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

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OCT 30 2003

Re: Appeal No. [redacted] Trans World Airlines, Inc.  
(TWA) Retirement Plan for Pilots (the Plan)

Dear [redacted]:

The Appeals Board reviewed your appeal of PBGC's September 20, 2002 determination of your PBGC benefit. For the reasons stated below, the Appeals Board found that PBGC did not correctly calculate your overpayment amount, but that we must otherwise deny your appeal.

**Determination and Appeal**

PBGC determined that you are entitled to a PBGC benefit of \$2,122.10 per month payable as a Joint and 100% Survivor Annuity with a Modified Cash Refund (MCRJ&100%SA).<sup>1</sup> PBGC included a Benefit Statement, which shows information the former Plan administrator (TWA) used to calculate your Plan benefit. The Benefit Statement shows that PBGC used TWA's Plan benefit amount to calculate your PBGC benefit. PBGC's letter also stated that PBGC had paid you \$4,446.16 too much after the Plan's termination date, and that this amount would be repaid by temporarily reducing your future monthly benefit payments.

Your appeal letter stated that:

1. PBGC did not provide you with information regarding how the PBGC arrived at its determination of the correct amount of your benefit;
2. You should receive an additional \$7.15 per month because your after-tax employee contributions to the Flight Engineer's Plan were used to purchase an annuity separate from the Plan; and
3. PBGC overstated your overpayment amount in that the "Detail Summary" enclosed with PBGC's letter claimed that you received \$2,400.95 for 16 months while you claim you received \$2,400.95 for only 4 months. Your appeal said that the correct amount

<sup>1</sup> Your MCRJ&100%SA provides a benefit for the rest of your life, and if you die first, your spouse will receive the same benefit amount for the rest of her life. Also, because the Plan's former sponsor made special contributions on your behalf, your beneficiary will receive a benefit if you and your spouse die before you receive pension payments equal to the special contributions balance.

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of overpayment should be \$724.52.

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**Discussion**

**1. Calculation of Your Plan-Defined Benefit and Your PBGC Benefit**

After the Plan terminated on January 1, 2001, PBGC personnel conducted an audit of the procedures TWA used in administering the Plan and calculating participants' Plan-defined benefits. After calculating benefits for a sampling of participants and comparing the results with the amounts that TWA calculated and stored in TWA's pension database, PBGC auditors concluded that the benefit amounts in TWA's database were reliable. So, for most retirees and in your case in particular, PBGC accepted TWA's calculations, and then adjusted them to account for limitations on benefits set by Congress under the Employee Retirement Income Security Act of 1974, as amended (ERISA).

Page 1 of Enclosure 1 shows how TWA arrived at your accrued monthly benefit amount of \$2,729.87. This amount agrees with line (1) of your PBGC Benefit Statement. Please note that page 1 of Enclosure 1 shows that this total is the sum of four parts.

Your accrued benefit under the former TWA Retirement Plan for Flight Engineers as of the 1969 merger date	\$51.91
Your pre-ERISA accrued benefit under the (Pilots') Plan	\$188.65
Your additional accrued benefit under the Plan calculated as of December 31, 1982	\$430.70
Your 25% minimum accrued benefit = $25\% \times \$98,813.13 \div 12$	\$2,058.61
Your total accrued benefit payable at age 60 as a Life Annuity with a Modified Cash Refund (MCRLA)	\$2,729.87

Because you quit working for TWA after age 60, TWA adjusted your benefit to reflect your delayed retirement in two steps. First, TWA calculated a late retirement increase factor (1.11092) using standard actuarial formulas but using the assumption that no benefit would be payable either to your estate or your spouse if you died while actively employed. Second, TWA calculated the value of the benefit that would be paid in the event you died while actively employed, and calculated the annuitized insurance cost (\$20.94 per month) of providing that death-benefit coverage while you were actively employed. The factor and the insurance cost are shown on page 2 of Enclosure 1. Lines 2 and 3 of your PBGC Benefit Statement show the same factor and insurance cost that TWA had calculated.

As a result of the two calculations described above, your accrued benefit payable at age 60 was increased for your delayed

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retirement by a total of \$281.85 (11.092% times \$2,729.87 minus \$20.94). Page 2 of Enclosure 1 shows that your benefit after applying your increase for delayed retirement was \$3,011.72 (\$2,729.87 plus \$281.85).

