

Meeting Number 110
The Advisory Committee of the
Pension Benefit Guaranty Corporation
Washington, D.C.
January 22, 1990

The following attended the meeting:

Advisory Committee:	Eugene B. Burroughs M. J. Mintz Richard M. Prosten
Not present:	Perry Joseph
Consultants to the Committee:	Murray P. Hayutin Ralph J. Wood, Jr.
Not present:	John F. Hotchkis
Representative of the Secretary of Labor:	Katherine Lewis
Representative of the Secretary of the Treasury:	Patrick Garabedian
Representative of the Secretary of Commerce:	Jane W. Molloy
PBGC:	James B. Lockhart, Executive Director Diane E. Burkley, Dep. Exec. Dir. Douglas R. Cannon, Dep. Exec. Dir.
Staff:	Steven Hill David Lindeman Carol Connor Flowe Lawrence Maslan Marykay Fuller Judith Bekelman Joel Greenblatt

The Committee began its meeting at 1:10 p.m. In the absence of a Chairman designated by the President, Mr. Hayutin conducted the meeting.

1. Minutes of Previous Meeting

The Committee unanimously approved a motion by Mr. Wood, seconded by Mr. Burroughs, to accept as written the draft minutes of Meeting Number 109, held on December 4, 1989.

2. Executive Director's Report

Mr. Lockhart briefed the Committee on recent efforts to encourage employers to improve funding of ongoing plans and prevent underfunded plan terminations. He reported that the Sharon Steel case set a good precedent, since PBGC was able to negotiate an agreement under which the company will pay all missed contributions in full to its plans and provide security for the next four years' projected contributions. As a result, the company will be able to reorganize and get out of bankruptcy, the retirees and workers will have continuing plans that are better funded and still protected by PBGC, and PBGC will avoid a substantial loss.

Mr. Lockhart also reported that Ms. Burkley is building PBGC's in-house financial analysis capability, that he has requested a GAO audit of PBGC's financial statements for fiscal year 1990, and that Mr. Cannon is hiring a new staff person to work on and improve PBGC's internal systems. Mr. Lockhart noted that a new management report will be available soon both for internal use and the Advisory Committee and that he does not expect much legislative activity during the year unless PBGC loses the LTV case. He then provided a review of plans in action for the prior year. He reported that the multiemployer program was in excellent financial condition because (a) only 6 of 2,300 plans had needed assistance and (b) due to a technical provision in the law multiemployer premiums had increased to \$2.60 per participant, thus increasing the cash-flow.

3. Presentation on Annual Report

Mr. Lockhart informed the Committee that PBGC's Annual Report for fiscal year 1989 is due out at the end of February, 2 months earlier than originally planned and several weeks earlier than any prior year of the agency. He briefed the Committee on the financial and operating results for the year, after which Messrs. Maslan and Lindeman reported in greater detail on PBGC's finances and actuarial projections, respectively. Mr. Burroughs, joined by the other members, commended Mr. Lockhart's briefing.

4. Deputy Executive Directors' Reports

Ms. Flowe briefed the Committee on the status of PBGC's major litigation. Regarding LTV, she described the status of the case before the Supreme Court, stating that PBGC and LTV had filed their briefs and various amicus briefs were filed in support of each side. She stated that oral arguments are scheduled for February 27 and that she will argue for PBGC. She also reported on the status of the separate litigation in bankruptcy court over objections to PBGC's claims against LTV, stating that oral arguments on the company's motion for summary judgment are scheduled for February 13. Ms. Flowe then reported that a district court had granted PBGC's motion to hold its litigation over Wheeling-Pittsburgh's follow-on plans in abeyance pending a ruling by the Supreme Court and briefly discussed several other pending cases.

Ms. Burkley responded to a question from Mr. Hayutin regarding PBGC's current lien authority and then reported that this power proved very helpful in the negotiations with Sharon Steel concerning funding of Sharon's underfunded plans. She also described several current negotiations concerning employers' contributions to ongoing plans or PBGC's recovery in the event certain underfunded plans terminate.

Mr. Cannon reported that the Office of Management and Budget has provided PBGC with its final operating budget for fiscal year 1990. He described several current management initiatives, including a pending review of departmental management plans for necessary changes and an effort directed at resolving and implementing a backlog of recommendations made by PBGC's Inspector General. He also stated that PBGC has scheduled a course to better train its senior managers and attorneys in procurement requirements and that PBGC is proceeding to hire a new director for its computer operations. In response to a question from Mr. Prosten, Mr. Cannon confirmed that the trial ombudsman project had been completed and that a report on the project is due at the end of January. He stated that he, Mr. Lockhart, and Ms. Burkley would review the

report and that they would be able to brief the Committee on the project's results later in the year.

5. Regulations Subcommittee Report

Mr. Mintz stated that several regulatory projects were nearing completion. In response to Mr. Mintz's question regarding his previous suggestion that PBGC consider providing certain guidance through a technical notice rather than the lengthier formal regulatory process, Ms. Burkley stated that discussion of his suggestion was planned for early February. Mr. Mintz then raised a question regarding the insurer of last resort with regard to benefits of terminated plans funded through annuity contracts. Mr. Wood indicated that this question had been reviewed under the chairmanship of Roger Martin and, not having been fully determined, recommended this be a concern at the Committee's "think-tank" meeting.

6. Investment Subcommittee Report

Mr. Burroughs reported on the most recent meeting of the Investment Subcommittee, stating that Mr. Wood had chaired the meeting in Mr. Hotchkis's absence. Mr. Burroughs explained that the subcommittee discussed performance of PBGC's investments, met with four of PBGC's equity managers (Loomis, Sayles; Chase Investors; McCowan; and Lazard Freres), and was informed that PBGC's two investment studies by Goldman Sachs and Wilshire Associates were on track for completion by March 1. He indicated that the Committee was seriously reviewing the concepts of what the investment posture of PBGC should be over the next decade relative to its responsibilities and planned to develop guidelines at the "think-tank."

7. New Business

The Committee discussed preliminary agenda items for its March 11-12 "think-tank" session in San Diego. Mr. Hayutin accepted responsibility for preparing and distributing the agenda, and would coordinate site location and other details with Mr. Burroughs.

The Committee adjourned its meeting at 3:40 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joel Greenblatt".

Joel Greenblatt

Approved by the Advisory Committee on March 11, 1990.