# Filing a Claim With PBGC for a Participant Omitted from Standard Termination Distribution

ERISA Sec. 4022(a) NONFORFEITABLE BENEFITS.

Subject to the limitations contained in subsection (b), the corporation shall guarantee, in accordance with this section, the payment of all nonforfeitable benefits….. under a single-employer plan which terminates at a time when this title applies to it:

ERISA Sec. 4041(b)(4) CONTINUING AUTHORITY

Nothing in this section shall be construed to preclude the continued exercise by the corporation, after the termination date of a plan terminated in a standard termination under this subsection, of its authority under section 4003 with respect to matters relating to the termination. A certification under paragraph 3(B) shall not affect the corporations’s obligations under section 4022.

91-1

(reflecting PBGC current position)



Pension Benefit Guaranty Corporation

**91-1**

1991 **PBGC** LEXIS 3

January 14, 1991

**REFERENCE:**

**[*1]** 4022 Benefits GuaranteedBenefits Guaranteed
4061 Benefit Payments by PBGCBenefit Payments by **PBGC**
>29 CFR Part 2613>

**OPINION:**

The Executive Director has referred your letter of December 11, 1990 to me for reply. You have asked that we clarify the PBG's position with respect to annuities I. purchased by plan administrators to satisfy their obligation to participants and beneficiaries in terminating pension plans. Specifically, you ask whether the **PBGC** is obligated to pay pension benefits provided by insurance company annuities if the specific I insurance company fails, and if not, whether the **PBGC** is prohibited from doing so. After completing a thorough legal analysis of the statutory provisions under which the **PBGC** single-employer termination insurance program is administered, we have concluded that the statute does not authorize **PBGC** to guarantee benefits distributed in the form of irrevocable annuity contracts from insurance companies. A summary of our analysis follows.

Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") (29 U.S.C. §§ 1301-1461), which established the **PBGC** and its insurance programs, requires the **PBGC** to guarantee the payment of basic pension benefits when a **[*2]** covered single-employer pension plan terminates with insufficient assets to pay for those benefits. Under those circumstances, the **PBGC** normally assumes trusteeship of the plan and pays guaranteed benefits in the form of a monthly benefit. See generally ERISA §§ 4022, 4041(c), 4042, 4044, 4061. If a covered plan terminates with sufficient assets to pay for all benefits under the plan, including those in excess of guaranteed benefits, ERISA provides that **PBGC** shall oversee the plan administrator's allocation of plan assets and distribution of benefits, to ensure that plan participants receive the proper benefits upon termination. See generally ERISA §§ 4041(b), 4044.

Since the inception of the single-employer insurance program, the program's "insurable event" has been plan termination. Thus, for example, ERISA § 4022(a) provides: "Subject to the limitations contained in subsection (b), the [**PBGC**] shall guarantee in accordance with this section the payment of all nonforfeitable benefits (other than benefits becoming nonforfeitable solely on account of the termination of a plan) under a single-employer plan which terminates . . . ." (Emphasis added.)

Similarly, ERISA [*3] § 4061 provides that "[t]he [PBGC] shall pay benefits under a plan terminated under this title subject to the limitations and requirements of subtitle B of this title." (Emphasis added.) Nowhere in the statute is PBGC authorized to pay benefits upon the occurrence of any other event, such as the failure of an insurance company.

In a "standard" termination, where plan assets are sufficient to satisfy all of the plan's benefit liabilities, the plan administrator is required to distribute all plan assets in satisfaction of all plan benefits. See Allocation of Assets, Supplemental Notice of Proposed Rulemaking, 41 Fed. Reg. 48492 (November 3, 1976); 29 C.F.R. § 2618.3(b) (proposed as 29 C.F.R. § 2608.(b)); Determination of Plan Sufficiency and Termination of Sufficient Plans, Proposed Rulemaking, 41 Fed. Reg. 48504 (November 3, 1976); 29 C.F.R. § 2617.4 (proposed as 29 C.F.R. § 2615.3). These rules were codified by the Single-Employer Pension Plan Amendments Act of 1986 (Pub. L. 99-272). See ERISA § 4041(b)(3). This final distribution of all plan assets completes the plan termination process, and accordingly extinguishes the PBGC's statutory guarantee obligation. See [*4] 29 C.F.R. §§ 2617.20-2617.23. n1

n1 Similarly, a complete distribution of an individual's benefit in an ongoing plan satisfies, and therefore extinguishes, the obligation of both the plan and the PBGC to that individual, even if the plan subsequently terminates. "Participant" is defined in ERISA § 3(7) to mean an individual who is or may become eligible to receive a benefit from a plan. The agencies charged with the administration of ERISA (the Department of Labor, the Internal Revenue Service, and the PBGC) have consistently interpreted this to exclude those individuals whose benefits have been fully satified by the purchase from an insurer of an irrevocable commitment to pay those benefits. See 29 C.F.R. § 2610.2; Form 5500 (issued jointly by DOL, IRS, and PBGC). See also ERISA § 4044(d)(3). Indeed, because the individual ceases to be a participant in the plan once an irrevocable annuity contract is purchased in complete satisfaction of his or her benefit, no further PBGC premiums are paid with respect to that individual. 29 C.F.R. §§ 2610.2, 2610.22, 2610.32.

Thus, the PBGC was established to guarantee basic benefits in plans that terminate with insufficient funds [*5] to pay those benefits, and to oversee the proper allocation and distribution of plan assets to cover those benefits in sufficient terminating plans. The "insurable event" is plan termination which, in the case of a sufficient plan, is completed upon final distribution of assets in payment of all benefits under the plan through the purchase of annuity contracts or the distribution of lump sum amounts. The distribution of plan assets in the correct amount and proper form extinguishes the PBGC's guarantee obligation. For example, PBGC does not stand behind benefits distributed in a lump sum payment, nor protect from subsequent loss a participant who chooses to "roll over" a lump sum distribution into an Individual Retirement Account. Similarly, the failure of an insurance company subsequent to a proper distribution of plan assets through the purchase of annuity contracts does not result in an insurable event or reinstate the PBGC guarantee. n2

n2 Cf. ERISA § 4041(b)(4) (**PBGC** remains obligated to insure the payment of guaranteed benefits only if the plan administrator has not made a proper distribution, i.e., if a participant is overlooked or paid an incorrect amount and if the plan administrator does not promptly correct the error in distribution). H.R. Rep. No. 99-241, Part 2, 99th Cong., 2d Sess., reprinted in, 1986 U.S. Code Cong. & Admin. News 706. **[*6]**

It is clear from the manner in which the **PBGC's** single-employer insurance program is financed that Congress did not intend for **PBGC** to guarantee benefits that have been satisfied by a full distribution of plan assets upon plan termination. The **PBGC's** guarantee is financed primarily through the payment of premiums by covered plans. ERISA § 4007(a) provides: "Premiums shall continue to accrue [for a sufficient plan] until a plan's assets are distributed pursuant to a termination procedure [under section 4041(b)]." Thus, once a sufficient plan has terminated in a standard termination, no further premiums are paid with respect to that plan. Obviously, had Congress intended the **PBGC** to guarantee against a subsequent failure of the insurance company from which annuities were purchased, it would have designed a premium structure to protect **PBGC** against that continued exposure. n3

n3 In this regard, we also note that the **PBGC** has no regulatory authority over insurance companies.

Since ERISA's enactment in 1974, the amount of the annual premium owed by a plan has been based on the number of participants in the plan. ERISA § 4006. And, until 1987, the premium was simply a flat rate **[*7]** dollar amount, per year, per participant. In 1987, however, Congress enacted the Pension Protection Act (Subtitle D of Title IX of OBRA 1987, Pub. L. 100-203) ("PPA"). As part of the PPA reforms to strengthen the single-employer insurance program, Congress amended ERISA § 4006 to revise the single-employer plan premium structure. Under the revised structure, the existing flat rate premium was supplemented by an additional premium amount that is based on a plan's unfunded vested benefits. n4 Congress thereby reinforced the concept that premiums are based on **PBGC's** exposure from insufficiently funded plans. Had Congress intended for **PBGC** to insure against the failure of insurance companies from which annuities have been purchased, it surely would have also addressed the liabilities to which this would expose the **PBGC.** Significantly, we have estimated that that exposure could be as high as $ 50 billion.

n4 The premium amount was increased by section 12021 of The Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508.

As note, in a 1981 preamble to **PBGC's** sufficiency regulation, the **PBGC** responded to a comment on an earlier notice of proposed rulemaking by indicating that [*8] we would pay guaranteed benefits in the event that an insurance company should fail and the state reinsurance fund did not satisfy the annuity obligations. See 46 Fed. Reg. 9532, at 9534 (January 28, 1981). We have searched **PBGC** records and found no legal memoranda or other document to support this statement. And, after a detailed and extensive legal analysis of the statutory provisions, we have reached a contrary conclusion. Thus, the statement in the preamble was made without legal analysis, and was simply incorrect.

