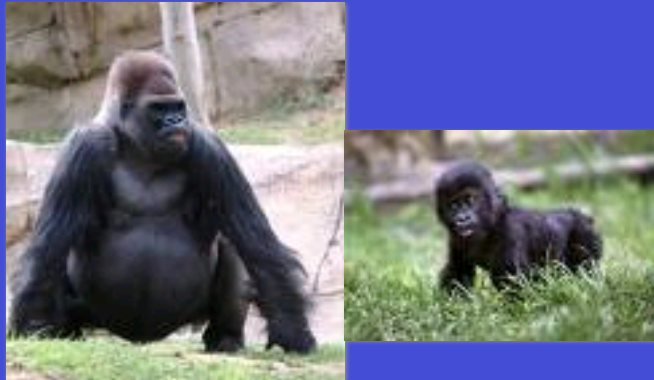


## Session 5

# REPURCHASE LIABILITY

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1

## Repurchase Liability

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**ALL STOCK REPRESENTS A CALL ON CAPITAL**

- ▶ ESOP repurchases are more normalized
- ▶ ESOP repurchases can be made with pre-tax dollars

2



## Repurchase Liability Study

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- ▶ Funding policy – required by ERISA
- ▶ Fiduciary requirements
- ▶ Frequency
- ▶ Impact on valuation
- ▶ Lender requirements

3

## Variables that Affect Repurchase Liability

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- ▶ Amount of contribution
- ▶ Growth in stock value
- ▶ Employee turnover rate
- ▶ Death & disability rates
- ▶ Actual age employees retire
- ▶ Percentage of employees who elect diversification
- ▶ Growth or decline in number of eligible employees
- ▶ Increases in wage rates

4



## **Variables that Affect Repurchase Liability**

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- ▶ Vesting schedule
- ▶ Terms of ESOP loans
- ▶ ESOP loan prepayments
- ▶ Timing of distributions
- ▶ Form of distributions – lump sum or installments
- ▶ Timing of forfeitures
- ▶ Stock repurchased by ESOP vs. repurchased by company

5

## **Funding Method #1: Pay as You Go**

---

- ▶ Keep funds invested in company
- ▶ Avoid compounding the problem
- ▶ Recycle rate of stock repurchases

6



## Example: The Normal Rate of ESOP Repurchases

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Total Market Value	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000
Pretax Earnings	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Compensation	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
% ESOP Owns	30%	30%	30%	100%	100%	100%
Years to Cycle	20	15	10	20	15	10

### Average Annual Rate of Repurchases:

% of Equity	1.5%	2.0%	3.0%	5.0%	6.7%	10.0%
% of Comp	3.8%	5.0%	7.5%	12.5%	16.7%	25.0%
% of Earnings	7.5%	10.0%	15.0%	25.0%	33.3%	50.0%

7

## Funding Method #2: Establish Investment Reserve in the Company

---

- ▶ Creates a “buffer fund”
- ▶ Avoids compounding the problem
- ▶ Becomes asset on the company’s balance sheet
- ▶ No tax deduction
- ▶ Earnings are taxable

8



### **Funding Method #3: Establish Investment Reserve in the ESOP**

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- ▶ Creates a buffer fund
- ▶ Compounds the problem
- ▶ Additional contributions are tax-deductible
- ▶ Earnings are tax exempt

9

### **Funding Method #4: Corporate-Owned Life Insurance**

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- ▶ Cash value can be borrowed from policy
- ▶ Additional cost for death benefit
- ▶ Earnings are tax-exempt
- ▶ Premiums are non-deductible
- ▶ Cash value is an asset on company's balance sheet
- ▶ Death proceeds are received tax free

10

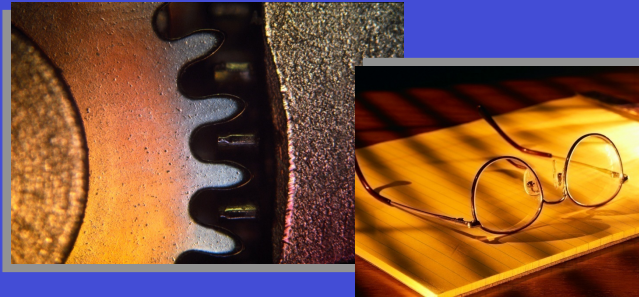


## Session 6

# Administration / Recordkeeping Basics

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### A Five Step Process



11

## Administration Procedures

### Step #1 – Plan Review/Census Review

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- ▶ Plan specifications
  - Review plan document for eligibility requirements
  - Review plan document for participation requirements
  - Review plan document for definition of covered and total compensation
- ▶ Census data
  - Compile list of new eligibles
  - Gather covered/total compensation amounts for old and new eligibles
  - Provide termination dates and type of termination
  - Census data should be provided on disk
  - Census data must be verified by client

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CENSUS VERIFICATION:		CALIFORNIA COOKIE COMPANY, INC. EMPLOYEE STOCK OWNERSHIP PLAN										PLAN YEAR END: 12/31/08		PAGE: 1
STAT/ COUNT	PARTICIPANT'S NAME DIVIS. SS#	COVERED COMPENSATION	GROSS COMPENSATION	HOURS UNITS	YOS/ YOP	VESTX	BIRTH AGE	HIRE/ REHIRE	ENTRY	TERM/ TERM2	DEFERRALS LESS CATCH-UP	401(K) MATCH	401(K) FORFS	OTHER PLAN CONTRIB
1 A	ADANSEN, DEREK 286-36-3882	75,000.00	75,000.00	1000	13	100%	05/26/36 72	02/19/96	07/01/97					
2 A	ARROKH, WILHELM M. 288-74-1540	30,000.00	30,000.00	1000	9	100%	09/05/66 42	01/01/00	01/01/01					
3 A	BAKER, ALICE A. 271-48-1973	50,000.00	50,000.00	1000	4	60%	09/08/50 58	06/14/05	07/01/06					
4 A	BIRKEL, PAM 301-56-1298	145,000.00	145,000.00	1000	6	100%	11/29/56 52	11/04/02	01/01/04					
5 A	CAMERON, SALLY 293-60-1750	120,000.00	120,000.00	1000	10	100%	07/11/72 36	07/06/98	01/01/00					
6 A	DAYS, JENNIFER 299-40-2645	25,000.00	25,000.00	1000	13	100%	11/19/45 12	10/23/95	01/01/97					
7 A	ELMAN, PATTY 236-60-8722	230,000.00	240,000.00	1000	24	100%	06/07/39 69	09/17/84	01/01/94					
8 A	HATASAKA, ELIZABETH 292-76-5655	100,000.01	100,000.01	1000	7	100%	05/28/65 43	04/20/02	07/01/03					
9 A	HILLER, DICK 294-28-9926	15,000.00	15,000.00	1000	8	100%	01/21/53 55	03/08/01	07/01/02					

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10/21/09

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CENSUS VERIFICATION:		CALIFORNIA COOKIE COMPANY, INC. EMPLOYEE STOCK OWNERSHIP PLAN										PLAN YEAR END: 12/31/08		PAGE: 2
STAT/ COUNT	PARTICIPANT'S NAME DIVIS. SS#	COVERED COMPENSATION	GROSS COMPENSATION	HOURS UNITS	YOS/ YOP	VESTX	BIRTH AGE	HIRE/ REHIRE	ENTRY	TERM/ TERM2	DEFERRALS LESS CATCH-UP	401(K) MATCH	401(K) FORFS	OTHER PLAN CONTRIB
10 R	HUSTON, PETER J. 163-38-8264	47,000.00	47,000.00	1000	14	100%	01/28/28 80	11/14/94	01/01/96	09/30/07				
11 R	TARLINO, DARLENE 163-42-0908			0	23	100%	03/11/34 74	11/12/80	01/01/94	12/31/03				

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CENSUS VERIFICATION: CALIFORNIA COOKIE COMPANY, INC. EMPLOYEE STOCK OWNERSHIP PLAN													PLAN YEAR END: 12/31/08	PAGE: 3
STAT/ COUNT	PARTICIPANT'S DIVIS. SS#	NAME	COVERED COMPENSATION	GROSS COMPENSATION	HOURS UNITS	YOS/ YOP	VEST%	BIRTH AGE	HIRE/ REHIRE	ENTRY	TERM/ TERM2	DEFERRALS LESS CATCH-UP	401(k) MATCH 401(k) FORFS	OTHER PLAN CONTRIB
12	3	RUDIGER, BARRY 295-62-4582			0	5	80%	07/09/59 49	08/27/99	01/01/01	11/10/04			

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CENSUS VERIFICATION: CALIFORNIA COOKIE COMPANY, INC. EMPLOYEE STOCK OWNERSHIP PLAN													PLAN YEAR END: 12/31/08	PAGE: 4
STAT/ COUNT	PARTICIPANT'S DIVIS. SS#	NAME	COVERED COMPENSATION	GROSS COMPENSATION	HOURS UNITS	YOS/ YOP	VEST%	BIRTH AGE	HIRE/ REHIRE	ENTRY	TERM/ TERM2	DEFERRALS LESS CATCH-UP	401(k) MATCH 401(k) FORFS	OTHER PLAN CONTRIB
13	4	RITTER, MATTHEW 274-72-6040			0	7	100%	11/17/64 44	05/25/97	07/01/98	12/15/03			

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CENSUS VERIFICATION: CALIFORNIA COOKIE COMPANY, INC. EMPLOYEE STOCK OWNERSHIP PLAN													PLAN YEAR END: 12/31/08		PAGE: 5
STAT/ COUNT	PARTICIPANT'S DIVIS. SS#	NAME	COVERED COMPENSATION	GROSS COMPENSATION	HOURS UNITS	YOS/ YOP	VEST%	BIRTH AGE	HIRE/ REHIRE	ENTRY	TERM/ TERM2	DEFERRALS LESS CATCH-UP	401(K) MATCH	401(K) FORFS	OTHER PLAN CONTRIB
14	5	HART, BETTY 504-50-9822			0	4	60%	09/25/47	03/21/99	07/01/00	09/06/02				
						9		61							
15	5	HURBERT, FRANK M. 283-48-4617			0	7	100%	02/29/48	05/25/96	07/01/94	07/15/02				
						15		60							
16	5	JONES, THELMA 291-66-4756			0	6	100%	08/15/64	01/04/98	07/01/99	09/25/03				
						10		44							

