

**New Provisions' Consideration For  
Terminated/Frozen Private Defined Benefit Pension Plans**

**25 % to 37%**

**Of The Baby Boomers**

**Are Seeing Their Dreams of Retirement Fade**

**For Many (Including the Chronically ill) No Choice But to  
Work beyond Age 65**

August 13, 2017

**James C. Smith Jr.**



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Regulatory Affairs Group

Office of the General Counsel

Pension Benefit Guaranty Corporation

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Attn: Stephanie Cibinic, Deputy Assistant General Counsel for Regulatory Affairs

Dear Mrs. Cibinic:

The purpose of this correspondence is to respond to the attached E-Mail I received from the PBGC on 07/26/17. I was so pleased to note your interest in the public input for suggestions to improve our nation's Pension Plans. My interest in this matter started with a personal realization as a participant in a frozen defined benefit plan. As I did further research I realized I was not alone. Yes the enclosed notebook would appear intimidating. But in reality most of the text are exhibits to reinforce the suggestions I have made toward pension reform. In the past detail was proven to be very helpful.

Probably Former Senator Kay Hagan and her staff would agree that the detailed correspondence I sent them in August 2012 saved them time in determining that not everyone had the same loan, withdrawal and after the age of 59 1/2 withdrawal privileges in their 401K. The text was called

<sup>1</sup> **“Don't Leave Any Vested Employee Behind”**. Our mutual goal was to find money to prevent foreclosures and keep families together especially during the Holiday seasons. Based on the out dated information I had reviewed, 2,150,000 participants totaling \$657,470,000.00 were disqualified due to 5500 reporting errors. Money needed to keep families together and not foreclose on their homes. Senator Hagan and her staff were **angels** sent from heaven. They discovered the 5500 reporting error problem and worked with the different government agencies

to fix the problem. I became aware of the fix not by Senator Hagan or her staff but by further research the following year. I hope that the material I have enclosed will be as helpful to the PBGC as the material I sent to Senator Hagan. Please note I have never personally met Former Senator Hagan or her Staff. I only spoke to her staff on the phone three times. I will never forget what she and her staff did for those desperate people during such financially tragic times (Recession 2008/9). Out of three senators and House of Representatives I contacted she and her staff were the only ones to take an interest in helping to find money for families to keep their homes and families in tack.

Today, I would be honored and very humbled if the information I have enclosed could help you and your staff assist baby boomers become better prepared and more secure in their future retirement. I truly believe updating our IRC and ERISA laws governing current and future defined benefit plans would strengthen our country's future retirement communities. Also insure more financial resources for those in the community who need them, potentially redirecting/shifting some liability from the PBGC. Finally, updating the above laws would provide an additional means to accomplish some of the "Saver Check List" items (Exhibits 1 and 2) sooner. Approximately **790,078 to 2,135,346** of the baby boomer populace with combined **vested** defined benefit pension balances of approximately **\$79,569,179,405.00 to \$325,483,860,240.00** could benefit from the suggestions I will review in this correspondence {Exhibit L (III & IV)}.

- How great would it be to know that one day someone was able to draw their retirement while working after 65 and have paid down some of their mortgage balance and shortening the length of time to pay off the mortgage, paid off the new car before they retired, paid off a large medical bill before they retired or given that grandchild an additional monthly allowance in lieu of a part-time job while he/she is in college so they could improve their GPA?
- Imagine if someone could have moved their funds to a financial institution: closer to home, obtain help the same day when they need it and be able to go to sleep at night knowing they will draw a little less each month but have their own peace of mind that their funds/income are secure.

Accepting change can be extremely difficult. For over ten years private/public sectors, members of US Congress/Senate, etc. have been discussing the pros and cons for a lump sum distribution retirement option in our current defined benefit pension plans (Exhibit Q). A percentage of people are postponing retirement because of higher demands of liabilities incurred during the last recession. Their current/future retirement income cannot cover those costs along with the other household budgeted items. And the question of security under the present pension system is concerning too many present and future retirees. The private/public Sectors and members of the US Congress/Senate, etc. are still debating the defined benefit pension plan being an essential part of future employee retirement planning. The **debt** of the PBGC (Exhibit V) to protect our pensions have many concerned. (Exhibit 19) reflects how much help the PBGC truly helped the people of NC in 2014. I truly believe you can make a difference in this situation. I honestly believe after your staff reviews and confirms the integrity of my correspondence and upon their

own additional research, your confidence and knowledge of the defined benefit pension plan changes would be helpful. You would have the means to encourage your colleagues to implement the ideas I have suggested to meet the needs of our current and future retirees.

