

Pension Benefit Guaranty Corporation

80-2

March 5, 1980

REFERENCE:

4003(b) Investigatory Authority; Cooperation with other Agencies; Civil Actions. Subpoena Power  
4003(e)(1) Investigatory Authority; Cooperation with other Agencies; Civil Actions Maintainable by PBGC  
4044 Allocation of Assets

OPINION:

The Office of the General Counsel of the Pension Benefit Guaranty Corporation (the "PBGC") requested by letter dated December 7, 1979, that you furnish the PBGC with post-distribution information regarding each plan participant and the distribution made to that individual. We informed you that, as Plan Administrator, you were obligated to provide the PBGC with this information pursuant to the Plan Administrator's Certification of Sufficiency which you executed. A copy of that executed document, which in paragraph "8" sets forth the exact items of information required, was enclosed with our letter.

We further advised you that the PBGC is authorized to redress violations of Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"), including violations of § 4044, arising from the failure of the Plan Administrator to submit documents he is required by law to submit to the PBGC. ERISA § 4003(e)(2). The PBGC requested [\*2] the information within 14 days from receipt of our letter.

The requested information was not received by the PBGC within the specified time nor were other suitable arrangements made by you. \* \* \* of this office spoke with you and informed you that we were in the process of drawing up a subpoena for the information and that if we did not receive the required information within the next few days the subpoena would be issued. The information was still not submitted.

We are enclosing a subpoena directing you to produce the required post-distribution information by March 18, 1980. The subpoena can be satisfied by mailing the materials called for to \* \* \* prior to the return date listed on the subpoena, rather than by appearing personally with the documents.

Please take note that: (1) the General Counsel is authorized to negotiate and approve the terms of satisfactory compliance with this subpoena; (2) service of this subpoena is complete upon delivery by the post office and the signed and dated post office receipt shall be proof of service; and (3) any person compelled to appear in person in response to this subpoena shall be paid the same fees and mileage as are paid witnesses in [\*3] the courts of the United States.

Please feel free to direct any questions to \* \* \* at (202) 254-4895 or at the above address.

Mitchell Strickler  
Deputy General Counsel