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CENSUS VERIFICATION: CALIFORNIA COOKIE COMPANY, INC. EMPLOYEE STOCK OWNERSHIP PLAN													PLAN YEAR END: 12/31/08		PAGE: 6
STAT/ COUNT	PARTICIPANT'S DIVIS. SS#	NAME	COVERED COMPENSATION	GROSS COMPENSATION	HOURS UNITS	YOS/ YOP	VEST%	BIRTH AGE	HIRE/ REHIRE	ENTRY	TERM/ TERM2	DEFERRALS LESS CATCH-UP	401(K) MATCH	401(K) FORFS	OTHER PLAN CONTRIB
17	Y	DAVIS, MARY M. 268-62-7191			0	3	100%	06/04/43	01/31/96	07/01/97	10/06/98				
						12		65							
18	Y	HOLGAR, PERRY G. 105-48-6255			0	3	100%	04/12/59	07/06/95	01/01/97	08/24/98				
						12		49							
19	Y	STEVENS, SAUL 291-74-8896			0	5	100%	08/31/65	05/04/96	07/01/97	07/01/00				
						12		43							
20	Y	VOGEL, CORIN C. 271-66-6377			0	3	100%	12/09/62	01/03/95	07/01/96	01/16/98				
						13		46							
TOTALS			837,000.01	847,000.01								0.00	0.00	0.00	0.00

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CALIFORNIA COOKIE COMPANY, INC. EMPLOYEE STOCK OWNERSHIP PLAN

PLAN YEAR END: 12/31/08 PAGE: 7

STAT/ COUNT DIVIS.	PARTICIPANT'S SS#	NAME	COVERED COMPENSATION	GROSS COMPENSATION	HOURS UNITS	YOS/ YOP	VEST%	BIRTH AGE	HIRE/ REIRE	ENTRY	TERM/ TERM2	DEFERRALS LESS CATCH-UP	401(K) MATCH 401(K) FORFS	OTHER PLAN CONTRIB
1.														
2.														
3.														
4.														
5.														
6.														
7.														
8.														
9.														
10.														
11.														
12.														
13.														
14.														
15.														

If there are any missing participants, please enter their information.

I have reviewed the above census information, and have listed all corrections required (if any), and authorize Menke & Associates, Inc. to proceed with the administration. Please sign and return this copy.

Signed by \_\_\_\_\_

Title \_\_\_\_\_

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**CALIFORNIA COOKIE COMPANY, INC.  
EMPLOYEE STOCK OWNERSHIP PLAN  
KEY AND HCE DATA REQUEST  
FOR THE PLAN YEAR ENDING 12/31/08**

Key employees must be identified for purposes of applying the top heavy rules. The key employee determination is made on the basis of a 1 year testing period, which includes the current plan year only. Below is the information that we have on file as reported by you in prior years. Please verify the data, update the information as needed, and add new employees who qualify.

List any people with an ownership interest outside of the plan. Also list all officers of the employer with gross compensation over \$150,000. Non-employees may be combined and reported as a group (on the second page of this report), but the shares listed should add up to the total employer stock outstanding, and the ownership percents should total to 100%.

\* Other plan balances should include the total account balances of all other qualified plans, i.e. 401(k), profit sharing, etc., by each employee as of 12/31/08.

Previous Key Employees:

MOST RECENT YEAR IN WHICH KEY	SS#	NAME	SHARES OWNED OUTSIDE OF PLAN	OWNERSHIP PERCENT	PLAN YEAR GROSS COMPENSATION	OFFICER (Y/N)	OTHER PLANS' BALANCES*
2008	301-56-1298	PAM BIRKEL	15,000	30 %	\$ 145,000	Y	\$ 0.00
2008	236-60-8722	PATTY ELMAN	15,000	30 %	\$ 240,000	Y	\$ 0.00



*New Key Employees:*

SS#	NAME	SHARES OWNED OUTSIDE OF PLAN	OWNERSHIP PERCENT	PLAN YEAR GROSS COMPENSATION	OFFICER (Y/N)	OTHER PLANS' BALANCES*
1.	Subtotal from prior page:		%			\$
2.			%	\$		\$
3.			%	\$		\$
4.			%	\$		\$
5.			%	\$		\$
6.			%	\$		\$
7.			%	\$		\$
8.			%	\$		\$
9.			%	\$		\$
10.			%	\$		\$
NON-PARTICIPATING EMPLOYEES (TOTALS):			%			\$
NON-EMPLOYEES (TOTALS):			%			\$
ESOP:		20,000	40 %		TOTAL FOR KEYS IN ESOP:	\$
TOTAL SHARES:		50,000	100%		TOTAL FOR KEYS NOT IN ESOP:	\$
					NON-KEY EMPLOYEES TOTAL:	\$
GRAND TOTAL OF OTHER PLANS:						\$
LESS BALANCES OF PARTICIPANTS WHO DID NOT WORK AT LEAST 1 HOUR THIS YEAR:						(\$ )
NET TOTAL FOR OTHER PLANS:						\$

*Family Attribution:*

Please list any owners who have family members employed by the employer, their familial relationship, and the family member's name and Social Security number. Family members include spouses, children, grandchildren, parents, and legally adopted children. Divorced parties and in-laws are not considered family members.

OWNER'S NAME	TYPE OF FAMILIAL RELATIONSHIP	FAMILY MEMBER'S NAME	FAMILY MEMBER'S SS#	OTHER PLANS' BALANCES*
1. _____	is the _____ of _____	_____	_____	_____
2. _____	is the _____ of _____	_____	_____	_____
3. _____	is the _____ of _____	_____	_____	_____
4. _____	is the _____ of _____	_____	_____	_____
5. _____	is the _____ of _____	_____	_____	_____

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*Distribution History:*

Distributions during the current year and preceding four years must be included in the assets of all qualified plans for purposes of the Top Heavy test, although if this plan year end is on or after December 31, 2001, the distributions for the four preceding years include only in-service withdrawals. Below is listed this plan's distribution history, as well as any other qualified plans of the employer, according to the information in our files. Please verify this data, providing any missing numbers, and complete the current year distribution totals for your other plans.

*Note: These numbers should include only employees who have worked at least one hour in the CURRENT year. If they did not work at all this year, do not include their distributions in ANY of the numbers below.*

YEAR ENDING	TOTAL ESOP DISTRIBUTIONS	DISTRIBUTIONS TO KEYS FROM ESOP	TOTAL DISTRIBUTIONS FROM ALL OTHER PLANS	DISTRIBUTIONS TO KEYS FROM ALL OTHER PLANS
<b>TOTAL DISTRIBUTIONS:</b>				
2008	\$ 0	\$ 0	\$ N/A	\$ N/A
<b>IN-SERVICE WITHDRAWALS:</b>				
2007	\$0.00	\$0.00	\$0.00	\$0.00
2006	\$0.00	\$0.00	\$0.00	\$0.00
2005	\$0.00	\$0.00	\$0.00	\$0.00
2004	\$0.00	\$0.00	\$0.00	\$0.00

Please note that in order to prepare an accurate combined Top Heavy test, we must have all the "other plan" information requested on these pages. If you have other qualified plans not administered by Menke & Associates, Inc., and someone other than Menke & Associates, Inc. will prepare the Top Heavy test, please check this box: [ ]

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*Highly Compensated Employees:*

Highly Compensated Employees (HCE) are any 5% owners (after family attribution) or any participants who earned gross annual compensation over 100000 during the prior plan year. Below are listed your plan's HCEs for current plan year according to the data in our files as reported by you last year. Please verify this information and add any new participants who earned gross compensation over 100000 during the plan year ending 12/31/07. (Do not use current plan year compensation for this calculation).

SS#	NAME
301-56-1298	PAM BIRKEL
293-60-1750	SALLY CAMERON
238-60-8722	PATTY ELMAN
292-76-5655	ELIZABETH HATASAKA

*New Highly Compensated Employees:*

	SS#	NAME	12/31/07 COMP		SS#	NAME	12/31/07 COMP
1.	_____	_____	\$ _____	6.	_____	_____	\$ _____
2.	_____	_____	\$ _____	7.	_____	_____	\$ _____
3.	_____	_____	\$ _____	8.	_____	_____	\$ _____
4.	_____	_____	\$ _____	9.	_____	_____	\$ _____
5.	_____	_____	\$ _____	10.	_____	_____	\$ _____

*Client Certification:*

I have reviewed and amended the Key and HCE data on the previous pages and understand that Menke & Associates, Inc. shall rely upon the accuracy and completeness of all information furnished herein.

\_\_\_\_\_  
Authorized Signature                      (Print Name and Title)                      Date

## Administration Procedures Step #2 – Collection of Information

- ▶ Review and sign Notice To Board of Directors
- ▶ Complete Summary Employee Census Form
- ▶ Complete Annual Administration Required Information
- ▶ Provide required data for Section 415 testing
- ▶ Complete Trustee's Statement (Asset Statement)
- ▶ Complete Income and Expense Statement (Balance Sheet)
- ▶ Complete Schedule of Assets, Purchases and Sales
- ▶ Answer Plan Transactions Sheet
- ▶ Complete Company Stock Purchase Sheets
- ▶ Complete Plan Distribution Summary
- ▶ Complete Key Employee Data
- ▶ Plan Asset Reconciliation must be approved by client



**Menke & Associates, Inc.**

**Information Required  
For Annual Administration**

**Administrative Headquarters  
255 California Street, 10<sup>th</sup> Floor  
San Francisco, CA 94111-4916  
Phone - (415) 362-5200  
FAX - (415) 318-1073**

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MENKE & ASSOCIATES, INC.  
Page 1

**NOTICE TO BOARD OF DIRECTORS**

This will serve as a reminder that your Plan provides that the Board of Directors of the company should determine any contribution to the Plan for each Plan Year.

Under the terms of the Plan, the Directors must determine by resolution either the amount of the company contribution or the method of its determination. Copies of this resolution should be sent to the Trustee, to Menke & Associates, Inc., and a copy placed in your Plan files. In order for the amount of contribution, if any, to be deductible for the current fiscal year, the total contribution must be deposited with the Plan Trustee on or before the date the company's federal income tax return is filed for such year.

**CONTRIBUTION LIMITS**

Please note that individual compensation figures must be limited to **\$230,000.00** for purposes of calculating contribution amounts.

Final IRC 415 Regulations significantly change the definition of compensation for purposes of calculating the deductible contribution limit and annual additions. It is now required that compensation paid to a terminated employee after the Plan Year, for services rendered during the Plan Year, be included in the current Plan Year Compensation. Failure to include this "post-separation" compensation for the Plan Year could result in incorrect allocations.

The company's total eligible compensation for purposes of calculating the deductible contribution limit should be calculated by adding back any 401(k) employee deferrals and any Section 125 (Cafeteria Plan) salary reductions.

Company contributions are limited to 25% of eligible compensation, whether or not the ESOP is leveraged. 401(k) employer matching contributions and 401(k) employer discretionary contributions (if any) count against this limit. Employee salary deferrals do not count against this limit.

