Internal Revenue Service

Significant Index No. 0412.06-00

Department of the Treasury

Washington, DC 20224

200134028

Person to Contact:

Telephone Number:

Refer Reply to: T:EP:RA:T:A1

Date: MAY 29 2001

In re:

This letter constitutes notice that with respect to the above-named defined benefit pension plan, your request for a waiver of the minimum funding standard for the plan year ended December 31, 2000 has been denied.

Thus, the minimum funding standard under § 412 of the Internal Revenue Code and § 302 of the Employee Retirement Income Security Act of 1974 (ERISA) will apply to the plan for the plan year ended December 31, 2000. The company has until September 15, 2001 to satisfy the minimum funding requirement for the 2000 plan year. Unless such requirement is met, the plan will have an accumulated funding deficiency for the 2000 plan year upon which the excise taxes under Code § 4971 will apply.

The information furnished indicates that the controlled group of which the company is a member does not have a temporary substantial business hardship. For the nine-month period ended October 31, 2000, the controlled group had a profit of more than double the amount of the requested waiver. In addition, the controlled group had net worth equal to more than 20 times the amount of the requested waiver. Finally, the controlled group had cash-on-hand of more than three times the amount of the requested waiver. Also, as of January 1, 2000, the value of the plan's assets was equal to only 77% of the plan's current liability.

The company was informed of our tentative denial and was offered a conference of right. A telephone conference was held on April 26, 2000. At the conference we reiterated our position that Code § 412(d)(5) and ERISA § 303(d)(2) require that when an employer is part of a controlled group, the determination of whether there is temporary substantial business hardship must be made with respect to the employer and to the controlled group of which the employer is a member. Since the conference, the company has offered no addition information regarding the request. Accordingly, our tentative denial is now final.

This ruling is directed only to the taxpayer that requested it. Code § 6110(k)(3) provides that others may not use it as precedent.

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We have sent a copy of this letter to the enrolled actuary for the plan pursuant to Form 2848 (Power of Attorney) on file with our office. We have also sent a copy to the Employee Plans Classification Manager in

Sincerely,

James E. Holland, Jr., Manager
Employee Plans Actuarial Group 1
Tax Exempt and Government Entities
Division