



**PENSION ACTION CENTER, GERONTOLOGY INSTITUTE**  
MCCORMACK GRADUATE SCHOOL OF POLICY AND GLOBAL STUDIES  
UNIVERSITY OF MASSACHUSETTS BOSTON

100 Morrissey Boulevard  
Boston, MA 02125-3393  
P: 617.287.7307  
F: 617.287.7080  
PENSION.UMB.EDU

February 16, 2017

**BY CERTIFIED MAIL; RETURN RECEIPT REQUESTED**

GKN North America Services, Inc.  
Pension Plan Administrator / Capri Pelshaw Hiovich  
550 Warrenville Road  
Lisle, IL 60532-4308

Re: [REDACTED] SSN: XXX-XX-[REDACTED]  
Alternate Payee of Laurence [REDACTED] SSN: XXX-XX-[REDACTED]

Dear Ms. Hiovich:

Please be advised that [REDACTED] has requested the assistance of the New England Pension Assistance Project with respect to the issue of her alternate payee benefits from the Consolidated Pension Plan for Salaried and Hourly Employees of Arwood Corporation. Included as Exhibit A, you will find a Release form signed by Ms. [REDACTED], authorizing this office to act on her behalf in this matter. Our understanding is that the Consolidated Pension Plan for Salaried and Hourly Employees of Arwood Corporation is now administered by GKN North America. **This letter constitutes a claim for benefits due her pursuant to the plan and ERISA.**

Statement of Facts

Laurence [REDACTED] worked for Arwood Corporation as a sales representative from approximately 1981 to 1989 and was a vested participant in the Consolidated Pension Plan for Salaried and Hourly Employees of the Arwood Corporation.

Laurence [REDACTED] and [REDACTED] were married on March 18, 1961 and divorced on January 30, 1991. Upon their divorce in 1991, the parties agreed to the terms of a Qualified Domestic Relations Order (QDRO). They subsequently submitted the QDRO to Interlake.

In 1992, Terry D. Hardin, Benefits Manager for Interlake, reviewed the QDRO which had been submitted by [REDACTED] and [REDACTED] and noted critical revisions (Exhibit B) to be made before Interlake could approve the document.

All of the required revisions were made to the QDRO, which was formalized on October 18, 1993 as an Order of the Superior Court of the State of New Hampshire (#90 [REDACTED]). Enclosed as Exhibit C.

The [REDACTED] lawyer, Patrick F. Harrigan, Esq., of Eldredge, Chubrich & Harrigan, P.A., submitted this QDRO to Interlake, 550 Warrenville Road, Lisle, IL 60532-4387 in November, 1993.

There is no evidence that Interlake rejected the QDRO at that time. Our understanding is that the QDRO was accepted and approved in the November/December 1993 timeframe.

Ms. [REDACTED]'s status as the Alternate Payee and her entitlement to a monthly pension benefit from the Consolidated Pension Plan for Salaried and Hourly Employees of the Arwood Corporation are conclusively established by Exhibit C. The QDRO clearly states that Ms. [REDACTED] is entitled to 50% of Laurence [REDACTED]'s monthly benefit during his lifetime, (See Paragraphs 2 and 3 of Exhibit C). The QDRO also clearly awarded a 50% survivor benefit to [REDACTED], (See Paragraph 5 of Exhibit C).

Prudential Retirement Services currently administers the annuities for the Consolidated Pension Plan for Salaried and Hourly Employees of Arwood Corporation. In the past ten years, Ms. [REDACTED] has contacted Prudential Annuities several times to initiate her benefit. Because she has not received a response from Prudential, she contacted the New England Pension Assistance Project.

This office contacted Prudential on September 20, 2016, on Ms. [REDACTED]'s behalf. This office received a response from the Prudential Retirement QDRO Processing Center, dated December 9, 2016, copy enclosed as Exhibit D.