**IMPORTANT:** The Internal Revenue Code imposes strict penalties for contributions deducted in excess of amounts allocable under ERISA Section 415 (Annual Additions Limitations).

If you have questions regarding the deductibility of your contribution, please call your Benefit Consultant before you file your corporate tax returns.

Special provision for C corporation ESOPs: If no more than one-third of the annual contribution is allocated to the Highly Compensated Group, the following items are not included in the Annual Additions Limitations:

- a) Interest paid on an ESOP loan, and
- b) Reallocated forfeitures of company stock originally purchased in a leveraged transaction

Please note: The foregoing special rule does **not** apply if your corporation is an S corporation.

A Highly Compensated Employee is an employee who is either a 5% owner or had compensation for the prior year in excess of **\$105,000.00** (as indexed) and was in the top 20% of your highest paid employees. If your Company also sponsors another defined contribution Plan (i.e., 401(k), Profit Sharing Plan or Money Purchase Pension Plan), please contact your Benefit Consultant to determine if your ESOP contains the "top paid" election. If it does, it will be necessary to contact the administrator of your other Plan(s) because all your Plans must consistently apply the "top paid" election.

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**REPORTING REQUIREMENTS**

Please note that ERISA and the IRS Code provide for the assessment of various penalties for not providing complete information and not filing the Form 5500 series in a timely manner. These penalties include \$25 a day (up to \$15,000) for not filing timely and a penalty of up to \$1,100 a day for each day a complete return is not filed per ERISA section 502(c) (2) and 29 CFR 2560.502c-2. Also, the Department of Labor now requires that participant certificates must be furnished to the participants by the deadline for the Form 5500, including extensions. Therefore, the certificates must be sent to the participants by the due date for filing your 5500 forms. Failure to provide the participant certificates by the deadline could result in penalties up to \$100 per day/per participant under ERISA Section 105(a). Therefore, the administration must be complete before the due date for filing your 5500 forms to meet the Tax Form 5500 and participant certificate deadline.

**DISTRIBUTION REQUIREMENTS**

The following information outlines two special legal provisions that become effective as your Plan Participants reach various ages.

**1. 70% Distributions (Minimum Distributions) - Effective for all Qualified Plans**

When a participant reaches age 70½, he or she may have to begin receiving benefit payments even if he/she is still employed. The "Required Minimum Distribution" amounts are calculated annually based on the participant's most current account balance, birth date, spouse's birth date, and actuarial tables. Amounts paid in excess of the Required Minimum Distribution are allowed, including Lump Sum distributions.

The first Required Minimum Distribution is due no later than April 1 following the calendar year in which the participant attains age 70½. Thereafter, a Required Minimum Distribution amount is due by December 31 each year.

The penalty for failure to make timely Required Minimum Distributions is an excise tax of 50 percent of the required distribution.

The Required Minimum Distribution requirements described above will ALWAYS be applicable to those participants who are identified as 5% owners. However, Required Minimum Distributions to non-5% owners will only be required as specifically stated in your Plan Document. In general, if your Plan became effective on or after January 1, 1986, Required Minimum Distributions will not be required for a non-5% owner who has attained age 70½ until the year following the participant's separation from the Company. If your Plan's effective date was before January 1, 1986, then generally your Plan document will continue to require Minimum Distributions to all participants who attain age 70½.

If you are uncertain whether your Plan requires Minimum Distributions to non-5% owners, please contact your Menke & Associates, Inc. Benefits Consultant.

**2. DIVERSIFICATION - Effective for Employee Stock Ownership Plans only**

Qualified participants who have reached age 55 and have 10 or more years of Plan participation must be given the opportunity to diversify a portion of their company stock accounts. Qualified participants may elect to diversify up to 25% of the company stock in their accounts acquired by the ESOP after December 31, 1986. This election is available once each year for five years and one final time in the sixth year when the diversification amount is 50% of those shares.

The company must decide how the diversification election will be satisfied:

- a. Pay the participants in cash for the shares they elect to diversify, or
- b. Offer three (3) alternative investment funds and transfer diversified amounts in accordance with the participants' elections.

The method of Diversification must be consistent for all participants.

Election forms are included in this packet and MUST BE distributed to Eligible Participants within 90 days following the Plan Year. Diversified amounts must then be distributed or transferred within 180 days following the Plan Year.

It is imperative that you provide required documentation and distribute required amounts described above in a timely manner. Failure to follow these procedures can result in tax penalties and possible Plan disqualification.

When the annual administration of your Plan is completed for the year, we will provide schedules of Eligible Participants and amounts to be paid or diversified. Therefore, it is extremely important that you complete the attached Annual Administration information and return it to Menke & Associates, Inc. at least two to three weeks before the deadlines.

**APPRAISAL REPORTS**

Please note that the updated stock appraisal for the current Plan Year must also be available two to three weeks before the deadlines.

**CORPORATE STATUS**

- My company currently operates as a C Corporation
- My company currently operates as an S Corporation (Please provide copy of Schedule K-1)

Company stock held by the ESOP represents \_\_\_\_\_% of the total outstanding shares of the Company.

Has there been any change in corporate officers during the current Plan Year?

- No
- Yes. If yes, please list below

Prior Officer

New Officer

_____	_____	_____
Name & Title	Name & Title	email address
_____	_____	_____
Name & Title	Name & Title	email address
_____	_____	_____
Name & Title	Name & Title	email address



**1042 STOCK SALES (C corporations only)**

Prior to the current Plan Year that we are administering, have any shareholders sold stock to the ESOP under the tax-free rollover provisions of §1042 of the Internal Revenue Code?

Yes  No

Is it contemplated that any shareholders will sell stock under the tax-free rollover provisions of §1042 of the Code during any future Plan Year?

Yes  No

I have read the above information and understand that Menke & Associates, Inc. shall be entitled to rely upon the accuracy and completeness of all information furnished by the client and/or Plan Trustees.

\_\_\_\_\_  
Authorized Signature Date

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
Plan Name

PLAN ADMINISTRATION CHECKLIST

Following is a checklist of the items we need to have completed and the documents we need returned to us for the administration of your Plan.

I. Please complete all applicable pages of the Annual Administration Packet as thoroughly and completely as possible.

II. Employee Census Report

III. Please forward the following documents that are checked as well as any others that are applicable to your Plan.

- Bank and/or mutual fund trust statement for all 12 months of the Plan Year
- Prior years' form 5500 and related schedules
- Prior years' participant account balance listing
- Signed Annual Administration Fee Agreement
- Logo
- Appraisal opinion letter
- Current year's allocation reports for other qualified Plans
- Copy of all participant loan documents
- S Corporation Worksheets for 409(p) Testing
- Schedule K-1 (Form 1120S)
- Top Heavy Test for 401(k) Plan and/or other Qualified Plans

Send above materials to:

MENKE & ASSOCIATES, INC.  
255 California Street, 10<sup>th</sup> Floor  
San Francisco, CA 94111-4916  
Telephone: (415) 392-8200  
FAX: (415) 318-1073



SUMMARY EMPLOYEE CENSUS FORM  
Plan Year Ending 12/31/2008

- 1. Total number of employees during the Plan Year. Include all self-employed individuals and employees of entities aggregated with the employer under Code sections 414(b) (c), (m) or (p). 25
  - 2. Number of leased employees treated as employees of any of the entities described in (1) above under Code section 414(n) or (o). 0
  - 3. Total Number of employees (add 1 & 2) 25
  - 4. Number excluded under the Plan
    - a. Minimum age or years of service 5
    - b. Employees covered under a collective bargaining agreement 10
    - c. Nonresident aliens who receive no earned income from United States sources 0
    - d. Terminated employees who completed less than 500 hours of service and were not employed on the last day of the Plan Year 0
    - e. Other (Specify) \_\_\_\_\_ 0  
(Example: Shareholders electing 1042 rollover treatment, part-time employees, excluded salaries of hourly employees (if applicable))
  - 5. Number of employees not excluded (3 - 4) 15
  - 6. Terminated employees who completed more than 500 hours of service and were not employed on the last day of the Plan Year 0
  - 7. Employees Participating (5 - 6) 10
- Are you a member of a controlled group? YES [ ] NO [  ]

If you are a member of a controlled group, please refer to the following page before completing item number 1. Section 414 of the Internal Revenue Code requires that employees of a controlled group of Corporations, employees of partnerships, proprietorships, etc. which are under common control, or employees of affiliated service groups all must be treated as though employed by a single employer. Therefore, if IRC Section 414 is applicable to this situation, all employees of all relevant entities must be considered and listed.

**IMPORTANT:** If you are a member of a controlled group, the following two items apply:

- 1. On line 1 of the Summary Employee Census Form, the "Total employed" must include the total number of employees in the entire controlled group, whether they are participants or not.
- 2. If a member of the controlled group is not participating in the Plan, for an IRS nondiscrimination test we need the following breakdown for each entity of the entire controlled group. Please use the following format:

12-Month Period Ended: 12/31/2008

N / A

Corporate Entity	Total Employees Highly Compensated Employees	Total Employees Non-highly Compensated Employees	Total Participating HCES	Total Participating NON-HCES





CONTRIBUTION AND DIVIDEND DATA

1. Contribution To Be Allocated As:

Cash Contribution		\$ 0
Stock Contribution _____ shares or \$ _____ (Dollar Value)		\$ 0
ESOP Loan Payments		
Interest (if applicable)	\$ 20,000	
Principal	\$ 120,000	
Total Loan Payments		\$ 120,000
Total Contribution (Do not include dividends in this number)		\$ 120,000

2. Current Contribution Received During the Plan Year (Date Received): \_\_\_\_\_

Interest (if applicable)	\$ _____	
Principal	\$ _____	
Other	\$ _____	
Total		\$ 0

3. Current Contribution Receivable

Interest (if applicable)	\$ 20,000	
Principal	\$ 100,000	
Other	\$ 0	
Total		\$ 120,000

4. Amount Deducted as Employer Contribution on Corporate Tax Return Must be same as Item 1 (Include Interest Expense on ESOP Loan) \$ 120,000

5. Dividends Received During the Plan Year (Date Received): \_\_\_\_\_ \$ 0

6. S Corporation Distributions Received During the Plan Year (Date Received): \_\_\_\_\_ \$ 0

Data Required for Section 415 Testing  
(To be completed if you have other qualified Plans not administered by Menke & Associates, Inc.)

