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

FEB 10 2003



Re: Appeal  Franklin Steel Company Hourly  
Pension Plan (the "Plan")

Dear

The Appeals Board has reviewed your appeal of PBGC's September 28, 2001 determination that you are entitled to a monthly benefit of \$575.13 payable as a Straight Life Annuity ("SLA") commencing October 1, 2014 (age 62). As explained below, the Board changed PBGC's determination by finding that you are entitled to \$589.22 per month as an SLA beginning October 1, 2014 (age 62).

Benefit Determination and Appeal

PBGC's determination letter stated that "you are entitled to a monthly payment of \$575.13 and that you may begin to receive this amount on 10/01/2017 [your normal retirement date]." Please note, however, that the Summary of PBGC Benefits, enclosed with PBGC's letter, showed that you are entitled to receive the same \$575.13 monthly amount at your Earliest Unreduced Retirement Date of "10/01/2014" (age 62).

In your appeal, you: (1) you questioned the difference between the benefit amounts (\$810.99 at age 62 and \$679.50 at age 60) shown in PBGC's January 29, 1998 estimated benefit letter and the lower amounts (\$575.13 at age 62 and \$482.07 at age 60) shown in PBGC's September 28, 2001 benefit determination letter; (2) questioned the difference between the 1990 pension earnings PBGC used (\$29,783.82) and your 1990 Social Security earnings (\$32,156); (3) stated that you were "informed by the International Union that the closing date [plan termination date] was July 31, 1994, not March 31, 1994 [the date used by PBGC]; and (4) asked whether you would receive "the additional \$400.00 a month supplement which other employees have received."

Pension Earnings and W-2 Earnings

The Plan's definition of Earnings excludes all Cost-of-Living Adjustments effective after June 30, 1974. This definition excludes a significant portion of the earnings which appear on a participant's Form W-2 Wage and Tax Statement. You were one of a

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number of participants for whom W-2 earnings were contained in PBGC files available to the Appeals Board, but for whom the Plan's pension Earnings were not available. With regard to this issue, PBGC's actuarial close-out report states:

"If no pension earnings were provided, we estimated the average compensation using 70% of the average of the highest 5 consecutive years of W-2 earnings out of the 10 years before termination. We were able to identify 70% as a reasonable estimation by comparing the average pension earnings with the average W-2 earnings for those participants for whom both were available."

The Appeals Board found that this 70% adjustment was reasonable, based on the methodology described in PBGC's actuarial close-out report.

Difference Between Estimated Benefit and Formal Benefit Determination

In preparing your benefit estimate, PBGC calculated your Average Monthly Earnings ("AME") without using the 70% adjustment discussed above:

1989	\$40,896.00	
1988	\$40,566.76	
1987	\$41,226.39	
1986	\$41,848.46	
1985	\$34,942.19	
Total	\$199,479.80	
AME	\$3,324.66	(= \$199,479.80 / 60 months)

PBGC calculated your estimated monthly benefit of \$810.66 at age 62 by taking 1.1 percent of the product of your AME and your Continuous Service [1.1% x (\$3,324.66 AME x 22.1667 CS)].

In preparing your formal benefit determination, PBGC calculated your AME using the 70% adjustment discussed earlier:

1990	\$30,172.32	
1989	\$40,896.00	
1988	\$40,566.76	
1987	\$41,226.39	
1986	\$41,851.09	
Total	\$194,712.56	
Average	\$3,245.21	(= \$194,712.56 / 60 months)
Adjustment	\$2,271.65	(= 70% of \$3,245.21)

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PBGC determined your formal monthly benefit of \$575.13 at age 62 by taking 1.1 percent of the product of your AME and your CS and then increasing that amount by 5%, as follows:

$$\$575.13 = [1.1\% \text{ of } (\$2,271.65 \text{ AME} \times 21.92 \text{ CS})] \times 1.05.$$

Thus, PBGC's benefit determination is lower than PBGC's benefit estimate, because PBGC's benefit determination used an AME of \$2,271.65 (which was based on the 70% adjustment discussed above), while PBGC's benefit estimate used an AME of \$3,324.66 (which was not based on the 70% adjustment discussed above).

There are two other differences between PBGC's benefit estimate and benefit determination, i.e., the CS figure and the 5% increase. The reason for these differences is that PBGC's benefit estimate was calculated as of March 31, 1994, your date of termination of employment (using a CS figure of 22.1667 years), whereas PBGC's benefit determination was calculated as of September 30, 1993, the latest date at which the Plan's 5% increase was effective (using a CS figure of 21.92 years). Please note that these two differences, taken together, work to your advantage, and that the only reason that the benefit determination is lower than the estimate is that the benefit determination used a lower AME.