Please do not hesitate to let me know if you have any further questions about this matter.

Carol Connor Flowe
General Counsel Top of Form

# OMITTED PARTICIPANTS - CHECKLIST

**Name of Plan** ______________________________

**PBGC Case #** ______________________________

**Date of Termination** ______________________________

**Employer ID #** ______________________________

**Years Worked** ______________________________

**Evidence of Vesting**

From Plan ______________________________

From SSA ______________________________

From other source(s) ______________________________

______________________________________________

**Evidence of Ommission from Annuity Purchase**

Annuity Provider ______________________________

Denial Letter __________

Annuity Provider ______________________________

Denial Letter __________

Annuity Provider ______________________________

Denial Letter __________

**Evidence of Non-Receipt of Lump Sum**

Client's Affidavit ______________________________

Tax Returns for years:______________________________

(Best practice: year of termination of employment and following year: year of standard termination and following year)

PBGC
PBGC/Insurance Operations Department
P.O. Box 151750
Alexandria VA 22315-.750

404
January 16, 2009

the Holy Grail

| | |
|---|---|
| Case Number: | 08627300 |
| Plan Name: | FOSTER GRANT SALARIED PENSION PLAN |
| STCD PBGC Case Number: | 18873000 |
| STCD Plan Name: | Unified Retirement Plan of Bank of New England Corporation and Affiliates |

[redacted]
S[redacted] MA 02190

Dear [redacted]

We have finished our review of the plan and your benefit, and we have determined that you are entitled to a monthly payment of $773.68. This amount is based on your benefit starting on October 1, 2015 in the form of a Straight Life Annuity.

The enclosed Benefit Statement also reflects your Earliest Benefit Start Date of February 1, 2009 in the amount of $489.97. *Please contact PBGC to request an application to begin receiving your pension with payments effective February 1, 2009.* If we do not hear from you within 90 days of the date of this letter, your Annuity Start Date will be adjusted to the first of the month on or after the date we receive your application, and/or the date you request your pension benefit payment to begin. When your pension benefit payment from PBGC begins, you will automatically receive missed payments due from the later Annuity Start Date.

When you are ready to retire, we will send you information about other benefit forms available.

The enclosed Benefit Statement explains how we calculated your benefit and provides information on early retirement. If you choose to retire after October 1, 2015, your monthly benefit will be increased.

This is PBGC's formal determination of your benefit. You have the right to appeal this determination if you provide a specific reason why the determination is wrong. Your appeal must be in writing and filed within 45 days of the date of this letter. If you simply have a question about how your benefit was calculated, you should call us for an explanation, instead of filing an appeal. But please note that the time you have to file an appeal will not be extended unless you specifically request an extension within the 45-day period. The enclosed pamphlet, *Your Right to Appeal*, explains more about filing an appeal.

Please call our Customer Contact Center at **1(800) 400-7242** about four months before you are ready to begin receiving benefits. We will send you an application. Call anytime if you have any questions or need assistance. If you use a TTY/TDD, call **1(800) 877-8339**, and give the relay operator our telephone number. You may also write to:

**Pension Benefit Guaranty Corporation**
**U.S. Government Agency**

Two Claim letters and subsequent correspondence

Client 1

UMASS BOSTON

**PENSION ACTION CENTER, GERONTOLOGY INSTITUTE**
JOHN W. 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
www.umb.edu/pensionaction

September 7, 2010

**BY FAX TO 202-326-4001 AND BY REGULAR MAIL**

Charles Korb
Manager, Processing & Technical Assistance Branch
Standard Termination Compliance Division
Pension Benefit Guaranty Corporation
1200 K Street, N.W.
Washington, DC 20005-4026

Re: Mary [redacted]

Soc. Sec. No. xxx-xx-xxxx
D/O/B: [redacted]

Terminated vested participant in T-Bar/ Data Switch Corporation Pension Plan, PBGC Case No. 11321000

Dear Mr. Korb:

Please be advised that Mary [redacted] has requested the assistance of the New England Pension Assistance Project with respect to the issue of payment of pension benefits due her pursuant to the defined benefit plan sponsored by T-Bar, Inc/ Data Switch Corporation. **This letter is a claim for guaranteed benefits due her pursuant to this terminated plan.**

Statement of Facts

Mary [redacted] worked for T-Bar/Data Switch in Wilton, Connecticut, from approximately 1974 through 1983. Following her separation from employment, she received a letter from DataSwitch informing her that the T-Bar Retirement Benefits Plan was going to be terminated, that "all of your benefits are intact... and your accrued benefits are safeguarded by law". A copy of this letter is attached as Exhibit 1.

The T-Bar Retirement Benefits Plan was terminated on December 1, 1988 as a "standard termination". Ms. [redacted] received a letter in April 1990, telling her that DataSwitch had purchased annuities for deferred vested participants through United Pacific Life Insurance Company. See copy of this letter attached as Exhibit 2.

We were informed by the PBGC in June of 2010 that United Pacific Life Insurance

Company had merged with Genworth Financial. By letter dated June 29, 2010, Genworth Financial confirmed that it held an annuity contract for the terminated plan, but that no annuity was purchased in Mary Smith's name. See copy of this letter enclosed as Exhibits 3.

Ms. [redacted] has not received benefits in any form from this terminated plan to date. See her Affidavit, enclosed as Exhibit 4. See also copies of her 1988, 1989, and 1990 tax returns, copies attached as Exhibits 5, 6, and 7. These tax returns show that [redacted] received no pension distribution in any of those years.

Argument

Ms. [redacted] was clearly entitled to a deferred vested pension pursuant to the T-Bar Retirement Benefit Plan. Exhibit 1 clearly documents this entitlement. As noted above, Ms. [redacted] left the employ of T-Bar/DataSwitch in late 1983. There would have been no reason for the plan to send her a notice in 1988 about proposed termination of the plan unless she was a deferred vested participant. Moreover, her dates of service would indicate that she would have accrued 10 years of vesting service, The benefits payable pursuant to this plan are guaranteed by the Pension Benefit Guaranty Corporation whether the plan is terminated as a "standard termination" or a "distress termination".

Ms. [redacted] has been informed that, although Genworth Financial holds the annuity contract for payment of the retirement benefits of this terminated plan, no benefit was purchased in her name. It would appear, then, that she was improperly omitted from the annuity purchase.

It is clear that [redacted] did not receive the benefit as a lump sum distribution as evidenced by her Affidavit and by the tax returns submitted as Exhibits 5, 6, and 7.

ERISA §4041 outlines the procedure for the standard termination of a single employer plan. The PBGC's certification of a final distribution of assets does not affect PBGC's obligation under Section 4022 to guarantee the payment of all nonforfeitable benefits. In Advisory Opinion 91-1, the General Counsel concludes that the "PBGC remains liable to insure the payment of guaranteed benefits ... if the plan administrator has not made a proper distribution". Examples provided of such improper distributions include the omission of a participant from the distribution. Therefore, based upon the advisory opinion, the PBGC must provide benefits to a vested participant on whose behalf an annuity was not purchased, through error or omission. [redacted] is clearly one such participant.

Conclusion

As the evidence included herein and outlined above shows, Mary [redacted] is entitled to pension benefits pursuant to the T-Bar Retirement Benefits Plan which was terminated as a standard termination. She has never received the benefits in question and appears to have been omitted when annuities were purchased to pay deferred vested benefits. As these are benefits guaranteed by the Pension Benefit Guaranty Corporation pursuant to ERISA, we hereby request that the PBGC pay the benefits to which [redacted] is clearly entitled.

Please feel free to call either of us at the number above if you need any further information. Please direct any written response to us at: New England Pension Assistance Project, Gerontology Institute, 100 Morrissey Blvd., Boston, MA 02125. Thank you for your attention to this matter.

Sincerely,

Jeanne M. Medeiros, Esq.

Mollie Feeney
Pension Counselor

Enclosures

## The amazing true saga of Mary

Mary called us in late February of 2010. She would be turning 65 in March and was trying to figure out who to contact about the pension she thought she should start to receive from her employment with a company called T-Bar. She had worked there for almost 10 years, from 1974 through 1983, and had some paperwork about a pension. We opened a case and asked her to send us her documents.

