

<div>Form 5500</div> <div>Department of the Treasury Internal Revenue Service</div> <div>Department of Labor Employee Benefits Security Administration</div> <div>Pension Benefit Guaranty Corporation</div>	<div>Annual Return/Report of Employee Benefit Plan</div> <div>This form is required to be filed for employee benefit plans under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6047(e), and 6058(a) of the Internal Revenue Code (the Code).</div> <div>▶ Complete all entries in accordance with the instructions to the Form 5500.</div>	<div>OMB Nos. 1210-0110 1210-0089</div> <div>2009</div> <div>This Form is Open to Public Inspection</div>
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Part I	Annual Report Identification Information
For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009	
A	This return/report is for: <div><div>☐ a multiemployer plan;</div><div>☒ a single-employer plan;</div><div>☐ a multiple-employer plan; or</div><div>☐ a DFE (specify) ____</div></div>
B	This return/report is: <div><div>☐ the first return/report;</div><div>☐ the final return/report;</div><div>☐ an amended return/report;</div><div>☐ a short plan year return/report (less than 12 months).</div></div>
C	If the plan is a collectively-bargained plan, check here. ▶ ☐
D	Check box if filing under: <div><div>☐ Form 5558;</div><div>☐ automatic extension;</div><div>☐ the DFVC program;</div><div>☐ special extension (enter description)</div></div>

Part II	Basic Plan Information—enter all requested information	
1a	Name of plan ELEMENT K 401(K) PLAN	1b Three-digit plan number (PN) ▶ 001
		1c Effective date of plan 02/11/2000
2a	Plan sponsor's name and address (employer, if for a single-employer plan) (Address should include room or suite no.) ELEMENT K 500 CANAL VIEW BLVD ROCHESTER, NY 14623	2b Employer Identification Number (EIN) 16-1599429
		2c Sponsor's telephone number 585-240-7513
		2d Business code (see instructions) 611000

Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules, statements and attachments, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE	Filed with authorized/valid electronic signature.	07/20/2010	DONNA G. MAXWELL
	Signature of plan administrator	Date	Enter name of individual signing as plan administrator
SIGN HERE	Filed with authorized/valid electronic signature.	07/21/2010	PAUL KRAUSE
	Signature of employer/plan sponsor	Date	Enter name of individual signing as employer or plan sponsor
SIGN HERE			
	Signature of DFE	Date	Enter name of individual signing as DFE

3a Plan administrator's name and address (if same as plan sponsor, enter "Same")

ELEMENT K

500 CANAL VIEW BLVD
ROCHESTER, NY 14623**3b** Administrator's EIN

16-1599429

3c Administrator's telephone number

585-240-7513

4 If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN and the plan number from the last return/report:**a** Sponsor's name**4b** EIN**4c** PN**5** Total number of participants at the beginning of the plan year**5**

569

6 Number of participants as of the end of the plan year (welfare plans complete only lines **6a**, **6b**, **6c**, and **6d**).**a** Active participants.....**6a**

353

b Retired or separated participants receiving benefits.....**6b**

0

c Other retired or separated participants entitled to future benefits.....**6c**

140

d Subtotal. Add lines **6a**, **6b**, and **6c**.....**6d**

493

e Deceased participants whose beneficiaries are receiving or are entitled to receive benefits.....**6e**

0

f Total. Add lines **6d** and **6e**.....**6f**

493

g Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item).....**6g**

481

h Number of participants that terminated employment during the plan year with accrued benefits that were less than 100% vested.....**6h**

0

7 Enter the total number of employers obligated to contribute to the plan (only multiemployer plans complete this item)**7****8a** If the plan provides pension benefits, enter the applicable pension feature codes from the List of Plan Characteristic Codes in the instructions:

2E 2F 2G 2J 2K 2S 2T 3D

b If the plan provides welfare benefits, enter the applicable welfare feature codes from the List of Plan Characteristic Codes in the instructions:**9a** Plan funding arrangement (check all that apply)(1) ☐

Insurance

(2) ☐

Code section 412(e)(3) insurance contracts

(3) ☒

Trust

(4) ☐

General assets of the sponsor

9b Plan benefit arrangement (check all that apply)(1) ☐

Insurance

(2) ☐

Code section 412(e)(3) insurance contracts

(3) ☒

Trust

(4) ☐

General assets of the sponsor

10 Check all applicable boxes in 10a and 10b to indicate which schedules are attached, and, where indicated, enter the number attached. (See instructions)**a Pension Schedules**(1) ☒**R** (Retirement Plan Information)(2) ☐**MB** (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) - signed by the plan actuary(3) ☐**SB** (Single-Employer Defined Benefit Plan Actuarial Information) - signed by the plan actuary**b General Schedules**(1) ☒**H** (Financial Information)(2) ☐**I** (Financial Information - Small Plan)(3) ☐**A** (Insurance Information)(4) ☒**C** (Service Provider Information)(5) ☒**D** (DFE/Participating Plan Information)(6) ☐**G** (Financial Transaction Schedules)

SCHEDULE C (Form 5500) Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	Service Provider Information This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA). ▶ File as an attachment to Form 5500.	OMB No. 1210-0110
		2009
		This Form is Open to Public Inspection.
For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009		
A Name of plan ELEMENT K 401(K) PLAN		B Three-digit plan number (PN) ▶ 001
C Plan sponsor's name as shown on line 2a of Form 5500 ELEMENT K		D Employer Identification Number (EIN) 16-1599429

Part I	Service Provider Information (see instructions)
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You must complete this Part, in accordance with the instructions, to report the information required for **each person** who received, directly or indirectly, \$5,000 or more in total compensation (i.e., money or anything else of monetary value) in connection with services rendered to the plan or the person's position with the plan during the plan year. If a person received **only** eligible indirect compensation for which the plan received the required disclosures, you are required to answer line 1 but are not required to include that person when completing the remainder of this Part.

1 Information on Persons Receiving Only Eligible Indirect Compensation

a Check "Yes" or "No" to indicate whether you are excluding a person from the remainder of this Part because they received only eligible indirect compensation for which the plan received the required disclosures (see instructions for definitions and conditions)..... ☒ Yes ☐ No

b If you answered line 1a "Yes," enter the name and EIN or address of each person providing the required disclosures for the service providers who received only eligible indirect compensation. Complete as many entries as needed (see instructions).

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation
AMERICAN CENTURY INVESTMENT SERVICE
44-0640487

(b) Enter name and EIN or address of person who provided you disclosure on eligible indirect compensation
BLACKROCK INVESTMENTS, INC.
23-2784752

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation
DAVIS DISTRIBUTORS, LLC
85-0360310

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation
GOLDMAN SACHS
71 SOUTH WACKER DRIVE SUITE 500 CHICAGO, IL 60606

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

LORD ABBETT DISTRIBUTOR, LLC

90 HUDSON STREET
JERSEY CITY, NJ 07032

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

MFS FUND DISTRIBUTORS, INC.

04-2747644

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

ALLIANZ GLOBAL INVESTORS DISTRIBUTO

1345 AVENUE OF THE AMERICAS
NEW YORK, NY 10105

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

T. ROWE PRICE

100 EAST PRATT STREET
BALTIMORE, MD 21202

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

2. Information on Other Service Providers Receiving Direct or Indirect Compensation. Except for those persons for whom you answered "yes" to line 1a above, complete as many entries as needed to list each person receiving, directly or indirectly, \$5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year. (See instructions).

(a) Enter name and EIN or address (see instructions)

ADP BROKER-DEALER

22-3319984

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
60 63 99	RECORD KEEPER	0	Yes ☒ No ☐	Yes ☐ No ☒	0	Yes ☒ No ☐

(a) Enter name and EIN or address (see instructions)

ADP

22-1467904

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
15 37 64 50	RECORD KEEPER	1456	Yes ☒ No ☐	Yes ☒ No ☐	0	Yes ☐ No ☒

(a) Enter name and EIN or address (see instructions)

DWS SCUDDER

222 SOUTH RIVERSIDE PLAZA
CHICAGO, IL 60606

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
63 25	INVESTMENT MANAGER	0	Yes ☒ No ☐	Yes ☒ No ☐	250	Yes ☒ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

Part I Service Provider Information (continued)

3 If you reported on line 2 receipt of indirect compensation, other than eligible indirect compensation, by a service provider, and the service provider is a fiduciary or provides contract administrator, consulting, custodial, investment advisory, investment management, broker, or recordkeeping services, answer the following questions for (a) each source from whom the service provider received \$1,000 or more in indirect compensation and (b) each source for whom the service provider gave you a formula used to determine the indirect compensation instead of an amount or estimated amount of the indirect compensation. Complete as many entries as needed to report the required information for each source.

