

6-9411-1881-1106-6



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

October 28, 2002

[Redacted]

Re: Estate of [Redacted] Appeal [Redacted]  
Pan American World Airways, Inc. ("Pan Am")  
Cooperative Retirement Income Pension Plan ("CRIP")

Dear Mr. Katz:

The Appeals Board has reviewed your appeal of PBGC's May 28, 1999 revised determination of [Redacted] benefit. PBGC offered [Redacted] two options for receiving her benefit, both as a Single Life Annuity:

- 1) receiving \$24.64 per month from September 1, 1991 through October 1, 1992, and \$484.58 per month for her remaining lifetime starting November 1, 1992, or
- 2) \$24.64 per month from September 1, 1991 through October 1, 1992, \$745.23 per month starting November 1, 1992 per month until age 65, and \$168.58 per month for her remaining lifetime beginning November 1, 2002.

PBGC explained [Redacted] had been overpaid and her future benefit, under both Options 1 and 2; would be reduced 10% until her overpayments had been repaid. PBGC paid [Redacted] an estimated benefit of \$1,265.20 per month following her September 1, 1991 retirement through July 2000, the month of her death.

As explained below, you have not presented a basis for increasing the benefit PBGC paid to [Redacted]. Also, under PBGC's policies [Redacted] debt for her cumulative overpayments were extinguished upon her death. However, PBGC's policies require repaying any benefits PBGC paid on [Redacted] behalf after the month of her death.<sup>1</sup>

Your Appeal

In your July 8, 1999 letter, you asked that no action be taken on your appeal until PBGC fully explains [Redacted] benefit calculation and then gives you time to perfect your appeal. You stated:

- [Redacted] had been improperly denied payment of a 'subsidized' early retirement benefit. In particular, you

<sup>1</sup> PBGC's records indicate [Redacted] bank account was paid for 3 months after her death, August - October 2000.

believe [ ] worked through her Early Retirement Date which you believe was before CRIP's July 31, 1991 termination date;

- your time to perfect your appeal should be extended indefinitely, pending resolution of the Pineiro lawsuit;
- your appeal should be consolidated with the appeals of all participants in CRIP and two other Pan Am pension plans;
- PBGC should supply you with calculations, and copies of records and other documents which relate to the determination of your benefit;
- PBGC should recuse itself from making any determination of your benefit and appoint an independent trustee to make such a determination;
- PBGC did not use sufficient qualified personnel to perform benefit calculations, and your benefit calculations were not reviewed by Milliman, USA, PBGC's actuarial contractor.

You believe [ ] Pan Am average compensation to have been understated for calculating benefit. In particular, you believe her pension earnings should include overtime and bonuses.

Additional Documents Relevant to Your Appeal

On July 15, 1999, PBGC's Disclosure Officer sent you a copy of the information contained in [ ] PBGC benefit file.

Appeals Board Decisions Relevant to Your Appeal

In decisions made prior to the date of this letter, the Appeals Board has consolidated and decided certain issues relevant to your appeal. Among other things, the Board has:

- found that, CRIP's definition of Compensation includes overtime and bonuses for participants in Pan Am's Management Workforce;
- found that for participants in Pan Am's IUFA Workforce, CRIP's definition of Compensation includes overtime and bonuses for years up to and including 1978, but not for later years;
- decided that for the purpose of determining Normal Retirement Benefit, CRIP was amended to freeze compensation and service as of December 31, 1983;
- found that CRIP's administrators and PBGC correctly used the factors in CRIP's "45.2% Table" to adjust Vested Separation benefits for starting early even though these factors are more generous than the CRIP document states.

These decisions are explained in Enclosure 2.

Data Relevant to your Appeal

PBGC's files contain the following data relevant to your appeal and to  Pan Am employment:

(1)	<input type="text"/> date of birth:	<input type="text"/>
(2)	Hire date:	4/25/1963
(3)	Date <input type="text"/> became a participant (first of month following 1 year of service):	5/01/1964
(4)	Date <input type="text"/> transferred from Pan Am's IUFA Workforce to the Management Workforce:	9/01/1971
(5)	Date <input type="text"/> started contributing to CRIP:	12/01/1973
(6)	Effective date on which CRIP's benefit accruals were "frozen":	12/31/1983
(7)	Final 5-year Annualized Compensation as of 12/31/83, as shown in CRIP's records:	\$36,952.75
(8)	Total Years of Benefit Service as of 12/31/83:	20 years 6 months
(9)	CRIP's termination date:	7/31/1991
(10)	Date <input type="text"/> transferred from the Management Workforce back to the IUFA Workforce:	8/19/1991
(11)	Date <input type="text"/> started receiving her benefit:	9/01/1991
(12)	<input type="text"/> age on 9/01/1991, in years and completed months:	53 years 10 months
(13)	Date of <input type="text"/> death:	7/04/2000

Pension Service

The full elapsed time in completed months from  April 25, 1963 hire date through CRIP's December 31, 1983 freeze date is 20 8/12 years. She was absent on personal leave for 2 complete calendar months during that period, from October 31, 1969 until January 1, 1970. Therefore, the 20 6/12 (20 8/12 minus 2/12) Years of Benefit Service Pan Am and PBGC used is the maximum possible for  under CRIP.

