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

November 23, 2005



Re: Case Number 195241
LTV Steel Salaried Pension Plan (the "Plan")

Dear

The Appeals Board has reviewed your appeal of PBGC's June 30, 2005 determination of your PBGC benefit. As explained below, we must deny your appeal.

Benefit Determination

PBGC determined:

- Your Plan benefit is a \$1,981.51 per month Straight Life Annuity, the same benefit you received until August 1, 2002.
- Your PBGC benefit is a \$1,386.39 per month, slightly more than the \$1,384.90 estimated PBGC benefit PBGC has been paying you since September 1, 2002.
- You were overpaid \$2,918.98 following the Plan's March 31, 2002 termination date through August 2002.
- Your \$1,386.39 PBGC benefit will be temporarily reduced by approximately \$21.35 per month until your net overpayments have been repaid. You will not be charged interest on your overpayments.

Your Appeal

In your August 12, 2005 letter:

- You ask PBGC to restore your \$1,981.51 benefit.
- You questioned PBGC's determination that your benefit should be reduced again to repay any overpayments.
- You explained PBGC's reductions are causing you economic hardship.

Your PBGC Benefit

Under the law, PBGC cannot use your economic hardship as a basis for determining your benefit. Further, the law and PBGC's regulation also require PBGC to seek repayment of your

overpayments.¹ However, PBGC's regulation reduces economic hardship by generally limiting to 10% the temporary reductions in PBGC benefits for repayment. As explained below, your full PBGC benefit under the law is the \$1,386.39 benefit PBGC determined.

Benefit Increase Not Fully Guaranteed

PBGC cannot pay your full \$1,981.51 Plan benefit because:

- Plan assets were not sufficient to fund all guaranteed benefits, under allocation rules required by law.²
- The law limits PBGC's guaranty of benefit increases effective or adopted less than 5 years before a plan terminates. Thus, PBGC must "phase-in" its guaranty of such benefit increases.³

1999 Benefit Increase Not Fully Guaranteed

Your benefit was increased from \$987.16⁴ to \$1,981.51⁵ under a Plan amendment effective January 1, 1999. See Enclosure 1, the "1999 Amendment." The 1999 Amendment was signed November 6, 2001.

November 1999 Adoption Date Requires 40% Phase-in

PBGC determined the 1999 Amendment was adopted earlier, on November 1, 1999, when LTV wrote to participants about benefit increases such as yours. The November 1, 1999 adoption date is between 2 and 3 years before the Plan's March 31, 2002 termination. Based on such a 2-3 year period between adoption and Plan termination, your \$994.39 {\$1,981.51 - \$987.12} increase is 40% guaranteed. Thus, based on the November 1, 1999 adoption date PBGC used, your guaranteed benefit is \$1,384.89 {\$987.12 + (\$994.39 x 40%)} per month.

¹ 29 Code of Federal Regulations "CFR" section 4022.81 and §4022.82(a)(2)(i)

² See Employee Retirement Income Security Act of 1974 ("ERISA"), section 4044.

³ ERISA section 4022(b)(7), and 29 CFR §§ 4022.24 and 4022.25

⁴ (\$182,660.31 ÷ 60 months) x 1.5% x 26.0833 years - \$203.94 projected Social Security benefit. Service and compensation were frozen as of December 31, 1985. Please see Enclosure 2 page 1.

Your \$182,660.31 high-60 total pension compensation, and your \$203.94 projected Social Security benefit are in LTV's electronic records - See Enclosure 3.

⁵ \$60.00 accrual rate x 42.083 years service - \$543.47 Defined Contribution Plan Benefit

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Appeals Board Independently Verified 40% Phase-In Applies

To decide which phase-in percentage applies, Appeals Board staff researched exactly when LTV authorities decided to adopt the 1999 Amendment. We reviewed LTV documents including:

- A letter LTV's Assistant General Counsel wrote to PBGC in March 2002 about the 1999 Amendment. He explained the 1999 Amendments were developed following LTV-USWA agreement on hourly pensions effective August 1, 1999.
- A July 31, 1999 USWA-LTV agreement improving pensions.
- Slides from an October 21, 1999 presentation to the Compensation Committee of the LTV Board of Directors. The presentation includes "Recommendation[s] - Pension" of: (i) unfreezing of the defined benefit plan, and (ii) adopting the \$60 Floor Minimum accrual rate that applies to you.

The evidence shows LTV authorities decided to adopt the 1999 Amendment increases between October 21, 1999 and November 8, 1999, between 2 and 3 full years before Plan termination. The Board concluded the law requires using the same 40% phase-in percentage PBGC used.

Small Increase Based on Legal Recoveries

The law also requires allocating additional funds to non-guaranteed benefits based on PBGC's actual recoveries on claims.⁶ Your additional benefit under this allocation is \$1.49 { ((\$1,981.51 - \$987.16) x (100%-40%) x \$161,420 ÷ \$64,560,777. ⁷ Thus, your total PBGC benefit is \$1,386.39 (\$1,384.90 + \$1.49) } per month, the same as PBGC determined.

Decision

Having applied Plan provisions and the law to the facts in your case, we must deny your appeal. This letter concludes your administrative remedies with respect to PBGC's June 30, 2005 determination. You may, if you wish, seek court review of PBGC's

⁶ ERISA section 4022(c)

⁷ \$161,420 = \$1,390,449 total value of recoveries - \$1,229,027 value to unfunded non-guaranteed benefits payable 3 years before Plan termination, allocated following ERISA § 4044(a)(3).

\$64,560,777 = \$65,789,804 total value of all unfunded non-guaranteed benefits - \$1,229,027 recoveries allocated following ERISA § 4044(a)(3).

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determination with respect to the issues you raised. Thank you for your patience while we carefully reviewed your appeal.

Sincerely,

William D. Ellis

William D. Ellis
Appeals Board Member

Enclosures:

- (1) Excerpt from Plan document effective January 1, 1999, and signed November 6, 2001 (9 pages)
- (2) Excerpt from Schedule 1 to the 1999 Plan document (5 pages)
- (3) LTV's electronic data for you (5 pages)