She sent us five W-2s showing earnings from T-Bar Inc. for 1974, 1979, 1980, 1982 and 1983. She also had a letter addressed to her in 1988 telling her of the sponsor's intent to terminate the plan as a standard termination, and stating that all benefits would be paid through annuity purchases. It had her name on it, but did not say her monthly benefit amount, or years of service. She had a second letter addressed to "Dear Annuitant" saying that a group annuity for the T-Bar/ Dataswitch plan had been bought with United Pacific Life. Now the fun began……

From February through late July, we tried to track down this annuity. We contacted United Pacific by letter and by telephone numerous times, but were told they had no information about an annuity for our client. Charles Korb of the PBGC suggested that we may want to contact Genworth Financial, since it had assumed the liability United Pacific Life's annuities as the result of a merger. He also suggested (of course) that the client might not have been vested, or might have received a lump sum distribution. This is what PBGC pretty much routinely says in the face of any inquiries in standard terminations. In late June/early July, we finally received a letter from Genworth Financial stating that it had no annuity for our client.

In early August 2010, we filed a claim with the PBGC requesting that PBGC pay the client her vested benefit, as she was clearly vested, had been omitted from the annuity purchase, and had not received a distribution. Along with this claim letter, we submitted the following evidence: the letter the client had received about the plan termination; the letter she had received about the annuity purchase with United Pacific; the letter from Genworth that it held no annuity for her; copies of the client's tax returns from 1988, 1989, and 1990, all showing no pension distribution; and the client's Affidavit of non-receipt of benefits.

In November of 2010, the PBGC contacted us to ask for the client's tax returns for 1983, 1984, and 1985. We responded that we would see if the client had kept such old documentation, but that their request didn't really make sense. They were obviously looking for evidence of a distribution in one of those years, the years just following the client's separation from employment. As we pointed out, there would have been no reason for the plan to send her the letters in 1988 and 1990 about the plan termination and annuity purchase if she had already received a distribution five years prior to the plan termination.

However, we asked the client and, lo and behold, she did have copies of tax returns for 1983, 1984, 1985, 1986, and 1987, which we forwarded to the PBGC in December of 2010. After receiving these, the PBGC told us that they hoped to forward the matter to the Compliance Audit Branch (which usually means they will be calculating and paying the benefit). Great!!

Wait…not so fast!! In January of 2011, the PBGC called to say that they needed an SPD or plan document – otherwise, they would not know how to calculate the benefit. We respectfully suggested that the PBGC obtain these documents from the Public Disclosure Room of DOL. We explained that figuring out the benefit payment amount is their responsibility, not the client's.

In February of 2011, we were told that the Compliance Audit Branch needed the client's Detailed Earnings information from Social Security, and either a Social Security Notice of Potential Private Pension or a Certificate of Vesting from the plan, as well as an SPD or plan document. We responded that the client would provide the Detailed Earnings, but could not and would not provide a vesting certificate from the plan. We explained that her actual participation in the plan for the requisite period of time is what vests her, not a certificate from the pan, and that we had and would document her 10 years of employment with T-Bar. If a "deferred vested certificate" was required to establish vesting, we argued, a plan could unlawfully alienate a benefit by just failing to send such a certificate; therefore, the PBGC must look at the client's actual work history, the plan, and ERISA, and not base a decision on the absence of such a certificate. We argued that the client had provided ample proof that she was vested.

We also reiterated that getting the plan document is PBGC's responsibility, but we would see what we could do. We had the client request her Detailed Earnings information and asked the Public Disclosure room for the plan documents. In March, the Public Disclosure Room responded that it did not have any.

We received the client's Detailed Earnings, which showed T-Bar wages from January 1974 through 1983 (which is 10 years). Her annual earnings in 1982 were $14,300 and in 1983 were $10,388. We forward the Earnings statement to the PBGC stating that it shows 10 years of earnings. Of course, they respond that it is probably only 9, since 1983 doesn't look like a full year, and they ask us to document her actual dates of employment, which of course we cannot do! We write back to the PBGC that ERISA requires a year of vesting credit for a year in which a participant works 1,000 hours, and that the evidence shows she did work more than 1,000 hours in 1983. We point out that in the previous full year, 1982 (2,000 hours), she had earned $14,300 Therefore, unless her earnings in 1983 were half of that, the only fair conclusion is that she worked more than 1,000 hours in 1983. The Earnings Statement establishes 10 years, and the fact that she had received letters from the plan in 1988 and 1990 (can we mention this again?) indicate that the plan thought she was vested.

In June 2011, the PBGC told us once again that it needed an SPD or plan document in order to calculate a benefit amount. At this point, the PBGC suggested contacting the Social Security Office of Central Operations to see if it might have a Notice of Potential Private Pension regarding this plan and our client, since those notices typically state a benefit amount. In July, we had the client write to the OCO to request the Potential Pension Notice, and we contacted the Public Disclosure once more to see if it could find any plan documents.

In September 2011, the client received a response from the OCO – it had a number of PPP notices regarding other benefits payable to her, but nothing from T-Bar or Dataswitch – Oh no!! We asked client if she might know of any former co-workers who might have copies of old plan documents, and we decided to see if Genworth would give us information about the range of monthly benefits it was paying under the T-Bar/Dataswitch group annuity contract.

In October 2011, Genworth said that it could not provide that information without a court order. Then, quite unexpectedly, we received a package from the Public Disclosure Room with the 1981 SPD enclosed – HOORAY!! This we sent to the PBGC immediately!

In December 2011, the case was finally forwarded to the Compliance Audit division. After repeated phone calls in January and February, the Auditor asked us for the client's birth certificate.

On April 26th, the client called to tell us that the PBGC had telephoned her to say she will receive a monthly benefit of $79, and that she will receive it retroactive to age 65!!!!!!!!!!!!!!!!!

"The moral arc of the universe is long, but it bends toward justice"
– Reverend Martin Luther King, Jr.

Client 2

**UMASS BOSTON**

**PENSION ACTION CENTER, GERONTOLOGY INSTITUTE**
JOHN W. 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
www.umb.edu/pensionaction

December 19, 2011

**BY CERTIFIED MAIL AND BY REGULAR MAIL**

Charles Korb
Manager, Processing & Technical Assistance Branch
Standard Termination Compliance Division
Pension Benefit Guaranty Corporation
1200 K Street, N.W.
Washington, DC 20005-4026

Re: John Ringo
9 Beatles Drive
Nowhere, MA

Soc. Sec. No. XXX-XX-XXXX
D/O/B:

Dear Mr. Korb:

Please be advised that John Ringo has requested the assistance of the New England Pension Assistance Project with respect to the issue of payment of pension benefits due him pursuant to the defined benefit plan sponsored by the A.B. Dick Company. **This letter is a claim for guaranteed benefits due him pursuant to this terminated plan.**

<u>Statement of Facts</u>

Mr. John Ringo worked as an inventory control planner in Nashua, NH from approximately 1980 to 1991. During that time, the plant changed ownership several times. Mr. Ringo's original employer was the Itek Corporation, until its acquisition by Litton Industries in 1983, which renamed it the Itek Graphic division. Mr. Ringo remained at Litton through 1986, when the Itek Graphic division was sold and became Itek Graphix Corp. Mr. Ringo worked at Itek Graphix Corp. until its acquisition by A.B. Dick Corporation (doing business as Blake of Chicago Corp,(see excerpt from Bloomberg Business Week, attached as Exhibit 1) in 1988 and separated from service in 1991. Regardless of the various changes in ownership, Mr. Ringo worked at the same plant for 11 years, as evident from the enclosed Social Security Statement of Detailed Earnings (enclosed herein as Exhibit 2).

<u>Argument</u>

Throughout this employment, each time that a change in ownership took place, Mr. Ringo was incorporated into the new company's pension plan. During his employment with Litton's Itek Graphic division, Mr. Ringo received a notice from the company about his pension status, which is enclosed as Exhibit 3.

Exhibit 3 clearly states that, if Mr. Ringo remains employed at Itek through June 2, 1985, he will be 50% vested. It further states that his vested percentage will increase by 10% each subsequent year up to 100%. As Exhibit 2 documents, Mr. Ringo remained in this employment through and past June 2, 1990, after which point he was 100% vested.

In 1986, the Itek Graphic Division spun off as a separate business entity known as Itek Graphix Corp. The Summary Plan Description for the Itek Graphix Corp. Retirement Plan (herein referred to as Exhibit 4), dated January 1, 1988, states that:

> ...active participants in the Itek Corporation Retirement Plan, who on February 5, 1986 became active employees of Itek Graphix in connection with the leveraged buyout of the Graphic & Composition Systems Division of Itek Corporation from Litton Industries Inc. consummated on such date *were automatically enrolled as Participants under the Plan.* (Emphasis added).

Following the sale of the Itek Graphic division in 1986, Mr. Ringo was automatically enrolled in Itek Graphix Corp. Retirement Plan.

