Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 28, 1994 at 59 FR 60843.

Written Comments

The Department received one written comment, which included a request for a hearing. The comment did not address substantively the transactions which were the subject of the proposed exemption. Subsection (b) of 29 CFR 2570.46, in the prohibited transaction exemption procedure, states that the Department will grant a request for a hearing where a hearing is necessary to fully explore material factual issues identified by the person requesting the hearing. The Department has determined that no issues have been identified which would require the convening of a hearing, and, accordingly, has determined not to hold a public hearing.

After careful consideration of the entire record, the Department has determined to grant the exemption. FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not

Hospital Supplies, Inc. Pension Plan (the Plan) Located in Radnor, Pennsylvania

[Prohibited Transaction Exemption 95–11; Application No. D–09727]

Exemption

a toll-free number.)

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 cash sale of two adjacent parcels of real property (the Properties) by the Plan to Armond J. Civera, Jr. (Mr. Civera), a disqualified person with respect to the Plan, provided that the following conditions are satisfied:

- (a) The sale will be a one-time cash transaction;
- (b) The Plan will receive for each Property the current fair market value established at the time of the sale by an independent qualified appraiser;
- (c) The Plan will pay no 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 January 4, 1995 at 60 FR 486/487.

FOR FURTHER INFORMATION CONTACT:
Ekaterina A. Uzlyan of the Department

at (202) 219–8883. (This is not a toll-free number.)

Clarence E. Coker, Jr. and the Clarendon Family Practice, PA Employee Retirement Plan (the Plan) Located in Manning, South Carolina

[Prohibited Transaction Application 95–12; Exemption Application No. D–09736]

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 of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of approximately eight acres of unimproved land (the Land) by the Plan to Dr. Clarence E. Coker, Jr., (Dr. Coker), a party in interest with respect to the Plan; provided that the following conditions are satisfied:

- (a) The sale will be a one-time cash transaction;
- (b) The Plan will receive the higher of: (1) the original acquisition cost; ² or (2) the current fair market value plus a certain premium related to the adjacency of the Land to other real property owned by Dr. Coker, established at the time of the sale by an independent qualified appraiser; and
- (c) The Plan will pay no 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 December 19, 1994 at 59 FR 65396/65397.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department at (202) 219–8883. (This is not a toll-free number.)

Alucobond Technologies, Incorporated Employees' Savings Plan (the Plan) Located in St. Louis, Missouri

[Prohibited Transaction Exemption 95–13; Application No. D–09834]

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 of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) the interest-free loan to the Plan (the Loan) by Alucobond Technologies, Incorporated (the Employer), a party in

interest with respect to the Plan, and (2) the Plan's potential repayment of the Loan upon the receipt by the Plan of payments under Guaranteed Investment Contract No. CG01285A3A (the GIC) issued by Executive Life Insurance Company (Executive Life); provided the following conditions are satisfied:

(A) No interest or expenses are paid by the Plan in connection with the

transaction;

(B) The Loan will be repaid only out of amounts paid to the Plan by Executive Life, its successors, or any other responsible third party; and

(C) Repayment of the Loan is waived with respect to the amount by which the

Loan exceeds GIC proceeds.

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 19, 1994 at 59 FR 65393.

FOR FURTHER INFORMATION CONTACT: Virginia J. Miller of the Department, telephone (202) 219–8971. (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 exemptions 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) These exemptions are 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 these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all

¹Because Mr. Civera is the only participant in the Plan and the Employer is wholly owned by Mr. Civera there is no jurisdiction with respect to the Plan under Title I of the Act pursuant to CFR 2510.3–3(b) and (c). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

² The original acquisition cost is determined as follows: (original purchase price+aggregate real estate taxes) – aggregate rental income=original acquisition cost.