



Pension Benefit Guaranty Corporation

1200 K Street, N.W., Washington, D.C. 20005-4026

APR 08 2005

Re: The Grand Union Company Associates'
Retirement Plan ("Plan"), PBGC Case # 194132

Dear

The Appeals Board has reviewed your December 10, 2003 response to PBGC's November 14, 2003 request that you show you met the Plan's participation requirements, i.e., that you were a full-time, non-union employee of Grand Union. As discussed below, the Appeals Board found that you were eligible to participate in the Plan. The Board, however, also concluded that you are *not* entitled to a Plan benefit from PBGC.

PBGC's Determinations, Your Appeal, and Related Correspondence

By letter dated March 13, 2002, PBGC told you it had determined that you are not entitled to a Plan benefit from PBGC because you had a break in service in 1975 and, as a result of the break, you did not have the 10 years of service the Plan required for a vested right to a benefit. You appealed that determination by letter dated April 2, 2002, stating that you had met the Plan's vesting requirement.

My decision letter of June 23, 2003 changed PBGC's March 13, 2002 determination. The decision explained that during our research on your appeal, we found that your 1975 earnings had been incorrectly posted in the Social Security Administration's ("SSA") records. As a result of the SSA's correcting your record of earnings for 1975, we concluded that you did not experience a break in service that year and, therefore, "you had enough service with Grand Union to meet the Plan's vesting requirement." Please note that my decision did *not* find that you were entitled to a Plan benefit from PBGC. Rather, the decision letter stated that, based on the Appeals Board's decision, PBGC's Insurance Operations Department ("IOD"), the office responsible for determining and paying PBGC benefits, would send you a new determination regarding your benefit entitlement under the Plan. That is, IOD would let you know *if* you were entitled to a Plan benefit and, if so, the new determination would have also included the amount of the benefit PBGC would pay you.

After receiving my decision letter, on November 14, 2003, Ms. Deborah Trentacosta, an IOD representative for the Plan, sent you a letter which stated: "Although PBGC agrees that you could possibly have become vested before you terminated [employment], according to the pension records of Grand Union, you had a zero balance in your pension plan at the time you terminated employment." That letter also stated that "unless you can show that you were classified as a Full Time Non-Union employee during the period you worked for Grand Union, PBGC maintains its original determination that you are not due a benefit."

In your December 10, 2003 response to Ms. Trentacosta, which was forwarded to the Appeals Board, you maintain that you were a Plan participant and that you are entitled to a Plan benefit.

Discussion

Employees who were represented by a collective bargaining agreement (union employees) and employees who worked less than 1,000 hours a year were not eligible to participate in the Plan. While my June 23, 2003 appeal decision found that you had enough service with Grand Union to meet the Plan's vesting requirement, according to IOD, PBGC did not have enough information to determine whether you were eligible to participate in the Plan. Therefore, IOD's November 14, 2003 letter asked that you provide information to show that you were a full-time, non-union employee.

Your December 10, 2003 response did not include any Company documentation (e.g., pay stubs, work schedules, etc.) to show that you met the Plan's participation requirements. You did, however, provide a listing of the positions you held at Grand Union and the names of some of your coworkers and other Company personnel whom you believe could verify your employment. Among those listed is Mr. Armondo Chevere, Personnel Manager.

We contacted Mr. Chevere who told us that you were a full-time, non-union employee of the Company and that you held various management positions. He recalled that you were absent from the Company for a few consecutive months (but could not remember the year), after which you returned full-time and continued to work full-time until your employment ended. Mr. Chevere also stated that you had more than enough service with Grand Union to be vested under the Plan.

Since the files do not have sufficient evidence for us to conclude otherwise, based on Mr. Chevere's statements, the Appeals Board found that you were eligible to participate in the Plan. My June 23, 2003 decision found that you had enough service to be vested under the Plan.

Please note, however, that as PBGC's November 14, 2003 letter stated, you are included on an official Grand Union pension record, dated August 3, 1982, that lists a number of employees who had "a zero balance" in the pension plan at the time their employment with the Company ended. The records show your employment ended when Grand Union ceased its Puerto Rico operations,

some 20 years before PBGC took over the Plan. Based on the Grand Union document noted above and our research, the Appeals Board concluded that you received from the Company any Plan benefit you may have been due before PBGC took over the Plan. Thus, you are not entitled to a Plan benefit from PBGC.

Decision

The Appeals Board changed PBGC's March 13, 2002 determination by finding that you were a vested participant in the Plan. The Board also found that you are not due a Plan benefit from PBGC. This is the agency's final action with regard to PBGC's determination and you may, if you wish, seek court review of this decision.

We apologize for not responding sooner and appreciate your patience during the processing of your case. If you need additional information from PBGC, please call the Customer Contact Center at 1-800-400-7242 and ask to speak to an IOD representative for the Plan.

Sincerely,

A handwritten signature in cursive script that reads "Sherline M. Brickus". The signature is written in black ink and has a long, sweeping underline that extends to the right.

Sherline M. Brickus
Member, Appeals Board