

Pension Benefit Guaranty Corporation

75-71

August 27, 1975

REFERENCE:

[\*1] 4048 Date of Termination

OPINION:

This is in response to your letter of August 8, 1975 and subsequent telephone conversations with \* \* \* of my staff concerning the \* \* \* ("the Plan").

As I understand the pertinent facts, the Plan was adopted effective January 1, 1964. On January 31, 1974 the \* \* \* ("the Association") sold its assets to another corporation ("the Buyer") and all of the then employees of the Association became employees of the Buyer. The agreement of sale for the Association's assets made no mention of the Plan, and the Plan's assets have continued to be held in trust. Although, at the time of the purchase of the Association's assets, the buyer intended to establish a profit sharing plan to replace the Plan, it did not do so and it now has determined not to continue the Plan.

The Association has hired two employees since January 31, 1974, neither of whom has yet met the Plan's eligibility requirements. As a result of the sale of assets and termination of employment, accruals and vesting both ceased after January 31, 1974. In addition, no former employee of the Association has become eligible for retirement benefits since January 31, 1974. Finally, the assets of the plan [\*2] are sufficient to provide for full vesting of all benefits accrued as of January 31, 1974. The Association now proposes formally to terminate the Plan and to purchase annuities for or distribute lump sum payments to all plan participants.

In your opinion, the Plan effectively terminated as of January 31, 1974; consequently, you do not think compliance with the termination provisions of the Employee Retirement Income Act of 1974 is a necessary prerequisite for the distribution of the Plan's assets. In view of the facts outlined above, I agree with these conclusions.

Henry Rose  
General Counsel