(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
ADP BROKER-DEALER	60 63	0
(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	
ASTON FUNDS ARE DISTRIBUTED BY PFPC 161 NORTH CLARK STREET CHICAGO, IL 60601	ANNUAL RATE 0.002 OF AVERAGE DAILY ASSETS. ANNUAL RATE 0.0025 OF AVERAGE DAILY ASSETS.	
(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
ADP BROKER-DEALER	60 63	0
(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	
BLACKROCK INVESTMENTS, INC. 23-2784752	ANNUAL RATE 0.0025 OF AVERAGE DAILY ASSETS. ANNUAL RATE 0.0025 OF AVERAGE DAILY ASSETS.	
(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
ADP BROKER-DEALER	60 63	0
(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	
DAVIS DISTRIBUTORS, LLC 85-0360310	ANNUAL RATE 0.002 OF AVERAGE DAILY ASSETS. ANNUAL RATE 0.0025 OF AVERAGE DAILY ASSETS.	

Part I Service Provider Information (continued)

3 If you reported on line 2 receipt of indirect compensation, other than eligible indirect compensation, by a service provider, and the service provider is a fiduciary or provides contract administrator, consulting, custodial, investment advisory, investment management, broker, or recordkeeping services, answer the following questions for (a) each source from whom the service provider received \$1,000 or more in indirect compensation and (b) each source for whom the service provider gave you a formula used to determine the indirect compensation instead of an amount or estimated amount of the indirect compensation. Complete as many entries as needed to report the required information for each source.

(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
ADP BROKER-DEALER	60	0
(d) Enter name and EIN (address) of source of indirect compensation		(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.
DWS SCUDDER 222 SOUTH RIVERSIDE PLAZA CHICAGO, IL 60606	ANNUAL RATE 0.0025 OF AVERAGE DAILY ASSETS. ANNUAL RATE 0.0025 OF AVERAGE DAILY ASSETS.	
(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
ADP BROKER-DEALER	60 63 99	0
(d) Enter name and EIN (address) of source of indirect compensation		(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.
GOLDMAN SACHS 71 SOUTH WACKER DRIVE SUITE 500 CHICAGO, IL 60606	ANNUAL RATE 0.0015 OF AVERAGE DAILY ASSETS. ANNUAL RATE 0.0025 OF AVERAGE DAILY ASSETS. ANNUAL RATE 0.001 OF AVERAGE DAILY ASSETS.	
(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
ADP BROKER-DEALER	60	0
(d) Enter name and EIN (address) of source of indirect compensation		(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.
JANUS DISTRIBUTORS, LLC 151 DETROIT STREET DENVER, CO 80206	ANNUAL RATE 0.0025 OF AVERAGE DAILY ASSETS.	

Part I Service Provider Information (continued)

3 If you reported on line 2 receipt of indirect compensation, other than eligible indirect compensation, by a service provider, and the service provider is a fiduciary or provides contract administrator, consulting, custodial, investment advisory, investment management, broker, or recordkeeping services, answer the following questions for (a) each source from whom the service provider received \$1,000 or more in indirect compensation and (b) each source for whom the service provider gave you a formula used to determine the indirect compensation instead of an amount or estimated amount of the indirect compensation. Complete as many entries as needed to report the required information for each source.

(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
ADP BROKER-DEALER	63	0
(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	
ALLIANZ GLOBAL INVESTORS DISTRIBUTO 1345 AVENUE OF THE AMERICAS NEW YORK, NY 10105	ANNUAL RATE 0.0025 OF AVERAGE DAILY ASSETS.	
(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
ADP BROKER-DEALER	60 63	0
(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	
T. ROWE PRICE 100 EAST PRATT STREET BALTIMORE, MD 21202	ANNUAL RATE 0.0015 OF AVERAGE DAILY ASSETS. ANNUAL RATE 0.0025 OF AVERAGE DAILY ASSETS.	
(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
DWS SCUDDER	63	0
(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	
AMERICAN CENTURY INVESTMENT SERVICE 44-0640487	0.5 0.25	

Part I Service Provider Information (continued)

3 If you reported on line 2 receipt of indirect compensation, other than eligible indirect compensation, by a service provider, and the service provider is a fiduciary or provides contract administrator, consulting, custodial, investment advisory, investment management, broker, or recordkeeping services, answer the following questions for (a) each source from whom the service provider received \$1,000 or more in indirect compensation and (b) each source for whom the service provider gave you a formula used to determine the indirect compensation instead of an amount or estimated amount of the indirect compensation. Complete as many entries as needed to report the required information for each source.

(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
DWS SCUDDER	63	0
(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	
BLACKROCK INVESTMENTS, INC. 23-2784752	0.5 0.25	
(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
DWS SCUDDER	63	0
(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	
DAVIS DISTRIBUTORS, LLC 85-0360310	0.25 0.5	
(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
DWS SCUDDER	63	0
(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	
DWS INVESTMENTS DISTRIBUTOR, INC. 36-3976708	0.25 0.5	

Part I Service Provider Information (continued)

3 If you reported on line 2 receipt of indirect compensation, other than eligible indirect compensation, by a service provider, and the service provider is a fiduciary or provides contract administrator, consulting, custodial, investment advisory, investment management, broker, or recordkeeping services, answer the following questions for (a) each source from whom the service provider received \$1,000 or more in indirect compensation and (b) each source for whom the service provider gave you a formula used to determine the indirect compensation instead of an amount or estimated amount of the indirect compensation. Complete as many entries as needed to report the required information for each source.

(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
DWS SCUDDER	63	0

(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.
LORD ABBETT DISTRIBUTOR, LLC 90 HUDSON STREET JERSEY CITY, NJ 07032	0.45 0.5 0.25

(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
DWS SCUDDER	63	0

(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.
GOLDMAN SACHS 71 SOUTH WACKER DRIVE SUITE 500 CHICAGO, IL 60606	0.5 0.25

(a) Enter service provider name as it appears on line 2	(b) Service Codes (see instructions)	(c) Enter amount of indirect compensation
DWS SCUDDER	63	0

(d) Enter name and EIN (address) of source of indirect compensation	(e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.
T. ROWE PRICE 100 EAST PRATT STREET BALTIMORE, MD 21202	0.5 0.25

Part II Service Providers Who Fail or Refuse to Provide Information

4 Provide, to the extent possible, the following information for each service provider who failed or refused to provide the information necessary to complete this Schedule.

(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide
(a) Enter name and EIN or address of service provider (see instructions)	(b) Nature of Service Code(s)	(c) Describe the information that the service provider failed or refused to provide

Part III Termination Information on Accountants and Enrolled Actuaries (see instructions)
(complete as many entries as needed)

a Name:	b EIN:
c Position:	
d Address:	e Telephone:

Explanation:

a Name:	b EIN:
c Position:	
d Address:	e Telephone:

Explanation:

a Name:	b EIN:
c Position:	
d Address:	e Telephone:

Explanation:

a Name:	b EIN;
c Position:	
d Address:	e Telephone:

Explanation:

a Name:	b EIN;
c Position:	
d Address:	e Telephone:

Explanation:

<div>SCHEDULE D (Form 5500) Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration</div>	<div>DFE/Participating Plan Information</div> <div>This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA).</div> <div>► File as an attachment to Form 5500.</div>	<div>OMB No. 1210-0110</div> <div>2009</div> <div>This Form is Open to Public Inspection.</div>
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For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009		
A Name of plan ELEMENT K 401(K) PLAN	B Three-digit plan number (PN) ►	001
C Plan or DFE sponsor's name as shown on line 2a of Form 5500 ELEMENT K	D Employer Identification Number (EIN) 16-1599429	

