

February 10, 1976

Dear :

This is in reply to your letter concerning your rights under the Employee Retirement Income Security Act of 1974 (ERISA) with respect to renewal commissions on life insurance policies sold by you. We regret that we were unable to reply to your inquiry earlier.

You state that the renewal commissions constitute a deferred income and it is your understanding that such deferred income constitutes a pension benefit plan under the ERISA; therefore, full vesting of the renewal commissions would be required after a fifteen-year period, at the latest.

Although section 3(2) of the ERISA provides that a plan, fund or program established or maintained by an employer which by its terms results in a deferral of income by employees for periods extending to the termination of covered employment or beyond constitutes an employee pension benefit plan, the renewal commissions from the sale of insurance policies do not result in a deferral of income within the meaning of section 3(2) since the seller is not entitled to receive the commissions until the premium for the policy is paid. Therefore, the renewal commissions do not constitute an employee pension benefit plan within the contemplation of the ERISA and its provisions do not apply to such commissions.

Sincerely,