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# DREW & WARD

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January 12, 2001

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**CERTIFIED MAIL # P 971 232 250**  
**RETURN RECEIPT REQUESTED**

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

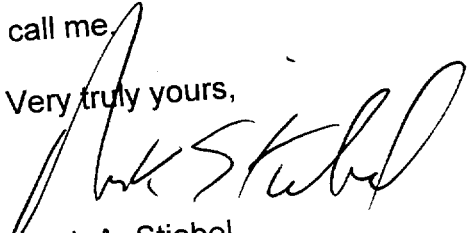
Re: Hyde Park Lumber Company

To Whom It May Concern:

This letter is to serve as a statement under Regulation §2520.104.23. Our office represents Hyde Park Lumber Company ("Employer"), 3360 Red Bank Road, Cincinnati, Ohio 45227, Federal Tax Identification Number: 31-0327830. The Employer maintains a Deferred Compensation Agreement for the primary purpose of providing deferred compensation for a select group of management and highly compensated employees. The Employer maintains an agreement that benefits one employee. The Plan was adopted on December 20, 2000.

If you have any questions, please call me.

Very truly yours,

  
Mark A. Stiebel

MAS:jmb

cc: Vicki Clephane

IMANAGE;73022;1

HYDE PARK LUMBER COMPANY  
EXECUTIVE BENEFIT PLAN FOR RICHARD WOLKING

ARTICLE I

ESTABLISHMENT OF PLAN

1.1 **ESTABLISHMENT OF PLAN.** Hyde Park Lumber Company (referred to as the "Company") adopts this Executive Benefit Plan (the "Plan") in order to provide benefits for Richard Wolking (the "Participant").

1.2 **CLASSIFICATION OF PLAN.** This Plan is an unfunded agreement to provide benefits to a select group of management and highly compensated employees. This Plan is intended to be exempt from the participation and vesting requirements under section 201(2) of the Employee Retirement Income Security Act ("ERISA"), the funding requirements under ERISA section 301(a)(3), and the requirements relating to fiduciary responsibilities under ERISA section 401(a)(1). The Employee's rights created under this Agreement are limited to the Company's unsecured promise to pay the amounts due under the Plan.

1.3 **PLAN YEAR.** The Plan Year shall be the calendar year.

1.4 **EFFECTIVE DATE.** The Plan shall be effective August 9, 2000.

ARTICLE II

CONTRIBUTIONS

2.1 **EMPLOYER CONTRIBUTIONS.** The Employer shall credit \$200 for each month of employment beginning August 9, 2000 to an Account for the benefit of the Participant.

ARTICLE III

PARTICIPANT ACCOUNT AND INVESTMENTS

3.1 **ACCOUNTS.** The Employer may establish and maintain an investment account for the Participant which shall remain the sole property of the Employer. The Account set forth under section 2.1 shall be adjusted at least annually to reflect earnings, expenses, gains, and losses with respect to investments selected by the Employer. The Plan Administrator will establish and maintain such other accounts and records as it decides in its discretion to be reasonably required or appropriate in order

to discharge its duties under the Plan. The Participant will be furnished with a statement of account values at least once each Plan Year.

## ARTICLE IV

### TERMINATION OF EMPLOYMENT, DEATH OR DISABILITY

**4.1 TERMINATION OF EMPLOYMENT BEFORE TEN YEARS.** No benefits shall be paid upon termination of employment with the Company before the expiration of ten years from the effective date for any reason other than death or disability of the Participant.

**4.2 TERMINATION OF EMPLOYMENT AFTER TEN YEARS.** Upon termination of employment after ten years from the effective date, Participant shall be entitled to the value of the Participant's Account.