For Plan Years ending in 2008, the annual additions with respect to a participant's account may not exceed the lesser of \$46,000.00 or 100 percent of the participant's gross compensation. For Plan Years ending in 2009, the annual additions with respect to a participant's account may not exceed the lesser of \$49,000.00 or 100 percent of the participant's gross compensation. For purposes of this calculation, employee salary reductions under a Sec. 401(k) Plan and employee salary reductions under a Sec. 125 Cafeteria Plan do not reduce gross compensation. However, annual additions for Sec. 415 purposes include employee salary reductions (excluding catch-up deferrals), employer matching contributions, discretionary employer contributions, and participant forfeitures, as well as all ESOP contributions.

For purposes of applying the annual addition limitation, all defined contribution Plans of an employer are treated as a single Plan (IRC Section 415(f)).

In order to insure compliance with Section 415 limitations, we must have the following information for each participant:

- |  |   |
|--|---|
| 1. Employee Deferrals (excluding catch-up deferrals) | 3. Other Discretionary Contributions    |
| 2. Employer Match                                    | 4. Reallocated Forfeitures in all Plans |

Please be sure to include this information (if applicable) when you return your packet to us.

All required data is enclosed [  ]  
Someone other than Menke & Associates, Inc. will check 415 limitations [  ]

.....  
If you have another qualified Plan not currently administered by Menke & Associates, Inc. please list the name and type of Plan.

- N / A
1. \_\_\_\_\_
  2. \_\_\_\_\_

.....  
It is an ERISA requirement that the Trust have a blanket surety bond for 10% of the total Trust Assets. The Pension Protection Act of 2006 increases the maximum bond amount for plans that hold stock issued by the by employer to 10% of the total assets up to \$1,000,000. Please provide a copy of the declaration statement from your insurance company.

1. Name of Surety Company TRAVELERS Amount \$ 100,000



TRUSTEE'S STATEMENT  
(For Self-Trusteed Plans)

	ASSETS	
	Market Value Beginning of Year	End of Year
Cash	2,800	3,100
Interest Bearing Cash (including Money Market Funds)		
CD's		
Corporate Securities (Other Than Plan Sponsor)		
Common Stocks		
Preferred Stocks		
Bonds/Notes/Debt		
*Company Stock:		
per Share price \$ 22.00 / Total Shares 20,000	440,000	
per Share price \$ 24.00 / Total Shares 20,000		480,000
U.S. Government Securities		
Loans to Participants		
Mortgage		
Other		
Securities Accounts		
Other Assets (Specify)		
Employer Contribution Receivable:		
Shares _____ @ Share \$ _____		
Cash		120,000
<b>TOTAL ASSETS</b>	<b>442,800</b>	<b>603,100</b>
Trust Identification Number (Trust EIN) 99-9999999		
*Company stock held by the ESOP represents 40 % of the total outstanding shares of the Company.		
Name of institution(s) where assets are held	BANK OF AMERICA	

LIABILITIES

	Market Value Beginning Of Year	End of Year
Note Secured by Pledged Company Stock/Number of Shares		
Principal Balance	\$ 275,000	\$ 175,000
Other Liabilities (Describe)		
	\$ _____	\$ 120,000
	\$ _____	\$ 0
INCOME AND EXPENSE		
Total Contribution (from Page 8, Item 4)		\$ 120,000
C Corporation Dividends on Company Stock		
Company Stock: \$ _____ paid per share on _____ shares		\$ 0
Date Dividend Declared _____		
a) <input type="checkbox"/> total amount paid to trust	\$ _____	Date Paid _____
b) <input type="checkbox"/> total amount passed through to participants	\$ _____	
c) <input type="checkbox"/> amount used to repay loan	\$ _____	
S Corporation Distributions		
a) <input type="checkbox"/> total amount paid to trust	\$ _____	Date Paid _____
b) <input type="checkbox"/> amount used to repay loan	\$ _____	
c) <input type="checkbox"/> amount not used to repay loan	\$ _____	
Dividends on Other Investments		\$ 0
Interest on Other Investments		\$ 300
Unrealized Gain/Loss on Investments (excluding company stock)		\$ _____
Unrealized Gain/Loss on company stock		\$ 40,000
Realized Gain/Loss on Sales		\$ _____
Miscellaneous Income (Specify)		\$ _____
Administrative Fees		\$ _____
Total Distributions to Participants (From Trustee Distribution Summary)		\$ _____
Interest Expense		
Paid on ESOP Loan		\$ 20,000
Other Interest Expense		\$ _____
Miscellaneous Expense (Specify)		\$ _____
<b>Net Change in Assets</b>		<b>\$ 140,300</b>



ESOP LOAN INFORMATION

Principal paid or to be paid with Current Year's Company Contribution	\$ <u>100,000</u>
Interest paid or to be paid with Current Year's Company Contribution	\$ <u>20,000</u>
Dividends used to repay loan	\$ <u>0</u>
S Corporation distributions used to repay loan	\$ <u>0</u>

- Please check here if this is a Section 133 loan  
 Please check here if interest only was paid on loan

NOTE:

**IMPORTANT:** Please review your loan documentation to make sure the ESOP, not the Company is listed as the "borrower." ESOP loans are most often structured as back-to-back loans; that is, the Bank will loan money to the company (the "Bank Loan") and the company will then re-loan it to the ESOP (the "ESOP Loan"). In such a case, please provide us with the principal and interest payments on the ESOP Loan, not the Bank Loan.

SCHEDULE OF ASSETS\*  
Beginning of the Year 01/01/2008 N / A

Securities	Units	Cost	Market Value
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____

SCHEDULE OF ASSETS\*  
End of the Year 12/31/2008

Securities	Units	Cost	Market Value
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____

\*You do not need to complete this page if you have provided bank and/or mutual fund statements.



Company Stock Sold From ESOP	Date Sold		
			\$ _____
			\$ _____
			\$ _____
			\$ _____

Other Investments:

PURCHASES*		
Securities	Units	
		\$ _____
		\$ _____
		\$ _____
		\$ _____
		\$ _____

SALES*		
Securities	Units	Proceeds
		\$ _____
		\$ _____
		\$ _____
		\$ _____
		\$ _____

\*You do not need to complete this page if you have provided bank and/or mutual fund statements.

PLAN TRANSACTIONS

	Yes	No
1. Did the employer fail to transmit to the Plan any participant contributions within the time period described in 29 CFR10.3-102?	_____	_____ <input checked="" type="checkbox"/>
2. Were any loans by the Plan or fixed income obligations due the Plan in default as of the close of the Plan Year or classified during the year as uncollectible? Disregard participant loans secured by participant's account balance.	_____	_____ <input checked="" type="checkbox"/>
3. Were any leases to which the Plan was a party in default or classified during the year as uncollectible?	_____	_____ <input checked="" type="checkbox"/>
4. Were there any nonexempt transactions with any party-in-interest?	_____	_____ <input checked="" type="checkbox"/>
5. Was this Plan covered by a fidelity bond?	_____	_____ <input checked="" type="checkbox"/>
6. Did the Plan have a loss, whether or not reimbursed by the Plan's fidelity bond, that was caused by fraud or dishonesty?	_____	_____ <input checked="" type="checkbox"/>
7. Did the Plan hold any assets whose current value was neither readily determinable on an established market nor set by an independent third party appraiser?	_____	_____ <input checked="" type="checkbox"/>
8. Did the Plan receive any noncash contributions whose value was neither readily determinable on an established market nor set by an independent third party appraiser?	_____ <input checked="" type="checkbox"/>	_____
9. Did the Plan have assets held for investment?	_____	_____ <input checked="" type="checkbox"/>
10. Were any Plan transaction or series of transactions in excess of 5% of the current value of Plan assets?	_____	_____ <input checked="" type="checkbox"/>
11. Were all the Plan assets either distributed to participants or beneficiaries, transferred to another Plan, or brought under the control of the PBGC?	_____	_____ <input checked="" type="checkbox"/>



Please complete the following two pages regarding company stock purchases to assure compliance with IRS regulations regarding prohibited allocations and limitations.

COMPANY STOCK PURCHASES (Non Tax-Free Rollover)  
(PART I)

Company Stock Purchases From Shareholders Who Are Not Plan Participants

Name	Shares	Cost	Date
------	--------	------	------

Company Stock Purchases From Shareholders Who Are Plan Participants  
(Do not include shares in ESOP)

Plan Participant (Seller)	Number of Shares	Cost	Related Parties*	Date
------------------------------	------------------	------	------------------	------

Please attach a separate page to describe the financing sources used for each purchase of company stock from company shareholders. For each purchase, please describe in detail whether the purchase was financed by means of a company loan, the use of existing Plan funds, the use of current contributions and/or dividends, the use of seller notes, or a combination of these sources.

\* "Related Parties" is defined as the seller's spouse, parents, grandparents, children or grandchildren who are also Plan Participants.

COMPANY STOCK PURCHASES (Tax Free Rollover)  
(PART II)

TAX-FREE ROLLOVER INFORMATION:

Please list all sellers who elected (or will elect) tax-free rollover treatment on all or part of the proceeds from the sale of Company Stock to the ESOP (IRC 1042).

SELLER	TOTAL PROCEEDS FROM SALE	PROCEEDS ROLLED OVER	Date
--------	--------------------------	----------------------	------

Please list all greater than 25% shareholders and all "Related Parties"

25% SHAREHOLDERS AND ALL "RELATED PARTIES"	NAME	RELATIONSHIP
--	------	--------------

25% + Shareholders

Related Parties to Seller

Related Parties to 25%+ Shareholders

The Internal Revenue Code states that the selling shareholders, any person owning greater than 25% in value of any class of employer securities (including shares allocated in ESOP), and "Related Parties" may not share in the allocation of the Company Stock that was purchased in a tax-free rollover transaction. However, changes in the 1986 Tax Law do allow lineal descendants of the Selling Shareholder to receive up to 5% in the aggregate of the allocated stock, provided that the selling shareholder does not own more than 25% of any class of employer securities.

NOTE: There is a 50% Excise Tax on prohibited allocations of stock purchased in an IRC 1042 transaction.

There are two definitions of "Related Parties" for application of the IRC 1042 restrictions:

1. "Related Parties" of the Selling Shareholder includes spouse, parents, grandparents, children, grandchildren, brothers, and sisters who are also Plan Participants.
2. "Related Parties" of a greater than 25% shareholder includes spouse, parents, children and grandchildren who are also Plan Participants.

There are two definitions of a "greater than 25% shareholder":

1. Any shareholder who owned more than 25% of any class of employer securities at any time during the one-year period preceding the date of a 1042 stock purchase by the ESOP.
2. Any shareholder who owns more than 25% of any class of employer securities as of the close of any Plan Year-end.