Part I	Information on interests in MTIAs, CCTs, PSAs, and 103-12 IEs (to be completed by plans and DFEs) (Complete as many entries as needed to report all interests in DFEs)		
a Name of MTIA, CCT, PSA, or 103-12 IE: DWS STABLE VALUE FUND			
b Name of sponsor of entity listed in (a): DWS TRUST CO			
c EIN-PN 02-0432775-010	d Entity code C	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions) 2664562	
a Name of MTIA, CCT, PSA, or 103-12 IE: DWS STOCK INDEX FUND			
b Name of sponsor of entity listed in (a): DWS TRUST CO			
c EIN-PN 02-0432775-012	d Entity code C	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions) 1939172	
a Name of MTIA, CCT, PSA, or 103-12 IE:			
b Name of sponsor of entity listed in (a):			
c EIN-PN	d Entity code	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)	
a Name of MTIA, CCT, PSA, or 103-12 IE:			
b Name of sponsor of entity listed in (a):			
c EIN-PN	d Entity code	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)	
a Name of MTIA, CCT, PSA, or 103-12 IE:			
b Name of sponsor of entity listed in (a):			
c EIN-PN	d Entity code	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)	
a Name of MTIA, CCT, PSA, or 103-12 IE:			
b Name of sponsor of entity listed in (a):			
c EIN-PN	d Entity code	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)	
a Name of MTIA, CCT, PSA, or 103-12 IE:			
b Name of sponsor of entity listed in (a):			
c EIN-PN	d Entity code	e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)	

a Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)**a** Name of MTIA, CCT, PSA, or 103-12 IE:**b** Name of sponsor of entity listed in (a):**c** EIN-PN**d** Entity
code**e** Dollar value of interest in MTIA, CCT, PSA, or
103-12 IE at end of year (see instructions)

Part II Information on Participating Plans (to be completed by DFEs)

(Complete as many entries as needed to report all participating plans)

a Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN**a** Plan name**b** Name of
plan sponsor**c** EIN-PN

SCHEDULE H (Form 5500) Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	Financial Information This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA), and section 6058(a) of the Internal Revenue Code (the Code). ► File as an attachment to Form 5500.	OMB No. 1210-0110
		2009
		This Form is Open to Public Inspection

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009		
A Name of plan ELEMENT K 401(K) PLAN	B Three-digit plan number (PN) ►	001
C Plan sponsor's name as shown on line 2a of Form 5500 ELEMENT K	D Employer Identification Number (EIN) 16-1599429	

Part I	Asset and Liability Statement
---------------	--------------------------------------

1 Current value of plan assets and liabilities at the beginning and end of the plan year. Combine the value of plan assets held in more than one trust. Report the value of the plan's interest in a commingled fund containing the assets of more than one plan on a line-by-line basis unless the value is reportable on lines 1c(9) through 1c(14). Do not enter the value of that portion of an insurance contract which guarantees, during this plan year, to pay a specific dollar benefit at a future date. **Round off amounts to the nearest dollar.** MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 1b(1), 1b(2), 1c(8), 1g, 1h, and 1i. CCTs, PSAs, and 103-12 IEs also do not complete lines 1d and 1e. See instructions.

Assets		(a) Beginning of Year	(b) End of Year
a Total noninterest-bearing cash	1a		
b Receivables (less allowance for doubtful accounts):			
(1) Employer contributions	1b(1)		
(2) Participant contributions	1b(2)		
(3) Other.....	1b(3)		
c General investments:			
(1) Interest-bearing cash (include money market accounts & certificates of deposit)	1c(1)		
(2) U.S. Government securities.....	1c(2)		
(3) Corporate debt instruments (other than employer securities):			
(A) Preferred	1c(3)(A)		
(B) All other.....	1c(3)(B)		
(4) Corporate stocks (other than employer securities):			
(A) Preferred	1c(4)(A)		
(B) Common	1c(4)(B)		
(5) Partnership/joint venture interests	1c(5)		
(6) Real estate (other than employer real property)	1c(6)		
(7) Loans (other than to participants)	1c(7)		
(8) Participant loans	1c(8)	324242	292410
(9) Value of interest in common/collective trusts.....	1c(9)	4671823	4603734
(10) Value of interest in pooled separate accounts.....	1c(10)		
(11) Value of interest in master trust investment accounts	1c(11)		
(12) Value of interest in 103-12 investment entities	1c(12)		
(13) Value of interest in registered investment companies (e.g., mutual funds).....	1c(13)	9258320	12499209
(14) Value of funds held in insurance company general account (unallocated contracts).....	1c(14)		
(15) Other	1c(15)		

1d Employer-related investments:

		(a) Beginning of Year	(b) End of Year
(1) Employer securities	1d(1)		
(2) Employer real property	1d(2)		
e Buildings and other property used in plan operation	1e		
f Total assets (add all amounts in lines 1a through 1e)	1f	14254385	17395353

Liabilities

g Benefit claims payable	1g		
h Operating payables	1h		
i Acquisition indebtedness	1i		
j Other liabilities	1j		
k Total liabilities (add all amounts in lines 1g through 1j)	1k	0	0

Net Assets

l Net assets (subtract line 1k from line 1f)	1l	14254385	17395353
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Part II Income and Expense Statement

2 Plan income, expenses, and changes in net assets for the year. Include all income and expenses of the plan, including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. Round off amounts to the nearest dollar. MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 2a, 2b(1)(E), 2e, 2f, and 2g.

Income**a Contributions:**

		(a) Amount	(b) Total
(1) Received or receivable in cash from: (A) Employers	2a(1)(A)	201422	
(B) Participants	2a(1)(B)	1523771	
(C) Others (including rollovers)	2a(1)(C)	2400	
(2) Noncash contributions	2a(2)		
(3) Total contributions. Add lines 2a(1)(A) , (B) , (C) , and line 2a(2)	2a(3)		1727593

b Earnings on investments:**(1) Interest:**

(A) Interest-bearing cash (including money market accounts and certificates of deposit)	2b(1)(A)		
(B) U.S. Government securities	2b(1)(B)		
(C) Corporate debt instruments	2b(1)(C)		
(D) Loans (other than to participants)	2b(1)(D)		
(E) Participant loans	2b(1)(E)	19359	
(F) Other	2b(1)(F)		
(G) Total interest. Add lines 2b(1)(A) through (F)	2b(1)(G)		19359

(2) Dividends: (A) Preferred stock	2b(2)(A)		
(B) Common stock	2b(2)(B)		
(C) Registered investment company shares (e.g. mutual funds)	2b(2)(C)	180647	
(D) Total dividends. Add lines 2b(2)(A) , (B) , and (C)	2b(2)(D)		180647

(3) Rents	2b(3)		
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(4) Net gain (loss) on sale of assets: (A) Aggregate proceeds	2b(4)(A)		
(B) Aggregate carrying amount (see instructions)	2b(4)(B)		
(C) Subtract line 2b(4)(B) from line 2b(4)(A) and enter result	2b(4)(C)		0

		(a) Amount	(b) Total
2b (5) Unrealized appreciation (depreciation) of assets: (A) Real estate.....	2b(5)(A)		
(B) Other	2b(5)(B)		
(C) Total unrealized appreciation of assets. Add lines 2b(5)(A) and (B)	2b(5)(C)		0
(6) Net investment gain (loss) from common/collective trusts	2b(6)		486184
(7) Net investment gain (loss) from pooled separate accounts	2b(7)		
(8) Net investment gain (loss) from master trust investment accounts	2b(8)		
(9) Net investment gain (loss) from 103-12 investment entities	2b(9)		
(10) Net investment gain (loss) from registered investment companies (e.g., mutual funds).....	2b(10)		2681887
c Other income.....	2c		296
d Total income. Add all income amounts in column (b) and enter total.....	2d		5095966

