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

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[Redacted]

JUN 23 2004

Re: [Redacted] Case 196607, Polaroid Pension Plan (the Plan)

Dear [Redacted]

The Appeals Board reviewed your appeal of PBGC's February 19, 2004 determination that you are not entitled to a benefit from the Plan. For the reasons stated below, the Board decided that we must deny your appeal.

Determination and Appeal

PBGC determined that you are "not entitled to a PBGC benefit because a Qualified Domestic Relations Order dated November 20, 1997 awarded [Redacted] full pre-retirement survivor pension benefit to an alternate payee." PBGC explained that you will have to repay most of the benefit amounts you received after the Plan terminated.

Your March 7, 2004 appeal letter stated that:

PBGC's determination that I am not entitled to the monthly amount that I have been receiving from the above Pension Plan is unfounded. After a thorough review of my case by the Polaroid Pension Plan Department, I received documentation that I would be getting this monthly amount for the rest of my life. Therefore, I expect to keep receiving this monthly entitlement in the future."

Discussion

PBGC provides pension insurance according to the Employee Retirement Income Security Act of 1974, as amended (ERISA). If a plan sponsor is unable to support its pension plan, PBGC becomes trustee of the plan and pays pension benefits as defined in the plan subject to limitations set by Congress under ERISA.

Records available to the Appeals Board reveal that on August 15, 2002, PBGC issued a Notice of Determination to the Plan's former sponsor (Polaroid) that PBGC would become trustee of the Plan. The records also show that the Plan's termination date

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is July 31, 2002 and that PBGC became trustee of the Plan on September 12, 2002.

PBGC records show that your late husband, [redacted] (1) was born on [redacted] (2) began working for Polaroid on April 12, 1971, (3) quit working for Polaroid on November 30, 1988, (4) was divorced from his previous spouse (the Alternate Payee) on or after December 31, 1988, (5) married you sometime in or around 1992, and (6) died on January 15, 1998.

The record also shows that a Qualified Domestic Relations Order (QDRO) relating to [redacted] benefits payable under the Plan was approved by Associate Justice Stephen C. Steinberg of the Probate and Family Court Dept. of the Commonwealth of Massachusetts on November 20, 1997 in the matter of [redacted] divorce from the Alternate Payee. PBGC records also show that the QDRO was reviewed and approved by Polaroid on December 22, 1997.

The 1997 QDRO states that the Alternate Payee "is entitled to receive the full Pre-retirement Survivor Annuity for the Participant's Accrued Benefit as accrued through 12/31/88."

Because the Pre-retirement Survivor Annuity is the only benefit payable under the Plan as a result of your husband's death and because the record before the Appeals Board indicates that your late husband did not accrue any additional benefits under the Plan as a result of employment with Polaroid after December 31, 1988, the only benefit payable under the Plan is payable to the Alternate Payee.

We regret that Polaroid made an apparent error in paying you a benefit after your husband died, but PBGC is not authorized by ERISA to pay benefits that are not payable under the terms of a terminated plan.

Please note that PBGC's Recovery Policy requires PBGC to seek repayment of all amounts paid to you after the date on which PBGC issued its Notice of Determination (August 15, 2002). The Appeals Board has no authority to change PBGC policy.

Decision

Having applied Plan provisions and PBGC's rules to the facts in this case, the Appeals Board decided that we must deny your appeal. This decision is the agency's final action regarding your appeal. You may, if you wish, seek court review of this decision.

PLEASE NOTE that PBGC will always, even after an appeal is

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closed, consider any new, specific evidence that you present (for example, evidence that your husband was rehired by Polaroid after December 31, 1988) showing you may be entitled to a PBGC benefit. If you have or obtain any such evidence, please send it to PBGC, Attn: Insurance Operations Department, P.O. Box 151750, Alexandria, Virginia 22315-1750. If you need other information from PBGC, please call the Customer Contact Center at 1-800-400-7242.

Sincerely,



Michel Louis  
Appeals Board Member

Printed on June 23, 2004 at 2:42 PM

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