The response suggests that Prudential may not have been aware of the existence of the QDRO, and may have erroneously paid the full monthly benefit to Laurence [REDACTED] as a result, without adjusting his benefit to reflect the benefit payable to the Alternate Payee, [REDACTED]. It furthermore suggests that it erroneously allowed Mr. [REDACTED] to commence his benefit in the form of a single-life annuity, in contravention of the clear terms of the QDRO, which awarded [REDACTED] a 50% joint and survivor benefit.

To date, [REDACTED] has not received any of the benefits to which she is entitled pursuant to the Qualified Domestic Relations Order enclosed as Exhibit C.

#### Argument

Ms. [REDACTED] is clearly entitled to a benefit as the Alternate Payee of Laurence [REDACTED], her former husband. The parties filed a Qualified Domestic Relations Order with the plan administrator in 1993, and that Order was accepted and approved by the plan.

The evidence presented proves that Ms. [REDACTED] is entitled to a monthly payment of approximately \$71.58, payable as of February, 2010, the month after Mr. [REDACTED] reached Normal Retirement Age. To date, the benefit has not been paid to her.

It appears that the plan has erroneously paid Laurence [REDACTED] the full amount of his monthly benefit without reducing his benefit by the amount which is payable to the Alternate Payee, in contravention of the 1993 QDRO. It further appears that the plan allowed Mr. [REDACTED] to elect a single-life benefit, rather than the 50% joint and survivor form of benefit, with [REDACTED] as the designated survivor, which was required by the clear terms of the QDRO.

These failures by the plan constitute operational defects. As such, the plan may wish to avail itself of the Employee Plans Compliance Resolution System (hereinafter "EPCRS") to correct the problem. EPCRS correction procedures govern all corrections to all Plan failures.

EPCRS correction procedures define a Plan failure as "any failure," including failures in Plan operation or in following the terms of the Plan Document. Here, the Plan's failure to properly honor the terms of the QDRO submitted in 1993 constitute a plan failure

Because this is plainly a Plan failure, EPCRS correction procedures apply. Section 6.02 explains that "a failure is not corrected unless full correction is made with respect to all participants and beneficiaries." Section 6.02(1) further provides that corrections include the "restoration of current and former participants and beneficiaries to the benefits and rights they would have had if the failure had not occurred." Section 6.02(2) provides that these corrections should be "reasonable and appropriate for the failure" and should, "to the extent possible, resemble one already provided for in the Code, regulations, or other guidance or general applicability."<sup>1</sup>


In the instant case, the plan has overpaid Mr. [REDACTED] his monthly benefit by paying him in the form of a single-life annuity, rather than the 50% joint and survivor form. The plan sponsor may restore the overpaid funds to the trust, or it may seek repayment of the overpaid amounts from Mr. [REDACTED]. **What it cannot do, however, is fail to pay [REDACTED] the benefits she is owed pursuant to the valid 1993 QDRO.**

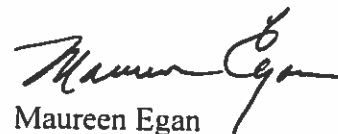
#### Conclusion

For the reasons discussed above, we hereby request that the company immediately pay Ms. [REDACTED] the benefit she is entitled to as the Alternate Payee of Laurence [REDACTED], pursuant to the valid Qualified Domestic Relations Order accepted by the plan in 1993.

Please direct your response to us at: New England Pension Assistance Project, Gerontology Institute, UMass Boston, 100 Morrissey Blvd., Boston, MA 02125. Thank you for your attention to this matter.

Sincerely,

  
Jeanne M. Medeiros, Esq.  
Managing Attorney

  
Maureen Egan  
Pension Counselor

<sup>1</sup> Rev. Proc. 2013-12, Section 6.02 (2).

