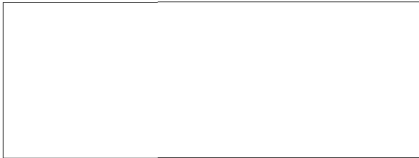




Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

June 15, 2007



Re: Appeal 2006-0246, Case # 196479, ABC Rail Products Corporation Retirement and Disability Pension Plan (the "ABC Rail Plan")

Dear

The Appeals Board has reviewed your appeal of PBGC's April 15, 2005 determination of your benefit under the Deferred Vested Retirement provisions of the ABC Rail Plan. For the reasons explained below, we changed PBGC's determination by finding that you are entitled to a benefit under the Plan's 75/80 Retirement provisions. PBGC's Benefits Administration and Payment Department will send you a new determination of your 75/80 benefit amount and annuity start date, with a new 45-day appeal right.

PBGC's Determination and Your Appeal

PBGC's letter said that you are entitled to a Deferred Vested benefit of \$549.50 per month, if paid as a Straight Life Annuity with no survivor benefits beginning February , 2015, the first of the month following your 65th birthday. PBGC included a benefit statement showing the information PBGC used to calculate your benefit. This statement also explained that you could begin receiving a benefit in a reduced amount as early as February , 2010.

Your May 22, 2005 appeal said that you feel you met the necessary requirements to begin collecting your pension immediately. Congressman Jesse L. Jackson, Jr. submitted additional information to supplement your appeal on April 20, 2007.

Background

ABC Rail Products Corporation acquired Abex Corporation on July 18, 1987. ABC Rail established the ABC Rail Corporation Retirement and Disability Pension Plan for its employees, effective July 8, 1987. Before that date, ABC Rail employees participated in the Abex Corporation Pension Plan. Service accrued under the Abex Plan is considered service under the ABC Rail Plan for purposes of vesting and calculating accrued benefits. The total ABC Rail Plan benefit is then offset by any benefit payable under the Abex Plan.

The ABC Rail Plan terminated, effective January 12, 2002, without sufficient assets to provide all benefits PBGC guarantees under Title IV of the Employee Retirement Income Security Act (ERISA), and PBGC became the Plan trustee. The terms of the ABC Rail Plan, the provisions of ERISA and PBGC's regulations and policies determine a participant's entitlement to a guaranteed benefit. PBGC's regulations require that, for a benefit to be guaranteed, a participant must satisfy the conditions of the plan necessary to establish the right to receive the benefit *before* the plan's termination date (see 29 Code of Federal Regulations §§4022.3. and 4022.4(a)(3)).

75/80 Retirement

Under section 3.B of the *Schedule of Benefits for ABC-Chicago Heights* that was in effect when the Plan terminated, a participant is entitled to 75/80 Retirement if the participant meets one of two specified age and service requirements *and* one of three specified employment conditions:

Age and Service Requirements:

1. Age 55 with fifteen or more years of vesting service with combined years of age and service equal to 75 or more.
2. Fifteen or more years of vesting service with combined years of age and service equal to 80 or more.

Employment Conditions:

1. Terminated from employment by reason of permanent shutdown of his plant, department or subdivision thereof.
2. Is laid off or continuously disabled for two years . . . provided he needed not more than two years of age and not more than two years of service since the commencement of such layoff or disability in order to meet the aforesaid age and service requirements.
3. Is laid off and deemed by the company to have little likelihood of being recalled to work.

A participant who meets the requirements for 75/80 Retirement is eligible for an immediate pension computed in the same manner as a regular age-65 retirement on "the basis of the pension accrual rates and his benefit service to termination of employment or, if earlier, the end of the two (2) year period from his last day worked."

PBGC's benefit determinations for Chicago Heights participants assumed that operations at that facility ceased *on* January 12, 2002, which is also the Plan's termination date. Consequently, Chicago Heights participants like you who were actively employed in early January, 2002 could not

be eligible for 75/80 Retirement because they could not have met the employment condition for that benefit *before* the Plan's termination date, as PBGC's regulations require.

PBGC's files show the following information for you:

1.	Date of birth	<input type="text"/>
2.	Date of hire	<input type="text"/>
3.	Facility location	Chicago Heights, IL
4.	Employment termination date	January <input type="text"/> 2002
5.	Plan termination date	January <input type="text"/> 2002
6.	Age as of Plan termination date	5 <input type="text"/> .00 years
7.	Vesting service as of Plan termination date	2 <input type="text"/> .00 years
8.	Age plus service as of Plan termination date	80.00
9.	Benefit type	Deferred Vested

PBGC determined that you were entitled only to a Deferred Vested benefit because, although you did meet the 80-point requirement for a 75/80 benefit before January 12, 2002, you did not meet the employment condition before that date.

Discussion

During one of our telephone conversations, you told me that the company "locked out" all the employees on Friday, January 11, 2002. You said you went to work that morning, there were security guards at the gates, and the bosses told employees the plant was closed and to go home. The additional information Congressman Jackson submitted on your behalf includes a document, dated January 11, 2002 and signed by the Chicago Heights plant manager and by the union president, stating that "we were told that we are to tell all the Employees that they have been terminated and not to come back to work on Monday."

The Appeals Board researched PBGC's plan and participant files. We found some evidence suggesting that the Chicago Heights shutdown date could have been either Friday, January 11, 2002 or Saturday, January 12, 2002. We found no evidence specifically documenting a January 12, 2002 shutdown.

Based on the information available to the Appeals Board, we concluded that (1) operations at the Chicago Heights facility shut down on January 11, 2002 and (2) as a result, January 11, 2002 is also your employment termination date. Thus, the Board found that you met both the employment condition and the age and service requirement for 75/80 Retirement before the Plan's termination date.

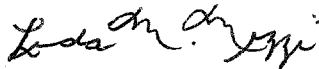
Decision

Having applied the law, Plan provisions and PBGC's regulations and policies to the facts in this case, the Appeals Board changed PBGC's determination by finding that you are entitled to a benefit under the Plan's 75/80 Retirement provisions.

We will forward a copy of this decision to PBGC's Benefits Administration and Payment Department (BAPD), the organization responsible for determining and paying benefits. BAPD will send you a new determination of your 75/80 benefit amount and annuity start date, with a new 45-day appeal right. They will also compute the amount of any backpayments you may be owed and pay them to you in a lump sum with interest.

Meanwhile, if you have questions, please call PBGC's Customer Contact Center at 1-800-400-7242.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda M. Mizzi".

Linda M. Mizzi
Member, Appeals Board