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TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

APR 28 2005

*SE:T:EP:RA:T:A2*

In re:

Company =

This letter constitutes notice that a waiver of the minimum funding standard for the above-named plan for the plan year ending [REDACTED], has been granted subject to the following conditions:

- (1) If applicable, the Company will make the required quarterly contribution to the Plan that is due June 15, 2005, in a timely manner.
- (2) At the end of each of the plan years ending [REDACTED] through [REDACTED] credit balances will be maintained in the funding standard account of the plan that are not less than the outstanding balances of the amortization base with respect to the waived amount that is established and maintained under section 412(b)(2) of the Code.
- (3) The Company will make contributions to the Plan in amounts sufficient to meet the minimum funding requirements for the Plan for the plan year ending [REDACTED].

Your authorized representative agreed to these conditions in an e-mail dated April 22, 2005. If these conditions are not satisfied, the waiver is retroactively null and void.

This conditional waiver has been granted in accordance with section 412(d) of the Internal Revenue Code and section 303 of the Employee Retirement Income Security Act of 1974 ("ERISA"). The amount for which this conditional waiver has been granted is the contribution that would otherwise be required to reduce the balance in the funding standard account to zero as of May 31, 2004.

The Company is one of the leading food retailers in the [REDACTED]. In [REDACTED], the Company employed [REDACTED] employees and operated [REDACTED] supermarkets under various trade names. The Company's supermarkets offer a broad selection of grocery, meat, poultry, seafood, dairy, fresh produce, delicatessen, bakery, and frozen food products. The stores also offer non-food products and services such as health and beauty care products, housewares, general merchandise, and in many cases, pharmacies, floral items and baking services. In addition to its retail operation, the Company supplied approximately [REDACTED] independently operated supermarkets from its distribution centers.

On [REDACTED] the Company and each of its direct and indirect subsidiaries filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code. The Company and each of its subsidiaries have operated as debtors in possession under the Bankruptcy Code.

As part of its reorganization, the Company has closed some store locations as well as divested itself of a number store locations and warehouse facilities. As of [REDACTED], the Company employs [REDACTED] employees and operates 109 supermarkets. Additionally, the Company serves [REDACTED] independently owned franchise stores.

The Company's bankruptcy filing on [REDACTED], was the second bankruptcy filing in 5 years. On [REDACTED] the Company and certain of its subsidiaries filed petitions under Chapter 11 of the Bankruptcy Code to implement a pre-negotiated financial restructuring of the Company to address its over-leveraged capital structure.

Although the Company emerged from the [REDACTED] bankruptcy filing with dramatically lower debt, the downturn in the economy after [REDACTED], had an adverse impact on the Company's ability to build its revenue base. In addition, the entrance of another competitor into the supermarket industry in the areas served by the Company exerted significant pressure on the Company to lower prices and cut labor costs. During the third and fourth quarters of the fiscal year ending [REDACTED] and the first quarter of the fiscal year ending [REDACTED], the Company experienced declines in operating performance that would have resulted in defaults under its pre-petition secured credit facility as a result of the Company's failure to comply with certain financial covenants. The Company successfully negotiated waivers of such defaults through early [REDACTED] and ultimately entered into an amendment of the pre-petition credit facility on [REDACTED]. However, a dramatic decline in trade credit to the

Company by its vendors caused the Company to experience severe liquidity shortfall by mid-██████████, leading to the bankruptcy filing on ██████████.

Since the petition date, the Company has taken several steps toward a successful resolution of the Chapter 11 reorganization. The Company has put a new management team into place, obtained and maintained adequate liquidity to fund its operations going forward, augmented the operational and restructuring capabilities of senior management, identified and implemented significant cost cutting measures, and substantially completed sales of unprofitable and non-core assets. The Company has also negotiated the distress termination of its cash balance pension plan with the PBGC.

The financial information provided by the Company clearly shows that the Company has suffered a substantial business hardship. This financial hardship forced the Company to voluntarily file for reorganization under Chapter 11 of the U.S. Bankruptcy Code. As described above, the Company has made tremendous strides in reorganizing itself through a restructuring of its business and management, particularly through the installation of a new management team, the divestiture of its poorly performing assets, and the distress termination of its cash balance pension plan. The Company has also negotiated exit financing that allowed it to emerge from Chapter 11 in ██████████.

Because the Company's financial position has improved to the point that it has emerged from Chapter 11, it is clear the business hardship was temporary. Furthermore, the Company has accelerated contributions to the Plan. Hence, the waiver for the plan year ending ██████████, has been granted, subject to the conditions set forth above.

Your attention is called to section 412(f) of the Code and section 304(b) of ERISA which describe the consequences that would result in the event the plan is amended to increase benefits, change the rate in the accrual of benefits or to change the rate of vesting, while any portion of the waived funding deficiency remains unamortized. Please note that any amendment to a profit sharing plan or any other retirement plans (covering employees covered by this plan) maintained by the Company, to increase the liabilities of those plans would be considered an amendment for purposes of section 412(f) of the Code and section 304(b) of ERISA. Similarly, the establishment of a new profit sharing plan or any other retirement plan by the Company (covering employees covered by this plan) would be considered an amendment for purposes of section 412(f) of the Code and section 304(b) of ERISA.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

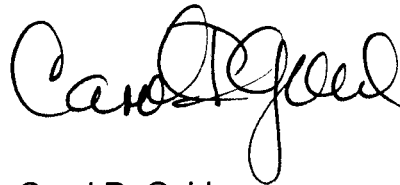
When filing Form 5500 for the plan year ending May 31, 2004, the date of this letter should be entered on Schedule B (Actuarial Information). For this reason, we suggest

that you furnish a copy of this letter to the enrolled actuary who is responsible for the completion of the Schedule B.

We have sent a copy of this letter to the Manager, EP Classification in \_\_\_\_\_, to the Manager, EP Compliance Unit in \_\_\_\_\_, and to your authorized representative pursuant to a power of attorney on file in this office.

If you require further assistance in this matter, please contact \_\_\_\_\_ at \_\_\_\_\_

Sincerely yours,

A handwritten signature in black ink, appearing to read "Carol D. Gold". The signature is fluid and cursive, with a large loop at the end of the last name.

Carol D. Gold  
Director, Employee Plans