

Pension Benefit Guaranty Corporation

78-7

May 25, 1978

REFERENCE:

[*1] 4062 Liability of Employer in Single Employer Plans
4064 Liability of Employers in Multiple Employer & Multiemployer Plans

OPINION:

This is in response to your letter of May 19, 1978 concerning the proposed sale of the assets and business of the * * * Division of * * * (* * *) to an unnamed buyer ("Buyer"). * * * is a member of a controlled group of trades or businesses. It maintains a single employer plan, * * * employees who are members of the Amalgamated Local * * * United Steelworkers of America at the * * * Division. Under the terms of the sale, the Buyer will assume and maintain the Plan. Immediately prior to the sale, * * * will contribute to the Plan an amount that is sufficient to cover all unfunded vested liabilities under the Plan. You requested a PBGC opinion that if the Plan terminates subsequent to the sale, * * * (or any member of the controlled group) will not be liable to the PBGC for employer liability under Title IV of ERISA.

We assume that the Plan is covered under the plan termination insurance program. If, as of the closing date of the sale, the plan has sufficient assets to satisfy all benefits that are guaranteed by the PBGC under Title IV of ERISA, * * * (or [*2] any member of the controlled group) would not be liable to the PBGC upon a subsequent termination of the Plan.

I hope this answers your inquiry. If we can be of further assistance, please let us know.

Henry Rose
General Counsel