



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

March 31, 2006

Re: Appeal [redacted], Case 195241  
LTV Steel Salaried Pension Plan (the "Salaried Plan")

Dear Mr. [redacted]:

The Appeals Board has reviewed your appeal of PBGC's April 20, 2005 determination of the LTV defined benefit pension plans you accrued benefits in. As explained below, we must deny your appeal. However, you have 45 days from the date of this letter to appeal any new issues in PBGC's October 17, 2005 determination not already decided in this letter.

PBGC's Determination

PBGC found that effective January 13, 1987, your accruals changed from the Hourly Plan <sup>1</sup> to the Salaried Plan. A PBGC official explained, in an April 14, 2005 letter:

- LTV plan administrators had already found your accruals changed from the Hourly Plan to the Salaried Plan effective January 13, 1987. After that date, they calculated benefit accruals for Hennepin Guards, <sup>2</sup> such as you, in the Salaried Plan instead of the Hourly Plan.
- Under a May 1, 1988 LTV-Union <sup>3</sup> Agreement, it was "agreed that the salary compensation and benefit programs applicable to non-union, non-exempt salaried employees shall be applicable to salaried Plant Guard employees...."
- An April 30, 1998 Union Agreement contained a similar statement to that above. The 1998 Union Agreement did not apply the Hourly Plan to the Hennepin Guards even though the Hourly Plan had been restored years earlier.

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<sup>1</sup> the LTV Steel Hourly Pension Plan, successor to the Jones and Laughlin Hourly Pension Plan

<sup>2</sup> employees in the Plant Guard bargaining unit at the Hennepin Works

<sup>3</sup> International Union, United Plant Guards Workers of America

- PBGC has found no documents requiring Hennepin Guards to accrue benefits in the Hourly defined benefit plan beginning January 13, 1987. To the contrary, LTV consistently calculated your benefit accruals beginning January 13, 1987 in both the Salaried Plan and the salaried defined contribution plan.

We note LTV also maintained two defined *contribution* plans:

(i) the LTV Steel Retirement Plan (the "LSRP"), covering most salaried employees. LSRP benefit amounts are used as reductions in Salaried Plan benefit formulas.

(ii) the LTV Steel-USWA Pension Plan (the "LUSWP"), covering most hourly employees. LUSWP benefit amounts are used as reductions in Hourly Plan benefit formulas.

The two defined contribution plans were often referred to by the *same names*: the "DCP," the "Defined Contribution Plan," or the "Defined Contribution Pension."

#### Your Appeal

In your August 15, 2005 appeal, you disputed PBGC's determination that your pension accruals switched back to the Salaried Plan in 1987:

- You noted the Hourly Plan was terminated effective January 13, 1987, and was restored following a 1992 LTV-USW agreement. You concluded a 1983 Union agreement required automatically restoring Hourly Plan accruals for the Hennepin Guards, too.
- You disputed PBGC's reliance on a quote from the 1988 Union Agreement which refers only to salary and benefits, not explicitly to "pensions." See the quote near the bottom of page 1 of this letter. You stated:

"Nowhere does it state we are giving up an hourly pension plan for a salary pension plan. There was no salary pension plan and hadn't been since it was frozen on July 21, 1981. It would have been completely impossible to go with a salary pension plan in 1988 because there was no salary pension to go to. . . . I would like to see how it could be worded for us and our International Union to agree to something that didn't exist."

We noted, the 1983 Agreement, a copy of which you provided, states:

"Effective May 1, 1983, the pension benefits applicable to the majority of the hourly paid employees of [J&L] shall be applicable to the Plant Guard employees . . . for the Life of the May 1, 1983 Labor Agreement.... (underlining added)

In the event of any change relating to pension benefits applicable to such majority of hourly paid employees ..., this Agreement shall continue in effect and such change shall be applicable to the Plant Guard employees covered hereby."

You asserted the last quoted sentence requires the Hennepin Guards to remain members of the Hourly Plan forever. Instead, we found the sentence you cite simply requires applying to the Hennepin Guards any intervening Hourly Plan changes without causing the 1983 Agreement to be renegotiated. Your interpretation plainly contradicts the underlined condition, requiring application of hourly pension provisions only for the life of the 1983 Agreement.

Even if both the Union and LTV had agreed in 1983 that the Hennepin Guards would remain in the Hourly Plan forever, that agreement was superseded by later agreements.

