



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

MAY 31 2005

Re: [redacted] Case 181249
Memorex Telex Employees Pension Plan (the "Plan")

Dear [redacted]

The Appeals Board has reviewed your appeal of PBGC's August 1, 2002 determination that your client, [redacted] is not entitled to a PBGC benefit. As explained below, the Board changed PBGC's determination by finding that she is entitled to a PBGC benefit.

Benefit Determination and Appeal

PBGC's August 1, 2002 letter stated: "Our records show that a lump-sum payment of your pension benefits was made from the prior plan administrator, Memorex Telex, in the amount of \$7,392.22 on March 1, 1993."

In your September 9, 2002 appeal you stated: [redacted] never received this lump-sum payment. . . . She requests a copy of the cancelled check, information concerning the bank that paid the check, details concerning the name signed on the back of the check, and whether PBGC has any evidence showing that the check was actually sent. [redacted] suspects that the check was possibly returned as undeliverable because it was sent to an old address."

Discussion

When PBGC becomes trustee of a pension plan, PBGC auditors collect participant and plan records from the former plan administrator. Based on their review of the participant data and the sources of that data, PBGC auditors determine whether the former administrator's records are reliable.

In this case, PBGC auditors determined that Memorex's listing of lump-sum calculations for certain Plan participants was generally reliable evidence that a lump sum was paid to those participants. The listing shows that a lump sum amount of \$7,392.22 was calculated for [redacted] as of March 1, 1993. PBGC does not have a copy of a cancelled check establishing that [redacted] received and deposited the \$7,392.22 lump-sum payment in question.

PBGC's technical procedures provide that when the records maintained by a former administrator have been found reliable but

PBGC does not have copies of cancelled checks or other proof of payment, a simple assertion of non-receipt does not constitute sufficient evidence that a lump-sum payment was not issued and received.

On June 5, 2002, [redacted] submitted a copy of her 1993 federal and state tax returns (with several back-up documents) and of her 1993 Social Security Itemized Statement of Earnings. Based on our review of these documents, the Appeals Board found that [redacted] did not report receipt of a Memorex pension payment on her 1993 tax returns.

Under the provisions of the Plan, participants (like [redacted] with benefits worth more than \$3,500 were required to apply for their lump-sum payments. PBGC does not have a copy of a lump-sum application completed by [redacted].

Address records available to the Appeals Board tend to support a claim that [redacted] might have changed her address sometime during the first five months of 1993.

After reviewing all of the evidence in this case, the Appeals Board decided to accept [redacted] claim that she did not receive a lump-sum distribution of her Memorex pension benefit.

Decision

Based on the facts and circumstances of this case, the Appeals Board changed PBGC's determination by finding that [redacted] is entitled to a PBGC benefit.

PBGC will send [redacted] a new determination regarding the amount, form, and commencement date of her benefit. The new determination will include a new 45-day right of appeal. In the meantime, if she needs other information from PBGC, she may call PBGC's Customer Contact Center at 1-800-400-7242.

Sincerely,



Michel Louis
Member, Appeals Board

cc: [redacted]