MENKE AND ASSOCIATES, INC.  
TRUSTEE'S PLAN DISTRIBUTION SUMMARY

N / A

Name/ Address	SS#	*Reason for Distrib (see below)	Date of Distribution	Stock Distribution			Cash Distribution		Total ESOP Distribution (\$)	Profit Sharing Distribution (if any)
				Company Stock Distributed (shares)	\$ Value of Shares Repurchased (\$)	Repurchased by Company (C) or Trust (T)	Cash Distribution	Tax Withheld		
	- -		/ /							
	- -		/ /							
	- -		/ /							
	- -		/ /							
	- -		/ /							
	- -		/ /							
	- -		/ /							

\* Distribution Codes: Retirement (R)      Advance (A)  
 Disability (B)                              70 1/2 (M)  
 Death (D)                                      Diversification (V)  
 Other Termination (T)

**DIVERSIFICATION DISTRIBUTION ELECTION FORM**  
**ELECTION BY ESOP PARTICIPANT**  
**TO DIVERSIFY CASH UNDER SECTION 401(a)(28) OF THE CODE**

The Tax Reform Act of 1986 provided certain ESOP participants with the right to elect to diversify a portion of their company stock accounts. Participants with ten or more years of Plan participation who have reached age 55 will have the right to elect to receive a distribution of up to 25% of the shares (reduced by prior diversification distributions) acquired by the ESOP on their behalf after December 31, 1986. This opportunity will be available once each year for five years, and one final time in the sixth year when the diversification amount will be 50% of those shares.

ESOP participants who meet these requirements will be given an opportunity each year to either leave their account intact or receive a distribution of a portion of their shares. Distributions under this provision will be treated as all other distributions in that you will be entitled to receive the value of the shares as determined by the most recent appraisal. If you do not elect to rollover your accounts, all or a portion of the amount distributed to you will be subject to federal income tax upon distribution, and, if you are under age 59 1/2 at the time of the distribution, an additional penalty income tax associated with "premature distributions" may also be assessed.

Participant's Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code \_\_\_\_\_  
 Date of Birth: \_\_\_\_/\_\_\_\_/\_\_\_\_ Social Security #: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Marital Status: \_\_\_\_\_ Not Married/Divorced \_\_\_\_\_ Married \_\_\_\_\_ Separated

Please indicate your choice and sign below:      **PRELIMINARY**

\_\_\_\_\_ I do not wish to diversify any of the company stock in my account.

\_\_\_\_\_ I wish to diversify \_\_\_\_\_% of the company stock in my account that is subject to Section 401(a)(28) of the Internal Revenue Code.

I understand that I will be given a final diversification election based on my current stock balance and the current stock price when that information is available. I further understand that if I have previously taken diversification distributions, I may or may not be eligible to receive an additional diversification distribution during the current year, depending upon the outcome of the final allocation run for the preceding Plan Year.

Participant's Signature \_\_\_\_\_ Date \_\_\_\_\_



**CALIFORNIA COOKIE COMPANY, INC. EMPLOYEE STOCK OWNERSHIP PLAN  
PLAN ASSETS RECONCILIATION  
AS OF DECEMBER 31, 2008**

Plan Transactions	Value Of Company Stock Account	Other Investments Account	Total Assets	Company Stock (Shares)
1. Total Assets as of 12/31/2007	\$440,000.00	\$2,800.00	\$442,800.00	20,000,0000
2. Liabilities as of 12/31/2007	(\$275,000.00)	\$0.00	(\$275,000.00)	0.0000
3. Net Assets as of 12/31/2007	\$165,000.00	\$2,800.00	\$167,800.00	20,000,0000
4. Apprec./Deprec. on Stock in Suspense	\$33,000.00	\$0.00	\$33,000.00	(11,000,0000)
5. Allocated Assets as of 12/31/2007	\$198,000.00	\$2,800.00	\$200,800.00	9,000,0000
6. Contribution for PYE 12/31/2008	\$0.00	\$120,000.00	\$120,000.00	0.0000
7. Principal Paid/Shares Released w/ Contribution	\$100,000.00	(\$100,000.00)	\$0.00	4,000,0000
8. Interest Paid w/ Contribution	\$0.00	(\$20,000.00)	(\$20,000.00)	0.0000
9. Gain (Loss) Allocated	\$14,000.00	\$300.00	\$14,300.00	0.0000
10. Benefits Paid	\$0.00	\$0.00	\$0.00	0.0000
11. Company Stock Repurchased	\$0.00	\$0.00	\$0.00	0.0000
12. Allocated Assets as of 12/31/2008	\$312,000.00	\$3,100.00	\$315,100.00	13,000,0000
13. Apprec./Deprec. On Stock In Suspense	(\$7,000.00)	\$0.00	(\$7,000.00)	7,000,0000
14. Net Assets as of 12/31/2008	\$305,000.00	\$3,100.00	\$308,100.00	20,000,0000
15. Liabilities	\$175,000.00	\$120,000.00	\$295,000.00	0.0000
16. Total Assets	\$480,000.00	\$123,100.00	\$603,100.00	20,000,0000

**STATEMENT OF ASSETS AS OF 12/31/2008**

	TOTAL
1. Cash	\$3,100.00
2. 20,000,000 Shares of Company Stock at \$24.00/Sh	\$480,000.00
3. Contribution Receivable	\$120,000.00
4. Total Assets as of 12/31/2008	\$603,100.00
5. Loan Payment Payable	(\$120,000.00)
6. Less Loan Liability	(\$175,000.00)
7. Net Assets	\$308,100.00
8. Apprec./Deprec. on Stock in Suspense	\$7,000.00
9. Allocated Assets	\$315,100.00

Leveraged Price:	\$25.00/share
Last Year's Price:	\$22.00/share
This Year's Price:	\$24.00/share

I have reviewed the above asset information, and certify that the assets are reported correctly. I authorized Menke & Associates, Inc. to prepare the Allocation Report for our Plan.

AUTHORIZED SIGNATURE & DATE:

45

## Administration Procedures Step #3 – Preparation of Allocation Report

- ▶ Allocation of contribution, forfeitures, dividends and investment gain or loss
- ▶ Allocation of distributions and repurchases
- ▶ Allocation report approval form must be signed by client

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CALIFORNIA COOKIE COMPANY, INC. EMPLOYEE STOCK OWNERSHIP PLAN ALLOCATION REPORT												Effective Date: 08/01/94 Allocation Date: 12/31/08 ACTIVE PARTICIPANTS			Page: 1 Date: 10/21/09 S2 SAMPLES						
ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS										
ADAMSEN, DEREK 286-36-5882												Salary: \$ 75,000.00 Years of Service: 13			BD: 05/26/36 ED: 07/01/97 HD: 02/19/96 TD: / /			Total Value: \$ 19,120.72 Vested Value: \$ 19,120.72		1	
CSA	100%	437,638	358,423	0.000	0.000	0.000	0.000	0.000	796,061	19,105.46	18,140.50										
OIA	100%	11.20	0.00	2.86	1.20	0.00	0.00	0.00	15.26	15.26											
ARROIK, WILHELM M. 288-74-1540												Salary: \$ 30,000.00 Years of Service: 9			BD: 09/05/66 ED: 01/01/01 HD: 01/01/00 TD: / /			Total Value: \$ 15,341.65 Vested Value: \$ 15,341.65		2	
CSA	100%	483,895	143,369	0.000	0.000	0.000	0.000	0.000	627,264	15,054.34	7,256.21										
OIA	100%	258.47	0.00	1.15	27.69	0.00	0.00	0.00	287.31	287.31											
BAKER, ALICE A. 271-48-1973												Salary: \$ 50,000.00 Years of Service: 4			BD: 09/08/50 ED: 07/01/06 HD: 06/14/05 TD: / /			Total Value: \$ 11,765.11 Vested Value: \$ 7,057.27		3	
CSA	60%	244,798	238,949	0.000	0.000	0.000	0.000	0.000	483,747	11,609.93	12,093.68										
OIA	60%	135.73	0.00	1.91	14.54	0.00	0.00	0.00	152.18	152.18											
BIRKEL, PAM 301-56-1298												Salary: \$ 145,000.00 Years of Service: 6			BD: 11/29/56 ED: 01/01/04 HD: 11/04/02 TD: / /			Total Value: \$ 43,389.66 Vested Value: \$ 43,389.66		4	
CSA	100%	1,100,479	692,951	0.000	0.000	0.000	0.000	0.000	1,793,430	43,042.32	35,071.63										
OIA	100%	308.72	0.00	5.54	33.08	0.00	0.00	0.00	347.34	347.34											
CAMERON, SALLY 293-60-1750												Salary: \$ 120,000.00 Years of Service: 10			BD: 07/11/72 ED: 01/01/00 HD: 07/06/98 TD: / /			Total Value: \$ 32,252.05 Vested Value: \$ 32,252.05		5	
CSA	100%	763,376	573,477	0.000	0.000	0.000	0.000	0.000	1,336,853	32,084.47	29,024.01										
OIA	100%	147.23	0.00	4.58	15.77	0.00	0.00	0.00	167.58	167.58											
DAYS, JENNIFER 299-40-2645												Salary: \$ 25,000.00 Years of Service: 13			BD: 11/19/45 ED: 01/01/97 HD: 10/23/95 TD: / /			Total Value: \$ 11,334.70 Vested Value: \$ 11,334.70		6	
CSA	100%	351,351	119,474	0.000	0.000	0.000	0.000	0.000	470,825	11,299.80	6,046.83										
OIA	100%	30.66	0.00	0.95	3.29	0.00	0.00	0.00	34.90	34.90											
ELMAN, PATTY 236-60-8722												Salary: \$ 230,000.00 Years of Service: 24			BD: 06/07/39 ED: 01/01/94 HD: 09/17/84 TD: / /			Total Value: \$ 109,989.59 Vested Value: \$ 109,989.59		7	
CSA	100%	3,461,314	1,099,164	0.000	0.000	0.000	0.000	0.000	4,560,478	109,451.47	53,182.90										
OIA	100%	478.11	0.00	8.78	51.23	0.00	0.00	0.00	538.12	538.12											

CALIFORNIA COOKIE COMPANY, INC. EMPLOYEE STOCK OWNERSHIP PLAN ALLOCATION REPORT												Effective Date: 08/01/94 Allocation Date: 12/31/08 ACTIVE PARTICIPANTS			Page: 2 Date: 10/21/09 S2 SAMPLES						
ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS										
HATASAKA, ELIZABETH 292-76-5655												Salary: \$ 100,000.01 Years of Service: 7			BD: 05/28/65 ED: 07/01/03 HD: 04/20/02 TD: / /			Total Value: \$ 28,580.65 Vested Value: \$ 28,580.65		8	
CSA	100%	704,812	477,897	0.000	0.000	0.000	0.000	0.000	1,182,709	28,385.02	24,187.33										
OIA	100%	173.25	0.00	3.82	18.56	0.00	0.00	0.00	195.63	195.63											
HILLER, DICK 294-28-9926												Salary: \$ 15,000.00 Years of Service: 8			BD: 01/21/53 ED: 07/01/02 HD: 03/08/01 TD: / /			Total Value: \$ 9,578.31 Vested Value: \$ 9,578.31		9	
CSA	100%	316,355	71,685	0.000	0.000	0.000	0.000	0.000	388,040	9,312.96	3,628.13										
OIA	100%	239.16	0.00	0.57	25.62	0.00	0.00	0.00	265.35	265.35											