I also believe there are two senators who could provide additional assistance in convincing their colleagues of such suggested changes as I mentioned above. Consider the following Senators:

**1) Senator Barbara A. Mikulski**

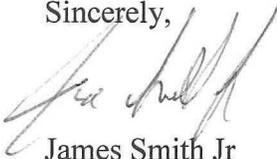
She was on the 2016 membership list for NRPC and one of her “putting into action goals” of “Standing Up for American Seniors” is **fighting for pensions people can count on.** (Refer to her Washington Web Site)

**2) Senator Elizabeth Warren**

She was on the 2016 membership list for NRPC, her expertise in the financial pressures facing the middle class families and the demonstrated experience in protecting consumers within our country’s financial product framework. (Refer to her Washington, DC Website)

Thank you for your time, consideration and effort concerning this matter. I look forward to you or your staff’s response. To you, your staff and your colleagues God Bless and have a good day.

Sincerely,



James Smith Jr

JCS/JCS

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**Letter for Details of Suggested New Provisions**

**For**

**Frozen/Terminated Defined Benefit Pension Plans**

8/13/2017

## Don't Leave Any Vested Employee Behind <sup>1</sup> Part II

Dear Members of the Office of General Counsel:

I write to you today to share some ideas that may provide thousands in the USA {our senior neighbors (Baby Boomers)} additional income without the use of Federal Treasury Funds. Also to provide increased security through additional fund mediums/options available that will make this group more stable/independent and secure in their decisions for future pension income. The funds are already available in defined benefit pension plans. And allow these provisions to become instruments in strengthening our retired baby boomers' chances for future financial stability. The ideas I would like to cover with you are:

- Allow participants to continue to work for their current employer beyond their normal respected retirement age (62, 65, 66, and 67) or become eligible for Medicare and draw their monthly pension from their current employer's plan. (**Draw their pension and work simultaneously**)
- Secondly, require all frozen/terminated defined benefit plans to include an additional benefit for a Lump Sum option at a participant's respected normal retirement age (62, 65, 66, and/or 67). Also insure that the Lump Sum benefit option qualifies for a tax qualified IRA rollover
- Incorporate a retirement benefit option, joint-and-50% survivor "pop-up" annuity that could strengthen the participant/survivor's financial stability and/or security (**Exhibit 13**)
- Lessen the future pension liability of defined benefit plans to the Pension Guaranty Corporation.

Currently, as you will note on (**Exhibit O**), in order to receive retirement benefits from a defined benefit pension plan people must sever their employment by quitting, dying or retire {within the service period or designated retirement age (normally 65)} stated in the participant's plan. Currently the average for retirement in the US is 62 (**Exhibit N**). Early distribution (age 62) is allowed by IRS ruling (**Exhibit U**) but it must be included in the plan document. . IRC does not allow in service withdrawals Rollovers prior to age 62 for defined benefit plans (**Exhibit R**). Secondly, including lump sum options are at the discretion of the plan sponsor. (**Exhibit M**) reflects that the IRS has already put into place tax provisions for pension rollovers.

Based on the information in the **exhibits**, in order to accomplish the goals listed above some additional language (Provisions) by the IRS, ERISA and possibly the US Labor Department will be required. In the paragraphs to following we will explore the arguments and the factors that created the argument. Then look at the provision that would relate to the argument and how it would become an instrument for making a participant's retirement income more manageable for his/her household budget.

The first argument is that there is a percentage of people that do not have sufficient income to retire.

The current populace mentioned above remains:

- The largest generation of America today (**Exhibit A**)
- A huge voting presence (**Exhibit B**)
- Controls over 80% of personal financial assets and more than 50% of all consumer spending and 80% of leisure travel (**Exhibit C**)
- Purchases 77% of all prescription medications and 61% of over-the-counter medications (**Exhibit C**)
- They are retiring at the rate of 10,000 per day (**Exhibit P**)`

You would think by reading the bullets that the baby boomer generation has all the money in the world and can retire comfortably. However between 25-37 percent (Exhibit D) of this group is still having difficulty setting aside financial assets to retire and will need to continue to work. Some of the contributing factors to this sad reality are:

