

Pension Benefit Guaranty Corporation

83-1

January 4, 1983

REFERENCE:

[*1] 4003(f) Investigatory Authority; Cooperation with other Agencies; Civil Actions Maintainable against PBGC

OPINION:

We are in receipt of the Order of Sequestration ("Order") issued in the above-referenced divorce action. For the reasons stated below, the Pension Benefit Guaranty Corporation ("PBGC") will not pay the plan participant's benefit over to the Friend of the Court of * * * County.

The PBGC is a wholly-owned United States government corporation which insures the payment of guaranteed pension benefits to participants in certain pension plans under Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"). This PBGC obligation occurs only on termination of those pension plans. * * * is entitled to a guaranteed benefit from the PBGC. The Order requires the entire benefit to be paid over to the Friend of the Court.

The PBGC is not subject to state court divorce actions under Title IV of ERISA. Section 4003(f) of ERISA contains the following jurisdictional limitations on actions brought against the PBGC:

Any participant, beneficiary, plan administrator, or employee adversely affected by any action of the corporation, or by a receiver or trustee appointed by the corporation, [*2] with respect to a plan in which such participant, beneficiary, plan administrator or employee has an interest may bring an action against the corporation, receiver or trustee in the appropriate court. For purposes of this subsection the term "appropriate court" means the United States district court. . . .

Thus, it is apparent that there is no provision in ERISA for the state court's exercise of subject matter jurisdiction over the PBGC in this matter.

The PBGC's authority is limited by the terms of Title IV of ERISA and therefore the PBGC cannot submit to the state court's jurisdiction. Should you have any questions concerning this matter, please contact * * * of my staff at (202) 254-4895 or at the above address.

Henry Rose
General Counsel