Enclosures:

Exhibit A - Release Form;

Exhibit B - Letter dated Nov. 10, 1992 from Terry Hardin, Benefits Manager at Interlake

Exhibit C- Finalized Qualified Domestic Relations Order dated 10/18/93

Exhibit D - Letter from Prudential Retirement QDRO Processing Center dated 12/9/16

cc: 

550 Warrenville Road  
Lisle, IL 60532-4387  
708/852-8800  
708/719-7277—Fax

# Interlake

November 10, 1992

Mr. Patrick F. Harrigan  
Attorney at Law  
Eldredge, Chubrich & Harrigan, P.A.  
388 State St. - P.O. Box 1591  
Portsmouth, NH 03802

Re: Laurence [REDACTED] v. [REDACTED]  
No. 90-[REDACTED]

Dear Mr. Harrigan,

Your letter of 7/31/92, which included a copy of the Final Decree dated 1/29/91 and Permanent Stipulation dated 1/29/91, has been forwarded to Interlake by Wyman-Gordon. Interlake administers The Consolidated Pension Plan for Salaried and Hourly Employees of the Arwood Corporation (the "Plan") in which Mr. Laurence [REDACTED] is a participant.

The attachments to your letter do not meet the requirements to be considered a Qualified Domestic Relations Order (QDRO) pursuant to the Retirement Equity Act of 1984 (REA), because they do not clearly specify the Plan name (see above), the period or number of payments to which the Order applies, or what happens in the event the Alternate Payee predeceases the Participant or the Participant predeceases the Alternate Payee. The following is offered to assist you in drafting the QDRO.

As of 1/29/91, the date of the Final Decree and Permanent Stipulation, Mr. [REDACTED] had accrued a pension benefit as a participant in the Plan, in the gross amount of \$143.16/month, payable beginning not earlier than age 65 as a single - life only annuity, based on Mr. [REDACTED] life. At the time pension payments are to begin, several optional Co-Pensioner forms of pension payment are available to the participant in accordance with Plan provisions. Such Co-Pensioner forms would also be available to the Alternate Payee based upon her share of the gross amount of the pension benefit. The optional forms of pension payment provide for a reduced pension payable during the life of the Participant and, depending upon the option elected, a lifetime pension benefit payable to the Co-Pensioner designated at the time of such election, upon the death of the Participant. In the event the Co-Pensioner predeceases the Participant, no Co-Pensioner benefit is paid upon the death of the Participant.

11/17/92

Based on our interpretation of the Permanent Stipulation attached to your letter of 7/31/92, the Participant and the Alternate Payee would each be eligible to receive a gross pension benefit payment of \$71.58/month (\$143.16 divided in equal shares) for the life of the Participant only, beginning at the Participant's age 65. At the time pension payments are to begin, either or both could elect an optional form of pension benefit payment and thereby receive his or her share in a reduced amount for the lifetime of Mr. [REDACTED] (the Participant). At the time of such election, a Co-Pensioner would be designated, who would be eligible to receive pension benefit payments for life upon the death of Mr. [REDACTED]. If you concur with our interpretation, the QDRO should include these specifications. ✓

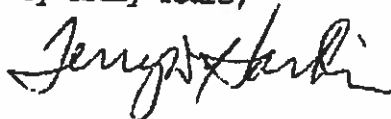
Further, [the QDRO fails to specify what happens to the Alternate Payee's pension benefit payments in the event the Alternate Payee predeceases the Participant.] The QDRO should specify that in such case, the pension payments to which the Alternate Payee is entitled would revert to the Participant. The Alternate Payee may not transfer or assign her pension benefit payments upon her death, since to do so would be contrary to Plan language and thereby disqualify the QDRO. }

[The QDRO must also to specify what happens to the Alternate Payee's pension benefit payments in the event the Participant predeceases the Alternate Payee, prior to commencement of pension benefit payments.] Based on our assumption that the Alternate Payee and Participant are each entitled to 50% of the Participant's accrued pension payment, then, in the event the Participant predeceases the Alternate Payee, the Alternate Payee would be eligible to receive a lifetime payment commencing at the Participant's age 65 (had he survived), calculated on the basis of a Joint and 50% Survivor Option applied to her share of the Participant's pension. Unless you disagree with our assumption, please include the foregoing in the QDRO.