Page 2 of Enclosure 1 also shows that TWA applied a factor (0.7972) to adjust your benefit to your chosen joint-annuity form. The same factor is shown on line 4 of your PBGC Benefit Statement. Page 2 of Enclosure 1 and line 5 of your PBGC Benefit Statement show that TWA arrived at the same Plan-defined monthly benefit amount (\$2,400.95 = 79.72% times \$3,011.72) that PBGC used in calculating your PBGC benefit.

Documents in PBGC files reveal that the Plan did not have sufficient assets when it terminated on January 1, 2001 to provide all benefits that PBGC guarantees under ERISA. As a result, the provisions of the Plan, ERISA, and PBGC's regulations and policies determine the amount of:

- your guaranteed benefit,
- your ERISA § 4044 benefit, and
- your ERISA § 4022(c) benefit.

Enclosure 2 shows how PBGC calculated these benefit amounts.

2. Your Own Contributions to the Flight Engineer's Annuity Plan

You stated that you made after tax contributions to a post-retirement annuity plan as a result of your employment with TWA and your membership in the Flight Engineers International Association (FEIA). You said that this money was used by TWA to purchase an annuity for all flight engineer retirees who made the required contributions and that your pension payments from TWA reflected a non-taxable \$7.15 per month for your portion of the annuity payment. You stated that this amount should not be included in your TWA Pilots pension benefit calculation, but it should be paid in addition to your TWA Pilots pension benefit.

PBGC records show that the TWA Retirement Plan for Flight Engineers (FEIA Plan) was merged into the (Pilots) Plan in 1969. So, at that point in time, your FEIA Plan benefit became a part of your (Pilots') Plan benefit calculation. As noted above, page 1 of Enclosure 1 indicates that your total accrued monthly annuity benefit payable as a result of your membership in the FEIA Plan is \$51.91. Page 2 of Enclosure 1 shows, on the bottom of the page, how TWA determined that \$7.15 of the \$51.91 amount was attributable to your own contributions.

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Page 3 of Enclosure 1 is a form that TWA completed at the time of your retirement. It indicates that you made contributions under the FEIA Plan totaling \$2,215.01, which agrees with page 1 of Enclosure 1. Page 3 also indicates that you will have received a full return of your contributions after the November 2025 payment. That is, there are exactly 310 months between February 2000 and November 2025, inclusive, and 310 times \$7.15 equals \$2,215.01.

You suggested in your appeal that PBGC should send you a Form 1099 each year, reflecting the fact that \$7.15 of your monthly PBGC benefit is a return of your after-tax contributions. PBGC's current practice in the issuance of Forms 1099 does not include making a separate entry for the portion of an annuity benefit that returns a participant's contributions. The Appeals Board has no authority to change PBGC policy in this regard.

### 3. Adjustment of Your Final PBGC Monthly Payment Amount

While appeals are pending, PBGC generally continues to pay benefits at the estimated benefit level that PBGC was paying when PBGC issued the benefit determinations. The Appeals Board reviewed your past payment history, and agreed that the overpayment amount shown on your Detail Summary does not reflect the amounts you actually received after the Plan's termination date. We regret any concerns you had regarding the overstatement of your total overpayment amount.

### **Decision**

Having applied the law and PBGC's rules to the facts in this case, the Appeals Board found that PBGC did not correctly calculate your overpayment amount, but that we must otherwise deny your appeal.

This decision is the agency's final action regarding your appeal. You may, if you wish, seek court review of this decision.

When PBGC's Insurance Operations Department receives a copy of this decision, they will review your payment history, calculate the total amount by which PBGC has overpaid or underpaid you, and adjust your monthly PBGC payment accordingly. In the meantime, if you need more information about your benefit, please call the Customer Contact Center at 1-800-400-7242.

PLEASE NOTE that PBGC will always, even after an appeal is closed, consider any new, specific evidence that you present showing that you may be entitled to a higher benefit. If you have or obtain any such evidence, please send it to PBGC, Attn:

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Insurance Operations Department, Trusteeship Processing Division  
#1, at P.O. Box 151750, Alexandria, Virginia 22315-1750.

Sincerely,



Michel Louis  
Appeals Board Member

Enclosures (3)