

Pension Benefit Guaranty Corporation

85-30

December 9, 1985

REFERENCE:

[*1] 4041A Multiemployer Termination
4041A(c) Multiemployer Termination. Distribution of Assets
4041A(f)(1) Multiemployer Termination. Lump Sum Payments

OPINION:

This is in response to your recent letter regarding a transfer of assets and liabilities from the * * * Local Union * * * Pension Trust Fund (the "Fund"), which is a terminated multiemployer pension plan, to other multiemployer pension plans pursuant to reciprocity agreements. As we understand the pertinent facts, the Fund terminated by the adoption of an amendment ceasing accruals for all purposes (ERISA section 4041A(a)(1) termination). Subsequent to the adoption of that amendment, the obligation of all employers to contribute to the Fund ceased. Because of the cessation of the obligation to contribute, the termination becomes a termination under section 4041A(a)(2), i.e., a plan termination by mass withdrawal, and the Fund is subject to the statutory rules that apply to such terminations.

Section 4041A governs the payment of benefits to participants in terminated multiemployer plans. Section 4041A(c) provides that, except as provided in section 4041A(f)(1), the plan sponsor of a plan terminated by mass withdrawal shall - [*2]

- n1) limit the payment of benefits to benefits which are nonforfeitable under the plan as of the termination, and
- (2) pay benefits attributable to employer contributions, other than death benefits, only in the form of an annuity, unless the plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan.

Section 4041A(f) provides that:

The plan sponsor of a terminated plan may authorize the payment other than in the form of an annuity of a participant's entire nonforfeitable benefit attributable to employer contributions, other than a death benefit, if the value of the entire nonforfeitable benefit does not exceed \$1,750. The [PBGC] may authorize the payment of benefits under the terms of a terminated plan other than nonforfeitable benefits, or the payment other than in the form of an annuity of benefits having a value greater than \$1,750, if the [PBGC] determines that such payment is not adverse to the interest of the plan's participants and beneficiaries generally and does not unreasonably increase the [PBGC's] risk of loss with respect to the plan. (Emphasis supplied.)

The transfer of assets and liabilities from the Fund pursuant to reciprocity [*3] agreements would constitute benefit payments that are not specifically authorized under section 4041A(c), and, therefore, may be put into effect only if the PBGC approves under section 4041A(f). If you desire such an approval, you should submit evidence that clearly demonstrates that the transfer will not be adverse to the interest of participants and beneficiaries generally and will not unreasonably increase the PBGC's risk of loss with respect to the Fund.

If you have any questions on this matter please contact * * * at (202) 254-6138, or * * * at (202) 254-4860, of the Corporate Policy and Regulations Department.

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General Counsel