

Pension Benefit Guaranty Corporation

76-51

April 13, 1976

REFERENCE:

[\*1] 4062(c) Liability of Employer in Single Employer Plans. Determination of Employer Net Worth

OPINION:

You have requested \*\*\* of my staff for a letter indicating the amount of employer liability, pursuant to § 4062 of the Employee Retirement Income Security Act of 1974 (the "Act"), imposed on \*\*\* and its wholly-owned subsidiary \*\*\* as a result of the termination of the Retirement Plan for Bargaining Employees of \*\*\* (the "Plan"). The Plan's termination notice, proposing a termination date of January 15, 1976, was received by this Corporation on December 29, 1975. In connection with your request, you and \*\*\* have submitted to \*\*\* a case officer in this Corporation's Office of Program Operations, various financial statements and other documents relating to the purchase by you and your associate of all of \*\*\* outstanding stock.

\*\*\* employer liability under § 4062(b) of the Act is limited to 30 percent of its net worth, determined as of a day chosen by this Corporation but not more than 120 days prior to the date of the Plan's termination. Employer net worth is determined under § 4062(c) of the Act on whatever basis, in the opinion of this Corporation, best reflects the current [\*2] status of the employer's operations and prospects at the time chosen for determining the net worth.

In reviewing \*\*\* potential employer liability, we have considered the documents submitted to \*\*\* including \* \* \* unaudited consolidated balance sheet as of June 28, 1975, \*\*\* unaudited consolidated statement of operations for the eight month period ending June 28, 1975, the \* \* \* unaudited balance sheet as of November 29, 1975 and various agreements under which you and your associate agreed to purchase for \$15,000.00 all of Relief's outstanding stock. As a result of this review, we have determined that \*\*\* net worth, for purposes of §4062 of the Act, is \$15,000.00.

Consequently, contingent upon our own or other independent audit of the financial condition of \*\*\* employer liability to this Corporation pursuant to § 4062 of the Act would be limited to \$4,500.00.

Henry Rose  
General Counsel