



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

# 1498358

09/25/2003



RE: Appeal  Peter J. Schmitt (PJS)  
Employees Retirement Plan (the "PJS Plan")

Dear

The Appeals Board reviewed your appeal of PBGC's September 24, 2001 (remailed October 31, 2001) determination of your benefit. As explained below, the Board changed PBGC's determination by finding that because you are not eligible for a vested pension benefit from the PJS Plan you are not entitled to receive a payment from PBGC. We, therefore, are denying your appeal.

***PBGC's Determination and Your Appeal***

PBGC determined that you are entitled to a one-time payment of \$120, which is the lump-sum value of your \$22.18 monthly benefit accrued under the PJS Plan multiplied by a 15% vesting rate. PBGC noted you also would receive interest calculated for the full months between the PJS Plan's termination date (December 31, 1994) and the date PBGC makes the payment.

In your November 5, 2001 appeal, you asked what became of the \$13,310.50 of compensation and \$11,768.43 of final average compensation reported on a December 31, 1985 Personal Benefit Statement. You included a copy of that Statement with your appeal. Your appeal also stated that you had six years of service, and you suggested that, on a graduated scale, you should be 60% vested.

***Discussion***

**The Compensation Shown on Your December 31, 1985  
Personal Benefit Statement**

The Appeals Board's review of the 1985 Personal Benefit Statement you included with your appeal found that it relates to your benefit entitlement under the prior Betsy Ross Foods pension

#1498358

-2-

plan, not the PJS Plan. The "compensation" figures you referred to are the wages you received for your employment with Betsy Ross Foods, not pension benefit amounts. Your Betsy Ross Foods benefit was determined based on these compensation figures, as well as your service with Betsy Ross Foods, as shown on this Statement.

According to information in your file, an annuity contract purchased on your behalf from The Lincoln National Pension Company (Lincoln) will provide your Betsy Ross Foods pension, which is separate from and in addition to your PJS Plan benefit.

Please note that PBGC's October 31, 2001 benefit determination relates solely to your benefit from the PJS Plan. PBGC's determination has no effect at all on your Betsy Ross annuity. *If you have not already done so, you may contact Lincoln directly regarding possible commencement dates of your Betsy Ross annuity.*

**Whether Your Vesting Percentage Should Be Increased to 60%**

Documents in PBGC files show you started working for Betsy Ross Foods on May 31, 1979 and that your PJS employment ended on March 21, 1986. Because the PJS Plan granted credit for employment with Betsy Ross Foods for vesting purposes, you had six full years of vesting service when your PJS employment ended.

Documents in PBGC files reveal that the PJS Plan provisions in effect when your employment with PJS ended required a participant to have completed ten years of service in order to qualify for a nonforfeitable (vested) pension benefit. See **Enclosure**. As the Enclosure states the Plan did not provide for partial vesting for participants like you who were hired in 1979 and who left employment with less than ten years of service. Thus, because the Plan did not provide for pro rata vesting while you were a PJS Plan member, the Appeals Board found that you did not meet the PJS Plan's requirements for entitlement to a deferred vested pension. For this reason, you are not 60% vested in your PJS Plan benefit, as you claimed in your appeal.

***Decision***

Having applied the PJS Plan provisions to the facts of your case, the Appeals Board found that you are not entitled to a vested pension benefit under the PJS Plan and, thus, not entitled to a payment from PBGC. We, therefore, must deny your appeal.

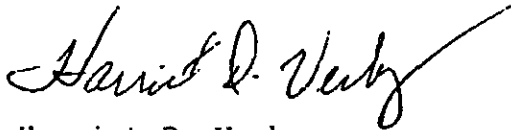
# 1498358

-3-

This is the agency's final action on this matter and you may, if you wish, ask a court to review this decision. We regret that this decision is not favorable, but the Appeals Board does not have the authority to change the terms of a participant's plan.

If you need other information from PBGC, please call the Customer Contact Center at 1-800-400-7242.

Sincerely,



Harriet D. Verburg  
Chair, Appeals Board

Enclosure