

Pension Benefit Guaranty Corporation

87-7

July 21, 1987

REFERENCE:

[*1] Miscellaneous

OPINION:

This relates to your recent letter and our subsequent conversations on the binding effect of the opinion letters issued by the Pension Benefit Guaranty Corporation (the "PBGC").

As you are aware, the PBGC issues opinion letters to advise the public of its views of the meaning of the provisions of Title IV of the Employee Retirement Income Security Act ("ERISA"). Such letters are not intended to dispose of particular controversies between private parties. Moreover, because they are the PBGC's interpretations of Title IV and not substantive rules promulgated in accordance with the notice and comment requirements of the Administrative Procedure Act, they are not binding on the public or on the courts. However, interpretative rulings of government agencies "do constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance." *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944). As the agency charged with the responsibility for enforcing the provisions of Title IV, the PBGC's construction of Title IV is entitled to deference. *Belland v. PBGC*, 726 F.2d 839, 843 (D.C. Cir. 1984); see also, *Red Lion Broadcasting [*2] Co. v. FCC*, 395 U.S. 367, 381 (1969).

In addition to issuing opinion letters, the PBGC, in light of its responsibility to see that Title IV of ERISA is properly interpreted, will take other action to support its interpretation of statutory terms, e.g., filing amicus briefs.

I hope this response is of assistance.

Gary M. Ford
General Counsel