Please refer to the above information when you draft your proposed QDRO. Upon submission of your proposed QDRO, we will review it promptly and make a determination as to whether it meets the requirements as a QDRO under REA.

Please feel free to contact me if you have any questions.

Very Truly Yours,



Terry D. Hardin  
Manager, Benefits

TDH/mkr

Ref #082

**Interlak**

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

SUPERIOR COURT  
[REDACTED]

LAURENCE [REDACTED]

v.

[REDACTED]

QUALIFIED DOMESTIC RELATIONS ORDER

This order is entered as a part of the property settlement provisions of the Decree of Divorce in the above captioned matter, in particular Permanent Stipulations paragraph 13, and is intended to be a qualified domestic relations order as defined in Section 414(p) of the Internal Revenue Code ("Code") and Section 206(d)(3) of the Employee Retirement Income Security Act ("ERISA"). All provisions of this order shall be interpreted so as to fulfill such intent. This court has personal jurisdiction over both parties to this action and jurisdiction over the subject matter of this order and this divorce action; further, this court retains jurisdiction to amend this order as may be necessary to establish or maintain its status as a qualified domestic relations order.

The following information is hereby established:

(A) Plan. The retirement plan to which this order applies is:

The Consolidated Pension Plan for Salaried and Hourly Employees of the Arwood Corporation.

(B) Plan Administrator. This order should be filed with,



FILED  
SEP 10 2013  
MERRIMACK, NH  
CLERK OF SUPERIOR COURT

and all correspondence concerning the Plan should be directed to:

Interlake  
550 Warrenville Road  
Lisle, IL 60532-4387

(C) Participant. The name, current mailing address, date of birth, and Social Security number of the Participant in the Plan are as follows:

Name: Laurence [REDACTED]  
Address: [REDACTED]  
Date of Birth: [REDACTED]  
SSN: [REDACTED]

(D) Alternate Payee. The name, current mailing address, date of birth, and Social Security number of the Alternate Payee are:

Name: [REDACTED]  
Address: [REDACTED]  
Date of Birth: [REDACTED]  
SSN: [REDACTED]

(E) Marriage/Divorce. The Participant and the Alternate Payee were married on March 18, 1961, and were divorced by order of this court on January 30, 1991.

(F) Accrued Benefit. The Participant's vested accrued benefit under the Plan as of November 10, 1992 is the gross amount of \$143.16 per month payable beginning not earlier than Participant reaching age 65, as a single-life only annuity.

IT IS ORDERED BY THIS COURT AS FOLLOWS:

1. The Alternate Payee shall be awarded fifty percent (50%) of the Participant's vested accrued benefit under the Plan.



2. The foregoing percentage (50%) shall be applied to the amount of the Participant's vested accrued benefit as of the date (and the amount) specified in information item (F) above. In no event shall such amount include subsequent benefit accruals of the Participant under the Plan that are attributable to compensation increases, additional credited service, or other factors occurring after the date specified in information item (F) above.

3. The portion of the Participant's vested accrued benefit as so determined shall be paid to the Alternate Payee in accordance with any payment option available under the Plan, commencing on the date chosen by the Alternate Payee, but not before the Participant's earliest retirement date under the Plan.

4. Should the Alternate Payee predecease the Participant, the pension payments to which the Alternate Payee is entitled shall revert to the Participant.

5. Should the Participant predecease the Alternate Payee, the Alternate Payee would be eligible to receive a lifetime payment commencing at the Participant's age 65 (as if he had survived), calculated on the basis of a Joint and 50% Survivor Option applied to the Alternate Payee's share of the Participant's pension.

6. Participant shall designate a Co-Pensioner who would be eligible to receive Participant's share of pension benefits for life upon the death of Participant.

7. The Participant and the Alternate Payee shall keep the Plan Administrator informed of their respective addresses. Any change in address must be communicated in writing to the Plan Administrator at the address stated above.