Normal Retirement Date

The estimated benefit Pan Am calculated and PBGC paid was based on a **November 1, 1997** Normal Retirement Date,  age 60. Age 60 is CRIP's Normal Retirement Age for flight

attendants. However, [redacted] was no longer a flight attendant on Pan Am's December 31, 1983 freeze date. On December 31, 1983 [redacted] was already a ground employee, with Normal Retirement Date November 1, 2002 (age 65), instead of November 1, 1997.

CRIP uses the age-65 Normal Retirement Date for all of [redacted] benefit except for what she had earned when she stopped being a flight employee on September 1, 1971.<sup>2</sup> [redacted] option for transferring back to flight attendant and therefore, having all of her benefit based on an age-60 Normal Retirement Age was eliminated effective January 1, 1984.<sup>3</sup> Furthermore, even if CRIP did use Normal Retirement Age 60 based on [redacted] August 19, 1991 transfer to flight employee, PBGC could not guarantee the benefit increase because under the law, PBGC cannot guarantee benefit increases based on eligibility met after CRIP's July 31, 1991 termination date.

Division of Normal Retirement Benefit between Management and IUFA

We explain below that [redacted] Normal Retirement Benefit is \$1,054.23, of which \$36.67 was earned as a flight employee, with a Normal Retirement Date November 1, 1997 (age 60). The \$1,017.56 (\$1,054.23 - \$36.67) balance was earned as a member of CRIP's Management Workforce, with a November 1, 2002 (age 65) NRD.

Normal Retirement Benefit as if all service were in Management

Under Article IV(A) (7) (b), [redacted]'s total Normal Retirement Benefit is calculated as if she was always an employee in Pan Am's Management Workforce. Her total Normal Retirement Benefit is the largest of her:

- Alternative I: Monthly Basic Benefit,
- Alternative II: Monthly Minimum Benefit, or
- Alternative III: Monthly Updated Benefit.

**1. Pension Earnings**

The table below shows [redacted] pension earnings, as contained in Pan Am's pension records and used by PBGC to compute [redacted] benefit. The table also shows [redacted] earnings for certain years, as reflected in Pan Am's payroll records.

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<sup>2</sup> Article IV(A) (7) (b), CRIP 0664

<sup>3</sup> See Article IV(A) (7) (a) (CRIP 0664) as modified by CRIP Amendment 1984-1 (CRIP 0756).

Pan Am Electronic Records

Year ending December 31,	Pension Earnings		Payroll Earnings
	Compensation	Annualized Compensation	
1979	\$30,254.30	\$30,254.30	unavailable
1980	\$34,827.36	\$34,827.36	\$34,827.36
1981	\$39,017.61	\$39,017.61	\$37,667.05
1982	\$42,678.96	\$42,679.61	unavailable
1983	\$37,985.70	\$37,984.86	\$37,985.70
	Total:	\$184,763.74	
	Average:	\$36,952.75	

The Appeals Board decided Pan Am's records of [redacted] pension earnings are reliable and should be used to determine her benefit. The Board's decision is based in part on our careful review of Pan Am wage-rate, payroll records, W2s, and pay stubs for other appellants in Pan Am's Management Workforce.

**2. Alternative I: Monthly Basic Benefit** (also called the "Career Average Formula" for the Management Workforce)

[redacted] Monthly Basic Benefit is determined by adding the following two amounts:

- 1) For each year or fraction of a year before 1979, 1% of [redacted] Compensation up to \$3,000, plus 2% of [redacted] Compensation over \$3,000.
- 2) For each year or fraction of a year beginning in 1979 [through the December 31, 1983 freeze date], 1.25% of [redacted] Compensation up to \$4,000 plus 2% of [redacted] Compensation over \$4,000.

CRIP's computerized records show that CRIP's administrators calculated that [redacted] earned a Monthly Basic Benefit of \$544.92 { \$6,539.01 ÷ 12 months }, if paid as a Straight Life Annuity beginning at [redacted] Normal Retirement Date of November 1, 2002.