1) suspension/freezing/termination of defined benefit pension plans {(lowering future benefits) (Exhibit E, W, X, 6)}. **Note that there are two types of freezes.**

Suspended/Frozen defined benefit pension plans (45,256 X 23.1%) = **10,454** (Exhibit J-page 39)

Participants affected (16,507,000 X 23.1%) = **3,805,256** (Exhibit J-page 39)

Assets affected (\$2,516,109,000.00 X 23.1%) = **\$581,740,083,000.00** (Exhibit J-page 39)

**Additional calculations** to reflect plans with: lump sum options, net frozen/suspension with no lump sum options, and net frozen/suspended/no lump sum retirement options/continue to work (Exhibit L)

2) Two wage earner households became permanent/temporary one wage earner households due to previous high unemployment levels or corporate downsizing (Exhibit T and F)

3) The recent recession and the loss of value in their retirement plans {(Exhibit F and Exhibit 3 page 3)}, interest rates started falling in 2000 (Exhibit W-Page 3).

4) Wages have not kept up with the cost of living

5) Average credit card debt \$7,768.00 (Exhibit G) / average 401K loan \$7,764 average (Exhibit H)

6) Average outstanding mortgage \$95,000.00 (Exhibit I) Today 39% of people age 55 and older are carrying home mortgages (Exhibit S)

7) The percent of families without any savings was 25% (Exhibit I). People are living longer and saving less therefore having to work longer (Exhibits 5 & Q-page 5).

8) Changing jobs effects one's vesting longevity/tenure in pension plans resulting in minimal pension retirement income (Exhibit W-Page 1).

By a plan allowing the participant to start drawing his monthly pension income at his normal plan retirement age of 65,66 or 67 respectively and continue to work, he would be able to use the monthly pension income to reduce some of his monthly installment debt so he could retire in two or three years.

**Example:**

Participant is 65 yrs. old, with after tax pension income of \$400.00 per month and needs to reduce his monthly debt expense by \$300.00 per month. He plans to work 3 more years. The monthly installment totals \$240.32 on balance owed of \$7,768.00 on 2 credit cards and \$142.99 on his 401K loan with a balance of \$7,764.00.

\$194.16/mo. of his pension + his current installment of \$142.99/ mo. for his 401K = \$337.15/mo. (0 balance in 2 yrs.)

\$108.00/mo. of his pension + his current installment of \$240.32/ mo. for his credit cards = \$348.32/mo. (0 balance in 2 yrs.)

The remainder of the \$400.00 pension check (\$97.84/ mo.) was placed in a savings account @ .2 % for 2 yrs. and generated an additional \$2,350.51 of contingency funds for future use.

The participant has eliminated \$383.31 of monthly installments in 2yrs which allows him to retire 1 year earlier than he expected and at retirement provide him additional income for contingencies (Exhibit Z).

How great would it be to know that one day someone was able to draw their retirement income while working after 65 and accomplish one or more of the items listed below?

- have paid down some of the mortgage balance
- paid off the new car before they retired
- paid off a large medical bill before they retired
- given that grandchild an additional monthly allowance in lieu of a part-time job while he/she is in college so the grandchild could improve their GPA
- opportunity to increase his/her disposable monthly retirement income

Other arguments for making the right to work and draw their pension income simultaneously after 65 legal are:

- 1) People retire from the armed forces and still work a civilian full time job simultaneously.
- 2) People work a second part-time job in addition to their full time job.
- 3) People are able to work full-time and draw a portion of their social security simultaneously.
- 4) People are drawing retirement income from a civilian job and employed with another civilian contractor.
- 5) People are able to withdraw money out of their 401K at age 59 1/2 without penalty and still work full time.

This provision would be a valuable tool to strengthening the opportunities for financial stability in our current/future nation's retirement communities/neighborhoods. This would also add the opportunity for an additional benefit to the private/public employer's retirement package to better prepare his retiring employee's future financial security/stability.

Now let us look at the second suggested provision which insures that all defined benefit plans currently frozen/terminated but currently not being managed by the Pension Guaranty Corporation include the Lump Sum retirement benefit option. And potentially provide a means to:

- lessen the burden on future pension liabilities to the Pension Guaranty Corporation,
- put less pressure on the Federal Budget to insure retirees of terminated/frozen defined benefit plans keep all or a portion of their defined pension benefits
- Add some emotional stability to the participants of these plans?

