

Pension Benefit Guaranty Corporation

76-112

September 28, 1976

REFERENCE:

[*1] 4022(a) Benefits Guaranteed. Type of Benefits Guaranteed

OPINION:

This is in response to your letters of September 10, 1976 and September 21, 1976 concerning the * * * Plan (the "Plan"). You asked, in effect, for a report on the current status of this case.

The legal issue in this case is whether participants who have completed 15 years of Credited Service and have attained age 15, but who continued to work for * * * after the date of termination, have a vested benefit under the Plan. The Plan provides, in its termination of employment provision that "a Participant whose employment with the Firm is terminated for any reason other than death or retirement after he has completed fifteen (15) years of Credited Service and has attained age forty-five (45), shall be entitled to receive at normal retirement date if then living, a retirement benefit equal to his normal retirement benefit computed in accordance with Section V hereof (relating to the amount of the normal retirement benefit) and based on Credited Service to the date of such termination of employment."

On August 26, 1976, we requested the Department of Labor and the Internal Revenue Service to advise us whether it is their position [*2] that the benefit mentioned in the Plan's termination of employment provision is a nonforfeitable one under the Employee Retirement Income Security Act of 1974. Recently, we received a response from each of these agencies. As a result of these responses, we have concluded that a participant who has completed 15 years of Credited Service and has attained age 45 has a nonforfeitable benefit, i.e., vested benefit, under the Plan, even if he has not terminated his employment prior to the date of Plan termination. Accordingly, we expect the Pension Benefit Guaranty Corporation to issue an Amended Notice of Sufficiency shortly.

We hope this will be of assistance and apologize for the delay in our response.

Henry Rose
General Counsel