



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

1134892

NOV 27 2002



Re: Appeal ; Republic Retirement Plan (the
"Republic Plan" or "Plan")

Dear

The Appeals Board has reviewed your appeal of PBGC's August 27, 1998 determination (remailed on December 11, 1998 to your correct permanent address) of your guaranteed benefit under the Plan. Although the Board found that your monthly PBGC-guaranteed benefit is \$1,524.98 payable as a Straight Life Annuity ("SLA") from October 1, 1986 through August 1, 1989 instead of the \$1,526.65 monthly amount PBGC determined, and that your monthly PBGC-guaranteed benefit payable as an SLA on and after September 1, 1989 is \$1,331.38 instead of the \$1,331.80 monthly amount PBGC determined, PBGC will not make this change due to a PBGC policy regarding *de minimis* benefit changes. The Board also found that PBGC must reduce the \$1,331.80 amount to recoup the net overpayment you have received. PBGC's Insurance Operations Department will contact you directly about the amount and date of your recoupment adjustment.

Determination and Appeal

PBGC's determination letter indicated that your guaranteed monthly benefit payable as an SLA, which provides a benefit for your lifetime but no survivor benefit, was \$1,526.65 before the month in which you turned age 65, and \$1,331.80 thereafter. It noted that PBGC had paid you estimated benefit amounts of (1) \$1,577.30 from October 1, 1986 through January 1, 1988, (2) \$1,526.65 from February 1, 1988 through August 1, 1989, and (3) \$1,377.80 thereafter. The letter stated that because PBGC had paid you too much, it would reduce your monthly benefit by \$71.65 per month to recoup the total amount of the overpayment, excluding interest, unless you appealed the determination within 45 days of the August 27, 1998 letter. PBGC included a Benefit Statement showing how it calculated your guaranteed benefit.

PBGC adjusted your monthly benefit from your estimated benefit

of \$1,377.80 to your final amount of \$1,331.80 effective December 1, 1998. At the same time, PBGC deducted the \$71.65 monthly recoupment amount from your \$1,331.80 guaranteed benefit to collect the previous overpayment. Since December 1, 1998, you have continued to receive \$1,260.15 per month (\$1,331.80 minus \$71.65).

After PBGC reduced your monthly payment in December 1998, you contacted PBGC to ask why. It appears that PBGC mailed your original August 27, 1998 determination letter to one of your temporary Florida addresses. Around December 11, 1998, PBGC sent another copy of the August 27, 1998 letter to your permanent address in Indiana.

In your timely December 19, 1998 appeal letter, you said that there were two confusing statements in your determination letter, namely, (1) the letter said that your guaranteed benefit would be reduced by \$71.65 to collect your previous overpayment, but your pension check was reduced by \$116.95, and (2) your Benefit Statement referred to a "1943 Plan Offset amount of \$46.51" but you "have never received that amount because (you) elected option 4 and never received any amount more than \$42.14 since (you) retired."

Discussion

As noted above, PBGC reduced your payment on December 1, 1998 by two separate amounts. First, it adjusted your payment from your estimated guaranteed benefit of \$1,377.06 to your guaranteed amount of \$1,331.80, a reduction of \$45.26. It then reduced your guaranteed amount by \$71.65. Thus, the total reduction in your payment effective December 1, 1998 was \$116.91 (\$45.26 plus \$71.65). And \$1,377.06 minus \$116.91 is equal to \$1,260.15, the benefit payment you are currently receiving from PBGC.

Please note that the Plan terminated without sufficient assets to provide all benefits PBGC guarantees under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). The terms of the Plan, the provisions of ERISA, and PBGC's regulations and policies determine the amount of any guaranteed benefit to which you are entitled.

Before the Plan terminated, LTV calculated your benefit payable as an SLA before age 65 under the 1970 Plan's formula to be \$1,861.32 per month, and \$1,625.02 thereafter. You received the \$1,861.32 amount starting on your date of retirement (January 1, 1980). As of October 1, 1986, the day after the Plan terminated, your benefit payment was reduced to an estimated guaranteed benefit amount. With the help of former LTV personnel, PBGC calculated your estimated maximum guaranteed benefit to be \$1,577.30 before

age 65. Between October 1, 1986 and February 1, 1988, PBGC obtained and studied Plan documents and the Plan's history, and decided that your estimated guaranteed benefit was overstated. Effective February 1, 1988, PBGC reduced your estimated guaranteed benefit by \$46.51, a monthly benefit amount payable as an SLA that is the actuarial equivalent (based on the 1943 Plan's definition) of the benefit you are receiving under the 1943 Plan. After that reduction, you received a \$1,530.79 PBGC payment through the August 1, 1989 payment. Effective with the September 1, 1989 payment, your estimated benefit was again reduced by an amount equal to less than one-half of your estimated Social Security Old Age benefit, calculated in accordance with the 1970 Plan's definitions. As a result of that reduction, your PBGC payment became \$1,377.08.

