

**DEPARTMENT OF LABOR****Employee Benefits Security Administration**

[Prohibited Transaction Exemption 2007–09; Exemption Application No. D–11408]

**Grant of Individual Exemption Involving the DeRose Dental Offices Inc., Profit Sharing Plan, Located in Racine, WI**

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Grant of individual exemption.

**SUMMARY:** This document contains an exemption issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

**Statutory Findings**

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

**The DeRose Dental Offices, Inc., S.C. Profit Sharing Plan (the Plan)**

*Located in Racine, Wisconsin*

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**Exemption**

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act, and the sanctions resulting from the application of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the December 29, 2006 sale by the Plan of 2,174 shares of stock (the Stock) in Wisconsin Bancshares, Inc. each to Francesca DeRose and Nicolet DeRose, parties in interest with respect to the Plan, provided the following conditions are satisfied:

(a) The sales of the Stock were one-time transactions for cash;

(b) The Plan paid no commissions or other fees in connection with the sales;

(c) The terms of the transactions were at least as favorable to the Plan as those the Plan could obtain in similar transactions with an unrelated party; and

(d) The sales price of the Stock was determined by a qualified, independent appraiser.

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 March 22, 2007 at 72 FR 13517.

**DATES:** *Effective Date:* This exemption is effective as of December 29, 2006.

**FOR FURTHER INFORMATION CONTACT:** Gary H. Lefkowitz of the Department, telephone (202) 693–8546. (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 exemption 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) This exemption is 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 this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 26th day of June, 2007.

**Ivan Strasfeld,**

*Director of Exemption, Determinations Employee Benefits, Security Administration, Department of Labor.*

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**DEPARTMENT OF LABOR****Employee Benefits Security Administration**

[Prohibited Transaction Exemption 2007–08; Exemption Application No. D–11345]

**Grant of Individual Exemption To Amend and Replace Prohibited Transaction Exemption (PTE) 2000–34, Involving the Fidelity Mutual Life Insurance Company (FML), Located in Radnor, PA**

**AGENCY:** Employee Benefits Security Administration, U.S. Department of Labor.

**ACTION:** Grant of individual exemption to amend and replace PTE 2000–34.

This document contains a final exemption before the Department of Labor (the Department) that amends and replaces PTE 2000–34 (65 FR 41732, July 6, 2000), an exemption granted to FML. PTE 2000–34, relates to (1) the receipt of certain stock (Plan Stock) issued by Fidelity Insurance Group, Inc., a wholly owned subsidiary of FML, or (2) the receipt of plan credits by or on behalf of a FML mutual member (the Mutual Member), which is an employee