In 1988, A.B. Dick Company acquired Itek Graphix . The Itek Graphix Corporation Retirement Plan subsequently merged with the A. B. Dick Pension Plan on January 1, 1992. The Summary Plan Description for the A.B. Dick Pension Plan (see Exhibit 5), dated January 1, 1992, states that if an employee was

> a participant in the Itek Graphix Retirement Plan on the date of the merger, *or* your prior employment with Itek Graphix ended after February 5, 1986, the A. B. Dick Pension Plan *recognizes all vesting service and credited service earned under the terms of the Itek Graphix Retirement Plan.* (Emphasis added).

Mr. Ringo terminated his employment with Itek Graphix in 1991, and was therefore not a participant on the date of the plan merger. However, as his employment ended after February 5, 1986, he met the second requirement. Accordingly, all his vesting and service credit should have been recognized under the A.B. Dick Pension Plan.

Itek, Itek Graphix and A.B. Dick Co. pensions were subsequently merged into the Marconi USA Employees' Retirement Plan, which was terminated in a standard termination in 2006. (See Exhibit 6). Group annuities were purchased from three insurance companies: Transamerica, the Hartford, and Principal Life Insurance Company. These three companies have no record of a benefit purchased for John Ringo (see Exhibits 7, 8, and 9). Mr. Ringo did not receive a lump sum benefit upon Marconi's standard termination in 2006, as evidenced by his tax return from that year, enclosed as Exhibit 10.

Mr. Ringo is entitled to a deferred vested pension pursuant to the A.B. Dick Pension , as documented by Exhibits 1,2,3, and 4 enclosed herein. As stated above, Mr. Ringo terminated his employment at the Nashua plant in 1991; A.B. Dick Company was the owner at that time. His dates of service indicate that he has accrued over 11 years of vesting service. The benefits payable pursuant to this plan are guaranteed by the Pension Benefit Guaranty Corporation when the plan is terminated as a "standard termination," as is the case here with the Marconi plan.

Mr. Ringo has been informed that although Transamerica, Principal Insurance, and the Hartford all hold annuity contracts for payment of the retirement benefits of this terminated plan, no benefit was purchased in his name. It would appear, then, that he was improperly omitted from the annuity purchase. In addition, it is clear that Mr. Ringo did not receive the benefit as a lump sum distribution, as evidenced by the tax returns submitted as Exhibit 9.

ERISA §4041 outlines the procedure for the standard termination of a single employer plan. The PBGC's certification of a final distribution of assets does not affect PBGC's obligation under Section 4022 to guarantee the payment of all nonforfeitable benefits. In Advisory Opinion 91-1, the General Counsel concludes that the "PBGC remains liable to insure the payment of guaranteed benefits ... if the plan administrator has not made a proper distribution". Examples provided of such improper distributions include the omission of a participant from the distribution. Therefore, based upon the advisory opinion, the PBGC must provide benefits to a vested participant on whose behalf an annuity was not purchased, through error or omission. Mr. Ringo is clearly one such participant.

Conclusion

As the evidence included herein and outlined above shows, Mr. John Ringo is entitled to pension benefits pursuant to the A.B. Dick Pension Plan/Marconi USA Employees' Retirement Plan which was terminated as a standard termination. He has never received the benefits in question and appears to have been omitted when annuities were purchased to pay deferred vested benefits. As these are benefits guaranteed by the Pension Benefit Guaranty Corporation pursuant to ERISA, we hereby request that the PBGC pay the benefits to which Mr. Ringo is clearly entitled.

Please feel free to call me at the number above or to email me at Jeanne.medeiros@umb.edu if you need any further information. Please direct any written response to me at: New England Pension Assistance Project, Gerontology Institute, 100 Morrissey Blvd., Boston, MA 02125.

Thank you for your attention to this matter.

Sincerely,

Jeanne M. Medeiros, Esq.
Managing Attorney

Enclosures

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OFFICE ELECTRONICS

## A.B. Dick Company

December 19, 2011 9:47 AM ET

Snapshot | People

tying the companies together

### COMPANY OVERVIEW

A.B. Dick Company also known as Blake of Chicago Corp., manufactures and distributes equipments and supplies for graphic arts and design, publishing, and printing industries, educational facilities, and churches and religious associations. The company offers pre-press, press, post-press, direct image presses, and finishing equipments. The company was founded in 1884 and is based in Niles, Illinois.

### KEY EXECUTIVES

A.B. Dick Company does not have any Key Executives recorded.

7400 Caldwell Avenue Niles
Niles, IL 60714-3806
United States
Founded in 1884

Phone: 847-779-1900
Fax: 847-647-6940

### SIMILAR PRIVATE COMPANIES BY INDUSTRY

| Company Name | Region |
|---|---|
| Bourque Printing | United States |
| Protege Software Services, Inc. | United States |
| Honeywell Security Group | United States |
| Nuvenlix, Inc. | United States |
| Accelore Group, L.L.C | United States |

### RECENT PRIVATE COMPANIES TRANSACTIONS

Type Date | Target

No transactions available in the past 12 months.



EXHIBIT 1

SSA-1826 ITEMIZED STATEMENT OF EARNINGS
VERSION 2009.001 * * * FOR SSN [redacted] * * *

FROM: SOCIAL SECURITY ADMINISTRATION
OFFICE OF CENTRAL OPERATIONS
300 N. GREENE STREET
BALTIMORE, MARYLAND 21290-0300

[redacted]

NUMBER HOLDER NAME:
[redacted]

John Ringo

[redacted] [redacted]

PERIOD REQUESTED JANUARY 1980 THRU DECEMBER 1991

| YEAR | JAN - MARCH | APRIL -JUNE | JULY - SEPT | OCT - DEC | TOTAL |
|---|---|---|---|---|---|
| EMPLOYER NUMBER: 04-2169861<br>NICKERSON SEAFOODS INC<br>645 LAWRENCE ST<br>LOWELL MA 01852-0000 | | | | | |
| 1980 | - | - | - | - | $4,925.80 |
| EMPLOYER NUMBER: 04-2226625<br>ITEK CORPORATION INC<br>PAYROLL TAX FILING GROUP<br>5700 W TOUHY AVE<br>CHICAGO IL 60714-4606 | | | | | |
| 1980 | - | - | - | - | $6,026.59 |
| 1981 | - | - | - | - | $11,176.83 |
| 1982 | - | - | - | - | $14,845.17 |
| 1983 | - | - | - | - | $19,507.38 |
| 1984 | - | - | - | - | $24,758.85 |
| 1985 | - | - | - | - | $27,232.45 |
| EMPLOYER NUMBER: 04-2893064<br>ITEK GRAPHIX CORP<br>5700 W TOUHY AVE<br>CHICAGO IL 60648-4606 | | | | | |
| 1986 | - | - | - | - | $25,010.58 |



EXHIBIT 2

SSA-1826 ITEMIZED STATEMENT OF EARNINGS
VERSION 2009.001 * * * FOR SSN [redacted] * * *

| YEAR | JAN - MARCH | APRIL -JUNE | JULY - SEPT | OCT - DEC | TOTAL |
|---|---|---|---|---|---|
| 1987 | - | - | - | - | $24,275.22 |
| 1988 | - | - | - | - | $28,948.72 |

EMPLOYER NUMBER: 02-0338019
WESTWORLD ENTERPRISES INC
7 HOLLY COVE CIR
STAMFORD CT 06902-3542

| YEAR | JAN - MARCH | APRIL -JUNE | JULY - SEPT | OCT - DEC | TOTAL |
|---|---|---|---|---|---|
| 1988 | - | - | - | - | $2,167.87 |
| 1989 | - | - | - | - | $2,382.88 |
| 1990 | - | - | - | - | $7,740.97 |
| 1991 | - | - | - | - | $15,060.00 |

EMPLOYER NUMBER: 04-2893065
BLAKE OF CHICAGO CORPORATION
5200 W TOUHY AVE
NILES IL 60714-0000

| YEAR | JAN - MARCH | APRIL -JUNE | JULY - SEPT | OCT - DEC | TOTAL |
|---|---|---|---|---|---|
| 1989 | - | - | - | - | $25,326.43 |
| 1990 | - | - | - | - | $31,293.99 |
| 1991 | - | - | - | - | $10,160.00 |

THERE ARE NO OTHER EARNINGS RECORDED UNDER THIS SOCIAL SECURITY NUMBER FOR THE PERIOD(S) REQUESTED.

EARNINGS FOR THE YEARS AFTER 2009 MAY NOT BE SHOWN, OR ONLY PARTIALLY SHOWN, BECAUSE THEY MAY NOT YET BE ON OUR RECORDS.

