

Pension Benefit Guaranty Corporation

76-94

July 28, 1976

REFERENCE:

[\*1] 4044(a) Allocation of Assets. Requirement of Following Statutory Allocation Provisions

OPINION:

This is in response to your letter and subsequent phone conversation with Mr. Anderson of my staff, concerning the rights of a participant of the Country Belle Cooperative Farmers Salaried Retirement Plan (the "Plan").

As we understand the pertinent facts, the participant had certain vested benefits under the Plan when he terminated his employment in 1969. However, this participant contested the plan administrator's determination of the amount of his vested benefit and the Pennsylvania Court of Common Pleas of Allegheny County (the "Court"), in a judgment entered on December 27, 1974, decided the amount of his benefit. A termination notice has been filed with this Corporation proposing a termination date for the Plan of July 11, 1975. The participant's benefit has not yet been paid.

In view of the above, you asked our opinion of the priority of plan asset allocation for this participant's benefit. Any benefit which should have been in pay status before the plan termination date, but which has not been paid prior to such date, is a pre-termination plan liability payable out of the plan assets [\*2] prior to allocation of assets under Section 4044 of Title IV.

You also asked what rate of interest, if any, should be paid. We understand that the amount of interest payable is presently being adjudicated. We shall await the Court's decision regarding this issue.

Finally, you asked in what manner the benefits should be paid. The benefits should be paid in accordance with the plan document.

We hope this is of assistance.

Henry Rose  
General Counsel