CALIFORNIA COOKIE COMPANY, INC.  
 EMPLOYEE STOCK OWNERSHIP PLAN  
 ALLOCATION REPORT

Effective Date: 08/01/94  
 Allocation Date: 12/31/08  
 Summary of Accounts: ACTIVE PARTICIPANTS

Page: 3  
 Date: 10/21/09  
 S2 SAMPLES

ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/ DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS
CSA		7,864.018	3,775.389	0.000	0.000	0.000	0.000	0.000	11,639.407	279,345.77	188,632.02
OIA		1,782.53	0.00	30.16	190.98	0.00	0.00	0.00	2,003.67	2,003.67	

CALIFORNIA COOKIE COMPANY, INC.  
 EMPLOYEE STOCK OWNERSHIP PLAN  
 ALLOCATION REPORT

Effective Date: 08/01/94  
 Allocation Date: 12/31/08  
 RETIRED

Page: 4  
 Date: 10/21/09  
 S2 SAMPLES

ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/ DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS
HUSTON, PETER J. 163-38-8264 Salary: \$ 47,000.00 BD: 01/28/28 ED: 01/01/96 Years of Service: 14 HD: 11/14/94 TD: 09/30/07 Total Value: \$ 23,907.74 Vested Value: \$ 23,907.74 10											
CSA	100%	761.519	224.611	0.000	0.000	0.000	0.000	0.000	986.130	23,667.12	11,368.03
OIA	100%	215.71	0.00	1.80	23.11	0.00	0.00	0.00	240.62	240.62	
TARLINO, DARLENE 163-42-0908 Salary: \$ 0.00 BD: 03/11/34 ED: 01/01/94 Years of Service: 23 HD: 11/12/80 TD: 12/31/03 Total Value: \$ 7,839.88 Vested Value: \$ 7,839.88 11											
CSA	100%	314.387	0.000	0.000	0.000	0.000	0.000	0.000	314.387	7,545.29	0.00
OIA	100%	266.08	0.00	0.00	28.51	0.00	0.00	0.00	294.59	294.59	



CALIFORNIA COOKIE COMPANY, INC.  
 EMPLOYEE STOCK OWNERSHIP PLAN  
 ALLOCATION REPORT

Effective Date: 08/01/94  
 Allocation Date: 12/31/08  
 Summary of Accounts: RETIRED

Page: 5  
 Date: 10/21/09  
 S2 SAMPLES

ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/ DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS
CSA		1,075.906	224.611	0.000	0.000	0.000	0.000	0.000	1,300.517	31,212.41	11,368.03
OIA		481.79	0.00	1.80	51.62	0.00	0.00	0.00	535.21	535.21	

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CALIFORNIA COOKIE COMPANY, INC.  
 EMPLOYEE STOCK OWNERSHIP PLAN  
 ALLOCATION REPORT

Effective Date: 08/01/94  
 Allocation Date: 12/31/08  
 THREE YEARS BREAK IN SERVICE

Page: 6  
 Date: 10/21/09  
 S2 SAMPLES

ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/ DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS
RUDIGER, BARRY 295-62-4582					Salary: \$ 0.00	BD: 07/09/59	ED: 01/01/01	Total Value: \$ 23.35		23.35	12
					Years of Service: 5	HD: 08/27/99	TD: 11/10/04	Vested Value: \$ 18.08			
CSA	80%	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.00	0.00
OIA	80%	21.09	0.00	0.00	2.26	0.00	0.00	0.00	23.35	23.35	

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CALIFORNIA COOKIE COMPANY, INC.  
 EMPLOYEE STOCK OWNERSHIP PLAN  
 ALLOCATION REPORT

Effective Date: 08/01/94  
 Allocation Date: 12/31/08  
 Summary of Accounts: THREE YEARS BREAK IN SERVICE

Page: 7  
 Date: 10/21/09  
 S2 SAMPLES

ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/ DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS
CSA		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
DIA		21.09	0.00	0.00	2.26	0.00	0.00	0.00	25.35	25.35	

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CALIFORNIA COOKIE COMPANY, INC.  
 EMPLOYEE STOCK OWNERSHIP PLAN  
 ALLOCATION REPORT

Effective Date: 08/01/94  
 Allocation Date: 12/31/08  
 Summary of Accounts: FOUR YEARS BREAK IN SERVICE

Page: 8  
 Date: 10/21/09  
 S2 SAMPLES

ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/ DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS
RITTER, MATTHEW 274-72-6040 Salary: \$ 0.00 BD: 11/17/64 ED: 07/01/98 Years of Service: 7 HD: 05/25/97 TD: 12/15/03 Total Value: \$ 117.67 Vesting Value: \$ 117.67 13											
CSA	100%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
DIA	100%	106.28	0.00	0.00	11.39	0.00	0.00	0.00	117.67	117.67	

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CALIFORNIA COOKIE COMPANY, INC. EMPLOYEE STOCK OWNERSHIP PLAN ALLOCATION REPORT											
Effective Date: 08/01/94 Allocation Date: 12/31/08 Summary of Accounts: FOUR YEARS BREAK IN SERVICE											
ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS
CSA		0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.00	0.00
OIA		106.28	0.00	0.00	11.39	0.00	0.00	0.00	117.67	117.67	0.00

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CALIFORNIA COOKIE COMPANY, INC. EMPLOYEE STOCK OWNERSHIP PLAN ALLOCATION REPORT											
Effective Date: 08/01/94 Allocation Date: 12/31/08 Summary of Accounts: FORFEITURES & 5 YEARS BREAK IN SERVICE											
ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS
HART, BETTY 504-50-9822 Salary: \$ 0.00 BD: 09/25/47 ED: 07/01/00 Years of Service: 4 HD: 03/21/99 TD: 09/06/02 Total Value: \$ 47.93 Vested Value: \$ 47.93 14											
CSA	60%	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.00	0.00
OIA	60%	72.16	0.00	-31.96	7.73	0.00	0.00	0.00	47.93	47.93	0.00
HURBERT, FRANK M. 283-48-4617 Salary: \$ 0.00 BD: 02/29/48 ED: 07/01/94 Years of Service: 7 HD: 05/25/96 TD: 07/15/02 Total Value: \$ 139.20 Vested Value: \$ 139.20 15											
CSA	100%	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.00	0.00
OIA	100%	129.73	0.00	0.00	13.47	0.00	0.00	0.00	139.20	139.20	0.00
JONES, THELMA 291-66-4756 Salary: \$ 0.00 BD: 08/15/64 ED: 07/01/99 Years of Service: 6 HD: 01/04/98 TD: 09/25/03 Total Value: \$ 151.46 Vested Value: \$ 151.46 16											
CSA	100%	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.00	0.00
OIA	100%	136.80	0.00	0.00	14.66	0.00	0.00	0.00	151.46	151.46	0.00

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CALIFORNIA COOKIE COMPANY, INC.  
 EMPLOYEE STOCK OWNERSHIP PLAN  
 ALLOCATION REPORT

Effective Date: 08/01/94  
 Allocation Dates: 12/31/08  
 Summary of Accounts: FORFEITURES & 5 YEARS BREAK IN SERVICE

Page: 11  
 Date: 10/21/09  
 S2 SAMPLES

ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS
CSA		0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.00	0.00
OIA		334.69	0.00	-31.96	35.86	0.00	0.00	0.00	338.59	338.59	0.00

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CALIFORNIA COOKIE COMPANY, INC.  
 EMPLOYEE STOCK OWNERSHIP PLAN  
 ALLOCATION REPORT

Effective Date: 08/01/94  
 Allocation Dates: 12/31/08  
 PRIOR YEAR FORFEITURES

Page: 12  
 Date: 10/21/09  
 S2 SAMPLES

ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS
DAVIS, MARY M. 268-62-7191 Salary: \$ 0.00 BD: 06/04/43 ED: 07/01/97 Years of Service: 3 HD: 01/31/96 TD: 10/06/98 Total Value: \$ 133.08 Vested Value: \$ 133.08 17											
CSA	100%	5.545	0.000	0.000	0.000	0.000	0.000	0.000	5.545	133.08	0.00
OIA	100%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
HOLGAR, PERRY G. 105-48-6255 Salary: \$ 0.00 BD: 04/12/59 ED: 01/01/97 Years of Service: 3 HD: 07/06/95 TD: 08/24/98 Total Value: \$ 665.50 Vested Value: \$ 665.50 18											
CSA	100%	27.729	0.000	0.000	0.000	0.000	0.000	0.000	27.729	665.50	0.00
OIA	100%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
STEVENS, SAUL 291-74-8896 Salary: \$ 0.00 BD: 08/31/65 ED: 07/01/97 Years of Service: 5 HD: 05/04/96 TD: 07/01/00 Total Value: \$ 15.88 Vested Value: \$ 15.88 19											
CSA	100%	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	15.88	0.00
OIA	100%	14.34	0.00	0.00	1.54	0.00	0.00	0.00	15.88	15.88	0.00
VOGL, CORIN C. 271-66-6377 Salary: \$ 0.00 BD: 12/09/62 ED: 07/01/96 Years of Service: 3 HD: 01/03/95 TD: 01/16/98 Total Value: \$ 708.88 Vested Value: \$ 708.88 20											
CSA	100%	26.802	0.000	0.000	0.000	0.000	0.000	0.000	26.802	643.25	0.00
OIA	100%	59.28	0.00	0.00	4.35	0.00	0.00	0.00	65.63	65.63	0.00

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ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/ DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS
CSA		60.076	0.000	0.000	0.000	0.000	0.000	0.000	60.076	1,441.82	0.00
OIA		73.62	0.00	0.00	7.89	0.00	0.00	0.00	81.51	81.51	

ACCOUNT	% VESTED	LAST YEAR'S BALANCE	CURRENT CONTRIBUTION	REALLOCATED FORFEITURES	GAIN /LOSS	PURCHASES	DIVIDENDS	TRANSFER/ DISTRIBUTION	CURRENT BALANCE	CURRENT VALUE	CUMULATIVE COST BASIS
CSA		9,000.000	4,000.000	0.000	0.000	0.000	0.000	0.000	13,000.000	312,000.00	
OIA		2,800.00	0.00	0.00	300.00	0.00	0.00	0.00	3,100.00	3,100.00	

Total Value All Accounts 315,100.00

ACCOUNT	ACCT#	NAME	TYPE	ALLOCATION BASES				PURCHASE	INCL	DIVIDEND
				CONTRIBUTION	FORFEITURE	GAIN	INCL			
CO STOCK-LEV/104Z/POST	1	CSA	BASE	837,000.01000	837,000.01000	0.00000		0.00000	BT	0.00000
			NET	4,000.00000	0.00000	0.00000		0.00000		0.00000
OTHER INVESTMENTS ACCOUNT	5	OIA	BASE	0.00000	837,000.01000	2,800.00000	BT	0.00000	BT	0.00000
			NET	0.00000	31,96000	300.00000		0.00000		0.00000

The contribution and forfeitures were allocated in proportion to compensation.

