

Pension Benefit Guaranty Corporation

76-66

May 14, 1976

REFERENCE:

[*1] 4041(a) Termination by Plan Administrator. Filing of Notice of Intent to Terminate 4082(c). Effective Date; Special Rules. Applicability of Title IV to Multiemployer Plan Terminations

OPINION:

This is in response to your letter of May 3, 1976. You asked, on behalf of the trustees of * * * (the "Fund") whether the trustees of the Fund may continue to pay installments of the termination benefit provided by the Fund to those participants who terminated employment before November 30, 1975, the proposed date of termination, and whose applications had been approved prior to that date. You also asked whether the trustees could process the applications of participants who were eligible for the termination benefit as of November 30, 1975, but did not make an application for such benefit until after that date.

Of course, the Pension Benefit Guaranty Corporation (the "PBGC") cannot advise the trustees whether to pay the termination benefit. However, no provision in Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") would prevent payment of benefits to which participants became entitled before a proposed date of termination, while an application for the discretionary guaranty [*2] of benefits under § 4082(c) of ERISA is pending before the PBGC. Assuming, as we do, that the payments you have asked about are not substantial, your pending application will not be prejudiced by your decision to pay such benefits.

I hope this is of assistance.

Barry S. Slevin
Attorney