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

NOV 18 2002



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Re: Appeal [redacted] Peter J. Schmitt Employees Retirement Plan (the "Plan")

Dear [redacted]

The Appeals Board reviewed your appeal of PBGC's July 30, 2001 determination that you were not entitled to a vested benefit from the Plan. As explained below, the Appeals Board changed PBGC's determination and found that you met the eligibility requirements for a vested benefit under the terms of the Plan.

PBGC determined you were not eligible to receive a vested benefit from the Plan because you did not have at least five years of service when your employment with Peter J. Schmitt ("PJS") ended. PBGC's letter said that the Plan required five years of vesting service to qualify for a vested pension benefit.

Your September 12, 2001 appeal said that you are qualified to receive a vested pension benefit from the Plan. You enclosed a copy of a letter from PJS's Director of Employee Benefits, who informed you that based on your salary history, hire date and date of birth, their actuary, Wyatt Company ("Wyatt"), calculated your vested monthly accrued benefit to be \$33.58, payable at age 65.

Please note that the Plan did not have sufficient assets, when the Plan terminated on December 31, 1994, to provide all benefits that PBGC guarantees under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Therefore, PBGC must use Plan provisions, ERISA, and PBGC's regulations and policies to determine whether you are entitled to a PBGC benefit.

Wyatt's calculation of your accrued benefit showed that you accrued annual benefits of \$117.30 in 1987, \$183.54 in 1988 and \$102.06 in 1989. Using the Plan's benefit formula, your 1989 accrual of \$102.06 corresponds to earnings of \$4,536 (\$102.06 divided by 2.25%). Based on your rates of pay, you would have earned this amount within 6 months, which is consistent with a date of termination of May 28, 1989.

Company records indicate that you started working for PJS on

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September 23, 1986 and that your service ended on May 28, 1989. The form used by Wyatt appears to indicate that May 28, 1989 was your "Date of Leave" rather than your "Date of Termination." However, even if you earned vesting service between May 28, 1989 and September 28, 1990, the date on which PJS considered you vested, the Appeals Board found that you would *not* have earned five years of vesting service based on a date of hire of September 23, 1986 and a date of termination of September 28, 1990.

Nevertheless, the Appeals Board found that the pension records PBGC obtained from PJS were not always complete with respect to some participants, and that PBGC has in some instances accepted PJS's determination that a participant was vested where PJS's actuary has calculated a vested accrued benefit for the participant. For these reasons, the Appeals Board decided to accept PJS's determination that you met the eligibility requirements for a vested benefit under the Plan.

Please note that in some cases, a participant who has earned a vested Plan benefit may not be entitled to a PBGC payment due to limits on guaranteed benefits set by Congress when it enacted ERISA, or other factors. For example, if PBGC finds that you have received a one-time lump-sum payment in lieu of any future annuity payment, then PBGC would not be able to pay your benefit a second time.

Decision

Having applied the provisions of the Plan to the facts in this case, the Appeals Board found that you met the eligibility requirements for a vested benefit under the Plan.

PBGC's Insurance Operations Department will send you a new benefit determination regarding the amount of your vested benefit and other matters. Your new determination will have a 45-day appeal right.

We appreciate your patience while we completed our review. If you have additional questions, please call PBGC's Customer Service Center at 1-800-400-7242.

Sincerely,



Michel Louis
Appeals Board Member