Expenses

e Benefit payment and payments to provide benefits:			
(1) Directly to participants or beneficiaries, including direct rollovers	2e(1)	1915695	
(2) To insurance carriers for the provision of benefits	2e(2)		
(3) Other	2e(3)		
(4) Total benefit payments. Add lines 2e(1) through (3)	2e(4)		1915695
f Corrective distributions (see instructions)	2f		2096
g Certain deemed distributions of participant loans (see instructions).....	2g		35751
h Interest expense.....	2h		
i Administrative expenses: (1) Professional fees	2i(1)		
(2) Contract administrator fees	2i(2)		
(3) Investment advisory and management fees	2i(3)		
(4) Other	2i(4)	1456	
(5) Total administrative expenses. Add lines 2i(1) through (4)	2i(5)		1456
j Total expenses. Add all expense amounts in column (b) and enter total.....	2j		1954998

Net Income and Reconciliation

k Net income (loss). Subtract line 2j from line 2d	2k		3140968
l Transfers of assets:			
(1) To this plan.....	2l(1)		
(2) From this plan	2l(2)		

Part III Accountant's Opinion

3 Complete lines 3a through 3c if the opinion of an independent qualified public accountant is attached to this Form 5500. Complete line 3d if an opinion is not attached.

a The attached opinion of an independent qualified public accountant for this plan is (see instructions):

(1) ☐ Unqualified (2) ☐ Qualified (3) ☒ Disclaimer (4) ☐ Adverse

b Did the accountant perform a limited scope audit pursuant to 29 CFR 2520.103-8 and/or 103-12(d)? ☒ Yes ☐ No

c Enter the name and EIN of the accountant (or accounting firm) below:

(1) Name: BAILEY, CARR & CO.

(2) EIN: 16-1328984

d The opinion of an independent qualified public accountant is **not attached** because:

(1) ☐ This form is filed for a CCT, PSA, or MTIA. (2) ☐ It will be attached to the next Form 5500 pursuant to 29 CFR 2520.104-50.

Part IV Compliance Questions

- 4** CCTs and PSAs do not complete Part IV. MTIAs, 103-12 IEs, and GIAs do not complete 4a, 4e, 4f, 4g, 4h, 4k, 4m, 4n, or 5. 103-12 IEs also do not complete 4j and 4l. MTIAs also do not complete 4l.

During the plan year:

	Yes	No	Amount
a Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's Voluntary Fiduciary Correction Program.).....		X	
b 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. (Attach Schedule G (Form 5500) Part I if "Yes" is checked.).....		X	
c Were any leases to which the plan was a party in default or classified during the year as uncollectible? (Attach Schedule G (Form 5500) Part II if "Yes" is checked.)		X	
d Were there any nonexempt transactions with any party-in-interest? (Do not include transactions reported on line 4a. Attach Schedule G (Form 5500) Part III if "Yes" is checked.).....		X	
e Was this plan covered by a fidelity bond?.....	X		2000000
f Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?		X	
g 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?		X	
h 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?		X	
i Did the plan have assets held for investment? (Attach schedule(s) of assets if "Yes" is checked, and see instructions for format requirements.).....	X		
j Were any plan transactions or series of transactions in excess of 5% of the current value of plan assets? (Attach schedule of transactions if "Yes" is checked, and see instructions for format requirements.).....		X	
k Were all the plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC?.....		X	
l Has the plan failed to provide any benefit when due under the plan?		X	
m If this is an individual account plan, was there a blackout period? (See instructions and 29 CFR 2520.101-3.).....		X	
n If 4m was answered "Yes," check the "Yes" box if you either provided the required notice or one of the exceptions to providing the notice applied under 29 CFR 2520.101-3.			

- 5a** Has a resolution to terminate the plan been adopted during the plan year or any prior plan year?
If yes, enter the amount of any plan assets that reverted to the employer this year ☐ Yes ☒ No Amount:

- 5b** If, during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions.)

5b(1) Name of plan(s)

5b(2) EIN(s)

5b(3) PN(s)

5b(1) Name of plan(s)	5b(2) EIN(s)	5b(3) PN(s)

SCHEDULE R (Form 5500) Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	Retirement Plan Information This schedule is required to be filed under section 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code). ▶ File as an attachment to Form 5500.	OMB No. 1210-0110 2009 This Form is Open to Public Inspection.
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For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A Name of plan <u>ELEMENT K 401(K) PLAN</u>	B Three-digit plan number (PN) ▶ <u>001</u>
C Plan sponsor's name as shown on line 2a of Form 5500 <u>ELEMENT K</u>	D Employer Identification Number (EIN) <u>16-1599429</u>

Part I	Distributions
---------------	----------------------

All references to distributions relate only to payments of benefits during the plan year.

1 Total value of distributions paid in property other than in cash or the forms of property specified in the instructions.....	1	<u>0</u>
2 Enter the EIN(s) of payor(s) who paid benefits on behalf of the plan to participants or beneficiaries during the year (if more than two, enter EINs of the two payors who paid the greatest dollar amounts of benefits): EIN(s): <u>57-1198022</u>		
Profit-sharing plans, ESOPs, and stock bonus plans, skip line 3.		
3 Number of participants (living or deceased) whose benefits were distributed in a single sum, during the plan year.....	3	

Part II	Funding Information (If the plan is not subject to the minimum funding requirements of section 412 of the Internal Revenue Code or ERISA section 302, skip this Part)
----------------	--

4 Is the plan administrator making an election under Code section 412(d)(2) or ERISA section 302(d)(2)?.....	☐ Yes	☐ No	☐ N/A
If the plan is a defined benefit plan, go to line 8.			
5 If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions and enter the date of the ruling letter granting the waiver. Date: Month _____ Day _____ Year _____ If you completed line 5, complete lines 3, 9, and 10 of Schedule MB and do not complete the remainder of this schedule.			
6 a Enter the minimum required contribution for this plan year	6a		
b Enter the amount contributed by the employer to the plan for this plan year	6b		
c Subtract the amount in line 6b from the amount in line 6a. Enter the result (enter a minus sign to the left of a negative amount).....	6c		
If you completed line 6c, skip lines 8 and 9.			
7 Will the minimum funding amount reported on line 6c be met by the funding deadline?	☐ Yes	☐ No	☐ N/A
8 If a change in actuarial cost method was made for this plan year pursuant to a revenue procedure providing automatic approval for the change or a class ruling letter, does the plan sponsor or plan administrator agree with the change?.....	☐ Yes	☐ No	☐ N/A

Part III	Amendments
-----------------	-------------------

9 If this is a defined benefit pension plan, were any amendments adopted during this plan year that increased or decreased the value of benefits? If yes, check the appropriate box(es). If no, check the "No" box.....	☐ Increase	☐ Decrease	☐ Both	☐ No
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Part IV	ESOPs (see instructions). If this is not a plan described under Section 409(a) or 4975(e)(7) of the Internal Revenue Code, skip this Part.
----------------	---

10 Were unallocated employer securities or proceeds from the sale of unallocated securities used to repay any exempt loan?.....	☐ Yes	☐ No
11 a Does the ESOP hold any preferred stock?	☐ Yes	☐ No
b If the ESOP has an outstanding exempt loan with the employer as lender, is such loan part of a "back-to-back" loan? (See instructions for definition of "back-to-back" loan.)	☐ Yes	☐ No
12 Does the ESOP hold any stock that is not readily tradable on an established securities market?	☐ Yes	☐ No

For Paperwork Reduction Act Notice and OMB Control Numbers, see the instructions for Form 5500.