The Bureau of Labor Statistics study of 2003 (Exhibit K-page 2) stated that 66% of defined benefit plans did not provide a Lump Sum retirement benefit provision in their plan. Per a published report by the Employee Benefit Research Institute, February 26, 2009 (Exhibit 7) of the employers who included the lump sum retirement benefit option in their plan: 64% of people ages 61-64 exercised the lump sum benefit option and age 65 and older, 40.7% exercised the lump sum benefit. The argument for having a lump sum benefit option could be based on the same reasons as you and I have changed credit card companies, banks for checking/savings accounts/mortgage/other lenders, insurance contracts (auto, home, health, life, liability), security brokers, insurance agents, equity accounts and employers to name a few. The Dodd-Frank Reform and Consumer Protection Act passed in 2010 has been a true blessing (Exhibit 9). In 2012 participants of 401K plans began to receive disclosures of fees and expenses of their

401K accounts. For years many participants thought the employer was paying these expenses. People are very concerned for the safety of their future retirement funds because of what they are reading and seeing of TV.

Exhibit V (“1.5 million people are in plans that will most likely fail”)

Exhibit 10 (“Social Security Administration projects trust funds will be depleted by 2033”)

Exhibit 11-page 2 (Will de-risking regulations cut pension plan obligations?)

Exhibit 12 (Multiple Pension Reform Act of 2014) Will my benefits decrease?

How lucky we have been to make choices as to who we do business with based on comparison shopping, customer service experiences, Better Business Bureaus, Consumer Protection Agencies and the Attorney General Offices of the Federal and State Protection Services, experiences of friends and neighbors. I hope you will agree the needs of our national populace is diverse and not any one financial institution/advisor is competitive for all an individual's needs. And would you also agree that a captive defined pension plan (plan with no lump sum benefit option) does not necessarily foster/guarantee competitive pricing, fee structures, quality control and effective customer service? **Vested defined benefit plan participants** need to be able to count on what they have in the future for better future financial planning. The selection of a retirement benefit will be one of the most important decisions of their lifetime. Many prospective retirees are finding the retirement benefit option they choose at retirement will be a permanent choice. The only choice later in the participant's retirement plan that can be made after retirement is a change of beneficiary.

Members of the Office of General Council, I am confident that giving retired participants of a frozen/terminated plan an additional retirement benefit option or a **lump sum payout will provide a choice to avoid the following:**

- 1) Sharing in expenses of members of a plan that are not retired
- 2) Dealing with financial institutions/businesses with bad reputations (Exhibit 8) (Fact of mistrust)
- 3) Continuing with poor customer service
- 4) Being part of an institution that cannot provide products/services to meet a participants present/future financial/financial security needs
- 5) Forcing people to participate in equities/mutual funds when they do not want to take any risk with their money at retirement. (Exhibit 16)
- 6) An employer choosing the insurance/equity company that will fund your retirement income when you exit the company pension plan.
- 7) Retirement benefit option of a joint-and-50% survivor “pop-up” annuity option (Exhibit 13) not available.
- 8) Being in a plan that could lower benefits due to the employer's insolvency. This could really be inconvenient to a plan participant in their later years (example: age 70-75) when their health is failing and their primary goal is to maintain a consistent income to sustain added medical expenses to survive (Exhibits 11, 12).
- 9) Participants do wish to carry their employer's culture into their retirement

How will the Lump Sum Retirement Option save the Pension Guaranty Corporation money? If you pay a participant of a current frozen/terminated plan a lump sum/qualified IRA rollover benefit you eliminate the liability that was necessary to create a reserve for the future monthly income benefits. The employer has saved money on offering the lump sum/qualified rollover because it no longer has to insure future monthly income benefits and share in third party administration expenses such as annual statements/disclosures, etc. for the employee. The participant has peace of mind, no longer sharing in the administration expense of his pension account and is able to personalize his pension assets to fit his own personal retirement needs. **Keep in mind in this instance the employee chooses who manages his retirement program outside of the employer defined benefit plan not his employer.** Would you agree that this could truly be a win win situation for both the employer and participant?

