

Pension Benefit Guaranty Corporation

75-116

December 31, 1975

REFERENCE:

[*1] 4041 Termination by Plan Administrator
4063 Liability of Substantial Employer for Withdrawal

OPINION:

This is in response to your letter of August 28, 1975, regarding the withdrawal of * * * Plan ("the Plan"). You asked that the Pension Benefit Guaranty Corporation (the "PBGC") determine * * * liability under Section 4063 of the Employee Retirement Income Security Act of 1974 ("the Act").

Section 4063 of the Act sets forth the liability of a substantial employer for withdrawal from a plan under which more than one employer contributes. Based on a review of the Plan and its operation, we have determined that the * * * is a group of single employer plans rather than a plan to which more than one employer contributes. Benefits are not payable with respect to each participant without regard to the cessation of contributions by the employer who employed that participant. Rather, benefits under the Plan are payable to the employees of the withdrawing employer only to the extent of the assets attributable to that employer's contributions.

Consequently, the withdrawal of * * * is not subject to the provisions of Section 4063 of the Act but rather constitutes a termination under Section 4041 [*2] of the Act for that part of the Plan allocable to * * *

In order to comply with the provisions of Section 4041 of the Act, the plan administrator is required to notify the PBGC at least 10 days prior to the proposed date of termination. This notice must be filed in accordance with the PBGC's Notice of Intent to Terminate Regulation, a copy of which is enclosed.

Your notice should be sent to the attention of * * * It is not necessary to resubmit information and documents previously supplied. The proposed date of termination will not necessarily be the date of termination for the purposes of Title IV. That date will be determined in accordance with Section 4048 of the Act. Under section 4041(a) of the Act, a plan administrator who has filed a termination notice with the Corporation shall, for a period of 90 days after the proposed termination date, pay no amount pursuant to the termination procedure of the plan unless he receives a notice of sufficiency from the Corporation to proceed with the termination. Furthermore, note that in all terminations, plan assets have to be allocated as specified by Section 4044 of the Act.

Henry Rose
General Counsel