Schedule R (Form 5500) 2009
v.092308.1

Part V Additional Information for Multiemployer Defined Benefit Pension Plans

13 Enter the following information for each employer that contributed more than 5% of total contributions to the plan during the plan year (measured in dollars). See instructions. *Complete as many entries as needed to report all applicable employers.*

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

a Name of contributing employer

b EIN

c Dollar amount contributed by employer

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify): _____

- 14** Enter the number of participants on whose behalf no contributions were made by an employer as an employer of the participant for:

a The current year	14a	
b The plan year immediately preceding the current plan year	14b	
c The second preceding plan year	14c	

- 15** Enter the ratio of the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the current plan year to:

a The corresponding number for the plan year immediately preceding the current plan year	15a	
b The corresponding number for the second preceding plan year	15b	

- 16** Information with respect to any employers who withdrew from the plan during the preceding plan year:

a Enter the number of employers who withdrew during the preceding plan year	16a	
b If item 16a is greater than 0, enter the aggregate amount of withdrawal liability assessed or estimated to be assessed against such withdrawn employers	16b	

- 17** If assets and liabilities from another plan have been transferred to or merged with this plan during the plan year, check box and see instructions regarding supplemental information to be included as an attachment. ☐

Part VI Additional Information for Single-Employer and Multiemployer Defined Benefit Pension Plans

- 18** If any liabilities to participants or their beneficiaries under the plan as of the end of the plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under two or more pension plans as of immediately before such plan year, check box and see instructions regarding supplemental information to be included as an attachment ☐

- 19** If the total number of participants is 1,000 or more, complete items (a) through (c)

- a** Enter the percentage of plan assets held as:

Stock: _____% Investment-Grade Debt: _____% High-Yield Debt: _____% Real Estate: _____% Other: _____%

- b** Provide the average duration of the combined investment-grade and high-yield debt:

☐ 0-3 years ☐ 3-6 years ☐ 6-9 years ☐ 9-12 years ☐ 12-15 years ☐ 15-18 years ☐ 18-21 years ☐ 21 years or more

- c** What duration measure was used to calculate item 19(b)?

☐ Effective duration ☐ Macaulay duration ☐ Modified duration ☐ Other (specify): _____

ELEMENT K 401(k) PLAN

ADVISORY COMMENT LETTER

DECEMBER 31, 2009

Bailey, Carr & Co.

CERTIFIED PUBLIC ACCOUNTANTS

July 14, 2010

To the 401(k) Committee
Element K 401(k) Plan

Except as discussed in the following paragraph, in planning and performing our audit of the financial statements of Element K 401(k) Plan as of and for the year ended December 31, 2009, in accordance with auditing standards generally accepted in the United States of America, we considered the Element K 401(k) Plan's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of issuing our report but not for the purpose of expressing an opinion on the effectiveness of the Plan's internal control. Accordingly, we do not express an opinion on the effectiveness of the Plan's internal control.

We were engaged to perform a DOL limited scope audit of these financial statements as permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee's Retirement Income Security Act of 1974. Our audit did not include all of the procedures required by U. S. generally accepted auditing standards and did not include a consideration of internal control relating to the information summarized in Notes C & D and the Supplemental Schedule to those financial statements. Because of the significance of the information that we did not audit, we were unable to, and did not, express an opinion on those financial statements.

Our consideration of internal control was for a limited purpose described in the first two paragraphs and would not necessarily identify all deficiencies or material weaknesses. We did not identify any deficiencies in internal control that we consider to be material weaknesses, as defined above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency or a combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the plan's financial statements will not be prevented, or detected and corrected on a timely basis.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

During the course of our audit of the financial statements of Element K 401(k) Plan, as of and for the year ended December 31, 2009, we have updated the following comment that was included in our letter dated August 13, 2010 and is included in our current letter for information purposes. We do not consider this matter to be a significant deficiency or material weakness.

Deficiency

The Company does not have an official Whistleblower policy. We believe it would be beneficial to develop a policy that meets regulatory compliance requirements and promotes internal control.

Management response

Development of a whistle blowing policy is in process.

We have discussed these comments with Plan personnel and would be pleased to discuss it in further detail at your convenience or to assist you in implementing the recommendations

This communication is intended solely for the information and use of the 401(k) Committee and management of Element K 401(k) Plan, and is not intended to be and should not be used by anyone other than these specified parties.

* * * * *

We would like to express our appreciation for the courtesies and cooperation extended to us by Kathryn Ribbeck and her staff. It is a continued honor and privilege to serve the Element K 401(k) Plan. Should you have any questions or comments, please contact Patricia M. Cummings, CPA.

Very truly yours,


Bailey, Carr & Co.
Certified Public Accountants

SCHEDULE H, LINE 4i - SCHEDULE OF ASSETS (HELD AT END OF YEAR)
AS OF: 12/31/2009

PAGE 1

Plan Name: ELEMENT K 401(K) PLAN
Plan Number: 001

Employer EIN: 16-1599429
Run Date: 05/25/2010

(a) (b) Identity of Issue, Borrower, Lessor or Similar Party	(c) Description of Investment (Maturity Date, Rate of Int, Collateral, Par or Maturity Value)	(d) Cost	(e) Current Value
DWS STABLE VALUE FUND	Common / Collective Trust	2,664,562.1700	n/a
DWS STOCK INDEX FUND	Common / Collective Trust	53,055.3284	n/a
DAVIS NEW YORK VENTURE FUND- A	Registered Investment Company	4,159.8485	n/a
AC STRAT ALLOC CONS FUND - INV	Registered Investment Company	24,681.9118	n/a
AC STRATEGIC ALLOC MOD FD- INV	Registered Investment Company	106,822.4678	n/a
AC STRAT ALLOC AGG FUND- INV	Registered Investment Company	53,966.9257	n/a
T. ROWE PRICE GR STOCK FD -ADV	Registered Investment Company	78,595.0978	n/a
MFS TECHNOLOGY - A	Registered Investment Company	68,944.0951	n/a
BLACKROCK EQUITY DIVIDEND - A	Registered Investment Company	4,413.0639	n/a
LORD ABBETT SM-CAP BLEND -P	Registered Investment Company	29,079.2733	n/a
GS MID CAP VALUE FUND - A	Registered Investment Company	32,798.5151	n/a
PIMCO TOTAL RETURN - ADMIN	Registered Investment Company	177,137.7082	n/a
MFS INTERNATIONAL VALUE - A	Registered Investment Company	75,772.1081	n/a
DWS GLOBAL SMALL CAP GROWTH S	Registered Investment Company	56,995.7034	n/a
MFS TOTAL RETURN - A	Registered Investment Company	73,739.4705	n/a
DWS STRATEGIC VALUE-A	Registered Investment Company	14,860.6400	n/a
Participant Loans	Interest Rates (4.25% to 9.25%)		n/a
	TOTAL		17,437,966.35

NOTE: The following is specifically for Form 5500 reporting.
The difference between Participant Loans on this Schedule and Participant Loans reported on Form 5500 Schedule H or I is the amount of DDLs. Loan amounts shown here include DDLs, while loan amounts reported on 5500 forms do not include DDLs.

Trust_062916.txt

RUN DATE: 05/25/2010

SCHEDULE H, LINE 4i - SCHEDULE OF ASSETS (ACQUIRED AND DISPOSED OF WITHIN YEAR)
Period: 01/01/2009 through 12/31/2009

PAGE 1

Plan Name: ELEMENT K 401(K) PLAN
Plan Number: 001

Employer EIN: 16-1599429

Run Date: 05/25/2010

(a) Identity of Issue, Borrower, or Similar Party	(b) Description of Investment (Maturity Date, Rate of Int, Collateral, Par or Maturity Value)	(c) Cost of Acquisitions	(d) Proceeds of Dispositions
--	--	-----------------------------	---------------------------------

NOTE: IN ACCORDANCE WITH SPECIFIC INSTRUCTIONS, ACQUISITIONS
AND DISPOSITIONS OF CERTAIN TYPES OF ASSETS NEED NOT
BE REPORTED. THESE INCLUDE FUNDS OF COMMON/COLLECTIVE
TRUSTS AND REGISTERED INVESTMENT COMPANIES.

ELEMENT K 401(k) PLAN
FINANCIAL STATEMENTS
FOR THE YEARS ENDED
DECEMBER 31, 2009 AND DECEMBER 31, 2008

(With Independent Auditors' Report Thereon)

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Bailey, Carr & Co.

CERTIFIED PUBLIC ACCOUNTANTS

July 14, 2010

To the Plan Administrator of the
Element K 401(k) Plan
Rochester, New York

INDEPENDENT AUDITORS' REPORT

We were engaged to audit the accompanying statements of net assets available for benefits of the Element K 401(k) Plan as of December 31, 2009 and December 31, 2008 and for the related statement of changes in net assets available for benefits for the years ended December 31, 2009 and December 31, 2008 and the supplemental schedule of assets held for investment purposes as of and for the year ended December 31, 2009. These financial statements and supplemental schedule are the responsibility of the Plan's management.