The **third provision** for consideration was insuring that each defined benefit program included the retirement benefit option: joint-and-50% survivor "pop-up" annuity. This option allows the surviving spouse to draw the lifetime only option income for the balance of their life. The argument is that this option is not important or we already provide survivor options in our plan. That may be the case but consider the following:

- 1) When a spouse dies the survivor receives only a portion of the social security that the two of them were drawing. The following expenses are not necessarily reduce based on a spouses death: light bill, heating and cooling costs of a home, many groceries based on a meal of 4 people, homeowners insurance, yard maintenance, mortgage payment unless home prior to spouse's death or sufficient life insurance was carried to pay off the mortgage, medical expenses not covered by Medicare or Medicare supplemental coverage etc.
- 2) Other survivor retirement income options such as period certain-and-continuous annuity or 50%, 75%, or 100% joint-and-survivor annuities do not increase when a spouse dies
- 3) Additional increase of survivor income is usually beneficial to help compensate for spousal social security income loss. It is an inflation tool for the survivor {(When the spouse dies this option allows the retirement income to increase to the life annuity payment option. Example: joint survivor income is \$408.75 and the life income option is \$530.85) (Exhibit 20)}
- 4) The Pension Guaranty Corporation provides this retirement income option to most all the defined benefit plans they control (Exhibit 17)

**What are the costs to the US Treasury to implement the suggested new provisions?** The same costs as introducing and implementing any other new provisions and laws. The Department of Labor will need to address the new provision for participants of frozen/terminated defined benefit plans (plans supervise by the Pension Guaranty Corp excluded) being allowed to work and draw their defined retirement benefits simultaneously. The IRS will need to address the tax code to allow people to draw at respective full retirement years of age 65/66/67 or eligible for Medicare their retirement benefits and continue to work. ERISA will also need to update their provisions to incorporate the IRS ruling as they address the defined benefit plans and incorporate the retirement benefit option: joint-and -50% survivor "pop-up" annuity option. And finally the costs associated with the US Department of Consumer Protection introduction of disclaimers and an online site that provide material similar to reverse mortgage material to insure participants have the necessary facts to make intelligent decisions for selecting the proper funding medium to meet the future retirement needs. Briefly reviewing the facts they should consider when comparing funding mediums such as mutual fund monthly income vs insurance annuity income. The distinctions of the retirement benefit options and the pitfalls to watch for in planning his/her retirement (safety of their funds and longevity of payments). It is very important that the retiring participant understand that they may go outside the plan after retirement but they need to consider the variables for making good comparisons. Example: the participants employer plan may pay a 100 % joint and survivor income option amount of \$400.00 per month (life expectancy of age 82) and an insurance annuity outside the plan may use the same benefit option and pay \$380.00 (life expectancy

of age 85). And someone may rather need less income and not wish to put their retirement funds at risk and put the money in their local bank. However with supervision by the US Consumer Protection Division requiring the retiring participant to view a short video of the comparison details mentioned above and requiring that participant to sign an affidavit that they have read/viewed the material prior to making a decision for selecting the retirement benefit income/lump sum/IRA rollover option as well as a funding medium to manage could prove to very beneficial to all concerned. This action may or may not prove to add/reduce the number of people who choose to leave their employer's retirement plan when they retire (Exhibit 3).

**What are the cost the employer?** Same costs as introducing any other Department of Labor, IRS Code/ERISA changes. Communication expenses and submitting a new prototype plan to the IRS Code/ERISA adopting the new legislation.

**What are the costs to the Third Party Administrators?** Costs associated for design of a patch software package to accommodate the new calculation for the Lump Sum/qualified rollover provision and retirement income at age 66 or 67. Secondly to resubmit for their clients their version of a prototype defined benefit plan approved by the Department of Labor Pension Division that reflects the new provisions of providing the Lump Sum/qualified rollover benefit, the participant being able to work beyond his/her full retirement ages and drawing retirement benefits simultaneously and incorporating the retirement benefit option: joint-and- 50% survivor "pop-up" annuity option.

Yes the first decade and a half of the 21<sup>st</sup> century has been very financially challenging to everyone concerned. Our Congress and Senate bodies, Corporate leaderships, State and their respective county governments, the working and retirement populaces of our Nation of the past decade and a half have had to come to terms with a new thought process, **thinking outside of the box**, for their financial survival and stability. Regardless of the hand we the people of the USA are dealt we will survive and become better through our experiences. An example of this is the number of times this country has weathered recessions/depressions (Exhibit Y). Pension reform has evolved since the inception of pensions in 1875 of The American Express Company (Exhibit 14). Based on the finding detailed in (Exhibit E1) years 2017 and 2018 should be the years for implementing the recommendations by the ERISA Advisory Council and incorporating some or all the suggestions reviewed in this correspondence.

