

**The Scotts Company LLC**

and Subsidiaries

**Scotts**

December 21, 2009

EBSA/PUBLIC DISCLOSURE

2010 JAN -4 PM 12: 14

U.S. Department of Labor  
 Employee Benefits Security Administration  
 Top Hat Plan Exemption  
 200 Constitution Avenue, N.W.; N-1513  
 Washington, D.C. 20210

**Registration Statement for "Top-Hat" Plan**

Dear Sir or Madam:

Pursuant to Department of Labor Regulation Section 2520.104-23, 40 Fed. Reg. 34533 (August 15, 1975), as amended by 54 Fed. Reg. 8629 (March 1, 1989), 67 Fed. Reg. 722, 766 (January 7, 2002), and 68 Fed. Reg. 16399, 16400 (April, 3, 2003):


The Scotts Company LLC (the "Company"), 14111 Scotts Lawn Road, Marysville, OH 43041, Employer Identification Number (EIN) 31-1414921, hereby declares that it is an employer that maintains the following employee benefit plan primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees.

The Company maintains *The Scotts Company LLC Excess Benefit Plan for Non-Grandfathered Associates* (the "Non-Grandfathered Plan"), effective January 1, 2005. The Non-Grandfathered Plan currently has eight (8) participants. It covers participants who retire, become disabled, die, or terminate employment from the Company or its affiliates on or after January 1, 2005.

The Company continues to maintain *The Scotts Company LLC Excess Benefit Plan for Grandfathered Associates* (formerly *The Scotts Company LLC Excess Benefit Plan* (the "Excess Benefit Plan")), which now covers only participants who terminated employment before January 1, 2005, or who were receiving benefits on or before December 31, 2004. The changes were made to bring the Excess Benefit Plan into compliance with Section 409A of the Internal Revenue Code and do not affect benefits.

A copy of the Non-Grandfathered Plan will be provided to the Secretary of Labor or her delegate on request as required by Section 104(a)(1) of the Employee Retirement Income Security Act of 1974, as amended.

Sincerely yours,



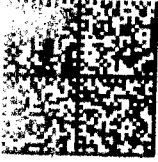
Bobbette Quinlan

cc: Mr. Ed Rathman  
 Mark S. Dray, Esq.

**The Scotts Company**

Established in 1868 Marysville, Ohio

14111 Scottslawn Road  
Marysville, OH 43041



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MAILED FROM ZIP CODE 43040

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Washington, D.C. 20210