Because the Plans had not yet been restored, you disputed whether defined benefit pensions could have been within the scope of the 1988 Agreement's reference to "salary compensation and benefit programs." We note that consistent with your claim, LTV and the Union saw the need to include a separate pension agreement (the "DCP Agreement") on the salaried defined contribution plan. See Enclosure 5, page 24. The DCP Agreement may have been included because pensions were otherwise outside the 1988 Agreement's scope or simply because of the DCP Agreement's 1987 effective date.

Regardless of whether yet-to-be-restored pension plans were within the 1988 Agreement's scope, LTV negotiated pension restoration with its unions following the Supreme Court's 1990 decision. For example, LTV and the USW signed a pension restoration agreement on September 10, 1992. See Enclosure 3.

Following those negotiations, other Union locals, but not the Hennepin Guards, are explicitly included in the restored Hourly Plan documents: the Cleveland Plant Guards are listed in the document effective January 1, 1993, and the Cleveland Plant Guards plus 2 more Union locals are listed in the document effective November 1, 1999. See Enclosures 1 and 2. Both Hourly Plan documents explicitly refer to union agreements and provides lists. For example, see Enclosure 1 page 5 and Exhibit E.

Thus, the Hennepin Guards were excluded from the 1993 Hourly Plan, with the Union's knowledge, and consistent with a plain reading of the 1988 Agreement. Similarly, the 1988 Agreement included the DCP Agreement that the Hennepin Guards would participate in the *salaried* DCP. The 1998 Agreement again included the Hennepin Guards in "salary and compensation benefit programs" of the salaried employees, without including the Hourly Plan, even though it had been restored years before. The subsequent 1999

Hourly Plan, like the 1993 Hourly Plan, again included plant guards from other Union locals, but not the Hennepin Guards.

Therefore, all available documents are consistent with PBGC's plain reading of the 1988 Agreement. Finally, as noted below, we found that in practice, LTV consistently calculated Hennepin Guards' accruals after January 12, 1987 under the Salaried Plan. Thus, all available documents and practice show widespread knowledge and agreement that Hennepin Guards' accruals after January 12, 1987, such as yours, were under the Salaried Plan.

*Additional Issues You Raised*

- You questioned how Plan documents permit your benefit accruals after January 12, 1987 to be under the Salaried Plan instead of the Hourly Plan.

Plan coverage is determined by collective bargaining agreements. See Enclosure 2 page 6 and Enclosure 8 page 5. Under collective bargaining agreements, the Hennepin Guards were not covered under the Hourly Plan after January 12, 1987, as explained above, and under Plan documents - see the final page of Enclosure 1, and Enclosure 2 page 131. Thus, the (salaried) Hennepin Guards were covered under the Salaried Plan. See Enclosure 8 page 5.

- You submitted 1989 LTV pension calculations and your 1992 bankruptcy claim for benefits accrued starting under the Salaried Plan on September 5, 1968 and ending in the Hourly Plan on January 12, 1987.

The 1989 and 1992 documents you submitted show only that the two plans would pay parts of the total benefit you had accrued through January 12, 1987. Those documents do not indicate which defined benefit plan would provide subsequent accruals upon restoration. Thus, those documents do not affect PBGC's determination on your subsequent plan coverage.

- You stated your bankruptcy filing shows an understanding that on January 1, 1993 you would resume accruing benefits until your retirement. You indicate you believe your accruals did not resume under a restored plan on January 1, 1993.

To the contrary, PBGC found restoration of the Salaried Plan caused your benefits accruals to be resumed effective January 17, 1987, earlier and more favorably than January 1, 1993. See Line (4) of the benefit statement attached to PBGC's October 17, 2005 new determination on your benefit amount. Also, PBGC has never denied your claim that you earned vested benefits in both plans. In such a case where an employee switches between the Hourly and Salaried Plans, each plan requires:

(1) The final total accrued benefit is calculated as if all service had been earned under the final plan, and

(2) To avoid duplication of benefits, the accrued benefit under the final plan is reduced by the benefit payable under a prior plan. See Enclosure 8 page 35.

- You and another appellant have questioned PBGC's practices paying Hennepin Guards benefits accrued after January 12, 1987.

We researched LTV and PBGC practices on other sample Hennepin Guards whose employment, like yours, ended after January 12, 1987. We found that following steps (1) and (2) above, LTV and PBGC always used the Salaried Plan as the final plan the Hennepin Guards participated in.<sup>4</sup>

- You submitted 1989 LTV documents showing you had earned benefits both in the Hourly Plan and in the salaried defined contribution plan (the LTV Steel Retirement Plan).

We found those documents do not contradict PBGC's determination that when the Hourly and Salaried Plans were later restored, you resumed accruing benefits in the Salaried Plan instead of in the Hourly Plan.

