

Pension Benefit Guaranty Corporation

75-36

September 26, 1975

REFERENCE:

[*1] 4082(b). Effective Date; Special Rules. Applicability of Title IV to Plan Terminations Occurring Between July 1, 1974 and September 2, 1974

OPINION:

I have been asked to respond to your letter of July 28, 1975 to * * *, a case officer with the Pension Benefit Guaranty Corporation. As you know, on June 20, 1975, * * * sent a letter to * * *, Vice President of * * * informing him that on the basis on information submitted to this Corporation reasonable cause for filing a notice pursuant to § 4082(b) of the Employee Retirement Income Security Act of 1974 (the "Act") after September 12, 1974 had not been demonstrated and therefore benefits under the * * * Pension Plan could not be guaranteed. The letter also afforded * * * an opportunity to submit additional information within 30 days of receipt of the letter, after which time, our file on the matter would be closed.

* * * letter was received by * * * on June 23, 1975. We received your letter dated July 28, 1975 on July 30, 1975, after the end of the 30-day period in which additional information could have been submitted. In your letter, you state that since the Act was signed by the President on a holiday, a delay of one day in furnishing [*2] the notice was de minimis and should not deprive persons of benefits which could be guaranteed by this Corporation. While we are sympathetic to your argument, it must be presumed that in providing the 10-day period, Congress was aware that such a short period in which to file the notice would result in some benefits not being guaranteed because of the deadline. Presumably this is the reason Congress provided that notices received after September 12, 1974 but before October 31, 1974 could be entertained if the delay was for reasonable cause. Since reasonable cause for not timely filing the requisite notice has not been shown, we must affirm the decision not to guarantee benefits under the * * * Pension Plan on that ground, in addition to the ground, related above, that your reply to letter dated June 20, 1975 was not timely.

Henry Rose
General Counsel