

Pension Benefit Guaranty Corporation

75-55

November 10, 1975

REFERENCE:

[\*1] 4021(a) Plans Covered. Requirements of Coverage

OPINION:

This is in reference to the notice of termination filed on September 22, 1975 for \* \* \* as plan administrator of the \* \* \* (the "Plan").

In order to be eligible for insurance under Title IV of the Employee Retirement Income Security Act (the "Act"), a plan must be covered by § 4021 of the Act at the time it terminates. You have indicated that the terms of the Plan were never reduced to a written instrument. We have consulted with the Internal Revenue Service and are advised that where all of the provisions essential to qualification have not been reduced to writing, a plan does not qualify under § 401(a) of the Internal Revenue Code. The Plan cannot, therefore, be a covered plan under § 4021.

You have further indicated that premium payments have been made to the Pension Benefit Guaranty Corporation ("PBGC"), to cover this plan. Because the Plan is not a covered plan under Act § 4021 no premium payments were required. Accordingly, we have referred this matter to the premium refund division of the PBGC.

Henry Rose  
General Counsel