8. Amounts paid to the Alternate Payee hereunder shall be reported by the Plan as taxable income to the Alternate Payee (or to the Alternate Payee's joint annuitant or other beneficiary in the event of any payments after the Alternate Payee's death).

9. Nothing contained in this order or in any amendment hereto shall be constructed to require the Plan or the Plan Administrator to provide the Alternate Payee any form of benefit not available under the Plan, to pay the Alternate Payee increased benefits that otherwise would not have been payable to the Participant, or to pay any benefits to the Alternate Payee that are required to be paid to another Alternate payee under a different order determined by the Plan Administrator to be a qualified domestic relations order.

10. It shall be the obligation of the Alternate Payee to deliver a certified copy of this order to the Plan Administrator.

11. The Alternate Payee shall hold the Plan and its sponsors and fiduciaries harmless from any liabilities which arise from following this QDRO, including all reasonable attorney's fees which may be incurred in connection with any claims which are asserted because the Plan honors this QDRO. The Plan and its sponsors and fiduciaries shall not be responsible for any attorney's fees incurred by the Participant of the Alternate Payee in connection with obtaining or enforcing this order.

12. Except as specifically provided herein, actuarial calculations make pursuant to this order shall be performed by or on behalf of the Plan Administrator in accordance with the actuarial assumptions and methods used for similar calculations under the Plan. Actuarial calculations performed pursuant to the

foregoing rules shall be final and binding on the Participant and the Alternate Payee.

13. If the Plan from which benefits are assigned under this Order terminates with an unfunded liability, and the Pension Benefit Guaranty Corporation ("PBGC") makes benefit payments in connection therewith, and if the amount of the total benefit payment to be paid to both the Participant and the Alternate Payee is thus reduced, then the Participant's benefit payments and the Alternate Payee's benefit payments each shall be reduced by the same percentage.

14. The parties shall promptly submit this order to the Plan Administrator at the address specified in information item (B) above for determination of its status as a qualified domestic relations order.

In the case of conflict between the terms of this order and the terms of the Plan, the terms of the Plan shall prevail.

Date: 10/18/13

[Signature]  
Marital Master  
PRESIDING JUSTICE

Approved as to form and content:

[Signature]  
Participant

[Signature]  
Participant's Counsel

[Signature]  
Alternate Payee

[Signature]  
Alternate Payee's Counsel

DEC 19 2016

December 9, 2016

Maureen Egan  
Pension Assistance Project  
Gerontology Institute  
University of Mass Boston  
100 Morrissey Blvd.  
Boston, MA 02125-3393

**RE: The GKN Consolidated Pension Plan (16912A)**  
**Participant:** [REDACTED]  
**Account #: 109507**

Dear Ms. Egan:

As required by Section 414(p) of the Internal Revenue Code and ERISA Section 206(d)(3)(G)(ii), under copy of this letter, the Participant and the Alternate Payee shall be notified of receipt of the Domestic Relations Order; shall be provided with access to the Procedures to Determine the Qualified Status of Domestic Relations Orders; and shall be notified as to the determination made with respect to this Order.

We have reviewed the Domestic Relations Order entered with the Court on **October 18, 1993** with respect to the above referenced matter. It is our determination that this Order **does not** meet the requirements of a Qualified Domestic Relations Order (QDRO) as defined in Section 414(p) of the Internal Revenue Code of 1986. Please make the following amendments:

- The Order attempts to award the Alternate Payee a separate interest in the Plan, and to give her survivorship. The Participant is in pay status (receiving a monthly benefit). The only benefit that may be awarded is a percentage or dollar amount of the Participant's currently monthly payments. Payments cannot be retroactive. Please amend the Order to utilize the Shared Interest – Participant in Pay language found on the website referenced below.
- The Alternate Payee was not named a surviving spouse when the Participant retired, and retirement elections are irrevocable. The benefit will cease upon the death of the Participant. Please amend the Order to remove any references to survivorship for the Alternate Payee.

