

#1589302



Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

149955748-723B-438B-8

DEC 18 2003



Re: Appeal DeVlieg Sundstrand UWA Pension Plan (the DeVlieg Plan);
Case #: 159814

Dear

The Appeals Board has reviewed your appeal of PBGC's January 3, 2003 revised determination of your DeVlieg Plan benefit. As explained below, the Board changed PBGC's determination by finding that you are not vested in a benefit under the White Consolidated Industries, Inc. Plan (the WCI Plan). As a result of this change, there is no WCI Plan offset to your DeVlieg Plan benefit.

PBGC's Determination and Your Appeal

PBGC's letter said that, based on the Appeals Board's January 2, 2002 decision, you are entitled to a disability benefit, instead of a deferred vested benefit, under the DeVlieg Plan. The letter also noted that, although PBGC previously told you that you were not vested under the WCI Plan, PBGC has now determined you are vested based on your WCI service. PBGC then offset your DeVlieg disability benefit by your WCI benefit, beginning at age 62 when your WCI benefit first became payable.

As a result of these revisions, PBGC's letter said that you are entitled to monthly benefits of (1) \$508.70 per month from January 1, 1991 through May 1, 1991, (2) \$309.20 from June 1, 1991 through December 1, 1991, (3) \$204.94 from January 1, 1992 through February 1, 2001, and (4) \$211.29 from March 1, 2001 through May 1, 2001, all in the form of a 60% Joint and Survivor Annuity. Beginning June 1, 2001 (age 62) and thereafter, PBGC determined you are entitled to \$116.68 per month as a Straight Life Annuity.

Lastly, PBGC explained that these revisions reduced your net overpayment amount from \$29,761.01 to \$7,036.08. PBGC also determined that you are entitled to a special payment for your disability supplement payable before the Plan terminated. After deducting these underpayments, PBGC found you still had a net overpayment (then equal to \$1,228.34), which PBGC would recoup by reducing your \$116.68 monthly benefit by \$11.67 (10%), until repaid.

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Your February 11, 2003 appeal said that you do not believe you are vested in a WCI benefit. You contacted Nicholas Czar, the current Plan Administrator for the WCI Plan, who told you that they have no records showing you with a vested benefit in the WCI Plan. You also questioned why, if WCI is in fact responsible for 10 years of service, PBGC is only responsible for 2.6 years when your total time is 13.3 years.

Plan History

On April 28, 1988, DeVlieg, Inc. purchased the assets of the White Consolidated Industries (WCI) Machine Tools and Systems Division in Belvidere, Illinois. DeVlieg adopted the DeVlieg Plan on December 30, 1988, and made it effective as of April 28, 1988. Before this sale, plant employees were covered by the White-Sunstrand UAW Pension Plan (WCI Plan) for service between October 7, 1977 and April 28, 1988, and by the Pension Plan of the Sunstrand Corporation and Local 592, UAW (Sunstrand Plan) for service before October 7, 1977. The DeVlieg Plan terminated, effective December 31, 1991, and PBGC subsequently became trustee.

The DeVlieg Plan counts service from a participant's date of hire (with Sunstrand, WCI or DeVlieg, whichever applies) to the earlier of the date employment with DeVlieg ended or the date the DeVlieg Plan terminated. The DeVlieg Plan benefit is then offset by the benefits payable under the WCI and/or Sunstrand Plans for service before April 28, 1988.

WCI Plan Benefit

When PBGC recalculated your disability benefit, they determined (1) you had 10.0 years of service under the WCI Plan, instead of the 9.7 years they previously determined; (2) you are, therefore, vested in a WCI benefit; and (3) the WCI Plan is responsible for paying your WCI Plan benefit. We contacted Mr. Czar, who verified that your name does not appear on any WCI Plan list of deferred vested participants, nor is there any record of your participation. On your behalf, Mr. Czar contacted a union official, who found your name on a list of union members showing you with 9.7 years of service (the same service PBGC used initially). We also reviewed DeVlieg and WCI Plan documents. Based on this information, we concluded that you are not vested in a WCI benefit.

You also asked about the total years of service (before any offset) PBGC used to compute your benefit. As shown on line 6 of the benefit statement PBGC included with its January 3, 2003 letter, PBGC calculated your DeVlieg benefit using 13.3 years of service, the same total you cited in your appeal.

Underpayments/Overpayments

The Board agreed with PBGC's determination that you have been overpaid in some months and underpaid in others. However, PBGC's letter incorrectly described PBGC policy on netting overpayments and underpayments. Instead, you will receive a lump-sum payment for

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underpayments made before the Plan termination date (December 31, 1991). PBGC will recompute your net overpayment amount under Subpart E of PBGC's regulation on *Benefits Payable in Terminated Single-Employer Plans* by generally netting underpayments made after the Plan termination date against overpayments made after July 1, 1993 (the date PBGC issued its Notice of Determination to terminate the Plan). When, the result is a net overpayment, PBGC will recover the net overpayment by reducing future annuity benefits by no more than 10%.

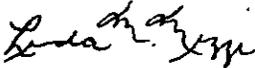
Decision

Based on the information described above, the Appeals Board found that you are not vested under the WCI Plan and, as a result, there is no WCI offset to your DeVlieg Plan benefit. Please note that this decision does not affect the pre-age 62 benefit amounts PBGC determined because any WCI offset would not have started until age 62. This is the Agency's final decision on the issues you raised and you may, if you wish, seek court review.

We will forward a copy of this letter to PBGC's Insurance Operations Department, the organization responsible for calculating benefits, who will correct their records to eliminate the WCI offset against your DeVlieg benefit. They will also pay pre-termination underpayments in a single lump sum and recalculate your net overpayment amount.

Meanwhile, if you have questions, please call PBGC's Customer Contact Center at 1-800-400-7242.

Sincerely,



Linda M. Mizzi
Member, Appeals Board