

40472282-1887-1107-8



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

December 23, 2002

[Redacted]

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

Dear [Redacted]

We are responding to your appeal of PBGC's September 22, 1998 determination that you are entitled to receive \$483.55 per month, the same as PBGC has been paying you since January 1, 1996. Your benefit is a Straight Life Annuity. As explained below, you have not presented a basis for changing PBGC's determination.

Your Appeal

In your October 19, 1998 letter, you stated:

- You feel that because of your 29 years of service and the fact that the retirement fund was frozen you should be eligible to receive your full benefit either from the sale of Pan Am properties or from the U.S. Government,
- You worked for 29 years and 19 days and should be receiving approximately \$1,500.00 a month, and
- You questioned what happened to the funds received from the sale of the Pan Am Worldport terminal.

We explain your benefit calculation below. See pages 2 and 3 for an explanation of how CRIP's assets affect your benefit.

You also stated you believe some former Pan Am employees worked until age 52 and are now "receiving their full pension," and that you are receiving only one third of your pension. Please be advised CRIP uses complicated rules to distinguish between participants even if they had equal pay rates and equal total employment periods. Also, participants' benefits may vary if they choose different benefit forms or retirement dates.

Appeals Board Decisions Relevant to Your Appeal

In prior decisions the Appeals Board:

- found that CRIP's definition of Compensation includes overtime and bonuses for participants in Pan Am's Management Workforce;
- decided that a CRIP amendment freezing compensation and service as of December 31, 1983;

- decided that PBGC may pay CRIP's subsidized Early Retirement Benefit only if the conditions for that benefit were met as of July 31, 1991, CRIP's termination date. Thus, a participant could qualify for the subsidized benefit only if (among other conditions) as of that date he had been employed by Pan Am within 10 years of his Normal Retirement Date.
- found that CRIP's administrators and PBGC correctly used the factors in the "45.2% Table" to adjust Vested Separation benefits such as yours for starting early even though these factors are more generous than the CRIP document states.

These decisions are explained in Enclosure 2.

Data Relevant to your Appeal

PBGC's files contain the following data relevant to your appeal and to your Pan Am employment:

(1)	Your date of birth:	
(2)	Your hire date:	10/12/1962
(3)	Effective date on which CRIP's benefit accruals were "frozen":	12/31/1983
(4)	Your final 5-year Average Annualized Compensation as of 12/31/83:	\$36,317.74
(5)	Your total Years of Benefit Service as of 12/31/83:	21 years 2 months
(6)	CRIP's termination date:	7/31/1991
(7)	Date your employment ended:	10/31/1991
(8)	Date you started receiving your benefits:	1/01/1996
(9)	Your age on 1/01/1996, in years and completed months:	55 years 0 months
(10)	Your Normal Retirement Date:	1/01/2006

Your Pension Service

The 21 2/12 Years of Benefit Service PBGC used is the full elapsed time in complete calendar months from your October 12, 1962 hire date through CRIP's December 31, 1983 freeze.

Affect of CRIP's Assets on Your Benefit

We explain below, PBGC is paying your full CRIP benefit. Under the law, PBGC may not pay you more than CRIP provides. Also, CRIP's assets, including the assets PBGC recovered by selling

the Pan Am Worldport Terminal, provide approximately \$700 million less than the CRIP benefits PBGC is paying. Therefore, Pan Am's funding does not affect the benefit that PBGC is paying you.

PBGC must apply CRIP's requirement that service and compensation accruals be frozen as of December 31, 1983. ERISA¹ and the Internal Revenue Code allow pension plans to be frozen and remain ongoing. However, except in a case of "temporary substantial business hardship,"² the Internal Revenue Code requires a plan's sponsor to make minimum funding contributions even if the plan is frozen.

Your Benefit Amount

Application of the Appeals Board's decisions to the facts in your case, as explained below, shows your benefit is \$483.55 per month. Your Normal Retirement Benefit is the largest of your:

- Alternative I: Monthly Basic Benefit,
- Alternative II: Monthly Minimum Benefit, or
- Alternative III: Monthly Updated Benefit.

1. Your Pension Earnings

The middle two columns of the table below show your pension earnings, as contained in Pan Am's pension records and used by PBGC to compute your benefit. The column at the far right shows your earnings for certain years, as reflected in Pan Am's payroll records.

