

Pension Benefit Guaranty Corporation

82-26

September 30, 1982

REFERENCE:

[\*1] 4067 Arrangements for Payment of Employer Liability

OPINION:

Thank you for your letter of August 30, 1982, expressing an interest in settling this protracted litigation.

You have asked whether the Pension Benefit Guaranty Corporation (the "PBGC") needs a net worth estimate in order to process a request for deferred payment. You apparently assume that the financial information you should provide to enable processing your contemplated request for deferred payment would be as of the net worth record date. As you know, the net worth record date established in the above-referenced case was December 31, 1974.

Pursuant to 29 C.F.R. § 2622.8, 2622.6, the financial information which should be submitted in conjunction with a request for deferred payment includes an estimate of the employer's net worth. 29 C.F.R. § 2622.6(a)(1). However, the PBGC may determine, on a case by case basis, to process a deferred payment request even though some information, such as a net worth estimate, is not provided. 29 C.F.R. § 2622.6(c). Such a determination could only be made after the PBGC has evaluated the financial information that is provided.

The information that you provide should be current financial [\*2] information, rather than information as of the net worth record date. Deferred payment may only be granted to avoid the imposition of a severe hardship on the employer, and only when there is a reasonable possibility that the employer may be able to meet the deferred payment terms and pay the entire liability. 29 C.F.R. § 2622.8(c). In order to evaluate these factors, the PBGC must have current information. 29 C.F.R. § 2622.8(c), 2622.6(b).

I hope this has been of assistance.

Henry Rose  
General Counsel