July 15, 2011

Mr. William F. Condon
Public Benefit Guarantee Corporation (PBGC)
Manager, Appeals Division
1200 K Street, N.W.
Washington, D.C. 20005-4026

RE: PBGC Case No. 195247 – LTV Steel Mining Co Pension Plan

Dear Mr. Condon:

My name is David A. Bonello, and I am an attorney with the Upper Midwest Pension Rights Project ("UMPRP"). As you may know, the UMPRP is one of six regional Pension Counseling Projects and is a non-profit agency funded by the Administration on Aging, and assists individuals in obtaining their earned pension benefits. I am writing to you concerning my client. Please see the enclosed *Client Authorization* form signed by [client].

[Client] has asked for my assistance concerning a survivor benefit she receives as a result of her late husband's work – and his participation in the LTV Steel Mining Company Pension Plan ("the Plan"). This Plan has been trusteed by the PBGC since March 31, 2002.

Since the death of her husband on 12/3/2004, [client] had been receiving a survivor annuity from the Plan in the amount of $623.92 per month. However, in November of 2010 – upon [client] attaining the age of 60 - her benefit was reduced to $200.00. [Client] has previously contacted the PBGC regarding this issue, but she did not receive what she believes is an accurate or comprehensive response. I have reviewed her case, and I believe there may have been some confusion on this matter on behalf of the PBGC. Accordingly, I am contacting you for your assistance and clarification in this matter.

Pursuant to the PBGC, the LTV Steel Mining Pension Plan has the following provision regarding a Surviving Spouse Benefit. The Plan provides (in pertinent part):

> "For each month *until* the surviving spouse reaches age 60, the surviving spouse will receive 50% of the participant's pension.
>
> For each month *after* the surviving spouse reaches age 60, the surviving spouse will receive 50% of the participant's pension *reduced* by 50% of the surviving spouse's Social Security benefit, but not less than $200.00 per month."

I am not sure if this provision was part of the original LTV Steel Mining Company Pension Plan, or if it was a feature of PBGC trusteeship.

However, my client is not – and will not in the future – receive any Social Security Benefits. Since she was a federal employee, enrolled in the Civil Service Retirement System ("CSRS"), she did not pay-in to Social Security, and thus is not eligible for a benefit under her own work record.

[Client] is also not entitled to receive any widow's benefits (from her husband's Social Security) because that Social Security benefit is *less than* two-thirds of the amount of her federal CSRS pension.

As you are aware, Section 202(e) of the Social Security Act provides that a widow's benefit amount will be reduced (not below zero) by an amount equal to *two-thirds* of the amount of any Federal government pension the individual receives.

Accordingly, in [client's] situation, her Federal Pension benefit is $2396.00; *two-thirds* of this amount is $1597.40. The amount of the widow's benefit she is otherwise *entitled* to receive is $1425.90. Thus, if we deduct two-thirds of her Federal Pension, we arrive at a negative number:

> $1425.90 (widow's benefit) - $1597.40 (2/3 of her Federal Pension) = -171.50.

Therefore, she is not entitled to receive any Social Security widow's benefits.

Thus, under the LTV Steel Mining Pension Plan (or the PBGC trusted Plan), the formula is as follows:

> 50% of the Participant's pension ($623.92) reduced by 50% of the spouse's Social Security benefit ($0.00) = $623.92.

The LTV Plan (as trusted by the PBGC) says nothing about *imputing* income to a beneficiary that they are technically entitled to receive, but based on other factors, do not in fact collect. I can understand the policy behind the off-set rule for [client's] own *Federal* pension vis-à-vis Social Security benefits. This is to prevent so-called "double-dipping" of the federal treasury by an individual.

However, the surviving spouse benefit [client] is entitled to receive from the LTV Steel Mining Company is a *private* pension benefit funded by private employer contributions, and premiums paid to the PBGC by a private employer. I believe, even in following the plain language of the Plan (cited above) that a fair reading, interpretation, and implementation of this provision should result in my client continuing to receive the full 50% LTV surviving spouse benefit - reduced by 50% of the Social Security benefit she receives. It just so happens that – based on the peculiar nature of this case - this amount is zero. Therefore, I believe that [client] should continue to receive $623.92 under the LTV Steel Mining Plan from the PBGC.

Accordingly, I would appreciate it if you could review this matter. If you disagree with my analysis set-forth in this letter (that [client] should indeed continue to receive the $623.92 amount instead of the $200.00 amount) please provide me with the *legal authority* to enforce this provision - by in essence imputing income my client does not in fact receive – in order to reduce my client's surviving spouse LTV Steel Mining pension benefit by $423.92.

If you wish to discuss this matter in more detail or if you require additional information, please do not hesitate to contact me at 651-251-5766. I thank you in advance for your assistance in this matter.

Sincerely,

David A. Bonello
Project Attorney
Upper Midwest Pension Rights Project