

4-1654-2718-210000001



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

[Redacted]

November 14, 2003

Re: Appeal [Redacted]
Thomaston Mills, Inc. ("TMI") Retirement Plan No. 1
(the "Plan")

Dear [Redacted]

The Appeals Board has reviewed your appeal of PBGC's May 14, 2003 determination that PBGC cannot guarantee your full Plan benefit. PBGC will later determine your final benefit amount, after PBGC finishes collecting and verifying Plan data, documents, and assets. As explained below, we are denying your appeal.

Benefit Payments and Determinations

- On February 1, 2001, TMI started paying you a \$722.05¹ per month early retirement benefit. TMI calculated \$722.05 using the Plan's "40%-50%/20 formula" because you earned more than 20 years of service, you were actively employed on July 1, 1976, and you were an active employee on July 1, 1998.
- The Plan's termination date is August 31, 2001.
- Effective April 1, 2002, PBGC reduced your payments to your estimated guaranteed benefit: \$546.20 per month {20% x (\$722.05 - \$502.24) + \$502.24}.
- PBGC's May 14, 2003 letter: i) stated your benefit had increased under a Plan document signed January 27, 2000, and ii) explained the law limits PBGC's guarantee to 20% of your increase, which was put into effect 1-2 years before the Plan's 2001 termination date.

Your Appeal

In your June 13, 2003 letter, you stated:

- The Plan used the 40%-50%/20 formula when you joined TMI in 1972.
- Whenever the Plan was amended, an administrative committee agreed no employee would be penalized by the adoption of any new formula.

¹ { \$5,471.49 Average Monthly Earnings x 40% - \$1,489.00 Projected Social Security benefit x 50% } x 50% Early Retirement adjustment

- The "newest change to the pension plan was to correct and restore the benefits of those who were employed before 1976."
- You concluded that employees hired before 1976 should not have their benefits treated as being increased by the last Plan document.

Discussion

Plan Provisions

The Appeals Board reviewed all available relevant documents as summarized below. PBGC used the Plan document signed December 31, 1991 (the "Prior Plan") to estimate your Prior Plan benefit as \$502.24.² See Enclosure 1 page 16. TMI used the Plan document signed January 27, 2000 to calculate your \$722.05 benefit. See the 40%-50%/20 formula on Enclosure 2 page 17, section 1.39(b)(iii).

Number of Years the January 27, 2000 Increase Was "In Effect"

The law limits PBGC's guarantee of a benefit increase placed "in effect" less than 5 full years before a plan's termination.³ Therefore, the Appeals Board examined the following evidence on when the Plan was changed to put the 40%-50%/20 formula back into effect:

- The 40%-50%/20 formula was not in the Plan's Actuarial Valuation Report for July 1, 1998 through June 30, 1999, dated August 1999.
- The Plan's actuaries on October 31, 2003 wrote to the Appeals Board:
"Based on our review of correspondence between the Towers Perrin consulting team and officials at Thomaston Mills, Inc., it appears the decision to use the new formula was made in November of 1999."
- TMI used the 40%-50%/20 formula to calculate both your \$722.05 benefit and the benefit of a similarly-situated participant in November 1999.
- You submitted a November 18, 1999 TMI letter indicating the TMI Board of Directors would add the 40%-50%/20 formula to the Plan on December 9, 1999.

² $\{(\$5,471.49 \times .6\%) + (\$5,471.49 - \$4,697 \text{ Social Security Covered Compensation}) \times .55\} \times 27.08333 \text{ years benefit service} \times 50\% \text{ Early Retirement adjustment}$

³ PBGC phases-in benefit increases from the later of an amendment's adopted and effective dates.

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- The 40%-50%/20 formula was added to the restated Plan document signed January 27, 2000.

The Appeals Board concluded the Plan put the 40%-50%/20 formula back into effect between 1 and 2 years before the Plan's August 31, 2001 termination date. Therefore, under the law PBGC may guarantee only 20%⁴ of your benefit increase under the 40%-50%/20 formula.

January 27, 2000 Amendment Restored Benefit Formula

You stated the January 27, 2000 amendment simply restored a benefit the Plan had earlier provided. Instead, the January 2000 amendment only restored the benefit formula⁵ the Plan had last used on July 1, 1976.