KEY: \* Indicates participant's allocated values(s) have been limited and therefore excluded from bases.

INCLUDE: B=Previous Balance, C=Contribution, F=Forfeitures, G=Gain, P=Purchases, D=Dividends, T=Transfers/Distributions



ALLOCATION REPORT  
APPROVAL FORM

Plan Name: CALIFORNIA COOKIE COMPANY, INC. ESOP  
Plan Year Ended: December 31, 2008

Additional Information:

We have reviewed the allocation report dated 12/31/08 prepared by Menke & Associates, Inc. as described above and have determined that to the best of our knowledge, the information is correct. We authorize Menke & Associates, Inc. to prepare the Participant Certificates, the Tax Forms, the Distribution Worksheets and the Summary Annual Report (SAR) for our Plan. We also understand that if we request any changes to be made after our submission of this approval, and such changes are due to incorrect or incomplete information provided by us, we will be charged an allocation re-run fee for those changes.

Signature \_\_\_\_\_ Date \_\_\_\_\_

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## Administration Procedures Step #4 – Testing for Compliance

- ▶ HCE's - 1/3rd test
- ▶ Coverage requirements
- ▶ Employees of participating employers
- ▶ 401(k) deferrals
- ▶ 404 contribution limits
- ▶ 415 allocation limits
- ▶ 1042 allocation limits
- ▶ General rule vs. special rule
- ▶ Top heavy

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CALIFORNIA COOKIE COMPANY, INC.  
 EMPLOYEE STOCK OWNERSHIP PLAN  
 HIGHLY COMPENSATED EMPLOYEE TEST

PAGE: 1  
 DATE: 10/21/09  
 PYE: 12/31/08

HIGHLY COMPENSATED EMPLOYEES	PERCENT OWNERSHIP	LAST YEAR'S GROSS COMPENSATION	12/31/08 ESOP CONTRIBUTION
PATTY ELMAN	30%	\$240,000.00	\$27,479.10
PAM BIRKEL	30%	\$145,000.00	\$17,323.78
SALLY CAMERON	0%	\$120,000.00	\$14,336.93
ELIZABETH HATASAKA	0%	\$100,000.01	\$11,947.43

TOTAL HIGHLY COMPENSATED EMPLOYEES: \$71,087.24

TOTAL NON-HIGHLY COMPENSATED EMPLOYEES: \$28,912.80

GRAND TOTALS \$100,000.04

TOTAL CONTRIBUTIONS ALLOCATED TO HCE'S = \$71,087.24

DIVIDED BY = \$100,000.04

TOTAL CONTRIBUTIONS ALLOCATED TO ESOP PLAN = \$100,000.04

PERCENTAGE OF CONTRIBUTION ALLOCATED TO HCEs = 71.09 %

(Less than 33.34% passes.)

HIGHLY COMPENSATED EMPLOYEE TEST: FAILED

PLEASE NOTE: This test has been completed based on the Key Employee Data you provided in the Annual Administration Packet.

Library: J:\ESOP\ESOP - Report: HCE\_TEST, Check\_M = SAMPLES

CALIFORNIA COOKIE COMPANY, INC.  
 EMPLOYEE STOCK OWNERSHIP PLAN  
 TOP HEAVY TEST  
 PYE: 12/31/08

KEY EMPLOYEE	OWNERSHIP PERCENT	ESOP BALANCES	MINUS CONTRIBUTION RECEIVABLE	PLUS OTHER PLANS	TOTALS
MARY M. DAVIS	0%	\$133.08	\$0.00	\$0.00	excluded
BETTY HART	0%	\$47.93	\$0.00	\$0.00	excluded
PERRY G. HILGAR	0%	\$955.50	\$0.00	\$0.00	excluded
FRANK M. HURBERT	0%	\$139.20	\$0.00	\$0.00	excluded
PETER J. HUSTON	0%	\$23,067.74	-\$5,394.88	\$0.00	excluded
THELMA JONES	0%	\$151.46	\$0.00	\$0.00	excluded
MATTHEW RITTER	0%	\$117.87	\$0.00	\$0.00	excluded
GARRY RUDGER	0%	\$23.35	\$0.00	\$0.00	excluded
SALL STEVENS	0%	\$15.88	\$0.00	\$0.00	excluded
DARLENE TARLINO	0%	\$7,939.88	\$0.00	\$0.00	excluded
CORIN C. VOGEL	0%	\$708.88	\$0.00	\$0.00	excluded

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Check\_M =

SAMPLES DATE: 10/21/09





CALIFORNIA COOKIE COMPANY, INC.  
 EMPLOYEE STOCK OWNERSHIP PLAN  
 TOP HEAVY TEST  
 PYE: 12/31/08

KEY EMPLOYEE	OWNERSHIP PERCENT	ESOP BALANCES	MINUS CONTRIBUTION RECEIVABLE	PLUS OTHER PLANS	TOTALS
PAM BIRKEL	30%	\$43,389.66	-\$16,630.62	\$0.00	
PATTY ELMAN	30%	\$109,969.59	-\$28,379.94	\$0.00	
KEYS IN OTHER PLANS					
TOTAL CURRENT YEAR VALUES FOR KEY EMPLOYEES:					
					\$110,368.49
DISTRIBUTION HISTORY FOR KEY EMPLOYEES:					
DISTRIBS IN CURRENT YEAR					
					\$0.00
IN-SERVICE WITHDRAWALS:					
PRECEDING YEAR					
					\$0.00
2ND PRECEDING YEAR					
					\$0.00
3RD PRECEDING YEAR					
					\$0.00
4TH PRECEDING YEAR					
					\$0.00
					\$0.00
TOTAL VALUES FOR KEY EMPLOYEES:					
					\$110,368.49
CURRENT VALUES FOR ALL EMPLOYEES:					
					\$190,740.09
DISTRIBUTION HISTORY FOR ALL EMPLOYEES:					
CURRENT YEAR					
					\$0.00
IN-SERVICE WITHDRAWALS:					
PRECEDING YEAR					
					\$0.00
2ND PRECEDING YEAR					
					\$0.00
3RD PRECEDING YEAR					
					\$0.00
4TH PRECEDING YEAR					
					\$0.00
					\$0.00
TOTAL VALUES FOR ALL EMPLOYEES:					
					\$190,740.09
KEY TOTAL DIVIDED BY PLAN TOTAL (60% or more is Top Heavy):					57.86%

TOP HEAVY TEST - based only on data from this plan. NOT TOP HEAVY

Please Note: This test was completed based on the information you provided in the Key and HCE Data Request.

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CALIFORNIA COOKIE COMPANY, INC.  
 EMPLOYEE STOCK OWNERSHIP PLAN  
 415 TEST ESOP FORFEITURES INCLUDED IN ANNUAL ADDITIONS

PAGE: 1  
 DATE: 10/21/09  
 PYE: 12/31/08

NAME	SS#	COVERED COMP	GROSS COMP	MAXIMUM ADDITIONS	ANNUAL ADDITIONS	PERCENT	EXCESS ADDITIONS
1 DEREK ADAMSEN	XXX-XX-3882	\$75,000.00	\$75,000.00	\$46,000.00	\$8,963.44	11.95%	
2 WILHELM M. ARROHK	XXX-XX-1540	\$30,000.00	\$30,000.00	\$30,000.00	\$3,585.38	11.95%	
3 ALICE A. BAKER	XXX-XX-1973	\$50,000.00	\$50,000.00	\$46,000.00	\$5,975.64	11.95%	
4 PAM BIRKEL	XXX-XX-1298	\$145,000.00	\$145,000.00	\$46,000.00	\$17,329.32	11.95%	
5 SALLY CAMERON	XXX-XX-1750	\$120,000.00	\$120,000.00	\$46,000.00	\$14,341.51	11.95%	
6 JENNIFER DAYS	XXX-XX-2645	\$25,000.00	\$25,000.00	\$25,000.00	\$2,987.80	11.95%	
7 PATTY ELMAN	XXX-XX-8722	\$230,000.00	\$240,000.00	\$46,000.00	\$27,487.88	11.45%	
8 ELIZABETH HATASAKA	XXX-XX-5655	\$100,000.00	\$100,000.00	\$46,000.00	\$11,951.25	11.95%	
9 DICK HILLER	XXX-XX-6926	\$15,000.00	\$15,000.00	\$15,000.00	\$1,792.70	11.95%	
10 PETER J. HUSTON	XXX-XX-8264	\$47,000.00	\$47,000.00	\$46,000.00	\$5,617.08	11.95%	
			\$847,000.01	\$392,000.00	\$100,032.00		

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## **Administration Procedures**

### **Step #5 – Delivery of Year End Reports**

- ▶ Preparation of Annual Report Form 5500 and Applicable Schedules
- ▶ Independent CPA audit required if more than 100 participants
- ▶ Preparation of benefit statements and SAR
- ▶ Preparation of distribution worksheets

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## **Administration Pitfalls**

- ▶ S Corp. prohibited allocations
- ▶ §1042 prohibited allocations
- ▶ Coverage - control group test
- ▶ Combined plan limits
- ▶ Tracking different classes of stock
- ▶ Allocation of dividends
  - C Corp.
  - S Corp.
- ▶ Allocation of forfeitures
  - C Corp.
  - S Corp.