**4.3 DEATH OR DISABILITY.**

a. Upon death or disability, the Participant or the Participant's personal representative shall be entitled to the value of the Participant's Account.

b. Disability means total and permanent disability. "Total and permanent disability" means a physical or mental condition arising after an Employee has become a participant which totally and permanently prevents the participant from engaging in any occupation or employment for remuneration or profit, except for the purpose of rehabilitation not incompatible with a finding of total and permanent disability. The determination as to whether a participant is Totally and Permanently Disabled shall be made (a) on medical evidence by a licensed physician designated by the Plan Administrator, (b) on evidence that the participant is eligible for disability benefits on account of total and permanent disability under any long-term disability plan sponsored by the Company but administered by an independent third party, or (c) on evidence that the participant is eligible for total and permanent disability benefits under the Social Security Act in effect at the date of disability.

**4.4 PAYMENTS IN THE EVENT OF DEATH.** If a Participant dies before all distributions to which the Participant is entitled have been made, then distribution shall be made to the Participant's designated beneficiary or beneficiaries. A Participant may designate a beneficiary or beneficiaries, or change any prior designation of beneficiary or beneficiaries by giving notice to the Plan Administrator on a form designated by the Plan Administrator. If more than one person is designated as the beneficiary, the respective interests shall be as indicated on the designation form or, if no such designation is made, in equal shares to all such designated beneficiaries. If the Participant has not designated a beneficiary, distributions shall be made to the

Participant's surviving spouse, or if none, to the Participant's estate. If a beneficiary dies after benefits to such beneficiary have commenced, but before distributions have been completed and if such beneficiary has not designated another beneficiary, then such benefits shall be paid to the deceased beneficiary's estate.

#### **4.5 TIME AND METHOD OF DISTRIBUTION.**

- a. Time of Distribution. Benefits shall be distributed within sixty days after the later of the date the Participant terminates employment or the date the Participant is determined to be disabled.
- b. Method of Distribution. Distributions under the Plan to a Participant or to a beneficiary of the Participant shall be made in a lump sum in cash or, if elected by the Participant, in installments not exceeding five years. Installment payments must be made in substantially equal annual or more frequent installments, in cash, over a fixed period which does not extend beyond five years. Distributions to the Participant or beneficiary shall be made in accordance with the method of distribution elected by the Participant as of the end of the Plan Year preceding the Plan Year in which benefits are to be paid. If the Participant does not elect a method of distribution, the method shall be a lump sum.

### **ARTICLE V**

#### **PLAN ADMINISTRATION**

**5.1 DESIGNATION OF PLAN ADMINISTRATOR.** The Employer or a committee designated by the Employer shall be the Plan Administrator.

**5.2 POWERS AND RESPONSIBILITIES OF THE ADMINISTRATOR.** The Administrator has the full power and responsibility to administer the Plan in all of its details, subject, however, to the applicable requirements of ERISA. The Administrator's powers and responsibilities include, but are not limited to, the following:

- a. To make and enforce such rules and regulations as it deems necessary or proper for the efficient administration of the Plan.
- b. To interpret the Plan, its interpretation thereof in good faith to be final and conclusive on all persons claiming benefits under the Plan.
- c. To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan.

- d. To administer the claims and review procedures specified in section 5.3.
- e. To compute the amount of benefits which will be payable to any Participant, former Participant or beneficiary in accordance with the provisions of the Plan.
- f. To determine the person or persons to whom such benefits will be paid.
- g. To authorize the payment of benefits.
- h. To comply with the reporting and disclosure requirements of Part 1 of Subtitle B of Title I of ERISA.
- i. To appoint such agents, counsel, accountants, and consultants as may be required to assist in administering the Plan.

**5.3 CLAIMS PROCEDURE.** The Participant or beneficiary may make a claim for Plan benefits by filing a written request with the Plan Administrator.

- a. If a claim is wholly or partially denied, the Plan Administrator shall furnish the Participant or beneficiary with written notice of the denial within sixty days of the date the original claim was filed. This notice of denial shall provide:
  - i. the reason for denial,
  - ii. specific reference to pertinent plan provisions on which the denial is based,
  - iii. a description of any additional information needed to perfect the claim and an explanation of why such information is necessary, and
  - iv. an explanation of the Plan's Claim Procedure.
- b. The Participant or beneficiary shall have sixty days from receipt of the denial notice in which to make written application for review by the Plan Administrator. The Participant or beneficiary may request that the review be in the nature of a hearing. The Participant or beneficiary shall have the right to representation, to review pertinent documents, and to submit comments in writing.

