

September 13, 1976

Dear: :

Thank you for your request for an exemption under the provisions of section 408 of the Employee Retirement Income Security Act of 1974 (ERISA) in connection with the procuring of bonds through Inc. (Agency), a general insurance agency. We regret we were unable to respond to your request earlier.

You state that Mr. is one of the owners of the Agency in addition to being the Administrator of the above plans. You further state that the plans did not have proper bonding coverage prior to the time the Agency represented the plans for placing the coverage. It is your view that the Agency relationship to the plans falls within the purview of section 414 (c) (4) of ERISA until June 30, 1977, but you request a permanent exemption since bonding protection will be required after that date.

The bonding provisions of ERISA are contained in section 412. It is unlawful under section 412(c) for any person to procure a required bond through an agent in whose business operation a party in interest has any control or significant financial interest. It would appear that the relationship of Mr. as Administrator (a party in interest) of the above plans and also an owner of the Agency is one proscribed by the foregoing. ERISA's exemption provisions regarding bonding are contained in section 412(e). Accordingly, it is concluded that sections 408 and 414(c)(4) are not applicable to transactions which are unlawful under section 412(c).

Sincerely,