

Pension Benefit Guaranty Corporation

78-28

November 3, 1978

REFERENCE:

[*1] 4064 Liability of Employers in Multiple Employer & Multiemployer Plans
4064(b) Liability of Employers in Multiple Employer & Multiemployer Plans. Amount of Employer Liability

OPINION:

This has reference to your October 11, 1978 letter concerning employer liability under a terminating multiemployer plan, and to our October 18, 1978 telephone conversation.

You asked whether the PBGC has the authority, after it has initially allocated employer liability under Section 4064, to reallocate the liability of those employers that are unable or unwilling to pay their allocable liability to the other liable employers. Section 4064 allocates employer liability in terminating plans to which more than one employer contributes to all employers who maintained the plan as of the plan termination date or contributed to the plan within the five plan years preceding the termination date based on each such employer's proportionate share of the plan's unfunded liability for guaranteed benefits. Each employer liable under Section 4064 is liable only for its share of the total unfunded liability of the plan for guaranteed benefits.

Section 4064 authorizes the PBGC to prescribe in regulations other equitable [*2] bases for allocating Section 4064 liability. You asked whether the PBGC has begun work on such regulations. You stated that you have been advised that regulations will not be drafted pending further Congressional action on multiemployer plan coverage under Title IV. As I indicated to you during our October 18, 1978 telephone conversation, the information you received is incorrect. Regulations prescribing proposed alternative bases for computing Section 4064 liability are listed on the PBGC work plan for developing regulations and specifications for such regulations are currently being prepared.

Finally, as you requested, your letter will be considered in developing regulations to prescribe alternative bases for computing liability under Section 4064.

Henry Rose
General Counsel