

Pension Benefit Guaranty Corporation

77-174

December 23, 1977

REFERENCE:

[*1] 4062 Liability of Employer in Single Employer Plans

OPINION:

In accordance with your recommendation to * * * of this Office, this is to notify your firm, as general counsel to * * * now liquidating, of the estimated claim of the Pension Benefit Guaranty Corporation (the "PBGC") arising out of the termination by * * * of * * * (the "Plan").

Section 4062 of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1362 (Supp. V, 1975), provides that an employer maintaining a pension plan covered by the termination insurance provisions of ERISA shall be liable to the PBGC in an amount equal to the excess of the current value of the plan's benefits guaranteed by the PBGC on the date of plan termination over the current value of plan assets allocable to those benefits on that date ("employer liability"). However, Section 4062 limits employer liability to 30 percent of the net worth of the employer as of the date of plan termination or on any day chosen by the PBGC within 120 days preceding plan termination.

The PBGC has estimated the plan asset insufficiency pursuant to Section 4062 to be * * * However, no net worth valuation has been made by the PBGC as yet, and, since you [*2] suspect that the PBGC estimated plan asset insufficiency exceeds 30 percent of the net worth, PBGC valuation personnel will be contacting you shortly for assistance in gathering necessary valuation information and data. Concurrently, the PBGC will determine the exact amount of plan asset insufficiency and inform you of any change in the amount as estimated at present.

Please assure that the PBGC is added to the list of creditors and provide us with notice of any proceedings in the liquidation of * * * is the attorney handling this case; any notices or questions you may have may be directed to him at the address above, or by telephone at * * *

Thank you for your assistance.

Henry Rose
General Counsel