**Once you have made the necessary corrections, please provide this office with an amended draft order for review.**

Because of the difficulty in drafting QDROs that conform to Plan requirements, please review the QDRO Processing Procedures and model Domestic Relations Orders. These documents can be found by logging into the following website: <http://www.ceridian-benefits.com/qdro> and entering the following Access Code: PRX203. Please be sure to choose the proper QDRO Processing Procedures and model Domestic Relations Order in regards to the above referenced Plan. To ensure compliance with Federal laws as well as the Plan requirements, we encourage the interested parties to complete the model Domestic Relations Order in accordance with their settlement decisions. Please refer to the QDRO Processing Procedures for specific instructions on completing a draft Domestic Relations Order.

Use of the model Domestic Relations Order may expedite the process of determining the qualified status of the Order and may help ensure that the provisions of the Order conform to the Plan and Plan rules. Please note: The Plan, Plan Sponsor, nor any of their agents are responsible for the advisability of the use of the model Domestic Relations Order in any particular instance; certain variations of the model Domestic Relations Orders provisions may on occasion be better suited to a particular situation. Neither the Plan nor its agents can provide advice to either party regarding the terms of an Order and the Plan and Plan Sponsor specifically disclaim any liability that might result from use of this model Domestic Relations Order by the parties.

Should you have further questions regarding this matter, please contact our office Monday through Friday during the hours of 9:00 a.m. to 4:00 p.m. Eastern Time by telephone at (866) 272-6303 or by fax at (727) 866-5925.

Sincerely,

Document Review Team

Cc: 

**ELDREDGE, CHUBRICH & HARRIGAN, P.A.**  
A LEGAL PROFESSIONAL ASSOCIATION  
388 STATE STREET - P.O. BOX 1591  
PORTSMOUTH, NEW HAMPSHIRE 03802-1591  
TELEPHONE (603) 431-5231  
FAX (603) 431-2670

AUG 08 2016

Michael E. Chubrich  
Patrick F. Harrigan

January 19, 1994

Terry D. Hardin, Manager, Benefits  
The Interlake Corporation  
550 Warrenville Road  
Lisle, IL 60532-4387

RE: Laurence [REDACTED]  
Consolidated Pension Plan for Arwood Corporation Employees  
SSN: [REDACTED]  
Ref #082

Dear Mr. Hardin:

I am writing to follow up my correspondence to you of November 17, 1993. As I have not heard further from you, it is my understanding that you have received the Qualified Domestic Relations Order issued by the Rockingham County Superior Court on October 18, 1993. It would therefore also be my understanding that my client, Ms. [REDACTED], will receive any benefit to which she is entitled pursuant to the Qualified Domestic Relations Order. If my understanding in this matter is incorrect, or there are any other issues to resolve regarding the Qualified Domestic Relations Order, please contact me immediately. If I do not hear anything further from Interlake, I will presume that you have accepted the Qualified Domestic Relations Order and will make payments pursuant to it.

Very truly yours,

Patrick F. Harrigan

PFH:dh

cc: [REDACTED]

## Maureen Egan

---

**From:** Uhrick Sandra <Sandra.Uhrick@gkn.com>  
**Sent:** Thursday, April 27, 2017 3:06 PM  
**To:** Maureen Egan  
**Subject:** [REDACTED]

Hello Ms. Egan,

I am writing in response to the letter I received regarding your client, [REDACTED]. After conferring with an ERISA attorney, we have determined that Ms. [REDACTED] is due a benefit retroactively to 2005. Both you and Ms. [REDACTED] should expect to receive a letter and election form that will list out her benefit options. I wanted to give you a heads-up that we're moving forward and apologize at the length it has taken to resolve this issue. If you have any questions, please do not hesitate to contact me.

**Sandy Uhrick | Benefits Analyst**  
**GKN North America Services, Inc.**  
2200 North Opdyke Road | Auburn Hills, MI 48326 | USA  
Phone: +1 248 296-7789  
[sandra.uhrick@gkn.com](mailto:sandra.uhrick@gkn.com)