#### The Board's Recalculation of Your Monthly Benefit

In its review of your appeal, the Board discovered that PBGC's valuation spreadsheets mistakenly showed a 1985 earnings figure of \$3,404.20 (instead of \$34,949.19). As a result, the Board found that your highest five consecutive years of earnings occurred from 1985 through 1989. The Board recalculated your AME, as follows:

1989	\$40,896.00	
1988	\$40,566.76	
1987	\$41,226.39	
1986	\$41,851.09	
1985	\$34,942.19	
Total	\$199,482.43	
Average	\$3,324.71	(= \$199,482.43 / 60 months)
Adjustment	\$2,327.30	(= 70% of \$3,324.71)

Accordingly, the Board determined your monthly benefit to be \$589.22, as follows:

$$\$589.22 = [1.1\% \text{ of } (\$2,327.30 \text{ AME} \times 21.92 \text{ CS})] \times 1.05$$

Your 1990 Earnings

In your appeal, you questioned the difference between the 1990 earnings figure (\$29,783.82) used by the PBGC in estimating your monthly benefit and the earnings figure shown on your 1990 Social Security Statement (\$32,156). You have two 1990 Franklin Steel W-2's in your participant file. One is for \$29,783.82, the other is for \$388.50, and together they sum to \$30,172.32 (the figure used by PBGC in its formal determination). As noted, however, the Board found that your highest five consecutive years of earnings occurred from 1985 through 1989. Even the highest of your 1990 earnings figures (\$32,156 from your Social Security Statement) would not be included among your highest five consecutive years of earnings, because such figure is lower than your 1985 earnings (\$34,949.19). Therefore, the Board found that it was not necessary to determine which of your 1990 earnings figures should be considered correct.

Plan Termination Date

When PBGC initiates plan termination in accordance with Section 4042 of ERISA (as occurred in this case), Section 4048(a)(3) of ERISA provides that the date of plan termination is "the date established by the [PBGC] and agreed to by the plan administrator." The "Agreement for Appointment of Trustee and Termination of Pension Plan" between PBGC and the "Administrator of the Franklin Steel Company Wage Employees' (Hourly) Pension Plan" set the date that Franklin Industries ceased business operations, March 31, 1994, as the date of Plan termination. Please note that the Appeals Board has no authority to change an established plan termination date.

The \$400.00 Temporary Supplement

Under Sections 3.4 and 3.5 of the Plan, a participant who was entitled to a Permanent Incapacity Retirement, a 70/80 Retirement, or a Rule of 65 Retirement could become entitled to receive an "Increased Pension" (a \$400.00 temporary monthly supplement generally payable to age 62).

As of Plan termination, you had completed 22.17 years of continuous service and you had attained 41 years and six complete months of age. Thus, your combined age and years of continuous service equaled 63.67 which was less than 70 (one of the requirements for 70/80 Retirement) and less than 65 (one of the requirements for Rule of 65 Retirement). In addition, there is no evidence that you met the Plan's conditions for disability retirement on or before the Plan termination date. Thus, as of Plan termination, you had not satisfied the conditions necessary to become entitled to a Permanent Incapacity Retirement, a 70/80

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Retirement, or a Rule of 65 Retirement. Therefore, you are not entitled to receive the Plan's \$400.00 temporary supplement.

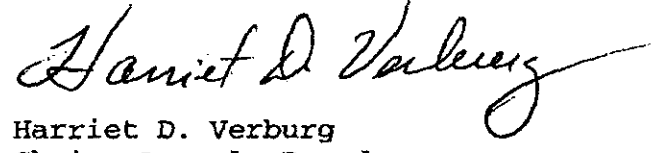
Decision

Having applied the law, Plan provisions, and PBGC's rules to the facts in this case, the Board changed PBGC's determination and found that you are entitled to a monthly benefit of \$589.22 payable in the form of an SLA commencing October 1, 2014 (age 62). Please note that the amount of your monthly benefit is subject to adjustment depending on your actual retirement date and on the form in which your annuity is paid.

This is the agency's final action regarding the issues you raised in your appeal. You may, if you wish, seek court review of this decision.

We appreciate your patience while we completed our review. If you need other information from PBGC, please call the Customer Service Center at 1-800-400-7242.

Sincerely,



Harriet D. Verburg  
Chair, Appeals Board