- c. The Plan Administrator shall issue a decision on such review within sixty days after receipt of an application for review as provided in subsection b.

## ARTICLE VI

### MISCELLANEOUS

**6.1 AMENDMENT.** The Employer reserves the right to amend the Plan as needed to comply with all applicable laws. However, no action of the Employer shall result in the reduction of benefits accrued as of such amendment.

**6.2 ASSIGNMENT OR ALIENATION.** The benefits payable under this Plan may not be assigned, transferred, or otherwise encumbered prior to the receipt of such payment by the Participant or beneficiary. Additionally, the benefits shall not be subject to seizure for the payment of public or private debts, judgments, alimony or separate maintenance, or be transferrable by operation of law in the event of bankruptcy or insolvency of a Participant.

**6.3 WITHHOLDING OF TAXES.** The Employer shall withhold any applicable federal, state, or local taxes with respect to the payment of benefits to the Participant or beneficiary under this Plan.

**6.4 EFFECT ON EMPLOYMENT RELATIONSHIP.** This Plan creates compensation rights only and does not create any right to continued employment of the Participant by the Employer.

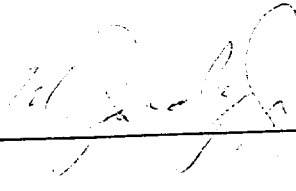
**6.5 APPLICABLE LAW.** This Plan shall be administered in the United States of America. The validity, construction, and all rights under the Plan shall be governed by the laws of the United States under ERISA. The Plan shall be administered and interpreted under Pennsylvania law to the extent such law is not preempted by ERISA.

**6.6 SEVERABILITY.** If any provision of this agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall continue to be fully effective.

**6.7 BINDING EFFECT.** This Plan shall be binding on the parties and their successors and assigns, including any successors to Employer as a result of any merger, reorganization, or sale of substantially all of the Employer's assets.

**HYDE PARK LUMBER COMPANY**

October \_\_\_\_\_, 2000

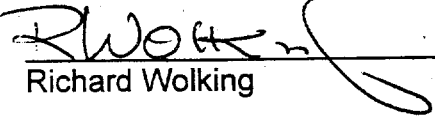
By 

**HYDE PARK LUMBER COMPANY**  
**EXECUTIVE BENEFIT PLAN FOR RICHARD WOLKING**

**Participation Acknowledgment**

As a condition of participation in the Hyde Park Lumber Company Executive Benefit Plan, I acknowledge that I have the right to choose the investments that will be used to determine the amount of my benefit under the Plan. I understand that the investments selected could increase or decrease in value and hereby release and hold harmless Hyde Park Lumber Company from any losses resulting from my selection of the investments.

Date: 12/20/2000

  
Richard Wolking

# HYDE PARK LUMBER COMPANY Executive Benefit Plan for Richard Wolking Election Form

**A. Payment Election.**

Upon termination of employment, my benefits shall be paid as follows:

1. Lump Sum.

2. Substantially equal annual payments payable over \_\_\_\_\_ years (not to exceed five years).

**B. Beneficiary Designation.**

1. Primary Beneficiary or Beneficiaries.

Name	Social Security Number	% of Benefit
Carol		

2. Contingent Beneficiary or Beneficiaries.

Name	Social Security Number	% of Benefit
Children Equally	<del>                    </del>	
Rick -		
Anthony -	Douglas -	
Nichole -	Mike -	

Date: 12/20/2000

Richard Wolking  
Richard Wolking

# DREW & WARD

A LEGAL PROFESSIONAL ASSOCIATION

2400 FOURTH & VINE TOWER  
ONE WEST FOURTH STREET  
CINCINNATI, OHIO 45202-3666

**CERTIFIED**

P 971 232 250

**MAIL**

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Room N-5644  
U.S. Department of Labor  
200 Constitution Avenue NW  
Washington, DC 20210