put to better use in income producing assets at the direction of participants. This will assist the Plan in achieving its goal of having all Plan assets invested at the direction of Plan participants pursuant to the Plan's current investment policy. Furthermore, it is represented by the applicant that all costs in connection with the exemption application will be paid by the sponsor of the Plan.

5. In summary, the applicant represents that the proposed transaction will satisfy the criteria of section 408(a) of the Act because (a) the Sale involves a one-time transaction for cash; (b) the Plan will not incur any expenses or losses from the Sale, (c) the Plan will receive as consideration from the Sale the greater of either $310,000 or the fair market value of the Property as determined by a qualified, independent appraiser on the date of the Sale; (d) the Sale will permit the Plan to obtain liquid funds that can be reinvested at the direction of the participants in higher yielding and more liquid assets; and (e) the Plan will not have to risk its assets in the development of the Property.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Rollover Individual Retirement Accounts for Joseph Shepard, Located in Jacksonville, Florida; William Haspel, Located in Bethesda, Maryland; and Richard Geisendaffer, Paul Petryszak, William Kroh and Rolf Graage, Located in Baltimore, Maryland (collectively, the IRAs)

[Application Nos. D–10054–10059]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, 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 by the IRAs of all the common stock (the Stock) of Purchase Port Services, Inc. (PPS) held by the IRAs to PPS, provided that the following conditions are satisfied: (1) the sale of Stock by each IRA is a one-time transaction for cash; (2) no commissions or other expenses are paid by the IRAs in connection with the sale; and (3) the IRAs receive the greater of: (a) the fair market value of the Stock as determined by a qualified independent appraiser as of May 31, 1995, or (b) the fair market value of the Stock as of the time of the sale.[10]

Effective Date: If the proposed exemption is granted, the exemption will be effective July 31, 1995.

Summary of Facts and Representations

1. The IRA participants are officers, shareholders, directors and/or key employees of PPS. PPS has authorized one class of Stock, of which 30,000 shares are issued and outstanding. Approximately 72.09% of the Stock is individually owned by the shareholders whose IRAs are the subject of this proposed exemption. The remaining 27.91% of the Stock is held by the IRAs.

2. The Stock held by the IRAs was acquired in 1984 by two profit sharing plans, the GK Management, Inc. Profit Sharing Plan and the Port Management Services, Inc. Profit Sharing Plan (the Plans). The Stock ownership by the Plans resulted from self- directed investments made by the Plans' participants.

3. The Plans were terminated in 1988 because they could not satisfy the requirements of section 401(a)(26) of the Code, which became effective on January 1, 1989. Upon the termination of the Plans, the Stock of each participant under the Plans was rolled over to self-directed IRAs established for the benefit of each participant. These rollovers were made in accordance with the provisions of section 402 of the Code as then in effect.

4. Business and income tax considerations have compelled PPS to consider making an election to be taxed as a ''Subchapter S'' Corporation under section 1362(a) of the Code. However, IRAs cannot be shareholders of an ''S'' corporation. Accordingly, the applicants have requested an exemption to permit the IRAs to sell all of their shares of the Stock (8,374 in the aggregate) to PPS at their fair market value.

5. There is no established market for PPS Stock. PPS obtained an appraisal of the Stock dated May 31, 1995 from Barry Goodman, CFA, CPA, CBA, ASA, an independent business consultant and financial analyst in Washington, D.C. The applicants represent that Mr. Goodman is independent of the IRAs, their participants and PPS. Mr. Goodman has appraised the Stock as having a fair market value of $825.30 a share as of May 31, 1995.

6. The applicants have requested the exemption proposed herein to permit PPS to purchase all of the Stock held in their IRAs. PPS will pay the greater of (i) the fair market value of the PPS Stock as of May 31, 1995 as established by Mr. Goodman's appraisal, or (ii) the fair market value of the Stock as of the date of the sale. The IRAs will pay no fees, commissions or other expenses in connection with the transactions.

7. The applicants represent that presently the assets of each of the IRAs consist almost entirely of appreciated PPS Stock. Therefore, the IRAs have virtually no diversity and no liquidity. The applicants further represent that, as a practical matter, the only potential purchasers of the Stock at full fair market value are the IRA participants and PPS, with the effect that the IRAs would have great difficulty disposing of the Stock in a transaction at full value that did not involve a sale to disqualified persons. The IRA participants have attained, or will shortly attain, age 59½; therefore, it will be appropriate for the IRAs to commence distribution to their participants in the near term. Thus, the applicants represent that the proposed exemption will be in the interest of the IRA participants and their beneficiaries because it would make the IRAs liquid, provide diversity, maximize the value of the PPS Stock held by the IRAs, and permit cash distributions to the IRA participants (and/or to their beneficiaries) when such distributions are appropriate and/or required by the Code.

8. In summary, the applicants represent that the proposed transactions satisfy the criteria contained in section 4975(c)(2) of the Code because: (a) the proposed sales will be one-time transactions for cash; (b) no commissions or other expenses will be paid by the IRAs in connection with the sales; (c) the IRAs will be receiving not less than the fair market value of the Stock as determined by a qualified, independent expert; and (d) each of the IRA participants is the only participant in his IRA, and each has determined that the proposed transaction is appropriate for and in the best interest of his IRA and desires that the transaction be consummated with respect to his IRA.

Notice to Interested Persons: Because each of the IRA participants is the only participant in his own IRA, 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 30 days after publication of this notice in the **Federal Register**.

For Further Information Contact: Gary H. Lefkowitz of the Department,

[10] Pursuant to 29 CFR 2510.3–2(d), the IRAs are not within the jurisdiction of Title I of the Act. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.