The Appeals Board reviewed PBGC's calculations and Republic's calculations and found that PBGC and Republic agreed as to the amount of the pre-age-65 and post-age-65 amounts payable under the 1970 Plan's benefit formula. Please note, however, that as a result of the merger of the 1943 Plan and the 1970 Plan effective January 1, 1976, PBGC considers the employer-provided portion of any benefit paid to you under the 1943 Plan to be a benefit paid out of the terminated Republic Plan's funds. Thus, the total benefit payable to you under the Republic Plan is the sum of your benefit payable under the 1970 Plan's benefit formula and the benefit payable to you under the 1943 Plan.

You noted in your appeal letter that you are not receiving your 1943 Plan benefit as an SLA, but rather, under "Option 4." Unfortunately, documents available to the Appeals Board do not include any election forms for the various options offered to participants under the 1943 Plan. For most participants, however, we do have documents showing total 1943 Plan benefit amounts payable alternatively as (1) Life Annuity without Refund (an SLA); (2) 10-Year Certain and Continuous Annuity; (3) 15-Year Certain and Continuous Annuity; (4) 20-Year Certain and Continuous Annuity ("20YC&CA"; and (5) Cash Refund Annuity ("CRA").

Based on the documents of other Plan participants, the Appeals Board determined that the 1943 Plan defined an actuarially equivalent benefit as a benefit of equivalent value calculated in accordance with the 1951 Group Annuity Mortality Table for Males with a three-year set-back, and an interest rate of 4%. Using that definition, the Appeals Board determined that you are receiving your 1943 Plan benefit either as a 20YC&CA or as a CRA. Because the Board does not have enough information to calculate your 1943 benefit as a CRA, and because the definition of actuarial equivalence described in the previous paragraph says that the

monthly amount that LTV calculated (and PBGC accepted) of \$46.51 payable as an SLA is equivalent to \$42.09 (very close to \$42.14) payable as a 20YC&CA, the Board concluded that you must be receiving your 1943 Plan benefit as a 20YC&CA.

The benefit that PBGC is allowed to pay you is less than your full Republic Plan benefit because of the legal limits on guaranteed benefits set by Congress when it enacted ERISA. One of these limits, the Maximum Guaranteed Benefit ("MGB"), affects your final guaranteed benefit amount.

For plans that terminated in 1986, the MGB payable as an SLA starting at age 65 cannot be more than \$1,789.77 per month. Because you started receiving your monthly 1943 and 1970 Plan benefits before age 65 and before the Plan's termination date, PBGC must adjust that \$1,789.77 amount to account for your age as of the Plan's termination date. Because you are receiving your 1970 Plan benefit as an SLA, and your 1943 Plan benefit as a 20YC&CA, PBGC must adjust the MGB so that both benefits can be compared to the MGB in the form in which you receive your PBGC-payable benefit. Because PBGC did not know that you were receiving your 1943 Plan benefit as a 20YC&CA rather than as an SLA, the Appeals Board recalculated your MGB. Please see the Enclosure for details of our recalculation of your MGB, and your corrected guaranteed benefits before and after age 65.

After correcting your MGB amounts, the Appeals Board found that PBGC's determination overstated your guaranteed benefits. However, under a PBGC policy regarding small downward changes in benefits, PBGC will not change your pre-age-65 and post-age-65 guaranteed benefit amounts.

Decision

Having applied the law, provisions of the Republic Plan, and PBGC rules to the facts in this case, the Appeals Board found that your monthly PBGC-guaranteed benefit is \$1,524.98 payable as a SLA from October 1, 1986 through August 1, 1989 instead of the \$1,526.65 monthly amount PBGC determined, and that your monthly PBGC-guaranteed benefit payable as an SLA on and after September 1, 1989 is \$1,331.38 instead of the \$1,331.80 monthly amount PBGC determined, but that PBGC will not make these changes due to a PBGC policy regarding *de minimis* benefit changes. The Board noted that the \$1,260.15 you have been receiving during the pendency of your appeal takes into account an estimated recoupment amount of \$71.65, which PBGC determined before you received your PBGC determination letter. We will send a copy of this decision letter to PBGC's

Insurance Operations Department, and they will determine the final amount by which they must temporarily reduce the \$1,331.80 amount to recoup the net overpayment you have received.

This decision is the final agency action on the issues you raised in your appeal. You have exhausted your administrative remedies, and may, if you wish, seek court review of this decision.

We appreciate your patience during our review of your case. If you have questions about your benefit, please call PBGC's Customer Service Center at 1-800-400-7242.

Sincerely,



Michel Louis
Appeals Board Member

Enclosure