

Pension Benefit Guaranty Corporation

75-53

December 4, 1975

REFERENCE:

[\*1] 4021(a) Plans Covered. Requirements of Coverage

OPINION:

This is in response to your November 26, 1974, letter, as supplemented by your telephone conversation with \* \* \* of this Corporation on November 20, 1975, regarding the coverage status of the \* \* \* (the "Plan") under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act").

We understand that the Plan has not been determined by the Internal Revenue Service to be a qualified plan as described below. We understand, further, that the trust under the Plan is governed by the laws of and maintained in the Virgin Islands.

Section 4021(a) of the Act provides for mandatory plan termination insurance coverage for trustee defined benefit pension plans which are, or have been determined by the Internal Revenue Service to be, qualified plans, i.e., those meeting the requirements of section 401(a) of the Internal Revenue Code of 1954 (the "Code"). One of these requirements is that the trust under the plan must be "created or organized" in the United States and, further, pursuant to Treasury Department regulations, maintained at all times as a domestic trust in the United States. For this purpose section 7701(a) (9) of [\*2] the Code defines "United States" to include "only the States and the District of Columbia."

The trust under the Plan clearly does not meet the above requirement, so that the Plan cannot be a qualified plan under the Code. Accordingly, the Plan is excluded from the termination insurance provisions of Title IV of the Act.

We are, therefore, requesting our Office of Finance & Administration to forward to you a check for \$13.00 to reimburse you for your premium payments.

Henry Rose  
General Counsel