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Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

OCT 31 2002

[Redacted]

Re: Appeal [Redacted] (formerly 94-0383); Modulus Corporation Salaried Employees' Pension Plan ("Plan")

Dear [Redacted]

The Appeals Board agreed to re-open your previous appeal (94-0383, now 97-0980) of PBGC's determination that you are entitled to a lump sum of \$2,937. We appreciate your patience while your appeal has been pending and apologize for the delay.

For the reasons stated below, the Board changed PBGC's determination by increasing the lump-sum amount to \$3,162.00, plus interest. The Board noted that, instead of the lump sum, you may choose an annuity starting at your normal retirement date equal to \$201.69 per month if paid with no survivor benefits. PBGC files contain your annuity election dated May 20, 2002.

Initial Determination and Appeal

PBGC's May 6, 1994 determination stated you are entitled to a lump sum of \$2,937, plus interest for the full months between the Plan termination date (December 31, 1983) and the date PBGC pays you. PBGC explained that you would receive a lump sum, and not a future annuity, because the present value of your pension as of the Plan termination date was less than \$3,500.00 (now \$5,000.00).

Your June 12, 1994 appeal disagreed with the January 9, 1967 hire date and credited service listed on the Benefit Statement included with your PBGC determination letter. You stated that Modulus first hired you on January 10, 1964, you left employment in June of 1966 and Modulus rehired you on January 9, 1967. You asserted you were informed you would receive credit for your service prior to January 9, 1967.

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As a preliminary matter, the Appeals Board's June 27, 1995 decision letter (Appeal 94-0383) upheld PBGC's determination of your benefit and explained in detail the basis of our findings. However, we gave you an additional time to present evidence or argument showing that the time during the period you questioned (1964 to 1966) should be bridged, for pension purposes, with your post-January 9, 1967 employment. Your July 21, 1995 letter requested more time so you could find the necessary evidence. That letter also provided two new documents: one with information you

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had received from the Social Security Administration ("SSA"); the other showing you were divorced at the time your Modulus employment ended. We granted you more time, and because you provided no other evidence in the extended 30-day period, we closed your first appeal (94-0383) effective September 21, 1995.

On October 16, 1995 we received additional correspondence from you, which included 2 pages from the Plan Summary. This submission was based on your telephone conversation with the Clerk of the Appeals Board on October 5, 1995, during which the Clerk agreed to ask the Board to reconsider your closed appeal if you could provide evidence that provided a basis for changing PBGC's determination.

Record and Discussion

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The primary issue in your appeal is whether your benefit should be greater than PBGC determined by adding credit for the period January of 1964 to June of 1966, which is not reflected in the records PBGC received following the Plan's termination. With your authorization we obtained a report of your earnings for that period from the Social Security Administration ("SSA Report").

The SSA Report shows you worked for a company named AMPCO-Pittsburgh Corporation ("AMPCO") beginning during the 4th quarter of 1964 and ending in the third quarter of 1966. In a conversation with the analyst reviewing your appeal you stated that you did not recognize that company name. You also stated that in 1964 you were hired by Gary Screw and Bolt Company, a part of the Screw and Bolt Corporation of America ("SBCA"). This information does not explain the connection with AMPCO. The record available to the Appeals Board shows that the SBCA became the Modulus Corporation and that Modulus was first sold to Raymark Friction Company, who in turn sold it to RBS Industries, Inc.

Your PBGC file contains a copy of a retirement calculation by Pamela Liggins, the former RBS Personnel Manager, which lists your employment date as January 9, 1967, the same date on your PBGC Benefit Statement. The Board's June 27, 1995 decision included a copy of this calculation, explained in detail why your January 9, 1967 hire date was not being changed to increase your credited service, and gave you another 30 days to provide additional evidence to the contrary. PBGC may rely on a former plan administrator's calculations to determine the amount PBGC will pay where data is uncertain or plan documents are not available.

Two key pieces of information you sent the Appeals Board were: (i) SSA records that showed the Employer Identification Number ("EIN") for AMPCO and SBCA are one and the same, and (ii) a copy of a divorce decree showing you were divorced before your employment ended in September of 1982.

