3) The term "officer" means a president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), or any other officer who performs a policy-making function for the entity.

(d) The term "control" means the power to exercise a controlling influence over the management of policies of a person other than an individual.

(e) An "income item conversion" means: (1) The conversion into U.S. dollars of an amount which is the equivalent of no more than 300,000 U.S. dollars of interest, dividends or other distributions or payments with respect to a security, tax reclaims, proceeds from dispositions of rights, fractional shares or other similar items denominated in the currency of another nation that are received by DBAG on behalf of the plan from the plan's foreign investment portfolio; or (2) the conversion into any currency as required and specified by the standing instruction of an amount which is the equivalent of no more than 300,000 U.S. dollars of interest, dividends, or other distributions or payments with respect to a security, tax reclaims, proceeds from dispositions of rights, fractional shares or other similar items denominated in the currency of another nation that are received by DBAG on behalf of the plan from the plan's foreign investment portfolio, provided that the converted funds are either

transferred to an interest bearing account which provides a reasonable rate of interest within 24 hours of the conversion and held therein pending reinvestment by the plan or the bank reinvests such proceeds within 24 hours of the conversion at the direction of the plan.

(f) A "*de minimis* purchase or sale transaction" means the purchase or sale of foreign currencies in an amount of no more than 300,000 U.S. dollars or the equivalent thereof in connection with the purchase or sale of foreign securities by a plan.

(g) For purposes of this exemption the term "employee benefit plan" refers to a pension plan described in 29 CFR 2510.3-2 and/or a welfare benefit plan described in 29 CFR 2510.3-1.

(h) For purposes of this exemption, the term "good funds" means funds immediately available in cash with no sovereign or other governmental impediments or restrictions to the exchange or transfer of such funds.

(i) For purposes of this exemption, the term "business day" means a banking day as defined by federal or state banking regulations.

(j) For purposes of this exemption, a "foreign affiliate" of Deutsche Bank means any non-U.S. entity that is directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with Deutsche Bank.

(k) For purposes of this exemption, the term "bank" means a foreign affiliate of Deutsche Bank: (1) That is a banking institution supervised and examined by the German banking authorities (currently, the Bundesanstalt für Finanzdienstleistungsaufsicht (the BaFin), in cooperation with the Deutsche Bundesbank (the Bundesbank)), or is subject to regulation by similar governmental banking authorities located in the same country as such affiliate; and (2) whose activities are monitored and controlled pursuant to the statutory and regulatory standards of German law applicable to the foreign affiliates of Deutsche Bank engaged in banking activities.

(l) For purposes of this exemption, the term "broker-dealer" means a foreign affiliate of Deutsche Bank: (1) Engaged in the business of effecting transactions in securities for the account of others, or regularly engaged in the business of buying and selling securities for its own account through a broker or otherwise; and (2) supervised by the German authorities responsible for regulating the activities described in (1) of this paragraph, or subject to regulation by similar governmental authorities located

in the country in which such affiliate is located.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice of Proposed Exemption published on December 30, 2002 at 67 FR 79649.

FOR FURTHER INFORMATION CONTACT: Christopher Motta, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693-8544. (This is not a toll-free number.)

Law Offices of Richard D. Gorman Pension & Profit Sharing Plan (the Plan), located in Monterey, California.

[Prohibited Transaction Exemption No. 2003-13; Application No. D-11104]

Exemption

The restrictions of sections 406(a) and 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 sale of unimproved real property (the Property) by the Plan to Mr. Richard Gorman, a trustee of the Plan, and a party in interest with respect to the Plan. This exemption is conditioned upon the adherence to the material facts and representations described herein and upon the satisfaction of the following requirements:

(a) The sale is a one-time cash transaction;

(b) The Plan receives the greater of either: (i) \$290,000; or (ii) the fair market value for the Property established at the time of the sale by an independent, qualified appraiser; and

(c) The Plan pays no commissions or other expenses associated with 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 March 21, 2003, at 68 FR 13964.

FOR FURTHER INFORMATION CONTACT: Khalif I. Ford of the Department at (202) 693-8540. (This is not a toll-free number.)

ACR Homes, Inc. Employee Stock Ownership Plan and Trust (the ESOP), located in Roseville, Minnesota.

[Prohibited Transaction Application 2003-14; Exemption Application No. D-11146]

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