

496652FF-9937-11B7-9

#1139302



Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

December 2, 2002

[Redacted]

Re: Appeal [Redacted]
Pan American World Airways, Inc. ("Pan Am")
Cooperative Retirement Income Pension Plan ("CRIP")

Dear [Redacted]

The Appeals Board has reviewed your appeal of PBGC's February 5, 1999 determination that your guaranteed benefit is \$1,334.41 per month, the same as PBGC is currently paying you. Your benefit is payable as a Straight Life Annuity. PBGC stated you were overpaid a total of \$8,743.26 and concluded the \$1,334.41 benefit would be temporarily reduced.

As explained below, we recalculated the Cost Of Living Allowances you were entitled to receive before CRIP terminated. Therefore, we are increasing your guaranteed benefit to \$1,374.82 per month. You do not owe PBGC for net overpayments. Instead, PBGC will pay you net underpayments, with interest from July 31, 1991.

Your Appeal

In your March 16, 1999 letter, you stated PBGC miscalculated the \$8,743.26 overpayment amount based on the amounts you received. You noted amounts PBGC paid you after withholding for taxes.

Benefits You Received

On November 1, 1980 you retired under a pension plan (the "National Plan")¹ formerly maintained by National Airlines, Inc. Your benefit was \$1,801.32 (\$1,217.99 + \$583.33) per month, including a \$583.33 supplement until age 65. However, when you reached age 65 in 1985, intervening Cost of Living Allowance increases ("COLAs") became payable. Therefore, in 1985 the National Plan required reducing your \$1,801.32 benefit to more than \$1,217.99 per month.

On CRIP's July 31, 1991 termination date, you were being paid \$1,379.20 per month. On November 1, 1992, PBGC increased your benefit by \$60.00 per month to \$1,439.20. On March 1, 1993, PBGC

¹ the National Airlines Non-Contract Employees' Pension Plan later renamed Pan American World Airways, Inc. Non-Contract Employees' Pension Plan for Former Employees of National Airlines, Inc. The National Plan merged with CRIP in 1989.

1139302

started paying the \$1,334.41 per month estimated guaranteed benefit you currently receive. You received smaller net amounts because of the income tax withholding.

Your Guaranteed Benefit

Our actuaries independently calculated your benefit as \$1,439.99 effective January 1, 1991, slightly more than the \$1,439.20 per month PBGC started paying you in 1992. The \$1,439.99 benefit includes a \$45.15 COLA effective January 1, 1991, and a \$40.02 COLA increase effective January 1, 1990.

Under the law, PBGC cannot guarantee any benefit increase effective less than 1 year before a plan's termination date. Therefore, PBGC cannot guarantee your \$45.15 COLA effective January 1, 1991. Furthermore, PBGC guarantees only \$20 of the \$40.02 COLA effective January 1, 1991, which is only 1 full year before CRIP's July 31, 1991 termination date. However, PBGC fully guarantees the \$1,374.82 (\$1,439.99 - \$45.15 - \$40.02 + \$20.00) per month balance of your benefit. Therefore, the Appeals Board increased your guaranteed benefit to \$1,374.82 per month, effective August 1, 1991.

Pre-termination Liability

As noted above, we calculated your National Plan benefit effective January 1, 1991 as \$1,439.99 per month. However, you were receiving only \$1,379.20 per month on CRIP's July 31, 1991 termination date. Therefore, PBGC will pay you \$425.53 {(\$1,439.99 - \$1,379.20) x 7 months} with interest from July 31, 1991.

Where to Submit Any New Evidence

PBGC will always - even after an appeal is closed - consider any new, specific evidence that you present showing that you may be entitled to a different benefit. If you obtain any such evidence, PBGC will certainly review it. Please send any such information to:

PBGC Authorized Plan Representative
1175 Peachtree Street, N.E.
100 Colony Square, Suite 500
Atlanta, GA 30361

You may also contact PBGC's Authorized Plan Representative at 1-800-400-7242 extension 2000.

Decision

Having applied CRIP's provisions and the law to the facts in your case the Appeals Board increased your guaranteed benefit to \$1,374.82 per month, payable as a Straight Life Annuity effective August 1, 1991. PBGC will also pay you \$425.53 in a single lump

1139302

sum plus interest from July 31, 1991 for prior unpaid CRIP benefits. If you have any questions about your benefit payments, please contact PBGC's Authorized Representative.

This letter concludes your administrative remedies with respect to PBGC's February 5, 1999 determination. You may, if you wish, seek court review of PBGC's determination with respect to the issues you have raised. We appreciate your patience during this careful review of your appeal.

Sincerely,

William D. Ellis

William D. Ellis
Appeals Board Member