

market. Instead, the Separate Account continued to hold its 523 Conning Common Shares and it did not tender these shares in the Tender Offer. Subsequently, the 523 Conning Common Shares held by the Separate Account were converted into 523 Cancelled Common Shares.

On May 18, 2000, the Separate Account delivered its 523 Cancelled Conning Shares to the Disbursing Agent in exchange for the same \$12.50 per share consideration that was received by all other Conning shareholders in the Tender Offer and the Merger. Thus, the Separate Account received \$6,538 in cash from MetLife.<sup>1</sup> The exchange caused the ERISA-covered Plans that were participating in the Separate Account to receive a premium for such shares. Had the Separate Account disposed of the Conning Common Shares on the open market at \$8.44 per share approximately one month before MetLife announced its initial proposal to acquire all of the outstanding shares of such stock, the Separate Account would have received only \$4,414. MetLife represents that this amount would have been further reduced by sales commissions.

11. In summary, it is represented that the transactions satisfied the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The decision by a Plan to invest in the Separate Account was made by a Plan fiduciary which was independent of MetLife and its affiliates.

(b) The Conning Common Shares represented less than one percent of the assets of the Separate Account and less than one percent of the assets of the ERISA-covered Plans investing therein.

(c) The exchange of the Cancelled Conning Shares by the Separate Account was a one-time transaction for cash.

(d) The Separate Account and the Plans received the fair market value for each Cancelled Conning Share on the date of the exchange.

(e) The consideration received by the Separate Account for its Cancelled Conning Shares was the same consideration received by (i) all shareholders who validly tendered their Conning Common Shares pursuant to a Tender Offer and (ii) all holders of Cancelled Conning Shares.

(f) The Separate Account paid no commissions, fees or other expenses in connection with the exchange of the

Cancelled Conning shares to MetLife and its affiliates for cash.

(g) After the expiration of the Tender Offer and the consummation of the exchange, the Separate Account delivered certificates to the Disbursing Agent representing the Cancelled Conning Shares.

(h) The terms of the exchange were no less favorable to the Separate Account and the Plans than those obtainable in an arm's length transaction engaged in by other similarly-situated holders of the Cancelled Conning Shares.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jan D. Broady of the Department, telephone (202) 693-8556. (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 of the Act and/or the Code, including any prohibited transaction 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) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional 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

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each

application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 17th day of May, 2002.

**Ivan Strasfeld,**

*Director of Exemption Determinations,  
Pension and Welfare Benefits Administration,  
U.S. Department of Labor.*

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**BILLING CODE 4510-29-P**

## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

**[Prohibited Transaction Exemption (PTE) 2002-21; Exemption Application No. D-11005]**

**Pacific Investment Management Company LLC (PIMCO), Located in Newport Beach, CA; Employee Benefit Plans: Prohibited Transaction Exemptions**

**AGENCY:** Pension and Welfare Benefits Administration, U.S. Department of Labor (the Department).

**ACTION:** Notice of technical correction.

On March 28, 2002, the Department published PTE 2002-21 in the **Federal Register** at 67 FR 14988. PTE 2002-21 permits an employee benefit plan (the Plan), whose assets are held by PIMCO, as trustee, investment manager or discretionary fiduciary, to purchase shares of one or more open-end management investment companies registered under the Investment Company Act of 1940, to which PIMCO or any affiliate of PIMCO serves as investment adviser and may provide other services, in exchange for securities held by the Plan in an account or sub-account with PIMCO. PTE 2002-21 is effective as of February 5, 2002.

On page 14989 of the notice granting PTE 2002-21, the Department hereby corrects the last sentence of Section I(g) to read as follows in order to reflect standard industry practice:

\* \* \* Such procedures must require that all securities for which a current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the day of the Purchase Transaction determined on the basis of reasonable inquiry from at least two market makers or one pricing service that is independent of PIMCO.

<sup>1</sup> The Separate Account had also received \$26.15 in dividends from MetLife that were attributable to its ownership of the Conning Common Shares. This meant that the Separate Account's total net earnings with respect to the Conning Common shares was \$685.68 (6,537.50 - \$5,877.98 + \$26.15).

**FOR FURTHER INFORMATION CONTACT:** Ms. Jan D. Broady of the Department at (202) 693-8556. (This is not a toll-free number.)

Signed at Washington, DC, this 17th day of May, 2002.

**Ivan L. Strasfeld,**

*Director of Exemption Determinations,  
Pension and Welfare Benefits Administration,  
U.S. Department of Labor.*

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## **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**[Notice 02-063]**

### **U.S. Centennial of Flight Commission; Meeting**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a meeting of the U.S. Centennial of Flight Commission.