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## Adopt Missing Participant Policy

---

- ▶ Retain as a separate account in the plan
- ▶ Forfeit and reallocate
  - Reinstatement if participant returns
- ▶ Hire investigator if large amount
- ▶ Involuntary cash-out and mandatory rollover to employer sponsored IRA

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## Lost Participants/Lost Beneficiaries

---

- ▶ Letter to Social Security Administration
- ▶ \$25 fee / letter
- ▶ Separate unsealed letter to participant / beneficiary
- ▶ Send with cover letter to:

**Department of Health & Human Services**  
**Social Security Administration**  
**Office of Central Records Operations**  
**300 North Green Street**  
**Baltimore, MD 21201**

- ▶ Or call local Social Security Administration  
(1-800-772-1213)

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## Lost Participants/Lost Beneficiaries

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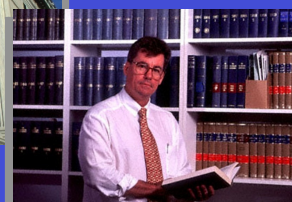
- ▶ Letter to IRS
- ▶ If fewer than 50 participants—free
  - Write request to key district directors at nearest IRS district Office.
- ▶ If more than 49 participants - \$1750 fee, plus 1 cent per address search and 50 cents per letter forwarded
- ▶ Address:

**Internal Revenue Service**  
**1111 Constitution Ave. N.W.**  
**Room 1603**  
**Washington, D.C. 20204**  
**Attn: Director, Office of Disclosures**  
**CP:EX:D**

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## Session 7 Special Problem Areas of Administration

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## Contribution in Excess of Deduction Limits—Case #1

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- ▶ **Facts:** Company A makes a contribution of \$300,000 to its ESOP prior to the end of calendar year 2010. Later it discovers that the maximum deductible contribution for 2010 was only \$200,000.
- ▶ **Issue:** Can the company declare a retroactive deductible dividend for the \$100,000 difference?  
In the alternative can the company carry forward the non-deductible amount and deduct it in 2011?
- ▶ **Addition Issue:** What if the \$300,000 contribution was made after the end of 2010?

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## Contributions in Excess of §415 Limits

---

- ▶ Reallocate
- ▶ Apply for IRS correction procedures (EPCRS)
  - Not available for
    - Violations of exclusive benefit rule
    - Egregious violations
    - Plans under examination
    - Prohibited transactions

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## Refinancing of an ESOP Loan

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- ▶ Possible Violation of exclusive benefit rule
  - Exceptions
    - Hardship
    - Increase in total benefits

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## Excluded Participants

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- ▶ Rerun allocation
- ▶ Makeup contribution

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# Participant's Statements

- ▶ Participant's Statements
  - Prior to PPA 2006-Requirement was to provide benefit statements upon request
  - Current requirement is benefit statements must be provided on at least an annual basis.
  - Statements must be received by participants by filing of tax form 5500 including extensions
  - Company could be liable for a civil penalty of \$110 per participant per day.

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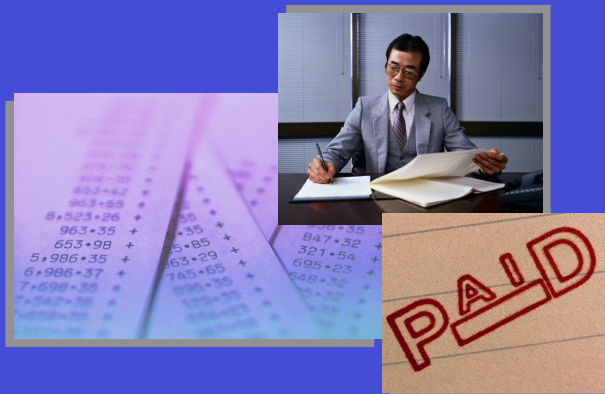
Company Name PAT DOE			
Your account(s) have been credited as follows for the period ended December 31,			
<u>COMPANY STOCK ACCOUNT</u>	<u>SHARES</u>	<u>PRICE</u>	<u>VALUE</u>
Last Year's Balance	1,000.000	\$ 13.50	\$ 13,500.00
This Year's Contribution	1,153.846	\$ 15.00	\$ 17,307.00
Share of Forfeitures	0.000	\$ 15.00	\$ 0.00
Transfers To/From OIA	42.799		\$ 577.78
Unrealized Gain/(Loss)			\$ 1,564.90
Distributions/Transfers			\$ 0.00
<b>BALANCE AS OF 12/31/08</b>	<b>2,196.645</b>	<b>\$ 15.00</b>	<b>\$ 32,949.68</b>
<u>OTHER INVESTMENTS ACCOUNT</u>			<u>VALUE</u>
Last Year's Balance			\$ 1,000.00
This Year's Contribution			\$ 384.62
Share of Forfeitures			\$ 0.00
Transfers To/From CSA			\$ (577.78)
Investment Gain/(Loss)			\$ 27.03
Distributions/Transfers			\$ 0.00
<b>BALANCE AS OF 12/31/08</b>			<b>\$ 833.87</b>



## Session 8

# GAAP Accounting Treatment

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## Accounting Standards Codification 718-40 (formerly AICPA statement of position 93-6)

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- ▶ The contribution is an expense on the income statement and a “pension, profit sharing plan” deduction on the corporate tax return
- ▶ The contribution/compensation expense is computed differently for book/GAAP purposes than for tax deduction purposes
- ▶ “Fair value” of the shares

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## Accounting for Leveraged ESOPs: Internally Leveraged

- ▶ Loans from the company: “back-to-back” loans and “mirror” loans
- ▶ For accounting purposes, there are two loans: bank-to-company and company-to-ESOP
- ▶ Only the payments on the company-to-ESOP loan are relevant for ESOP administration purposes

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## Accounting for Leveraged ESOPs: Internally Leveraged

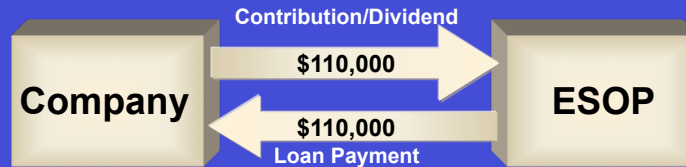


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## Accounting for Leveraged ESOPs: Internally Leveraged

- ▶ Contributions and dividends are a non-cash expense: No journal entries on cash account.

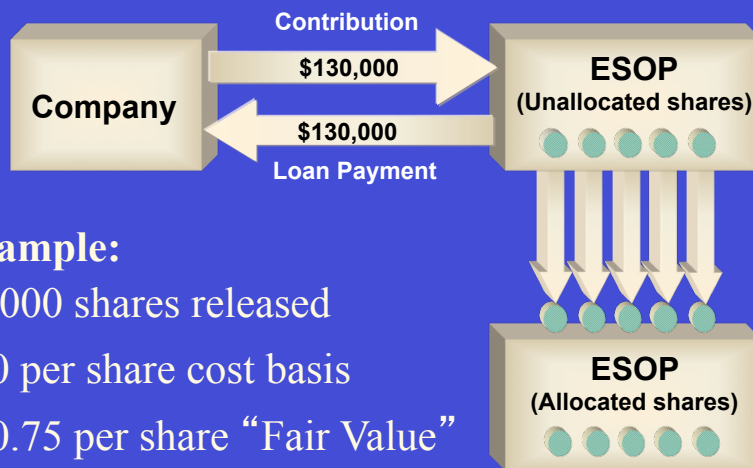


- ▶ Interest is a wash: not recorded for GAAP



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## Accounting for Leveraged ESOPs: Internally Leveraged



### Example:

10,000 shares released

\$10 per share cost basis

\$10.75 per share "Fair Value"

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## Accounting for Leveraged ESOPs: Internally Leveraged

Example (continued)

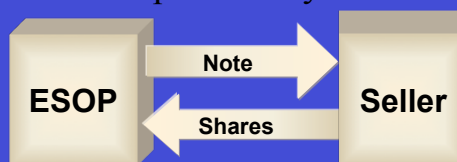
1. Tax Deduction = \$130,000
2. Journal entry for Book/GAAP purposes:

DR: Compensation Expense (10,000 shares x \$ 10.75 per share)	\$107,500
CR: Paid in Capital (plug)	\$7,500
CR: ESOP contra Equity Account ( 10,000 X \$10 per share)	\$100,000

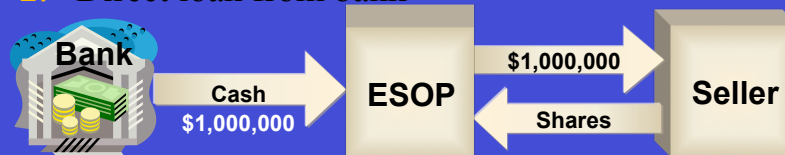
85

## Accounting for Leveraged ESOPs: Externally Leveraged

1. Seller promissory notes



2. Direct loan from bank



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# Accounting for Leveraged ESOPs: Externally Leveraged

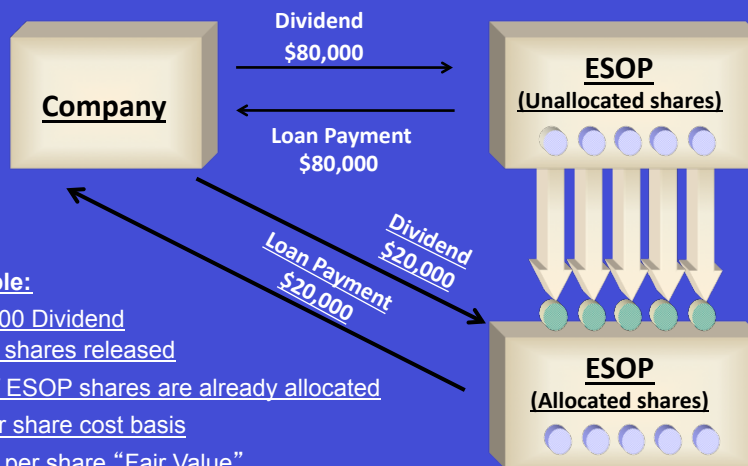


1. Tax deduction = \$96,342
2. Journal entry for BOOK/GAAP (2 sets of entries)

DR: Interest expense	\$37,500	
DR: Liability (principal)	\$58,842	
CR: Cash		\$96,342
DR: Compensation Expense (6,666.6 shares x \$10.75)	\$71,666	
CR: Paid in Capital (difference)		\$5,000
CR: ESOP contra equity (666.6 x \$10)		\$66,666

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# GAAP Accounting for Dividends



**Example:**

- \$100,000 Dividend
- 10,000 shares released
- 20% of ESOP shares are already allocated
- \$10 per share cost basis
- \$10.75 per share "Fair Value"

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# GAAP Accounting for Dividends

## 1. Dividend on unallocated shares

DR: Compensation Expense (8,000 shares x \$ 10.75 per share)	\$86,000
CR: Paid in Capital (the difference)	\$6,000
CR: ESOP contra Equity Account ( 8,000 X \$10 per share)	\$80,000

## 2. Dividend on allocated shares

DR: Retained Earnings (2,000 shares x \$ 10.75 per share)	\$21,500
CR: Paid in Capital (the difference)	\$1,500
CR: ESOP contra Equity Account ( 2,000 X \$10 per share)	\$20,000

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