A great deal of material has been covered. Let us summarize the suggestions for consideration to assist participants currently enrolled in frozen/terminated private defined benefit pension plans. Allow participants whose retirement benefits will not increase beyond their plan's considered retirement age of 65, 66, 67 or eligibility for Medicare to:

- a) To continue to work and draw their chosen plan pension monthly retirement income option simultaneously (if participant selects this option he has chosen to stay with his current employer plan and forfeits any future participant lump sum option).
- b) To continue to work and draw a lump sum benefit (present value determined by Pension Guaranty Corporation) and/or a tax favored IRA rollover option simultaneously (mandate all plans provide the lump sum/IRA rollover option).
- c) Support including in all defined benefit retirement plans the retirement benefit option: joint-and-50% survivor "pop-up" annuity to bridge a social security income gap due to a spouse passing away.
- d) Provide cost savings to the employer/employee and the Pension Guaranty Corporation through participants exercising of a plan's lump sum option (participant moving funds out of plan to another funding source insured by either an insurance company or FDIC). Hypothetically if 10% of the Net Frozen/Suspended/Lump Sum Retirement Option Group {Exhibit L (IV) rolled over their funds to an

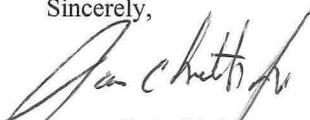
outside the plan IRA rollover (annuity Insured by an insurance company or FDIC) 79,007 people with a total asset value of \$7,956,917,940 could be realized in savings to the Pension Guaranty Corporation.

I hope that through this correspondence and with your staff confirming what I have provided to you that something good will come out of this experience. A mutual effort will be made in extending a helping hand to our retiring neighbors to provide additional income security, greater income capabilities to manage a retiree's home budget and strengthening our national retirement neighborhoods/communities. Per (Exhibit 15), "3.3 million people with private sector pension plans have been affected by a freeze or suspension of benefits". With our government implementing the suggested new provisions one more tool will be developed to encourage better stewardship of a participant's financial retirement resources. Potentially fewer retirees of current defined benefit pension plans will be dependent on future financial aid such as Medicaid, community church and local food banks, United Way, etc. Participants with chronic health conditions will be given hope to retire sooner than later. And finally the baby boomers will become better prepared to meet the many new challenges facing them in the future such as another recession. I look forward to the evening that I turn on the NBC national news and find that some of the considerations I listed have been put into use. That is participants are benefiting from the many hours our Government spent considering the provisions and putting them to work. Provisions that you nurtured and convinced our country's senators and congressmen/congresswomen to approve this year.

Please accept my apology for the length of this correspondence. There was extensive detail that needed to be addressed. The exhibits were necessary to insure and verify proper context of subject matter. Please keep in mind that I have no experience in Federal, State or municipal government. I do not have any investment banker experience, no third party administrator experience and I am not an expert in retirement savings plans. I have 16 years of active insurance background {(27 ago) and 25 passive years} (not currently licensed) and a BSBA from Appalachian State University. I also have a registered copyright that was issued in 1986. This dealt with design/source development for a corporate benefit statement titled "Reflections of Your Financial Security"<sup>1</sup>. Currently I am still working at 67 with the same employer (textile distribution) with whom I have been employed for the past 28 years.

Please do not hesitate to call should you have any questions regarding the content of this correspondence. We need to give credit to all those people and institutions who researched and developed all the information in the exhibits I provided to you. This correspondence would not have been possible without their research. Please accept my apologies for the dated material in the exhibits but due to the Freedom of Information Act (FOIA) (Exhibit 18) this was the most current information I could find. Thank you for the things you do each day in Washington DC to make our country a better place to live. And thank you and your staff for your mutual time, consideration and effort concerning this matter. To you and your colleagues have a good day and God Bless.

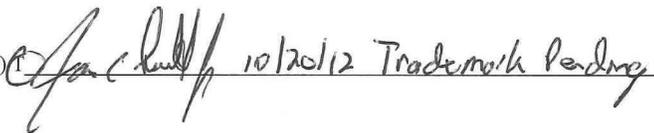
Sincerely,



James C. Smith Jr.

JCS/JCS

<sup>1</sup> "Don't Leave Any Vested Employee Behind" (Slogan Only)



James C. Smith Jr. 10/20/12 Trademark Pending