Pan Am Electronic Records

Year	Pension Earnings		Payroll Earnings
	Compensation	Annualized Compensation	
1979	\$31,325.13	\$31,325.13	unavailable
1980	\$36,056.84	\$36,056.84	\$36,056.84
1981	\$38,056.26	\$38,056.26	\$36,817.38
1982	\$40,006.52	\$40,006.52	unavailable
1983	\$36,094.72	\$36,143.97	\$36,094.72
Total:		\$181,588.72	
Average:		\$36,317.74	

¹ Employee Retirement Income Security Act of 1974, as amended

² IRC section 412(c)(12)

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For members of Pan Am's Management Workforce, the Appeals Board has used payroll data to increase a participant's pension earnings if that data showed higher earnings and if there was no reason to believe that the payroll data included items that must be excluded from pension earnings. But in your case, as you can see from the table, using the payroll data (for the years for which it is available) would not increase your pension earnings. Therefore, based on the records available, it does not appear that any overtime or bonuses you may have earned was excluded from Pan Am's records of your pension earnings.

2. Alternative I: Monthly Basic Benefit (also called the "Career Average Formula" for the Management Workforce)

Your Monthly Basic Benefit is the sum of the following:

- 1) For each year or fraction of a year before 1979, 1% of your Compensation up to \$3,000, plus 2% of your Compensation over \$3,000.
- 2) For each year or fraction of a year starting in 1979 [through the December 31, 1983 freeze date], 1.25% of your Compensation up to \$4,000 plus 2% of your Compensation over \$4,000.

Effect of pre-1979 Compensation on Your Monthly Basic Benefit

CRIP's administrators calculated you earned a Monthly Basic Benefit of \$419.07 { $\$5,028.79 \div 12$ months}, if paid as a Straight Life Annuity starting at age 65. PBGC cannot reproduce the \$419.07 calculation because PBGC could not obtain your pre-1979 pension earnings. However, the Appeals Board has verified it is highly unlikely exact pre-1979 earnings would improve the benefit of participants in your situation. You needed pre-1979 overtime and bonus earnings averaging more than approximately 64% of your estimated based pay to improve your PBGC benefit under the Monthly Basic Benefit. See Enclosure 4.

3. Alternative II: Monthly Minimum Benefit

Your Monthly Minimum Benefit is calculated by multiplying your 21-2/12 Years of Benefit Service by the applicable benefit accrual rate for your job classification. Pan Am's pension records show you completed all of your service in jobs classified under the \$24.00 benefit accrual rate. Therefore, your Monthly Minimum Benefit is \$508.00 { $21 \frac{2}{12}$ years x \$24.00}, if paid as a Straight Life Annuity starting at age 65.

4. Alternative III: Monthly Updated Benefit

Your Monthly Updated Benefit depends on your Average Annualized Compensation (AAC) for each of the six 5-year periods

6. Reduction for Starting Your Benefit Early

To qualify for the subsidized Early Retirement Benefit, CRIP requires working for Pan Am within 10 years of the Normal Retirement Date, which for you is at age 65. This CRIP requirement applies regardless of whether your employment ended voluntarily or involuntarily. Because you had not reached age 55 when your employment ended October 31,, 1991, PBGC is unable to pay you CRIP's subsidized Early Retirement Benefit.

Under CRIP's Vested Separation Benefit, your benefit must be reduced for starting early using the factors in CRIP's 45.2% Table. The applicable factor for a participant such as you who began receiving benefits at age 55 years 0 months is .4520. See Enclosure 3. Therefore, your benefit is \$483.55 (\$1,069.81 x .4520) per month.

Where to Submit Any New Evidence

PBGC will always - even after an appeal is closed - consider any new, specific evidence you present showing you may be entitled to a different benefit. As explained above, you may be entitled to a larger benefit if your earnings including overtime and bonuses averaged more than shown in any row of the table on page 5. 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

Given the Appeals Board's decisions on appeals which have raised the same issues you have raised, you have not presented a basis for changing PBGC's determination. This letter concludes your administrative remedies with respect to PBGC's September 22, 1998 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

Enclosures:

- 1) Pan Am's "Personnel Master" database record for you
- 2) Explanation of Certain Appeals Board Rulings Involving the Pan Am "CRIP Plan" (7 pages)
- 3) Summary of CRIP's provisions (2 pages)
- 4) Worksheet showing an average 64% overtime plus your estimated full-time pay is needed before 1979 to produce a Monthly Basic ("Career Average") Benefit that exceeds your Monthly Updated Benefit
- 5) Complete Calculation of CRIP's Monthly Updated Benefit.
- 6) CRIP document, Section I, Appendix A (4 pages)

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