021-42-4253    COMPOSITION SYSTEMS DIVISION

11/09/84

[redacted]

JUN 1 1 2010

## HEALTH PROTECTION PROGRAM

You have selected medical coverage under the Matthew Thornton Health Plan, a Health Maintenance Organization. The plan provides the benefits highlighted below for you and your covered family members:

For services provided in a designated health center or hospital, the plan pays 100% of charges for:

- room, board, services and supplies for an unlimited number of days (60 days per year for psychiatric conditions).
- surgical procedures and anesthesia.
- physicians' services and supplies incurred at the Health Center.
- maternity care.
- x-rays, laboratory tests, injections, casts and dressings.
- room and board for non-custodial care for up to 100 days in an extended care, intermediate care or chronic care facility.
- 80% of prescription drugs and other supplemental benefits after $100 per person deductible ($200 per family maximum), up to $5,000, 50% thereafter.

Benefits are also available to cover emergency medical care if you are out of the area when an accident or extreme medical emergency occurs.

## YOUR DENTAL CARE BENEFITS

ITEK provides the following dental care benefits free of charge for you and your eligible family members:

100% of reasonable and customary charges for Preventative Services.

Then, after you and each eligible family member satisfies a $25 deductible annually ($75 per family), the plan will pay:

80% of reasonable and customary charges for Restorative Services;
50% of reasonable and customary charges for Major Services;

to a yearly maximum of $1,000 for each family member.

The plan also provides for a pre-determination of benefits to tell you how much of the treatment cost will be covered.

## INCOME PROTECTION PLANS

If you are unable to work due to an accident or illness, ITEK makes available the following benefits:

You are covered automatically, without cost to you, for:

SICK LEAVE - to cover an occasional absence: 5 days per year

## SURVIVORS' BENEFITS

**LUMP SUM BENEFITS**

$ 17,000 group life insurance provided free by ITEK
$ 34,000 supplemental group life insurance you elected

$ 51,000 Lump Sum Total on death from any cause.

**ADDITIONAL BENEFITS** - If death is accidental

$ 25,500 accidental death insurance provided free by ITEK.
$200,000 optional accident insurance you elected.
$ 68,141 if traveling on company business.

If you are married at death, your surviving spouse is eligible to receive $255 Social Security Death Benefit.

## YOUR RETIREMENT INCOME

You are a participant in the Itek Revised Retirement Plan. As of November 9, 1984 you were not vested. If you are continuously employed at Itek until June 2, 1985, you will be 50% vested in a benefit that will be based on all of your years of service with Itek. From then on your vesting percentage will increase 10% for each additional year of service up to 100%.

## THE VALUE OF YOUR BENEFITS

ITEK makes a substantial contribution toward -- or pays the entire cost of -- the following benefit programs:

| | |
|---|---|
| Hospital/Medical Coverage | Sick Pay |
| Dental Insurance | Tuition Assistance |
| Group Life Insurance | Vacation & Holiday Pay |
| | [illegible] Compensation |

EXHIBIT 3

# *ITEK GRAPHIX CORP. RETIREMENT PLAN*

## *DESCRIPTION OF PLAN*

### *INTRODUCTION*

The Itek Graphix Corp. Retirement Plan (the "Plan") is designed to assist employees of Itek Graphix Corp. meet their financial needs during retirement. The Plan is non-contributory, and eligible employees of Itek Graphix Corp. will be automatically enrolled in the Plan on their date of hire provided they meet the participation requirements described herein.

The terms "Itek Graphix" and the "Company" will be used interchangeably herein and shall be deemed to include both Itek Graphix Corp. and, with respect to periods prior to February 5, 1986, its predecessor, Itek Corporation.

Itek Graphix has attempted to describe herein the significant features of the Plan in clear, concise language. However, if there are any questions concerning the Plan, an Employee Relations Representative will be pleased to answer them.

### *PARTICIPATION REQUIREMENTS*

Employees of the Company are automatically enrolled as Participants ("Participants") in the Plan if they are at least age 21 when they commence employment with Itek Graphix. If less than age 21 on date of hire, an employee will be automatically enrolled as a Participant in the Plan on his or her 21st birthday provided employment with Itek Graphix continues until that date. In addition, active participants in the Itek Corporation Retirement Plan, who on February 5, 1986 became active employees of Itek Graphix in connection with the leveraged buyout of the Graphic & Composition Systems Division of Itek Corporation from Litton Industries Inc. consummated on such date were automatically enrolled as Participants under the Plan.

While employees will be considered Participants while actively employed with the Company (See "REEMPLOYMENT AFTER A BREAK IN SERVICE"), employees will not become vested in a retirement benefit until completion of five years of employment with the Company (See "HOW BENEFITS ARE EARNED - Vested Benefit Percentage").

### *HOW BENEFITS ARE EARNED*

Retirement/pension benefits under the Plan are based on (i) the Participant's "Years of Benefit Credit Service", up to a maximum of 30 years, (ii) the Participant's "Final Average Monthly Earnings", (iii) the Participant's "Primary Social Security Monthly Benefit Entitlement", and (iv) the Participant's "Vested Benefit Percentage" based upon his or her "Years of Credited Service For Vesting". For purposes of the Plan:

- **Months of Benefit Credit Service** are earned at the rate of one month for each month or partial month of employment with the Company beginning on the later of (i) date of hire or (ii) age 21, up to a maximum of 360 months (30 years).

- **Final Average Monthly Earnings** are based on the Participant's highest five consecutive calendar years of earnings. Earnings include regular wages, bonuses, overtime pay and commissions (calculated prior to any salary reductions for Section 125 elections or in respect of employee contributions to the Itek Graphix Corp. Savings Plus Plan), exclusive, however, of bonuses not relating to job duties (e.g., tax gross-ups), imputed income in respect of relocation reimbursement and the like and certain other types of special compensation.

- ***Primary Social Security Monthly Benefit Entitlement*** means the Participant's monthly retirement benefit entitlement under Social Security as of the date retirement benefits under the Plan commence.

In the event your employment continues for more than three months, or if you work more than 40 hours per month during the three-month period, your pension payments will stop.

If you are reemployed as a permanent employee after you retire but before age 70-½, your pension payments will stop.

In all cases, upon subsequent retirement, your benefit will:

- be recalculated in accordance with the plan then in effect,

  **AND**

- take into account the benefit you had earned before reemployment,

  **AND**

- be adjusted to reflect the value of any benefits you previously received.

Your benefit will also be adjusted to reflect the value of payments you did not receive for any month in which you did not complete more than 40 hours of service.

### Prior Employers

If you were employed by another employer at the time it was acquired by A.B. Dick Company, your service under this Plan may be subject to certain adjustments, which are described in this section:

<u>Itek Graphix Corporation</u>

If you were a participant in the Itek Graphix Corporation Retirement Plan on December 31, 1991, you became a participant in the A.B. Dick Pension Plan on the date the two plans were merged -- January 1, 1992.

If you were a participant in the Itek Graphix Retirement Plan on the date of the merger, or your prior employment with Itek Graphix ended after February 5, 1986, the A.B. Dick Pension Plan recognizes all vesting service and credited service earned under the terms of the Itek Graphix Retirement Plan.

If you were an active participant in the Itek Graphix Corporation Retirement Plan on January 1, 1992, your accrued monthly benefit collectible at age 65 as a Single Life Annuity would be the greatest of the following three benefits:

FORMULA A

1.6667% x Credited Service (up to 30 years) x Final Average Pay **Less**
1.6667% x Credited Service (up to 30 years) x Social Security PIA

For purposes of Formula A, the following definitions apply:

Credited Service: All credited service accrued from date of hire through July 31, 1989. On August 1, 1989, the Itek Graphix Retirement Plan was amended in compliance with Internal Revenue Service proposed regulations and a new accrual formula was implemented at that time.



EXHIBIT 5

INDUSTRIAL GROWTH PARTNERS

100 SPEAR STREET • SUITE 1500 • SAN FRANCISCO, CA 94105
TEL: 415.882.4550 • FAX 415.882.4551

JUL 02 2010

June 30, 2010

Ms. Mia Midenjak
Legal Intern
New England Pension Assistance Project,
Gerentology Institue
Univ. of Massachusetts
Boston, MA 02125

Re: Itek Graphix Pension for Mr. [redacted]

Dear Ms. Midenjak:

I received your letter of June 14, 2010, regarding the search for the appropriate payor of pension benefits for Mr. [redacted]

It is my understanding that the grandfathered ITEK, Itek Graphix, and AB Dick pension benefits were handled as part of the Marconi USA Employees' Retirement Plan until April 21, 2006, at which time an annuity contract was purchased for the plan from Transamerica Occidental Life Insurance Company. They are currently administering the Plan and inquiries should be directed to them.

The Group Contract No. is 51523 and the Plan Name is Marconi USA Employees' Retirement Plan. Inquiries should be sent to: Transamerica Retirement Services, PO Box 30206, Los Angeles, CA 90099-9205. Phone inquiries can be made to 800-503-5978.