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Page 22 of the Plan Summary you sent PBGC states: "Screw and Bolt Corporation of America, the predecessor of Modulus, is considered a Participating Employer for years prior to August 29, 1968." Because the SSA document you sent us shows that AMPCO and SBCA share the same EIN, for the purpose of resolving this appeal we will consider the AMPCO data as if it were with SBCA. Your SSA Report, however, shows earnings from AMPCO beginning during the 4th quarter (October through December) of 1964, which is not consistent with the January 10, 1964 hire date you stated. Data on the SSA report is consistent with a first termination of employment in June of 1966, as you stated, and your rehire in January of 1967.

It is not clear whether the Plan in effect at the time of your termination and rehire recognized service before your rehire date. Indeed, the Modulus Plan Summary you provided seems to suggest that the recognition of prior service was new to the 1975 Plan. Thus, your termination in 1966 would mean that you were treated as a new employee when you were rehired in 1967. Because the Modulus Plan Summary (as no Plan document is available) provided no information on breaks in service, and because the former Plan Administrator did not recognize your prior period of employment, the Appeals Board decided to continue to use the dates as provided by the Plan Administrator. Thus, the Board found that your service for pension purposes commences on January 9, 1967.

The record available to the Board does not contain the Plan document in effect from 1964 to 1966, although efforts have been made to do so. Therefore, the Board applied the pertinent provisions of the Plan as amended and restated effective November 1, 1975 to decide your case. See Enclosure 1.

Further, as you provided evidence showing you were divorced at the time you terminated your employment, the Appeals Board found that your benefit is properly payable in the form of a Straight Life Annuity, the normal form of benefit for a single participant, pursuant to Section 7.1(a) of the Plan. Additionally, the Board adjusted upwards the salary figures for 1975 and 1982 to correspond with the amounts listed on the SSA Report. See Enclosure 2.

The Plan uses different calculations of compensation for service prior to January 1, 1975, and for service after January 1, 1975. For service prior to January 1, 1975, compensation is base pay at January 1, 1975. For service after January 1, 1975, compensation is total remuneration excluding fringe benefits such as the cost of the pension plan and life insurance. The SSA records show W-2 earnings up to the maximum compensation limit for Social Security purposes. Therefore, while the SSA Report can be used to determine your benefit accruals after January 1, 1975, the earnings in 1975 cannot be used to determine your benefit accrued up to January 1, 1975. The former Plan Administrator determined that your 1975 base pay is \$9,984.00, and the Appeals Board

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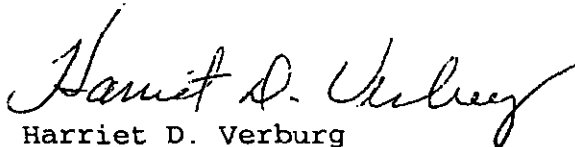
accepted and used this figure in the absence of any documentary evidence that it does not equal your base pay at January 1, 1975.

Decision

Having applied the provisions of the Plan and the law to the facts in your case, the Appeals Board changed PBGC's determination of your benefit by increasing your lump-sum amount to \$3,162.00, plus interest. The Board noted that, per current PBGC policy, you may elect a monthly benefit of \$201.69 beginning on your Normal Retirement Date and if paid as a Straight Life Annuity. The change is due to a different annuity form and greater salary amount for 1975 and 1982 than PBGC used to calculate your benefit. As noted above the Board found no basis for changing the years of service used to calculate your benefit.

This is the agency's final action regarding your appeal. You have exhausted your administrative remedies with respect to this matter and may, if you wish, seek court review of this decision. We will forward a copy of this decision to the Insurance Operations Department ("IOD"), the office responsible for making PBGC determinations and payments. The IOD staff will update the PBGC files to reflect this decision along with your election to receive your pension as an annuity instead of a lump sum.

Sincerely,



Harriet D. Verburg
Chair, Appeals Board

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Enclosures (2)