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, the Plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the information summarized in Notes C and D, which was certified by DWS Trust Company, the Trustee of the Plan, except for comparing such information with the related information included in the financial statements and supplemental schedule. We have been informed by the Plan administrator that the Trustee holds the Plan's investment assets and executes investment transactions. The Plan administrator has obtained a certification from the Trustee as of and for the years ended December 31, 2009 and December 31, 2008, that the information provided to the Plan administrator by the Trustee is complete and accurate.

Because of the significance of the information that we did not audit, we are unable to, and do not, express an opinion on the accompanying financial statements and supplemental schedule taken as a whole. The form and content of the information included in the financial statements and supplemental schedule, other than that derived from the information certified by the Trustee, have been audited by us in accordance with auditing standards generally accepted in the United States of America and, in our opinion, are presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.


Bailey, Carr & Co.
Certified Public Accountants

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ELEMENT K 401(k) PLAN

COMPARATIVE STATEMENTS OF NET ASSETS AVAILABLE FOR BENEFITS
DECEMBER 31, 2009 AND DECEMBER 31, 2008

	<u>2009</u>	<u>2008</u>
<u>ASSETS</u>		
Investments, at fair value		
Mutual funds	\$ 12,499,208	\$ 9,258,320
Common/collective trusts	4,603,734	4,671,823
Participant loans	<u>335,023</u>	<u>336,674</u>
TOTAL INVESTMENTS	17,437,965	14,266,817
<u>LIABILITIES</u>		
Excess contributions		
Refundable to participants	- 0 -	2,131
Refundable to employer	<u>- 0 -</u>	<u>510</u>
TOTAL LIABILITIES	<u>- 0 -</u>	<u>2,641</u>
<u>NET ASSETS AVAILABLE FOR BENEFITS</u>	<u>\$ 17,437,965</u>	<u>\$ 14,264,176</u>

The accompanying notes are an integral part of these statements.

ELEMENT K 401(k) PLAN

COMPARATIVE STATEMENTS OF CHANGES IN NET ASSETS
AVAILABLE FOR BENEFITS
YEARS ENDED DECEMBER 31, 2009 AND DECEMBER 31, 2008

	<u>2009</u>	<u>2008</u>
<u>ADDITIONS TO NET ASSETS ATTRIBUTED TO INVESTMENT INCOME</u>		
Investment Income	\$ (493,885)	\$ 557,675
Net appreciation (depreciation) in fair value of investments	<u>3,862,258</u>	<u>(6,013,557)</u>
<u>TOTAL INVESTMENT INCOME (LOSS)</u>	<u>3,368,373</u>	<u>(5,455,882)</u>
<u>CONTRIBUTIONS</u>		
Participants'	1,525,901	2,021,882
Participant rollovers	2,400	36,872
Employer's	<u>201,933</u>	<u>249,981</u>
<u>TOTAL CONTRIBUTIONS</u>	<u>1,730,234</u>	<u>2,308,735</u>
<u>TOTAL ADDITIONS (SUBTRACTIONS)</u>	<u>5,098,607</u>	<u>(3,147,147)</u>
<u>DEDUCTIONS FROM NET ASSETS ATTRIBUTED TO</u>		
Benefits paid directly to participants	1,918,227	1,467,130
In-service withdrawal	3,039	29,428
Excess deferrals refunded to participants	2,096	- 0 -
Administrative fees	<u>1,456</u>	<u>1,856</u>
<u>TOTAL DEDUCTIONS</u>	<u>1,924,818</u>	<u>1,498,414</u>
<u>NET INCREASE (DECREASE) IN NET ASSETS</u>	<u>3,173,789</u>	<u>(4,645,561)</u>
<u>NET ASSETS AVAILABLE FOR BENEFITS AT BEGINNING OF YEAR</u>	<u>14,264,176</u>	<u>18,909,737</u>
<u>NET ASSETS AVAILABLE FOR BENEFITS AT END OF YEAR</u>	<u>\$ 17,437,965</u>	<u>\$ 14,264,176</u>

The accompanying notes are an integral part of these statements.

ELEMENT K 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 2009 AND DECEMBER 31, 2008

NOTE A: DESCRIPTION OF PLAN

The following description of the Element K 401(k) Plan (the "Plan") provides only general information. Participants should refer to the Plan Document for a more complete description of the Plan's provisions.

1. General

The Plan is a participant - directed defined contribution plan available to all employees meeting eligibility requirements as defined below. The Plan was established by Element K Online LLC ("Element K Online") effective February 11, 2000. On February 1, 2004, the Plan updated its name from Element K Online LLC to Element K LLC (the "Company") and merged all entities into one Plan.

Effective as of January 24, 2005, the Company amended the maximum deferral percentage for highly compensated employees to 7% of the gross salary per payroll period. Within the same amendment the Company adopted an automatic enrollment process to the Plan effective April 1, 2005. Pursuant to this amendment, the default deferral percentage contribution is set at 2% per pay period unless a participant affirmatively elects a different percentage or elects not to contribute.

Effective as of March 28, 2005, the Company changed the benefits payments policy relating to an involuntary cashout that exceeds \$1,000 up to \$5,000. If the participant does not elect to receive payment of his/her benefit or to roll the benefits over to an eligible retirement plan, the benefit will be transferred in a direct rollover to an individual retirement account or annuity in the participant's name with a financial institution designated by the Plan Administrator. After this transfer, the participant will have the rights provided to account holders under the terms of the individual retirement account or annuity.

In May 2005, the Company sold the division of Element K Press LLC ("Journals"). The participants from Journals were terminated and, where applicable, balances were distributed to participants.

Effective as of October 1, 2006, the Company reinstated the 401(k) match to the Plan.

On August 2, 2006, Element K LLC was purchased along with all other Element K related entities by NIIT (USA), Inc. As a result of this purchase, a plan of reorganization was implemented and Element K LLC was merged into Element K Corp. on December 20, 2006.

As a result of the merger on December 20, 2006, the Plan updated it's name on January 1, 2007 from Element K LLC to Element K Corporation.

ELEMENT K 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 2009 AND DECEMBER 31, 2008

NOTE A: DESCRIPTION OF PLAN - (Continued)

Effective as of January 1, 2008, the Plan allows catch up contributions for participants who have attained age 50 and non highly compensated employees are allowed to contribute up to a maximum of 50% of their salary.

The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA").

2. Eligibility

Under the provisions of the Plan, all employees of the Company become eligible to participate in the Plan on the first day of the month following the date of hire and after attainment of age 18. To be eligible for the Company's discretionary contributions, participants must also complete 1,000 hours of service during the Plan year and be a participant on the last day of the Plan year, or retire, die, or become disabled during the Plan year.

3. Participant Accounts

Individual accounts are maintained for each participant. Each participant account is credited with participant contributions and allocations of (a) the Company's contributions and (b) Plan earnings, and is charged with an allocation of administrative expenses. Allocations are based on participant earnings or account balances, as defined. The benefit to which a participant is entitled is the benefit that can be provided from the participant's vested account. Plan earnings are allocated daily to participant accounts based on investment balance.

4. Contributions

Each participant is eligible to contribute up to a maximum of 50% of their salary, except that a highly compensated employee may only contribute 7% of his/her salary. The contribution amounts were also subject to the 2009 and 2008 limitations of \$16,500 and \$15,500 respectively in accordance with Internal Revenue Code regulations. All participant contributions are immediately 100% vested. Catch up contributions for participants who have attained age 50 are allowed as of January 1, 2008. The Company makes a matching contribution of 25% of the first 4% of base compensation a participant contributes to the Plan. There is no Company match for catch up contributions.

The Company has the option to make a discretionary profit sharing contribution. During 2009 and 2008, there were no discretionary contributions made by the Company. In 2009 and 2008, the matching contributions made by the Company were \$201,933 and \$ 249,981 respectively.

ELEMENT K 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 2009 AND DECEMBER 31, 2008

NOTE A: DESCRIPTION OF PLAN - (Continued)

5. Vesting

Participants are immediately vested in their voluntary contributions plus actual earnings thereon. Any Company matching contribution, plus actual earnings thereon, is immediately vested, while vesting of Company discretionary contributions occurs over a period of five years at a rate of 25% for each year of service, commencing with the second year of service. Vested funds are paid to participants in cash on or after the attainment of age 59-1/2 or upon retirement.