I hope you are able to help M[redacted] resolve his pension benefits.

Sincerely,

R. Patrick Forster

EXHIBIT 6

TRANSAMERICA
RETIREMENT SERVICES

Transamerica Retirement Services
P.O. Box 30206
Los Angeles, CA 90030

July 26, 2011

University of Massachusetts Boston
Pension Action Center, Gerontology Institute
Attn: Elizabeth Funk, Legal Intern
100 Morrissey Boulevard
Boston, MA 02125-3393

AUG 01 2011

Re: [redacted]

Dear Ms. Funk:

This is in response to your letter dated June 23, 2011.

After a careful review of our files, we find we do not have any information showing a purchase of benefits for [redacted]

If you have any questions, please do not hesitate to contact us.

Sincerely,

Paula Simoncini
Settlement Operations
(800) 503-5978

EXHIBIT 7

THE HARTFORD

July 12, 2011

JUL 14 2011

Attention: Elizabeth Funk
New England Pension Assistance Project
Gerontology Institute, Univ. of Massachusetts Boston
100 Morrissey Boulevard
Boston, MA 02125-3393

RE: Employer: Marconi USA
Employee: [redacted]

Dear Ms. Funk:

I have reviewed our records and the Employer Marconi USA did not purchase an annuity under our Group Annuity Contract GA 20432 for the above mentioned person.

Perhaps you should contact the Trustee of the Plan regarding any benefits earned by Mr. [redacted] while he was employed by A.B. Dick.

Please contact me if you have any further questions or need any further information.

Sincerely yours,

Eileen Fortier
Hartford Life Insurance Company

C: [redacted] Employee

JUL 14 2011

EXHIBIT 8

The Hartford
200 Hopmeadow Street
Simsbury, CT 06089
Toll Free 1 800 678 2282
Investment Product Services

Mailing Address: P.O. Box 1583
Hartford, CT 06102-1583

Principal Financial Group

Grand Island
Group and Pension Center

Principal Life
Insurance Company

06/27/2011

ELIZABETH FUNK
NEW ENGLAND PENSION ASSISTANCE PROJECT
GERONTOLOGY INSTITUTE
UNIV OF MASSACHUSETTS BOSTON
100 MORRISSEY BLVD
BOSTON MA 02125

JUN 3 - 2011

telent LLC (formerly Marconi USA / AB Dick Co)
CONTRACT NO. 2-19754
[redacted]

Dear Ms. Funk

This letter is in response to your request for information regarding a pension benefit from the above employer for [redacted]. We have researched our records under this contract, and unfortunately do not find an annuity benefit purchased for him.

One of two things may have occurred. Either a lump sum distribution was made to him prior to December 1, 2005 or a pension benefit may have been purchased through another insurance carrier. Principal Life Insurance Company only has benefits for former employees that had elected an annuity benefit prior to December 1, 2005 and former employees with only a lump sum death benefit payable.

Our records indicate that there are other insurance companies that may have former employee benefits: Hartford (800-678-2282), Transamerica Occidental (800-503-5678), or State Street Retiree Services (904-597-0477).

We suggest he also review past tax records to see if a distribution was made. Another alternative would be to contact the Pension Benefit Guaranty Corporation (PBGC) at 1-800-400-7242 to see if a benefit was purchased elsewhere.

Sincerely

Jan Ostwinkle
Manager
Retirement and Investor Services Payout
Phone 1-800-247-7011

**jo:blp**

EXHIBIT 9

Retirement and Investor Services Payout
P.O. Box 4930, Grand Island NE 68802-4930
Fax: 515-235-9904

Form **1040** Department of the Treasury — Internal Revenue Service
# U.S. Individual Income Tax Return 2006
(99) IRS Use Only — Do not write or staple in this space.

For the year Jan 1 - Dec 31, 2006, or other tax year beginning , 2006, ending , 20 — OMB No. 1545-0074

**Label** (See instructions.)

**Use the IRS label.** Otherwise, please print or type.

| | | | |
|---|---|---|---|
| Your first name: [redacted] | MI | Last name: [redacted] | Your social security number: [redacted] |
| If a joint return, spouse's first name | MI | Last name | Spouse's social security number: [redacted] |
| Home address (number and street). If you have a P.O. box, see instructions. [redacted] | Apartment no. | | You **must** enter your social security number(s) above. |
| City, town or post office. If you have a foreign address, see instructions. [redacted] | State ZIP code [redacted] | | Checking a box below will not change your tax or refund. |

**Presidential Election Campaign** Check here if you, or your spouse if filing jointly, want $3 to go to this fund? (see instructions) ☐ You ☐ Spouse

**Filing Status** — Check only one box.

1 ☐ Single
2 ☐ Married filing jointly (even if only one had income)
3 ☒ Married filing separately. Enter spouse's SSN above & full name here . . [redacted]
4 ☐ Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here.
5 ☐ Qualifying widow(er) with dependent child (see instructions)

**Exemptions**

6a ☒ **Yourself.** If someone can claim you as a dependent, **do not** check box 6a. — Boxes checked on 6a and 6b: 1
b ☐ **Spouse**

c Dependents:

| (1) First name Last name | (2) Dependent's social security number | (3) Dependent's relationship to you | (4) ✓ if qualifying child for child tax credit (see instrs) |
|---|---|---|---|
| | | | ☐ |
| | | | ☐ |
| | | | ☐ |
| | | | ☐ |

If more than four dependents, see instructions.

No. of children on 6c who: • lived with you ____ • did not live with you due to divorce or separation (see instrs) ____ Dependents on 6c not entered above ____

d Total number of exemptions claimed — Add numbers on lines above: 1

**Income**

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see instructions.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

| | | | |
|---|---|---|---|
| 7 | Wages, salaries, tips, etc. Attach Form(s) W-2 | 7 | 49,219. |
| 8a | **Taxable** interest. Attach Schedule B if required | 8a | |
| b | **Tax-exempt** interest. **Do not** include on line 8a . . . 8b | | |
| 9a | Ordinary dividends. Attach Schedule B if required | 9a | |
| b | Qualified dividends (see instrs) . . . 9b | | |
| 10 | Taxable refunds, credits, or offsets of state and local income taxes (see instructions) | 10 | 188. |
| 11 | Alimony received | 11 | |
| 12 | Business income or (loss). Attach Schedule C or C-EZ | 12 | |
| 13 | Capital gain or (loss). Att Sch D if reqd. If not reqd, ck here ☐ | 13 | |
| 14 | Other gains or (losses). Attach Form 4797 | 14 | |
| 15a | IRA distributions . . . 15a — b Taxable amount (see instrs) | 15b | |
| 16a | Pensions and annuities . . . 16a — b Taxable amount (see instrs) | 16b | |
| 17 | Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E | 17 | |
| 18 | Farm income or (loss). Attach Schedule F | 18 | |
| 19 | Unemployment compensation | 19 | |
| 20a | Social security benefits . . . 20a — b Taxable amount (see instrs) | 20b | |
| 21 | Other income | 21 | |
| 22 | Add the amounts in the far right column for lines 7 through 21. This is your **total income** | 22 | 49,407. |

**Adjusted Gross Income**

| | | | |
|---|---|---|---|
| 23 | Archer MSA deduction. Attach Form 8853 | 23 | |
| 24 | Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ | 24 | |
| 25 | Health savings account deduction. Attach Form 8889 | 25 | |
| 26 | Moving expenses. Attach Form 3903 | 26 | |
| 27 | One-half of self-employment tax. Attach Schedule SE | 27 | |
| 28 | Self-employed SEP, SIMPLE, and qualified plans | 28 | |
| 29 | Self-employed health insurance deduction (see instructions) | 29 | |
| 30 | Penalty on early withdrawal of savings | 30 | |
| 31a | Alimony paid b Recipient's SSN | 31a | |
| 32 | IRA deduction (see instructions) | 32 | |
| 33 | Student loan interest deduction (see instructions) | 33 | |
| 34 | Jury duty pay you gave to your employer | 34 | |
| 35 | Domestic production activities deduction. Attach Form 8903 | 35 | |
| 36 | Add lines 23 - 31a and 32 - 35 | 36 | |
| 37 | Subtract line 36 from line 22. This is your **adjusted gross income** | 37 | 49,407. |



EXHIBIT 10

JAN 11 2012

PBGC
Protecting America's Pensions
Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

JAN -9 2012

JEANNE MEDEIROS ESQ
UMASS BOSTON PENSION ACTION CENTER
GERONTOLOGY INSTITUTE
100 MORRISSEY BLVD
BOSTON MA 02125

Dear Ms. Mederios:

We received your December 19, 2011 letter concerning Mr. [redacted] who is asking for help in getting pension benefits from the A.B Dick Company Pension Plan.