*Effect of pre-1979 Compensation on the Monthly Basic Benefit*

PBGC could not reproduce CRIP's administrators' calculations of [redacted] Monthly Basic Benefit because the Pan Am records PBGC obtained do not show [redacted] pension earnings before 1979. However, we have verified that it is highly unlikely that exact earnings data in years before 1979 would improve [redacted] benefit. In particular, [redacted] overtime and bonus earnings before 1979 needed to average more than 70% of her estimated full-

time base pay to make her Monthly Basic Benefit larger than the benefit PBGC determined. See Enclosure 4.

### 3. Alternative II: Monthly Minimum Benefit

[redacted] Monthly Minimum Benefit is calculated by multiplying her 20-6/12 Years of Benefit Service by the applicable benefit accrual rate for her job classifications. Using the maximum \$24.00 rate (Enclosure 6), Pan Am and PBGC calculated [redacted] Monthly Minimum Benefit is \$492.00 {20-6/12 years x \$24.00}, if paid as a Straight Life Annuity starting at age 65.

### 4. Alternative III: Monthly Updated Benefit

[redacted] Monthly Updated Benefit depends on her "Average Annualized Compensation" ("AAC") for the six five-year periods ending on December 31 of 1978, 1979, 1980, 1981, 1982, and 1983.<sup>4</sup> [redacted] benefit is largest using her 1979-1983 AAC. See Enclosure 5 which shows the pre-1979 earnings needed to improve her benefit.

#### *Updated Benefit Calculation Using 1979-1983 AAC*

The Monthly Updated Benefit based on [redacted] 1979-1983 AAC is \$12,650.77 per year { $\$36,952.75 \times (20-6/12 \text{ years}) \times .0167$ }, or \$1,054.23 per month { $\$12,650.77 \div 12 \text{ months}$ }, if paid as a Straight Life Annuity starting at age 65.

#### *Effect of Pre-1979 Compensation on the Monthly Updated Benefit*

Although unlikely, it is mathematically possible [redacted] pre-1979 Annualized Compensation could improve her benefit. However, her benefit would improve only if her Average Annualized Compensation, including overtime and bonuses, is larger than shown in any row of the table below. The table is based on Enclosure 5.

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<sup>4</sup> The CRIP document also includes an earlier version of the Monthly Updated Benefit. However, the earlier version uses only a 1.5% accrual rate, instead of 1.67%, and is further reduced based on [redacted] Social Security benefit. See Enclosure 6 page A-3. Therefore, the earlier version of the Monthly Updated Benefit is less beneficial than the version Pan Am, PBGC, and the Appeals Board used.

	Years (1)	Number of Years Earnings (2)	Pre-1979 Annualized Compensation Needed to Improve Benefit	
			Total (3)	Average Annualized (3) ÷ (2)
(1)	1978	1	\$36,257.51	\$36,257.51
(2)	1977-1978	2	\$75,502.61	\$37,751.31
(3)	1976-1978	3	\$111,945.54	\$37,315.18
(4)	1975-1978	4	\$145,406.02	\$36,351.51
(5)	1974-1978	5	\$175,885.65	\$35,177.13

For comparison, we estimate [redacted] 1978 Compensation to be \$27,820.59. See Enclosure 4 column 6. Therefore, it is very unlikely her pre-1979 earnings are large enough to improve her Monthly Updated Benefit.

**5. Total Normal Retirement Benefit**

[redacted] Normal Retirement Benefit is \$1,054.23 per month, treating all service as in Pan Am's Management Workforce. The \$1,054.23 under the Monthly Updated Benefit is larger than her \$492.00 Monthly Minimum Benefit and the \$544.92 Monthly Basic Benefit Pan Am calculated.

Benefit Earned as Flight Employee through September 1, 1971

Pan Am's records show [redacted] began contributing to CRIP in 1973 after her transferring to a Management position. Therefore, her flight service benefit is calculated using the non-contributory accrual rate of \$5.00 per month per year of service. Also, in 1971 CRIP required that an employee complete one year of service and be over age 25 before she could start accruing benefit service. In [redacted] case, her benefit service started to accrue on May 1, 1964, the first of the month after she had completed one year of service. On August 31, 1971, she had accrued 7 4/12 (7 6/12 minus 2/12) Years of Benefit Service.<sup>5</sup> Therefore, her Normal Retirement Benefit on August 31, 1971 was \$36.67 (\$5.00 x 7 4/12 years), per month if paid as a Straight Life Annuity starting at age 60.

<sup>5</sup> The full elapsed time from May 1, 1964 to August 31, 1971 (7 6/12 years) less 2/12 years on personal leave of absence.

