

Pension Benefit Guaranty Corporation

75-75

June 23, 1975

REFERENCE:

[\*1] 4063(a) Liability of Substantial Employer for Withdrawal. Notice of Withdrawal of Substantial Employer

OPINION:

Your letters of October 31, 1974 and January 28, 1975 to Mr. \* \* \* of the \* \* \* office of the Labor Management Services Administration in regard to the \* \* \* been forwarded to this office for reply.

Your letter of October 31, 1974 asks what form the notice to the Pension Benefit Guaranty Corporation ("PBGC") under Sec. 4063(a) of the Employee Retirement Income Security Act of 1974 ("ERISA") should take. We do not require that the notice take any particular form, although certain information must be provided to the PBGC so that we can determine whether the employer is liable for benefits guaranteed by the Corporation. I have enclosed a copy of our standard request for information relating to the withdrawal from a plan by a substantial employer. All information should be sent to the Pension Benefit Guaranty Corporation at P.O. Box 7119, Washington, D.C. 20044.

Your letter of January 28, 1975 asks whether employer contributions must equal or exceed 10% of all employer contributions for the appropriate years for the employer to be a "substantial employer" under either Subsection [\*2] 4001(a) (2) (A) or Sec. 4001(a) (2) (B) of ERISA. We interpret each of these subsections to require that employer contributions equal or exceed 10% of all employer contributions for the appropriate years for the employer to be a substantial employer under either Subsection.

If you have any further questions concerning ERISA, please do not hesitate to contact us.

Henry Rose  
General Counsel