The PBGC is not trustee of this plan, meaning we did not assume responsibility of paying benefits to the plan's participants and we have no information about individual participants' benefits. However, we have learned that Itek Graphix Corporation was acquired by Litton Industries which is now Northrop Grumman Corporation. To further assist Mr. [redacted], we called Northrop Grumman's benefits center and was informed that Mr. [redacted] does have a pension account in their system. For information about any benefits that may be due to Mr. [redacted] we suggest that you contact Northrop Grumman Corporation directly as follows:

Northrop Grumman Benefits Center
PO Box 8000
Charlotte, NC 28262
Telephone #: 1.800.894.4194

We hope this information was helpful.

Sincerely,

Tabatha Hughes, Employee Benefits Law Specialist
Processing and Technical Assistance Branch

UMASS BOSTON

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

100 Morrissey Boulevard
Boston, MA 02125-3393
P: 617.287.7307
F: 617.287.7080
www.pensionaction.org

January 13, 2012

**BY CERTIFIED MAIL; RETURN RECEIPT REQUESTED**

Tabatha Hughes
Employee Benefits Law Specialist
Processing & Technical Assistance Branch
Pension Benefit Guaranty Corporation
1200 K Street, N.W.
Washington, DC 20005-4026

Re: [redacted]

Soc. Sec. No[redacted]
D/O/B: [redacted]

Dear Ms. Hughes:

We are in receipt of your letter dated January 9, 2012, regarding our claim for benefits filed on behalf of [redacted](Copy enclosed).

Please be advised that [redacted] has already investigated the possibility that Northrup Grumman holds any pension benefit for him. Enclosed please find a letter dated December 7, 2010, from the Northrup Grumman Benefits Center, informing [redacted] that it has <u>no</u> liability for his benefit. We hereby submit this letter as Exhibit 11 in our previously-filed claim letter of December 19, 2011.

As the letter from Northrup Grumman indicates, the liability for Mr. [redacted] pension was transferred to Itek Graphix in 1986, as argued in our original claim letter. This liability was subsequently transferred to A.B. Dick , then Marconi as outlined in our original claim letter.

Once again, **we reiterate our claim for guaranteed benefits due Mr. [redacted] pursuant to the terminated Marconi USA Employees' Retirement Plan**. The benefits payable by this plan are guaranteed by the Pension Benefit Guaranty Corporation whether the plan is actually trusteed by the PBGC or where, as here, the plan is terminated as a "standard termination"

As previously argued, the PBGC is liable for guaranteed benefits improperly omitted in the distributions made pursuant to a standard termination. In Advisory Opinion 91-1, the General Counsel concludes that the "PBGC remains liable to insure the payment of guaranteed benefits ... if the plan administrator has not made a proper distribution". Examples provided of such improper distributions include the omission of a participant from the distribution.

Therefore, the PBGC guarantees and must pay benefits to a vested participant on whose behalf an annuity was not purchased, through error or omission. [redacted] is clearly one such participant.

As the evidence included herein and in our original claim letter demonstrates, [redacted] is entitled to pension benefits pursuant to the A.B. Dick Pension Plan/Marconi USA Employees' Retirement Plan which was terminated as a standard termination. He has never received the benefits in question and appears to have been omitted when annuities were purchased to pay deferred vested benefits. As these are benefits guaranteed by the Pension Benefit Guaranty Corporation pursuant to ERISA, we hereby request that the PBGC pay the benefits to which [redacted] is clearly entitled.

Please feel free to call me at the number above or to email me at Jeanne.medeiros@umb.edu if you need any further information. Please direct any written response to me at: New England Pension Assistance Project, Gerontology Institute, 100 Morrissey Blvd., Boston, MA 02125.

Thank you for your attention to this matter.

Sincerely,

Jeanne M Medeiros

Jeanne M. Medeiros, Esq.
Managing Attorney

Enclosures

cc: Charles Korb, Manager, Processing and Technical Assistance Branch, PBGC
[redacted]

NORTHROP GRUMMAN

Northrop Grumman Corporation
One Hornet Way
El Segundo, California 90245

December 7, 2010

COPY

[redacted]

***RE:*** ***Northrop Grumman Retirement Plan "A"***
***Formerly know as the Litton Industries Retirement Plan "A"***

Dear Mr. [redacted]

The Northrop Grumman Benefit Center has informed us of your pension benefits inquiry due to your employment with Litton Industries' former division, Itek Graphics and Composition Systems.

Our records show that Itek Graphics was sold by Litton Industries to Itek Graphix Corporation on February 2, 1986. The successor company assumed all future and past liabilities for all employees who were active at the time of sale. Our records show that you were hired on June 2, 1980 and all of your pension assets were transferred to Itek Graphix on the date of sale. Therefore, Northrop Grumman has no liability for your pension benefits.

Our research shows that Itek Graphix was subsequently sold to the A.B. Dick Company. We do not have any contact information regarding A.B.Dick. A.B.Dick was subsequently acquired by Presstek. The only contact information we have regarding Presstek is (800) 524-0003 ext. 5379. Someone at that number should be able to help you.

We also suggest that you contact the Pension Benefit Guaranty Corporation (PBGC). They are a federal corporation created by the Employee Retirement Income Security Act of 1974. It currently protects the pensions of more than 44 million American workers and retirees in more than 27,500 private single-employer and multiemployer defined benefit pension plans. PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums set by Congress and paid by sponsors of defined benefit plans, investment income, assets from pension plans trusteed by PBGC, and recoveries from the companies formerly responsible for the plans. They can be reached at 800-400-7242.

We hope this information will lead to successfully finding the company that now holds liability for your former Itek pension benefits.

Good luck,

Benefits Administration

EXHIBIT 11

**PBGC**
Protecting America's Pensions

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

JEANNE MEDEIROS ESQ
UMASS BOSTON PENSION ACTION CENTER
GERONTOLOGY INSTITUTE
100 MORRISSEY BLVD
BOSTON MA 02125

FEB -6 2012

Dear Ms. Mederios:

We received your January 13, 2012 letter concerning Mr. [redacted], who is asking for help in getting pension benefits from the A.B Dick Company Pension Plan which was acquired by the Marconi USA Employees' Retirement Plan (Plan).

According to our records the Plan ended in 2006. Since the Plan had enough assets to provide all benefits, the PBGC did not take over as trustee, and the Plan subsequently paid out all benefits, either through lump sum distributions or by purchase of deferred annuity contracts. Accordingly, the PBGC has no information about individual participant benefits.

If Mr. [redacted] had a vested interest in the Plan, he may have received a lump sum distribution either at the time he left employment or when the Plan ended. He may wish to check his tax and/or other financial records to determine if he received a lump sum distribution from the Plan around that time. If an annuity was purchased on his behalf, he should have received an annuity certificate that identifies the insurance company holding a benefit for him. Contact the annuity provider directly and refer to the group annuity number listed on the certificate.

To further assist Mr. [redacted] we have contacted the Plan Administrator, Ericcson Inc. who has acquired the above mentioned Plan. They informed me that Mr. [redacted] may contact them for further information pertaining to his pension at the number and address below:

Ericsson Inc.
Benefits Contact Center
Mail Stop EVW 1B3
6300 Legacy Drive
Plano TX 75024
Telephone #: (866) 374-2272

We hope this information was helpful.

Sincerely,

Tabatha Hughes, Employee Benefits Law Specialist
Processing and Technical Assistance Branch

UMASS BOSTON

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

100 Morrissey Boulevard
Boston, MA 02125-3393
P: Direct:.287.7307
F: Fax:.287.7080
www.pensionaction.org

February 8, 2012

**BY CERTIFIED MAIL; RETURN RECEIPT REQUESTED**

Tabatha Hughes
Employee Benefits Law Specialist
Processing & Technical Assistance Branch
Pension Benefit Guaranty Corporation
1200 K Street, N.W.
Washington, DC 20005-4026

Re: [redacted]

Soc. Sec. No [redacted]
D/O/B: [redacted]

Dear Ms. Hughes:

We are in receipt of your letter dated February 6, 2012, regarding our claim for benefits filed on behalf of [redacted] (Copy enclosed).

Please be advised that [redacted] has already investigated the possibility that Ericsson holds any pension benefit for him. Enclosed please find a letter dated September 29, 2011, from Ericsson informing us that it did not acquire the Marconi defined benefit plan. We hereby submit this letter as Exhibit 12 in our previously-filed claim letter of December 19, 2011.