- You asked for copies of any agreements stating Hennepin Guards would start accruing pension benefits in the Salaried Plan instead of the Hourly Plan.

We found no agreements explicitly stating Hennepin Guards' accruals were being switched to the Salaried Plan effective January 13, 1987. Nevertheless, as explained above, we found that conclusion is required by the available documents and the actions of the parties involved.

- You stated LTV failed to notify the Union and employees within 210 days of when the Hennepin Guards were excluded from the restored Hourly Plan.

We found the 1988 and 1998 LTV-Union agreements and Hourly Plan documents required the Hennepin Guards to accrue benefits in the Salaried Plan instead of the Hourly Plan. See above. Several Union officials signed those Agreements, including your co-appellants [redacted] (1988) and [redacted]

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<sup>4</sup> Such a participant's final total accrued defined benefit could simply be his accrued benefit on January 12, 1987 - because the Salaried (and Hourly) Plans use sometimes sizable offsets for DCP accruals after January 12, 1987. In this case, such a participant's final total accrued benefit could be based only on service from the hire date through January 12, 1987.

[redacted] (1998). Thus, contrary to your statement, Union officials' signatures on those LTV-Union agreements indicates they were notified of the contents of the agreements they were signing.

Other Union locals, but not the Hennepin Guards, are explicitly included in the restored Hourly Plan documents under collective bargaining agreements. See page 3 above. It is unreasonable to believe in these circumstances that the Union could have been unaware or disagreed with the Hennepin Guard's exclusion from active participation in the Hourly Plan.

You have not provided and we have not located copies of the notices LTV provided individual Hennepin Guards about the restoration of the defined benefit pension plans they would accrue benefits in. However, you provided a copy of a November 8, 1999 summary LTV addressed to Salaried Employees explaining new Salaried Plan benefits.

Thus, you have shown that in 1999 or earlier you personally were notified in detail about your Salaried Plan benefit accrual formulas. Further, we have no record that following your notification you objected to your Salaried Plan benefit accruals until PBGC started estimating benefit amounts in 2002.

Regardless of when you and other Hennepin Guards were personally notified, you have provided no evidence that you were told you would accrue benefits in other than the restored Salaried Plan. Thus, your statement about notices to employees do not contradict PBGC's determination on your Plan coverage.

- You questioned the January [redacted], 1987 retirement date LTV recorded for you under the Hourly Plan.

Whether or how that "retirement date," affects your total PBGC benefit amount is not covered by the PBGC determination you have appealed. For your information, under the Hourly Plan, the retirement date is defined to be the date service ends. As explained above, your benefit accruals switched to the Salaried Plan from the Hourly Plan on January 13, 1987. Thus, your Hourly Plan "retirement date" is January 13, 1987.

- You proposed how PBGC should calculate your pension. In particular, you disputed any reductions for a defined contribution balance such as from a 401(k) plan. You stated the Union was not notified when the DCP was merged into the Salaried Plan. You also stated PBGC is using incorrect abstracts and data, including service, to determine your

benefit. You included copies of benefit calculation documents created before and after the Plans terminated.

Please note, the April 20, 2005 determination you appealed was only on plan coverage, not on benefit calculations. PBGC subsequently determined your benefit amount, on October 17, 2005, before your current appeal could be resolved. As we subsequently agreed last November, you will have 45 days from the date of this letter to appeal the October 17, 2005 determination. Thus, we will address any specific benefit-calculation (not plan-coverage) issues you raise only in a new, timely-filed appeal of the October 17, 2005 determination.

- Your elected representatives inquired whether you may meet with PBGC officials in Chicago to discuss your concerns.

In general, an opportunity to appear before the Appeals Board "will be permitted when the Appeals Board determines that witnesses will contribute to the resolution of a factual dispute." See PBGC's regulation 29 CFR §4003.55(b). In your case, the Appeals Board decided your appeal based solely on written documents. Therefore, the Board decided your appeal without asking witnesses to appear.

You may address any further requests to meet with PBGC officials by writing to:

PBGC Authorized Plan Representative  
PO Box 151750  
Alexandria, VA 22315-1750

### Decision

Having applied Plan provisions to the facts in your case, we must deny your appeal of PBGC's April 20, 2005 determination. You have 45 days from the date of this letter to appeal any new issues in PBGC's October 17, 2005 determination not already decided in this letter.

When any such new appeal is resolved, or when the 45-day appeal period ends if you do not file a timely new appeal, you may seek court review of PBGC's April 20, 2005 determination with respect to the issues you have raised. Thank you for your patience while we carefully reviewed your August 15, 2005 appeal.

Sincerely,



William D. Ellis  
Appeals Board Member