[redacted]

Case: 151816

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

FEB 2 1 2003

[redacted]

Re: Appeal [redacted] Plabell Rubber Products Inc. Hourly Pension Plan

Dear [redacted]

The Appeals Board has reviewed your appeal of PBGC's September 21, 2001 determination that the amount you are currently receiving ($72.11 per month as a lifetime annuity with no survivor benefit) is the correct amount of your benefit. As explained below, we are increasing your benefit amount from $72.11 per month to $210.85 per month.

According to your October 10, 2001 appeal, you received Workers' Compensation payments as a result of an injury you suffered on October 8, 1992 at the Plabell plant. You believe that you are entitled to your "full pension" because the Company forced you to retire on June 26, 1996, before you reached age 62.

Background

Plabell Rubber Products, Inc. filed for bankruptcy on November 22, 1991. On April 8, 1993, all Plabell's assets were sold to St. Clair Rubber Corporation, an unrelated company, and Plabell ceased operations. The Plabell Plan terminated, effective April 8, 1993, and PBGC subsequently became trustee.

When the Plan terminated, it did not have sufficient assets to provide all benefits PBGC guarantees under Title IV of the Employee Retirement Income Security Act (ERISA). The terms of the Plan, the provisions of ERISA, and PBGC's regulations and policies govern what PBGC can pay you. PBGC's regulations require that, to be entitled to a guaranteed benefit, a participant must satisfy the conditions of the plan necessary to establish the right to receive the benefit before the earlier of the date the participant's employment ended or the date the plan terminated.

Your Benefit

PBGC determined that you were entitled to the Plan's Normal Retirement benefit under Plan section 5.1. Had you waited until your Normal Retirement Date of September 1, 2005 (the first of the month following your 65th birthday) to start your benefit, the benefit statement PBGC first of the month following your 65th birthday) to start your benefit, the benefit statement PBGC included with its September 21, 2001 letter showed that your Normal Retirement benefit would have been $210.85 per month, payable for life with no survivor benefit. Because you elected to begin your benefit effective August 1, 1997 (at age 56 and 11 months), PBGC reduced your age-65 benefit as required by the Plan for early payment of a Normal Retirement benefit. Your appeal said that you were entitled to the full amount of your pension because of your work-related injury.

According to section 5.4(a) of the Plabell Plan, a participant who becomes Totally and Permanently Disabled prior to retirement or separation from service shall be entitled to a Disability Retirement benefit if such condition continues for a period of six consecutive months and by reason thereof such Participant's status as an Employee ceases. Plan section 1.54 defines *Total and Permanent Disability* as "a physical or mental condition of a Participant resulting from bodily injury, disease, or mental disorder which renders him incapable of continuing his usual and customary employment with the Employer."

Documents PBGC's auditors obtained from the prior Plan Administrator show that you suffered a work-related injury at the Plabell plant on October 8, 1992, as you said in your appeal. These files show that you returned to work at the plant (first for Plabell, then for St. Clair) until May, 1993, and that you were being treated by your physician for severe pain during that period. On May 4, 1993, you saw an orthopedic specialist, who described your symptoms as "unrelenting," concluded that your shoulder injury required surgery and performed that surgery three weeks later. You remained out of work for about a year while undergoing rehabilitation. You then attempted to return to work in less physically demanding jobs and were unable to do so successfully. The company eventually terminated your employment on June 26, 1996.

The medical evidence in the files available to the Appeals Board shows that you did suffer a specific, disabling injury prior to April 8, 1993, the Plan termination date. The record clearly demonstrates that, although you followed medical advice in an attempt to recover, including surgery and therapy, your injury rendered you "incapable of continuing [your] usual and customary employment with the Employer." Even though you did continue working for a few weeks past the Plan termination date as if your injury were a temporary one, the medical records show that you were unable even at that time to do the heavy lifting your "usual and customary employment" required.

Based on the information available to us, the Appeals Board found that you had satisfied the Plan's definition of Total and Permanent Disability as of the Plan termination date and that you are, therefore, entitled to a Disability Retirement benefit under Plan section 5.4(a). The Board concluded that a Disability Retirement benefit for a participant who becomes disabled on or before separating from service is equal to the participant's Normal Retirement benefit without reduction for the earlier start date.

Decision

Having applied the law, the provisions of the Plan and PBGC policy to the facts in this case, the Appeals Board found that you are entitled to a Disability Retirement benefit of $210.85 per month, beginning August 1, 1997, as a lifetime annuity with no survivor benefit. When PBGC's Insurance Operations Department, the group responsible for determining and paying benefits, receives a copy of this letter, they will increase your monthly benefit to the correct amount. They will also pay you, in a single lump sum with interest, the difference between the amounts you should have received and the amounts you did receive.

This is the agency's final decision on this matter and you may, if you wish, seek court review. If you have questions, please call PBGC's Customer Service Center at 1-800-400-7242.

Sincerely,

Linda M. Mizzi
Member, Appeals Board