Once again, **we reiterate our claim for guaranteed benefits due [redacted], pursuant to the terminated Marconi USA Employees' Retirement Plan**. The benefits payable by this plan are guaranteed by the Pension Benefit Guaranty Corporation whether the plan is actually trusteed by the PBGC or where, as here, the plan is terminated as a "standard termination"

As previously argued, the PBGC is liable for guaranteed benefits improperly omitted in the distributions made pursuant to a standard termination. In Advisory Opinion 91-1, the General Counsel concludes that the "PBGC remains liable to insure the payment of guaranteed benefits ... if the plan administrator has not made a proper distribution". Examples provided of such improper distributions include the omission of a participant from the distribution. Therefore, the PBGC guarantees and must pay benefits to a vested participant on whose behalf an annuity was not purchased, through error or omission. Mr. [redacted] is clearly one such participant.

As the evidence included herein and in our original claim letter demonstrates, [redacted]

[redacted] is entitled to pension benefits pursuant to the A.B. Dick Pension Plan/Marconi USA Employees' Retirement Plan which was terminated as a standard termination. He has never received the benefits in question and appears to have been omitted when annuities were purchased to pay deferred vested benefits. As these are benefits guaranteed by the Pension Benefit Guaranty Corporation pursuant to ERISA, we hereby request that the PBGC pay the benefits to which Mr. [redacted] is clearly entitled.

Please feel free to call me at the number above or to email me at Jeanne.medeiros@umb.edu if you need any further information. Please direct any written response to me at: New England Pension Assistance Project, Gerontology Institute, 100 Morrissey Blvd., Boston, MA 02125.

Thank you for your attention to this matter.

Sincerely,

Jeanne M Medeiros

Jeanne M. Medeiros, Esq.
Managing Attorney

Enclosures

cc: Charles Korb, Manager, Processing and Technical Assistance Branch, PBGC
[redacted]

ERICSSON

September 29, 2011

OCT 31 2011

Ms. Elizabeth Funk
New England Pension Assistance Project
Gerontolgoy Institute
Univ. of Massachusetts Boston
100 Morrissey Blvd.
Boston, MA 02125

Dear Ms. Funk

Re: [redacted]

We have received your letter regarding an inquiry into a pension benefits for [redacted] from the Marconi USA Employee's Retirement Plan. When Ericsson purchased a portion of Marconi back in 2006, the only plans we acquired were the Marconi Personal Pension Plan and the Marconi USA Wealth and Accumulation Plan (a 401(k) Plan) was merged into our existing 401(k) Plan.

In looking into both plans, we do not find any benefit for [redacted].

We were advised by the former Marconi plan administrator that if any former Marconi employee or one of it's acquired companies inquires about a prior benefit that we may refer them to Patricia Hoffman, Senior Attorney with Telent, now Regents Place LLC. It is my understanding from our prior conversation that you are already communicating with her.

If you have any additional questions, please feel free to contact me at 972-583-1286.

Sincerely,

Terri Riffe

Terri Riffe
Benefits Manager, Retirement and Relocation

cc: Ms. Patricia Hoffman

EXHIBIT 12

Ericsson Inc.
6300 Legacy Drive
Plano, Texas 75024, USA
Office 972 583 0085
www.ericsson.com

**PBGC** Pension Benefit Guaranty Corporation

Protecting America's Pensions 1200 K Street, N.W., Washington, D.C. 20005-4026

JEANNE MEDEIROS ESQ
UMASS BOSTON PENSION ACTION CENTER
GERONTOLOGY INSTITUTE
100 MORRISSEY BLVD
BOSTON MA 02125

FEB 14 2012

Dear Ms. Mederios:

This is in response to your follow-up inquiry regarding your request for assistance in obtaining pension benefits from the terminated Marconi USA Employees' Retirement Plan (Plan).

As stated in our letter of February 6, 2012, the Company ended its Plan in 2006. The PBGC did not trustee the Plan and we do not have information on individual participants benefits. To determine if you are eligible for a benefit from the Plan, we must ask you to give us proof of your eligibility for a benefit. We will need records from the Social Security Administration showing your length of service with the Company **and** any documents from the Company showing your eligibility for a benefit and the benefit amount promised. !

If we determine that you are eligible for a benefit from the Plan we will ask that you provide to us your tax returns for the year in which the Plan distributed benefits. A review of the tax returns will help us determine if you received a lump sum benefit when the Plan terminated. !

Once this information is received we will then be able to review your eligibility under the Plan.

I am enclosing a booklet entitled, "Finding a Lost Pension", which describes how to conduct a search for unclaimed pension payments. I would like to direct your attention to page 3, "Is it Worth Looking?," which explains the vesting rules, and to page 8, "Legal Protections," which explains the limitations of the Employee Retirement Income Security Act. !

Sincerely,

Tabatha Hughes

Tabatha Hughes, Employee Benefits Law Specialist
Processing and Technical Assistance Branch

2/17/12 T/C to PBGC, Tabatha Hughes
x 6837

- told her we've already provided Detailed Earnings Statement (Ex 2)

and proof of vesting from plan (Ex. 3)

told her we wrote the "Lost Pension" booklet

spoke to her "team leader" Mr. Green
and explained that we'd already provided everything they asked for

2006 tax return - shows no distribution (ex 10)

- he will refer it to Compliance / Audit Division (or not) w/in 2 weeks

## Jeanne Medeiros

**From:** Jeanne Medeiros
**Sent:** Thursday, March 08, 2012 11:45 AM
**To:** Korb Charles (Korb.Charles@pbgc.gov); Martin.Nancy@pbgc.gov; 'hughes.tabatha@pbgc.gov'
**Subject:** [redacted] Marconi USA retirement plan

Dear Mr. Korb, Ms. Martin, and Ms. Hughes:

I am writing to confirm two things about this matter.

The first is whether you have received Mr.[redacted] Participant Declaration of Non-Payment of Plan Benefits. He informs me that he mailed it to the PBGC on February 25th.

The second is whether this matter has been referred to the Compliance and Audit Division, as Mr. Green had indicated it would be in my conversation with him on February 17th.

Thank you.

Jeanne M. Medeiros, Esq.
Managing Attorney
New England Pension Assistance Project
Gerontology Institute
Univ. of Mass. Boston
100 Morrissey Blvd.
Boston, MA 02125

**Jeanne Medeiros** [redacted]

**From:** Hughes Tabatha <Hughes.Tabatha@pbgc.gov>
**Sent:** Thursday, March 22, 2012 10:35 AM
**To:** Jeanne Medeiros
**Cc:** Korb Charles; Martin Nancy
**Subject:** FW: [redacted] Marconi USA retirement plan

[redacted]

Good Morning Ms. Medeiros,

We have forwarded Mr. [redacted] inquiry to the Compliance and Audits Branch (CAB) for further assistance this morning. Thank you.

How am I doing? We welcome your feedback!
Please email my manager, korb.charles@pbgc.gov!

*Tabatha Hughes*
Employee Benefits Law Specialist
Pension Benefit Guaranty Corporation
STCD/PTAB
1200 K Street N.W. Suite 930
Washington DC 20005
1.800.736.2444 ext. 6837
202-326-4260, fax

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**From:** Hughes Tabatha
**Sent:** Wednesday, March 21, 2012 8:50 AM
**To:** 'Jeanne Medeiros'
**Cc:** Korb Charles; Martin Nancy
**Subject:** FW: [redacted]/ Marconi USA retirement plan

Good Morning Ms. Medeiros,

We have received the Declaration of Non-Payment from Mr. Emerson on March 16, 2012. As of Today, I have requested the following case files from the Federal Record Center; Marconi USA Personal Pension Account Plan EIN # (61-119960/008) and Marconi USA Employees' Retirement Plan EIN # (56-1717874/336). Once we receive the case files, we will then forward Mr[redacted] information to the Compliance and Audits Branch (CAB) for further assistance. Please allow at least 7-10 business days to receive the case files in our office. I will update you once [redacted]'s information has been forwarded. Thank you.

How am I doing? We welcome your feedback!
Please email my manager, korb.charles@pbgc.gov!

*Tabatha Hughes*
Employee Benefits Law Specialist
Pension Benefit Guaranty Corporation
STCD/PTAB
1200 K Street N.W. Suite 930
Washington DC 20005
1.800.736.2444 ext. 6837
202-326-4260, fax

8/21/12 T/C from Lady Kai Lewis, PBGC x 3835

she is still working on audit

is waiting to hear from "Ms. Hoffman"
plan administrator -
Greensboro Associates, Telent

8/29/12 message from Lady Kai Lewis
PBGC x3835

8/29/12 T/C to Lady Kai Lewis -
left message on her voice
mail

8/29/12 T/C from Lady Kai Lewis - she tried to
refer me back to Northrop
Grumman !! told her we have
letter from them that they have
no benefit for him

!!

- she will refer it to her supervisor
w/ recommendation that PBGC
pay him his benefit -
hooray !?