6. Investment Options

Participants may direct the investment of the elective contributions and may change their investment options daily.

7. Loans to Participants

In addition to withdrawals, the Plan permits participants to borrow from their individual accounts. A participant may borrow the lesser of \$50,000 or 50% of his or her vested account balance with a minimum loan amount of \$1,000. Loans are repayable through bi-weekly/weekly payroll deductions according to the terms of the promissory note. The interest rate charged on the loan will be 1% plus the prime rate as of the date of the loan request. The amount of the loan will be treated as an investment choice and the interest paid on the loan is credited to the participant's account. Loans must be repaid over a period not to exceed 5 years unless used to purchase the participant's primary residence, in which case the loan must be repaid over a period not to exceed 10 years. As of December 31, 2009 and 2008, the interest rates on the outstanding loans ranged between 4.25% and 9.25%.

8. Administrative Expenses

Plan participants pay transaction fees (loan processing, etc.) The Company pays for audit fees of the Plan. Employees of the Company provide services to the Plan. Neither these individuals nor the Company receive compensation from the Plan.

9. Payment of Benefits

Upon termination of service due to death, disability or retirement, a participant will receive an amount equal to the value of the participant's vested interest in his or her account balance. Hardship withdrawals of elective contributions and rollover contributions are permitted if certain criteria are met. Also, eligible Plan participants may make in-service withdrawals.

ELEMENT K 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2009 AND DECEMBER 31, 2008

NOTE A: DESCRIPTION OF PLAN - (Continued)

10. Forfeited Accounts

Forfeitures from employer matching accounts can be applied to pay administrative expenses of the plan or applied as a credit against employer contributions.

NOTE B: SIGNIFICANT ACCOUNTING POLICIES

1. Basis of Accounting

The financial statements are prepared using the accrual basis of accounting.

2. Investment Valuation and Income Recognition

Investments are reported at fair value. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. See Note C for discussion of fair value measurements.

Purchases and sales of securities are recorded on a trade-date basis. Interest income is recorded on the accrual basis. Dividends are recorded on the ex-dividend date. Net appreciation includes the plan's gains and losses on investments bought and sold as well as held during the year.

3. Common Collective Trust

The Stable Value Fund, a common collective trust, has entered into fully benefit-responsive investment contracts to provide preservation of principal, maintain a stable interest rate, and provide liquidity at contract value for participant withdrawals and transfers. For purposes of the Statement of Net Assets Available for Benefits, these investments are stated at fair value, rather than contract value, to the extent they are fully benefit-responsive. The fair value of these investments is determined using the market price of the underlying securities and the value of the investment contract.

The common collective trust, which is a stable value fund, has an investment objective to maintain a constant net asset value while generating a slightly higher yield than the money market fund. Generally, there are no restrictions on a participant's ability to redeem their investment in the common collective trust at the investment's net asset value (NAV). However, withdrawals prompted by certain events (e.g., termination of the managed income portfolio, changes in laws or regulations) may restrict a participant's ability to redeem the investment at its NAV.

ELEMENT K 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2009 AND DECEMBER 31, 2008

NOTE B: SIGNIFICANT ACCOUNTING POLICIES - (Continued)

3. Common Collective Trust - (Continued)

The plans investment interest in the net assets of the DWS Stable Value Fund at December 31, 2009 and 2008 were .8% and .7% respectively.

4. Risks and Uncertainties

The Plan invests in various investment securities. Investment securities are exposed to various risks such as interest rate, market, and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect participants' account balances and the amounts reported in the statements of net assets available for benefits.

5. Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires the plan administrator to make estimates and assumptions that effect certain reported amounts and disclosures. Accordingly, actual results may differ from those estimates.

6. Federal Income Taxes

Under applicable provisions of the Internal Revenue Code, all income, including capital gains or losses, is exempt from Federal income taxation.

7. Payment of Benefits

Benefits are recorded when paid.

8. Subsequent Events

The plan has evaluated subsequent events through July 14, 2010, the date the financial statements were available to be issued.

NOTE C: FAIR VALUE MEASUREMENTS

Effective January 1, 2008, the Plan adopted Accounting Standards Codification ("ASC") Topic 820, "Fair Value Measurements and Disclosures" ("ASC 820") for measurement and disclosure purposes with respect to financial assets and liabilities. ASC 820 clarifies the definition of fair value, prescribes methods for measuring fair value, establishes a fair value hierarchy based on the inputs used to measure fair value, and expands disclosures about fair value measurements. The three-tier hierarchy, which prioritizes the inputs used in the valuation methodologies, is described below:

ELEMENT K 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2009 AND DECEMBER 31, 2008

NOTE C: FAIR VALUE MEASUREMENTS - (Continued)

Level 1 - Valuations based on unadjusted quoted prices for identical assets and liabilities in active markets that the Plan has ability to access.

Level 2 - Valuations based on observable inputs other than quoted prices included in Level 1, such as quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data.

Level 3 - Valuations based on unobservable inputs reflecting the Plan's own assumptions, consistent with reasonably available assumptions made by other market participants.

The following describes the valuation methodologies used for assets measured at fair value:

Level 1 - The fair value of mutual funds is the net asset value ("NAV") of shares held by the plan at year end.

Level 2 - Investments in common/collective funds are valued at the closing net asset value per unit/share.

Level 3 - Participant loans are valued at their outstanding balances which approximates fair value.

Adjustments for unrealized appreciation or depreciation of such values are included in the operating results of the Plan.

The methods described above may produce a fair value calculation that may not be indicative of net realizable value or reflective of future fair values. Furthermore, the use of different methodologies or assumptions to determine fair value of certain financial instruments could result in a different fair value measurement at the reporting date.

ELEMENT K 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2009 AND DECEMBER 31, 2008

NOTE C: FAIR VALUE MEASUREMENTS - (Continued)

The Plan's investments are reported at fair value in the accompanying statements of net assets available for benefits. All investment information disclosed for the years ended December 31, 2009 and 2008 was obtained or derived from information supplied to the Plan Administrator and certified as complete by DWS Investments, Trustee and Custodian.

Fair Value Measurement at Reporting Date Using:

	<u>Fair Value</u>	<u>Quoted Price in Active Market Level 1</u>	<u>Significant Other Observable Market Level 2</u>	<u>Significant Unobservable Inputs Level 3</u>
December 31, 2009				
Mutual Fund	\$ 12,499,208	\$ 12,499,208	- 0 -	- 0 -
Common/Collective Trust	4,603,734	- 0 -	4,603,734	- 0 -
Participant Loans	335,023	- 0 -	- 0 -	335,023
Total	<u>\$ 17,437,965</u>	<u>\$ 12,499,208</u>	<u>\$ 4,603,734</u>	<u>\$ 335,023</u>
December 31, 2008				
Mutual Fund	\$ 9,258,320	\$ 9,258,320	\$ - 0 -	\$ - 0 -
Common/Collective Trust	4,671,823	- 0 -	4,671,823	- 0 -
Participant Loans	336,674	- 0 -	- 0 -	336,674
Total	<u>\$ 14,266,817</u>	<u>\$ 9,258,320</u>	<u>\$ 4,671,823</u>	<u>\$ 336,674</u>

LEVEL 3 GAINS AND LOSSES

The following table sets forth a summary of changes in the fair value of the plan's level 3 assets for the year ended December 31, 2009:

Participant Loans Receivable:

Balance 1/1/2009	\$ 336,674
Realized Gain/Losses	- 0 -
Unrealized Gains/Losses	- 0 -
Purchases, sales, issuances, and settlements (net)	(1,651)
Balance 12/31/2009	<u>\$ 335,023</u>

ELEMENT K 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2009 AND DECEMBER 31, 2008

NOTE D: INVESTMENTS

All investment information disclosed in the accompanying financial statements and supplemental schedule, including investments held at December 31, 2009 and 2008, and net appreciation (depreciation) in fair value of investments, interest, and dividends for the year ended December 31, 2009 and 2008 was obtained or derived from information supplied to the Plan Administrator and certified as complete and accurate by DWS Investments, Trustee and Custodian.

