

Pension Benefit Guaranty Corporation

80-8

May 27, 1980

REFERENCE:

[*1] 4063 Liability of Substantial Employer for Withdrawal
4063(d) Liability of Substantial Employer for Withdrawal. Partitioning of Plan

OPINION:

This is in response to your recent letters relating to the withdrawal of * * * Inc. from the Local * * * Pension Fund. You asked that we reconsider the interpretation stated in our May 11, 1979 letter concerning employer liability under Title IV in cases in which the Pension Benefit Guaranty Corporation (the "PBGC") partitions a plan under Section 4063(d) of the Employee Retirement Income Security Act of 1974. (Section 4063(d) provides that, upon the withdrawal of an employer or employers, the PBGC may partition a plan and treat a portion of the plan as a termination and the remainder as a separate plan.)

We have re-examined the language, purpose, framework and legislative history of the relevant statutory provisions. We conclude that the purpose of Section 4063(d) is, in part, to relieve the employers who continue to contribute to the plan of a portion of the funding burden in appropriate instances. Accordingly, upon reconsideration, we believe that in the event of a Section 4063(d) partition, only the withdrawing employer or employers are liable [*2] under Title IV with respect to the portion of the partitioned plan that is treated as a termination.

I hope that this information will be helpful to you.

Robert E. Nagle
Executive Director