

Pension Benefit Guaranty Corporation

76-24

February 14, 1976

REFERENCE:

[\*1] 208 Mergers, Consolidations and other Transfers of Plan Assets  
4043(b)(8) Reportable Events. Mergers, Consolidations & other Transfers of Plan Assets

OPINION:

This is in response to your recent inquiry concerning the pension benefits of \* \* \* which inquiry was forwarded to this Corporation on \* \* \* by the Labor-Management Services Administration of the Department of Labor.

\* \* \* is a participant of the \* \* \* Salaried Pension Plan (hereinafter "Company Plan"), a single employer plan, which is awaiting merger into the (hereinafter "Union Plan"), a multiemployer plan. The delay in \* \* \* pension benefits is caused by the fact that the insurance company which administers the funds of the Company Plan will not transfer those funds to the Union Plan without the approval by this Corporation of the merger.

Section 208 of the Employee Retirement Income Security Act of 1974 (hereinafter "Act") provides in pertinent part that two pension plans may not merge unless each participant would be entitled to a pension benefit after merger equal or greater in value than before the merger. The Act further provides that the above requirement applies to multiemployer plans only to the extent determined by this [\*2] Corporation.

It is this Corporation's position that until it issues regulations relating to Act § 208, the constraints of that section do not apply to the merger of a single employer plan into a multiemployer plan. Therefore, the proposed merger here does not require the prior approval of this Corporation.

If this Corporation had been previously advised of the proposed merger, the relevant parties would have been informed that approval by this Corporation was not necessary and the delay in the proposed merger could have been avoided. However, the records of this Corporation indicate that it received no communication with respect to the proposed merger. Even though prior approval is not required, such merger would constitute a reportable event pursuant to Act § 4043(b)(8) and should be reported to this Corporation as required by Act § 4043(a) within 30 days after the plan administrator knows or has reason to know of the merger.

This Corporation has contacted the attorney for the \* \* \* and informed him of this Corporation's position under Act § 208 on plan mergers and the reporting requirements under Act § 4043.

I hope this is of assistance to you. Should you desire additional [\*3] information, we will be happy to provide it.

Steven E. Schanes  
Executive Director