**DATES:** Wednesday, June 19, 2002, 1 p.m. to 5 p.m.

**ADDRESSES:** Federal Aviation Administration, 3rd Floor Auditorium, 800 Independence Avenue, SW., Washington, DC. Attendees must check in at the Security Desk to be cleared to the 3rd floor auditorium.

**FOR FURTHER INFORMATION CONTACT:** Ms. Beverly Farmarco, Code I-2, National Aeronautics and Space Administration, Washington, DC 20546, 202/358-1903.

**SUPPLEMENTARY INFORMATION:** The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Opening Comments
- Centennial Partner Applications
- Centennial of Flight Kick-Off Plans
- Centennial Updates
- First Flight Centennial Federal Advisory Board
- Carter Ryley Thomas Update
- Closing Comments
- Adjourn

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: May 16, 2002.

**Sylvia K. Kraemer,**

*Advisory Committee Management Officer,  
National Aeronautics and Space Administration.*

[FR Doc. 02-12867 Filed 5-21-02; 8:45 am]

**BILLING CODE 7510-01-U**

## **NUCLEAR REGULATORY COMMISSION**

**[Docket No. 030-35870; License No. 29-28358-02; EA-02-103]**

### **In the Matter of United Evaluations Services, Inc. (Formerly Accurate Technologies, Inc.), Beachwood, NJ 08722; Order Suspending License (Effective Immediately) and Demand for Information**

#### **I**

United Evaluations Services, Inc., formerly Accurate Technologies Incorporated (Licensee) is the holder of byproduct nuclear material license No. 29-28358-02, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 34. Accurate Technologies Incorporated was the holder of Byproduct Nuclear Material License No. 29-28358-01, also issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 34.

License No. 29-28358-01 was originally issued by the NRC on June 16, 1989, and authorized possession and use of certain byproduct material for industrial radiography at temporary job sites of the Licensee anywhere in the United States where the NRC maintains jurisdiction for regulating the use of licensed material. The license was revoked by the NRC on December 12, 2000, for nonpayment of fees, although the Licensee has represented that it never received the Order revoking the license. The Licensee subsequently paid the required fees from the previous year over the period April–August 2001.

The Licensee submitted a new application, with required fees, on November 6, 2001. The new license (No. 29-28358-02) was subsequently issued on November 16, 2001, and is due to expire on November 30, 2011. License No. 29-28358-02 initially authorized possession and use of certain byproduct material for industrial radiography at temporary job sites. Amendment No. 1 to License No. 29-28358-02, issued on December 20, 2001, changed the name of the Licensee from Accurate Technologies Incorporated to United Evaluations Services Inc.

#### **II**

On September 25, 2001, an event occurred at the McShane facility in Baltimore, Maryland, involving a radiation injury to one of the Licensee's radiographers. This event was discussed with the Licensee on October 4, 2001. During the discussions, the NRC learned that the radiographer received a very

significant radiation exposure to his hands in excess of regulatory limits (at a minimum, approximately 250–300 rem) while performing radiography at that facility. Since the facility was located in Maryland, an NRC Agreement State, the activities related to that exposure were within the jurisdiction of the State of Maryland.

In its discussions with the NRC, the Licensee indicated that the injury occurred when the radiographer, who completed one radiographic exposure of equipment at the facility and was in the process of preparing for another exposure, handled the device's guide tube with the radioactive source located therein. The source remained in the guide tube after failing to fully retract to the shielded position following the first radiographic exposure. The exposure occurred because the radiographer approached the device without a survey meter and without wearing an alarming ratemeter, either of which would have alerted him that the source was not in a shielded position. Although this event occurred while the radiographer was performing activities in an NRC Agreement State, the same equipment is possessed and used pursuant to an NRC license. As a result, the NRC initiated an investigation and inspection into this matter.

Based on the NRC investigation and inspection, which are still ongoing, the NRC has determined that:

1. The radiographer who was exposed in Maryland had not received the annual refresher training as required by 10 CFR 34.43(d), and had not taken an annual refresher training exam. Instead, an assistant radiographer completed the annual refresher exam for that radiographer. In addition, the President/Radiation Safety Officer certified the training record, which was inaccurate, and provided the certified record to the NRC, in violation of 10 CFR 34.79(b) and 30.9. The date listed on the certified record was approximately three weeks before the occurrence of the significant hand exposure that occurred in Maryland. These violations are particularly egregious and may provide, in part, a causal link to the significant exposure that occurred in Maryland on September 25, 2001;

2. The former Operations Manager knowingly transported and used a radiographic device in New Jersey without the required end cap (which ensures proper positioning and shielding of the source in the camera), in violation of 10 CFR 34.31. Records indicate that this occurred in September 2001.

3. The President/Radiation Safety Officer, in a written response to an NRC