

September 9, 1975

Dear :

This is in reply to your letter of June 19, 1975, in which you inquire whether the six plan officials of the

Workers Pension Plan are required to be bonded pursuant to the provisions of section 412(a) of the Employee Retirement Income Security Act of 1974 (the Act). In this regard, you represent in your letter that the subject Plan was terminated as of December 20, 1974.

Under section 414(b)(3) of the Act, the provisions of Part 4 of Title I of the Act, including, as here relevant, the bonding provisions of section 412(a) of the Act, are effective as of the date of enactment of the Act (September 2, 1974) with respect to a plan which terminates after June 30, 1974, and before January 1, 1975, and to which, at the time of termination, section 4021 of the Act applies. The Pension Benefit Guaranty Corporation has informed us that section 4021 of the Act applied to the Workers Pension Plan at the time of termination of the Plan, December 20, 1974. Therefore, the bonding requirements set forth in section 412(a) and in the temporary bonding regulation under section 412(e) of the Act (40 FR 2203, January 10, 1975) are effective with respect to the Plan.

Your letter also indicates that a recent premium for your errors and omissions policy has not been paid. In this regard, it should be noted that section 412(a) requires bonding coverage only against losses which occur by reason of fraud or dishonesty; "errors and omissions" coverage is not required under the Act. Accordingly, the failure to pay the premium for that policy would not result in a violation of section 412 of the Act, as long as adequate bonding arrangements were made pursuant to section 412(a)(2) to cover those persons who handle plan funds, for losses incurred by the plan by reason of fraud or dishonesty.

Sincerely,