

November 13, 1975

Dear :

Your letter of January 11, to of the Regional Office has been referred to this office for reply. In your letter you inquired as to the applicability of the bonding provisions of section 412 of the Employee Retirement Income Security Act of 1974 (the Act) to a person who is both a participant in and a co-trustee for a profit-sharing or money purchase pension plan established by a small, closely held professional corporation.

Your letter indicates that such plan covers several employees of the corporation besides its professional members and that plan participants are not allowed to select the form of investment for monies allocated to their individual accounts.

Subject to certain exceptions, section 412(a) of the Act requires that every person who handles funds or other property of an employee benefit plan covered by Part 4 of Title I of the Act shall be bonded. The term "handles," as used in this context, is defined in 29 CFR 464.7 adopted under section 13 of the Welfare and Pension Plans Disclosure Act and incorporated by reference in the temporary bonding regulation adopted under section 412 of the Act (40 FR 2203, January 10, 1975). Thus, if the trustee of the plan described in your letter handles the plan assets within the meaning of 29 CFR 464.7, he or she should be bonded in accordance with the provisions of section 412 of the Act.

Sincerely,