

October 30, 1976

Dear :

Thank you for your letter dated August 22, 1975, enclosing EBS-1s for eight plans, listing ten informal plans that you believe are exempt under the Employee Retirement Income Security Act of 1974 (ERISA), naming two plans that are applicable to a select number of senior executives, and requesting a determination whether the (named) Employees 1972 Stock Purchase Plan (Plan) is an employee pension benefit plan within the meaning of section 3(2). I am sorry we could not give you an earlier reply.

Since you do not give us any information other than the name of the ten informal plans, we are unable to agree that the plans are exempt under the ERISA. However, section 2510.3-1 of the enclosed regulation issued August 15, 1975, describes the conditions under which many of the practices you list are exempt. Should you have any questions in relation to any of the practices, please furnish us with complete information about the practice so that we may make a determination.

According to the information furnished in your letter about the Stock Purchase Plan, employees are provided with the opportunity to purchase shares of stock in the Corporation through payroll deductions over a two-year period. At the end of that period, the stock is issued to the employee, or, if he so elects, his payroll deductions are returned to him in full. You also state that the Plan does not provide retirement income to employees and does not result in a deferral of income to employees.

Section 3(2) of the ERISA defines an "employee pension benefit plan" and "pension plan" as any plan, fund or program which was heretofore or is hereafter established or maintained by an employer or by an employee organization, or by both, to the extent that by its express terms or as a result of surrounding circumstances such plan, fund, or program - (A) provides retirement income to employees, or (B) results in a deferral of income by employees for periods extending to the termination of

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covered employment or beyond, regardless of the method of calculating the contributions made to the plan, the method of calculating the benefits under the plan or the method of distributing benefits from the plan.

It appears, from the limited information furnished in your letter, that the Stock Purchase Plan does not fall within the definition of an "employee pension benefit plan" because the Plan does not provide retirement income nor contain provisions which result in the deferral of income for periods extending to the termination of covered employment and beyond.

Sincerely,

Enclosure