Flight Attendant Early Retirement Benefit

[redacted] elected to retire effective September 1, 1991, at age 53-10/12 years. Because [redacted] \$36.67 flight attendant benefit was payable starting at Normal Retirement Age 60, the CRIP document in effect in 1971 required applying a 0.6635 reduction factor. Therefore, the flight service portion of [redacted] benefit was \$24.33 ( $\$36.67 \times .6635$ ) per month if paid as a Straight Life Annuity starting on her September 1, 1991 retirement date. PBGC's revised determination calculated \$24.64 ( $\$36.67 \times .6720$ ), using a slightly different factor of 0.6720.

Management Employee Vested Separation Benefit

The \$1,017.56 ( $\$1,054.23 - \$36.67$ ) balance of [redacted] Normal Retirement Benefit was earned as a member of CRIP's Management Workforce. Also, [redacted] did not qualify for CRIP's subsidized Early Retirement Benefit on her \$1,017.56 Management Employee Normal Retirement Benefit because she stopped working in 1991, before reaching age 55. See Enclosures 2 and 3.

Under CRIP's Vested Separation Benefit, the earliest [redacted] could start receiving her \$1,017.56 Normal Retirement Benefit, reduced for starting early, was November 1, 1992, at age 55. The applicable factor for starting her benefit at age 55-0/12 is .452. Therefore, her benefit beginning November 1, 1992 would have been \$459.94 ( $\$1,017.56 \times 0.452$ ) per month if paid as a Straight Life Annuity.

Total Benefit Reduced for Starting Early

To show [redacted] was overpaid, for simplicity, we calculate her benefit as if she was entitled to receive her \$484.27 ( $\$459.94 + \$24.33$ ) total benefit as a Straight Life Annuity starting on her September 1, 1991 retirement date, at age 53-10/12.

Social Security Level Income Option

[redacted] chose to receive her benefit under CRIP's Social Security Level Income Option ("SSLO") which is designed to provide a more level combined retirement income than if she retired with a Straight Life Annuity. CRIP uses a Social Security retirement age of 65 and an estimated Social Security benefit. Pan Am used an estimated Social Security Benefit of \$979.00 for [redacted]. Under the SSLO, CRIP pays more than \$484.27 per month before age 65, but after age 65 her total monthly benefit is reduced by \$979.00, so her final CRIP benefit is less than \$484.27 per month.

Temporarily increasing [redacted] benefit until age 65 by the \$979.00 amount Pan Am used increased the value of her CRIP benefit: The calculations in the next paragraph show [redacted] benefit after reaching age 65 would need to be negative to repay



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such a large temporary increase. We use the generous \$979.00 Social Security Benefit Pan Am used to simplify our explanation that [redacted] was overpaid.

Based on [redacted] age of 53 years 10 months on September 1, 1991, the Actuarial Equivalence factor applicable to [redacted] SSLO benefit is 0.415. See Enclosure 7.<sup>6</sup> Therefore, [redacted] \$484.27 per month maximum benefit would have been temporarily increased at most \$406.00 (.4150 x \$979.00; rounded to nearest dollar), for a total of \$890.27 {\$484.27 + \$406.06} per month until October 1, 2002. Based on the \$979.00 assumed Social Security benefit, [redacted] benefit beginning November 1, 2002 (age 65) would have been \$0 because \$890.27 minus \$979.00 is less than \$0.

PBGC Overpaid [redacted] Benefit

The Calculations above show [redacted] was entitled to receive at most, \$890.27 per month until she died on July 4, 2000. PBGC's records show [redacted] received \$1,265.20 per month through July 1, 2000.<sup>7</sup> Therefore, [redacted] has been overpaid.

Decision

Having applied CRIP's provisions to the facts in this case, the Appeals Board found no basis for changing PBGC's determination. [redacted] has not been underpaid and PBGC will not try seek repayment of overpayments to [redacted] prior to her death. You may if you wish, seek court review of PBGC's determination with respect to the issues that you have raised. We appreciate your patience during this careful review of your appeal.

Sincerely,  
*William D. Ellis*  
William D. Ellis  
Appeals Board Member

Enclosures:

- 1) Pan Am's "Personnel Master" database record
- 2) Explanation of Certain Appeals Board Rulings Involving the Pan Am "CRIP Plan" (7 pages)
- 3) Summary of CRIP's provisions (2 pages)
- 4) Worksheet showing an average 70% overtime plus estimated full-time pay is needed to increase [redacted] benefit

<sup>6</sup> .42 x 5/6 + .39 x 1/6

<sup>7</sup> See footnote 3 on page 2.

- 5) Worksheet showing pre-1979 earnings needed to increase [redacted] benefit under the Monthly Updated Benefit
- 6) CRIP document, Section I, Appendix A (4 pages)
- 7) Excerpt from CRIP January 1, 1985 Summary Plan Description (2 pages)

cc:

[redacted]  
[redacted]  
[redacted]

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