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## OPINION OF TRUSTEES

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### In Re

Complainant: Pensioner  
Respondent: Employer  
ROD Case No: 84-529 - February 3, 1988

Board of Trustees: Joseph P. Connors, Sr., Chairman; Paul R. Dean, Trustee;  
William B. Jordan, Trustee; William Miller, Trustee; Donald E. Pierce, Jr., Trustee.

Pursuant to Article IX of the United Mine Workers of America ("UMWA") 1950 Benefit Plan and Trust, and under the authority of an exemption granted by the United States Department of Labor, the Trustees have reviewed the facts and circumstances of this dispute concerning the provision of health benefits coverage under the terms of the Employer Benefit Plan.

### Background Facts

The Complainant's last signatory classified employment in the coal industry was with the Respondent from December 1970 until January 7, 1983. The Complainant was awarded an Age 55 retirement pension under the 1974 Pension Plan, effective April 1, 1983. The Complainant states that he was notified by letter dated October 6, 1987 that the Respondent had terminated his health benefits coverage on October 1, 1987. The Complainant asks whether the Respondent or the UMWA 1974 Benefit Plan and Trust is responsible for providing his health benefits coverage as a Pensioner.

The representative for the Respondent has indicated that the Respondent is no longer in business and is financially unable to provide health benefits coverage for the Complainant.

### Dispute

Whether the Respondent is responsible for providing health benefits coverage for the Complainant.

### Positions of the Parties

Position of the Complainant: The Complainant asks whether the Respondent or the 1974 Benefit Plan and Trust is responsible for providing his health benefits coverage as a Pensioner.

Position of the Respondent: The Respondent is no longer in business and is financially unable to provide health benefits coverage for the Complainant.

Pertinent Provisions

Article XX (c)(3)(i) of the 1984 Wage Agreement provides in pertinent part:

Article XX - Health and Retirement Benefits

Section (c) 1974 Plans and Trusts

(3)(i) Each signatory Employer shall establish and maintain an Employee benefit plan to provide, implemented through an insurance carrier(s), health and other non-pension benefits for its Employees covered by this Agreement as well as pensioners, under the 1974 Pension Plan and Trust, whose last signatory classified employment was with such Employer. The benefits provided by the Employer to its eligible Participants pursuant to such plans shall be guaranteed during the term of this Agreement by that Employer at levels set forth in such plans.

Article I (1), (2) and (5) of the Employer Benefit plan provide:

Article I - Definitions

The following terms shall have the meanings herein set forth:

- (1) "Employer" means (Employer's Name).
- (2) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1984, as amended from time to time and any successor agreement.
- (5) "Pensioner" shall mean any person who is receiving a pension, other than (i) a deferred vested pension based on less than 20 years of credited service, or (ii) a pension based in whole or in part on years of service credited under the terms of Article II G of the 1974 Pension Plan, or any corresponding paragraph of any successor thereto, under the 1974 Pension Plan (or any successor thereto), whose last classified signatory employment was with the Employer, subject to the provisions of Article II B of this Plan.

Article II B. (1) of the Employer Benefit Plan provides:

Article II - Eligibility

The persons eligible to receive the health benefits pursuant to Article III are as follows:

B. Pensioners

Health benefits and life insurance under Article III hereof shall be provided to Pensioners as follows:

- (1) Any Pensioner who is not again employed in classified signatory employment subsequent to
  - (a) such Pensioner's initial date of retirement under the 1974 Pension Plan, and
  - (b) October 1, 1984, shall be eligible for coverage as a Pensioner under, and subject to all other provisions of this Plan. Notwithstanding (i) and (ii) of the definition of Pensioner in Article I(5) of this Plan, any such Pensioner who was eligible for benefits under the 1974 Benefit Plan as a Pensioner on December 5, 1977, shall be eligible for such benefits, subject to all other provisions of this Plan.

Discussion

Article XX Section (c)(3)(i) of the 1984 Wage Agreement requires each signatory Employer to establish and maintain an Employer Benefit Plan to provide health and other non-pension benefits for Pensioners whose last signatory classified employment was with such Employer. The Wage Agreement stipulates that benefits provided by the Employer pursuant to such Plan shall be guaranteed during the term of the Agreement by that Employer at levels set forth in such Plan.

Article II B. of the Employer Benefit Plan provides health benefits coverage for a Pensioner who is receiving a 1974 Pension Plan pension, other than a deferred vested pension based on less than 20 years of credited service or a pension based in whole or in part on years of service credited under the terms of Article II G. of the 1974 Pension Plan. Inasmuch as the Complainant's last signatory classified employment was with the Respondent and he is receiving a 1974 Pension Plan Age 55 retirement pension, the Respondent is responsible for providing health benefits coverage for the Complainant as a Pensioner, effective April 1, 1983 and continuing beyond October 1, 1987, consistent with the terms of the Wage Agreement and the Employer Benefit Plan.

A Pensioner may be entitled to coverage under the 1974 Benefit Plan and Trust only if it is determined that the Pensioner's last Employer is "no longer in business." Such determination is made by the Trustees under established procedures separate from the ROD procedure.

Opinion of the Trustees

The Respondent is responsible for providing health benefits coverage for the Complainant beyond October 1, 1987, consistent with the terms of the Wage Agreement and the Employer Benefit Plan.