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



NOV 27 2002

Re: Appeal Peter J. Schmitt Employees Retirement Plan (the "Plan")

Dear

The Appeals Board reviewed your appeal of PBGC's September 18, 2001 determination that you are not entitled to a vested benefit from the Plan. As explained below, although the Board disagreed with PBGC's reason, the Board found that you presented no basis for changing the determination's conclusion that you are not entitled to a vested benefit from the Plan.

PBGC determined you were not eligible to receive a vested benefit from the Plan because you did not have at least five years of service when your employment with Peter J. Schmitt ("PJS") ended. PBGC's letter said that the Plan required at least five years of service in order to qualify for a vested pension benefit. PBGC's letter did not include the data it used to reach the conclusion that you had less than five years of service.

Your September 25, 2001 appeal stated that you were employed with PJS from July of 1982 to April of 1988, and therefore, that you had more than the required five years of service needed to qualify for a vested pension benefit.

Please note that the Plan did not have sufficient assets, when the Plan terminated on December 31, 1994, to provide all benefits that PBGC guarantees under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Therefore, PBGC must use Plan provisions, ERISA, and PBGC's regulations and policies to determine whether you are entitled to a guaranteed benefit.

Documents in PBGC files show you started working for PJS on August 9, 1982 and your PJS employment ended on April 16, 1988, dates reasonably consistent with your appeal. Under the terms of the Plan, you had 6 full years of service when your employment ended.

However, the Plan provisions in effect when your employment with PJS ended required a participant to have completed 10 years of service in order to qualify for a nonforfeitable (vested) pension

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benefit. See Enclosure 1. The effective date of the Plan's change of its vesting schedule from 10-year-cliff vesting to 5-year-cliff vesting was May 1, 1988, and thus, the 5-year-cliff vesting schedule applies only to participants whose employment ended after April 30, 1988. See Enclosure 2.

Thus, while the Appeals Board agrees with you that PBGC's determination letter did not provide a correct reason for your non-vested status, because six years is indeed longer than five years, the Board must apply the provisions in effect as of the date your employment with PJS ended. Thus, the Board found that you are not entitled to a vested benefit under the Plan because you had less than 10 full years of service when your employment ended.

Please note that PBGC will always, even after an appeal is closed, consider any new, specific evidence (for example, W-2 forms or Social Security Earnings reports showing that you worked at least ten years for PJS or one of its related entities; or a letter you may have received from PJS when your employment ended saying that you were vested in a benefit under the Plan), that you present showing that you may be entitled to a vested benefit. If you have or obtain any such evidence, PBGC will certainly review it. Please send any such information to PBGC at P.O. Box 19153, Washington D.C. 20036.

Decision

Having applied the provisions of the Plan to the facts in this case, the Appeals Board found that you are not entitled to a vested benefit under the Plan because you had less than the required ten years of vesting service when your employment ended.

This is the agency's final decision regarding the issue you raised in your appeal. You have exhausted your administrative remedies and may, if you wish, seek court review of this decision.

We appreciate your patience while we completed our review. If you have additional questions, please call PBGC's Customer Service Center at 1-800-400-7242.

Sincerely,



Michel Louis
Appeals Board Member

Enclosures (2)