

Pension Benefit Guaranty Corporation

83-4

January 25, 1983

REFERENCE:

[*1] 4219 Notice & Collection of Withdrawal Liability
4221 Resolution of Disputes

OPINION:

This responds to your inquiry whether the validity of a demand for payment of withdrawal liability is subject to review and arbitration under Sections 4219(b)(2) and 4221 of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended by the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. No. 96-364 (1980), 29 U.S.C. § 1399(b)(2), 1401 (Supp. IV 1980).

You state in your letter that review by the plan sponsor and arbitration of the amount of withdrawal liability would be "premature" until your client receives a "valid demand" for payment of withdrawal liability. The determination by the plan sponsor to issue a demand to your client, however, is clearly a "determination made under sections 4201 through 4219." See 29 U.S.C. § 1401(a)(1).

Your client's disagreement with the plan sponsor over the validity of the demand for withdrawal liability thus creates a "dispute between an employer and the plan sponsor" within the meaning of 29 U.S.C. § 1401(a)(1). The statute makes it clear that all such disputes "shall be resolved through arbitration." Id.

I hope this is of assistance. [*2] If you have further questions concerning this matter, please telephone * * * of my staff on (202) 254-4895.

Henry Rose
General Counsel