

Pension Benefit Guaranty Corporation

83-15

July 7, 1983

REFERENCE:

[*1] 3(16) Definitions. Administrator

4001(a)(1) Definitions. Administrator

4041(a) Termination by Plan Administrator. Filing of Notice of Intent to Terminate

OPINION:

This is in response to your letter of June 1, 1983 requesting reconsideration of our April 19, 1983 initial determination in the above case. The documents submitted and your letter in support of your position have been considered. I find that the initial determination is correct.

We initially determined that the Notice of Intent to Terminate filed by * * * (the "Company"), was valid because the Company is the plan administrator and thus authorized under ERISA § 4041(a), 29 U.S.C. § 1341(a), to file such a notice. Our conclusion that the Company is the plan administrator was in turn based on the following specific provisions to that effect in § 7.1 of the plan document: "[t]he Company shall be the Plan administrator . . . for purposes of [ERISA]. . . ."

Your request for reconsideration is based on documents (i.e. two Supplemental Agreements and the Master Trust Agreement) not separately discussed in our initial determination. The position of your client is that these documents show the plan administrator not to be the Company [*2] but rather the "Joint Administrative Committee" of both employer and union representatives created by § 7.9 of the plan document (the "Committee").

We recognize, as you first argue, that the Supplemental Agreements specify for the Committee certain reporting and disclosure functions that could be interpreted to correspond to functions of an administrator under ERISA § 104(b), 29 U.S.C. § 1024(b). We also recognize, as you further argue, that a reference in the Master Trust Agreement to "the Administrator" could be interpreted to mean the Committee, when considered in light of a related provision in the Supplemental Agreements.

However, these provisions of the Supplemental Agreements do not contradict or supersede the express provision in the plan document that the Company is the plan administrator for purposes of ERISA. Therefore there is no inconsistency or conflict which requires the Supplemental Agreements to be controlling.

Moreover, the Supplemental Agreements do not specifically designate a plan administrator, as you note. Therefore the Supplemental Agreements supersede the plan document only in respects other than the identity of the plan administrator, and § 7.1 of [*3] the plan document remains a valid, specific designation of the administrator with the meaning of ERISA, § 3(16)(A)(i), 29 U.S.C. § 1002(16)(A)(i).

For these reasons the initial determination is affirmed. This constitutes a final decision under 29 C.F.R. § 2606.36(b), and you have therefore exhausted your administrative remedies.

I hope this has been of assistance.

Henry Rose
General Counsel