

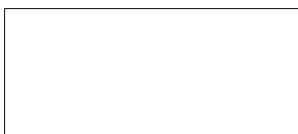
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Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

FEB 04 2004



Re: Case 191284; Marshall and Williams Company Salaried
Employees Pension Plan ("Plan")

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Dear

The Appeals Board has reviewed your appeal of PBGC's August 18, 2003 determination that you had only two years of service when the Plan terminated on November 19, 1999. For the reasons explained below, the Appeals Board changed PBGC's determination by finding that your benefit service includes your 1967 - 1976 employment and military service. PBGC's Insurance Operations Department, the organization responsible for determining and paying PBGC benefits, will send you a new determination.

Your September 15, 2003 appeal said you believe PBGC's determination is incorrect because it does not take into account your salaried employment with the Company between January 1967 and September 1976. You explained that you began employment with Marshall and Williams as a salaried employee on January 16, 1967, entered active military service in June of 1967, returned to the Company on June 9, 1969, and remained in the Company's employ as a salaried employee until September 10, 1976. You further stated that, after a break of almost 21 years, you returned to Marshall and Williams as a salaried employee on May 12, 1997, and remained as such until November 12, 1999. You said PBGC's determination apparently is based only your employment after you were rehired in 1997.

The Plan document in effect on the Plan's November 19, 1999 termination date is the Plan as amended and restated effective January 1, 1989. This Plan states: "The rights of any Employee or Participant who separated from the Employer's service prior to [January 1, 1989] shall be established under the terms of the Plan and Trust as in effect at the time of his separation, *unless he subsequently returns to service with the Employer.*" [Emphasis added.]

Since you returned to work with the Company in 1997, the provisions of the 1989 Plan apply to you. Under Plan section 2.1, an employee who returns to employment after a break in service shall retain credit for his pre-break years of service if he is vested at the time of the break.

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Section 4.5 provides that a participant is 100% vested after 5 years of service. Thus, because you had at least 5 years of service when you left the Company in 1976, you are entitled to receive credit for your pre-break employment. You also receive pension credit for your 1967 - 1969 military service. Accordingly, the Appeals Board found that your service from January 16, 1967 through September 9, 1976 is to be used in calculating your Plan benefit.

PBGC's Insurance Operations Department will receive a copy of this letter and they will issue you a new determination, with a new 45-day appeal right. We appreciate your patience while PBGC completes the processing of your case. Meanwhile, if you need other information from PBGC, please call our Customer Contact Center at 1-800-400-7242.

Sincerely,



Sherline M. Brickus
Member, Appeals Board

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