

Pension Benefit Guaranty Corporation

77-160

August 30, 1977

REFERENCE:

[*1] 4044 Allocation of Assets

OPINION:

This responds to your inquiry whether your fee for terminating * * * (the "Trust") may be paid out of Trust assets. You indicate that the trustees of the Trust have authorized you to perform the services in question. For purposes of answering your inquiry, we assume that you and they have agreed or will agree upon a reasonable fee.

The assets of a pension plan may be charged for termination-related expenses for which the plan is responsible. The provisions of the plan documents govern the matter of who is responsible for particular plan expenses.

The only Trust provision concerning the payment of administrative expenses is paragraph 6.06(d), which provides in pertinent part:

6.06 With respect to any funds at any time constituting part of the Pension Trust the Trustees in their sole discretion, are authorized and empowered:

* * *

(k) To the extent permitted by law, to delegate duties or powers, discretionary or otherwise, to agents, or co-Trustee; to employ counsel, accountants, agents, custodians, investment counsel and such other persons as they may deem advisable, at the expense of the trust, and to remunerate them and pay their expenses.

In light [*2] of this provision, charging the Trust for your termination-related services will not violate Title IV of the Employee Retirement Income Security Act of 1974 (the "Act"). The PBGC has no authority to decide any questions that your inquiry may raise under Title I of the Act, which is administered by the United States Department of Labor.

I trust this is of assistance.

Henry Rose
General Counsel