During 2009 and 2008, the Plan's investments (including gains and losses on investments bought and sold, as well as held during the year) appreciated (depreciated) in value by as follows:

Mutual Funds	<u>2009</u>	<u>2008</u>
Davis New York Venture Fund	\$ 39,649	\$ (32,174)
AC Strategic Conservative Fund	15,913	(13,090)
AC Strategic Moderate Fund	115,921	(125,085)
AC Aggressive Fund	83,761	(96,963)
T Rowe Price Fund	760,042	(1,179,131)
Lord Abbot Small Cap Fund	99,538	(117,834)
Goldman Sachs Mid Cap Fund	294,879	(414,039)
DWS Global Opportunities Fund	710,782	(1,291,549)
MFS Total Return Fund	189,759	(299,640)
MFS International Fund	424,033	(755,026)
DWS Equity Partners Fund	- 0 -	(44,207)
DWS Strategic Value Fund	194,976	(342,543)
PIMCO Total Return Fund	105,043	(81,553)
MFA Technology	375,738	(449,731)
Black Rock Equity Dividend	12,445	- 0 -
Total Mutual Funds	<u>\$ 3,422,479</u>	<u>\$ (5,242,565)</u>

ELEMENT K 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 2009 AND DECEMBER 31, 2008

<u>NOTE D: INVESTMENTS - (Continued)</u>	<u>2009</u>	<u>2008</u>
Common/collective Trusts		
DWS Stable Value Fund	\$ - 0 -	\$ - 0 -
DWS Stock Index Fund	439,779	(770,992)
Total Common/collective Trusts	439,779	(770,992)
Total net appreciation (depreciation) in fair value of investments	<u>\$ 3,862,258</u>	<u>\$ (6,013,557)</u>

The fair market values of individual investments that represent 5 percent or more of the Plan's net assets as of December 31, 2009 and 2008 are as follows:

	<u>2009</u>	<u>2008</u>
DWS Stable Value Fund*	\$ 2,664,562	\$ 3,285,567
DWS Stock Index Fund*	1,939,172	1,386,256
DWS Global Opportunities - S Fund*	1,813,033	1,265,509
PIMCO Total Return Fund	1,913,088	1,554,760
MFS International Fund	1,726,846	1,318,110
T Rowe Price Adv Fund	2,148,004	1,515,337
Goldman Sachs Midcap Fund	950,901	- 0 -
MFS Total Return	968,199	918,061

*Indicates a party in interest to the Plan

NOTE E: FEDERAL INCOME TAX STATUS

The Plan has received an opinion letter from the Internal Revenue Service dated December 10, 2001, stating that the written form of the underlying prototype plan document is qualified under Section 401(a) of the Internal Revenue Code (the "Code"), and that the employer adopting this form of the Plan will be considered to have a plan qualified under Section 401(a) of the Code. Therefore, the related Plan is exempt from taxation. Subsequent to the issuance of this opinion letter, the Plan has been amended. Once qualified, the Plan is required to operate in conformity with the Code to maintain its qualification. The Company believes the Plan is being operated in compliance with the applicable requirements of the Code, and therefore believes that the Plan is qualified and the related trust is tax-exempt.

ELEMENT K 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2009 AND DECEMBER 31, 2008

NOTE F: PARTY-IN-INTEREST TRANSACTIONS

Transactions involving employer securities, funds administered by DWS Investments, the current trustee of the Plan, funds administered by ADP Retirement Services, the record-keeper of the Plan, and participant loans are considered party-in-interest transactions. These transactions are not, however, considered prohibited transactions under 29 CFR 408(b) of the ERISA regulations.

NOTE G: PLAN TERMINATION

Although it has not expressed any intent to do so, the Company has the right to discontinue its contributions and terminate the Plan, subject to the provisions of ERISA. In the event of Plan termination, participants will become 100 percent vested in the unvested portion of the employer's discretionary contribution in their accounts.

NOTE H: CERTIFICATION BY CUSTODIAN

DWS Investments, as Trustee and Custodian, has certified to the completeness and accuracy of the assets of the Plan held by them as of December 31, 2009 and 2008 and the related investment income (including interest, dividends and net appreciation or (depreciation) in quoted market value of investments) of the Plan for the years ended December 31, 2009 and 2008.

NOTE I: EXCESS CONTRIBUTIONS REFUNDABLE TO PARTICIPANTS

At December 31, 2009 and 2008 liabilities of \$-0- and \$2,131 respectively are recorded for amounts refundable by the plan to participants for contributions made in excess of amounts allowed by the Internal Revenue Service.

NOTE J: RECONCILIATION OF FINANCIAL STATEMENTS TO FORM 5500

The following is a reconciliation of net assets available for benefits per the financial statements to Form 5500:

	December 31, <u>2009</u>	December 31, <u>2008</u>
Net assets available for benefits per the financial statements	\$ 17,437,965	\$ 14,264,176
Deemed distribution loans	(42,612)	(12,432)
Excess 2008 contributions	<u>- 0 -</u>	<u>2,641</u>
Net assets available for Plan benefits per Form 5500	<u>\$ 17,395,353</u>	<u>\$ 14,254,385</u>

ELEMENT K 401(k) PLAN

NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2009 AND DECEMBER 31, 2008

NOTE J: RECONCILIATION OF FINANCIAL STATEMENTS TO FORM 5500 - (Continued)

Deemed distribution loans (DDL) occur when a participant misses a loan payment. The Plan treats DDL's as outstanding loans, while the 5500, per IRS instruction, must exclude DDL's from assets reported.

The following is a reconciliation of contributions per the financial statements to the Form 5500:

	December 31, <u>2009</u>	December 31, <u>2008</u>
Total contributions to net assets per the financial statements	\$ 1,730,234	\$ 2,308,735
Add: Excess 2008 contributions refundable to participants and excess match refundable to employer.	<u>(2,641)</u>	<u>2,641</u>
Total contributions per Form 5500	<u>\$ 1,727,593</u>	<u>\$ 2,311,376</u>

The following is a reconciliation of benefits paid to participants per the financial statements to Form 5500.

	December 31 <u>2009</u>	December 31 <u>2008</u>
Benefits paid to participants per the financial statements	\$ 1,918,227	\$ 1,467,130
In Service Withdrawals	3,039	29,428
Deemed distribution loans	<u>(5,571)</u>	<u>- 0 -</u>
Benefits Paid to Participants per Form 5500	<u>\$ 1,915,695</u>	<u>\$ 1,496,558</u>

In Service Withdrawal are reported separately on the financial statements and Deemed Distribution Loans paid out on termination are reported separately on Form 5500.

ELEMENT K 401(k) PLAN

SUPPLEMENTAL SCHEDULE

SCHEDULE H, LINE 4i
SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES
DECEMBER 31, 2009

EIN# 16-1580053

Plan #001

(a)	(b)	(c)	(d)	(e)
	<u>Identity of issuer, borrower, lessor, or similar party/description of investment</u>	<u>Shares and rate of interest</u>	<u>Cost</u>	<u>Market Value</u>
	Mutual Funds			
	Davis NY Venture Fund	4,160	\$	128,872
	AC Strategic Conservative	24,682		126,371
	AC Strategic Moderate	106,822		628,116
	AC Strategic Aggressive	53,967		360,499
	T Rowe Price Adv	78,595		2,148,004
	Lord Abbott Small Cap	29,079		389,371
	Goldman Sachs Mid Cap	32,799		950,501
	Pimco Total Return- Admin	177,138		1,913,087
	MFS International	75,772		1,726,846
*	DWS Global	56,996		1,813,033
	MFS Total Return	73,739		968,199
	MFA Technology	68,944		839,739
*	DWS Strategic	14,861		436,755
	Blackrock Equity Dividend	4,413		69,815
	Participant loans	4.25% - 9.25% with various maturity dates		335,023
	Common/collective trusts			
*	DWS Stable Value Fund	2,664,562		2,664,562
*	DWS Stock Index Fund	53,055		<u>1,939,172</u>
				<u>\$ 17,437,965</u>

(a) *Indicates a party in interest to the Plan.

(d) Column (d) is blank as all investments are participant directed.

The accompanying notes are an integral part of these statements.