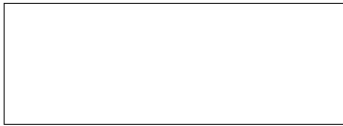


#1768218



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

APR 28 2004



Re: PBGC Case Number 155895,
Frederick and Nelson Pension Plan ("Plan" or "F&N Plan")

Dear

The Appeals Board has reviewed your appeal of PBGC's November 13, 2000 determination (remailed to you on January 30, 2001) that you are not entitled to a PBGC benefit because when your employment ended the Plan required at least 10 years of service to qualify for a vested pension benefit and you did not meet this requirement. As explained below, the Appeals Board changed PBGC's determination by finding that you are 100% vested under the Plan.

Your Appeal

In your February 10, 2001 appeal, you requested that we use your August 16, 1978 hire date with Lipman's Family Department Store to determine your eligibility for a Plan benefit. You explained that when Frederick and Nelson purchased Lipman's in 1979, employees were told that their original hire date with Lipman's would be honored for all Frederick and Nelson benefits.

Your appeal also said that when Lamonts (also a clothing store) purchased Frederick and Nelson in 1989, employees were told that: (1) their original hire dates with Lipman's would be honored; (2) the cutoff date for pension eligibility under the Plan was October 1988; and (3) anyone with 10 years of service as of October 1988 would be eligible for a pension. You stated that you were still employed with the Company in October 1988 and had earned more than 10 years of service at that time, and that you did not leave Lamonts until 1993. You enclosed a copy of your Lipman's employment record and a Batus Retail Group Retirement Enrollment Form, both showing your date of hire as August 16, 1978.

Plan History

PBGC files reveal the following:

- Frederick and Nelson, Inc. (or F&N) was owned by Marshall Field & Company from 1929 to 1986, and the F&N Plan descended from the Marshall Field Retirement Plan ("Marshall Field Plan"), effective December 1, 1968.

#1768218

-2-

- On April 20, 1979 Marshall Field acquired property from Dayton-Hudson (also known as Lipman Wolfe or "Lipman's"), and former employees of Lipman's were granted vesting service under the Marshall Field Plan, but accrued benefit service under the Marshall Field Plan only after the acquisition.
- Marshall Field was sold in 1982 and effective January 1, 1985, salaried participants of the Marshall Field Plan were merged into the Batus Retail Group Pension Plan ("Batus Plan"). The Batus Plan also covered participants of The Crescent Stores, Inc. and a number of other employers.
- On September 26, 1986, Batus sold Frederick and Nelson and The Crescent Stores to outside investors (however, assets and liabilities reportedly were not transferred until June of 1987). As part of the sale, liability for the F&N Plan and Crescent employees transferred from the Batus Retail Group Pension Plan to a new plan, the F&N Plan.
- The F&N Plan was frozen for salaried employees on December 31, 1986. An attempt was made to terminate the Plan in October of 1988; however, the Plan was not terminated until May 26, 1992 and PBGC became the Plan's trustee on July 17, 1998.

Discussion

Based on the information you provided and PBGC files, we have confirmed your August 16, 1978 hire date with Lipman's and agree it should be used to determine your eligibility for a benefit under the Plan.

The F&N Plan document applicable to you (i.e., the 1986 Plan) defines "Employer" as "Frederick & Nelson Operations, Inc., and its Affiliate, The Crescent Stores, Inc., and any successor by merger, any corporation that acquires the employer's business and adopts the Plan"

PBGC files show that your F&N employment ended August 29, 1987. However, your Social Security reported earnings show that during 1987 you were employed by F&N, Crescent, and Wongs Kitchen, Inc. The Social Security reported earnings also show that during 1988 you were paid by F&N Acquisition Corporation and Lamonts Apparel, Inc., and that over one-half of your reported earnings for that year were from F&N Acquisition.

According to a June 2, 1988 letter from Lamonts to a Crescent employee similarly situated to you, the earliest date on Lamonts' payroll for Crescent employees is July 20, 1988. The letter also states that participation in the Lamonts Employees' Retirement Trust (pension plan) begins on July 20, 1988, and that The Crescent would pay the Crescent-earned benefit.

#1768218

-3-

Based on your Social Security earnings and Lamonts' June 2, 1988 letter, the Appeals Board decided that you earned vesting service from August 28, 1978 through July 19, 1988.

Under the terms of the F&N Plan, participants who did not reach age 65 (normal retirement age) while employed with the Employer must complete at least 10 Years of Service to be entitled to a benefit (Articles IV and VII). Plan section 2.40 provides that a Participant is credited with one Year of Service for each calendar year in which he or she he completes 1,000 or more Hours of Service, defined in section 2.17 as each hour for which an employee is directly or indirectly paid or entitled to payment for the performance of duties or for reasons such as vacation, holiday, illness, etc.

The Appeals Board found that you had at least 1,000 hours of service during each of the calendar years 1979 through 1988. Thus, you met the Plan's 10-year service requirement for vesting.

For your information, the files show that the Lamonts Apparel, Inc. Employee's Retirement Trust ("Lamonts Plan") was terminated on July 24, 2000, and thereafter PBGC became its trustee. PBGC files also reveal that you were paid a lump sum from Lamonts prior to the Lamonts' Plan termination on July 24, 2000.

Decision

Having applied the provisions of the Plan and PBGC rules to the facts of your case, the Appeals Board found that you had at least 10 years of service under the F&N Plan and, therefore, are vested. PBGC's Insurance Operations Department, the office responsible for determining and paying PBGC benefits, will issue you a new determination with appeal rights.

We apologize for not responding sooner and we appreciate your patience during the processing of your case. If you need other information from PBGC, please call our Customer Contact Center at 1-800-400-7242.

Sincerely,



Sherline M. Brickus
Member, Appeals Board