

Pension Benefit Guaranty Corporation

75-65

May 9, 1975

REFERENCE:

[*1] 4041 Termination by Plan Administrator

OPINION:

This is in response to your letter of April 23, 1975 in which you questioned the position of the Pension Benefit Guaranty Corporation (the "Corporation") with respect to the allowability of certain payments from pension funds subsequent to the filing of a notice of termination and prior to the Corporation's taking official action with respect to such notice. Specifically you stated that the trustees of a number of plans for which your firm furnishes actuarial and administrative services have refused to pay your fees for such services on the basis that they may make no disbursements from pension funds without the authorization of this Corporation. This position is not consistent with the policy of this Corporation.

Pursuant to Section 4041 of the Employee Retirement Income Security Act of 1974, within the 90-day period (or such extended period, as the case may be) following the proposed date of termination a plan administrator may not pay any amount pursuant to the termination procedure of the plan until he receives the authorization of the Corporation to do so. However, this prohibition does not extend to other payments which are not made [*2] pursuant to the plan termination procedure. For instance, benefit payments may continue to be made to participants who were already receiving such payments as of the proposed date of termination. Likewise, it is permissible for a trustee to continue to pay the normal administrative expenses of a plan, such as your fees for actuarial and administrative services rendered.

We hope this response is helpful to you.

Steven E. Schanes
Acting Executive Director