

Pension Benefit Guaranty Corporation

76-117

November 3, 1976

REFERENCE:

[*1] 4041 Termination by Plan Administrator

OPINION:

This is in response to the inquiry from * * * of your firm and subsequent telephone conversations between * * * of my staff and representatives of * * * (the "Company"). The Pension Benefit Guaranty Corporation (the "PBGC") has been asked to determine whether there has been a plan termination under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") as a result of the Company's termination of participation of two of its subsidiaries in the: * * * (the "Plan").

As I understand the pertinent facts, the Company and some of its divisions and subsidiaries, all of which are under common control within the meaning of Section 4001(b) of the Act, participate in the Plan. The Board of Directors of the Company, pursuant to Section 8.01 of the Plan, has adopted resolutions terminating the participation in the Plan, as of July 30, 1976, of two of its subsidiaries, * * *

* * * The Plan provides, the effect, that if the Company terminates the participation of a participating employer, rather than if such employer itself terminates its participation, benefits are payable with respect to each such employer's participating employees [*2] without regard to the cessation of contributions by the entity that employed that participant. That is, the entire trust fund is obligated for the payment of all benefits under the Plan upon the termination of participation of a participating employer by the Company (See Sections 8.01 and 8.03 of the Plan). As a result of the Board of Directors' action, there was a 7.5% reduction in the total number of participants in the Plan. Each * * * employee participating in the Plan will be fully vested in his benefits accrued under the Plan as of July 30, 1976.

Based on the above facts, the termination of participation of * * * from the Plan did not result in a plan termination under Title IV. Therefore, no termination notice need be submitted to the PBGC under Section 4041 of the Act.

We hope this information is of assistance to you.

Henry Rose
General Counsel