Benefit Increased from July 1, 1976 Under Prior Plan Formula

On July 1, 1976, your 40%-50%/20 accrued benefit amount was based on only 6 years of service and your TMI earnings ending in 1976. For comparison, your Prior Plan benefit amount, which PBGC estimated as \$502.24, is based on more than 27 years of service and your 5-year average earnings through 1998. See footnote 2 on page 2 and Enclosure 2. Thus, your benefit amount had already increased under the Prior Plan formula before the 40%-50%/20 formula was restored in 2000. Therefore, the January 2000 amendment only restored the 40%-50%/20 benefit formula - not the relatively small benefit amount you had last earned under the 40%-50%/20 benefit formula.

Other Documents You Submitted

You submitted other documents in addition to those cited above. The Board's conclusions in the paragraph above are consistent with your additional documents:

- You submitted the Prior Plan's page 16 PBGC used to estimate your Prior Plan benefit. See page 2. You highlighted a statement that your benefit may not be less than your benefit on page 17. However, the page-17 benefit uses a 40%-50%-30-year formula, with frozen service, not the 40%-50%/20 formula you requested. PBGC will consider the 40%-50%-30 formula when determining your final benefit.
- You submitted other undated documents describing the 40%-50%/20 formula. Those documents do not show the Plan

⁴ PBGC guarantees larger percentages of increases less than \$100.00.

⁵ accruing a Normal Retirement Benefit over only 20 years

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restored the 40%-50%/20 formula sooner than 1-2 years before the August 2001 termination date. Therefore, those descriptive documents do not affect the 20% phase-in of your 40%-50%/20 benefit.

- You submitted 4 documents discussing another participant's benefit:

i) A 1990 TMI memo to that other participant states, "The Plan provides that an individual employed prior to 7-01-76 and [who] has twenty years of continuous service at the time of retirement shall receive full benefit compensation."

The 1990 memo may indicate a belief the 40%-50%/20 benefit formula would be used. However, the 40%-50%/20 formula clearly is not in the Plan document effective July 1, 1987 and signed December 31, 1991. See Enclosure 1.

ii) A 1992 memo shows TMI calculated a \$1,598.30 Plan benefit as the largest amount under two formulas. Neither of the two formulas is the 40%-50%/20 formula you requested.

iii) Two 1993 letters note the 40%-50%/20 formula would produce a larger benefit. A TMI Secretary concluded the participant was unintentionally being "penalized" by the new benefit formulas. He stated the "administrative committee" would send a formal letter about paying the larger 40%-50%/20 benefit.

You have presented no evidence that a TMI administrative committee later sent that participant such a formal letter, or that TMI ever paid that participant the larger 40%-50%/20 benefit. To the contrary, the Plan document never restored the 40%-50%/20 formula for such participants whose TMI employment ended before July 1, 1998. Further, as explained above, the Plan restored the 40%-50%/20 formula for participants such as you 1-2 years before the Plan's August 2001 termination date.


Thus, the documents you submitted are consistent with phasing-in 20% of your benefit increase under the 40%-50%/20 formula.

Decision

Having applied Plan provisions and the law to the evidence presented in your case, the Board must deny your appeal. PBGC must apply "20% phase-in" to your benefit increase under the 40%-50%/20 formula. This letter concludes your administrative remedies with respect to PBGC's May 14, 2003 determination. When PBGC determines your benefit amount, PBGC will allow you another 45 days to appeal any new and specific issues not decided in this letter.

When PBGC's determination of your benefit amount becomes final you may, if you wish, seek court review of PBGC's determinations with respect to the issues you have raised. We appreciate your patience during this careful review of your appeal. If you have any questions about your benefit, or if you locate any new specific evidence showing your benefit should be higher, please contact PBGC's Authorized Plan Representative at 1-800-400-7242.

Sincerely,



William D. Ellis
Appeals Board Member

Enclosures:

1. Excerpts from the Plan document signed December 31, 1991
(28 pages)
2. Excerpts from the Plan document effective January 27, 2000
(24 pages)

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