



NATIONAL SPA & POOL INSTITUTE - REGION VII

Florida Pool & Spa Association

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Executive Director

Jon C. Bednerik, CAE

Executive Assistant

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June 15, 1993

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Top-Hat Plan Exemption
Pension and Welfare Benefits Administration
Room N-5644
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Gentlemen/Madam:

Enclosed is a copy of our letter of December 28, 1992, in which we required an abatement of the \$1000 charge imposed for failure to file a report of a plan.

We have not received any acknowledgement of our filing nor any response to our abatement request.

Please advise us how we proceed with our request or when we will be notified of a decision.

Sincerely,

Jon C. Bednerik, CAE
Executive Director

c: Michael Manley, President
Jeanne Anne Eden, Secretary
John M. Smith, CPA



JOHN MICHAEL SMITH, CPA, PA
CERTIFIED PUBLIC ACCOUNTANT

THE PALM TOWERS
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(FAX) 813-951-1386

December 28, 1992

Top-Hat Plan Exemption
Pension and Welfare Benefits Administration
Room N-5644
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Gentlemen/Madam:

In accordance with Department of Labor Reg. Sec. 2520.104-23, Florida Pool and Spa Association, Inc. (~~hereto~~ FPSA) d/b/a Region VII, National Spa and Pool Institute located at 558 S. Osprey, Sarasota, Florida 34236 and assigned EIN 59-1679812 by the Internal Revenue Service hereby declares that it maintained one nonqualified deferred compensation (top-hat) plan primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees. The number of employees covered under the plan is as follows:

Non-qualified Deferred Compensation
Plan for Larry Bellinger.

	No. of Plan Participants

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The filing of this statement is intended solely to comply with Reg. Sec. 2520.104-23 to the extent it applies, and may not, by itself, be treated as an admission by FPSA that the arrangements described herein are "employee pension benefit plans" subject to the Employee Retirement Income Security Act of 1974, as amended.

FSPA started this deferred compensation plan during the 1991 calendar year and funded the deferred compensation plan totally with insurance policies and annuities; thus, it was fully funded/insured at all times. All amounts paid to fund the plan came from the organization's general assets. Due to the manner of funding, the plan was only required to file the statement above in lieu of being subject to the applicable reporting and disclosure requirements under Part I of Title I of ERISA as it meets the exception for the alternative method of compliance described in Department of Labor Reg. Sec. 2520.104-23.

However, there was no knowledge on the part of the organization's management as to what, if anything, needed to be filed with the Department of Labor, Internal Revenue Service, etc. when the plan was originally started. FPSA received advice that there were no reporting and disclosure requirements. The organization relied on this advice with good faith as it came from a Certified Financial Planner who

stated that the agreement was drafted by an attorney. Not until late in 1992 did FPSA realize that the above statement in lieu of filing a Form 5500 should have been filed for the plan.

This realization by the organization came about when the beneficiary of the plan became deceased in the latter part of the 1992 calendar year. At such time, an independent Certified Public Accountant was engaged to review the organization's financial statements. The organization was then advised for the first time of the filing requirements for the nonqualified deferred compensation plan.

The organization has enclosed a check in an amount of \$1,000 which represents full payment of the possible assessed penalty. However, since the organization relied in good faith on one who appeared to be qualified to render advice on the deferred compensation retirement plan and since upon discovering what the true requirements of ERISA are for this type of retirement plan, the organization is making a good faith effort to correct the situation, it is asked that all penalties associated with this plan be abated.

Very Truly Yours,



John M. Smith, CPA
Principal

cc: Jon C. Bednerik, CAE, Director
Lisa B. Haberkorn, Executive Assistant